

# **Testimony in support of SB 1018 - Tobacco Product**

Uploaded by: Alonzo Washington

Position: FAV

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THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Testimony in support of SB 1018 - Tobacco Product Manufacturers – Escrow Act –  
Alterations**

Every single cigarette sold to our residents represents a small damage to our community. It represents addiction, detrimental health outcomes, and dirtier streets. Nonetheless, some companies who are equally complicit in this danger have gone unscathed for far too long.

Nonparticipating manufacturers, those who were not part of the Escrow Act and state settlement in 1998, do not have to pay into the Escrow account perpetually. It allows these companies to collect all interest accrued from their payments and allows them to get their money back in 25 years. This has turned an important source of state revenue into a savings account for these companies, only contributing to lower prices that encourage addiction. When consumers see that one company offers much cheaper cigarette packages, they think of it as a deal, not as a health problem, and this can only lead to more people being entrapped by this industry.

Thus, we look to create a more equitable environment for these companies to pay their debt to society, which they increasingly have a higher burden for. The price differential between participating and non-participating has heavily increased the market share of those who were not part of the settlement, as they boosted their sales 9 times over following the creation of the cigarette tax. Our tax revenues are consistently going down, but cigarette sales among the youngest populations have steadily grown in the past few years. This is clear evidence that the current system is no longer fit to tackle this issue properly.

This legislation would thus restore a level playing field by requiring every manufacturer to make the same contributions for the same damage, regardless of their participation in the agreement. The more these companies grow, the more we condone the damage they have caused to our community in the past 25 years. Every company has to pay its fair share so that our healthcare costs don't go up in smoke.

For this reasons, I respectfully request a favorable committee report on SB 1018.

**SB 1018 - Favorable - OAG.pdf**

Uploaded by: John Leovy

Position: FAV

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March 13, 2024

**TO:** The Honorable Pamela Beidle  
Chair, Finance Committee

**FROM:** John M. Leovy  
Assistant Attorney General, Office of the Attorney General

**RE:** Senate Bill 1018 – Tobacco Product Manufacturers – Escrow Act –  
Alterations.

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The Office of Attorney General urges this Committee to report favorably on Senate Bill 1018 – Tobacco Product Manufacturers – Escrow Act – Alterations.

Senate Bill 1018 restores fairness and equity to Maryland's cigarette market. It amends Maryland's Tobacco Product Manufacturers Escrow Statute by removing a provision that allows companies that did not join the Master Settlement Agreement, or "MSA," to use their escrow accounts to subsidize low cigarette prices and undersell their competitors. Senate Bill 1018 will thus fulfill the legislature's intention when it enacted the Escrow Act, Bus. Reg. §§ 16-401–403, creating a level playing field for all the cigarette companies that compete in Maryland's market.

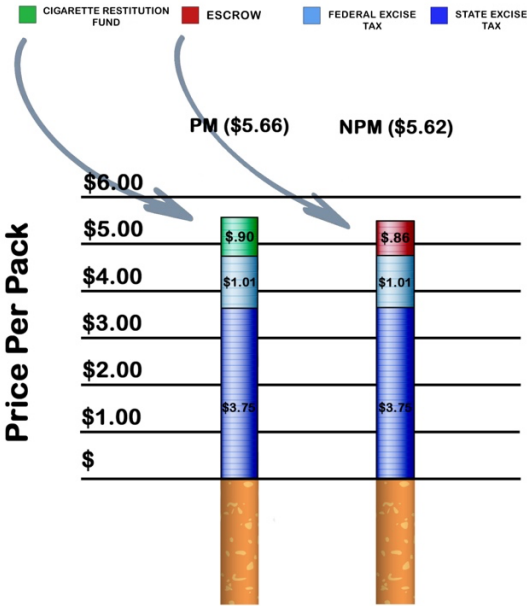
Maryland enacted the Escrow Act in 1999, the year after it signed the MSA. Cigarette companies that joined the MSA, called Participating Manufacturers ("PMs"), must end almost all cigarette advertising and pay Maryland and other States billions of dollars every year. These payments are to compensate the States for some of the past and future medical expenses incurred from treating their residents for the diseases cigarettes cause. As a result, Participating Manufacturers must raise their prices to finance their settlement payments. This creates a market opportunity for companies that do not join the MSA, called Nonparticipating Manufacturers ("NPMs"), to undersell the PMs.

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or sbrantley@oag.state.md.us.

Intending to level the playing field between the PMs and the NPMs, Maryland and other States enacted the Escrow Act, which requires all cigarette companies to make a choice. They must either become a PM and comply with the MSA’s financial obligations or remain an NPM and deposit funds into an escrow account roughly equal to the settlement payments that they would have to make to the State and leave the funds there for 25 years.

In the last 25 years, NPMs have collectively deposited more than \$10 million in escrow accounts for the cigarettes they have sold in Maryland. NPM cigarettes make Marylanders just as sick, and strain Maryland’s health care system, just as much as the PMs’ cigarettes do. The NPMs’ escrow accounts are assets held by the NPMs, which expect to recover every penny 25 years after they deposit it. NPMs also earn interest on the money in their escrow accounts, which they use to underwrite their business and sell cigarettes at prices lower than the PMs can. As one NPM recently boasted, they use the interest “to offset business expenses.”

The chart below illustrates why the current law favors NPMs and why the legislature needs to establish equity in the cigarette market by enacting Senate Bill 1018.



Both packs of cigarettes, PM and NPM, are subject to the same amount of Federal Excise Tax and State of Maryland Excise Tax. Where they differ is in that top level. The PMs pay about

90 cents per pack pursuant to the MSA and the money goes to Maryland's Cigarette Restitution Fund.<sup>1</sup> But the NPMs deposit about 86 cents per pack and the money goes not to Maryland, but into an escrow account owned by the NPM, and they use the money, including interest earned, to subsidize their low-priced cigarettes. Those cheaper cigarettes drive up Maryland's smoking rate and cost Maryland's taxpayers more money treating people sickened and killed by NPM cigarettes.

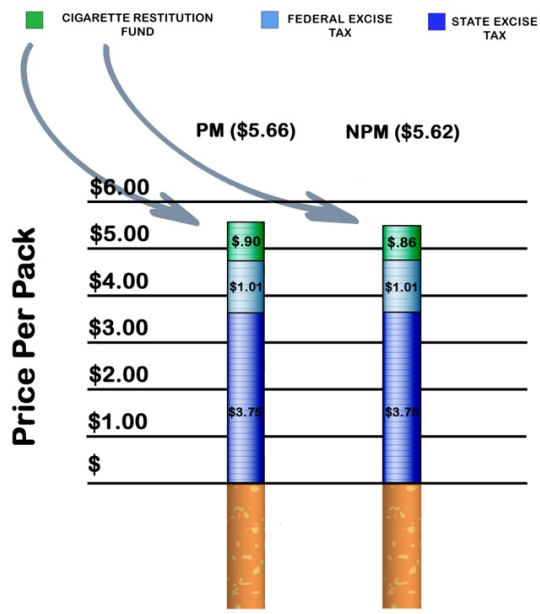
The 25-year roll-out period will start soon, and the escrow accounts, which were intended to impose costs on NPMs and make funds available to States should they bring certain claims against NPMs, are now subsidizing low-priced cigarettes. This leaves Maryland's taxpayers to foot the bill for the costs associated with the NPMs' cigarettes. Senate Bill 1018 will put an end to this plan by restoring the level playing field between PMs and NPMs that Maryland's legislature intended when it first enacted Maryland's Escrow Act almost 25 years ago.

Senate Bill 1018 is also carefully drafted to avoid any risk to the State's future MSA settlement payments. If any future court or tribunal determines that the amendments contained in Senate Bill 1018 is are unconstitutional or otherwise invalid, it provides that the current statute immediately snaps back in place as if it had not been amended.

The most important feature of Senate Bill 1018 is that it requires NPMs to pay the same amount of money they now use to underwrite their cigarette business to the State of Maryland instead. Senate Bill 1018 will achieve the goals the legislature set 25 years ago, and bring equity to a cigarette marketplace that is now out of balance. The chart below illustrates what will happen if the legislature enacts Senate Bill 1018:

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<sup>1</sup> These settlement payments of 90 cents per pack pay only a small percentage of what cigarettes cost Maryland's taxpayers every year. Data obtained from the Maryland Department of Health demonstrates that in 2022 the health-care costs paid by Maryland's Medicaid program amount to \$5.74 per pack.



By enacting Senate Bill 1018, Maryland can restore equity in Maryland's cigarette marketplace by creating the level playing field that the legislature intended when it enacted Maryland's Escrow Act a quarter of a century ago. The Office of the Attorney General strongly urges a favorable report on Senate Bill 1018 is.

# **2024-3-12 Letter to MD Senate Committees-compresse**

Uploaded by: Eric Estes

Position: UNF



X C A L I B E R  
I N T E R N A T I O N A L

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March 12, 2024

SENATE FINANCE COMMITTEE  
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SENATE BUDGET AND TAX  
COMMITTEE  
3 West, Miller Senate Office Building  
Annapolis, Maryland 21401

Re: Senate Bill 1018 - Opposition

Dear Chairs Beidle and Guzzone and Members of the Committees:

On behalf of Xcaliber International, Ltd., L.L.C. ("Xcaliber"), I wish to thank the Senate Finance Committee and Senate Budget and Tax Committee for the opportunity to submit written testimony in opposition to Senate Bill 1018 ("legislation" or "bill"). Xcaliber, an Oklahoma Limited Liability Company, manufactures cigarettes and other tobacco products as a Non-Participating Manufacturer ("NPM") under the terms of the 1998 tobacco Master Settlement Agreement ("MSA").

Prior to joining Xcaliber as General Counsel, I served 15 years in the Office of the Arkansas Attorney General. For nine of those years, I oversaw the State of Arkansas' tobacco litigation and enforcement efforts. In total, I have spent 19 years focused on tobacco regulation, compliance, and public policy.

By this letter, I intend to address the following issues: (1) the structure of the bill, (2) background related to the MSA, to which the bill relates, (3) the comparative and disparate treatment between various types of tobacco product manufacturers permitted by the bill, (4) the stated legislative justifications for the bill, (5) the adverse effects that the bill could have on ongoing MSA payment disputes involving the State, and (6) the existence of other, more effective means of raising revenue and reducing smoking rates.

1. THE BILL COMPLETELY UPENDS THE REGULATORY STRUCTURE UNDER WHICH XCALIBER AND OTHER NPMs OPERATE.

The vast majority of NPMs, including Xcaliber, commenced business after the execution of the MSA in 1998. As such, the companies committed none of the tortious activities that brought about the need for the agreement. The companies have, nonetheless, been regulated by Maryland and other Settling States pursuant to the terms of the MSA and legislation passed pursuant thereto. Per the terms of Model Escrow Statute, one such piece of legislation, NPMs deposit sums into a qualified escrow account for sales in Maryland during the preceding year. MD. CODE ANN. BUS. REG. § 16-403(a). Under the terms of the existing law, those moneys are held for a period of 25 years. MD. CODE ANN. BUS. REG. § 16-403(b)(2)(iii). In the interim period, the NPMs are permitted to obtain and use the interest on the escrowed funds. MD. CODE ANN. BUS. REG. § 16-403(b)(1). The escrowed funds may only be obtained by the State through legal processes

to satisfy certain health-related claims relating to an NPM's conduct. MD. CODE ANN. BUS. REG. § 16-403(b)(2). To date, no such claims have been made.

Under the terms of the legislation being considered by the Maryland General Assembly, however, NPMs operating in Maryland would no longer deposit funds into escrow. Instead, the legislation would require those companies to pay the State an amount, in the form of a new tax, that is ostensibly equivalent to the current escrow obligation.<sup>1</sup> In other words, the money would no longer be deposited into escrow, would no longer generate interest to be used by NPMs to offset business expenses, and the companies would no longer have the right to obtain a release of the escrowed funds after a 25-year period. The new obligations would amount to a tax imposed only on NPMs, as the Participating Manufacturers ("PMs"), those that committed the tortious activities that brought about the MSA, remain unaffected by the legislation.

2. NPMs, SUCH AS XCALIBER, COMMITTED NONE OF THE ACTS AND PRACTICES THAT BROUGHT ABOUT THE NEED FOR THE 1998 TOBACCO MASTER SETTLEMENT AGREEMENT.

As outlined by the terms of the MSA itself, Maryland and the other Settling States filed suit against the PMs "to obtain equitable relief and damages under state laws, including consumer protection and/or antitrust laws." 1998 TOBACCO MASTER SETTLEMENT AGREEMENT, § I. The bad acts that brought about both the litigation against the PMs and the MSA were numerous. For instance, PM advertisements were littered with false health claims. The PMs asserted the following within their media campaigns: "More doctors smoke Camels than any other cigarette," "20,679 physicians say Luckies are less irritating," "As your dentist, I would recommend Viceroy's," and "Chesterfield is best for you." Perhaps most egregiously, another advertisement boldly stated: "Chesterfield cigarettes are just as pure as the water you drink." Other print advertisements used celebrity endorsements from such people as Ronald Reagan, Lucille Ball, Monte Irvin, Willie Mays, and even Santa Claus. Advertisements further targeted mothers, women, and African Americans. Another harmful subset of advertisements took the form of cartoons,

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<sup>1</sup> As outlined more fully *supra*, both the requirement for a tax payment and the amount of that payment are constitutionally suspect. The Model Escrow Statute, including MD. CODE ANN. BUS. REG. §§ 16-401, *et seq.*, has been justified by policymakers and upheld by courts on two fundamental premises: (1) no money is taken from the NPM; it remains the NPM's property in an interest-bearing account; and (2) the statute is designed to ensure that NPMs pay no more than Participating Manufacturers ("PMs"). By mandating a tax payment to the state in lieu of escrow, the first of these justifications is eliminated. Indeed, the PMs were sued in the courts and had the opportunity to contest and eventually settle those claims made against them. In contrast, NPMs would be found guilty by legislative fiat and deprived of fundamental due process rights. As drafted, the second justification for the Model Escrow Statute would also be eliminated by the bill. NPMs would be able to contest payment amounts within only a yearlong period. PMs, on the other hand, can withhold payments under dispute and obtain credits for years after their deposit. The one-year cutoff for NPM refund claims guarantees that NPMs would pay more than their larger competitors that brought about the need for the MSA. In addition, many PMs have substantial payment exemptions, meaning that they would also pay less to the State than their NPM competitors. Simply stated, these payment exemptions are not afforded to the NPMs either by the terms of the MSA or the legislation. Additional constitutional issues also exist under the proposed legislation.

including the figure of Joe Camel, that were undoubtedly intended to lure children and teens into smoking specific cigarette brands.<sup>2</sup>

The acts and practices in which the PMs engaged were also intended to convince the American public that cigarette smoking was not injurious to health and that nicotine was non-addictive. For instance, in 1954, certain PMs took out advertisements in newspapers throughout the United States to specifically cast doubt on scientific studies linking smoking to cancer and other dangerous health effects. In the advertisement, titled "A Frank Statement to Cigarette Smokers," the companies asserted, "[w]e believe the products we make are not injurious to health."<sup>3</sup> These false statements did not end in the 1950s; they continued well into the 1990s. In 1994, a number of tobacco executives testified before the United States Congress. In their testimony, the executives argued, almost mimicking each other's statements word-for-word, that nicotine was a non-addictive substance. Asked pointblank whether the products manufactured by his company were addictive, one executive stated, "I do not believe that nicotine or our products are addictive." UNIVERSITY OF CALIFORNIA SAN FRANCISCO: TOBACCO CEOS STATEMENT TO CONGRESS 1994 NEWS CLIP "NICOTINE IS NOT ADDICTIVE" 2 (1994).<sup>4</sup>

While these acts were bad enough, documents later recovered from the PMs showed that their marketing was intended to attract and addict youth smokers. As outlined by the Campaign for Tobacco-Free Kids, these documents disclosed the following statements:

- 1975 Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers ... 15 to 19 years old ... my own data, which includes younger teenagers, shows even high Marlboro penetration amount 15-17 year-olds.
- 1981 Because of our high share of market among the youngest smokers, Philip Morris will suffer more than other companies from the decline in the number of teenage smokers.
- 1981 [T]he success of Marlboro Red during its most rapid growth period was because it became the brand of choice among teenagers who then stuck with it as they grew older.
- 1985 [Marlboro must] continue growth among new, young smokers ... While Marlboro continues to attract increasing shares of young smokers, expected declines in the number of young people restrict future volume gains from this source.
- 1992 Thus, the ability to attract new smokers and develop them into a young adult franchise is key to brand development.

CAMPAIGN FOR TOBACCO FREE KIDS: PHILIP MORRIS: A LONG HISTORY OF DOUBLE TALK 2 (2006).<sup>5</sup>

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<sup>2</sup> A sampling of these advertisements by the PMs are attached as Attachment 1. One advertisement boasts the use of a micronite filter. The filters contained asbestos.

<sup>3</sup> A copy of this document is attached as Attachment 2.

<sup>4</sup> A copy of this document is attached as Attachment 3.

<sup>5</sup> A copy of this document is attached as Attachment 4.

In contrast, there is no evidence that Xcaliber, which started business in 2001, three years after the MSA, committed any of these acts and practices. The same is true of the other NPMs targeted by the legislation at hand. Xcaliber's advertisements include no false health claims, have no celebrity endorsements, do not target specific demographics, and certainly are not in cartoon form with the intent to reach children. Rather, the advertisements, which take the form of point-of-sale signage, have the name of the various cigarette products manufactured by the company, a price, and the U.S. Surgeon General's Warning, which informs the smoking public of the harms associated with the products.<sup>6</sup>

3. THE PMs, DESPITE THEIR LONG HISTORY OF BAD ACTS AND PRACTICES, RECEIVE FAR MORE FAVORABLE TREATMENT THAN PROVIDED TO NON-OFFENDING NPMs UNDER THE BILL.

Despite their long history of bad acts and practices, the MSA and the proposed legislation afford the PMs disproportionate legal protections as compared to NPMs. Examples are as follows:

- PMs were sued in court and given the opportunity to litigate the claims made against them by Maryland and the other Settling States. This constitutes due process within the meaning of the law. To end that litigation, the PMs were able to negotiate the MSA with the Settling States and craft a settlement that permitted them to remain viable, ongoing entities. In contrast, legislative protections within MD. CODE ANN. BUS. REG. § 16-403(b)(2) that were intended to provide NPMs with due process if they committed acts and practices leading to legal liability are eliminated by the legislation. Instead, by mere legislative fiat, NPMs would be deemed legally liable for potential harm and a tax would be imposed against them alone.
- Pursuant to § IX(c) of the MSA, PMs are permitted to make their MSA payments on an annual basis. This gives the companies the use of their monies through the year, including the right and ability to invest and make money from funds that will ultimately be paid to the State. In contrast, NPMs are expected by the legislation to make their tax payments on a quarterly basis, depriving them of the use of the funds over a longer period.
- Pursuant to § XI(c) of the MSA, PMs are given an almost infinite period of time to dispute their payment obligations to the Settling States. In contrast, under the proposed legislation, NPMs would be given only one year to dispute payments. In some cases, this would completely deny NPMs of a remedy, as certain payment disputes occur outside of this one-year limitation.
- Pursuant to § IX(h) of the MSA, if a PM refuses to make a payment due to the Settling States, such payment only accrues interest until paid. In the interim period, the PMs may continue to sell their product, without interruption. In

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<sup>6</sup> A sample point-of-sale advertisement by Xcaliber is attached as Attachment 5.

contrast, if an NPM were to fail to make a tax payment under the legislation, the NPM would be fined under the legislation in an amount not to exceed 100% of the amount owed. In the case of a knowing violation, that amount would increase to 300% of the amount owed. Further, the brands manufactured by the NPM would be removed from the list of approved cigarette products maintained by the Attorney General, meaning that the products would be contraband, subject to seizure.

- Pursuant to § VII of the MSA, any disputes between PMs and the Settling States are to be adjudicated by either courts of competent jurisdiction or an arbitration panel. In contrast, the bill provides no forum for the adjudication of payment-related disputes by NPMs, and instead permits the Attorney General, with whom the dispute would relate, the sole ability to resolve the matter.
- Pursuant to § XII of the MSA, the PMs secured a liability release for all past, current, and future legal claims that could be made against them by the Settling States. In contrast, the legislation before these Committees provides no liability release to NPMs, despite the fact that it seeks to permanently secure funds for the State.

All of these protections, per the explicit terms of the MSA, are intended to “effectively and fully neutralize[] the cost disadvantages that the [PMs] experience vis-à-vis [NPMs].” 1998 TOBACCO MASTER SETTLEMENT AGREEMENT, § IX(d)(2)(E). In other words, the measures adopted by the Model Escrow Statutes – and by extension the legislation under consideration – are intended to protect the market share of the PMs whose own acts and practices brought about the need for the MSA. Not only does this constitute a gross miscarriage of justice, but it also raises a number of due process and equal protection violations that will undoubtedly result in litigation against the State.

#### 4. THE BILL FAILS TO ADVANCE THE GOALS OUTLINED WITHIN THE PREAMBLE TO THE LEGISLATION.

In its preamble, the legislation sets forth several justifications for the tax measure to be imposed on NPMs. Upon review, however, the bill fails to advance the stated goals in any significant way.

*First*, the bill asserts the State’s “public health obligations” are owed to all persons, “regardless of the brand of cigarette smoked or the status of the tobacco product manufacturer under the [MSA].” Despite this lofty goal, not all tobacco manufacturers would actually be required to make full payment, whether in the form of an MSA payment or a tax under the legislation, to the State. The MSA, by design, allowed for different types of PMs: the Original Participating Manufacturers that signed the MSA at the time of its execution and Subsequent Participating Manufacturers (“SPMs”) that signed the agreement after its execution. Of those SPMs, a subset is neither required to make payment on its full sales by the MSA nor, perhaps most notably, by the terms of the legislation under consideration. Under the MSA, SPMs that signed the settlement within a certain amount of time are not obligated to make payment to the Settling States unless their market share “exceeds the greater of (1) its 1998 market share or (2) 125 percent of

its 1997 market share.” 1998 TOBACCO MASTER SETTLEMENT AGREEMENT, § IX(i). This permits the so-called “grandfathered SPMs” to avoid payment on a portion of their sales. The bill does not correct this market share advantage, despite its goal of wanting all manufacturers, regardless of status, to pay for the alleged harm caused to the State and its citizens. Rather, grandfathered SPMs would continue to avoid full payment to Maryland, thereby rendering the goal of making all manufacturers pay a falsity.

*Further*, the bill states that the legislation is required to “[p]revent the manufacturers from deriving large, short-term profits and then becoming judgment-proof.” Somewhat ironically, this same justification was also used for the passage of the Model Escrow Statute, codified as MD. CODE ANN. BUS. REG. §§ 16-401, *et seq.* As originally passed (and still in operative effect), the language of the Model Escrow Statute passed by the Maryland General Assembly stated:

It would be contrary to the policy of the State if those tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive short-term profits in the years before liability may arise without ensuring that this state will have an eventual source of recovery from them if they are proven to have acted culpably.

It is thus in the interests of the State to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from *deriving large, short-term profits and becoming judgment proof* before liability may arise.

MD. CODE ANN. BUS. REG. § 16-401(f) (emphasis added). By requiring NPMs to deposit monies that may later serve as a source for judicially contemplated judgments or settlements by Maryland, NPMs have, per the legislative policy of the State, been prevented from “deriving large, short-term profits and then becoming judgment proof.” Nothing within the current bill changes that. The tax obligations contemplated by the legislation does not change the sum owed by NPMs; the measure only converts the escrow obligation to a tax obligation. The State has already assured that NPMs cannot enter and exit the market without incurring costs.

*Finally*, the legislation asserts that the measures contained therein would prevent youth access to tobacco. If that is indeed the goal, the State should target the PMs, rather than the NPMs. As outlined by the Centers for Disease Control and Prevention (“CDC”) as recently as 2018, youth do not smoke brands manufactured by NPMs. Rather, “the top three brands usually smoked among cigarette smokers in all middle school grades combined were Marlboro (38.3%), Newport (21.4%), and Camel (13.4%).” CENTERS FOR DISEASE CONTROL AND PREVENTION: CIGARETTE BRAND PREFERENCE AND PRO-TOBACCO ADVERTISING AMONG MIDDLE AND HIGH SCHOOL STUDENTS – UNITED STATES, 2012-2016 2 (2018).<sup>7</sup> The CDC more fully outlined the remaining cigarette brands used by youth in subsequent publications. In order, these were Pall Mall, Maverick, Santa Fe, Winston, and Kool. CENTERS FOR DISEASE CONTROL AND PREVENTION: TOBACCO BRAND

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<sup>7</sup> A copy of this document is attached as Attachment 6.

PREFERENCES 1 (2021).<sup>8</sup> All of these brands are manufactured by PMs. The proposed bill does nothing to correct youth initiation of NPM brands, as the evidence establishes that there is none. Further, statistics maintained by Truth Initiative also indicate that the legislation is a remedy in search of a problem. As of 2019, only a small fraction of youth used any type of cigarette product at all, regardless of manufacturer. Those numbers equated to five percent of high school student. Truth Initiative, *Tobacco Use in Maryland 2021*, Jan. 31, 2022.<sup>9</sup> The far more prevalent tobacco product by use was e-cigarettes, at 23.0%. *Id.* These statistics degrade an already weak argument that youth somehow initiate smoking on NPM products. If the Maryland General Assembly truly wants to better outcomes for youth, it should focus its efforts on the products that youth actually use.

5. THE PASSAGE OF THE BILL MAY ADVERSELY IMPACT ONGOING PAYMENT DISPUTES INVOLVING THE STATE.

One of the largest downward adjustments to annual MSA payments received by the Settling States, including Maryland, is the so-called “NPM Adjustment.” A Settling State, however, can avoid this adjustment if it “continuously had a Qualifying Statute ... in full force and effect during the entire calendar year immediately preceding the year in which the payment in question is due, and diligently enforced the provisions of the statute during such entire calendar year[.]” 1998 TOBACCO MASTER SETTLEMENT AGREEMENT, § IX(d)(2). The Model Escrow Statute, passed by the Maryland General Assembly as MD. CODE ANN. BUS. REG. § 16-401, *et seq.*, is considered a “Qualifying Statute” only “if enacted without modification or addition (except for particularized state procedural or technical requirements) ....” *Id.* at § IX(d)(2)(E). Needless to say, the amendments to the Model Escrow Statute are substantial and would undoubtedly constitute a “modification or addition” within the meaning of the MSA. This would negatively impair tens of millions of dollars received by the State each year from the PMs. Inquiry should be made by these Committees as to whether each PM under the MSA has provided a waiver on this threshold question of whether Senate Bill 1018 would constitute a “Qualifying Statute” under the MSA.

6. THE MARYLAND GENERAL ASSEMBLY SHOULD ACT IN A NON-DISCRIMINATORY MANNER AND RAISE REVENUE BY IMPOSING ADDITIONAL STATE EXCISE TAX AMOUNTS ON ALL TOBACCO PRODUCT MANUFACTURERS.

If Maryland truly needs resources for smoking prevention efforts and healthcare services, there is a non-discriminatory means of raising necessary revenue. Rather than tax a small subset of tobacco product manufacturers – more specifically, NPMs – by the bill at issue, the Maryland General Assembly should instead raise revenue by taxing all tobacco product manufacturers in a uniform manner. As outlined *infra*, such a measure is currently pending before the General Assembly in the form of House Bill 1073, which would raise Maryland’s \$3.50 per pack cigarette tax by \$0.75 per pack. This non-discriminatory solution would avoid the constitutional issues outlined by Xcaliber and

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<sup>8</sup> A copy of this document is attached as Attachment 7.

<sup>9</sup> A copy of this document is attached as Attachment 8.

the other NPMs. Further, and perhaps more importantly, it would actually advance public health in a meaningful way.

As outlined by the American Lung Association as recently as November 17, 2022, raising tobacco taxes achieves real world results:

Increasing taxes on cigarettes is a win-win proposition: significantly increasing cigarette taxes results in fewer kids starting to smoke, and in more adults quitting while at the same time providing substantial revenue to fund important health, as well as tobacco prevention programs. Every 10 percent increase in the price of cigarettes reduces consumption by about four percent among adults and about seven percent among youth.

American Lung Association, *Cigarette and Tobacco Taxes*, Nov. 17, 2022.<sup>10</sup> The Truth Initiative has published similar calls to action:

The research is clear: increases in tobacco taxes decreases tobacco use. Indeed, raising taxes on tobacco and thereby increasing its price is one of the most effective ways to reduce tobacco use. Prices affect virtually all measures of cigarette use, including per capita consumption, smoking rates and the number of cigarettes smoked daily. These effects apply across a wide range of racial and socioeconomic groups.

Truth Initiative, *The importance of tobacco taxes*, Jan. 15, 2019.<sup>11</sup> If the goal of the legislation is to positively affect health outcomes and to not prop up the profits of the PMs that brought about the need for the MSA itself, Xcaliber encourages the Maryland General Assembly to act in a non-discriminatory manner and uniformly tax all tobacco product manufacturers through state excise tax measures.

The Maryland General Assembly has under consideration a bill that would uniformly raise tobacco taxes by \$0.75 per pack in the manner suggested by the American Lung Association and Truth Initiative. This measure, House Bill 1073, would raise tax revenues of \$54,000,000.00 in its first year, according to the Maryland Department of Legislative Services' Fiscal and Policy Note. This greatly exceeds the funds that would be garnered by Senate Bill 1018. Based upon estimates by Xcaliber and other NPMs, Senate Bill 1018, if in effect for the 2023 calendar year, would have raised less than \$550,000.00. This is true, as only 0.7% of Maryland's total cigarette sales are made by NPMs, according to market data available to Xcaliber.

Based on the foregoing, Senate Bill 1018 serves a single purpose: to support larger PMs at the expense of smaller NPMs. Xcaliber has steadfastly satisfied all escrow obligations imposed by Maryland and other Settling States. Now that it has survived the system intended to impede its success, the State apparently wants to change the game. Indeed, it seeks to further protect the market share of those companies that brought about the need for the MSA and the statutes passed in contemplation thereof.

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<sup>10</sup> A copy of this article is attached as Attachment 9.

<sup>11</sup> A copy of this article is attached as Attachment 10.



If you have any questions, or need anything further, please do not hesitate to contact me.

Warmest Regards,



Eric B. Estes  
General Counsel

attachments

# ATTACHMENT 1

He's one of the busiest men in town. While his door may say *Office Hours 2 to 4*, he's actually on call 24 hours a day.

The doctor is a scientist, a diplomat, and a friendly sympathetic human being all in one, no matter how long and hard his schedule.



*According to a recent Nationwide survey:*

# MORE DOCTORS SMOKE CAMELS THAN ANY OTHER CIGARETTE

**D**OCTORS in every branch of medicine—113,597 in all—were queried in this nationwide study of cigarette preference. Three leading research organizations made the survey. The gist of the query was—What cigarette do you smoke, Doctor?

*The brand named most was Camel!*

The rich, full flavor and cool mildness of Camel's superb blend of costlier tobaccos seem to have the same appeal to the smoking tastes of doctors as to millions of other smokers. If you are a Camel smoker, this preference among doctors will hardly surprise you. If you're not—well, try Camels now.



Your "T-Zone" Will Tell You...

T for Taste . . .  
T for Throat . . .  
that's your  
proving ground  
for any cigarette.  
See if Camels  
don't suit your  
"T-Zone" to a "T."



M. J. Reynolds  
Tobacco Company  
Winston-Salem, N. C.

# CAMELS *Costlier Tobaccos*



• The figures quoted here have been reviewed and certified as by STATISTICAL ANALYSIS AND RESEARCH COMPANY, ANN ARBOR, MI, and are based on a survey of 20,679 physicians.

20,679 Physicians

*say*

**LUCKIES**

*are less irritating\**

**“It’s toasted”**

Your Throat Protection against irritation against cough

# Viceroy's FILTER the Smoke!



As your Dentist,  
I would recommend  
**VICEROYS**

**VICEROY**  
*Filter Tip*  
CIGARETTES

"Just as I've told you on our Dragnet shows, I smoke two packs of Chesterfields every day . . . much milder Chesterfield is best for me."

Jack Webb



# Chesterfield is Best for YOU!

CHESTERFIELD contains tobaccos of better quality and higher price than any other king-size cigarette . . . the same as regular Chesterfield.



CHESTERFIELD—FIRST CIGARETTE TO OFFER SMOKERS PREMIUM QUALITY IN BOTH REGULAR AND KING-SIZE

WHEN you are asked to try a cigarette you want to know, and you *ought* to know, what that cigarette has meant to people who smoke it all the time.

For a full year now, a medical specialist has given a group of Chesterfield smokers thorough examinations every two months. He reports:

*no adverse effects to their nose, throat or sinuses from smoking Chesterfields.*

More and more men and women all over the country are finding out every day that Chesterfield is best for them.

*Enjoy your Smoking!*

Try *Much Milder* Chesterfield with its *extraordinarily* good taste.

An eminent scientist writes the head  
chemist in our Research Department:

“Chesterfield Cigarettes are  
just as pure as the water you drink”

**THE WATER YOU DRINK** is tested  
from time to time by expert chemists  
to make sure that it is free from all injuri-  
ous substances—that it is pure.

So it is in the manufacture of Chesterfield  
cigarettes. Expert chemists use all the ma-  
terials that are used in any way in Chester-  
field's manufacture, to make sure that  
everything that goes into Chesterfield is  
just right.

**THE LEAF TOBACCO IS PURE.**  
Long steel wires—drying machines of the  
most modern type—scientifically “dry” and  
clean and purify the natural tobacco leaves  
by exact high-temperature treatment.

Then the strands of cut tobacco, as you  
see them in your Chesterfield, are again  
heated, cleaned and purified. From these  
pure tobaccos the cigarettes are made, and  
only the purest paper—the best that can be  
made—is used for Chesterfield.

Cigarettes used to be made in an old-  
fashioned way, by hand. Now, no hand  
but pure machines CHESTERFIELD—another  
purity safeguard.

CHESTERFIELD are made and packed in  
clean, sanitary factories where even the air  
is changed every hour and one-half minute  
—purity again.

**ALL THIS CARE** is taken to give you  
CHESTERFIELD as nearly perfect as ciga-  
rettes can be made. Delivered in a moist-  
ure-proof, sealed package, they reach you  
just as good, just as pure as when they leave  
the factory. Good . . . they're got to be  
good—they're just as pure as the water  
you drink!



I'M SENDING CHESTERFIELDS to all my friends.  
That's the merriest Christmas any smoker can have —  
Chesterfield mildness plus no unpleasant after-taste

*Ronald Reagan*



THE BUREAU OF  
TAXATION  
OF THE DISTRICT OF COLUMBIA  
HAS DETERMINED THAT  
CIGARETTES ARE A LUXURY  
ITEM AND ARE SUBJECT TO  
A TAX OF 10 CENTS PER  
CIGARETTE.  
CIGARETTES ARE  
NOT ELIGIBLE FOR  
SALES TAX EXEMPTIONS  
UNDER THE DISTRICT  
OF COLUMBIA  
SALES TAX ACT.



Now Millions Know! ONE

KING SIZE



tops 'em all for  
TASTE and COMFORT!

Your throat can tell—  
it's PHILIP MORRIS


No matter what brand of cigarette you are now smoking... there's something else you're missing for you and the new PHILIP MORRIS King-Size. Millions of smokers have tried them... and you're missing them now and never again. They should be tried from now on. Because from the very first puff... your throat can tell that here, at last, is a cigarette not only good to smoke... but good to inhale, too. So... get the full flavor and comfort, try a cigarette now!

America's Finest Cigarette!

CALL FOR

PHILIP MORRIS

REGULAR



SMOKE  
OUR  
BRAND

CHESTERFIELD

THEY'RE REALLY GOOD TO YOU

# Guard Against Throat-Scratch

enjoy the smooth smoking of fine tobaccos

... smoke **FALL MALL**  
*the cigarette whose mildness  
 you can measure*

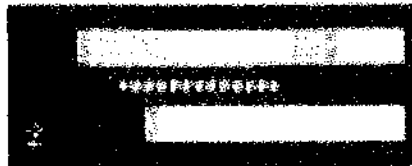


## Study This Puff Chart:

**PUFF BY PUFF... YOU'RE ALWAYS AHEAD WITH FALL MALL**



1. The longest puff requires time to smoke through the tobacco. The shorter the puff the more time you have to smoke. This means you can smoke more cigarettes in a shorter time than if you were smoking cigarettes



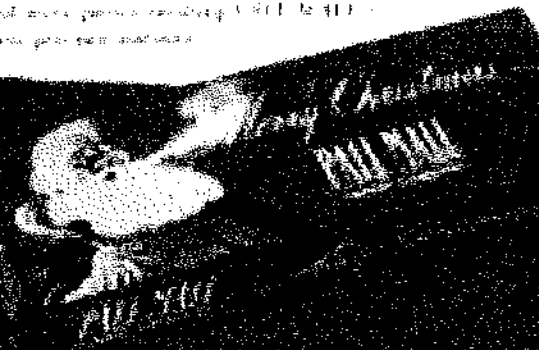
2. Again after 1 puff of most cigarettes you are not yet through the cigarette. The very short puff at the end of the cigarette is a waste of time. This cigarette is long because of tobacco. Another cigarette after 12 puffs of most cigarettes.



3. In 11 puffs Fall Mall's gentle breeze of fine tobacco will finish the smoke. Further down the cigarette and ready to add. This Fall Mall gives you a smooth and relaxing and comfortable as when you enter your car.

At the end of the puff, you will see some of the smoke particles. This is the ash. It is not a waste of time. It is a cigarette. It is a cigarette. It is a cigarette.

**Outstanding**  
 and they are mild!



P.S. LET A CARTON OF FALL MALL SAY "MERRY CHRISTMAS" FOR YOU

# IS THIS YOU FIVE YEARS FROM NOW?

*When tempted to over-indulge*

**"Reach for a Lucky instead"**



*Be moderate—be moderate in all things, even in smoking. Avoid that future shadow\* by avoiding over-indulgence; if you would maintain that modern, ever youthful figure, "Reach for a Lucky instead."*

**Lucky Strike**, the finest Cigarette you ever smoked, made of the finest tobacco—The Cream of the Crop—"IT'S TOASTED." **Lucky Strike** has an extra, secret heating process. Everyone knows that heat purifies and so 20,679 physicians say that **Luckies** are less irritating to your throat.

## "It's toasted"

**Your Throat Protection—against irritation—against cough.**

\*We do not say smoking **Luckies** reduces flesh. We do say when tempted to over-indulge, "Reach for a Lucky instead."

# We make Virginia Slims especially for women because they are biologically superior to men.

That's right, *superior*. Women are more resistant to starvation, fatigue, exposure, shock, and illness than men are.

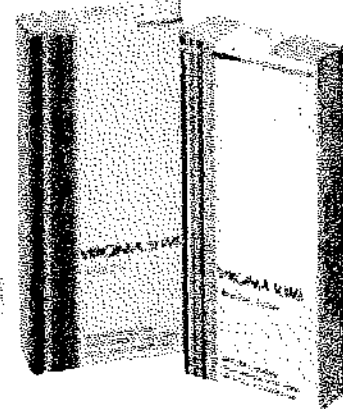
Women have two "X" chromosomes in their sex cells, while men have only one "X" chromosome and a "Y" chromosome... which some experts consider to be the inferior chromosome.

They are also less inclined than men to congenital baldness, Albinism of the eyes, improperly developed sweat glands, color blindness of

the red-green type, day blindness, defective hair follicles, defective iris, defective tooth enamel, double eyelashes, skin cysts,

shortsightedness, night-blindness, nomadism, retinal detachment, and white occipital locks of hair.

In view of these and other facts, the makers of Virginia Slims feel it highly inappropriate that women continue to use the fat, stubby cigarettes designed for mere men.



## Virginia Slims.

Slimmer than the fat cigarettes men smoke.  
With rich Virginia taste you women like.

# You've come a long way, baby.

Just one question, Mom...



can you afford  
not to smoke

Marlboro?



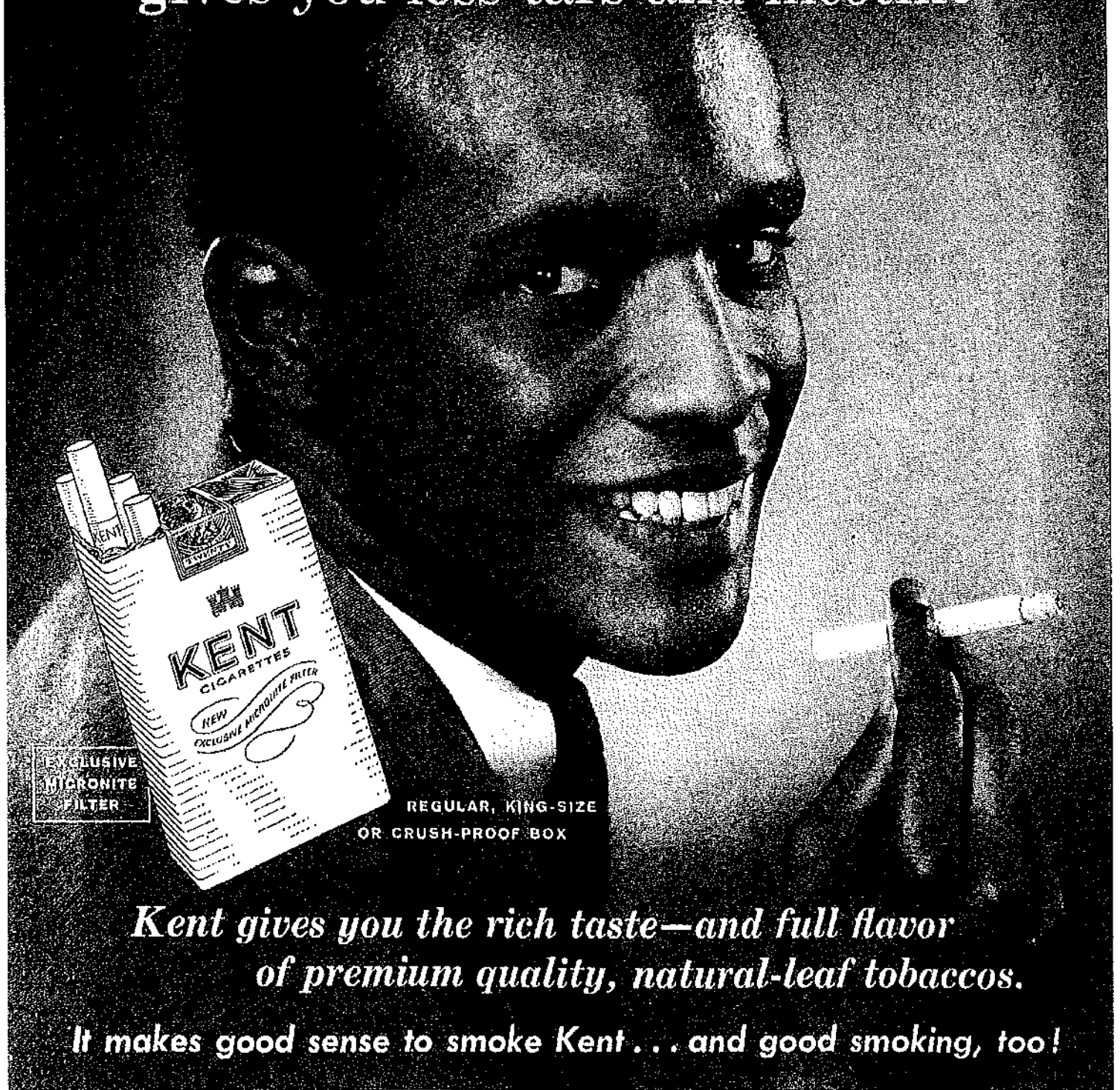
Yes, you need never  
feel over-smoked  
— that's the Miracle  
of Marlboro!



*Of all leading filter cigarettes*

# Kent Filters Best

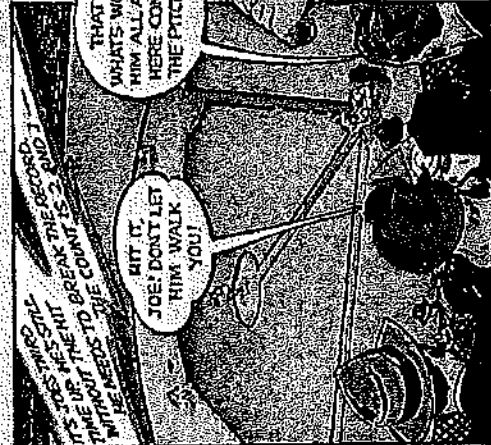
*gives you less tars and nicotine*



*Kent gives you the rich taste—and full flavor  
of premium quality, natural-leaf tobaccos.*

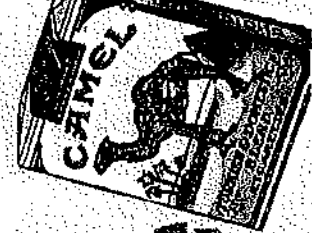
*It makes good sense to smoke Kent... and good smoking, too!*

*A Product of P. Lorillard Company—First with the finest cigarettes—through Lorillard Research!*



THE CIGARETTE OF CASUAL PLAYERS

By burning 25% slower than the average of the 4 other largest-selling brands tested - slower than any of them - Camels also give you a smoking plus equal, on the average, to 5 EXTRA SMOKES PER PACK!



THE SMOKE OF SLOWER-BURNING CAMELS CONTAINS

# 28% Less Nicotine

THAN THE AVERAGE OF THE 4 OTHER LARGEST-SELLING CIGARETTES TESTED - LESS THAN ANY OF THEM - ACCORDING TO INDEPENDENT SCIENTIFIC TESTS OF THE SMOKE ITSELF!

R. J. Reynolds Tobacco Company, Winston-Salem, North Carolina



# DORAL MEETS A SMART COOKIE!

MY FORTUNE SAYS:  
TASTE OF LOW "TAR" AND  
NICOTINE CIGARETTE IS LIKE  
DRAGON WITH LOCKJAW:  
NO SNAP!

TASTE ME  
TASTE ME

MARGO, I THINK OUR  
TEAPOT IS SINGING!

OH, NO, THAT  
IS DORAL—  
LOW "TAR"  
AND NICOTINE  
CIGARETTE!

LOW "TAR" AND NICOTINE?  
THEN HOW CAN IT  
SING ABOUT TASTE?

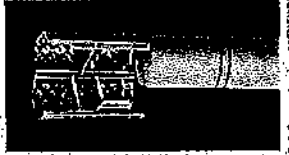
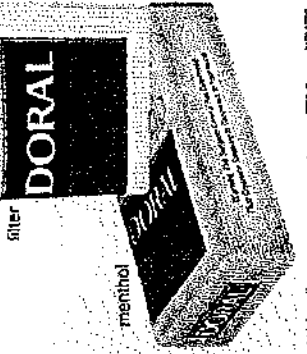
TRY  
TASTE  
ME

MARVELOUS  
TASTE!

CONFUCIUS SAY:  
DON'T KNOCK IT TILL  
YOU'VE TRIED IT!

TASTE  
ME

The filter  
system you'd  
need a scientist  
to explain...  
but Doral says it  
in two words,  
"Taste me"



# Smooth character.

© 1997 Camel Cigarettes



SMOOTH CHARACTER. SMOOTH TASTE. SMOOTH  
CAMEL FILTERS. SMOOTH AS A SILK. SMOOTH  
AS A SILK. SMOOTH AS A SILK. SMOOTH AS A SILK.

# ATTACHMENT 2

# A Frank Statement to Cigarette Smokers

RECENT REPORTS on experiments with mice have given wide publicity to a theory that cigarette smoking is in some way linked with lung cancer in human beings.

Although conducted by doctors of professional standing, these experiments are not regarded as conclusive in the field of cancer research. However, we do not believe that any serious medical research, even though its results are inconclusive should be disregarded or lightly dismissed.

At the same time, we feel it is in the public interest to call attention to the fact that eminent doctors and research scientists have publicly questioned the claimed significance of these experiments.

Distinguished authorities point out:

1. That medical research of recent years indicates many possible causes of lung cancer.
2. That there is no agreement among the authorities regarding what the cause is.
3. That there is no proof that cigarette smoking is one of the causes.
4. That statistics purporting to link cigarette smoking with the disease could apply with equal force to any one of many other aspects of modern life. Indeed the validity of the statistics themselves is questioned by numerous scientists.

We accept an interest in people's health as a basic responsibility, paramount to every other consideration in our business.

We believe the products we make are not injurious to health.

We always have and always will cooperate closely with those whose task it is to safeguard the public health.

For more than 300 years tobacco has given solace, relaxation, and enjoyment to mankind. At one time or another during those years critics have held it responsible for practically every disease of the human body. One by one these charges have been abandoned for lack of evidence.

Regardless of the record of the past, the fact that cigarette smoking today should even be suspected as a cause of a serious disease is a matter of deep concern to us.

Many people have asked us what we are doing to meet the public's concern aroused by the recent reports. Here is the answer:

1. We are pledging aid and assistance to the research effort into all phases of tobacco use and health. This joint financial aid will of course be in addition to what is already being contributed by individual companies.
2. For this purpose we are establishing a joint industry group consisting initially of the undersigned. This group will be known as TOBACCO INDUSTRY RESEARCH COMMITTEE.
3. In charge of the research activities of the Committee will be a scientist of unimpeachable integrity and national repute. In addition there will be an Advisory Board of scientists disinterested in the cigarette industry. A group of distinguished men from medicine, science, and education will be invited to serve on this Board. These scientists will advise the Committee on its research activities.

This statement is being issued because we believe the people are entitled to know where we stand on this matter and what we intend to do about it.

## TOBACCO INDUSTRY RESEARCH COMMITTEE

5400 EMPIRE STATE BUILDING, NEW YORK 1, N. Y.

### SPONSORS:

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BURLY TOBACCO GROWERS COOPERATIVE  
ASSOCIATION  
*John W. Iowa, President*

LARUE & BROTHER COMPANY, INC.  
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STEPHANO BROTHERS, INC.  
*C. S. Stephens, D'Ve., Director of Research*

TOBACCO ASSOCIATES, INC.  
*(An organization of four card tobacco growers)*  
*J. R. Hartman, President*

UNITED STATES TOBACCO COMPANY  
*J. W. Peterson, President*

# ATTACHMENT 3

University of California San Francisco (<https://www.ucsf.edu>)

Search



## Tobacco CEO's Statement to Congress 1994 News Clip "Nicotine is not addictive."



April 14, 1994 - Hearing on the Regulation of Tobacco Products House Committee on Energy and Commerce Subcommittee on Health and the Environment

The Subcommittee met, pursuant to notice, at 9:05 a.m., 2123 Rayburn House Office Building, Hon. Henry A. Waxman (chairman) presiding.

Opening Statement from Chairman Henry A. Waxman

**REP. WAXMAN:** The meeting of the subcommittee will come to order. I'd like to ask our guests to please take your seats. This is an historic hearing. For the first time ever, the chief executive officers of our Nation's tobacco companies are testifying together before the U.S. Congress. They are here because this subcommittee has legislative jurisdiction over those issues that affect our health. And no health issue is as important as cigarette smoking. It is sometimes easier to invent fiction than to face the truth. The truth is that cigarettes are the single most dangerous consumer product ever sold. Nearly a half million Americans die every year as a result of tobacco. This is an astounding, almost incomprehensible statistic. Imagine our Nation's outrage if two fully loaded jumbo jets crashed each day, killing all aboard. Yet that is the same number of Americans that cigarettes kill every 24 hours. Sadly, this deadly habit begins with our kids. Each day 3,000 children will begin smoking. In many cases they become hooked quickly and develop a life long addiction that is nearly impossible to break. For the past 30 years a series of surgeons general have issued comprehensive reports outlining the dangers these children will eventually face. Lung cancer, heart disease, emphysema, bladder cancer, and stroke are only some of the diseases caused by tobacco causes. And now we know that kids will face a serious health threat even if they don't smoke. Environmental tobacco smoke is a Class A carcinogen, and it sickens more than 1 million kids every year. In fact, five former surgeons general of

the United States testified before this subcommittee this year, that the most important legislation in disease prevention that we could enact would be restrictions on smoking in public places. This subcommittee will soon act on that legislation, and it will consider other measures as well. This hearing will aid our efforts by presenting an important perspective. But these hearings are important for another reason as well. For decades the tobacco companies have been exempt from the standards of responsibility and accountability that apply to all other American corporations. Companies that sell that sell aspirin, cars, and soda are all held to strict standards when they cause harm. We don't allow those companies to sell goods that recklessly endanger consumers. We don't allow them to suppress evidence of dangers when harm occurs. We don't allow them to ignore science and good sense. And we demand that when problems occur, corporations and their senior executives be accountable to Congress and the public. This hearing marks the beginning of a new relationship between Congress and the tobacco companies. The old rules are out, the standards that apply to every other company are in. We look forward to hearing the testimony this morning, and to working with these companies to begin to reduce the extraordinary public health threat that tobacco poses.

An old proverb says that a journey of a thousand miles must begin with a single step. Today is the first step. Many more are to come as we deal with the most serious health problem facing our Nation.

[Tobacco company CEOs declare, under oath, that nicotine is not addictive]

**REP. RON WYDEN:** Let me begin my questioning on whether or not nicotine is addictive. Let me ask you first, and I'd like to just go down the row, whether each of you believes that nicotine is not addictive. I heard virtually all of you touch on it. Yes or no, do you believe nicotine is not addictive?

**MR. WILLIAM CAMPBELL**

I believe nicotine is not addictive, yes.

**REP. RON WYDEN:** Mr. Johnston?

**MR. JAMES JOHNSTON**

Mr. Congressman, cigarettes and nicotine clearly do not meet the classic definition of addiction. There is no intoxication.

**REP. RON WYDEN:** We'll take that as a "no." Again, time is short. I think that each of you believe that nicotine is not addictive. We would just like to have this for the record.

**MR. JOSEPH TADDEO**

I don't believe that nicotine or our products are addictive.

**MR. ANDREW TISCH**

I believe that nicotine is not addictive.

**MR. EDWARD HORRIGAN**

I believe that nicotine is not addictive.

**MR. THOMAS SANDEFUR**

I believe that nicotine is not addictive.

**MR. DONALD JOHNSTON**

And I, too, believe that nicotine is not addictive.

*Witnesses:*

William Campbell, President & CEO, Philip Morris, USA

James W. Johnston, Chairman and CEO, R.J. Reynolds Tobacco Company

Joseph Taddeo, President, U.S. Tobacco Company

Andrew H. Tisch, Chairman and CEO, Lorillard Tobacco Company

Edward A. Horrigan, Chairman and CEO, Liggett Group Inc.

Thomas E. Sandefur, Chairman and CEO, Brown and Williamson Tobacco Corp.

Donald S. Johnston, President and CEO, American Tobacco Company

*Chaired by:* Henry Waxman (D-CA)

**Resources:**

Ballot on Tobacco Industry Funding Research and Tobacco Documents at UC and UCSF (/tobacco-funding)

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# ATTACHMENT 4



## PHILIP MORRIS: A LONG HISTORY OF DOUBLE TALK

***"Lying is as natural to tobacco executives as breathing once was to their customers."***

Editorial, "Drug Pushers: Tobacco Products Should Be Regulated,"  
*Newsday*, September 1, 2006

\* \* \* \* \*

For some time now, Philip Morris has been engaged in an aggressive public relations effort aimed at convincing policy makers and opinion leaders (and potential jurors) that it has finally turned over a new leaf and become a good corporate citizen and that the company actually wants to reduce teen smoking. But a look at the cigarette company's history shows that this media campaign is nothing more than the same old double talk. Since at least the 1960's, Philip Morris has repeatedly made similar claims that it does not market cigarettes to kids. But internal company documents revealed in the tobacco lawsuits show that Philip Morris has regularly done just that. There are many effective actions Philip Morris could take to prevent and reduce smoking among kids, but it has not – and just talking a good game is not enough.

### What Philip Morris Says In Public

- 1965 The cigarette companies' voluntary "Cigarette Advertising Code" goes into effect. Among its standards: *"Cigarette advertising shall not represent that cigarette smoking is essential to social prominence, distinction, success, or sexual attraction."* [Section 1(d)]
- 1966 Philip Morris President Joseph F. Cullman, III: *"we do not favor smoking by young people. We think smoking should be a custom for adults."*<sup>1</sup>
- 1969 Philip Morris President Joseph F. Cullman, III: *"It is the intention of the cigarette manufacturers to continue to avoid advertising directed to young persons; to abstain from advertising in school and college publications; not to distribute sample cigarettes or engage in promotional efforts on school and college campuses; not to use testimonials from athletes or other celebrities who might have special appeal to young people; to avoid advertising which represents that cigarette smoking is essential to social prominence, success, or sexual attraction; and to refrain from depicting smokers engaged in sports or other activities requiring stamina or conditioning beyond those required in normal recreation. . ."*<sup>2</sup>
- 1982 *"On the industry's behalf, The Tobacco Institute began an advertising campaign which was to reach 110 million Americans with the message, 'Do cigarette companies want kids to smoke? No. As a matter of policy. No. As a matter of practice. No. As a matter of fact. No.'"*<sup>3</sup>
- 1984 Philip Morris Executive Ellen Merlo: *"I have never in my job been involved with trying to get a non-smoker to smoke. ...I don't think that advertising convinces people to smoke... I have not seen statistics on when people usually begin to smoke."*<sup>4</sup>
- 1991 Phillip Morris Media Affairs Director Sheila Banks: *"Philip Morris strongly believes that young people should not smoke. Smoking is an adult custom. Selling cigarettes to minors is - and should be- illegal, and Philip Morris fully supports these laws."*<sup>5</sup>
- 1992 Philip Morris Corporate Statement: *"Education and enforcement at the retail level are the only effective means we have of discouraging children from smoking. We want to assure you that Philip Morris remains firmly committed to supporting laws that prohibit unlawful sales to minors. We continue to lend our fullest support to educational programs as well as make very sure that our cigarette advertising is directed exclusively at adults who choose to smoke."*<sup>6</sup>

- 1995 Philip Morris President James Morgan: "We at Philip Morris USA have long held the position that minors should not smoke and should not have access to cigarettes, and we have backed that commitment over the years with a series of concrete actions."<sup>7</sup>
- 1995 Philip Morris President James Morgan : "Philip Morris USA believes now, and always has believed, that minors should not smoke nor should they have access to our cigarettes."<sup>8</sup>
- 1996 Philip Morris CEO Geoffrey Bible: "We do not market cigarettes to children. And we do not want children to smoke."<sup>9</sup>
- 1998 Philip Morris CEO Geoffrey Bible: "I'm ashamed at that. I don't like to see something from the company talking about 16-year-olds. We do not market cigarettes to underage people."<sup>10</sup>
- 1998 Philip Morris CEO Geoffrey Bible: "We should not be marketing cigarettes to young people. It is certainly anomalous to the Philip Morris I know."<sup>11</sup>
- 1998 Philip Morris CEO Geoffrey Bible: Real solutions include a "willingness to make fundamental changes in our way of doing business."<sup>12</sup>
- 1998 Philip Morris CEO Geoffrey Bible: "In all my years at Philip Morris, I've never heard anyone talk about marketing to youth."<sup>13</sup>
- 1998 Philip Morris President Michael E. Szymanczyk: "We don't want kids to smoke. We're intensifying our efforts that we started a number of years ago by launching this new smoking-intervention initiative, starting with these ads."<sup>14</sup>

#### **What They Say In Private: Anti-Youth Smoking As A Public Relations Ploy**

- 1979 *It seems to me our objective is . . . a 'media event' which in itself promises a lot but produces little.*<sup>15</sup>
- 1991 *The youth [anti-smoking] program and its individual parts support The [Tobacco] Institute's objective of discouraging . . . federal, state, and local restrictions on cigarette advertising.*<sup>16</sup>
- 1992 *[If Philip Morris took] a more progressive position on tobacco, it would enable the company to move onto a higher moral playing field, to neutralize the tobacco issue and to focus attention on other, more appealing products.*<sup>17</sup>
- 1995 *If we don't do something fast to project the sense of industry responsibility regarding the youth access issue, we are going to be looking at severe marketing restrictions in a very short time.*<sup>18</sup>

#### **What They Say In Private: Marketing to Kids**

- 1975 *Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . 15 to 19 years old . . . my own data, which includes younger teenagers, shows even higher Marlboro market penetration among 15-17-year-olds.*<sup>19</sup>
- 1981 *Because of our high share of the market among the youngest smokers, Philip Morris will suffer more than the other companies from the decline in the number of teenage smokers.*<sup>20</sup>
- 1981 *[T]he success of Marlboro Red during its most rapid growth period was because it became the brand of choice among teenagers who then stuck with it as they grew older.*<sup>21</sup>
- 1985 *[Marlboro must] continue growth among new, young smokers... While Marlboro continues to attract increasing shares of young smokers, expected declines in the number of young people restrict future volume gains from this source.*<sup>22</sup>
- 1992 *Thus, the ability to attract new smokers and develop them into a young adult franchise is key to brand development.*<sup>23</sup>

### What They Say In Private: Behavioral Research About Kids

- 1973 A Philip Morris Marketing Research Department document highlights that within a “probability sample of 452 teen-agers ages 12-17” 13 percent smoke an average of 10.6 cigarettes per day and that “the data from the study are consonant with the findings of other such studies, both at Philip Morris and without.”<sup>24</sup>
- 1974 *We wonder whether such children may not eventually become cigarette smokers in their teenage years as they discover the advantage of self-stimulation via nicotine. We have already collaborated with a local school system in identifying some such children in the third grade. . .*<sup>25</sup>
- 1981 *It is important to know as much as possible about teenage smoking patterns and attitudes. Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while in their teens . . . It is during the teenage years that the initial brand choice is made.*<sup>26</sup>

Dr. Carolyn Levy – Philip Morris' Senior Vice President of Youth Smoking Prevention who is in charge of the company's \$100 million anti-youth smoking campaign – previously worked in the Philip Morris research department on studies on nicotine effects and smoking behaviors.<sup>27</sup> Dr. Levy was also one of two Philip Morris researchers who formally approved the previously quoted special report that stated “Today's teenager is tomorrow's potential regular customer.”

*Campaign for Tobacco-Free Kids, September 1, 2006*

<sup>1</sup> Speech to South Carolina Tobacco Warehouse Association, Inc., June 7, 1966, Bates No. 1002600012.

<sup>2</sup> Testimony before US Congress, July 1969.

<sup>3</sup> Philip Morris, *On Youth Smoking*, 1979, Bates No. 2077153116/3117.

<sup>4</sup> Ellen Merlo, June 14, 1984, testimony in *Cipollone v. Liggett*.

<sup>5</sup> Philip Morris Media Affairs Director Shella Banks, speaking to the Advertising Club of Louisville, February 8, 1991, Bates No. 2025895060/5082.

<sup>6</sup> *Statement of Philip Morris with respect to its marketing practices and policies*, 1992, Bates No. 2500081599/1600.

<sup>7</sup> Morgan, J, *New program to address youth access to our products*, Memo to all Philip Morris USA Employees, June 27, 1995, Bates No. 2060138652/8653.

<sup>8</sup> Philip Morris President James Morgan remarks on the “Action Against Access” program, June 27, 1995, Bates No. 2500050029/0033.

<sup>9</sup> Philip Morris CEO Geoffrey Bible remarks at the 1996 Annual Meeting of Stockholders, April 25, 1996, Bates No. 2500082439/2451.

<sup>10</sup> Testimony of Bible in Minnesota Medicaid suit, March 2, 1998.

<sup>11</sup> Dedman, B, “Tobacco Chief ‘Horrorified’ Over Evidence,” *The New York Times*, March 4, 1998, Bates No. T113660354.

<sup>12</sup> Philip Morris CEO Geoffrey Bible, testimony before the House Commerce Committee, January 28, 1998, Bates No. 2065112084/2092.

<sup>13</sup> Geoffrey Bible, CEO of Philip Morris, *Minneapolis-St. Paul Star Tribune*, March 4, 1998.

<sup>14</sup> *New York Times*, December 3, 1998.

<sup>15</sup> Dryden, F, *August 1 ‘Pre-Adult Education’ Memo*, August 3, 1979, Bates No. TIFL0525654.

<sup>16</sup> Tobacco Institute, *Discussion Paper*, January 29, 1991, Bates No. TIMN0164422/4424.

<sup>17</sup> Hill and Knowlton, *Philip Morris Corporate Affairs Strategic Plan for 1993*, December 3, 1992, Bates No. 2023586677/6725.

<sup>18</sup> Philip Morris, *JJM to PM Invitational – Importance of Youth Issue*, February 9, 1995, Bates No. 2044046017/6022.

<sup>19</sup> Johnston, M, *The Decline in the Rate of Growth of Marlboro Red*, May 21, 1975, Bates No. 1000024921-1000024927.

<sup>20</sup> Johnston, M, *Young Smokers -- Prevalence, Trends, Implications, and Related Demographic Trends*, March 31, 1981, Bates No. 1000390803/0855.

<sup>21</sup> Johnston, M, *Young Smokers -- Prevalence, Trends, Implications, and Related Demographic Trends*, March 31, 1981, Bates No. 1000390803/0855.

<sup>22</sup> Plan Overview, 1985, Bates No. 2043440057/0112, 1985.

<sup>23</sup> PMI Marketing Research, *Worldwide Marlboro Monitor; Five Year Trends, 1988-1992*, 1992, Bates No. 2044895379/5484.

<sup>24</sup> PM USA Marketing Research Department, *Incidence of Smoking Cigarettes*, May 18, 1973, Bates No. 2041761791.

<sup>25</sup> Dunn, WL, *Smoker Psychology*, June 10, 1974, Bates No. 1003288122/8124.

<sup>26</sup> Johnston, M, *Young Smokers -- Prevalence, Trends, Implications, and Related Demographic Trends*, March 31, 1981, Bates No. 1000390803/0855.

<sup>27</sup> See, e.g., Philip Morris Memorandum, “Smoker Psychology” (PM Doc. #1003293097).

# ATTACHMENT 5

# Edgefield

CIGARETTES



\$ 88.88

SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

# ATTACHMENT 6

Morbidity and Mortality Weekly Report (MMWR)



# Cigarette Brand Preference and Pro-Tobacco Advertising Among Middle and High School Students — United States, 2012–2016

Weekly / February 2, 2018 / 67(4);119–124

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[View suggested citation](#)

## Summary

### What is already known about this topic?

Nearly all adult smokers first try cigarettes before age 18 years. Tobacco-advertising activities, among other factors, including peer influence and price, are associated with initiation of smoking and the continued use of tobacco products among youth.

### What is added by this report?

Analysis of 2012–2016 National Youth Tobacco Survey data found that Marlboro, Newport, and Camel were the most commonly reported usual brands smoked by middle and high school current (past 30-day) cigarette smokers. In 2016, these three brands accounted for 73.1% and 78.7% of current cigarette smokers in middle and high school, respectively. Ads for these three brands were also the three most commonly identified “favorite cigarette ad” in 2012. Current cigarette smokers who reported exposure to neither e-cigarette ads nor cigarette ads reported significantly lower prevalence of having a usual brand than those who reported exposure to both ads during 2015.

### What are the implications for public health practice?

Reducing youth-oriented tobacco marketing, as part of a comprehensive approach in concert with other evidence-based strategies, including comprehensive smoke-free policies, increasing the price of tobacco products, and raising the minimum age of purchase for tobacco products to 21 years, could help reduce the acceptability, affordability, and use of tobacco products among youth.

## Article Metrics

### Altmetric:



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## Figures

Figure 1

Figure 2

## Table


Nearly all adult smokers first



try cigarettes before age 18 years (1), and adolescents can show symptoms of nicotine dependence within days to weeks of the onset of occasional cigarette smoking (2). Having a usual cigarette brand among adolescent smokers could reflect exposure and receptivity to pro-tobacco advertising and tobacco product appeal (1). To identify usual cigarette brands smoked among U.S. middle and high school students who were current (past 30-day) cigarette smokers, CDC analyzed data from the 2012–2016 National Youth Tobacco Survey (NYTS). Marlboro, Newport, and Camel were the most commonly reported brands smoked during 2012–2016; in 2016, these three were the brands usually smoked for 73.1% and 78.7% of current cigarette smokers in middle and high school, respectively. These three brands also were the three most commonly identified as having a “favorite cigarette ad” in 2012. Efforts to reduce youth exposure to pro-tobacco advertising could help reduce youth smoking (1,3).

## References

### Related Materials

 [PDF]

NYTS is an annual national survey of U.S. students in grades 6–12.\* During 2012–2016, sample sizes ranged from 17,711 (response rate = 63.4%) in 2015 to 24,658 (response rate = 73.6%) in 2012 (4). Participants were asked, “During the past 30 days, what brand of cigarettes did you usually smoke?” Response options† were “American Spirit,” “Camel,” “GPC, Basic, or Doral,” “Kool,” “Lucky Strike,” “Marlboro,” “Newport,” “Parliament,” “Virginia Slims,” “I did not smoke a usual brand,” “Some other brand not listed here,” “I did not smoke a cigarette in the past 30 days,” and “Not sure.” Responses of “I did not smoke a cigarette in the past 30 days” and “Not sure” were excluded; all other responses were classified as current (past 30-day) cigarette smokers.§ Among current cigarette smokers, any response other than “I did not smoke a usual brand” was classified as having a usual brand.

In the 2012 NYTS only, participants were asked, “What is the name of the cigarette brand of your favorite cigarette ad?” Response options were “American Spirit,” “Camel,” “GPC, Basic, or Doral,” “Kool,” “Marlboro,” “Newport,” “Some other brand not listed here,” “I don’t have a favorite cigarette ad,” and “Not sure.” Any response other than “I don’t have a favorite cigarette ad” and “Not sure” was classified as having a favorite cigarette ad. In the 2015 NYTS only, exposure to ads for both regular cigarettes and electronic cigarettes (e-cigarettes) over four media categories was assessed (the Internet, newspapers/magazines, retail stores, and TV/movies). An exposure was classified as reporting seeing ads on the assessed medium “Sometimes,” “Most of the time,” or “Always.”¶ The tobacco product exposed to on each advertising medium was classified as 1) neither e-cigarettes nor cigarettes, 2) e-cigarettes only, 3) cigarettes only, and 4) both e-cigarettes and cigarettes.

Among current cigarette smokers, brand-specific prevalence was calculated overall and by school level, sex, grade, race/ethnicity, and smoking frequency within the past 30 days (a response of 20–30 days was considered frequent; a response of 1–19 days was considered infrequent).\*\* Binary logistic regression was used to assess brand-specific linear trends during 2012–2016, adjusting for grade, sex, and race/ethnicity. For 2012 only, agreement between usual brand and favorite cigarette ad was assessed among 1,807 current cigarette smokers with data available for both indicators. For 2015 only, the proportion of current cigarette smokers reporting having a usual brand†† was stratified by amount of reported ad exposure to pro-tobacco advertising across media types. Chi-squared tests and logistic regression were used to determine subgroup differences, with statistical significance set at  $p < 0.05$ . Data were weighted to yield nationally representative estimates.

During 2016, the top three brands usually smoked among current cigarette smokers in all middle school grades combined were Marlboro (38.3%), Newport (21.4%), and Camel (13.4%) (Table). During 2016, 16.5% of middle school current cigarette smokers smoked some other specific brand, and 10.4% had no usual brand. The proportion of current cigarette smokers who smoked Marlboro cigarettes during 2016 was highest among non-Hispanic whites (whites) (54.6%) and lowest among non-Hispanic blacks (blacks) (11.5%;  $p < 0.05$ ). Conversely, the proportion who smoked Newport

cigarettes during 2016 was highest among blacks (58.4%) and lowest among whites (7.9%;  $p < 0.05$ ). A higher proportion of female smokers (27.2%) smoked Newport cigarettes than did male smokers (16.6%;  $p < 0.05$ ). Trends during 2012–2016 were not significant for middle school students overall or among subgroups.

Among high school current cigarette smokers, the top three brands usually smoked by students in all grades combined in 2016 also were Marlboro (48.8%), Newport (16.6%), and Camel (13.3%) (Table). During 2016, 15.4% of high school current cigarette smokers smoked other specific brands, and 5.9% reported no usual brand. As was the case among middle school students, Newport was the most prevalent brand among black high school students (47.5% in 2016), and Marlboro was the most prevalent brand among white high school students (59.5% in 2016). During 2016, the proportion of high school current cigarette smokers that smoked Camel cigarettes was highest among Hispanics (18.1%) and lowest among blacks (8.9%). Trend analyses during 2012–2016 indicated an increase in the prevalence of Marlboro smoking for all high school students (38.5% to 48.8%), males (39.4% to 50.0%), females (37.5% to 48.0%), ninth graders (34.3% to 42.9%), 10th graders (37.2% to 45.7%), 12th graders (41.1% to 53.2%), whites (45.8% to 59.5%), and both frequent (42.2% to 59.1%) and infrequent smokers (37.8% to 50.8%) (all  $p$ -values for trend  $< 0.05$ ). The prevalence of Newport smoking declined during 2012–2016 among all high school students (23.1% to 16.6%), females (26.0% to 16.8%), and whites (15.4% to 9.5%) (all  $p$ -values for trend  $< 0.05$ ). The prevalence of Camel smoking during 2012–2016 declined among all high school students (17.8% to 13.3%), males (17.0% to 12.5%), females (18.6% to 14.2%), 10th graders (19.4% to 14.2%), 12th graders (19.8% to 13.6%), whites (19.6% to 11.9%), and infrequent smokers (19.8% to 12.4%) (all  $p$ -values for trend  $< 0.05$ ). The proportion of students who smoked no usual brand increased among all high school students (4.1% to 5.9%), females (2.7% to 6.0%), 10th graders (2.9% to 6.8%), 12th graders (3.3% to 5.1%), and blacks (1.6% to 15.9%) during 2012–2016 (all  $p$ -values for trend  $< 0.05$ ).

In 2012, among current cigarette smokers who reported smoking a usual brand, 72.1% identified the same brand as their favorite cigarette ad. The top three favorite cigarette ads were also the top three brands usually smoked (Figure 1).

In 2015, across all advertising media, current cigarette smokers who reported exposure to neither e-cigarette ads nor cigarette ads reported significantly lower prevalence of having a usual brand than those who reported exposure to both ads (Figure 2). By specific advertising media, among those exposed to neither e-cigarette nor cigarette ads versus both ads, the proportion who reported having a usual brand was as follows: for movies/TV (neither ad = 80.5%; both ads = 94.2%), for retail stores (neither = 69.8%; both = 94.8%), for Internet (neither = 79.4%; both = 94.5%), and for magazines/newspapers (neither = 88.0%; both = 94.6%) (all  $p$ -values  $< 0.05$ ).

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## Discussion

During 2012–2016, the top three brands usually smoked by U.S. middle and high school current cigarette smokers were Marlboro, Newport, and Camel; these brands also were the top three favorite cigarette ads reported by current cigarette smokers in middle and high school in 2012. Market data also indicated that these three brands accounted for the largest share (62%) of the U.S. cigarette market during 2016; the percentage shares of retail volume for Marlboro, Newport, and Camel during 2016 were 40.2%, 13.8%, and 8.0% respectively (5). Cigarette ads use youth-oriented themes, including those highlighting independence, rebellion, and perceived social acceptability of cigarette smoking (3). Previous epidemiologic studies have demonstrated an association between amount of reported ad exposure and most frequently smoked brands among adolescents (6); efforts to reduce youth exposure to pro-tobacco advertising might help reduce smoking initiation among U.S. youth (7).

Targeted marketing of tobacco products to certain groups can explain differences in brand preferences among subgroups (1,7,8). Whereas Marlboro smoking was more prevalent among whites, Newport, a predominantly menthol brand, was more often smoked by blacks, which is consistent with previous reports that have documented that menthol

cigarettes are marketed to specific demographic groups, including blacks (7,8). Among high school students overall, as well as among females, blacks, and 10th and 12th graders, significant increases were observed in the proportion of smokers reporting no usual brand. Having no usual brand might be an indicator of nonspecific cigarette access patterns, including from social sources such as friends (7).

The findings in this report are subject to at least four limitations. First, self-reported cigarette smoking is subject to social desirability bias and might be underreported among youth. Second, both brand preferences and pro-tobacco ad exposure were measured at the same time in this cross-sectional study; the data therefore did not permit assessment of temporality. Exposure to ads could increase brand use or brand use could lead to a favorable impression of tobacco ads. Third, these findings might not be generalizable to youth who are not enrolled in traditional schools, (e.g., dropouts [approximately 6.4% among high school students]<sup>9b</sup> and those home-schooled [approximately 3.4% of school-aged children]).<sup>10</sup> Finally, the relationships between “favorite cigarette ad” and cigarette brand preferences as assessed in 2012 NYTS might have limited comparability with subsequent years.

In 2014, U.S. cigarette manufacturers spent approximately \$8.5 billion, or approximately \$1 million per hour, to advertise and promote cigarettes (9). Information on cigarette brand usually smoked can help guide efforts to reduce cigarette smoking among the approximately 1.6 million U.S. middle and high school cigarette smokers (10). Reducing youth-oriented tobacco marketing, as part of a comprehensive approach in concert with other evidence-based strategies could help reduce the acceptability, affordability, and use of tobacco products among youth (7). Such strategies include comprehensive smoke-free policies, increasing the prices of tobacco products, and raising the minimum age of purchase for tobacco products to 21 years (7).

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## Conflict of Interest

No conflicts of interest were reported.

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\* The study period was restricted to 2012–2016 because the questions assessing cigarette brand usually smoked had different response options in preceding NYTS survey years.

† Because of small sample sizes, “GPC, Basic, or Doral,” “Kool,” “Lucky Strike,” “Parliament,” and “Virginia Slims” were collapsed together into one category (“Other specific brand”).


<sup>§</sup> Final analytical sample for each year (past 30-day cigarette smokers) was as follows: 2012 (n = 3,292), 2013 (n = 2,377), 2014 (n = 2,386), 2015 (n = 1,823), and 2016 (n = 1,739).


<sup>¶</sup> For each specific advertising medium assessed, participants could select any one of the following response options that best described their frequency of exposure: “Never,” “Rarely,” “Sometimes,” “Most of the time,” or “Always.” Participants could also indicate if they did not use the medium assessed (e.g., “I do not use the Internet”). Participants who answered

"Never" or "Rarely," or who indicated they did not use the assessed medium, were classified as nonexposed to that medium; all other responses were classified as exposed.

\*\* Frequency of cigarette smoking was ascertained with the question "During the past 30 days, on how many days did you smoke cigarettes?" Categorical response options were "0 days," "1 or 2 days," "3 to 5 days," "6 to 9 days," "10 to 19 days," "20 to 29 days," and "All 30 days." A response of "0 days" was classified as being a current nonsmoker and was excluded. The remaining response options were dichotomized as infrequent (1–19 days) and frequent ( $\geq 20$  days) cigarette smokers.

†† Outcome was dichotomized as 0 or 1. Persons who reported having a specific brand they usually smoked ("American Spirit," "Camel," "GPC, Basic, or Doral," "Kool," "Lucky Strike," "Marlboro," "Newport," "Parliament," "Virginia Slims," or "Some other brand not listed here") were treated as a positive response. Those who responded, "I did not smoke a usual brand" were treated as not having a brand usually smoked. Responses of "Not sure" or "I did not smoke a cigarette in the past 30 days" were excluded.

<sup>55</sup> <https://www.census.gov/newsroom/press-releases/2016/cb16-tps142.html> .

<sup>98</sup> [https://nces.ed.gov/programs/digest/d15/tables/dt15\\_206.10.asp?current=yes](https://nces.ed.gov/programs/digest/d15/tables/dt15_206.10.asp?current=yes) .

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**TABLE. Brand of cigarettes usually smoked by current (past 30-day)\* cigarette smokers in middle and high school, by selected characteristics — National Youth Tobacco Survey, United States, 2012–2016†**Return [↶](#)

Characteristic	Marlboro		Newport		Camel		Other specific brand <sup>§</sup>		No usual brand	
	2012	2016	2012	2016	2012	2016	2012	2016	2012	2016
	% (SE)	% (SE)	% (SE)	% (SE)	% (SE)	% (SE)	% (SE)	% (SE)	% (SE)	% (SE)
<b>Middle school</b>										
Total	37.0 (3.5)	38.3 (4.1)	17.1 (2.4)	21.4 (3.5)	17.8 (2.8)	13.4 (2.4)	17.5 (2.2)	16.5 (2.4)	10.5 (1.6)	10.4 (1.8)
<b>Sex</b>										
Male	38.0 (4.5)	38.9 (6.0)	14.6 (2.7)	16.6 (3.8)	19.7 (3.8)	14.5 (3.5)	18.0 (2.7)	17.3 (3.9)	9.7 (1.9)	12.6 (2.7)
Female	35.7 (3.9)	37.2 (4.6)	20.5 (3.2)	27.2 (4.3)	15.4 (2.7)	12.3 (2.9)	16.9 (3.0)	15.6 (3.6)	11.6 (2.1)	7.6 (2.4)
<b>Grade</b>										
6	33.8 (4.9)	40.6 (6.3)	19.7 (4.0)	17.4 (4.6)	15.8 (2.8)	13.4 (4.4)	20.7 (4.5)	18.7 (4.6)	10.1 (2.8)	9.9 (3.6)
7	38.4 (5.9)	33.2 (4.8)	16.3 (3.6)	22.5 (4.6)	16.7 (4.1)	15.8 (3.4)	17.8 (3.7)	13.4 (3.3)	10.8 (2.2)	15.1 (3.5)
8	37.6 (3.8)	41.4 (6.2)	16.5 (2.3)	22.4 (4.7)	19.6 (3.8)	11.5 (3.0)	15.8 (3.2)	17.9 (3.6)	10.6 (2.2)	6.9 (1.9)
<b>Race/Ethnicity</b>										
White, non-Hispanic	44.3 (4.8)	54.6 (5.1)	8.5 (2.1)	7.9 (2.8)	20.3 (5.0)	16.1 (3.5)	17.5 (3.3)	9.4 (3.2)	9.4 (2.3)	12.1 (3.6)
Black, non-Hispanic	28.4 (6.9)	11.5 (5.1)	42.7 (6.6)	58.4 (5.6)	3.8 (0.9)	8.6 (4.3)	16.7 (4.8)	15.5 (5.4)	8.4 (3.7)	6.0 (2.8)

Hispanic	33.2 (4.2)	26.5 (4.2)	14.9 (2.6)	21.3 (5.9)	20.8 (5.5)	18.5 (4.4)	18.8 (4.6)	23.8 (5.2)	12.4 (3.0)	9.9 (3.2)
<b>No. of days smoked in past 30 days<sup>1</sup></b>										
Frequent (≥20 days)	44.8 (9.2)	47.5 (11.0)	14.8 (4.0)	9.1 (4.8)	17.8 (6.5)	14.7 (7.9)	19.5 (6.8)	26.6 (9.4)	3.0 (2.2)	2.0 (2.0)
Infrequent (1–19 days)	41.6 (4.8)	40.3 (7.6)	19.0 (3.7)	18.6 (5.3)	16.1 (4.1)	17.3 (4.0)	18.5 (3.1)	14.0 (4.5)	4.8 (1.2)	9.9 (4.1)
<b>High school</b>										
Total	38.5 (1.8)	48.8 (2.4)**	23.1 (2.1)	16.6 (1.8)**	17.8 (1.4)	13.3 (1.3)**	16.4 (1.5)	15.4 (1.6)	4.1 (0.4)	5.9 (0.9)**
<b>Sex</b>										
Male	39.4 (2.1)	50.0 (2.8)**	21.0 (2.0)	16.0 (2.2)	17.0 (1.5)	12.5 (1.7)**	17.4 (1.8)	15.6 (2.1)	5.1 (0.7)	5.8 (1.2)
Female	37.5 (2.3)	48.0 (3.5)**	26.0 (2.7)	16.8 (2.4)**	18.6 (2.1)	14.2 (1.9)**	15.2 (1.7)	15.0 (1.9)	2.7 (0.5)	6.0 (1.2)**
<b>Grade</b>										
9	34.3 (2.6)	42.9 (3.7)**	25.1 (2.7)	18.4 (2.8)	17.4 (2.2)	15.9 (3.6)	16.2 (1.5)	17.4 (3.1)	6.9 (1.4)	5.4 (1.5)
10	37.2 (2.4)	45.7 (3.7)**	25.5 (3.1)	19.5 (3.0)	19.4 (2.3)	14.2 (3.9)**	14.9 (1.8)	13.9 (1.7)	2.9 (0.7)	6.8 (2.3)**
11	40.3 (2.7)	50.8 (4.4)	22.5 (2.7)	17.2 (3.1)	14.5 (1.6)	10.0 (1.9)	19.0 (2.2)	15.6 (1.5)	3.8 (0.8)	6.4 (1.5)
12	41.1 (2.5)	53.2 (3.7)**	20.3 (2.4)	12.7 (2.0)	19.8 (2.5)	13.6 (1.8)**	15.5 (2.9)	15.3 (2.6)	3.3 (0.6)	5.1 (1.2)**
<b>Race/Ethnicity</b>										
White, non-Hispanic	45.8 (2.1)	59.5 (3.1)**	15.4 (1.8)	9.5 (1.6)**	19.6 (1.9)	11.9 (1.9)**	15.4 (2.0)	14.1 (2.1)	3.7 (0.6)	5.0 (1.4)
Black, non-Hispanic	10.3 (2.7)	11.0 (3.6)	67.0 (4.3)	47.5 (7.6)	4.2 (1.7)	8.9 (3.0)	16.9 (2.7)	16.7 (5.6)	1.6 (0.7)	15.9 (2.5)**

Hispanic	36.6 (2.6)	40.5 (3.2)	20.5 (3.0)	20.2 (3.3)	20.7 (2.3)	18.1 (2.1)	17.8 (2.3)	16.5 (2.0)	4.4 (1.3)	4.7 (1.4)
<b>No. of days smoked in past 30 days<sup>¶</sup></b>										
Frequent (≥20 days)	42.2 (2.8)	59.1 (5.1)**	25.6 (2.9)	12.5 (3.4)	18.2 (2.3)	14.0 (2.7)	12.7 (1.9)	11.5 (2.7)	1.3 (0.4)	2.9 (1.3)
Infrequent (1–19 days)	37.8 (2.4)	50.8 (3.5)**	21.6 (2.3)	17.1 (2.5)	19.8 (2.3)	12.4 (2.2)**	18.0 (2.2)	16.6 (2.2)	2.8 (0.6)	3.1 (1.1)

**Abbreviation:** SE = standard error.

\* Assessed with the question: "During the past 30 days, what brand of cigarettes did you usually smoke?" Response options were "American Spirit," "Camel," "GPC, Basic, or Doral," "Kool," "Lucky Strike," "Marlboro," "Newport," "Parliament," "Virginia Slims," "I did not smoke a usual brand," "Some other brand not listed here," "I did not smoke a cigarette in the past 30 days," and "Not sure." Any response other than "I did not smoke a cigarette in the past 30 days" or "Not sure" was treated as being a current (past 30-day) cigarette smoker.

† Trend analyses include data for 2012, 2013, 2014, 2015, and 2016. Prevalence estimates are presented only for 2012 and 2016.

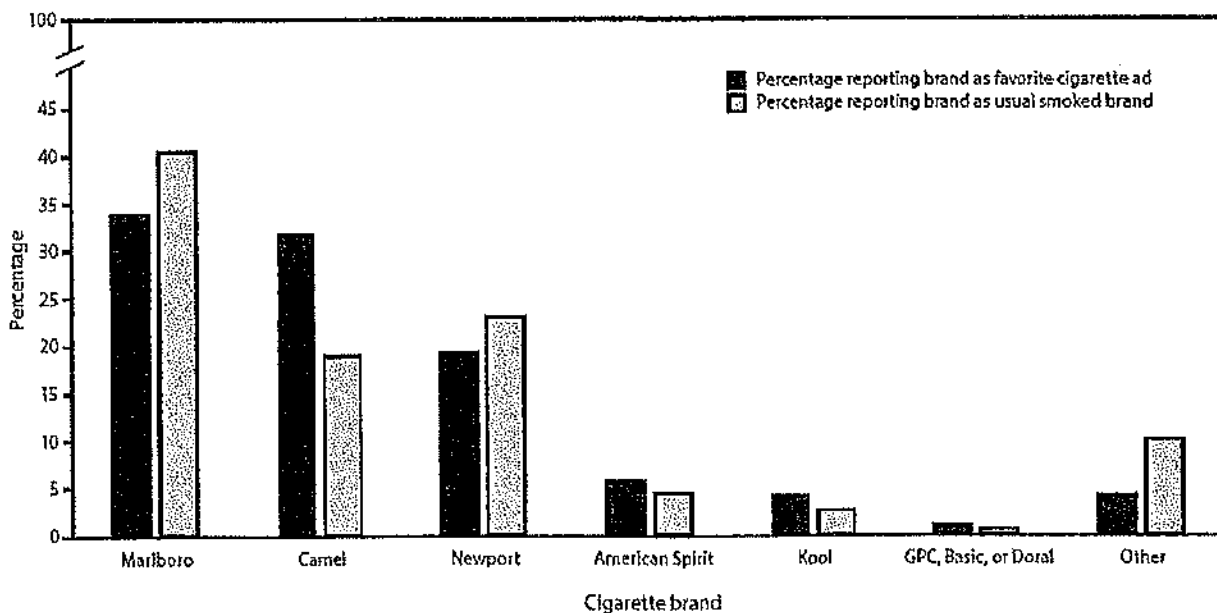
§ Because of small sample sizes, the responses "GPC, Basic, or Doral," "Kool," "Lucky Strike," "Parliament," and "Virginia Slims" were combined together as one category ("Other specific brand").

¶ Assessed with the question "During the past 30 days, on how many days did you smoke cigarettes?" Response options included "0 days," "1 or 2 days," "3 to 5 days," "6 to 9 days," "10 to 19 days," "20 to 29 days," and "All 30 days." Responses of "0 days" were excluded. All other responses were dichotomized as frequent (≥20 days) or infrequent (1–19 days).

\*\* Statistically significant linear trend during 2012–2016 (p-trend<0.05).

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Return

**FIGURE 1. Agreement\* between brand of cigarettes usually smoked<sup>†</sup> and favorite cigarette brand ad<sup>§</sup> among middle and high school current (past 30-day) cigarette smokers — National Youth Tobacco Survey, United States, 2012**



\* Restricted to students who smoked cigarettes during the past 30 days and reported having both a favorite cigarette ad and a cigarette brand usually smoked (n = 1,807). The question on favorite cigarette ad was asked only in 2012.

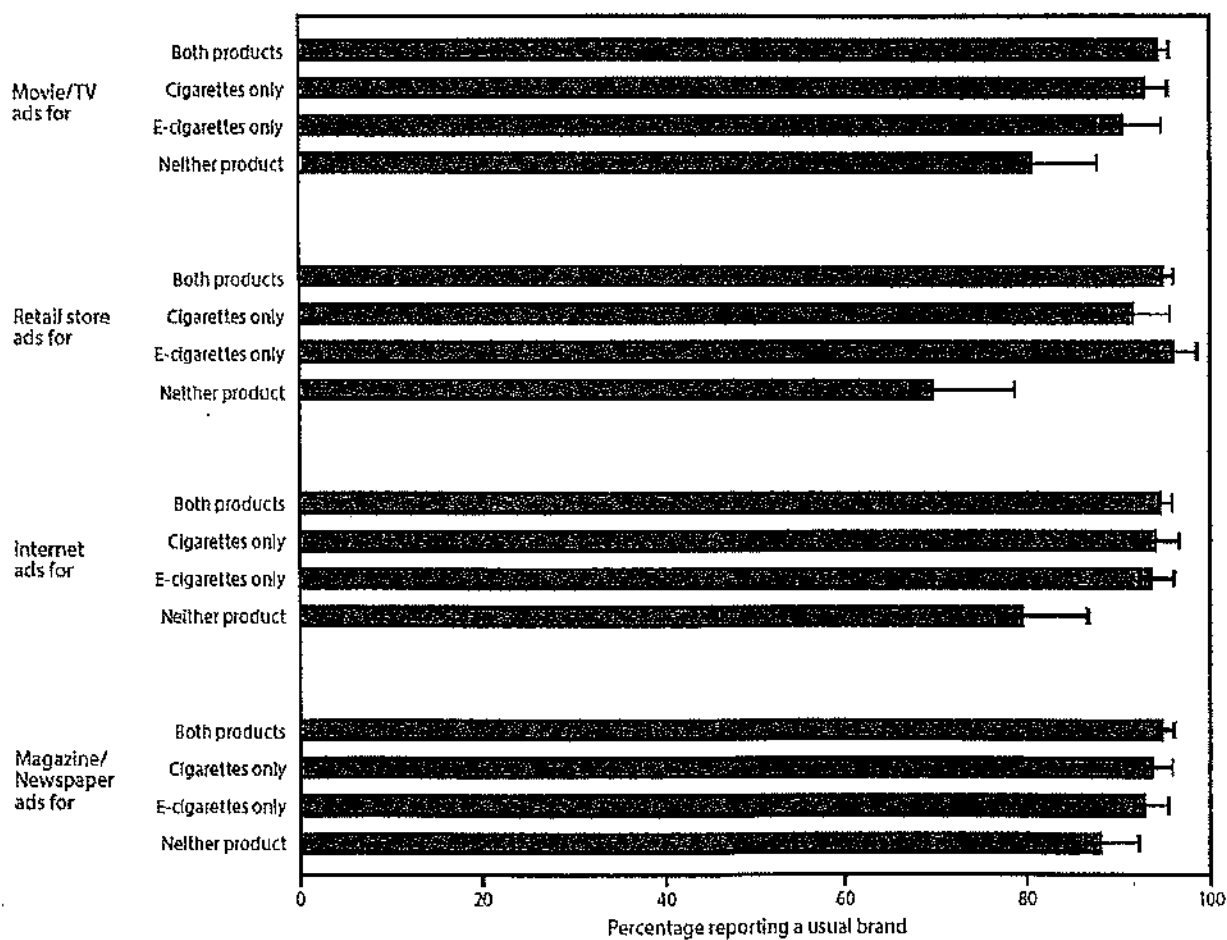
† Assessed with the question: “During the past 30 days, what brand of cigarettes did you usually smoke?” Responses classified as having a brand usually smoked among past 30-day smokers included “American Spirit,” “Camel,” “GPC, Basic, or Doral,” “Kool,” “Lucky Strike,” “Marlboro,” “Newport,” “Parliament,” “Virginia Slims,” and “Some other brand not listed here.”

§ Assessed with the question: “What is the name of the cigarette brand of your favorite cigarette ad?” Responses classified as having a favorite cigarette ad were “American Spirit,” “Camel,” “GPC, Basic, or Doral,” “Kool,” “Marlboro,” “Newport,” and “Some other brand not listed here.”

The figure is a bar chart showing agreement between brand of cigarettes usually smoked and favorite brand ad among middle and high school current (within the past 30 days) cigarette smokers in 2012.

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Return

**FIGURE 2. Proportion of middle and high school current (past 30-day) cigarette smokers reporting a usual cigarette brand,\* by advertising medium and status of exposure to cigarette and/or electronic cigarette ads† — National Youth Tobacco Survey, United States, 2015§**



\* Outcome was dichotomized as 0 or 1. Persons who reported having a specific brand they usually smoked (“American Spirit,” “Camel,” “GPC, Basic, or Doral,” “Kool,” “Lucky Strike,” “Marlboro,” “Newport,” “Parliament,” “Virginia Slims,” or “Some other brand not listed here”) were coded as 1. Those who responded, “I did not smoke a usual brand” were coded




as 0. Responses of “Not sure” or “I did not smoke a cigarette in the past 30 days” were excluded.

† Separate questions were asked for electronic cigarettes and regular cigarettes in relation to exposure to pro-tobacco ads on the different media sources (Internet, newspapers/magazines, retail stores, and TV/movies). For both electronic cigarettes and regular cigarettes, respondents’ ad exposure status was coded on each medium as either: 1 = exposed (responses of “Sometimes,” “Most of the time,” and “Always”) or 0 = nonexposed (“Never,” “Rarely,” or those who indicated not using the assessed medium).

§ The questions on exposure to both electronic cigarette and regular cigarette ads were asked only in 2015.

The figure is a bar chart showing the proportion of middle and high school current (within the past 30 days) cigarette smokers reporting a usual brand by advertising medium and status of exposure to cigarette and/or electronic cigarette ads.

Top

**Suggested citation for this article:** Perks SN, Armour B, Agaku IT. Cigarette Brand Preference and Pro-Tobacco Advertising Among Middle and High School Students — United States, 2012–2016. *MMWR Morb Mortal Wkly Rep* 2018;67:119–124. DOI: <http://dx.doi.org/10.15585/mmwr.mm6704a3> 

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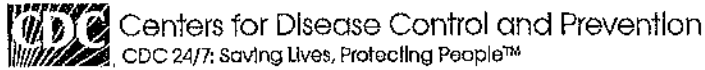
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Page last reviewed: February 1, 2018

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# ATTACHMENT 7



Español | Other Languages



Smoking &amp; Tobacco Use Home

# Tobacco Brand Preferences

## Cigarettes

### Market Share Information

- According to 2017 sales data, Marlboro is the most popular cigarette brand in the United States, with sales greater than the next seven leading competitors combined.<sup>1</sup>
- The three most heavily advertised brands—Marlboro, Newport, and Camel—continue to be the preferred brands of cigarettes smoked by young people.<sup>2</sup>

### 2017 Market Shares for Leading Cigarette Brands<sup>1</sup>

Brand	Market %
Marlboro	40%
Newport	14%
Camel (filter only)	8%
Pall Mall Box	7%
Maverick	2%
Santa Fe	2%
Winston	2%
Kool	2%

NOTE: Market share—or market percentage—is defined as the percentage of total sales in the United States.

### Industry Marketing Practices

Tobacco industry marketing practices can influence the brands that certain groups prefer. For example:<sup>2</sup>

- The packaging and design of certain cigarette brands appeal to adolescents and young adults.
- Historically, menthol cigarettes have been targeted heavily toward certain racial/ethnic groups, especially African Americans.
  - Among African American adult, adolescent, and young adult cigarette smokers, the most popular brands are all mentholated.
- Cigarettes with brand names containing words such as “thins” and “slims” have been manufactured to be longer and slimmer than traditional cigarettes to appeal directly to women—e.g., Virginia Slims and Capri brands.

### Brand Characteristics

- Of all the cigarettes sold in the United States in 2018—<sup>3</sup>
  - 99.7% were filtered
  - 36.0% were mentholated brands
- Use of mentholated brands varies widely by race/ethnicity. The percentage of current smokers aged 12 years or older who reported using mentholated brands in 2012-2014 was:<sup>4</sup>
  - 84.6% Non-Hispanic black
  - 46.9% Hispanic
  - 38.0% Non-Hispanic Asian
  - 28.9% Non-Hispanic White
- Before 2010, manufacturers were allowed to label cigarettes as “light” or “ultra light” if they delivered less than 15 mg of tar when measured by an automated smoking machine.<sup>5</sup>
  - Such labeling allowed tobacco companies to deliberately misrepresent “light” cigarettes as being less harmful and an acceptable alternative to quitting smoking.<sup>6</sup>
  - The 2009 Family Smoking Prevention and Tobacco Control Act, however, prohibits use of terms like “light,” “low,” and “mild” on tobacco product labels.<sup>7</sup>

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## Other Tobacco Products

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### Cigars

According to 2015 sales data, Swisher Little is the most popular brand of cigars in the United States, with sales substantially greater than any little cigar competitor and the leading large cigars and cigarillos competitors.<sup>8</sup>

## 2015 Market Shares for Leading Cigar Brands<sup>8</sup>

Brand	Category	Market %
Swisher Little	Little cigars	60%
Swisher Sweets	Large cigars and cigarillos	16%
Black & Mild	Large cigars and cigarillos	11%
Garcia y Vega	Large cigars and cigarillos	5%
White Owl	Large cigars and cigarillos	5%

NOTE: Market share—or market percentage—is defined as the percentage of total sales in the United States.

### Smokeless Tobacco

The five major U.S. smokeless tobacco companies experienced decreased sales from 2018 to 2019, from 128.4 million pounds to about 126 million pounds.<sup>9</sup> Smokeless tobacco products include dry snuff, moist snuff, plug/twist, loose-leaf chewing tobacco, snus, and dissolvable products.

### 2011 Market Shares for Leading Smokeless Tobacco Brands<sup>9</sup>

Brand	Category	Market %
Levi Garrett Plug	Moist plug tobacco	52%
Day's Work	Plug tobacco	45%
Red Man Plug	Moist plug tobacco	36%
Grizzly	Moist snuff and fine cut tobacco	26%
Copenhagen	Moist snuff and fine cut tobacco	25%
Garrett	Dry snuff	24%
Skoal	Moist snuff and fine cut tobacco	24%
Red Man	Loose leaf tobacco	18%

NOTE: Market share—or market percentage—is defined as the percentage of total sales in the United States.

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Page last reviewed: May 14, 2021

Content source: Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion

# ATTACHMENT 8

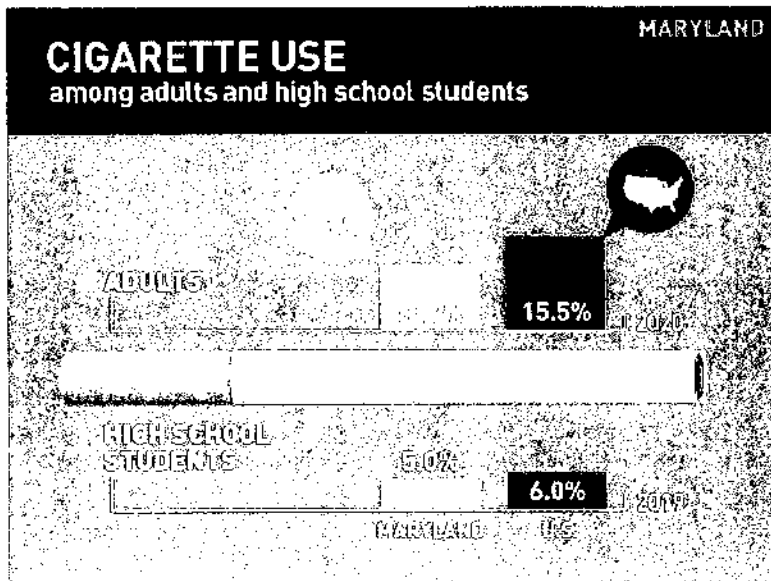
## TOPIC Smoking by Region

### SUBTOPIC State Facts

# Cigarette use: Maryland

- In 2020, 10.9% of adults smoked. Nationally, the rate was 15.5%.<sup>1</sup>
- In 2019, 5.0% of high school students in Maryland smoked cigarettes on at least one day in the past 30 days. Nationally, the rate was 6.0%.<sup>2</sup>

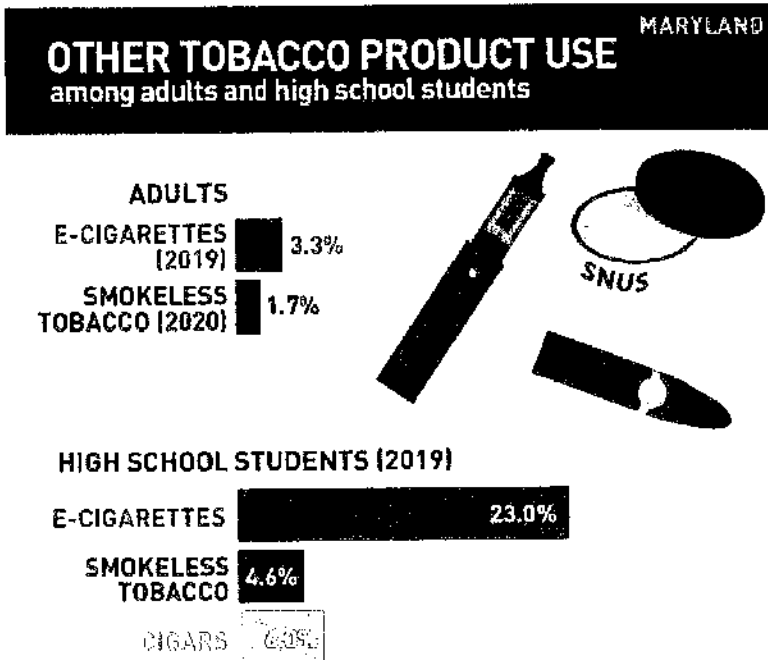




## Other tobacco product use: Maryland

- In 2019, 3.3% of adults in Maryland used e-cigarettes.
- In 2020, 1.7% of adults in Maryland used smokeless tobacco.<sup>3</sup>
- In 2019, 23.0% of high school students in Maryland used electronic vapor products on at least one day in the past 30 days. Nationally, the rate was 32.7%.<sup>2</sup>
- In 2019, 4.6% of high school students in Maryland used chewing tobacco, snuff or dip on at least one day in the past 30 days. Nationally, the rate was 3.8%.<sup>2</sup>

- In 2019, 6.0% of high school students in Maryland smoked cigars, cigarillos or little cigars on at least one day in the past 30 days. Nationally, the rate was 5.7%.<sup>2</sup>

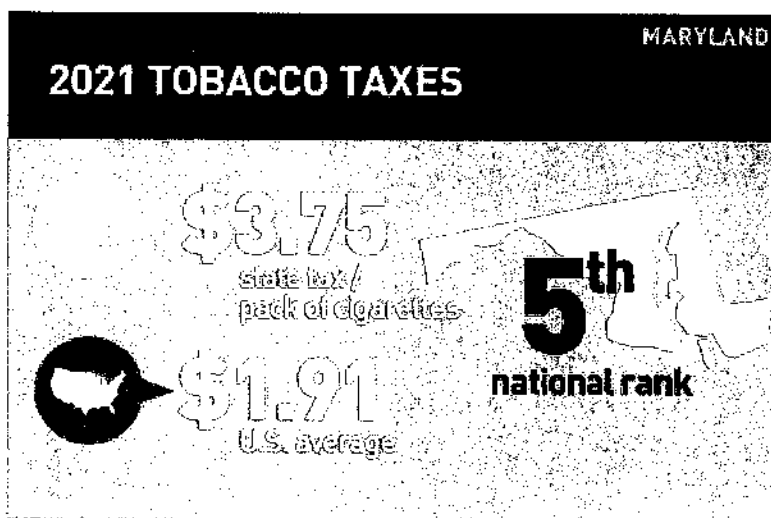


# Economics of tobacco use and tobacco control

- Maryland received \$501.0 million (estimated) in revenue from tobacco settlement payments and taxes in fiscal year 2021.<sup>4</sup>
- Of this, the state allocated \$10.8 million in state funds to tobacco prevention in fiscal

year 2021, 22.6% of the Centers for Disease Control and Prevention's annual spending target.<sup>4</sup>

- Smoking-related health care costs: \$2.71 billion per year.<sup>4</sup>
- Smoking-related losses in productivity: \$2.22 billion per year.<sup>5</sup>



## Maryland tobacco laws

### Tobacco taxes

- Maryland is ranked 5th in the U.S. for its cigarette tax of \$3.75 per pack (enacted Feb 2021), compared with the national average of \$1.91 (The District of Columbia has the highest tax at \$4.50 and Missouri has the lowest at 17 cents.)<sup>6-8</sup>

- Cigars are taxed at 70% of the wholesale price and premium cigars are taxed at 15% of the wholesale price. All other tobacco products are taxed at 30% of the manufacturer's list price.<sup>6,7</sup>

### **Clean indoor air ordinances**

- Smoking is prohibited in all government and private workplaces, schools, childcare facilities, restaurants, bars, casinos/gaming establishments, retail stores and recreational/cultural facilities.<sup>7</sup>
- No smoke-free restrictions exist for e-cigarette use.<sup>9</sup>

### **Flavor restrictions**

- The sale of cartridge-based and disposable e-cigarettes with flavors other than menthol is prohibited.<sup>10</sup>

### **Licensing laws**

- Retailers and wholesalers are required to obtain a license to sell tobacco products.<sup>6</sup>
- A license is required to sell e-cigarettes.<sup>9</sup>

### **Youth access laws**

- Effective December 2019, the United States adopted a law raising the federal minimum age of sale of all tobacco products to 21. Some states have not yet

raised their state minimum age of sale, however, the federal law takes precedence.

- Underage persons are prohibited from buying electronic smoking devices, including e-cigarettes.<sup>6,7</sup>
- The sale or distribution of electronic smoking devices or coupons for electronic smoking devices to underage persons is prohibited.<sup>9</sup>
- The sale of flavored electronic smoking devices is prohibited, including disposable products (except tobacco and menthol flavor).<sup>9</sup>
- Vending machine sales of electronic smoking devices is prohibited unless located in an establishment inaccessible to underage persons.<sup>9</sup>

### **Local tobacco laws**

- Montgomery County, Maryland:
  - Prohibits e-cigarette manufacturers from distributing all e-cigarettes to retail stores within a half mile of a middle or high school.<sup>10</sup>
  - Prohibits e-cigarette manufacturers from distributing flavored e-cigarettes to retail stores within a half mile of any middle or high school, library, or recreational

facility.<sup>10</sup>

## Quitting statistics and benefits

- The CDC estimates that 52.3% of daily adult smokers in Maryland quit smoking for one or more days in 2019.<sup>3</sup>
- In 2014, the Affordable Care Act required that Medicaid programs cover all quit medications.<sup>7\*\*</sup>
- Maryland's state quit line invests \$3.74 per smoker, compared with the national average investment per smoker of \$2.28.<sup>7</sup>
- Maryland does have a private insurance mandate provision for cessation.<sup>7</sup>

## Notes and references

### Updated August 2021

\*National and state-level prevalence numbers reflect the most recent data available. This may differ across state fact sheets.

\*\*The seven recommended quitting medications are NRT gum, NRT patch, NRT

nasal spray, NRT inhaler, NRT lozenge, Varenicline (Chantix) and Bupropion (Zyban).

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# ATTACHMENT 9



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Home > Policy & Advocacy > Tobacco Initiatives > Cigarette & Tobacco Taxes

# Cigarette & Tobacco Taxes



## Policy & Advocacy

### What We Advocate For

### Take Action

### Healthy Air Campaign

The American Lung Association strongly supports efforts on the national, state and local levels to increase taxes on cigarettes and tobacco products. Increasing tobacco taxes can:

- Keep kids from starting to smoke
- Help adults to quit
- Provide funding for much-needed health programs

Healthcare &  
Lung  
Disease  
Initiatives

Tobacco  
Initiatives

FDA  
Oversight of  
Tobacco  
Products

• **Cigarette &  
Tobacco  
Taxes**

Tobacco  
Industry  
Marketing

Tobacco  
Prevention

Tobacco  
Cessation

Smokefree  
Environments

Tobacco  
Policy  
Reports &  
Resources

State  
Legislated  
Actions on  
Tobacco  
Issues  
(SLATI)

Public Policy  
Positions

Public Policy  
Agenda

# Increasing Cigarette and Tobacco Product Taxes

Increasing taxes on cigarettes is a win-win proposition: significantly increasing cigarette taxes results in fewer kids starting to smoke, and in more adults quitting while at the same time providing substantial revenue to fund important health, as well as tobacco prevention programs. Every 10 percent increase in the price of cigarettes reduces consumption by about four percent among adults and about seven percent among youth.<sup>1</sup>

## Funding Critical Health Programs

**Federal Level:** On the federal level, revenue from cigarette and tobacco taxes helps fund programs that support children and adults across the country, including the Children's Health Insurance Program (CHIP). CHIP provides health insurance to many children in the U.S. who would otherwise be uninsured.

Federal tobacco taxes were last increased in 2009, with the cigarette tax being increased by \$0.62 per pack. The current federal cigarette tax is \$1.01 per pack. The American Lung Association supports increasing the federal cigarette tax and making federal tax rates on other tobacco products equal to the cigarette tax.

**State and local communities:** Revenue from state and local tobacco tax increases can and should be used to fund state tobacco control programs.

Federal  
Priorities for  
the 118th  
Congress

Our  
Advocacy  
Victories

Advocacy  
Archive

The Lung Association has had great success recently in increasing the price of tobacco products as 49 states and the District of Columbia have increased their cigarette taxes since 2002, many more than once. The average state cigarette tax was \$1.81 per pack as of October 2018.

- [Get more information on state tobacco taxes](#)
- [See how your state measures up in our State of Tobacco Control report](#)

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*Page last updated: November 17, 2022*

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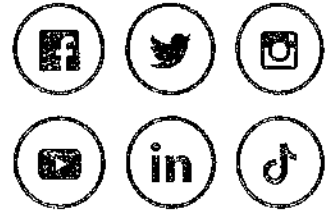
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ATTACHMENT 13

# ATTACHMENT 10



# ACTION NEEDED: TOBACCO TAXES

The research is clear: increases in tobacco taxes decrease tobacco use. Indeed, raising taxes on tobacco and thereby increasing its price is one of the most effective ways to reduce tobacco use. Prices affect virtually all measures of cigarette use, including per-capita consumption, smoking rates and the number of cigarettes smoked daily.<sup>2,6-8</sup> These effects apply across a wide range of racial and socioeconomic groups.<sup>9</sup>

Smoking-related illnesses remain the leading cause of preventable death in the United States, with more than 540,000 deaths annually, and cost the country more than \$300 billion each year, including \$170 billion for direct medical care for adults and more than \$156 billion in lost productivity.<sup>1,2,3</sup> Yet the federal tax on cigarettes has not increased since 2009, when the Children's Health Insurance Program Reauthorization Act raised the tax to \$1.01 per pack.<sup>4,5</sup> State taxes per cigarette pack average \$1.78, with rates ranging from 17 cents in Missouri to \$4.50 in Washington, D.C.\*

Truth Initiative® supports a set of policies regarding tobacco taxes, starting with federal, state and local tax authorities levying the highest



Smoking-related illnesses remain the leading cause of preventable death in the U.S., with more than 540,000 deaths annually.

## The cost of smoking-related illnesses in the U.S.

Direct medical care for adults      Lost productivity

**\$170**  
billion/year

**\$156**  
billion/year

Total **\$326** billion/year

possible taxes on cigarettes and all other combustible tobacco products, such as cigars, pipe, roll your own tobacco and hookah. Additionally, all tobacco products, including e-cigarettes, should be taxed at rates that discourage youth use. At this time, only 10 states tax e-cigarettes at all.<sup>33</sup> That said, tax authorities should levy taxes on properly regulated e-cigarettes and products proven to be both less harmful and help move smokers away from combustible tobacco products at rates proportional to the harms of each type of tobacco product. We note that this strategy only works when taxes on combustible products are significant enough to both discourage youth uptake and to encourage smokers to switch to less harmful products. In many jurisdictions in the U.S., taxes, even on cigarettes, remain well below these levels.

\*Individual state fact sheets can be accessed at [truthinitiative.org/2018-state-fact-sheets](http://truthinitiative.org/2018-state-fact-sheets).

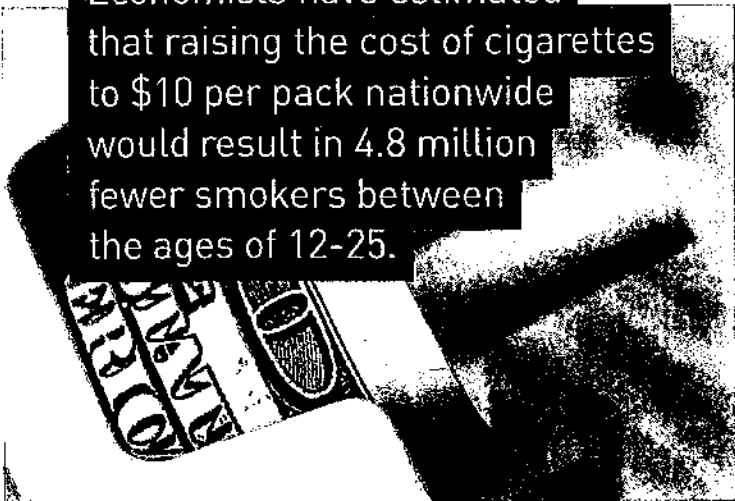


Further, taxes on tobacco products should increase over time to continue to have the intended effect of encouraging quitting among current smokers, and preventing vulnerable populations, especially youth, from starting to use these products. Programs providing tobacco prevention and quitting services should receive a significant portion of funds garnered from all tobacco taxes, which will further protect communities from the toll of tobacco.

Specifically, Truth Initiative supports the following policies:

### **TOBACCO TAXES SHOULD BE ASSESSED AT THE HIGHEST POSSIBLE RATES TO PREVENT YOUTH FROM USING TOBACCO PRODUCTS AND TO ENCOURAGE ADULTS TO QUIT.**

Taxes are a particularly effective tool for discouraging youth uptake of cigarettes.<sup>10</sup> Youth and young adults are two to three times more likely to respond to changes in prices than adults,<sup>2</sup> and health economists have estimated that raising the cost of cigarettes to \$10 per pack nationwide would result in 4.8 million fewer smokers between the ages of 12-25.<sup>11</sup> In fact, researchers who compared youth use just before and just after the federal cigarette tax increase in 2009 found that the tax led to at least 220,000 fewer middle and high school students taking up smoking.<sup>12</sup>



Economists have estimated that raising the cost of cigarettes to \$10 per pack nationwide would result in 4.8 million fewer smokers between the ages of 12-25.

### **Cigarette prices and consumption**

10% Increase in cigarette price



**As cigarette prices increase, consumption drops.**

3-5% Decrease in overall cigarette consumption

Young people are more responsive to tax increases for several reasons, including their lower incomes, which make them more price sensitive, and the shorter amount of time spent smoking compared to older smokers, which makes them likely to be less addicted.<sup>13</sup> Higher cigarette prices also make it more likely that adult smokers will quit.<sup>14,15</sup>

While not as widely studied, tax increases on other tobacco products, such as cigars and smokeless tobacco, yield similar results in terms of reducing prevalence and consumption.<sup>16</sup> A study of the 2009 federal tax increase on smokeless tobacco led to at least 135,000 fewer users immediately after the increase took effect.<sup>12</sup> As a result, it is important to tax all tobacco products, including e-cigarettes and those products that have been granted modified risk status by the Food and Drug Administration, at sufficiently high levels to deter youth tobacco use. Only then can a differentiated tax structure work to encourage adult quitting.

Further, tobacco taxes on all products should increase over time. Taxes must increase regularly to continue the effect of the taxes on reducing tobacco use. Moreover, increases in taxes should be meaningful and they should not be phased in, so that they have the strongest effect on changing tobacco use behaviors. We know that for every 10 percent increase in cigarette price, overall cigarette consumption is reduced by 3 to 5 percent.<sup>2</sup> Thus, the higher the tax, the higher the decrease in tobacco use. At the same time, because the effect of a tax increase will naturally

wear off over time, it is important to raise taxes periodically to ensure continued decreases in tobacco use.

The tobacco industry has also long understood the impact of price increases on smoking among young people. Internal tobacco company documents describe how cigarette price increases lead to significant reductions in smoking, particularly among young people.<sup>13</sup> A 1985 Philip Morris internal document stated, "Of all the concerns, there is one—taxation—that alarms us the most. While marketing restrictions and public and passive smoking do depress volume, in our experience taxation depresses it much more severely. Our concern for taxation is, therefore, central to our thinking about smoking and health. It has historically been the area to which we have devoted most resources and for the foreseeable future, I think things will stay that way almost everywhere."<sup>17</sup> The economics behind this conclusion are as true today as they were in 1985. Indeed, the tobacco industry continues to put the full might of its considerable lobbying forces toward thwarting tobacco taxes. In 2016, the industry spent \$71 million against a ballot initiative to raise the tobacco tax in California.<sup>18</sup> In 2018 in Montana, a much smaller state, the tobacco industry spent \$17.46 million against a ballot initiative to raise tobacco taxes there—the most expensive ballot measure in Montana history.<sup>32</sup>

Finally, an increase in tobacco taxes reliably leads to increased revenue by the government enacting the tax.<sup>19</sup> This provides for "double bottom line" — increased revenue in state and local coffers and improved health and productivity for citizens.

## REVENUE RAISED THROUGH INCREASED TAXES ON TOBACCO PRODUCTS SHOULD SUPPORT TOBACCO CONTROL PROGRAMS.

Tobacco taxes raise revenue that should be used for tobacco control programs. Comprehensive programs fund things such as enforcement of tobacco control policies, quitting services, youth smoking prevention programs, surveillance programs and education about tobacco health effects, industry tactics and tobacco control policies.

### GENERAL COMMENTS ON SMOKING AND HEALTH

In thinking about smoking and health, the first thing that comes to mind is product liability. Yet,

**"While marketing restrictions and public and passive smoking do depress volume, in our experience taxation depresses it much more severely. Our concern for taxation is, therefore, central to our thinking about smoking and health."**  
—1985 Philip Morris internal document

Of all the concerns, there is one - taxation - that alarms us the most. While marketing restrictions and public and passive smoking do depress volume, in our experience taxation depresses it much more severely. Our concern for taxation is, therefore, central to our thinking about smoking and health. It has historically been the area to which we have devoted most resources and for the foreseeable future, I think things will stay that way almost everywhere.

Philip Morris Inc. Internal Document, 1985

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When price increases are accompanied by comprehensive tobacco control programs, the impact of both is strengthened.<sup>20</sup>

- > For example, when New York City accompanied increases in local cigarette taxes with other tobacco control services and activities, cigarette smoking among adults declined by 19 percent between 2002 and 2006.<sup>21</sup>
- > In Oregon, a study found that the combination of a tax increase and the state's tobacco prevention and education program decreased taxable per capita cigarette consumption by 11 percent.<sup>22</sup>
- > Washington state found a return of more than \$5 for every \$1 spent on its state tobacco program.<sup>23</sup>

Funds for state tobacco programs are critical. The tobacco industry spent almost \$9.5 billion in 2016 marketing its products in the U.S.<sup>24,25</sup> In contrast, in fiscal year 2018, states dedicated only \$721.6 million in tobacco prevention spending, less than 3 percent of the Centers for Disease Control and Prevention recommendation.<sup>26</sup> The larger the investment states make in these programs, and the longer they sustain their programs, the greater and faster their impact.<sup>27</sup>

## TAX AUTHORITIES SHOULD INSTITUTE TAX PARITY BETWEEN CIGARETTES AND ALL COMBUSTIBLE TOBACCO PRODUCTS.

In 2009, the federal government increased the tax rate for small cigars much more than for large cigars. The Internal Revenue Code breaks cigars into two categories for the purpose of taxes: "small or little cigars," which are the same size as cigarettes (3 pounds per 1,000 sticks), and "large cigars" that cover every other type of cigar that is larger than 3 pounds per 1,000 sticks.<sup>28</sup> The federal tax rate for small cigars is the same as it is for cigarettes, at \$50.33 per 1,000 (or \$1.01 per pack of 20), while the tax on each large cigar is 52.75 percent of the sales price, but not to exceed 40.26 cents per cigar.<sup>4</sup>

This led to small cigar manufacturers making minor product changes to add enough weight to legally classify them as large cigars for tax purposes, while they still appear to users to be cigarette replacement products at a much cheaper price. Despite a continued decrease in cigarette smoking in the U.S., consumption of large cigars has increased substantially since the federal tobacco

tax increased in 2009. Manufacturers have been able to increase the per-unit weight of several small cigars to take advantage of a tax benefit when classified as large cigars, which are taxed based on the product price rather than per cigar. They did so by using fillers such as the clay found in kitty litter or stuffing the products with more tobacco to tip the scales in their favor. As a result of relatively minor increases in per-unit weight, the new "large cigar" can appear almost identical to a "small cigar," which resembles a typical cigarette and can cost as little as 7 cents per cigar.<sup>28-30</sup>

From 2000 to 2017, total small cigar consumption decreased 80.7 percent from 2.3 billion in 2000 to 440 million in 2017; however, large cigar consumption increased 332.1 percent from 3.9 billion in 2000 to 12.9 billion in 2017.<sup>31</sup> This is a stark example of how price can dramatically affect rates of tobacco product use and demonstrates that governments should apply the highest tax rate to all combustible tobacco products.

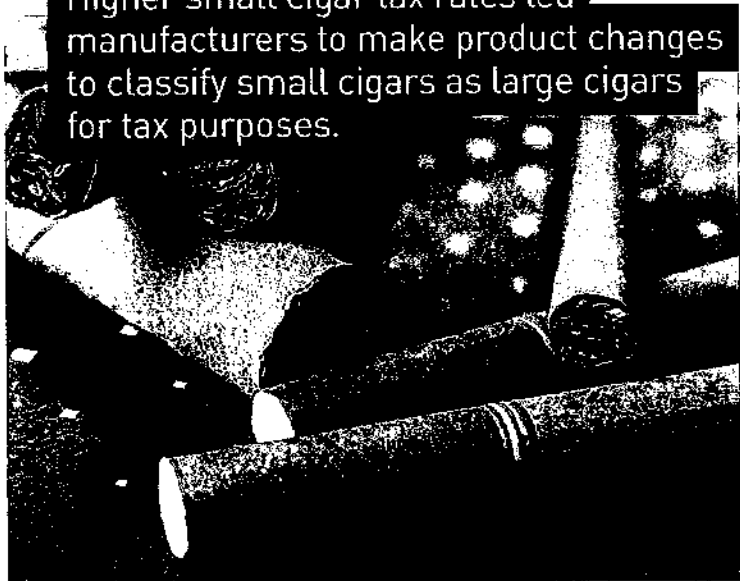
## TAXES SHOULD BE PROPORTIONAL TO THE HARMS OF EACH TYPE OF TOBACCO PRODUCT. THIS TAX STRUCTURE REQUIRES FULL FOOD AND DRUG ADMINISTRATION REGULATION AND REVIEW OF PRODUCTS THAT COULD POTENTIALLY REDUCE HARMS.

Not only can taxes prevent youth from using tobacco, they also encourage smokers to quit or, for those who cannot or will not quit, they can encourage smokers to switch completely to the least harmful tobacco products.

Given the epidemic rates of youth tobacco use, especially for e-cigarettes, federal, state and local tax-writing authorities should set taxes on all tobacco products, including e-cigarettes, at levels high enough to discourage non-users, particularly youth, from using them. Combustible tobacco products cause the most damage to health and should be taxed at the highest rate. However, not all tobacco products carry the same

### PRICE CAN DRAMATICALLY AFFECT RATES OF TOBACCO PRODUCT USE

Higher small cigar tax rates led manufacturers to make product changes to classify small cigars as large cigars for tax purposes.

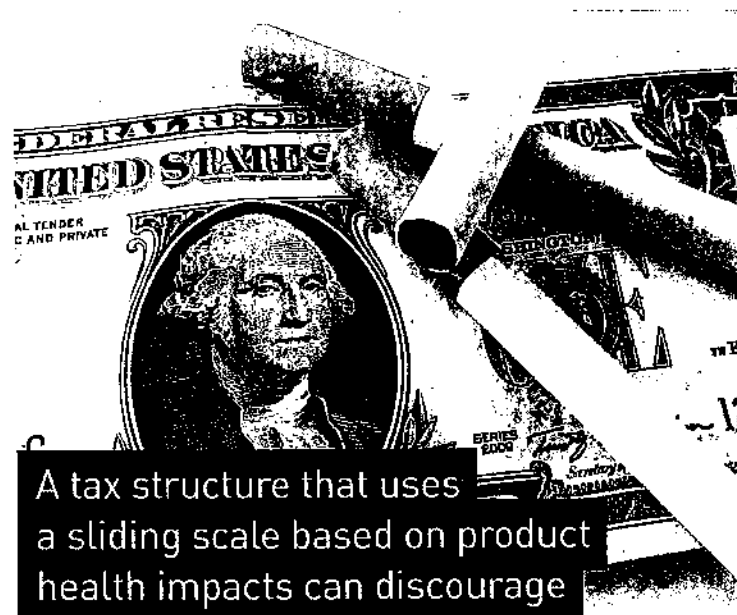


health consequences. A tax structure that uses a sliding scale based on product health impacts can discourage use of the most harmful products. For those who cannot or will not quit tobacco altogether, a comparatively lower tax rate makes those products that help smokers switch completely to significantly less harmful products more accessible, and increases incentives to quit the more expensive, and most harmful combustible products.

This policy proposal comes with a caveat. For this type of tax structure to work, the FDA must fully exercise its authorities to regulate tobacco and review products that have the potential to reduce tobacco-related harms. Such a tax structure cannot occur in the current environment where products purported to be the least harmful have not been reviewed by the agency. This lack of scientific review makes it impossible to determine which products reduce harms and help smokers switch completely from combustible products. Until that time, a tax rate proportional to health consequences cannot be put into action as tax agencies would not know which products truly reduce health harms. Nonetheless, even now, tax agencies can ensure that all tobacco taxes are high enough to prevent youth use and that all combustible tobacco products bear the highest tax.

## CONCLUSION

Truth Initiative supports increases in taxes on cigarettes and other tobacco products as part of a comprehensive tobacco control program. Using the revenue raised from these tax increases for tobacco prevention and quitting services will help to magnify the impacts of the tax increase. These steps will prevent initiation of tobacco use, promote quitting, reduce the prevalence and intensity of tobacco use among youth and adults and result in positive economic impacts through revenue and savings of health and productivity costs. We encourage all states and localities, where allowed, to increase tobacco taxes and increase funding on tobacco control programs to improve the health of their citizens and make those locations healthier, more productive places to live.



A tax structure that uses a sliding scale based on product health impacts can discourage use of the most harmful tobacco products.

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# **Maryland - Written Seneca Distributions.pdf**

Uploaded by: Michael Johansen

Position: UNF

**Written Statement Submitted on Behalf of Seneca Distributions LLC Concerning SB1018**

I am a Mohawk Native American and the sole owner of Seneca Distributions, LLC. I submit this written statement on behalf of Seneca Distributions in opposition to SB1018.

Seneca Distributions is a distribution company I founded in 2013. I began my career in 2006, working as a marketing representative for the Seneca brand of products in traditionally Native markets throughout the United States. After seven years, and traveling extensively throughout the U.S., I made the decision to start my own business and focus my efforts in the mid-Atlantic region of the U.S.

I am a single mother who has dedicated days, nights, and weekends over the last 10 years to my business, sometimes sacrificing time with my daughter so that the business could survive and continue. From humble beginnings where I was the only worker, Seneca Distributions now employs 30 people. Over the years, and developing the market for Seneca products in Maryland and surrounding areas, I have learned extensively about the tobacco market in Maryland and beyond. I witness and experience firsthand each day which manufacturers have products in the market, and what these manufacturers do to sell their products on a daily and quarterly basis.

I am very familiar with Maryland's Escrow Statute, and the compliance it requires from Grand River Enterprises (the manufacturer of the Seneca cigarettes we distribute). I understand that the Escrow Statute currently requires Grand River to deposit approximately \$8.90 per carton for each carton of Grand River cigarettes that Seneca Distributions sells in Maryland.

I am also very familiar with the marketing and pricing competition of a certain group of MSA manufacturers that are commonly referred to as "Exempt MSA Companies." Grand River's products compete extensively with these Exempt MSA Companies, and my daily, monthly, quarterly, and annual business depends critically on my ability to compete with the marketing and pricing of these Exempt MSA Companies. I see their prices in the market every day, and I witness firsthand the competitive advantage they have to price their products in the states and regions in which we compete. Through Seneca Distributions's dedication, goodwill, and plain hard work, our minority-owned and disadvantaged company has been able to survive in the market just enough to stay in business.

Having worked with and modeled our business around the Escrow Statute which has been in place for over 20 years, SB1018 now proposes to change the Escrow Statute in a way that will upset and materially affect the competitive balance that exists and has existed in the Maryland market. SB1018 will keep the escrow requirements in place, but also impose an assessment on Grand River's products much like a tax. The effect of the assessment will be to raise the cost and price of Grand River's products in the market, to levels at which Seneca Distributions cannot compete with the Exempt MSA Companies. I know of no reason or basis to impose this increased regulatory cost on the products we distribute, when our principal competitors make no



equivalent or even remotely comparable payments to or for the benefit of the MSA States, including Maryland.

After having been told for 10 years that Maryland law required Seneca Distributions and its products to comply with a fixed set of rules and requirements, and having forged and built our business in reliance on those rules and requirements, we do not see any basis to change those rules and requirements – particularly in a manner that discriminates in favor of a select few and privileged companies that stand to further benefit from an already discriminatory and biased regulatory regime. SB1018’s unfairness and anticompetitive effects will shut the door on competition from smaller and Native-owned businesses such as Grand River and Seneca Distributions, and likely shut Seneca Distributions’ doors altogether. For these reasons, we respectfully ask the Legislature to reject SB1018 in every respect.

# **SB1018 Oppose - Grand River.pdf**

Uploaded by: Michael Johansen

Position: UNF



Grand River Enterprises  
Six Nations Ltd.  
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March 11, 2024

The Honorable Pam Beidle, Chair Senate Finance  
3 East, Miller Senate Office Building  
Annapolis, Maryland 21401

The Honorable Guy Guzzone, Chair Senate Budget & Tax  
3 West, Miller Senate Office Building  
Annapolis, Maryland 21401

RE: Opposition To Senate Bill 1018 "Tobacco Product Manufacturers – Escrow Act – Alterations"

Dear Chairpersons Beidle and Guzzone:

Grand River Enterprises Six Nations, Ltd. ("Grand River") submits the following written statement in opposition to SB 1018.

Grand River is a tobacco product manufacturer wholly owned by Native Americans who are members of the Six Nations, more commonly known as the Iroquois Confederacy. Grand River's products are sold under the brand name "Seneca," and they are imported into the U.S. from Grand River's factory located on the Six Nations of the Grand River Reserve, in Ohsweken, Ontario, Canada. We wish to provide the legislature with a history and backdrop of Grand River's business and compliance with the Maryland escrow law that has been in place for over 20 years. The changes to that law proposed in SB 1018 would have dramatic adverse effects both on Grand River and the multiple businesses, Native and non-Native, that distribute these products and the products of similarly situated manufacturers and businesses. In particular, they would require Grand River and similar companies to make direct payments to the State as though they had agreed to the terms of the Master Settlement Agreement (discussed below) but without any (i) specific claim or adjudication of any wrongdoing by them and (ii) without any of the benefits conveyed to the companies that settled with the States, including Maryland.

Grand River started out as a partnership and then assumed its current corporate form in 1996. Grand River's business model then and now includes production of tobacco products for distribution in the U.S. and Canada. In 1998, however, 46 States (including Maryland) and the major U.S. tobacco product manufacturers entered into a settlement agreement known as the "Master Settlement Agreement" or "MSA." The MSA settled claims brought against these major manufacturers arising from their marketing practices, including lying about the addictiveness of their products, manipulating the nicotine content of their products, and targeting their marketing to youth with these addictive properties in mind. The settlement provided a full release to these accused companies in return for their annual settlement payments to the MSA States.

When negotiating the MSA, the accused companies were concerned that, when they raised their prices to make the annual MSA payments, they would lose market share to smaller companies that were not sued nor accused of any wrongdoing. All of this is detailed extensively in the record of a lawsuit that Grand River and other companies brought in federal court commencing in 2002 against 30 States, including Maryland. To accommodate the accused companies, the States (including Maryland) agreed to two things in the MSA. First, the States agreed to allow a select few manufacturers such as the companies now known as Liggett Group LLC, ITG Brands LLC, and Japan Tobacco International USA Inc. to join the MSA within 90 days of November 1998 (the MSA's effective date) with a perpetual exemption from the MSA's payment requirements, amounting to 100s of millions of dollars each year, for any volume of cigarettes they sell that does not exceed 125% of their 1997 market share or 100% of their 1998 market share, whichever is greater. Herein, Grand River refers to these companies as the Exempt Companies.

Second, the States agreed to include in the MSA a model law – which is the law that is proposed to be amended by SB 1018. The model law, commonly referred to as the “Escrow Statute,” has been adopted in each MSA State (including Maryland) and requires companies that do not join the MSA (such as Grand River) to deposit money into an escrow account for each of their cigarettes sold in Maryland. These companies are called Non-Participating Manufacturers (NPMs) – manufacturers that have not joined the MSA nor been sued or accused of the wrongdoing committed by the accused manufacturers that settled the claims against them under the MSA. The amount deposited into escrow by NPMs is based on the equivalent amount they would have to pay if they joined the MSA WITHOUT ANY EXEMPTION; and the funds are held for 25 years and can be used or accessed by a State only if a State sues and obtains a judgment against (or settles with) an NPM for the type of wrongdoing settled under the MSA.

As mentioned, Grand River, along with other companies, initially sued multiple states in federal court, claiming that the MSA and its Escrow Statute were unfair, unconstitutional, and anticompetitive on multiple grounds. The Exempt Companies mentioned above, for example, receive hundreds of millions of dollars in payment exemption under the MSA. This exemption relieves these MSA companies from making any payment requirement under the MSA up to the amounts mentioned above; and as MSA participants they are exempted completely from making any escrow payments that are required to be made by NPMs under current law or from paying any assessment proposed under SB 1018. GRE and the other NPMs currently on the Maryland Tobacco Directory were never offered, and they do not and cannot benefit from, any payment exemption similar to that given to these Exempt Companies. Indeed, in its 2022 annual report, the corporate parent of two Exempt Companies – Liggett Group LLC and Vector Tobacco Inc. – boasts to shareholders about the competitive advantage it receives under the MSA, noting how it will maximize value in the following way:

- “Capitalize on our tobacco subsidiaries’ cost advantage in the United States cigarette market due to the favorable treatment that they receive under the Master Settlement Agreement (“MSA”)

Elsewhere in the report, the company reports:

- “Under the MSA reached in November 1998 with 46 states and various territories, cigarette manufacturers selling product in the U.S. must make settlement payments to the states and territories based on how many cigarettes they sell annually. Liggett, however, is not required to make any payments unless its market share exceeds its grandfathered market share established under the MSA of approximately 1.65% of the U.S. cigarette market. Additionally, Vector Tobacco has no payment obligation unless its market share exceeds approximately 0.28% of the U.S. cigarette market. We believe our tobacco subsidiaries have gained a sustainable cost advantage over their competitors as a result of the settlement.”

When confronted about this clear disadvantage to NPMs, the States have argued through their MIT Health Economist, Jonathan Gruber, that the NPMs are not disadvantaged by the Escrow Statute vis-à-vis these Exempt Companies because among other things the Escrow Statute operates as a forced savings, which NPMs may invest to earn income, and the principal is returned to the NPMs after 25 years. For these reasons, it has also been argued that the Escrow Statute does not operate as a tax on NPMs because the funds deposited into escrow remain the property of a NPM and are never paid to the States.

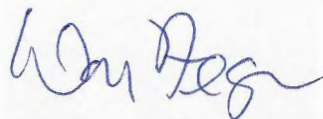
Following these arguments and positions, the litigations brought by NPMs against multiple States, including Maryland, were either dismissed or discontinued. NPMs such as Grand River and those others on the Maryland Tobacco Directory proceeded in reliance on and grounded in the foundation and position taken by the States that the Escrow Statute merely implemented a regulatory regime of “forced savings” through non-taxation of NPMs. In short, the NPMs adapted to compete with those “privileged” and “favored” companies that received exemptions under the MSA, and they found a way to survive in a market heavily favoring these Exempt Companies. Even with the earnings NPMs make on their forced savings accounts and the 20+ year reliance expectations created by both the terms of the Escrow Statute and the States’ 20+ years of arguments and positions surrounding that law, the exemptions given to the Exempt Companies allow them to price their products in the Maryland market for less than what NPMs can price their products. The competitive balance is delicate and precarious. To now transform the escrow obligations into a tax assessment and taking would, in effect, impose a triple detriment to NPMs and create another unfair advantage for these Exempt Companies.

In short, we ask the Senate inquire of the proponents of SB 1018 as to why the bill is needed and why now? Has any impact study or data been presented to show a competitive imbalance or other reasons that would justify SB 1018 in the face of the anticompetitive and discriminatory treatment outlined above?

For example, the Escrow Statute currently requires each NPM to deposit into escrow for 25 years approximately \$8.90 per carton for each carton of the NPM’s cigarettes sold in Maryland. Exempt Companies (whose products are already priced lower than NPM products) get away with paying \$0 for any carton of cigarettes they sell in the U.S. (including Maryland) that is under 100% of their 1998 market share or 125% of their 1997 market share, whichever is greater.

In short, SB 1018 proposes to target for extinction NPMs such as Grand River through unfair, anticompetitive, and unconstitutional means, and no reasonable or acceptable explanation exists to consider or adopt SB 1018 in the face of such injustice.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Donald Ferrigan".

Donald Ferrigan  
Purchasing Director

# **Senate Bill 1018 Cheyenne International Letter to**

Uploaded by: Ralph Brown

Position: UNF



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March 13, 2024

The Honorable Pam Beidle, Chair Senate Finance  
3 East, Miller Senate Office Building  
Annapolis, MD 21401

The Honorable Guy Guzzone, Chair Senate Budget & Tax  
3 West, Miller Senate Office Building  
Annapolis, MD 21401

**Re: Opposition to Senate Bill 1018 “Tobacco Product Manufacturers - Escrow Act - Alterations”**

Dear Honorables Beidle and Guzzone,

Please find below a brief outline of arguments in opposition to Maryland Senate Bill 1018 (“SB 1018”) for your consideration by Cheyenne International, L.L.C., (“Cheyenne”), a small tobacco company located in Grover, North Carolina. Cheyenne is a non-participating manufacturer (“NPM”), meaning it is not a signatory to the 1998 Master Settlement Agreement (“MSA”) between several settling states, including Maryland, and many large tobacco companies.

**SENATE BILL 1018 DOES NOT ACCOMPLISH ITS STATED PURPOSES**

In its preamble to SB 1018, the State makes the following four supporting points:

1. Prevent manufacturers from deriving large short-term profits and then becoming judgment-proof;
2. Require tobacco product manufacturers to internalize the health care costs imposed on the State by cigarette smoking;
3. Increase the price of cigarettes to reduce smoking rates, particularly among the youth of the State, consistent with State policy to discourage underage smoking; and
4. Serve as partial compensation for the financial burdens imposed on the State by cigarette smoking.

If enacted, SB 1018 would not accomplish any of these four objectives. SB 1018 only serves to enrich those larger cigarette manufacturers that are signatories to the MSA, which stand to gain new smokers.

It is important to understand that the State’s existing MSA charges on cigarettes manufactured by small business manufactures, like Cheyenne, are already equal to the MSA charges on manufacturers that are parties to the Master Settlement Agreement. Like the participating manufacturers, NPMs are required to pay MSA charges into an escrow account for the benefit of the State. Importantly, these MSA deposits are payments - not fictional charges or

accounting accruals - and the NPMs do not have access to these amounts. As with the MSA charges on the participating manufacturers, the NPM MSA charges are subject to various adjustments each year so that NPMs pay the same amount as the participating manufacturers and do not have a price advantage. The “equity fee” that SB 1018 seeks to impose on NPMs would not be subject to any of the participating manufacturer MSA adjustments (e.g., the NPM Adjustment which reduces the annual charge that the participating manufacturers pay) and thus is nothing more than special tax on non-participating manufacturers. Consequently, cigarettes sold by non-participating manufacturers would be more expensive than those sold by participating manufacturers. This would not discourage smoking. Rather, it only induces smokers to switch brands.

If the State genuinely desires to reduce smoking as stated in its purposes for SB 1018, then it should impose a tax on all cigarettes to make all cigarettes more expensive. Taxing only a subset of cigarette brands merely encourages smoking of different brands of cigarettes, namely those manufactured by participants to the MSA.

Next, contrary to the State’s first stated purpose, NPMs, like Cheyenne, do NOT derive large short-term profits with the possibility of becoming judgment-proof in the future. As explained above, the Model Escrow Statute, which Senate Bill 1018 seeks to amend, requires non-participating manufacturers to pay into an escrow account for the benefit of the State the same amount that the participating manufacturers pay to the State. Pursuant to the Model Escrow Statute, these escrowed funds exist “[t]o pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State of Maryland[.]” This escrow construct was intentionally designed by the settling States (including Maryland) and the participating manufacturers in 1998 and incorporated into the MSA to specifically equate the annual payment non-participating manufacturers make to that made by the participating manufacturers. Thus, the Model Escrow Statute, which has existed for almost 25 years, already prevents the non-participating manufacturers from “deriving large short-term profits and then becoming judgment-proof” (SB 1018’s first stated objective) and requires the non-participating manufacturers to “internalize the health care costs imposed on the State by cigarette smoking” (SB 1018’s second stated objective).

The State also seemingly asserts that the measure would prevent youth initiation of cigarette products. If that is the goal, the State should target the PMs, rather than NPMs. As outlined by the Centers for Disease Control (“CDC”) as recently as 2018, youth do not smoke brands manufactured by NPMs. Rather, “the top three brands usually smoked among cigarette smokers in all middle school grades combined were Marlboro (38.3%), Newport (21.4%), and Camel (13.4%). In 2017, the CDC more fully outlined the remaining cigarette brands used by youth. In order, these were Pall Mall, Maverick, Santa Fe, Winston, and Kool. All of these brands are manufactured by the participating manufacturers. SB 1018 does not correct youth initiation of NPM brands, as the evidence establishes there is none.

Lastly, SB 1018 would not “serve as partial compensation for the financial burdens imposed on the State by cigarette smoking.” **The State will lose over \$1.5 million in 2025 from the effects of SB 1018, as confirmed by the State’s Comptroller’s Office.** The State’s Department of Legislative Services estimates that SB 1018 would raise only \$450,000 annually from NPM equity fees. This is due to the fact that NPMs sell very few cigarettes that are consumed in the State. However, the State’s Comptroller’s Office will incur at **least \$2 million** to adjust its computer systems to account for the equity fee. This is a loss of over \$1.5 million! This supports the fact that SB 1018 only serves to financially reward the participating manufacturers, who stand to win with SB 1018. The State stands to lose money by enacting SB 1018.

In closing, I appreciate the opportunity to present my company’s objections to SB 1018 and if you have any questions regarding my arguments against SB 1018, please do not hesitate to contact me.



Best regards,

A handwritten signature in black ink, appearing to read "David Scott". The signature is fluid and cursive, with a long horizontal stroke extending to the right from the end of the name.

David Scott  
CEO  
Cheyenne International, LLC