



February 28, 2016

West Virginia House of Delegates
West Virginia Senate

Dear Legislator,

I write today to encourage resilience against efforts to raise taxes on West Virginia small businesses and consumers in 2016. This has been a historic year for the Mountain State. In becoming the 26th right-to-work state, joining a union and paying its dues will no longer be a condition of employment in West Virginia. This is important for a number of reasons, one of which is that forced unionization has resulted in the financing of the very party apparatus and thus federal bureaucracy that has decimated the state's economy in recent years.

As the legislature nears the end of session, there are still important decisions to be made about reining in out-of-control state spending and the burden of government on state taxpayers. Last week the state Senate passed Senate Bill 420, which would increase the tax on a pack of cigarettes to \$1.55, a \$1-per-pack increase. Last year, the House rejected this very bill in the form of a Senate amendment to House Bill 2646. **Raising the state cigarette tax is a misguided proposal that should be rejected by the legislature.**

Contrary to claims made by organizations like the Campaign for Tobacco-Free Kids, raising the cost of tobacco products with higher taxes does not necessarily mean tobacco use will decline. Extensive research suggests that regressive cigarette taxes unnecessarily punish the poor without reducing smoking. Smokers often minimize the impact of tax increases like those proposed in SB 420 by switching to lower price discount cigarettes, smoking fewer cigarettes more intensively, and seeking out low-or untaxed cigarettes.

Targeted excise taxes have proven to be unstable sources of revenue, and ultimately can cause a reduction in tax receipts. **Increasing the state's reliance on tobacco taxes by increasing them by \$1 per pack will not necessarily generate more revenue in the long term.** When Illinois nearly doubled its cigarette tax in 2012 by raising the tax \$1-per-pack; it generated \$138 million less than projected. A reduction in tax receipts is a common occurrence amongst cities and states that attempt to discourage consumption with higher costs. In fact, [only three out of the 32 state tobacco tax increases, enacted between 2009 and 2013, have met or exceeded tax revenue projects.](#)

Ohio's 35-cent increase cigarette tax last year has already been a boon for northern Kentucky, according to the State Budget Director John Cilton. In the quarter immediately following the Ohio tax increase, Kentucky experienced a hefty spike in the tax receipts collected from cigarettes, up 6.5 percent last November and 2 percent overall. Cilton cited Ohio's tax increase as the likely culprit.

It is unlikely more Kentucky consumers took up smoking. Cross-border sales and smuggling are a far more reasonable explanation. With cigarette tax increases, **the likelihood of smuggling and cross-border sales increases too.** According to a recent report by the Tax Foundation, West Virginia's regionally competitive tax on cigarettes has resulted in a net outflow of cigarettes into states like Ohio, New York, and Maryland as a result of their high taxes on the products.

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Raising the cigarette tax by \$1 per pack would reverse this trend, as was the case in Illinois. When they raised the tax in 2012, the percentage of smuggled cigarettes increased from 1% to 21% in one year. Small businesses in the state lost tens of thousands of dollars as customers sought out cigarettes in less expensive markets across state lines. Virginia, in fact, is among the most sought out states for cigarettes with a net outflow of nearly 23% of all cigarettes into other more expensive markets. SB 420 would be a boon for the Virginia economy, while encouraging black market sales by criminal elements in West Virginia.

Anti-smoking activists and public health advocates should be concerned about the next target of tax hikes contained in SB 420: electronic cigarettes and vapor products. These tobacco-free technology products are helping tens of thousands of smokers make the transition to far healthier alternatives. By imposing a 7.5-cent per mL tax on e-cigarettes and retroactively requiring taxes to be paid on store inventory, this punitive tax is both anti-health and a shameless cash grab.

One vape shop owner in Monongalia and Harrison counties has already stated that this would cost him between \$30,000-\$50,000 up front. **It is reckless to destroy with tax hikes small businesses accomplishing what tax hikes on cigarettes never could, getting people to quit smoking.**

Taking aim at e-cigarettes with higher taxes works against efforts to reduce the harm associated with smoking. A number of studies have shown that electronic cigarettes can improve health and prevent disease. By choosing to "vape" e-cigarettes, consumers get their nicotine fix without the combustion and smoke, which are responsible for many of the negative health effects of tobacco cigarettes. A Public Health England study found that e-cigarettes are 95-99% less harmful than tobacco cigarettes. **The legislature should reject raising taxes on healthier, life-saving products.**

SB 420 is a tax increase and for those legislators who have signed the Taxpayer Protection Pledge, this would violate that personal written commitment to voters.

Tax increases don't stimulate economic growth, create jobs, or help poor communities. Tax increases are what politicians do instead of reforming government to cost less. If such a prescription for public policy was truly the will of the people, it is unlikely Democrats would be on the verge of becoming a permanent minority party in West Virginia.

If you have any questions about ATR's position on this issue, please contact state affairs manager Paul Blair at 202-785-0266 or by email at pblair@atr.org.

Onward,



Grover G. Norquist
President, Americans for Tax Reform