



May 4, 2016

The Honorable William Thad Cochran
 Chairman
 Committee on Appropriations
 United States Senate
 Washington, D.C. 20510

The Honorable Barbara Mikulski
 Ranking Member
 Committee on Appropriations
 United States House of Representatives
 Washington, D.C. 20510

The Honorable Jerry Moran
 Chairman
 Subcommittee on Agriculture, Rural
 Development, Food and Drug Administration,
 and Related Agencies
 Committee on Appropriations
 United States Senate
 Washington, D.C. 20510

The Honorable Jeff Merkley
 Ranking Member
 Subcommittee on Agriculture, Rural
 Development, Food and Drug Administration,
 and Related Agencies
 Committee on Appropriations
 United States Senate
 Washington, D.C. 20510

Dear Chairman Cochran, Ranking Member Mikulski, Chairman Moran, and Ranking Member Merkley:

We are writing to express our strong opposition to two provisions in the House Agriculture, Rural Development, Food and Drug Administration, and Related Agencies appropriations bill for Fiscal Year 2017 that would significantly weaken the Food and Drug Administration's authority over several tobacco products including e-cigarettes and cigars. One provision seeks to completely exempt certain cigars from FDA regulation. The other exempts e-cigarettes, cigars, and other currently unregulated tobacco

products from an important product review requirement, taking away a powerful and efficient tool to protect children from the candy- and fruit-flavored e-cigarettes and cigars that have flooded the market in recent years. We urge you to reject these House provisions and continue the Senate's tradition of keeping its Appropriations bill clean of riders that limit FDA's ability to protect children and public health from tobacco.

The need for FDA oversight of these products could not be clearer. On April 14 the Centers for Disease Control and Prevention released the 2015 National Youth Tobacco Survey, which highlighted that the alarming increase in youth use of electronic cigarettes continues. From 2011 to 2015, there was a more than ten-fold increase in current e-cigarette use among high school students – from 1.5 percent to 16 percent. In addition, high school boys now smoke cigars at a slightly higher rate than cigarettes – 11.5 percent for cigars and 10.7 percent for cigarettes. With three million middle and high school students using e-cigarettes and 1.4 million using cigars, the oversight of these products should not be weakened.

Section 749 of the House bill would block FDA from using funds to “finalize, implement, administer, or enforce” a pending rule that asserts authority over cigars, e-cigarettes, and certain other tobacco products unless that rule excludes “large and premium cigars” from FDA oversight. No tobacco product should be exempt from science-based FDA oversight. The health risks of cigars include several types of cancer, as well as heart and lung disease. In addition, the rider defines “large and premium cigars” so broadly that it could also exempt some cheap, machine-made, flavored cigars that are widely used by children. This exemption creates a loophole that invites tobacco companies to modify their products to qualify for this exemption – a loophole that tobacco companies will surely exploit to keep targeting children.

The House Appropriations Committee also adopted an amendment that changes the so-called “grandfather date” in order to exempt e-cigarettes, cigars, and other currently unregulated tobacco products from an important product review requirement. Under current law, manufacturers are required to provide information to the FDA so that the agency can assess the risks to public health of new tobacco products, which are defined as products introduced to the market after February 15, 2007. Changing this date would exempt e-cigarettes, cigars and other products now on the market from this FDA review and would significantly weaken FDA's ability to take prompt action to protect children from thousands of fruit- and candy-flavored e-cigarettes and cigars, including products in flavors such as cotton candy, gummy bear and fruit punch that clearly appeal to kids.

Supporters of the “grandfather date” rider have portrayed it as a compromise that modernizes the Tobacco Control Act, but it is no such thing. This rider allows a new generation of tobacco products to be grandfathered in and relieves manufacturers of the responsibility to demonstrate that these products are not detrimental to public health.

Assessing the risks to public health of different types of tobacco products and determining how they are regulated is best determined using a science-based approach by FDA. Tobacco use remains the leading preventable cause of death in the United States and is responsible for an estimated \$170 billion in

health care costs each year. We urge the Senate to reject any provisions to make it more difficult for FDA to address this public health problem.

Sincerely,

Academy of General Dentistry
Action on Smoking and Health
American Academy of Family Physicians
American Academy of Otolaryngology—Head
and Neck Surgery
American Academy of Pediatrics
American Association for Cancer Research
American Association for Dental Research
American Association for Respiratory Care
American Cancer Society Cancer Action
Network
American College of Cardiology
American College of Occupational and
Environmental Medicine
American College of Preventive Medicine
American Congress of Obstetricians and
Gynecologists
American Heart Association
American Lung Association
American Medical Association
American Psychological Association
American Public Health Association
American School Health Association
American Society of Addiction Medicine
American Society of Clinical Oncology
American Thoracic Society
Association of Maternal & Child Health
Programs
Association of Schools and Programs of Public
Health

Association of State and Territorial Health
Officials
Association of Women's Health, Obstetric and
Neonatal Nurses
Big Cities Health Coalition
Campaign for Tobacco-Free Kids
ClearWay Minnesota
Community Anti-Drug Coalitions of America
COPD Foundation
Eta Sigma Gamma - National Health Education
Honorary
International Association for the Study of Lung
Cancer
Lung Cancer Alliance
March of Dimes
National African American Tobacco Prevention
Network
National Association of County & City Health
Officials
National Association of Pediatric Nurse
Practitioners
National Hispanic Medical Association
National Network of Public Health Institutes
National Physicians Alliance
Oncology Nursing Society
Prevention Institute
Society for Public Health Education
Society for Research on Nicotine & Tobacco
The Society of State Leaders of Health and
Physical Education
Trust for America's Health

CC: United State Senate Committee on Appropriations Members