

Micah Berman, JD
Assistant Professor, Ohio State University
Member, OSU-James Comprehensive Cancer Center
March 16, 2017
Ohio House Finance Subcommittee on Health and Human Services

Chairman Romanchuk, Ranking Member Sykes, and Members of the Subcommittee:

My name is Micah Berman and I am an assistant professor of public health and law at Ohio State University. I am also a member of the OSU-James Comprehensive Cancer Center. I teach courses on Public Health Law and Tobacco Regulation, among others, and I have been studying tobacco policy for more than a decade. My research is funded primarily by the National Cancer Institute, and I am affiliated with Ohio State's federally-funded Center of Excellence in Regulatory Tobacco Science.

As I'm sure you all know, tobacco is the leading cause of death in Ohio and in the nation, killing nearly half a million Americans and more than 20,000 Ohioans every year. If current trends continue, more than 250,000 Ohio kids alive today will die prematurely from a tobacco-related disease. Despite progress that has been made over the years, reducing tobacco use and protecting the next generation from nicotine addiction remains critical for Ohio – critical for our health, and also critical for our economy.

Right now, **Ohio is ranked 43th** in terms of adult smoking, meaning that there are only a handful of states with higher smoking rates. Moreover, smoking rates among Ohioans on Medicaid are staggeringly high. The 2015 Ohio Medicaid Assessment Survey estimated that more than 40% of Medicaid enrollees aged 19-64 were current smokers. Thus, it should not come as a surprise that Ohio spends more than \$1.7 billion each year to treat smoking-related diseases, which is considerably more than it receives annually in tobacco tax revenue. Reducing tobacco use is one of the most straightforward ways to reign in Medicaid costs.

We know from decades of research that tobacco taxes are **the #1 most effective policy lever** for reducing tobacco use. Literally hundreds of peer-reviewed studies have shown that a 10% increase in the price of cigarettes reduces cigarette consumption overall by 3-5%, with an even larger impact on youth. The once-secret tobacco company internal documents show that they have recognized the powerful impact of tobacco taxes for decades. Despite claims to the contrary, higher cigarette taxes reliably reduce use (not just sales, but use), despite concerns that smokers will turn to cross-border purchases or online sales. Simply put, there is a very clear inverse relationship between prices and use, even when accounting for these other potential factors. Higher tobacco taxes save lives.

Increasing the Cigarette Tax Rate

The Governor has proposed a \$0.65 increase in the cigarette tax – from \$1.60 to \$2.25/pack. While this would be movement in the right direction, a tax increase of at least \$1.00 would be much more likely to dissuade people from starting to smoke and to encourage current smokers to quit.

Smaller tax increases are problematic because, although they generate revenue for the state, they are unlikely to meaningfully reduce tobacco use. Thus, the incidence of the tax falls disproportionately on low-income individuals, without any offsetting public health benefit.

To ensure that this does not happen, the solution is to increase the tax by at least \$1.00/pack, while also investing a portion of the resulting revenue in tobacco cessation efforts, so that current smokers – the vast majority of whom want to quit – have the support and resources necessary to do so.

The Centers for Disease Control and Prevention has developed evidence-based recommendations suggesting that Ohio should spend \$132 million a year on tobacco prevention and cessation efforts. Ohio currently spends less than 12% of that amount – roughly \$15 million for the current fiscal year. In addition, that \$15 million must be viewed in context. It is less than 4% of the amount that the tobacco industry spends on marketing its products in Ohio each year, and only about 1% of the amount of tobacco-related revenue the state receives in a given year.

In short, it is clear that if Ohio is to make progress in reducing tobacco use, two things must happen: (1) the state needs to significantly raise tobacco taxes, and (2) some portion of that money needs to be dedicated to tobacco prevention and cessation.

Cross-Border Purchases & Economic Impact

Every time Ohio's cigarette tax is raised, the same concerns are raised about cross-border sales. But every time, Ohio ends up collecting significantly more revenue, with only minor changes to tobacco tax revenue in surrounding states. This is consistent with what is seen around the country, even in places where the size of states is much smaller and the tax differential between bordering states is much greater. Our very preliminary research at Ohio State suggests that while some people who live right along the Kentucky or West Virginia border do make cross-border purchases of tobacco products, such purchases are very rarely made by anyone outside of a border county.

I also want to make a similar point to the one I made above regarding the size of the tax increase. If the cigarette tax increase is small, overall state revenues will still increase, but you may have some additional cross-border sales without any offsetting health benefit. Indeed, Ohio's tobacco tax revenues are currently exceeding projections (while sales tax revenue and other tax revenues are falling short of projections), likely because the \$0.35 cigarette tax increase in 2015 was not large enough to significantly reduce use.

Such small tax increases may help balance the budget in the short term – but at a long-term cost. What is needed is a tax increase that is large enough to be effective in reducing smoking. When that happens, the economic benefits to the state will be much, much greater.

For one, money spent on tobacco purchases will be redirected to other products. Indeed, all of the major tobacco companies, who receive the bulk of the profits from tobacco sales, are all located out of state – so much of the money spent on tobacco is currently shipped out of state and lost entirely to the Ohio economy.

Additionally, my colleagues and I published a paper in 2014 demonstrating that private businesses pay, on average, more than \$5,800 dollars per year more to employ a person who smokes cigarettes, compared to the cost of employing a person who has never smoked. The vast majority of businesses in Ohio know that smoking is a major drag on their bottom line. For that reason, Reuters recently reported that chambers of commerce around the country are now promoting cigarette tax increase and other tobacco control measures. [Julian Mincer, *Business Groups, Once Tobacco Friendly, Switch Sides in Fight*, Reuters, Feb. 28, 2017, <http://www.reuters.com/article/us-usa-healthcare-chambers-idUSKBN1670H6>]

Other Tobacco Products (OTP) Tax

While increasing cigarette taxes is critical, I also wanted to emphasize the importance of addressing Ohio's Other Tobacco Products (OTP) tax. Ohio's OTP tax, which is set at 17% of wholesale price (with the exception of little cigars, which have a higher tax rate), has not changed since 1993 – twenty-four years ago. There is only one state in the entire country that has gone longer without raising its OTP tax.

While Ohio's smokeless tobacco use rate is not much higher than the national average, there are parts of Ohio—particularly in the Appalachian counties— where smokeless tobacco use (particularly among young boys) is especially high. As with cigarette taxes, the OTP tax has its largest effect on youth. Increasing the OTP tax can prevent thousands of kids from starting down a path of nicotine addiction that can ultimately lead to mouth cancer, throat cancer, esophageal cancer, and numerous others painful and expensive diseases that result from smokeless tobacco use.

Increasing the OTP tax also helps to reduce *dual use* – the concurrent use of multiple forms of tobacco. While I do not have data from our studies to report today, the issue of dual use is a focus of our research work at Ohio State, because there is reason to believe that dual use may lead to faster addiction, deepened dependence, and more difficulty quitting.

In addition to smokeless tobacco, the OTP tax also applies to products like pipe tobacco and roll-your-own tobacco. When the OTP tax is significantly lower than the cigarette tax, as it is now, it encourages consumers to purchase roll-your-own tobacco rather than manufactured cigarettes. This form of tax avoidance serves no public health purpose and only costs the state income.

I urge you to increase the OTP tax to make it roughly equivalent to the cigarette tax.

Weight v. Price-Based Tax

Finally, on the issue of *how* to tax other tobacco products, Altria—the parent company of Philip Morris and U.S. Smokeless Tobacco (UST)—has been urging state legislatures to move from a price-based tax to a weight-based tax. I urge you to reject that approach.

For one, a weight-based tax does not keep pace with inflation. Imagine if Ohio’s OTP tax had been set by weight in 1993. Such a tax would be about 60% lower today in real dollar terms than a price-based tax. Such a tax would be a good deal for Altria, but would be less effective in both reducing tobacco use and in generating revenue for the state.

Secondly, weight simply has nothing to do with how hazardous a product is. A weight-based tax will drive the market towards “lighter” tobacco products, but not less hazardous ones. This would benefit certain companies—again, like Altria—but not provide any benefit to public health. At the same time, it would make some products—the lighter ones—particularly attractive to youth because of their lower prices.

In comparison to weight-based taxes, which may benefit some manufacturers at the expense the public, price-based taxes are simply fairer, easier to implement, and better for public health. I therefore urge you to reject moving towards a weight-based approach.

In sum, there is overwhelming evidence that tobacco tax increases—whether for cigarettes or Other Tobacco Products—(1) improve public health, which will make Ohio more economically attractive and competitive, (2) increase state revenue in a reliable and predictable ways, and also (3) reduce health disparities (which I did not have time to talk about today).

I ask you to please support the recommendations outlined above, and I would be happy to answer any questions.