



Testimony in Support of HB 2270 Joint Committee on Tax Expenditures Daniel Morris, MS, PhD • June 17, 2019

My name is Daniel Morris. I'm here on behalf of the Tobacco Free Coalition of Oregon and Upstream Public Health to strongly endorse HB 2270, which will add millions of years to the lives of Oregonians—it's a public health priority.

I'm a Doctor of Public Health. For over 10 years now I've researched the tobacco industry, and tobacco taxes. My peer-reviewed tobacco research has been cited over 100 times, including by the U.S. Surgeon General and the Centers for Disease Control and Prevention. Among other things I research tobacco tax evasion—my work prompted an editorial in the New York Times, and a hearing in Congress.

As an epidemiologist, I support raising tobacco taxes because it's the best way to prevent death and disease in Oregon. Tobacco taxes are especially important because they keep kids from starting to use tobacco products, and help adult users quit.

Today I want to address four things: better regulating the sale of cheap, flavored cigars that appeal to kids; eliminating the tax break on luxury cigars; why cross-border tax evasion is not an important factor for analysis of the effect of the bill, and why local preemption is bad for public health.

Cross-border Sales are Tax Evasion

You may have been told that cross-border sales are so common, that raising the tax will deter so many people from buying tobacco in Oregon as to significantly reduce the revenue raised from a tax increase. I want to be clear that cross-border sales are tax evasion. **If a Washington resident buys cigarettes or cigars in Oregon to take home, they still owe Washington taxes on them.** Not paying those taxes is tax evasion. The State of Washington also has compacts in place with tribes— when non-tribal members buy cigarettes on tribal lands, they pay state cigarette tax rates.¹ I think it is bad policy to base any of Oregon's tax laws on fear that they might stop tax evasion.

Even after Oregon raises cigarette taxes by \$2/pack, taxes here will still be lower than in Washington, because Washington applies a 6.5% sales tax to cigarettes on top of the \$3.025 per pack tax. People in

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<https://dor.wa.gov/get-form-or-publication/publications-subject/tax-topics/cigarettes-are-tax-free-cigarettes-really-tax-free>

Washington will continue to travel to Oregon to work, shop, and avoid sales taxes. I expect a number of them will reduce the amount they are smoking so Oregon would collect less revenue from them. But the amount of revenue loss would be so small compared to the overall revenue increase that it doesn't even make sense to include it in the forecast model.

Local Preemption is Bad for Public Health

HB 2270 imposes taxes on inhalant delivery systems. Inhalant products like Juul are popular with young people and are setting up many of Oregon's kids for a lifetime of nicotine addiction. HB 2270 specifies that local governments will not be preempted from imposing their own taxes on inhalant products. That is a good thing. Preemption laws take away the power of communities to pass laws that make sense for them. The tobacco industry have successfully used state preemption laws to prevent regulation, when those regulations could have saved hundreds of thousands of lives.

Oregon communities have a long record of finding unique local solutions to pressing problems. These innovations were possible because communities were empowered to find their own solutions, and weren't preempted by state laws. It would be a mistake to remove this provision from the bill.

Regulating cigars

Cigars, overall, are much less regulated than other kinds of tobacco. HB 2270 includes a provision to better regulate the sale of cheap cigars. These machine-made cigars come in candy flavors, and you can buy them 1 or 2 for a dollar. These are cigars for kids, and sales are on the rise. Oregon requires that cigarettes be sold in packs of 20 to make them less accessible to kids. It will be a good thing for Oregon to regulate how these cheap cigars are packaged for sale as well.

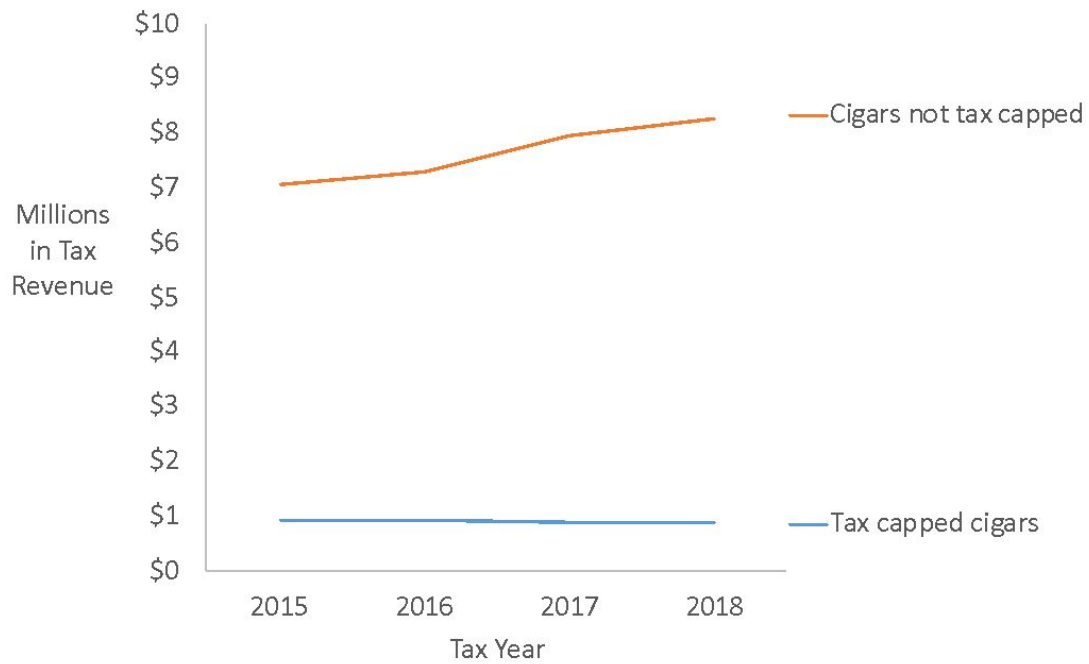
Eliminating the Cigar Tax Cap

The cigar tax cap is a public subsidy worth millions of dollars for people who smoke expensive cigars. Even though a luxury cigar can contain more tobacco than an entire pack of cigarettes, it is taxed less than half of the cigarette pack tax. Oregon collects relatively little revenue from the sale of luxury cigars (less than \$1 million a year). I expect that lifting the tax cap will generate between \$5 and 10 million per biennium.

The cigar tax cap is certainly a tax expenditure—it's a tax limitation worth millions of dollars for a select group of people— in this case, people who smoke expensive cigars. I looked back through all the old Tax Expenditure reports but it's never mentioned. In the time before HB 2270 goes to the ballot, I encourage this Committee on Tax Expenditures to study it.

Thank you for the opportunity to testify. I'd be happy to answer any questions.

Oregon Cigar Tax Collections



Data source: Oregon Department of Revenue