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Ohio House of Representatives
Finance Committee
House Bill 64, State Budget

March 25, 2015

Testimony of Compton Point
Owner of Cheap Tobacco

Jeffrey Burd, Counsel

Chairman Smith and Members of the Committee,

I am here today representing a small business owner with operations across the State of Ohio. (See attached). We oppose the tax increases on cigarettes, "other tobacco products," and e-cigarettes/vapor products included in Governor Kasich's proposed budget bill (H.B. 64). We cannot over-emphasize how detrimental this tax-shifting will be for our business and our 150 employees statewide. My name is Jeffrey Burd and as counsel to Compton Point, I appreciate the chance to provide you with our perspective.

Background: Compton Point owns and operates small tobacco retail shops in rural areas across Ohio. We also manufacture cigarette tubes in Cincinnati and serve as a tobacco wholesaler. With 40 retail locations in the state, we work hard every day to deliver our customers a quality product at a good value.

Oppose the Tax Hikes: Ohio businesses like ours are already dealing with an uncertain economy and rising health care costs. The Governor's proposed tax increases will only make it more difficult for us to survive in the current economic climate. In particular, Ohio retailers like us are expected to lose over \$100 million in gross profits upon full implementation of the tax hike.

We also testify in the interest of our customers. They already pay more than their fair share of the Ohio tax burden and a tax of an extra 60 cents per pack of cigarettes is simply excessive. Similarly, the proposed tax on e-cigarettes and other vapor products at a rate equivalent to over 150% of retail price is absolutely punitive. As proposed, it would make Ohio an outlier in the nation.

Cross Border: We know you have heard statistics about the relationship between tax increases and cross-border sales. Too much disparity in excise tax rates incentivizes people to go out of state to make purchases.

I've personally met with legislators in dozens of other states on tobacco issues, and I have seen firsthand what happens when the difference in neighboring state excise tax rates becomes too

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great. I remember two years ago when I spoke with a person from Minnesota who organized van trips to South Dakota to buy cartons of cigarettes. I've met with New York legislators and an Assistant City District Attorney in charge of tobacco tax prosecutions, where I learned that 4 out of every 10 cigarettes smoked in New York City is purchased on the grey or black market.

We have direct experience with this phenomenon. After the last cigarette tax increase, we closed our Hamilton County stores because our customer base instead bought its tobacco products in Kentucky. In addition, rather than open a planned store in Bellaire, we decided to cross the Ohio River and open in Moundsville, West Virginia where tax rates are more favorable.. To be clear, we would have preferred to keep our investment in-state, .

Of course, when the state chases investment like ours to neighboring jurisdictions, Ohio also foregoes sales tax revenues. It loses not once, but twice. Our loss is West Virginia's or Kentucky's gain.

Internet Sales: I would also like to highlight that like other industries, the advent of Internet-based commerce has had a disruptive effect on our business. In 2010, the Federal PACT Act prohibited internet sales of cigarettes. However, it remains legal to sell e-cigarettes and most forms of OTP over the internet.

The e-cigarette and vaping customer base trends younger and is very comfortable with online commerce.

HB 64 would tax vapor at a rate of 60%. None of our neighboring states tax vapor and of course there is no equivalent tax online. Over the last two years, our brick and mortar stores have seen steady growth in the e-cigarette and vaping markets, but our hold on these markets is tenuous. Because these products are readily available on the internet, we stand to lose all of e-cigarette business if our price point goes too high due to excise taxes, If we lose our e-cigarette business to the internet Ohio loses not only whatever excise tax HB64 imposes, but also sales tax. We have no doubt that if HB 64 were passed as-is, it would destroy the bricks-and-mortar e-cigarette business and crush one of our most important product lines **and result in less revenue for the State**. It is essentially the cross-border issue writ large, making sales even in communities far from the state border more vulnerable to poaching from online retailers.

For all of the above reasons, we urge the committee to remove the tax increases on cigarettes, OTP, and e-cigarettes from HB 64. Thank you for the chance to testify and I am glad to take your questions.