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**House Ways and Means Committee
Opponent Testimony by Gary C. Kuns, Speedway LLC, on Proposed Increase in
Tobacco, Beer and Wine Taxes in HB 49**

Thursday, March 9, 2017

The Honorable Committee Chair Schaffer, Vice Chair Scherer, Ranking Member Rogers and members of the House Ways and Means Committee, my name is Gary Kuns. As Director of Marketing Support and Tobacco for Speedway LLC, I appear before you this morning in opposition to the tobacco tax provisions contained in the state budget (HB 49) as well as the proposed increase in the tax on beer and wine.

Speedway currently operates 488 Convenience stores across the state of Ohio that offer fuel as well as beverages, candy, sundry items, tobacco products and many other convenience items. In 2016, we employed 5,900 associates at our 488 retail stores in Ohio and approximately 1,100 at our corporate headquarters in Enon, Ohio with a total Ohio payroll of \$210.2MM.

As Director of Marketing Support and Tobacco at Speedway for the past decade, I oversee the entire tobacco category for the company, including cigarettes, other tobacco products like cigars, moist snuff and chewing tobacco as well as new technology in electronic cigarettes and Vapor. The tobacco sector accounted for roughly 46% or \$522MM of Speedway's overall merchandise revenue in Ohio for 2016, so therefore it is a critically important part of our business.

As I mentioned, tobacco is an integral part of our business and we stock and offer these products because there is consumer demand for them. Governor Kasich has proposed to increase the state cigarette excise tax from \$1.60 per pack to \$2.25 a pack, and to increase the tax on Other Tobacco Products (OTP) from 17% of the wholesale price to 69% of wholesale price. Vapor products, also commonly known as electronic cigarettes, would also be subject to the OTP tax. If adopted these tax increases would result in price shock to our customers. We request you to investigate the effects of such tax increases by calling counterparts in other states who have enacted similar price increases. The state of Illinois increased it's state cigarette excise tax by \$1 per pack in 2012. Speedway has over 100 stores in Illinois and we experienced a decline of over 20% in unit cigarette pack sales. Illinois anticipated increased tax revenue did not materialize. Publicly, officials in Illinois stated, that they had negative revenue after one year. (Link below). We have provided below other examples of actual versus realized tax revenues associated with increase in cigarette excise taxes for your consideration.

We know consumers are price sensitive and regularly see people drive out of their way to save a few cents per gallon on motor fuel. The same holds for tobacco products and as a large chain with a footprint across several states, we see numerous examples of tax policy influencing and changing consumer behavior to the detriment of business such as Speedway. While the Administration has chosen to ignore or downplay the impact of cross border sales as a result of increased taxation, I can say without hesitation the cross border effect is real. For example, you may have heard that the city of Philadelphia recently instituted a significant tax on soft drinks. As a result sales of fountain drinks plummeted at stores in Philadelphia and spiked at stores just

over the border. We already see such an effect based upon the current cigarette excise taxes in Ohio. Our store in Covington, Kentucky, just over the Ohio River from Cincinnati, has one of the highest cigarette sales volumes (top 5) in our entire chain of over 2700 stores due to customers flocking there to buy tobacco products and beer to evade the higher taxes on such products in Ohio.

We believe that a tax on OTP of the magnitude proposed by Governor Kasich would drive sales of these products back to the internet where the category got its start. Items like Vapor products are still a new and emerging category that is sold in convenience stores and many small stand-alone vapor shops. Levying a tax of 69% of the wholesale price will effectively destroy the retail sale of these products. As a result, the state will miss out on tax that is currently collected on sales of OTP.

A common response by government agencies to cross border sales is to institute tax enforcement measures. While nice from a PR standpoint, these initiatives do little to stop customers from crossing state borders to save money on consumer goods and buy them legally. Bear in mind that when Ohioans shop for tobacco in other states they typically buy other consumer goods as well. This behavior not only can result in a reduction in tobacco excise tax revenues, it can have a negative effect on sales tax collections associated with the other consumer products people buy in other states during these visits. Because Speedway is a large chain and has stores in every state bordering Ohio you may ask why cross border sales is an issue. We are an Ohio company and want to keep sales here in the state to support our stores and the employees who work here. Staffing is tied to store sales so when there is a drop in sales it can impact our store associates.

Speedway is also one of the top beer and wine retailers in Ohio and this category is equally as important to us as tobacco. The proposed 70% tax increase amounts to roughly 6-cents on a 6-pack of beer and 4 to 5 cents on a bottle of wine. While this may sound insignificant, again we must be mindful of tax rates in neighboring states. We feel an increase of this magnitude would put us out of line with other nearby states. We already know that many customers are driving over the Ohio River from the Cincinnati area to buy Beer and Tobacco at a lower price based on current tax rates. If Ohio were to increase taxes on tobacco, beer and wine we can expect this trend to increase as people leave the state to take advantage of lower prices. See chart below on 70% increase.

Finally, this tax increase violates free market principles and puts Ohio businesses at a competitive disadvantage — a disadvantage with dire results. The promise of steady increasing state revenue is an illusion. Tobacco products are already among the most heavily taxed, and 91 percent of cigarette excise tax increases that have passed in this country have missed projections, as shown on the chart below.

On behalf of Speedway, an Ohio company, we prefer to see state tax policies that encourage investment and growth here in our home state. Thank you for the opportunity to offer testimony this morning and I will try to answer any questions you may have.

Sincerely,



Gary C. Kuns

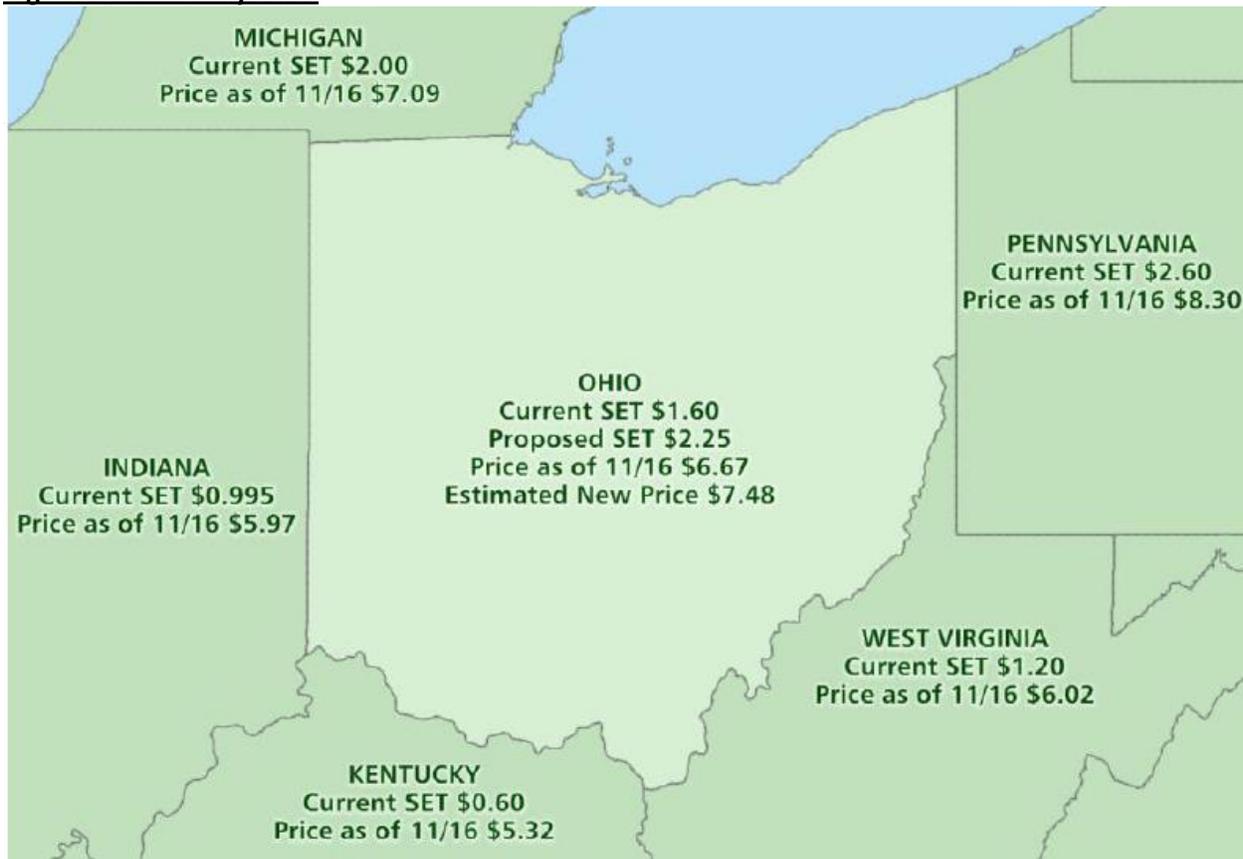
Ohio 2016

State and Federal Cigarette Revenues (FY2016)¹

State Excise Taxes	\$963.1 million
MSA & Other Fees	\$327.3 million
Federal Excise Tax	\$594.2 million
State Sales Tax	\$206.1 million
Local Sales Tax	\$48.4 million
Local Excise Tax	\$18.0 million
Total Government Revenues²	\$2,157.1 million

Adult smokers are a small percentage of the population, but they pay a significant amount of taxes and other fees to the government.

Cigarette SET Tax by State



91% Percent of Cigarette Tax Increases Missed Revenue

	Date Enacted	Tax Increase	Est Revenue Increase	Actual Revenue Increase*	Difference	Diff as % Of Est
Washington DC	10/1/2011	\$0.36	\$2,700,000	(\$2,212,159)	(\$4,912,159)	-181.9%
Hawaii	7/1/2011	\$0.20	\$10,800,000	(\$4,653,198)	(\$15,453,198)	-143.1%
Rhode Island	7/1/2012	\$0.04	\$1,761,289	(\$494,135)	(\$2,255,424)	-128.1%
Washington, DC	10/1/2009	\$0.50	\$9,700,000	(\$986,671)	(\$10,686,671)	-110.2%
New Jersey	7/1/2009	\$0.13	\$29,300,000	\$4,187,075	(\$25,112,925)	-85.7%
Delaware	8/1/2009	\$0.45	\$16,000,000	\$3,411,733	(\$12,588,267)	-78.7%
Connecticut	7/1/2011	\$0.40	\$45,600,000	\$20,720,194	(\$24,879,806)	-54.6%
Wisconsin	9/1/2009	\$0.75	\$153,900,000	\$93,599,844	(\$60,300,156)	-39.2%
Connecticut	10/1/2009	\$1.00	\$99,300,000	\$60,519,060	(\$38,780,940)	-39.1%
Illinois	6/24/2012	\$1.00	\$339,000,000	\$219,320,400	(\$119,679,600)	-35.3%
Vermont	7/1/2009	\$0.25	\$5,900,000	\$4,649,586	(\$1,250,414)	-21.2%
Rhode Island	4/1/2009	\$1.00	\$27,450,000	\$21,747,000	(\$5,703,000)	-20.8%
Massachusetts	7/1/2008	\$1.00	\$174,000,000	\$143,182,188	(\$30,817,812)	-17.7%
Washington, DC	10/1/2008	\$1.00	\$12,530,000	\$10,380,366	(\$2,149,634)	-17.2%
New York	7/1/2010	\$1.60	\$290,000,000	\$244,004,680	(\$45,995,320)	-15.9%
Mississippi	5/15/2009	\$0.50	\$106,175,000	\$91,901,545	(\$14,273,455)	-13.4%
Arkansas	3/1/2009	\$0.56	\$88,000,000	\$77,447,368	(\$10,552,632)	-12.0%
South Carolina	7/1/2010	\$0.50	\$124,758,000	\$111,119,715	(\$13,638,285)	-10.9%
Pennsylvania	11/1/2009	\$0.25	\$100,100,000	\$92,316,600	(\$7,783,400)	-7.8%
Florida	7/1/2009	\$1.00	\$871,300,000	\$815,525,603	(\$55,744,397)	-6.4%
Vermont	7/1/2011	\$0.38	\$4,630,000	\$5,374,347	\$744,347	16.1%
Hawaii	7/1/2010	\$0.40	\$10,800,000	\$15,721,178	\$4,921,178	45.6%
Utah	7/1/2010	\$1.01	\$22,500,000	\$50,075,626	\$27,575,626	122.6%

Illinois cigarette tax falling short of estimates

Posted: Jun 20, 2013 11:03 AM EDT Thursday, June 20, 2013 11:03 AM EDT

Springfield -- State officials say Illinois' \$1-per-pack cigarette tax increase isn't bringing in as much money as they'd hoped.

The year-old tax took effect last June and raised the state tax on a pack of cigarettes from 98 cents to \$1.98. At the time, officials said the money would bring in desperately needed revenue, while also discouraging people from smoking.

But the tax is expected to bring in \$212 million in extra money for the current fiscal year. That's about 39 percent short of the \$350 million that was projected.

Authorities say fewer people are buying cigarettes, which explains the decline.

<http://www.wandtv.com/story/22643893/illinois-cigarette-tax-falling-short-of-estimates>

HB 49: Proposed 70% Beer Excise Tax Rate Increase on Ohio's Consumers



State	Regional Rank (Highest tax to lowest)
*Ohio	1
Michigan	2
West Virginia	3
Indiana	4
Pennsylvania	T5
Kentucky	T5

*The proposed tax increase would make Ohio the HIGHEST beer excise tax in our region, and the 15th HIGHEST nationally

Ohio (Current)

At a rate of \$0.18 per gallon, Ohio's beer excise tax is already tied for the 3rd highest (out of 6) among our neighboring states and is 29th nationally

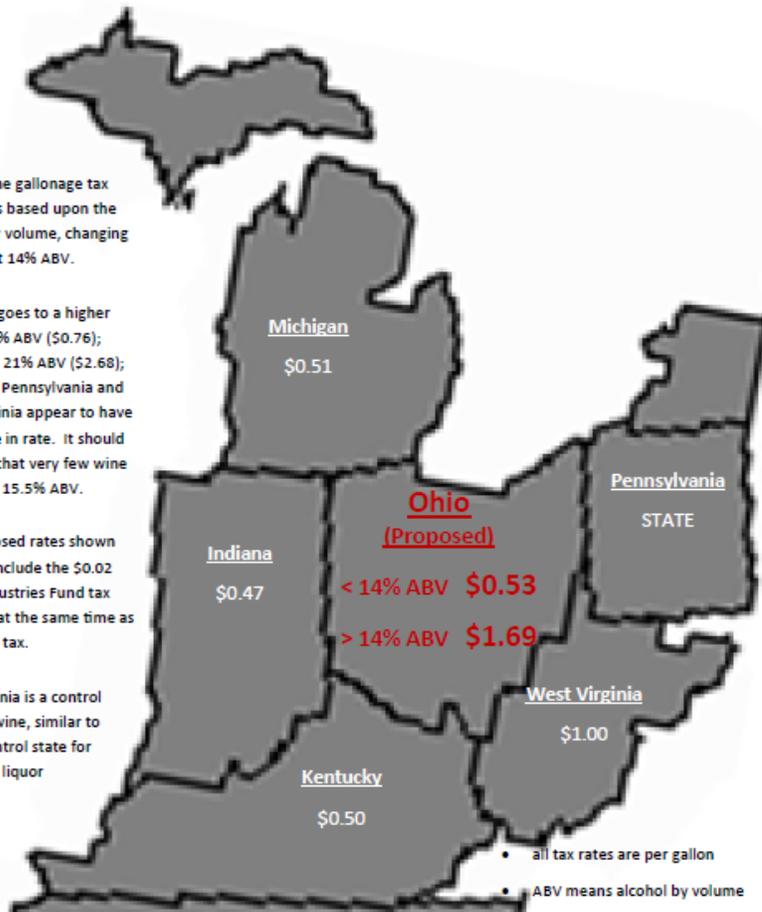
HB 49: Proposed 70% Wine Excise Tax Rate Increase on Ohio's Consumers

Ohio's wine gallonage tax rate varies based upon the alcohol by volume, changing the rate at 14% ABV.

Michigan goes to a higher rate at 16% ABV (\$0.76); Indiana at 21% ABV (\$2.68); Kentucky, Pennsylvania and West Virginia appear to have no change in rate. It should be noted that very few wine are above 15.5% ABV.

The proposed rates shown for Ohio include the \$0.02 Grape Industries Fund tax collected at the same time as the excise tax.

Pennsylvania is a control state for wine, similar to Ohio's control state for spirituous liquor



Regional Rank
(Highest tax to lowest)

State	Regional Rank (Highest tax to lowest)
*Ohio >14% ABV	1
West Virginia	2
*Ohio <14% ABV	3
Michigan	4
Kentucky	5
Indiana	6

*Among our neighboring states, the proposed tax increase would make Ohio the HIGHEST excise tax on wine over 14% ABV and tied for the 3rd HIGHEST in our region on wine under 14% ABV. Nationally, Ohio would be 4th HIGHEST and 31st HIGHEST, respectively.

Ohio (Current)

Among our neighboring states, Ohio's rate of \$1.00 for wine >14% ABV is the HIGHEST (tied with West Virginia) and at \$0.32 for wine <14% ABV it is the 5th highest (out of 5). Nationally, our current rates are the 12th highest and 31st highest, respectively.