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CRA Opposition to Proposed Generational Tobacco Ban

October 15, 2024

Board of Health
Town of Belchertown
The Finnerty House
One South Main Street
P.O. Box 670
Belchertown, MA 01007

Dear Members of the Board of Health:

Cigar Rights of America (CRA), which represents the interests of premium cigar consumers, retailers, and manufacturers, is submitting this statement opposing a proposed generational tobacco ban in Belchertown. This blanket approach to tobacco regulation is contrary to the findings and guidance of a myriad of authorities, including, but not limited to, the National Academy of Science, Engineering, & Medicine (NASEM), the New England Journal of Medicine (NEJM), Society for Research on Nicotine and Tobacco (SRNT), and the Federal Courts.

Premium cigars stand apart from other tobacco products due to their distinct characteristics. They undergo a unique fermentation process and are not chemically altered to facilitate inhalation. The evidence concerning premium cigars and their health risks differs substantially from that of other tobacco products. Various independent studies, including those conducted by the National Cancer Institute and [NASEM](#), suggest that premium handmade cigars have a significantly reduced impact on public health, particularly regarding factors like inhalation, addiction, and mortality. Concerns about youth access and appeal to premium cigars, often cited as a reason for regulating premium cigars, are not statistically significant, as indicated by national studies published in the [NEJM](#) and [SRNT](#).

When considering addiction, premium cigars exhibit unique characteristics compared to other combustible tobacco products. According to the [NASEM report](#), the level of dependence associated with premium cigars appears to be lower than that of cigarette smoking and smokeless tobacco use, with the extent of addiction depending on usage patterns. Notably, the U.S. Food & Drug Administration (FDA) has categorized premium cigars as the lowest priority for enforcement action, as stated in its January 2020 draft guidance entitled *Enforcement Priorities for Electronic Nicotine Delivery System (ENDS) and Other Deemed Products on the Market Without Premarket Authorization*.

Furthermore, generational bans tend to adopt a one-size-fits-all approach, failing to acknowledge the diverse range of tobacco products available. Treating all tobacco products as monoliths, including

premium cigars, through these bans oversimplifies a complex issue. Of specific importance to our members, blanket policies regulating all tobacco products, such as this generational tobacco ban, overlook the substantive differences in health outcomes for premium cigar users. This is not just CRA's opinion but also the ruling of a federal judge, who, [in a 2022 decision](#), found that FDA's regulation of premium cigars was arbitrary and capricious because FDA "wav[ed] away evidence of actual, current usage patterns [and ruled that FDA's] Final Deeming Rule obscures the real math" about a study on youth usage of premium cigars, which is that only 0.1% of all youth studied preferred premium cigars. Subsequently, that same judge [vacated FDA's authority to regulate premium cigars](#) in August of last year.

While CRA understands the importance of addressing public health concerns related to tobacco use, we firmly assert that generational bans are not the appropriate means to achieve these goals. Generational bans designed to curb tobacco consumption may not have their intended effect. History shows outright prohibition often falls short of achieving desired public health objectives. In many cases, such policies inadvertently give rise to the emergence of substitution behaviors and the illicit black market trade of banned tobacco products. This is especially true when goods are readily accessible in neighboring jurisdictions and the internet.

Beyond the distinctiveness of premium cigars, generational tobacco bans can have lasting and profound economic repercussions. Such prohibitions may lead to reduced sales, potential closures of premium cigar shops and manufacturers, and job losses. The premium cigar industry plays a significant role in contributing to local economies and tax revenues, as well as serving as a robust community where adults can congregate and have long and meaningful conversations, a form of socialization that is quickly being lost in this day and age. All these factors make premium cigar stores a valuable retail sector for their communities, both economically and socially, that warrants protection and careful consideration in regulatory decisions.

Lastly, generational bans raise significant concerns regarding their potential infringement upon personal freedoms. By denying legal adults the autonomy to make choices about their tobacco use, these policies infringe upon individual liberty and undermine the principles of personal freedom that our nation values deeply. The tension between public health goals and individual rights becomes a central issue in the debate over generational bans.

CRA respectfully calls upon the Board of Health to consider our thoughts before proceeding with any proposed generational tobacco ban. CRA believes a more comprehensive approach to tobacco control that respects individual liberties, recognizes the diversity among tobacco products, and preserves the interests of the premium cigar industry must be taken into account before any proposal can be seriously considered.

CRA would welcome the opportunity to work collaboratively and find a balanced solution that will help Belchertown address their concerns about tobacco use without negatively impacting the premium cigar industry.

Sincerely,

Cody Carden
Director of Communications
Cigar Rights of America (CRA)

