

Senate Executive Committee Meeting

**Official Minutes
151st General Assembly
First Session**

**Committee Meeting
Wednesday, May 19, 2021
3:00 p.m.
Virtual Zoom Meeting**

Meeting Attendance

Committee Members Present:

Senator David Sokola
Senator Bryan Townsend
Senator Elizabeth Lockman
Senator Stephanie Hansen
Senator Gerald Hocker
Senator Brian Pettyjohn

David.Sokola@delaware.gov
Bryan.Townsend@delaware.gov
Elizabeth.Lockman@delaware.gov
Stephanie.Hansen@delaware.gov
Gerald.Hocker@delaware.gov
Brian.Pettyjohn@delaware.gov

Absent: None

Staff:

Valerie McCartan
Abigail Armstrong

Valerie.McCartan@delaware.gov
Abigail.Armstrong@delaware.gov

Attendees:

Senator Laura Sturgeon
Aleks Casper
Art Stone
Austin Crissman
Brenda Wise
Charles Megginson
Chris Chamberlain
Chris Price
Dante Creighton
David Roose
David Walsh
Deanna Killen
Debbie Hamilton
Deborah Gottschalk
Gerard Spadaccini
Grace Kelley

Organization:

Delaware Senate
American Lung Association
SMOKE WORLD PODCAST
Hemp
State of DE
Delaware Senate Republican Caucus

Cigar Recon
Dept of Finance
DIW GROUP

Hamilton Goodman Partners

Office of Defense Services
Office of the Governor

Gregory Beard	Div. of Public Health
Helen Arthur	Cigar Sessions
Israel Colon	CG
Janet Roberson	Delaware General Assembly
Jason Smith	Office of Governor John Carney
Javier Horstmann	Personal
Jay Vee	American Cancer Society Cancer Action Network (ACS CAN)
Jocelyn Collins	None
John Hammond	ODS
Jon Offredo	Premium Cigar Association
Joshua Habursky	Padua Academy
Kathleen O'Connell	Delaware General Assembly - Dover, DE
Keri Rapa	
Kevin O'Connell	
Kiki Evinger	DHSS
Laird Stabler III	
Lauren O'Connell Mahler	Office of Defense Services
Lauren Vella	DDOJ
Linda O'Connell	
Lisa Moore	Division of Public Health
Liz Evans	ODS
Lizzie Lewis	Hamilton Goodman Partners
Lori James	
Marjorie Biles	Dover (DE) Chapter of The Links Incorporated
Michael Dove	Weekfish
Michael King	MD Brokerage
Misty Seemans	Delaware Public Defender's Office
Morris Wiley	Cigar Sessions
Morris Wiley	
Nicholas Schrieber	
Nicole Freedman	Morris James, LLP
Pat Rafter	Moving Forward
Pat Singh	Delaware independent retail stores association
Read Scott	
Rebecca Goldsmith	Department of Finance
Richard Geisenberger	Department of Finance
Ross Flockerzie	Delaware Office of the Public Defender
Ruth Jones	Office of the Controller General
Scott Zucca	CLTS Inc./Delaware Tobacco Outlet
Stavros Karpontinis	Banking
Taylor Hawk	
William Burton	Cigar Sessions

Agenda:

SB 131

Senator Sokola convened the meeting at 2:31 p.m. and conducted a roll call.

Senator Pettyjohn motioned to accept the previous meeting's minutes of May 12, 2021, and **Senator Lockman** seconded the motion.

The Committee approved the meeting's minutes of May 12, 2021.

The Executive Committee reviewed the gubernatorial nominations for Chief Defender of the state of Delaware.

I. SB 131 – Sen. Sturgeon - AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXATION OF PREMIUM CIGARS.

Synopsis: This Act lowers the tax rate for premium cigars from 30% to 15% of the wholesale price so that Delaware's tax rate is consistent with the tax rates for premium cigars in surrounding states. The tax rate in Maryland is 15% and there is no tax on premium cigars in Pennsylvania. Under this Act, a premium cigar means any roll for smoking that is all of the following: 1. Made entirely of tobacco, including the wrapper, binder, and filler. 2. Hand rolled. 3. Contains no filter, tip, or any mouthpiece consisting of material other than tobacco, or any additional flavoring. This Act takes effect on October 1 following its enactment into law. This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Senator Sturgeon, Prime Sponsor of the legislation, provided an overview. SB 131 is an Act to amend Title 30 of the Delaware Code relating to the taxation of premium cigars. We hope to come back from this pandemic where we felt negative health and economic impacts across our nation and state. We have an opportunity to help our hard-hit small businesses regain their footing. Drinks at a pub or a cigar at a cigar bar are all legal activities that most people enjoy. Due to Delaware's size, we are never more than 30 minutes away from another state. In Senator Sturgeon's district, people are a five-minute drive away from Pennsylvania. Premium cigars are much cheaper in Pennsylvania than in Delaware. Senator Sturgeon's bill seeks to bring the taxes on premium cigars down from 30% to 15%, which aligns with the rate with Maryland. The rate is still higher than Pennsylvania, which has no tax. This allows Delaware small businesses, at a crucial time, to come back from the pandemic and provide a product that is a niche, luxury, and expensive item. Premium cigars cost \$10 and up. They are not being smoked by teenagers and young people who could become addicted at a young age or whose brains are still developing. This product is used by adults, often adults with means, and is not used daily but rather to celebrate a special occasion. This will help Delaware small businesses as they return from a difficult time. Senator Sturgeon understands the need to balance the interest of public health with the interests of the economy, which is what we have been trying to do for the last 14

months. As the pandemic ends, we can continue to prioritize people's health, while also giving small businesses a break in a small but meaningful way. We are aware that tobacco comes with some risks, but it is legal. Alcohol also has risks and is legal. Marijuana has risks and many legislators present in the meeting are sponsors of a bill that would make marijuana legal for recreational use. A premium cigar is not different than an expensive glass of whiskey or expensive espresso. Premium cigars will not lead to widespread health problems and is not a gateway drug. This is a luxury item that we would like Delawareans to be able to compete with other states by selling at a fair rate. Providing a tax decrease for premium cigars is the basis of the legislation. The legislation clearly defines premium cigars. An amendment will be added to specify that premium cigars are those which:

- Contain only tobacco, water, and vegetable gum and no other ingredients or additives.
- Are wrapped in whole tobacco leaf.
- Contain a 100% leaf tobacco binder.
- Weigh more than 6 pounds per 1,000 units.
- Are characterized by fifty percent or more of the filler, by weight, containing long filler tobacco, which are whole tobacco leaves that run the length of the cigar.
- Contain no filter, non-tobacco tip, or non-tobacco mouthpiece.
- Contain no characterizing flavor other than tobacco.
- Are handmade or hand-rolled, which means that no machinery was used apart from simple tools, such as scissors to cut the tobacco before rolling.

Senator Sokola recognized Senator Hocker.

Senator Hocker stated it is refreshing to hear, as a business person, someone on the other side of the aisle attempt to help small businesses and offer a tax decrease. Senator Hocker thanked Senator Sturgeon.

Senator Sokola recognized Senator Pettyjohn.

Senator Pettyjohn thanked Senator Sturgeon for the bill. It is good that Delaware is attempting to be competitive with our neighbors. We share a long state line with Maryland. When there is a shift in gas tax it is easy for so many Delawareans to go to different states. Senator Pettyjohn stated he will request to be a Co-Sponsor of the bill once it goes to the Senate floor.

Senator Sokola recognized Senator Townsend.

Senator Townsend thanked Senator Sturgeon for the bill and supports it as a Co-Sponsor. As the Lead Sponsor of Tobacco 21 a few years ago, it is important to find the balance that Sens. Hocker and Pettyjohn of being competitive with other states. Also,

there are different products used by different people that have different effects on them, the economy, and society. There is some conversation that needs to be had regarding this bill, but Senator Townsend supports the bill financially and on the principle that there are different lines to draw on these issues. It is possible to be committed to addressing how tobacco has ravaged our society but not disregard other ways of balancing and other kinds of products and the effects they have.

Senator Sokola recognized Senator Lockman.

Senator Lockman thanked Senator Sturgeon for the bill. She is a little more torn on the bill than others. Senator Lockman understands the economic argument and wanting to make sure we are regionally competitive. She received concern from some constituents due to the work done in recent years on mitigating smoking generally. She shared that with Sen. Sturgeon and wanted to allow Senator Sturgeon to discuss the health care cost statistics shared by the American Cancer Society.

Senator Sturgeon acknowledged that tobacco comes with health risks and that is why she supported raising the smoking age to 21. She would also support possible future legislation banning for instance bubble gum flavored tobacco that is clearly aimed at young people. Tobacco is addictive and dangerous. However, tobacco is also legal and people should have the opportunity to enjoy tobacco in moderation. There are other substances, such as alcohol, caffeine, and sugar that all are acceptable to consume in moderation but can be harmful and addictive for some people. There is no evidence that hand-rolled, full leaf tobacco, premium cigars that are \$10 or more are being consumed by people under 21 or as an entry product to smoking. Without that evidence, this is a benign product and a good bill. The positive effects on our small businesses outweigh the effects of premium cigars. This is a product being consumed by older people who have the money to afford it and consume it as a luxury item rather than a daily need. Senator Sturgeon understands the effects of tobacco, but numerous products are harmful and we allow our businesses to profit from them because it is good for our economy.

Senator Sokola recognized Senator Hansen.

Senator Hansen stated that as legislators, we are continuously balancing public policy issues. Very rarely is there an issue that is completely good or completely bad. Premium cigars and small businesses is an issue she has been hearing about in her district. This is a way that small businesses are hoping to expand. It is common for bachelor parties to attend a cigar lounge in Philadelphia. This is something we can do to help our small businesses who have been hit hard the last year and a half. Senator Hansen has sympathy for the bill, but it also gives her some concern because it is tobacco. Senator Hansen will never have a cigar, but there is an industry growing around premium cigars. It is not good public policy to stand in the way of that industry growth. She knows

several small businesses will be happy with this bill. Senator Hansen is still thinking about the bill.

Senator Sokola opened up to public comment and recognized Glynne Loope.

Glynne Loope is the Director of State Affairs for the Premium Cigar Association, which represents over 3,000 cigar dealers in the United States and 27 retail locations in Delaware. The Association supports the bill. It will make Delaware's tax rate more competitive with surrounding states. It will also send business to local brick-and-mortar shops throughout the state. Great cigar lounges such as the Cigar Lounge in Wilmington and Cigar Sessions in Middleton would benefit. He is glad the Committee discussed the public health implications of premium handmade cigars, so he did not discuss it further. Premium handmade cigars are substantiated through numerous studies from the Center for Disease Control, the News England Journal of Medicine, the American Medical Association, and the Food and Drug Association which states it does not have the same health implications similar to other tobacco products. That is due to the lack of ventilation, mortality, and addiction associated with cigars. The average person has their first cigar at age 27 and the dominant demographic is between the ages of 30 and 60. National Cancer Institute substantiates that the life expectancy of people who smoke cigars is the same as someone who does not smoke. The Food and Drug Association has deemed premium handmade cigars as their lowest priority of enforcement for regulation. Many reports can be shared with the Committee to substantiate these facts. Also, we would like to bring back the Delaware Cigar Festival which helps tourism in the state. This tax decrease will make Delaware cigar shops far more competitive with surrounding jurisdictions. A tax decrease would create a net positive for the state. *The Premium Cigar Association provided written testimony attached at the end of this document.*

Senator Sokola recognized Nicole Freedman.

Nicole Freedman, Government Relations Advisor at Morris James, is speaking on behalf of her client, the American Heart Association. The Association's mission is to be a relentless force for the world to have longer and healthier lives. As the nation's oldest and largest organization dedicated to fighting heart disease and stroke, the Association represents more than 100 million patients with cardiovascular disease. Tobacco use is the leading cause of cardiovascular disease and is responsible for one of four cardiovascular deaths. Tobacco use remains the leading cause of preventable death in the United States, killing more than 480,000 people in America each year and \$170 billion in health care costs nationally. In Delaware alone, \$532 million in health care costs. Tobacco taxes are a proven use and way of preventing and decreasing the use of addictive tobacco products particularly among young people and communities that are aggressively targeted by tobacco marketing. The American Heart Association advocates for increasing tobacco taxes at the federal, state, and local levels.

The American Heart Association provided written testimony attached at the end of this document.

Senator Sokola recognized Aleks Casper.

Aleks Casper, Director of Advocacy for the Delaware American Lung Association, strongly opposes the bill because it undermines current tobacco tax laws in place. In 2017, the Delaware General Assembly passed HB 242 which increases the cigarette tax, added electronic cigarettes, and increased the tax on other tobacco products which included cigars. The bill increased the taxes from 15% to 30% bringing products closer to cigarettes. Pairing these products is a critical piece of any comprehensive policy approach to tobacco control. Having a product offered at a lower tax price effectively makes them more acceptable. Tobacco use is the leading cause of preventable deaths in the United States with 480,000 American deaths. Increasing taxes on all tobacco products is a part of the comprehensive tobacco control program.

The American Lung Association provided written testimony attached at the end of this document.

Senator Sokola recognized Stavros Karpontinis.

Stavros Karpontinis, a member of Cigar Sessions in Middleton, Delaware, supports the bill. The lounge members and consumers would greatly appreciate the ability to purchase a premium cigar whether they are golfing or sitting on the back porch with friends. This is not a habit; it is a hobby. Yes, cigars can affect one's health. Since it is a hobby rather than a habit, the chances are slim to none. It should not be categorized as similar to cigarettes or a black and mild where kids and young adults can access them easily. To find a premium cigar people have to go to a cigar lounge.

Senator Sokola recognized Jocelyn Collins.

Jocelyn Collins, Government Relations Director for the American Cancer Society Cancer Action Network, opposes the bill. Reducing the tax on any tobacco product makes them more appealing to price-sensitive consumers such as youth. The argument that \$10 cigars are not appealing to youth is untrue when cigar use is the second most used product by youth in Delaware. A four-pack of Jules is \$14.99. Many cigars manufacturers manipulate their products to evade taxation or other tobacco regulations. Regular cigar smoke increases the risk of lung cancer, oral cavity, and esophageal cancer. Delaware should consider ways to help adults quit smoking rather than creating a cigar tax reduction.

The American Cancer Society Cancer Action Network provided written testimony attached at the end of this document.

Senator Sokola recognized Michael King.

Michael King, retired US Air Force Master Sergeant, supports the bill. He has been a broker in five states for premium tobacco and only sells premium tobacco and cigars. Michael King encouraged the Committee to research the art form of creating premium cigars. Premium cigars are 100% pure tobacco rather than additives. As he travels up and down the east coast, he meets numerous people from Delaware who are purchasing their tobacco out of state.

Senator Sokola recognized Rebecca Goldsmith.

Rebecca Goldsmith, Deputy Secretary of Finance for Delaware. The Department opposes the bill. The bill will reduce tax revenues significantly - by \$600,000 annually. Any consideration of this tax cut would need to be advised within the Fiscal Year 2022 budget. The tax rate reduction proposed in SB 131 is reserved for times when we want to incentivize or increase a certain behavior. When you cut taxes on a product you can expect more sales and consumption of that product. Arguably, the tax cut of premium cigars may not meet the threshold of behavior that we want to incentivize. It is a policy that runs counter to the efforts of Governor Carney and the General Assembly in recent years to deter tobacco consumption. Examples include Tobacco 21, cigarette and tobacco tax increases, vaping tax, and support for the federal ban on e-cigarettes.

Senator Sokola recognized Helen Arthur.

Helen Arthur, Delaware Division of Public Health, strongly opposes the bill. Tobacco use is the #1 cause of preventable death. Although cigarette smoking has declined between 2000 to 2017, cigar consumption increased by 116%. Cigars have higher levels of cancer-causing substances and toxins. Cigar smoking has significant risks such as cancer, coronary heart disease, emphysema, and more. According to the FDA, although some premium cigar smokers claim they do not smoke frequently or do not inhale, these behaviors do not negate the adverse health effects of tobacco smoke or demonstrate that secondhand smoke does not cause smoke-related diseases in others. Tobacco use is harmful to everyone: kids and adults. The Division of Public Health is concerned about the health of kids, former kids, and future kids.

The Division of Public Health provided written testimony attached at the end of this document.

Senator Sokola recognized Jay Vee.

Jay Vee, a novice cigar smoker, supports the legislation. He smokes cigars for relaxation. Cigars are used to celebrate personal success and are not used frequently. Older individuals are the primary consumers of cigars.

Senator Sokola recognized Michael Dove.

Michael Dove, CEO of Weekfish, supports the bill. He is a Delaware resident and provides advertisements for cigars through Weekfish. People keep lumping cigars with cigarettes and vapes, which is not correct. He has smoked cigars for 25 years and does not inhale. Cigars are meant for occasions. When people can purchase cigars from Pennsylvania, we are bypassing small businesses in Delaware. From experience, no young person is in a cigar lounge purchasing premium cigars. They are purchasing the flavored, cheap cigars at Wawa. There is no young person who purchased \$100 worth of cigars.

Senator Sokola recognized Scott Zucca.

Scott Zucca owns 21 stores in Delaware, some with walk-in humidors. The stores with humidors employ 20 associates, many are retired. When Delaware raised the tax rate to 30%, the state raised \$10 million additional tax dollars from this increase. We are at a disadvantage from surrounding states, but the largest disadvantage is the online retailers because there is no tax when you buy out-of-state cigars from Delaware. This hurt us when we were forced to close during COVID and it pushed business elsewhere. Last year, there have been cigar shops opening up in Maryland to take advantage of the tax rate. We are struggling to compete, and this bill would help businesses.

Senator Sokola recognized Israel Colon.

Israel Colon supports the bill. Unfortunately, he has to drive to Pennsylvania to receive a better deal on cigar boxes or premium cigars. He says he could easily purchase cigars in Delaware if the taxes were lowered.

Senator Sokola recognized Craig Beard.

Craig Beard supports the bill. Craig provided similar sentiments as a previous public comment regarding the inconvenience of going to Pennsylvania to purchase cigars. He suffers from PTSD, and cigars help him to relax.

Senator Sokola recognized Dante Creighton.

Dante Creighton is an avid cigar smoker and owner of Cigar Recon, a concierge service. He is a licensed retailer and remote seller. Unlike other businesses, all Dante Creighton's business comes from outside the state because their cigar taxes are so high, such as Chicago. He is bringing money into the state and working with local retailers to satisfy the needs of very choosy aficionados. He supports the bill and hopes this will help him fulfill a dream of opening a mobile lounge in the next year.

Senator Sokola recognized Austin Crissman.

Austin Crissman is a small business owner and member of Cigar Sessions in Middletown. He is one of the youngest members of the lounge, being 30 years old. The lounge is a way to connect and do business. He does not have a conference room and due to the pandemic, many shared spaces have closed. Being a member of the lounge allows him to bring in prospective and current clients as a way to entertain them over some time. A cigar takes anywhere between 45 minutes to 2.5 hours to smoke and can cost from \$10 to \$80-90 per cigar. This is not something you are finding at Wawa or other gas stations that are convenient to the younger crowd. The amendment brought forth is how we need to view what a premium cigar or tobacco is versus cigarettes, e-juices, and e-cigarettes. Austin Crissman is in full support of the bill to allow small businesses to network over a cigar.

Senator Sokola recognized William Burton.

William Burton works at Cigar Sessions. He experiences many customers who try a cigar at the store and then purchase full boxes in Pennsylvania. Delaware loses box sales to Pennsylvania because of the tax alone. Cigar Session tries to match pricing, but we cannot match internet prices to a place that has zero sales tax. William Burton asked that the tax be lowered to increase sales in Delaware.

Senator Sokola recognized Chris Price.

Chris Price supports the bill. The lounges allow people to meet diverse people ranging in race, gender, and age. Cigar lounges are friendly and allow people to network and meet people. For those that do not drink alcohol, lounges allow people to still be social.

Senator Sokola recognized Morris Wiley.

Morris Wiley is a member of Cigar Sessions in Middletown, Delaware. We have 400 members. Morris Wiley supports the bill because he would prefer to spend his money in Delaware. The current tax rate presses him towards purchasing cigars in other states. Premium cigars are night and day compared to other tobacco products suggested in this meeting. A lower tax rate would allow people to purchase premium cigars in Delaware.

SB 131 – Reported out of Committee – 1 = Favorable (1F: Pettyjohn), 4 = on its Merits (4M: Sokola, Townsend, Hansen, Hocker), 1 = Unfavorable (1U: Lockman)

Senator Sokola thanked everyone for their comments and adjourned the meeting at 4:10 pm.

Approval of Meeting Minutes

***Meeting minutes approved on Wednesday, June 9, 2021 on a motion by Sen. Pettyjohn, seconded by Sen. Lockman, and with no objection from members of the committee.**

Meeting Minute Preparation

Minutes prepared by Abigail Armstrong and Valerie McCartan



Delaware Senate Executive Committee,

On behalf of the Premium Cigar Association (PCA) representing over 3,000 retail tobacconists, 30,000 employees, over 250 manufacturers nationally and 27 retail locations in Delaware, we write in support of SB 131 which would benefit our membership by allowing them to remain competitive with pricing with surrounding states. SB 131 would lower the tax rate on the wholesale price of premium cigars from 30% to 15% ensuring that consumers in Delaware will patronize local brick and mortar small businesses within the state. The legislation will also benefit hundreds of employees and consumers of artisanal products and promote commerce in the hospitality and tourism sectors.

We look forward to working with the committee and testifying in support of SB 131. If the committee has any questions or needs additional information, please feel free to contact our staff Glynn Loope glynn@premiumcigars.org or Joshua Habursky joshua@premiumcigars.org. Thank you again for considering this important legislation that promotes small businesses.

Sincerely,

Scott Pearce

A handwritten signature in black ink, appearing to read "Scott Pearce".

Executive Director
Premium Cigar Association

John Anderson

A handwritten signature in black ink, appearing to read "John Anderson".

President
Premium Cigar Association



American Heart Association
Public Comment on SB 131
Senate Executive Committee
5-19-21

Good afternoon Senator Sokola, Senator Townsend and members of the Senate Executive Committee.

My name is Nicole Freedman. I am the Government Relations Advisor at Morris James, LLP. I am speaking today on behalf of my client, the American Heart Association, whose mission is “to be a relentless force for a world of longer, healthier lives.”

As the nation’s oldest and largest organization dedicated to fighting heart disease and stroke, the American Heart Association (AHA) represents more than 100 million patients with cardiovascular disease (CVD). Tobacco use is a leading cause of CVD and is responsible for one out of four CVD deaths.ⁱ Overall, tobacco use remains the leading cause of preventable death in the United States, killing more than 480,000 people in America each yearⁱⁱ and accounting for nearly \$170 billion annually in health care costs nationally and \$532 million in Delaware.ⁱⁱⁱ

Tobacco taxes are a proven way to reduce and prevent use of dangerous and addictive tobacco products, particularly among young people and in communities that have been aggressively targeted by tobacco marketing. The AHA advocates for significantly increasing tobacco taxes at the federal, state and local levels. In addition, the AHA recommends taxing all tobacco products at a rate on par with the state’s cigarette tax. According to the Campaign for Tobacco-Free Kids, this would equate to 41% of the wholesale price in Delaware.^{iv}

Senate Bill 131, which would lower the tax rate for premium cigars from 30% to 15% of the wholesale price, is a step in the wrong direction.

Cigarettes are not the only harmful tobacco product. Cigar smoking is deadly and addictive and, just like cigarette smoking, produces toxic secondhand smoke.^v But while cigarette smoking has generally been declining over the past several years, sales of cigars have been rising fast – especially among kids. One reason is that many kids and smokers do not realize that cigars are still addictive, harmful, and deadly. But another big reason is that many states tax cigars at much lower rates than they tax cigarettes.

It is important to raise tax rates on all tobacco products to prevent initiation with or switching to lower-taxed and lower-priced tobacco products. The AHA urges the committee to oppose Senate Bill 131 – and further encourages the committee to increase the cigar tax to achieve parity with the state’s cigarette tax.

Thank you for your consideration.

ⁱ Centers for Disease Control and Prevention.
https://www.cdc.gov/tobacco/basic_information/health_effects/heart_disease/index.htm
12887987/1

ⁱⁱ U.S. Department of Health and Human Services (HHS), The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General, Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

https://www.cdc.gov/tobacco/data_statistics/sgr/50th-anniversary/index.htm#report.

ⁱⁱⁱ Xu, X et al., "Annual Healthcare Spending Attributable to Cigarette Smoking: An Update," Am J Prev Med, 2014. HHS, The Health Consequences of Smoking – 50 Years of Progress A Report of the Surgeon General, 2014. Campaign for Tobacco Free Kids. (2021). Key State-Specific Tobacco Related Data & Rankings.

<https://www.tobaccofreekids.org/assets/factsheets/0176.pdf>. Federal gov't reimburses the states, on average, for 56.8% of their Medicaid expenditures. National health care costs are in 2010 dollars.

^{iv} <https://www.tobaccofreekids.org/assets/factsheets/0169.pdf>

^v <https://cancercontrol.cancer.gov/brp/tcrb/monographs/monograph-09>



May 17, 2021

Chair Sokola, Vice-Chair Townsend and Members of the Senate Executive Committee:

Thank you for the opportunity to provide comments on Senate Bill 131, An Act to Amend Title 30 Of The Delaware Code Relating to Taxation of Premium Cigars sponsored by Senator Sturgeon and Senator Townsend. The American Lung Association **strongly opposes** this bill.

The American Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease, through research, education and advocacy. The work of the American Lung Association is focused on four strategic imperatives: to defeat lung cancer; to improve the air we breathe; to reduce the burden of lung disease on individuals and their families; and to eliminate tobacco use and tobacco-related diseases.

As drafted, Senate Bill 131 would impose a decrease in the tax rate of premium cigars from 30% to 15% of the wholesale cost of a premium cigar. The American Lung Association is concerned as the proposed language is decreasing the current tax rate, making premium cigars more accessible and decreasing revenue that is invested in tobacco cessation and prevention efforts in our state. This undermines the strong work and commitment the legislature has taken over the years to prevent people from smoking including House Bill 242 from 2017 which many members supported which increased the cigarette tax, added an e-cigarette tax and increased the tax on other tobacco products to 30% in a first step towards an equalized tax rate among tobacco products.

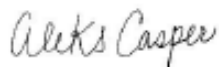
Tobacco use remains the leading cause of preventable death in the United States, killing an estimated 480,000 Americans each year.¹ Research is clear that the most effective way to address smoking rates is to increase taxes on these products and invest those funds in a tobacco control programs including prevention and cessation efforts.

The American Lung Association supports policies regarding increasing tobacco taxes on all tobacco products as part of a comprehensive tobacco control program and as an effective strategy to decrease smoking rates. The American Lung Association believes that all tobacco products should be considered similar and tied to the tax rates on cigarettes. Senate Bill 131 is proposing a decreased tax rate for a certain type of tobacco product, premium cigars as referenced in the bill. However, premium cigars as are other tobacco products are essentially the same as cigarettes and carry the same health risks with their usage – including cancer and lung disease. In fact, the amount of tobacco in a large premium cigar in many cases equals the same amount of tobacco in an entire pack of cigarettes. The Lung Association is concerned that by lowering tax rates on certain products it might encourage smokers to turn to these lower-priced alternatives rather than focus on quitting.

Finally, significant taxes on all tobacco products result in fewer kids starting to smoke, and in more adults quitting while at the same time providing substantial revenue to fund important health and tobacco prevention programs. Tobacco prevention and control requires a multi-faceted approach and policy measures must be comprehensive and address all products to be effective.

The American Lung Association thanks you for the opportunity to provide comments and express our concerns with Senate Bill 131. We ask that you continue Delaware's commitment to a healthier community and vote against Senate Bill 131 which would take a step backwards in the fight to curb smoking in Delaware.

Sincerely,

A handwritten signature in cursive script that reads "Aleks Casper".

Aleks Casper
Director of Advocacy
American Lung Association

¹ U.S. Department of Health and Human Services. The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health 2014.



May 19, 2021

TO: The Honorable David P. Sokola, Chair
The Honorable Bryan Townsend, Vice-Chair
Members of the Senate Executive Committee
Legislative Hall
411 Legislative Avenue
Dover, DE 19901

FROM: Jocelyn I. Collins, Delaware, Maryland, & Washington, D.C. Government
Relations Director
American Cancer Society Cancer Action Network
555 11th St. NW, Suite 300
Washington, DC 20004
jocelyn.collins@cancer.org
(301) 254-0072 (cell)

SUBJECT: SB 131 AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO
TAXATION OF PREMIUM CIGARS.

POSITION: OPPOSE

Dear Chair Sokola, Vice-Chair Townsend, and Members of the Senate Executive Committee:

The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society, supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. As the nation's leading advocate for public policies that are helping to defeat cancer, ACS CAN ensures that cancer patients, survivors, and their families have a voice in public policy matters at all levels of government. We are focused on the needs of patients and ensuring that people have access to the care they need to prevent, detect and fight cancer and to maximize the quality of their lives.

ACS CAN advocates for public policies that reduce the death and suffering from cancer including policies targeted at reducing tobacco use and exposure to secondhand smoke. Therefore, ACS CAN **OPPOSES** SB 131 which seeks to lower Delaware's current excise tax on some types of cigars from 30 percent to 15 percent.

Regular cigar smoking increases the risk of cancers of the lung, oral cavity, larynx, and esophagus. In fact, cigar smokers are four to ten times more likely to die from laryngeal, oral, or esophageal cancers than non-smokers. Heavy cigar smoking also increases the risk of developing lung diseases, such as emphysema and chronic bronchitis. Cigars also produce secondhand smoke that is dangerous for non-smokers.

All tobacco products, including cigars, contain nicotine, which may induce dependence and harm health.

Regulation of cigars is part of ACS CAN's comprehensive approach to reducing tobacco use and exposure to secondhand smoke in the United States. Like all other tobacco products, cigars should be subject to taxation to reduce the deadly and costly burden of tobacco use. All cigars, regardless of size, must be taxed at rates equivalent to cigarettes.

The U.S. Food and Drug Administration concluded that "all cigars pose serious negative health risks" and that "all cigar use is harmful and potentially addictive."¹ Each year, about 9,000 Americans die prematurely from regular cigar use.² Cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke.³ According to the National Cancer Institute's Monograph No. 9, smoking cigars causes serious health consequences.⁴

Cigar smoking is a public health concern as it harms health. Cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke. Cigar use increases health risks compared to those who do not use tobacco at all. Daily cigar smokers have an increased risk of heart disease and chronic obstructive pulmonary disease (COPD). Cigar smokers are also at increased risk for an aortic aneurysm.⁵

All cigar smokers, whether they inhale or not, expose their lips, tongue and throat to smoke and its toxic and cancer-causing chemicals.⁶ Cigar smokers absorb smoke into their lungs and bloodstream, and deposit tobacco smoke particles in their lungs as well as their stomachs and digestive tract.⁷

Consumption of cigars is rising. Although cigarette smoking has declined, total consumption of cigars in the United States has increased dramatically since 1993, reversing a decline in consumption that had persisted for most of the twentieth century.⁸ Between 2000 and 2017, cigar consumption increased by 116 percent while cigarette consumption declined by 43 percent.⁹

In 2020, an estimated 770,000 high school students (5.0 percent) and 180,000 middle schoolers (1.5 percent) were current cigar users, making cigars the second most popular tobacco product among youth.¹⁰ In addition, 4.5 percent of adults reported current cigar use in 2019, including 7.7 percent of young adults between the ages of 18 and 25.¹¹ Unfortunately, many mistakenly believe that cigars are not harmful, but cigars are addictive and harmful.

¹ 81 Federal Register 29020, 29022 (May 10, 2016).

² Nonnemaker, J., et al., "Mortality and Economic Costs from Regular Cigar Use in the United States, 2010," *American Journal of Public Health* 104(9):e6-91, September 2014.

³ NCI, Cigars: Health Effects and Trends, 1998. Chang, CM, et al., "Systematic review of cigar smoking and all cause and smoking related mortality," *BMC Public Health*, doi 10.1186/s12889-015-1617-5, 2015.

⁴ NCI, Cigars: Health Effects and Trends, 1998. See also, Baker, F, et al., "Health Risks Associated with Cigar Smoking," *Journal of the American Medical Association* 284(5):735-740, 2000.

⁵ NCI, Cigars: Health Effects and Trends, 1998.

⁶ NCI, Cigars: Health Effects and Trends, 1998.

⁷ See, e.g., Rodriguez, I, et al., "The Association of Pipe and Cigar Use with Cotinine Levels, Lung Function, and Airflow Obstruction: A Cross-sectional Study," *Annals of Internal Medicine* 152:201-210, 2010; McDonald, U, et al., "Deposition of Cigar Smoke Particles in the Lung: Evaluation with Ventilation Scan Using 99mTc-Labeled Sulfur Colloid Particles," *Journal of Nuclear Medicine* 43:1591-1595, 2002.

⁸ National Cancer Institute (NCI), Cigars: Health Effects and Trends. Smoking and Tobacco Control Monograph No. 9, 1998, http://cancercontrol.cancer.gov/tsp/tcb/monographs/9/m9_complete.pdf. Economic Research Service, U.S. Department of Agriculture (USDA), U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB), Tobacco Statistics.

⁹ TTB, Tobacco Statistics.

¹⁰ Gentzke AS, Wang TW, Jamal A, et al. Tobacco Product Use Among Middle and High School Students — United States, 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:1061–1066.

DOI: <https://doi.org/10.15585/mmwr.mm6909a1>

¹¹ 2019 NSDUH Detailed Tables. U.S. Substance Abuse and Mental Health Services Administration. Published September 11, 2020. Accessed December 9, 2020. <https://www.samhsa.gov/data/report/2019-nsduh-data-tables>

Young people are using cigars. Among youth in the United States, while cigarette smoking has declined rapidly, particularly in the last five years, cigar smoking has declined much more slowly. Importantly, cigar smoking is not limited to adults; more than one million high school students currently use cigars.¹²

In Delaware, cigar smoking is the second most popular product of choice among high school students. In Delaware: 13.6 percent of high school students use e-cigarettes in the last 30 days, 4.8 percent of high school students use cigarettes, 3.5 percent of high school students in Delaware use chewing tobacco, and 7.3 percent of high school students in Delaware smoked cigars, cigarillos or little cigars at least one day in the past 30 days.¹³

We know that increasing the price of tobacco through tax increases is one of the most effective ways to reduce smoking. Reducing any tax on tobacco makes them more appealing to price-sensitive consumers, including youth. Cigars, cigarillos and little cigars may be sold as individual sticks, which can again, make them more appealing to youth. While many cigar manufacturers regularly manipulate their products to evade taxation and other tobacco control regulations.

Smoking has a monetary cost placed on the State of Delaware. The annual health care costs to Delaware directly caused by smoking is \$532 million dollars.¹⁴ Medicaid costs caused by smoking in Delaware is \$95.6 million.¹⁵ Residents' state and federal tax burden from smoking-caused government expenditures is \$845 per household.¹⁶ While the smoking-caused productivity losses in Delaware are \$391.2 million.¹⁷

Given the taxation and the monetary impact on the state and residents, the State of Delaware should be looking at ways to save lives and health care costs from smoking by helping adults quit and keeping youth from starting instead of considering a premium cigar excise tax reduction.

If the state wants to make a difference with tobacco initiation and use by adults and youth can substantially be reduced by the most effective tobacco control strategies, including, increasing the price of tobacco products through regular and significant cigarette tax increases of at least \$1.00 per pack with equivalent tax increases on other tobacco products, including premium cigars. It is important that tax increases apply to all tobacco products at an equivalent rate to encourage people to quit rather than switch to a cheaper product as well as to prevent youth from starting to use any tobacco product.

Therefore, given the arguments and evidenced-based data referenced above, ACS CAN **OPPOSES** SB 131 and asks the committee for an "unfavorable" report.

¹² U.S. Centers for Disease Control & Prevention (CDC), "Vital Signs: Tobacco Product Use Among Middle and High School Students — United States, 2011–2018," Morbidity and Mortality Weekly Report (MMWR) 68(6), February 15, 2019.

¹³ CDC, Youth Risk Behavior Surveillance System, 2017.

¹⁴ Campaign for Tobacco-Free Kids, The Toll of Tobacco in Delaware, Updated April 16, 2021, <https://www.tobaccofreekids.org/problems/toll-in-delaware>.

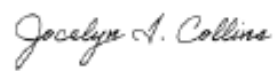
¹⁵ Campaign for Tobacco-Free Kids, The Toll of Tobacco in Delaware, Updated April 16, 2021, <https://www.tobaccofreekids.org/problems/toll-in-delaware>.

¹⁶ Campaign for Tobacco-Free Kids, The Toll of Tobacco in Delaware, Updated April 16, 2021, <https://www.tobaccofreekids.org/problems/toll-in-delaware>.

¹⁷ Campaign for Tobacco-Free Kids, The Toll of Tobacco in Delaware, Updated April 16, 2021, <https://www.tobaccofreekids.org/problems/toll-in-delaware>.

I can be contacted at jocelyn.collins@cancer.org or 301-254-0072 with any questions.

Sincerely,

A handwritten signature in black ink that reads "Jocelyn I. Collins". The script is cursive and elegant, with the first letters of each word being capitalized and prominent.

Jocelyn I. Collins

DPH strongly opposes SB 131, which aims to introduce a definition to the Delaware Code for “premium cigars” and reduce the tax from 30 percent of wholesale to 15 percent.

Tobacco use is the number one cause of preventable death. Although cigarette smoking has declined, between 2000 and 2017, cigar consumption increased by 116 percent. Cigars have higher levels of cancer-causing substances and higher levels of toxins, and cigar smoking has significant health impacts, including increased risk for different cancers, coronary heart disease, emphysema, etc. According to the FDA, although some “premium” cigar smokers may smoke these products infrequently or report that they do not inhale, these behaviors do not negate the adverse health effects of tobacco smoke or demonstrate that cigars do not cause secondhand smoke-related disease in others.

*Tobacco use is harmful to everyone- kids **and adults**. Public Health is concerned about the health of (all) the public- kids, former kids, and future kids. Kids see older people smoking who may be role models and think it’s OK. Cigars still emit a lot of secondhand smoke which exposes others, including kids. Increasing the cost of tobacco products is an evidence-based to reduce tobacco use and initiation. Reducing the cost, which is what this bill would do, is the opposite the intervention’s intention.*

DPH strives to address public health issues using policy, systems, and environmental changes – or PSE – which are critical from a population-based perspective. Increasing the cost of all tobacco products is an evidence-based policy intervention to encourage tobacco users to quit and to prevent initiation by youth and young adults. SB 131 will negate the PSE positive actions related to cigar use by reducing the excise tax rate for cigars back to pre-2017 levels.

Please let us know if you have any questions, and we hope you will oppose this bill.

-Kiki

Kiki Evinger

*Chief Policy Advisor
Office of the Secretary*

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