Testimony on H.B. 96 Impact of Cigarette and Tobacco Tax increases
Gregory F. Wellinghoff, President
The Keilson-Dayton Co.

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Chairman Roemer, Vice Chairman Thomas, Ranking Member Troy and members of the committee, thank you for allowing me the opportunity to present testimony surrounding the impact of the proposed cigarette and tobacco tax increases in H.B 96 on my company. I own The Keilson-Dayton Co., a stamping wholesale distributor of cigarettes and other tobacco products with warehouses in both Dayton and Columbus, Ohio. My company is a full-service wholesale distributor, meaning we offer a complete product line of all the different categories within a convenience store including candy and snack, grocery, food service, beverage, health and beauty, sundry goods and yes, cigarettes and tobacco products. In our most recent fiscal year ended December 31, 2024, cigarettes and tobacco products (the categories affected by HB 96) represented 95.3% of my company's gross revenue. My company currently employs 50 Ohioans.

Ohio vs border states.

The table below illustrates that today Ohio falls roughly on the high middle side of cigarette excise tax rates when compared with our border states. Ohio is less than Michigan and Pennsylvania, yet more than West Virginia, Indiana and Kentucky. More of Ohio's borders are along states with lower cigarette excise tax rates than states with higher rates. Raising the cigarette excise tax over its current levels take Ohio's rate higher than all of our border states.

Cigarette Tax Rate – Current 2/24/2025			Cigarette Tax Rate – Proposed HB 96	
Pennsylvania	$2.60		**Ohio**	**$3.10**
Michigan	$2.00		Pennsylvania	$2.60
Ohio	**$1.60**		Michigan	$2.00
West Virginia	$1.20		West Virginia	$1.20
Kentucky	$1.10		Kentucky	$1.10
Indiana	$.99		Indiana	$.99

Today, Ohio is a net importer of cigarette taxes from the border states of Pennsylvania and Michigan and a net exporter of cigarette taxes to West Virginia, Kentucky and Indiana from communities near the borders with these states. Under H.B. 96 Ohio will become a net exporter of cigarette tax revenue to all its border states and a net importer of no tax revenue. This is not going to help offset the decline Ohio is seeing in its collection of tax revenues.

One rationale for tax increases is that the decline in revenue from the taxes needs to be recovered with increases in the taxes. As a business owner I wish I had the ability to raise my prices arbitrarily to offset declines in category revenue due to the trend of fewer and fewer Ohioans taking up the habit of tobacco use. My company has also seen declines in revenues in the cigarette and tobacco category, averaging 10.6% in each of the last three years. My company is unable to simply double our margin to offset these declines. Instead, we must recognize that the decline in cigarette and tobacco usage in this country is a nationally recognized trend that will. As a result, my company needs to streamline operations to optimize our cost structure and adapt to lower revenues in the cigarette and tobacco category. This is how good businesses operate. They recognize decreasing trends in an industry and adapt their businesses accordingly. They don't stick their heads in the sand, raise prices on products with declining unit sales and hope for the best.

Consider that state expenditures for tobacco cessation, coupled with national initiatives, have dramatically reduced overall tobacco use. When tax revenues decrease because there are fewer tobacco users, it's not an unexpected outcome and it should be expected that this trend will continue and even accelerate over the next decade. The State of Ohio needs to plan for a future without any tobacco tax revenue now just as my company needs to plan and adapt to that same future.

Wholesaler costs and compensation.

A simplistic look at cigarettes and the related taxes in my business, using the #1 cigarette brand as an example, starts with my cost from the manufacturer: $76.94 per carton, which is sold by the case (60 cartons) for $4616. The mfg price includes the $10.10/carton federal excise tax. As a stamping wholesaler, my company buys the Ohio excise tax stamps from the state and applies them to each pack of cigarettes. This is how Ohio's $16.00 excise tax is paid. My company maintains a 1–2-week inventory on hand effectively running a just in time operation of fulfilling and delivering these products to convenience stores in Ohio at a price that includes the state excise tax and the wholesale mark-up per Ohio's state minimum mark-up law. In many cases these stores purchase the product from my company on credit terms that vary based on the retailer's credit worthiness as well as competitive pressures.

Wholesalers incur significant costs for the state to get the tax on a product that the state doesn't want adults to use but that the state does want adults to use because the state wants the taxes. We pay for the product before it hits our warehouse floor, buy and maintain expensive stamping machines, pay the state to send us the stamps (unless the company has proximity to pick them up), hire and incur the employment costs of stamping machine operators, prepare all tax returns to ensure all tax is collected and paid to Ohio, warehouse and transport the product to retailers and extend and absorb credit terms and losses if a retailer is fails to pay. My company does this for less than 4% margin. The state, on the other hand, is getting almost 20% margin via the tax that is guaranteed to the state by the work of my company. Thus, my company does all of the work for Ohio to collect their current 20% and does this work for less than 4%. HB 96 wants to take the tax on cigarettes from $16 per carton to $31 per carton, which becomes a 40% margin for the state, with no additional work for the state but my cost will go up. And at the end of the year if my company manages to turn a profit, the state taxes it.

As a stamping wholesaler, My company is a cigarette tax collection agent for the state. The stamp is a visible indicator for enforcement to verify that the tax on a pack of cigarettes has been paid. When I see proposals to eliminate our current 1.8% wholesaler stamping compensation or cap it as we are seeing in HB96, I am always left flabbergasted. To affix tax stamps, my company incurs significant costs as shown below.

2024 Cost for stamping cigarettes at current $1.60 excise tax per pack	
Machine cost amortized over 20-year useful life. (3 machines)	$9,540.44
Annual maintenance cost of 3 machines.	$16,006.68
Labor Cost of 2 full-time employee to operate machines.	$93,869.35
Cost to transport stamps from tax department to our facilities. (We pick up stamps ourselves, were this not feasible and we had to utilize a third-party carrier such as UPS, this cost would be over $78,000.)	$2,516.80
Insurance on tax stamps while in possession of Keilson Dayton Co.	$4,000.00
Bank Interest charged on tax stamps held in inventory or sold on credit to retail in excess of credit terms granted by the state of Ohio.	$29,695.68
Bank interest charged for funds borrowed during Ohio's COD period.	$10,279.27
Rent on 6000 sq foot warehouse space allocated to stamping operation.	$30,000.00
Utilities associated with stamping	$2,306.30
Professional labor allocated to tax stamp reporting to Ohio each year.	$15,680.77
2024 Total costs associated with stamping.	$213,895.29

Based on my company affixing $11,232,000.00 of Ohio cigarette tax stamps in 2024, the state stamping compensation would have needed to be 1.9% to truly cover our costs [$213,895.29 [total costs associated with stamping] **/** $11,232,000 [tax stamps affixed] = 1.9%].

One argument we hear about our stamping compensation is that costs as stamping agents do not go up with tax increases. The fact is, *our costs go up without tax increases* and they go up even more with tax increases.

- A new replacement machine will cost me more than twice what I paid for the 17-year-old machine that is coming up on needing to be replaced.
- My stamping machine operators do receive annual salary increases.
- The cost of insurance, rent, and maintenance increase every year, with or without tax increases.
- Bank interest costs for the carrying cost of tax paid inventory do go up with tax increases.

The Keilson-Dayton Co uses a working capital line of credit with our lending institution for operating capital throughout the year. In 2025, when we had the last cigarette tax increase, I compared our average usage of that line of credit before the tax increase and after the tax increase to determine the effect the increased inventory carrying costs and increased accounts receivable had on my cash flow. During the first half of 2015, my company's average usage on its line of credit was $1,368,000.00. During the second half of 2015, my company's average usage on its line of credit was $2,025,000.00. Thus, my average daily borrowing increased $657,000 after the cigarette tax increase by $.35 per pack in 2015. HB 96 proposes a $1.50 per pack cigarette tax increase! In running a model based on decreased sales associated with the proposed HB 96 increase, I estimate that the average daily borrowing for my company will grow by $1,350,000 because of the HB 96 cigarette tax increases. Borrowing at approximately 6.5% results in an increased interest cost to my company of $87,750.00 per year.

Under HB 96 The Keilson-Dayton Co will have to go to our lender and ask for an increase to our line of credit of approximately $1,350,000 (probably $1,500,000 to be on the safe side). For this, we will have no additional sales, in fact we will likely have far lower revenues. We will have higher accounts receivable and as a result higher bad debts. Why is this, when the State of Ohio extends 30-day credit terms to its stamping dealers for most of the year? We purchase stamps once per week. Once we pick up a roll of stamps the clock begins running with the Tax Department as far as the tax is due. We affix the stamps to our inventory as soon as the unstamped cigarettes arrive in our warehouse. We try to maintain a 2-week inventory in our facility. Thus, the cigarettes received from the manufacturer and stamped today will be sold anywhere from 9-11 business days from now. This level of inventory is maintained to mitigate any supply chain disruption and maximize the efficiency of our vendors trucking carriers when delivering to our facilities. Once those cigarettes are sold to our customers, we wait for payment from our customers on the receivable. Credit worthiness determines the length of the receivables with our customers, but payment is generally collected within 12 business days. Once we receive payment, the funds deposited into our bank are not available on the same day deposited, there is a 1 day hold on our funds. Thus, a roll of tax stamps picked up by The Keilson-Dayton Co. from the Tax Department on February 24, 2025 has a payment due date of on or before March 26th, however The Keilson-Dayton Co. will likely not receive the full value of the tax on that roll from its customers until April 7, 2025.

Please understand that the stamping wholesalers such as The Keilson-Dayton Co collect the cigarette tax on behalf of the state of Ohio and we do a pretty good job at it. We operate in an efficient and thoughtful manner with credit because bad debt costs us the value of the product that we paid to the mfg, *plus* the value of the tax that we paid the state. When a retailer goes bankrupt and does not pay my company for the product or skips off to another wholesaler without paying what they owe me, my company still must remit the excise tax to the state. That is also a cost of stamping cigarettes that cannot be disregarded. There is irony in the Dept wanting to change our stamping compensation in a way to reduce its value over the long-term, while continually opposing allowing wholesalers to receive a refund of the excise tax when a retailer account becomes a bad debt.

Increased cigarette taxes, increased incentive for criminals.

My company saw a dramatic increase in cigarette theft following the 2015 cigarette tax increase. We used to have one-two incidents of criminal activity that affected my business each year, prior to the 2015 increase. In the 24 months following the 2015 increase we saw a dramatic increase in security incidents and had to increase our security expenditure to return our incidents down to a 1-2 incident a year level. In 2024 our spending on security was $41,142.78 for our two facilities. Nobody tries to break into distribution centers for candy or groceries.

- August 2015 – At our Dayton warehouse a woman misrepresented herself as one of our customers to pick up an order for that customer. The woman was apprehended by the Dayton Police Department and prosecuted.
- April 2016 – One of our delivery vans in Columbus was broken into while our driver was inside of a store. Approximately $5,000.00 in cigarettes was stolen and $500.00 in damage was done to our van. Columbus Police did not find or arrest anyone in the crime.
- May 2016 – One of our delivery's trucks in Middletown, OH was broken into while our driver was inside of a store. Approximately $7,000.00 in cigarettes were stolen, $25 in damage was done to our truck. The Butler County Sherriff's office did not find or arrest anyone despite us having a license plate of the vehicle the suspect's used in the crime.
- May 2016 – Our facility in Columbus was broken into after hours by 5 male Spanish speaking subjects driving a vehicle with a Pennsylvania tag. They were unable to access our cigarettes in our warehouse but did approximately $5,000.00 in damage to our office area attempting to access our warehouse. Columbus PD was unable to find or apprehend the subjects.
- November 2016 – A male subject attempted to access our Columbus warehouse after hours by tampering with our driveway intrusion sensors. He was unable to access our facility. Columbus PD did not find the subject, although they did increase patrols around our facility.
- December 2016 – Our facility in Columbus was broken into after hours by a single individual. The subject was unable to access our cigarettes in our warehouse but did approximately $1,000.00 in damage to our offices.
- February 2017 – Our facility in Dayton had an intruder break into our delivery trucks after hours on our lot. The individual was able to avoid Dayton PD and fled when they arrived on site, he was not apprehended.

Why an Other Tobacco Products (OTP) rate of 42% in Ohio is a bad idea.

Similar to the previous charts provided for cigarettes, the two charts below show the excise tax rate in Ohio compared to those states that Ohio borders.

Other Tobacco Products Tax Rate Current 2/24/2025			**Other Tobacco Products Tax Rate Proposed HB 96**	
Michigan	32%		**Ohio**	**42%**
Indiana	24%		Michigan	32%
Ohio	**17%**		Indiana	24%
Kentucky	15%		Kentucky	15%
West Virgina	12%		West Virginia	12 %
Pennsylvania	Weight Based / 0%		Pennsylvania	Weight Based / 0%

As is illustrated above, Ohio would go from a state that has a slightly below average tax rate compared to its border states to the highest tax rate among its border states. As an Ohioan I love it when I hear that Ohio is below average when it comes to tax rates. I am not as big of a fan when I hear highest tax rates among states in the region. I am especially concerned when Ohio is the highest in the region for tax rates that directly affect my company. Again, under this example, Ohio would go from being an importer of tax revenue from Michigan and Indiana and exporter to Kentucky and West Virginia, though these rate differences with Kentucky and West Virginia are relatively small to being a net exporter of tobacco tax revenue to all the border states under HB 96. This is because Ohio would have the highest OTP rates of any state in the region. In Pennsylvania cigars are not subject to OTP tax, but all other tobacco products are taxed at $.55 per oz. Please note that under an ad valorum system such as we have in Ohio which is based on a %, the state receives a tax increase any time that the manufacturer takes a price increase on a tobacco product that is subject to this 17% OTP tax rate. Thus, Ohio is currently receiving OTP tax increases each year.

When The Keilson-Dayton Co sells an OTP product to a retailer, we make about 4% today. We make 4% and like cigarettes, we absorb all the inventory carrying costs, receivables costs, professional costs associated with preparation of monthly tax returns to the State of Ohio. Smugglers who bring products into Ohio from low or no tax states such as Pennsylvania can make 17% today and undercut my prices. If the OTP rate in Ohio goes to 42%, would you guess that the amount of smuggling coming into Ohio would increase, decrease or remain the same? OTP is much different than cigarettes in that there is no tax stamp marking on the product to indicate that the tax has been paid. A pack of Swisher Sweets Cigars sold in Ohio looks identical to a pack of Swisher Sweets Cigars sold in Pennsylvania. A State of Ohio enforcement agent in a retail store has no way to tell if a retailer's OTP product came from a legitimate taxpaying Ohio wholesale dealer, or from a smuggler who brought it in from Pennsylvania. The retailer can buy a few boxes of Swisher Sweets from a legitimate wholesaler to have an invoice on hand that satisfies a tax enforcement agent, while buying cases of Swisher Sweets from a smuggler.

Taking the OTP tax rate in Ohio to 42% would be incredibly detrimental to my business. It would also be a huge stimulant to the untaxed OTP smuggling in Ohio. Even though tobacco tax enforcement is active in the marketplace, Ohio does not have enough enforcement agents to stop the smuggling problem altogether under today's rates. If the incentive to smuggle OTP into Ohio increases, more and more smuggling will take place. Tax enforcement agents will be faced with an increased workload; I will be faced with declining revenues. Danger for agents will increase as the state brings in more and more smuggled products from outside oh Ohio. Let's face it, not all smugglers are going to surrender peacefully when they are caught. The penalties for smuggling untaxed OTP into Ohio are minor in comparison with the penalties for other crimes, such as drug dealing. When Ohio increases the incentive to smuggle untaxed OTP into the state with such an unusually high OTP excise tax rate, the criminal element will choose to participate in this type of smuggling over other crimes due to it being more lucrative and lower risk. As I said 8 years ago when faced with a similar OTP increase proposal, when Ohio can stop OTP smuggling 100% of the time at the current 17% tax rate, then Ohio can consider raising the OTP rate to be out of balance to its border states, but when raising the rate when Ohio cannot stop the smuggling problem it has today will lead to lower revenues for Ohio, lower revenues to my business and increased profits for criminals. In the 8 years since making that point, I have seen no new actions taken on the part of the state of Ohio to address the continued issues with smuggling of untaxed OTP products.

With Ohio's current 17% falling right in the middle of its border states, Ohio is in a good place. Lower than smoke states, higher than other states and receiving increases in tax revenue as the manufacturers take increases. 42% would be tremendously negative for The State of Ohio as well as my business as Ohio would find itself getting 42% of nothing rather than 17% of something.

OTP Compensation

While not as labor and cash flow intensive as cigarettes, collecting the OTP taxes for the State of Ohio does incur its share of costs. Wholesalers still are responsible for paying the tax even if the retailer does not pay the wholesaler for the product. Wholesalers still must pay professional labor to prepare the returns monthly. For The Keilson-Dayton Co, the monthly labor cost allocated to the activity of preparing the OTP returns is $1,306.67. The Tax Department periodically makes changes to their electronic filing system which requires wholesalers to incur in formation technology costs in order to submit the electronic returns to The State of Ohio in the format that the state requires. Changes to the OTP excise tax rate or methodology would likely require additional programming changes on our end.

Much like cigarettes, a change in the OTP tax rate from 17% to 42% in Ohio would result in an increased usage of my line of credit to accommodate and increase in my inventory carrying cost and accounts receivable. My estimate of this impact is an increase in my borrowing of $168,000 associated with an OTP increase from 17% to 42%. Again, this is an increase in borrowing for no additional sales and an increase in inventory and receivables, thus a less healthy balance sheet.

Thank you for your time and I hope that you will take this testimony into account when making the decision that is right for Ohio.

Regards,
Gregory F. Wellinghoff

The Keilson-Dayton Co.
107 Commerce Park Dr.
Dayton, OH 45405

The Keilson-Dayton Co
800 Harrison Dr.
Columbus, OH 43204