

DAILY NEWS CLIPS

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REPORT CITES MAJOR SHIFT IN SMOKING HABITS

By Brian Tumulty

WGRZ News (NBC) –Washington

April 27, 2012

A new government report says Americans' smoking habits have displayed "sizable market shifts" since federal tobacco taxes were increased in 2009.

Sales of pipe tobacco and large cigars, which are taxed at a lower rate, have skyrocketed as smokers have adjusted their buying habits to the new price structure.

Monthly sales of pipe tobacco increased 12-fold, from about 240,000 pounds in January 2009 to over 3 million pounds in September 2011, the GAO found. And monthly sales of large cigars more than doubled, from 411 million pounds to more than 1 billion pounds over the same period.

Pipe tobacco is increasingly used to make relatively inexpensive cartons of roll-your-own cigarettes in machines installed in neighborhood smoke shops around the nation.

In New York, where state tobacco taxes are among the highest in the nation, the machines are in smoke shops in Depew and Lewiston in the Buffalo area; at several locations in Rochester; in New Rochelle, Nanuet and Newburgh in the Hudson Valley; in Brooklyn and Staten Island in New York City; and in Ithaca in the Southern Tier.

Congress increased taxes on both roll-your-own tobacco and packs of cigarettes in April 2009, making them equal. Lawmakers enacted a smaller tax increase for pipe tobacco, which has become a substitute for roll-your-own tobacco.

Likewise, Congress began taxing small cigars at the same rate as cigarettes. In response, manufacturers of small cigars fractionally increased the weight of many of their products so they would qualify as lower-taxed large cigars, even though they often are just slightly larger than cigarettes and often have filters.

Premium handmade large cigars retail for \$3 to \$20 each, but "smaller factory-made cigars that meet the legal definition of a large cigar can cost as little as 7 cents per cigar," the GAO reported.

The market shift has cost the federal government an estimated \$615 million to \$1.1 billion in uncollected tax revenue between April 2009 and September 2011, the report said. It did not estimate how much individual states may have lost in uncollected taxes.

"That's real money and a tax avoidance scheme Congress ought to be interested in stopping," Gregg Haifley, associate director of federal relations at the American Cancer Society Cancer Action Network, said of the GAO report. "It's also counterproductive for the public health benefit of tobacco taxes."

Liggett CEO Ron Bernstein, whose company sells discount cigarettes that are taxed at the higher rate, said his company estimates the tax loopholes have cost the government even more. About 2.7 million people purchased roll-your-own cigarettes last year, and that could grow to 3 million in 2012, he said, citing data from the Treasury Department and the Centers for Diseases Control and Prevention.

In a written response to the GAO report, Treasury officials noted that the numbers in the report "are not actual losses of revenues, but rather your estimates of the revenue increases if Congress were to change the law to eliminate the disparities."

And that's the GAO's recommendation: Congress should fix the disparities.

According to the GAO report, a woman representing one tobacco company said she knew of no difference between the roll-your-own tobacco her firm formerly produced and the pipe tobacco it switched to making - other than the federal excise tax.

Sen. Tom Harkin, D-Iowa, has 15 cosponsors for legislation to eliminate the tax disparities, but the bill is stuck in the Senate Finance Committee.

In contrast, 176 lawmakers House lawmakers and seven senators are co-sponsoring the Traditional Cigar Manufacturing and Small Business Jobs Preservation Act, which would exempt large and premium cigars from regulation by the Food and Drug Administration.

The Family Smoking Prevention and Tobacco Control Act of 2009 gave the FDA immediate authority to regulate most tobacco products but required the agency to go through a rule-making process to regulate cigars and pipe tobacco.

New York co-sponsors of the House bill include Republican Reps. Tom Reed of Corning, Richard Hanna of Oneida County, Ann Marie Buerkle of Onondaga, Chris Gibson of Kinderhook and Michael Grimm of Staten Island as well as Democratic Reps. Bill Owens of Plattsburgh, Steve Israel of Dix Hills, Tim Bishop of Southampton, Charlie Rangel of Manhattan and Edolphus Towns of Brooklyn.

The lead sponsor of the House bill, Republican Rep. Bill Posey of Florida, views the issue as one of personal freedom for "aficionados who enjoy smoking a premium product," said spokesman George Cecala. "It will be unprofitable to have a cigar shop. It's a niche thing that adults do. It's not something that children do."

Currently, cigars are defined as large if 1,000 of them weigh at least three pounds. That would be doubled to six pounds under the House bill. Large and premium cigar wrappers would have to be entirely composed of tobacco, instead of just having some tobacco content.

And the large premium cigars would not have filters.

The bill, however, doesn't have a tax component in its current form. It would not change the tax code's definition of a large cigar.

Anti-smoking advocates say the tax loopholes are secondary to the more important and positive health news about decreasing tobacco use among Americans as a result of the April 2009 tax increase, when the federal excise tax on a pack of cigarettes rose to \$1.06.

The percentage of American adults who smoke decreased from 20.6 percent in 2009 to 19.3 percent in 2010, according to the Centers for Disease Control and Prevention.

"When you look at the federal tax increase, it's a public health win because tobacco consumption declined and it's a budget win because revenue increased," said Danny McGoldrick, vice president of research at the Campaign for Tobacco-Free Kids. "And we would add it's a political win because tobacco taxes are one of the few taxes large majorities of the public in both parties support. It would be a bigger public health win and a bigger revenue win if we could fix these loopholes that the tobacco companies are driving their trucks through."

Cigarette sales dropped about 11 percent - from 17.3 billion packs in the 12 months prior to the tax increase to 15.4 billion packs in the 12 months after the higher rates took effect, according to an analysis of tax data by the Campaign for Tobacco-Free Kids.

Phone calls to a toll-free quit-smoking line rose 49 percent in the 12-month period that began in February 2009, two months prior to the tax increase, compared to the same period a year earlier.

At the same time, revenue from the tax increase has been used to expand a federal program that provides health insurance to low-income children. Tobacco tax revenue rose 129 percent to \$15.5 billion in the first 12 months the higher tax rates took effect, according to the Campaign for Tobacco-Free Kids' analysis.

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SMOKERS ABLE TO DODGE TAX CHANGES

By Kyle Nagel
Dayton Daily News (OH)
April 28, 2012

Critics want taxes raised on pipe tobacco used in roll-your-own machines.

Tax changes have boosted national pipe tobacco sales by 840 percent in the past three years, leading to calls for equalizing federal taxes for all tobacco products and creating a robust market for do-it-yourself cigarette-rolling machines.

The April 2009 tax changes caused more smokers to buy pipe tobacco for rolling cigarettes, which they call “sticks.” At the same time, the demand for now-heavily taxed “roll-your-own” tobacco plummeted.

To make those cigarettes, more smokers are using a machine developed and produced in the Youngstown area. A user inserts tobacco and cigarette tubes into the “RYO Filling Station” to avoid buying packaged cigarettes.

Tobacco taxes affect Ohio’s estimated 1.7 million smokers. In 2010, the Centers for Disease Control and Prevention ranked Ohio 35th nationally with an adult smoking rate of 20.1 percent.

The state’s 12.9 percent youth (ages 12-17) smoking rate is 46th in the U.S.

The Government Accountability Office, which recently released a report on the 2009 tax changes, suggests that the country follow Ohio’s method of equalizing taxes. In Ohio, all noncigarette tobacco products are taxed at 17 percent of the wholesale price, although the American Lung Association in Ohio has been asking lawmakers to significantly increase that rate.

The GAO said it would like to see RYO and pipe tobacco taxed at the same rate. Currently, RYO tobacco is federally taxed at \$24.78 per pound, compared with pipe tobacco’s \$2.83 per pound.

Meanwhile, critics of the RYO machine are asking for the machine-rolled cigarettes to be taxed for production, which would end their economic advantage. The machines have been controversial enough in the smoking world that multiple local shop owners who offer them declined to comment.

The change in buying patterns doesn’t have as strong of an effect on Ohio because of its flat tax rate on all non-cigarette tobacco products. However, local tobacco outlet operators said they have seen more customers drive to Pennsylvania and buy tobacco products in bulk because it is the only state that doesn’t tax snuff, chewing and smoking tobacco or large cigars.

It’s easy for tobacco companies to help customers avoid some taxes, tobacco enthusiasts said. According to the Alcohol and Tobacco Tax and Trade Bureau, little more is necessary than changes in packaging and labeling to change RYO tobacco to the lesser-taxed pipe tobacco.

“In pipe tobacco, you’re generally enjoying the aroma and some flavor,” said Jason Clyburn, manager at The Wharf tobacco shop in Beavercreek. “The roll-your-own, they have their own pipe cut, and basically it’s regular cigarette tobacco with a bigger, heavier, leafy cut, the way a traditional pipe tobacco has. That’s how they’re skating around the (RYO taxes).”

Using pipe tobacco

In March 2009, the month before the Children’s Health Insurance Program Reauthorization Act of 2009 tax increases went into effect, both RYO and pipe tobacco were taxed at \$1.0969 per pound. After the changes, RYO taxes increased almost 2,200 percent, while pipe tobacco taxes increased just 158 percent.

The price change started a dramatic shift in the tobacco that smokers use to make their own cigarettes. RYO tobacco once outpaced pipe tobacco 3.3 to 1; but in February buyers purchased nearly nine times more pipe tobacco than RYO tobacco, about 3.4 million pounds of it.

The changes in buying habits have led some, including the GAO, to call for equalizing federal taxes on pipe and RYO tobacco. The American Lung Association in Ohio has also asked state legislators to increase the state taxes on noncigarette tobacco products to 55 percent of the wholesale price (from the current 17 percent), which it says would match the cigarette taxing level.

“Basically, from a public health perspective, it’s bad because instead of stopping using tobacco or smoking, people are just switching to a cheaper product,” said Shelly Kiser, director of advocacy for the American Lung Association of the Midland States.

Using the Machines

Around the time the new tax laws took effect, a company in Girard, Ohio, called RYO Machines began distributing devices meant to help customers quickly roll their own cigarettes. In literature, the company said the machines, called RYO Filling Stations, can “roll 200 smokes in your store in 8 minutes.”

Instead of buying a carton of 200 cigarettes for about \$45 to \$75, customers can buy tobacco and cigarette tubes separately then rent the RYO Filling Stations for about \$10 and make about 200 “sticks” for a total cost of about \$24.

Mike Joo, who owns four Smoke Stop locations in the Dayton area, including stores in Miamisburg and Franklin that offer the machine, said most of his stores’ customers who use the machines were making their own cigarettes anyway. They’ve just found a way to do it faster and cheaper, he said.

“Times are tough right now,” Joo said. “In my personal opinion, the silliest thing they could do is raise taxes on something when the economy is like it is.”

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LOOPHOLE TO CLOSE ON BARGAIN ROLL-YOUR-OWN CIGARETTE MACHINE VENDING

By Steve Shay
The Highline Times (WA)
April 27, 2012

While many cigarette smokers will always buy their favorite brand by the box or carton at the convenience store no matter how high the price, some have recently switched to bargain do-it-yourself machines stationed in certain smoke shops to save big bucks. State tobacco taxes, 15 cents per cigarette, don't apply to those produced by these machines.

But if that's how you roll, you're soon out of luck as beginning in July, these cigarettes which now cost \$36.50 a carton locally will almost double, with an additional \$31 fee tacked on, as Olympia has nipped these machines in the bud for fear of losing revenue. Governor Gregoire is expected to sign the bill into law Wednesday, May 2. Legislators claim more than \$12 million in increased revenue will come in the first year, slightly more annually after that.

A six-store chain in the Seattle area with these machines called Natural Smokes LLC has a location at 15500 1st Ave South, Suite 100, in Burien, and 9822 15th Ave SW in White Center. Its tobacco has limited use of preservatives, and draws a contrast to the major labels which contain nearly 600 chemicals.

The state's exclusive franchise is the Ohio-based RYO Filling Station, which refers to a large metal mechanical device resembling a cross between a slot machine and a bank vault that emits hydraulic sucking and blowing sounds, and filtered cigarettes, 200 in eight minutes. There are nearly 70 such machines in Washington State.

Julie Anderson of Normandy Park manages the Burien store, which opened about three months ago. "Probably half who buy from us would drive out of state, go to the Indian reservation, or order online to not have to pay this tax," she said. "We will lose those customers."

Anderson, whose daughter, Paige, also works at the shop, said the Washington Ways & Means Committee will never collect that \$12 million-plus in new annual revenue from the 70 stores in the state. "For one, fewer customers will walk in with the new taxes," she said. "I think they're dreaming."

"They are jeopardizing the life savings, the large investments, made by ma and pa's who have opened up the (roll-your-own) shops," said Joe Baba, owner, Tobacco Joe's in Woodinville. He is a retailer who also distributes the RYO Filling Stations statewide.

"These 65 to 70 smoke shops employ 250 people," he added. "Our industry is not here to encourage smoking, but it offers dedicated smokers already addicted to the product an opportunity to make their own product at a reduced cost. And with today's economy, that brings so much value to the underprivileged, the poor, those on government assistance. Either they're going to be rolling tobacco into cigarettes at home or they are going to go into the Indian smoke shops to get cheap smokes because they can't afford Marlboros.

"They are operating underneath the false assumption that by passing this bill it will bring this state all this additional income by forcing customers to gravitate back to Marlboros or, if they stay in our stores, they will be rolling their own smokes at a higher rate. I consider it phantom revenue."

While anti-smoking advocates in Olympia, including the governor, hope that, revenue aside, more people in Washington will kick the habit, they have made for strange bedfellows with lobbyists for big tobacco including R.J. Reynolds, which makes Camels, and convenience stores concerned smokers will walk a mile to get to a roll-your-own machine instead of paying \$8 per pack from them.

Also controversial, this bill passed with a simple, not a supermajority which is required for any tax increase with I-1053.

"It's not really a new tax," countered Rep. Eileen Cody of the 34th District who represents West Seattle, Vashon Island, and parts of Burien. Cody has been a nurse with Group Health for over 30 years, currently in neurological rehabilitation, and serves as Chair of the House Health and Wellness Care Committee, and is about as anti-smoking as an advocate can get.

"We changed the definition of who a manufacturer is because these machines are something new and so what we did was clarify that these (machines) manufacture cigarettes and should have the same tax as on any other manufactured cigarette," she said. "They're argument his that their customers roll their own, but they are manufacturing their own, pumping out 200 cigarettes in eight minutes."

Regarding the \$12 million figure with but 70 such shops, she said, "Our concern was looking at forecasts of how this would expand. The forecast was that over the next few years more and more would be appearing, growing rapidly.

"From our health care perspective we're doing everything we can to keep people from smoking and I'm not ashamed of it," Cody said defiantly. "You can quote me. Most smokers hate me anyway. The studies all show that with tax increases people will stop smoking. Does it stop everybody? No. But it certainly stops kids. I've had many people after they get done yelling at me tell me that they couldn't afford to smoke any more so they stopped."

Added Cody, "Most health care plans now cover smoking cessation. That would be my recommendation. Stop smoking."

Originally published here: <http://www.highlinetimes.com/2012/04/27/news/loophole-close-bargain-roll-your-own-cigarette-ma>

MISSOURI VOTERS COULD DECIDE ON HIGHER CIGARETTE TAX

By Chris Blank, Associated Press
Kansas City Star (MO)
April 29, 2012

Signatures might be submitted this week on a plan to raise tax on each pack by 73 cents

Smoking could get more costly as some seeking to raise Missouri's lowest-in-the-nation cigarette tax expect to submit signatures this week to put the issue before voters in November.

The proposal calls for increasing Missouri's tax on each pack of cigarettes by 73 cents and steering the additional money to education and smoking prevention and cessation. Taxes on other tobacco products also would be increased.

Health organizations, including the American Cancer Society, the American Lung Association and the American Heart Association, are pushing the ballot measure.

Missouri now levies a cigarette tax of 17 cents per pack, far below the national average of \$1.46. Virginia has the second-lowest cigarette tax at 30 cents. Among states in the central U.S., the tax is \$1.36 in Iowa, \$1.15 in Arkansas, 98 cents in Illinois and 79 cents in Kansas. Five states have a tax of at least \$3, and New York's tax is \$4.35. The federal government also has its own \$1.01 tobacco tax.

Supporters of raising Missouri's cigarette tax say they're focused on improving public health by keeping teens from starting smoking and getting adults to stop.

“Most people are looking for a reason to quit,” said Misty Snodgrass of the American Cancer Society. “Tobacco and cigarettes are not an essential life benefit. It’s not like rent or food. So people make those choices whenever it does become more expensive.”

A trial judge in Cole County is scheduled to consider a legal challenge to the tobacco tax ballot summary on May 7, the day after groups seeking to get initiatives on this fall’s ballot must submit signatures to the secretary of state’s office.

If the plan clears those hurdles, this will be the third time in the past decade that a measure seeking to increase tobacco taxes has appeared on the statewide ballot. Missourians in 2002 defeated a 55-cents per-pack increase by roughly 31,000 votes. In 2006, they rejected an 80-cents-per-pack increase by about 61,000 votes.

Snodgrass said this year’s proposal is broader and different from the previous efforts. She said supporters opted for a ballot measure instead of attempting to go through the General Assembly, partly because a significant tobacco tax increase probably would have required voter approval anyway.

Nonetheless, tobacco tax proposals also have been floated in the Missouri Capitol. Besides public health concerns, some legislative supporters have eyed the additional tax revenue to help depleted state coffers.

The House Ways and Means Committee this past week held hearings on three proposals from Democratic lawmakers that could help boost state cigarette taxes. The annual legislative session ends in three weeks, making final passage unlikely for measures that have not yet been cleared for debate by the full House.

Several of the businesses that sell cigarettes and other tobacco products oppose large increases to Missouri’s cigarette tax.

Ron Leone, the executive director of the Missouri Petroleum Marketers and Convenience Store Association, said the combination of federal, state and local government assessments makes taxes paid on cigarettes quite high. He said focusing on just the state tax of 17 cents offers an incomplete picture. But he is endorsing a proposal to gradually raise the state cigarette tax to 33 cents after four years.

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TENNESSEE SENATE PASSES ROLL-YOUR-OWN TOBACCO BILL

NACS Online

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The bill would require retailers to pay a cigarette tax and \$500 licensing fee for each RYO machine. Also, Associated Industries of Florida urges support for NACS-supported RYO legislation.

Legislation that seeks to require roll-your-own tobacco retailers to pay a licensing fee and tax passed the Tennessee Senate last week.

Under the measure, retailers would be required to pay a cigarette tax and an annual \$500 licensing fee for each roll-your-own machine used. Businesses would have until July 1, 2013, to comply.

Meanwhile, the Associated Industries of Florida (AIF) is throwing its support behind NACS-supported legislation in the U.S. House of Representatives, H.R. 4134.

“While AIF supports entrepreneurial spirit, the business model for roll-your-own manufacturing has created an unfair advantage as such operators evade state and federal rules regarding the taxation, distribution and other product regulations that apply to traditional cigarettes,” said Tom Feeney, AIF president. “We urge all Floridians and Florida’s congressional delegation to support HR 4134 to protect the state’s hard-working retailers and the people they employ. The passage of this important legislation will help Florida and the rest of the country resolve this economically damaging situation and allow retail businesses nationwide that follow the rules to continue to grow and thrive.”

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ILLINOIS GOV. QUINN PROMOTES CIGARETTE TAX HIKE AS FUNDING SOURCE WITH HEALTH CARE BENEFITS

The Associated Press
April 29, 2012

Whether successful or not, Illinois governors repeatedly have aimed at the same target for additional money to address the state's financial gap — cigarette smokers.

But for the first time, Gov. Pat Quinn has floated the idea of tying a cigarette tax hike to improving health care. The Democrat says a \$1-per-pack increase would bring in nearly \$700 million — including federal matching funds — to help close a \$2.7 billion Medicaid short fall, with the benefits going well beyond.

The thinking goes like this: Raising the price of cigarettes gives smokers incentive to quit and deters young people from starting. Since there'll be fewer smokers, the costs of treating smoking-related diseases should also go down.

But the plan to essentially double the cigarette tax has raised questions about whether such a hike could indeed curb smoking, if it's a sensible funding source as the number of smokers dwindles, and if it would simply drive smokers to buy cigarettes elsewhere.

"It makes sense from a public health perspective," said Heather Eagleton a spokeswoman for the Illinois division of the American Cancer Society. "We are aware that it is difficult to quit ... and this may be the final push they need to quit."

Her group estimates that about \$1.5 billion of the state's \$14 billion Medicaid budget goes toward treating smoking-related diseases, such as lung cancer and Emphysema.

However, business groups and smoker rights advocates say it's not so simple.

"Why should a segment of the population that smokes have to pay for (Medicaid)?" said William Fleischli, a vice president of the Illinois Association of Petroleum Marketers and Illinois Association of Convenience Stores.

He cites a 2010 study by Illinois State University that calls a cigarette tax an unstable source of income, especially as the number of smokers continues to shrink.

The percentage of smokers has gone down dramatically over the last few decades, and though the rate of decrease has slowed, experts say it continues to dwindle as social attitudes change and smoking bans become more prevalent. There are about 1.6 million adult smokers in Illinois, roughly 17 percent of adults — down from around 22 percent in 2000, according to the U.S. Centers for Disease Control.

The governor tried to raise the cigarette tax before, as did his predecessor, Rod Blagojevich. The two most recent proposals passed in the Illinois Senate but died in the House. The cigarette tax was last increased in 2002, from 58 cents to 98 cents, under Republican Gov. George Ryan.

Quinn's proposal to fix the state- and federally funded health insurance program, which serves about 2.7 million poor and disabled Illinoisans, also includes \$2 billion in cuts to services and care-provider rates.

"We've got to use our heads here," Quinn said Friday. "We ought to use this (cigarette tax) strategy to get revenue for Medicaid and also prevent bad things from happening in the first place. That's what a good health wellness system is all about."

Illinois' current 98-cent tax on cigarettes ranks 32nd highest among states, according to a 2012 survey by the Federation of Tax Administrators. But that ranking jumps into the top five for those who buy their smokes in Chicago and have to fork over a 68-cent city tax and \$2 tax for Cook County. The suburb of Evanston also imposes a 50-cent tax in addition to the Cook County tax.

"We feel that we're being singled out and picked on unfairly," said David Kuneman, a Midwest spokesman for The Smoker's Club, an advocacy group.

He said smokers already bear an unfair tax burden and that state legislators should look to taxing alcohol.

A tax hike in Illinois could increase sales in nearby states, experts say. Indiana's tax is slightly higher than Illinois' and ranks 32nd, but it doesn't have the same county or city taxes. Meanwhile, Missouri's tax is 17 cents, which is the lowest in the nation.

Illinois customers come into County Market Express in Taylor, Missouri, every day just for cigarettes, says 20-year-old clerk Aerick Steward. A pack of Camel's totals \$4.66 compared with \$5.41 in a nearby Quincy, Ill. convenience store.

"When people get paid they come over and get cigarettes and buy by the carton," he said. The Illinois tax hike "would be good for business and we'd definitely have a lot more people coming here."

However, economists say a boost in cross border sales wouldn't affect major metropolitan centers like Chicago or trump the other benefits.

"If the price of something goes up, we've got a lot of evidence showing you've got a lot of smokers who will try to quit smoking," said Frank Chaloupka, an economist at the University of Illinois at Chicago. "It's basic economics."

He estimates that some 60,000 smokers in Illinois would give up the habit for good if the tax goes up \$1. The American Cancer Society has placed that estimate even higher, at nearly 73,000.

Karyn Smoter is skeptical.

The lifelong Chicagoan, 40, has a pack-a-day habit. Her husband smokes almost double that. They drive 20 miles to neighboring DuPage County each week to avoid paying the Cook County tax; her Virginia Slims Menthol Lights run around \$7 a pack there, compared with \$10 in Chicago.

"I'm not happy about (the proposed tax), but I understand," said Smoter, who works at a downtown law firm. But she doubts whether it would actually give her incentive to kick the habit for good. She quit for a year once, but relapsed, saying smoking is how she copes with stress.

"It would be \$100 a pack and some people wouldn't quit," she said.

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LETTER: DON'T BELIEVE THE TOBACCO COMPANIES

Letter to the Editor by Doug Flesher
Orville Mercury Register (CA)
April 29, 2012

Proposition 29 on the June ballot would increase the cigarette tax by \$1 to fund smoking prevention and cancer research. Out-of-state tobacco companies are spending millions on ads claiming it would send money out of California. Really? According to a recent study by the University of California, Proposition 29 would actually keep \$804 million in California instead of sending it to tobacco companies in Virginia and North Carolina.

Who do you believe? The American Cancer Society, American Heart Association and American Lung Association, who wrote Proposition 29? Or the out-of-state tobacco companies, who are bankrolling 100 percent of the campaign to oppose it?

Vote yes on Proposition 29 on June 5.

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