

# Emerging Trends in Cigar Regulation

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University of Maryland Francis King Carey School of Law  
Legal Resource Center


# Website



- ▶ <http://www.law.umaryland.edu/programs/tobacco/cigars/index.html>

This website is designed to assist policymakers, public health officials, youth educators and youth in their efforts to improve public health by prohibiting the sale of single, cheap cigars and flavored cigars. Tobacco control policies have historically focused on reducing the consumption of cigarettes. These policies have been successful in that studies show a steady decrease in cigarette use. Unfortunately, cigars have remained virtually unregulated and as a result have become the product of choice for many consumers, especially younger consumers who increasingly purchase single cigars for immediate consumption.

# Federal Family Smoking Prevention and Tobacco Control Act

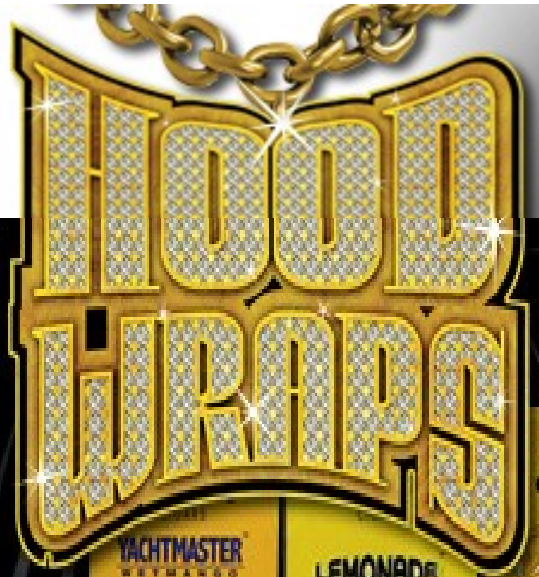
- ▶ Re-enacts 1996 regulations, which were written before cigars became popular among youth
  - ▶ Grants FDA authority to further restrict tobacco marketing
  - ▶ Authorizes state and local governments to do more
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# Cigars Unregulated

- ▶ [http://www.law.umaryland.edu/programs/tobacco/cigars/cigars\\_v\\_cigarettes.html](http://www.law.umaryland.edu/programs/tobacco/cigars/cigars_v_cigarettes.html)



# What Happens to Loopholes?



So Hood. **So Good.**

W



## Data shows that non-cigarette tobacco use is rising

Cigarette use continues to decline in the United States, a trend that has persisted since the 1960s.

*However, whereas consumption of cigarettes decreased 32.8%, consumption of noncigarette combustible tobacco increased 123.1%. As a result, the percentage of combustible tobacco consumption composed of loose tobacco and cigars increased from 3.4% in 2000 to 10.4% in 2011.*

The increase in cigar and pipe tobacco use is a public health concern because all combustible tobacco use causes cancer, heart disease, and other smoking-related diseases. A switch from cigarettes to other, lower-taxed, combustible tobacco products blunts the effect of increasing prices, one of the most effective ways to reduce smoking and prevent youth smoking initiation.

CDC August 3, 2012 MMWR

# Legislative history in Maryland

- ▶ [SB 632 \(2012\)](#)–Prohibition against the sale or distribution of flavored cigars. Exemption for premium cigars with a retail price of at least \$2. Violators guilty of misdemeanor and subject of fine up to \$500: No action taken
- ▶ [HB 492 \(2011\)](#) HB 238(2009) HB 609 (2008): would requires that cigars for be sold on packages of at least five, exempts premium cigars: unfavorable economic matters
- ▶ [HB 957 \(2010\)](#) HB 617 (2008): would change the definition of cigarette to include little cigars or brown cigarettes: unfavorable economic matters
- ▶ [SB 973 \(2010\)](#): would prohibit the sale of flavored cigars, exempting menthol: unfavorable judicial proceedings



# Tax Increase in Maryland

**State and Local Revenue and Financing Act of 2012:** In relevant part, this bill increases the OTP tax rate on moist snuff and smokeless tobacco from 15% to 30% of the wholesale price and the tax rate for cigars other than premium cigars from 15% to 70% of the wholesale price, but leaves the tax rate for premium cigars at 15% of the wholesale price of the premium cigar.



# Other States


- ▶ Maine: ban on flavored cigars
- ▶ New York City: ban on flavored OTP, which includes cigars, UPHELD ! and Altria will appeal
- ▶ Washington, DC: ban on single cigar sales and blunt wraps as drug paraphernalia

# Local ordinances in Maryland

Local ordinances would ban the sale of single cigars

- ▶ **Prince George's County**– CB–006–2009 Requires that cigars be sold in packages of at least five; exempts certain premium cigars and retail establishments  
Enacted but stayed pending litigation
- ▶ **Baltimore City** – (2009) Requires that cigars be sold in packages of at least five; imposes civil and criminal penalties; Adopted but stayed pending litigation

# Sources of Local Power

- ▶ Health officer's nuisance abatement power
  - ▶ Legislative power in home rule counties (Wicomico and Worcester) or general assembly in commissioner counties (Somerset)
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# Thank you !!!!

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