

Not Your Grandfather's Cigar

*A New Generation of Cheap and Sweet Cigars
Threatens a New Generation of Kids*



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Kids

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March 13, 2013

Campaign for Tobacco-Free Kids
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EXECUTIVE SUMMARY

An explosion of cheap, flavored cigars in recent years has driven a two-fold increase in annual sales of cigars in the United States – from 6 billion cigars to more than 13 billion in the last 12 years – and changed the demographics of cigar smoking. Cheap, flavored, small cigars that appeal to young people are marketed aggressively and have resulted in high school kids and young adults being twice as likely as their older counterparts to be cigar smokers.

These trends come at a time when some in Congress want to prohibit the Food and Drug Administration (FDA) from regulating certain kinds of cigars rather than pushing it to do so. A 2009 federal law, the Family Smoking Prevention and Tobacco Control Act (the Tobacco Control Act), gave the FDA immediate authority to regulate cigarettes, smokeless tobacco, and roll-your-own tobacco, and authorized the agency to extend its jurisdiction to all other tobacco products, including cigars. The FDA has announced its intention to do so, but has yet to act.

In the absence of FDA regulation of cigars, cigarette manufacturers have manipulated some cigarette brands to qualify as small or even large cigars. By doing so, they have evaded a ban on flavored cigarettes and other regulations intended to prevent kids from using tobacco products and protect public health. In addition, to avoid higher federal taxes and keep their products cheap, some cigarette and small cigar manufacturers have manipulated the weight of their products to qualify for lower tax rates charged on large cigars. Both actions make these manipulated products more appealing and more affordable to our nation's kids.

This report documents how the proliferation of new cigar products and their marketing has changed the market in ways that threaten our kids and establishes the need for common-sense regulation of cigars. It also explains how tobacco tax policy should be reformed to help prevent kids from falling prey to the lure of cheap, sweet cigars.

The Cigar Landscape

- Cigars today are no longer the “big stogies” that our grandfathers used to smoke. Instead, the cigar category consists of products that vary widely in sizes, shapes, flavors, and price points, making them appealing to a broader audience, including kids.
- The common terms used to describe today's products – “premium cigars,” “cigarillos,” “blunts,” and “little” or “small cigars” – are not mutually exclusive because there is a lot of overlap in the characteristics of different products that allow some to fall in multiple, or in between, categories.

Not Your Grandfather's Cigar

- Annual cigar sales have more than doubled in the past decade. This has been driven by a dramatic increase in the number and types of small cigar products that are flavored, packaged, placed, promoted, and priced to appeal to young people.
- High school students are about twice as likely (13.1 percent v. 6.6 percent) as adults to report smoking a cigar in the past month, and young adults (18-24 year olds) are even more likely (15.9 percent) to do so. Every state that reports cigar use data for youth shows a higher cigar smoking rate for high school kids than for adults.
- Each day, about 3,050 kids under age 18 try cigar smoking for the first time – compared to about 3,650 who try cigarettes. In at least six states – Florida, Georgia, Maryland, Massachusetts, Rhode Island, and Wisconsin – youth cigar smoking now equals or surpasses cigarette smoking.
- Flavored cigars are the most popular among youth and young adults. One state survey showed that nearly three-fourths of its high school cigar smokers smoked flavored cigars.
- Today's cigar market is dominated not by large, traditional cigars hand-rolled in whole tobacco leaf, but by an ever-expanding variety of products of all sizes that include filters, flavors and names (e.g. "Da Bomb Blueberry," "Pinkberry") with obvious appeal to kids.
- The most popular cigar brands among youth come in a dizzying array of candy and fruit flavors that underscore how different these products are from your grandfather's cigar. Swisher Sweets flavors include peach, strawberry, chocolate, grape, and blueberry. White Owl flavors include grape, strawberry, wild apple, pineapple, peach, and watermelon.
- A lack of regulation of cigars by the FDA enables manufacturers to modify cigarettes to evade the ban on flavored cigarettes and to aggressively market cheap, sweet cigar products that appeal to youth. In addition to being flavored and packaged attractively, they are displayed prominently and sold cheaply.
- Between 2001 and 2008, the sale of cigars increased by 87 percent. However, that was driven almost entirely by the sale of small cigars, which increased by 158 percent, while large cigar sales increased by only 46 percent.
- Cigar sales continued to increase between 2008 and 2011. While technically this appears to be driven by an increase in sales of cigars classified as "large," in actuality it was because small cigar makers slightly increased the weight of their products to meet the definition of large cigars and avoid a higher federal tax on small cigars implemented in 2009 (these "large cigars" continue to be of similar size and shape as cigarettes). Other data sources show that sales of so-called premium large cigars actually declined during this time period.

Health Harms from Cigars

- According to the National Cancer Institute and the U.S. Surgeon General, regular cigar smoking causes cancer, heart disease, and chronic obstructive pulmonary disease (COPD).
- Cigar smoke contains the same toxins as cigarette smoke. Any difference in risks between cigars and cigarettes is likely attributable to differences in frequency of use and the fact that not all cigar smokers inhale. However, many new cigar products are more like cigarettes and therefore are more easily smoked and inhaled like cigarettes.
- Cheap, sweet cigars can serve as an entry product for kids to a lifetime of smoking.

Manipulation to Avoid Regulation and Taxation

- In recent years, tobacco companies have manipulated their products to avoid regulation and taxation. Federal and state laws distinguish between cigarettes and cigars based on the composition of the wrapper and the weight of the product, while the distinction between small and large cigars is determined by weight.
- To circumvent the FDA's ban on fruit- and candy-flavored cigarettes that appealed to kids, some cigarette makers have added tobacco to the wrapper and weight to their products so they meet the definition of small or large cigars, despite still being sold in packs of 20 like cigarettes. These products come in various flavors including wild berry, "Pinkberry," and lemonade.
- In addition to avoiding the ban on flavorings, these manipulated cigarettes have also escaped other FDA regulations, including a ban on deceptive terms like "light" and "low-tar" and a requirement that cigarettes be kept behind the counter and out of reach of kids.
- Some small cigars and cigarettes have added weight to their products to meet the legal definition of large cigars. As a result, they not only avoid the flavor ban, but are taxed at a lower rate. Some of these "large cigars" are still sold with 20 in a pack and with prices as low as 88 cents per pack.

The Need for Regulation of Cigars

- The Tobacco Control Act gave the FDA's Center for Tobacco Products the authority to regulate all tobacco products. It gave immediate jurisdiction to the Center to regulate cigarettes, smokeless tobacco, and roll-your-own (RYO) cigarette tobacco and established specific regulations for each (e.g., bans on flavored cigarettes and deceptive terms like "light" and "low-tar").

- The Tobacco Control Act also gave the FDA the authority to assert its jurisdiction over all tobacco products through a rule-making process. The FDA has announced its intention to regulate all tobacco products, but has yet to take action to do so.
- The law gives the FDA flexibility to determine what specific regulations to apply to each type of tobacco product. The FDA would not be required to impose the same regulations over cigars as cigarettes or to regulate all types of cigars in the same way. The agency would base its regulations on what is necessary to best protect the public health, taking into account the harms caused by different products, who uses the products, how the products are marketed, and other evidence-based criteria.
- Given their success in marketing their products to kids and young adults, it is not surprising that some in the cigar industry are aggressively pressuring Congress to exempt them from any regulation by the FDA. No tobacco product should be exempt from regulation. The FDA should be able to take actions to protect children and consumers from the harms caused by every tobacco product. Consumers should be informed about the contents and health consequences of all tobacco products, and the FDA should be able to prevent practices that appeal to kids, mislead consumers, and/or increase the addictiveness or harm of tobacco use.
- While supporters say these bills would exempt only so-called premium large cigars, their definitions could exempt some machine-made cigars from FDA oversight and would not prohibit flavored cigars from qualifying for an exemption. The bill also would create incentives for tobacco companies to further manipulate their products to escape regulation, as they have done in the past.

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A New Generation of Cheap & Sweet Cigars Threatens a New Generation of Kids

Between 2000 and 2012, there has been an explosion of cheap, flavored cigars that has more than doubled the sale of cigars in the United States – from six billion cigars to more than 13 billion a year.¹ While cigar smoking conjures images of middle-aged and older men puffing on a stogie, today's cigar smoker is more likely to be a kid or young adult smoking a small cigar or cigarette-like product labeled as a cigar. That product is usually smaller (sometimes even the size of a cigarette), often fruit- or candy-flavored, and nearly always cheap. In fact, high school students are about twice as likely as adults (13.1 percent vs. 6.6 percent) to report smoking a cigar in the past month, and young adults (18-24 year olds) are even more likely (15.9 percent) to do so.² These statistics are disturbing. Tobacco companies know that most smokers start as kids, and they are taking advantage of loopholes in the regulation and taxation of cigars to design and market products in ways that clearly appeal to kids.

A 2009 federal law, the Family Smoking Prevention and Tobacco Control Act (the Tobacco Control Act), gave the Food and Drug Administration (FDA) immediate authority to regulate cigarettes, smokeless tobacco, and roll-your-own tobacco, and authorized the agency to extend its jurisdiction to all other tobacco products, including cigars.³ The FDA has announced its intention to do so,⁴ but has yet to act.

This report documents the proliferation of new cigars and their use, the marketing of these products, and the manipulation of these products to avoid product regulations, marketing restrictions, and tobacco taxes. It points to the need for the FDA's Center for Tobacco Products to assert jurisdiction over all tobacco products so it can take action to prevent marketing to kids, consumer deception and product changes that make cigars more appealing to youth, more addictive, or more harmful. It also demonstrates the need to equalize tax rates across tobacco products to discourage tobacco companies from manipulating products to make them affordable to young people.

The Cigar Landscape

The longstanding view that cigars are just large stogies smoked primarily by older men no longer holds true as a new generation of cigars has taken over the marketplace. Today, cigars come in a wide variety of sizes, flavors, and price points; as a result, they appeal to a broader, more diverse market, including kids. The different types of cigars are often described using the following terms, but as the images on the following page show, there is enough overlap in product characteristics that it is quite difficult to delineate between the categories. Appendix A also attempts to describe the products in each category.



Sample of Cigar Products. Images are not to scale.

- **Premium Cigars:** Often are traditional, hand-rolled cigars made with whole-leaf tobacco. These products can vary in size and weight, but tend to be large and are generally more expensive.
- **Cigarillos:** Medium-sized sticks that are often wrapped in homogenized tobacco leaf (HTL), which is made from ground tobacco, combustible additives, and water. Some more recent products advertise that they are made with “natural leaf” wrappers. These products often come in a wide variety of flavors and package sizes. While cigarillos used to refer to the smaller versions of traditional cigars, more often cigarillos are cheaper and machine-made.
- **Blunts:** Wider than cigarillos, machine-made and often wrapped in HTL. These products may also be advertised as having “natural leaf” wrappers. Like cigarillos, these products often come in a wide variety of flavors and package sizes.
- **Little or Small Cigars*:** These products are comparable to cigarettes in that they are roughly the same size and shape as cigarettes and usually include an internal cellulose acetate filter. However, because they contain some tobacco remnants in the paper wrapper, they are categorized separately from cigarettes and are excluded from many states’ definitions of cigarettes. These products can also come in a variety of flavors and are usually sold singly, or in packs of 12 or 20. These products look like “filtered cigars,” but filtered cigars usually weigh slightly more. Further blurring the lines, more and more products that contain an internal filter are wrapped in whole leaf, or what looks like a whole leaf. There are a few small cigars that are wrapped in whole leaf and lack a filter, but those are a very small part of this group.

For tax and other policy purposes, two criteria distinguish cigars from cigarettes and large cigars from little cigars: the wrapper and weight. For the most part, a product that includes any tobacco in the wrapper is considered a cigar and not a cigarette. Three pounds per 1,000 is the common weight threshold to distinguish between “large” and “little” cigars. As detailed above, however, there is tremendous variation within these categories.

Cigar Consumption is on the Rise

Although cigarette smoking has been slowly declining in the United States, total U.S. consumption of cigars (i.e., large cigars, cigarillos, and little cigars) has increased dramatically since 1993, reversing a decline that had persisted for most of the 20th century.⁵ Between 2000 and 2012, cigar consumption increased by 124 percent while cigarette consumption declined by 33.8 percent.⁶

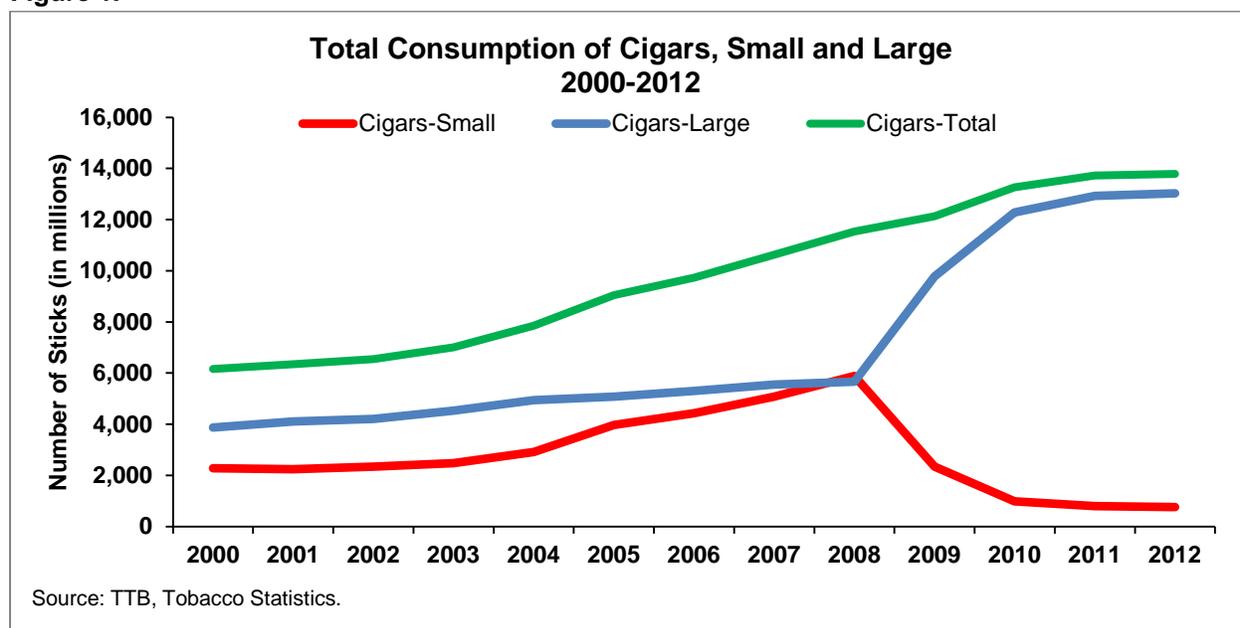
* This report will use the term little and small cigars interchangeably depending on the source being cited. The federal tax code calls these products “small cigars” instead of “little cigars,” which is the more common term at the state level.

Little/Small Cigars vs. Large Cigars

In the last few decades, sales of little cigars have increased at a much faster rate than all other tobacco products and have accounted for almost all of the growth in the cigar category. As shown in Figure 1, total cigar consumption increased by 87.4 percent between 2000 and 2008. However, small cigar consumption increased by 157.6 percent during that time, while large cigar consumption increased by only 46.1 percent.⁷

A 2009 increase in the federal tax on small cigars prompted some cigar and cigarette makers to add just enough weight to their products to meet the federal tax definition of large cigars and avoid the higher tax on cigarettes and small cigars. Thus, the dip in small cigar sales in 2009 is more than countered by the even larger growth in large cigar sales. Both the U.S. Centers for Disease Control and Prevention (CDC) and the U.S. General Accounting Office (GAO) attributed the change to the tax disparity, not a real increase in the sale of large cigars. In fact, data from Euromonitor (an industry market research firm) show a decline in U.S. retail sales of large cigars* each year from 2008 to 2011.⁸ It is clear that small cigars, including products which were classified as small cigars prior to 2009, are driving the growth in overall cigar sales.

Figure 1.



* Euromonitor defines "large cigars" as "cigars weighing over ten pounds per thousand and measuring 6.5 inches in length and above."

Who is Smoking Today's Cigars?

Because today's cigar is not your grandfather's cigar, today's cigar smoker is not your grandfather – or even your father. Teens and young adults are much more likely than adults 25 years and older to report smoking cigars.

Survey data show that kids are more likely than every age group except 18-24 year olds to smoke today's cigars. In fact, cigar smoking^{*} is the second most common form of tobacco use among youth, and recent surveys show cigar smoking now equals or surpasses cigarette smoking among high school students in at least six states for which data are available: Florida, Georgia, Maryland, Massachusetts, Rhode Island, and Wisconsin.

According to the national 2011 Youth Risk Behavior Survey (YRBS), 13.1 percent of all high school students and 17.8 percent of high school boys currently smoke cigars.¹⁰ Each day, *about 3,050 kids* under 18 try cigar smoking for the first time – compared to the 3,650 kids who try cigarettes.¹¹

There are also indications that cigar smoking is increasing among some specific groups. One recent survey showed that cigar use among African-American high school students increased

At the state level, every single state that has cigar use data from the 2011 YRBS reports a high school cigar smoking rate higher than the adult cigar smoking rate reported in the 2009-2010 NATS.

significantly – by more than 60 percent – between 2009 and 2011.¹² And while past-month cigarette smoking among high school students has declined significantly in recent years – from 23 percent in 2005 to 18.1 percent in 2011 – past-month cigar use in this population has remained relatively constant (14.0 percent in 2005 and 13.1 percent in 2011).

As noted previously, in six states, cigar smoking is even more prevalent than cigarette smoking. For example, data from the 2012 Florida Youth Tobacco Survey

show that 11.4 percent of high school students currently use cigars while 10.1 percent smoke cigarettes.¹³ In Montana, 18.1 percent of high school boys currently smoke cigarettes, but 22.1 percent smoke cigars.¹⁴ In Wisconsin, 15.5 percent of high school boys currently smoke cigarettes, but 20.8 percent smoke cigars.¹⁵ In Maryland, 12.2 percent of high school boys currently smoke cigarettes, but 16.1 percent smoke cigars.¹⁶ A 2008 study in Ohio found cigars to be the most popular tobacco product among high school students.¹⁷

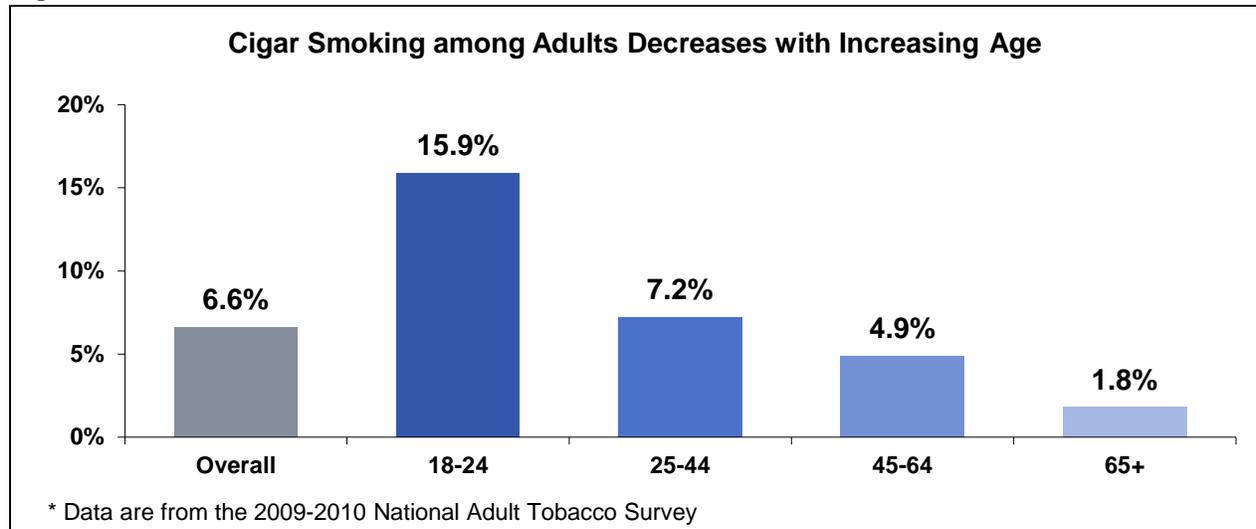
Top 5 Cigar Brands among 12-17 Year Olds⁹

1. Black & Mild
2. Swisher Sweets
3. White Owl
4. Dutch Masters
5. Phillies

^{*} Cigars in this section are defined as cigars, cigarillos or little cigars.

According to the 2009-2010 National Adult Tobacco Survey (NATS), 6.6 percent of adults (18+ years old) smoked cigars in the past month.* Young adults aged 18-24 are much more likely than older adults to be cigar smokers – with use decreasing dramatically by age (Figure 2).¹⁸

Figure 2.



Like the use of other tobacco products, cigar use is also higher among lower income, less educated and lesbian, gay, bisexual, and transgender (LGBT) groups in the adult population. For example, 10.3 percent of those with incomes under \$20,000, 16.2 percent of those with a GED and 12.2 percent of the LGBT community report past month cigar smoking – compared to the national number of 6.6 percent. In terms of ethnicity, non-Hispanic Blacks and non-Hispanic Other have the highest rates of cigar use, at 9.2 percent and 12.0 percent, respectively.

While the data on cigar use among adults and youth are not directly comparable because they come from different surveys, the measures are similar, and they suggest that cigar use is much more prevalent among youth and young adults. The 2011 YRBS reports a higher prevalence of cigar smoking among high school students (13.1 percent) compared to the adult cigar smoking rate from the NATS (6.6 percent).[†] Further, cigar use among adults decreases with increasing age, with younger adults much more likely to be cigar smokers.

At the state level, every single state that has cigar use data from the 2011 YRBS reports a high school cigar smoking rate higher than the adult cigar smoking rate reported in the 2009-2010 NATS. The high school data may even underestimate cigar use, as kids who smoke cigarette-like products labeled as cigars may report that as cigarette smoking.

* Cigars in this section are defined as cigars, cigarillos or very small cigars that look like cigarettes.

† The 2011 YRBS asked, “During the past 30 days, on how many days did you smoke cigars, cigarillos, or little cigars?” while the 2009-2010 NATS asked, “During the past 30 days, on how many days did you smoke cigars, cigarillos, or very small cigars that look like cigarettes?”

Use of Flavored Cigars

Much of the growing popularity of little cigars comes from the explosive growth in flavorings, such as candy, fruit, chocolate, and various other kid-attracting tastes. Nielsen market scanner data show that sales of flavored little cigars increased by 23 percent between 2008 and 2010.¹⁹

Not surprisingly, flavored cigars are the most popular among youth. These include the brands Black & Mild, Swisher Sweets, White Owl blunts and cigarillos, and Phillies Sugarillo Cigarillos, which have been advertised with the tagline, “when sweet isn’t enough.” Data from the National Survey on Drug Use and Health (NSDUH) show that Black & Mild, White Owl, Phillies, and Swisher Sweets are among the most popular cigar brands among all youth aged 12-17.²¹ Further, the top three most popular cigar brands among African-American youth aged 12-17 are the flavored and low-cost Black & Mild, White Owl, and Swisher Sweets.²²

“While different cigars target a variety of markets, all flavored tobacco products tend to appeal primarily to younger consumers.”²⁰

Tobacco Reporter, April 2007
(tobacco industry publication)

The most popular cigar brands among youth come in a dizzying array of candy and fruit flavors that underscore how different these products are from your grandfather’s cigar. Swisher Sweets flavors include peach, strawberry, chocolate, grape, and blueberry. White Owl flavors include grape, strawberry, wild apple, pineapple, peach, and watermelon. The names of some cigar products also reveal the target market – “DA Bomb Blueberry” and “Pinkberry” are just a few examples.

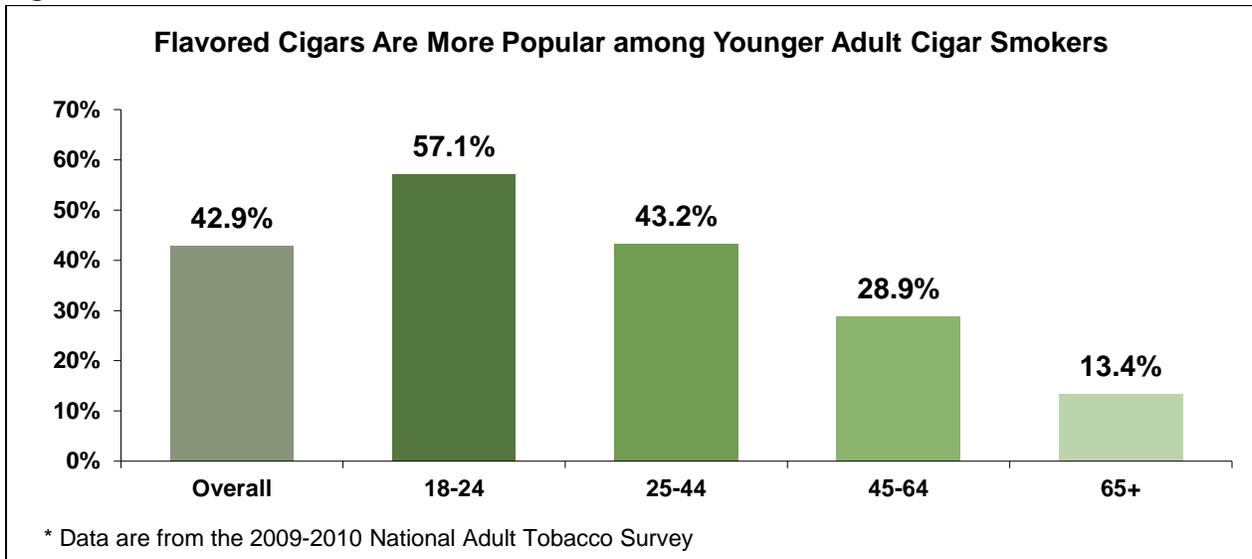
State youth tobacco use surveys that have collected data on flavored cigar use confirm that flavored cigars are popular among kids. The Florida Youth Tobacco Survey found that 17.5 percent of high school students and 5.2 percent of middle school students had tried flavored cigars and that the majority of high school cigar smokers (72.8 percent) use flavored cigars.²³ In Maryland, almost 80 percent of high school cigar smokers used flavored cigars.²⁴

While complete data on the impact of flavored cigars on youth initiation still need to be collected and analyzed, research on the now-banned flavored cigarettes shows that they were being tried and used primarily by the young.²⁵ As a cigar retailer commented, “The flavors attract customers.”²⁶

Data from the 2009-2010 NATS suggest that flavored cigar products are much more popular among young adults than among older ones (Figure 3). Nationally, 42.9 percent of adult cigar smokers report smoking flavored cigars. With few exceptions, use of flavored cigars among adult cigar smokers is also highest among those groups with the highest overall cigar use rates, including young adults aged 18-24 (as noted above), those with incomes below \$20,000 (51.7 percent), those with a GED (65.3 percent), those in the LGBT community (67 percent), and

women (60.8 percent).²⁷ Except for women, all of these groups also had higher overall cigar smoking rates, which suggests that flavored cigars are driving cigar use among these groups.

Figure 3.



Health Harms from Cigar Use

Cigar smoke contains the same toxic and carcinogenic constituents found in cigarette smoke. Thus it is primarily the way the products are used – whether the smoke is inhaled and how often one smokes them – that creates differential risk among the various products. To the extent that some “cigars” are simply cigarettes disguised as cigars and smoked just like cigarettes, the health risks are likely very similar to smoking cigarettes. In the end, any cigar use increases health risks compared to not using tobacco at all.

According to the National Cancer Institute and the U.S. Surgeon General, regular cigar smoking causes cancer of the oral cavity, larynx, esophagus and lung, as well as heart disease and chronic obstructive pulmonary disease (COPD).²⁸ Cigar smokers are also at increased risk for an aortic aneurysm. Cigar smokers who inhale absorb smoke into their lungs and bloodstream, and deposit tobacco smoke particles in their lungs as well as their stomachs and digestive tract.²⁹ Daily cigar smokers, particularly those who inhale, have an increased risk of heart disease and COPD.³⁰ In addition, all cigar smokers, whether they inhale or not, expose their lips, tongue, and throat to smoke and its toxic and cancer-causing chemicals.³¹

Many youth and adult users are now smoking small cigars much like cigarettes, and a number smoke both cigarettes and cigars. These dual users are more likely than cigar-only smokers to inhale cigar smoke.³² At least one study found that cigar use is common among high school cigarette smokers, and another study found that 12.5 percent of adult cigarette smokers also smoke cigars.³³

The Aggressive Marketing of Cigars Using the “4 Ps”

Because cigars are not currently regulated by the FDA, cigar makers are free to use the classic “four Ps” of marketing – product, placement, promotion, and price – to effectively market their products to kids.

The Product

The cigar category is made up of products that come in a wide variety of weights, sizes, wrappers, and tips. In addition, the flavors and packaging of the products are additional characteristics that can appeal to kids.

Examples of Flavors and Flavor Names of Cigar Products

Grape	Cherry	Honey
White Grape	Wild Cherry	“Hush Honey”
Strawberry	“Pinkberry”	Lemonade
Peach	“SwagBerry”	Wine
Banana	“DA Bomb Blueberry”	Wine Grapes
Pineapple	“Maybach Melon”	Bourbon
Blueberry	Banana Split	Cognac
Raspberry	Vanilla	Peach Cognac
Apple	“White Vanilla”	“Cosmo”
Green Apple	“Vanilla Sky”	Pina Colada
Sour Apple	Chocolate	“Rozay Wine”
Wild Apple	“Choco Mint”	Appletini
Watermelon	“Sugarillos”	Bellini
Mango	“Sweets”	
Coconut	“Green Sweets”	
Wild Berry	“Green”	

Flavors. As detailed in this report, cigars are currently available in many flavors, including candy and fruit flavors that appeal to kids. These flavors are even described in youthful jargon, such “Purple Haze,” “Hush Honey,” and “Banana Split.”³⁴ Adding to their appeal, flavored cigars often have related smells, which customers can experience in the retail environment before purchase.

Although flavored cigars have been around for a century, an article in a convenience store trade magazine described the rapid rise of modern fruit and candy flavors in the last decade. Further, the article acknowledges, “While the demand for variety is still out there, four flavors stand as the core performers in the fruity-flavored category: grape, wine, strawberry and peach. According to Nielsen c-store data, this core four drives 84% of flavored cigar sales.”³⁵ Further, one distributor stated, “The demand for flavored cigars has migrated from the larger cigar to the cigarillo-sized, smaller cigar.”³⁶

“More likely, flavored cigars serve as a bridge to premium cigars for the uninitiated, something to be smoked as an entryway into the world of cigar smoking. For the novice, a simple, sweet and easily identifiable flavor (honey or cherry, for example) is an easier step than moving into a box marked Cuban-seed Corajo.”

Cigar Aficionado, July/August 2005
(tobacco industry publication)

Flavors are used in the entire cigar market. A 2005 article in *Cigar Aficionado* describes flavored premium cigars as “the fastest-growing segment of the industry.” The added flavors are applied through various methods, including applying the flavoring to the leaves, adding syrups, or infusing flavors in other manners. Flavors provide variety for the current cigar smokers in this segment, but as the article points out, “More likely, flavored cigars

serve as a bridge to premium cigars for the uninitiated, something to be smoked as an entryway into the world of cigar smoking. For the novice, a simple, sweet and easily identifiable flavor (honey or cherry, for example) is an easier step than moving into a box marked Cuban-seed Corojo.”³⁷

Although manufacturers continue to claim that the use of different flavors is merely to provide adults with variety (as they did with flavored cigarettes), data show that 12-17 year olds prefer using cigar brands that come in the most flavors.³⁸

Packaging. Many cigars, especially flavored ones, come in shiny, colorful packages that boldly communicate the fruit and candy flavors that appeal to kids. This can be especially effective when placed in prominent locations in the store.



A sample of cigar packaging. Images are not to scale.

In addition, except in certain localities, cigars can be sold in any package size, from individual sticks to packs of two, five, or even 20 for the cigarettes disguised as cigars. Cigarillos or bigger cigars have traditionally been sold in packs of four or five. However, in recent years, cigar companies have reduced the size of their cigarillo packages to single sticks or packs of two.³⁹ One executive of a retail chain stated, “Right now our singles, and our two- and three-pack cigars represent about 81% of the whole cigar volume. People are looking for value in this economy and are more apt to buy individually than buying at a four- or five-pack price.”⁴⁰ The smaller packages enable these products to be sold at lower prices, which make them more accessible to youth, who are much more price-sensitive than adults.

Placement

Most cigars are sold in convenience stores rather than in cigar shops.⁴¹ Unlike cigarettes and smokeless tobacco, which under the 2009 Tobacco Control Act must be placed behind the counter or otherwise inaccessible to consumers, brightly packaged, flavored cigars can be placed on store countertops where they are easily seen or picked up by kids. These products may even be placed right next to candy. In addition, their placement on countertops enables self-service, unlike



A counter display for flavored White Owl cigars near Easter candy at a convenience store in Washington, DC.

cigarettes and smokeless tobacco, which can only be sold through an attendant. A convenience store trade magazine article stated, "Key retailers are taking advantage of the fact that cigars can still be out on the floor at c-stores in many states."⁴²

Promotion

Posters and signs advertising cheap and flavored cigar products cover retail stores, promoting the products with low prices and making their use seem normal and acceptable.

Celebrities have become involved in promoting cigar products. Snoop Lion (formerly Snoop Dogg) is a spokesperson for Executive Branch cigarillos. Other musicians popular with youth glorify the use of cigars in their songs, sometimes referencing "blunting," the practice of adding marijuana to the cigar.

Price

Price is one of the most important determinants of tobacco use, especially among youth, but it also affects quitting among adults. As with cigarettes, the lower the price, the more appealing the product to youth, who generally have less disposable income



An advertisement for a price deal for single flavored cigarillos at a store in Clinton, NC. Photo courtesy of Counter Tobacco, www.countertobacco.org.

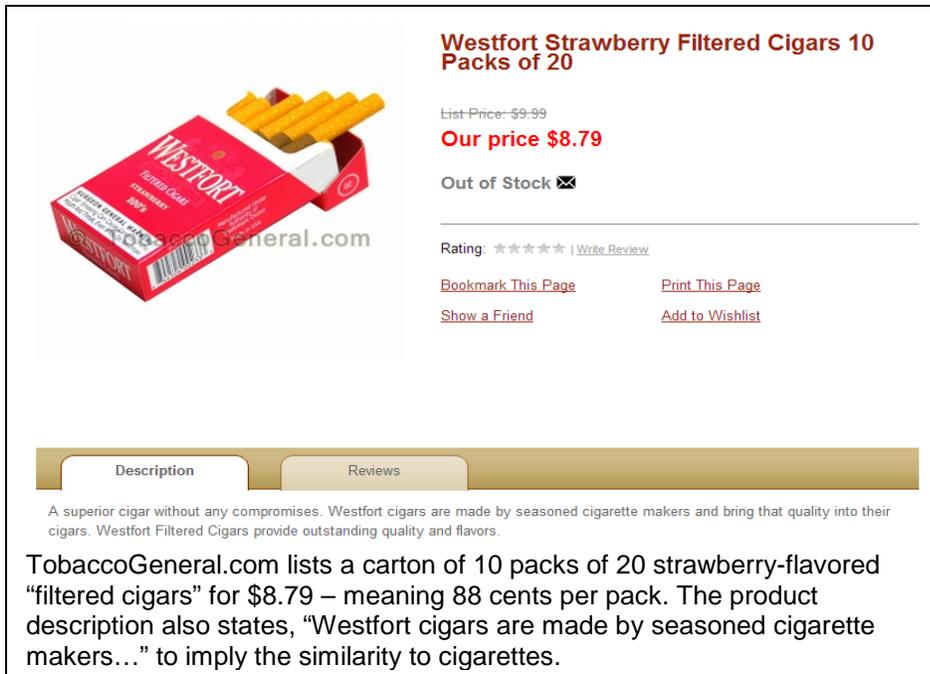
than adults and are thus more responsive to price.

Some cigars are sold for much less than cigarettes. In fact, market research has found that “a pack of 20 cigarillos can generally be found for a much lower price than even economy cigarettes.”⁴⁴ It is likely that this report was referring to little cigars or cigarettes disguised as cigars because cigarillos are not typically sold in packs of 20. More importantly, the disparity in price encourages product switching among smokers who might otherwise quit. An industry analyst has observed, “People are using them as a cheaper alternative to cigarettes.”⁴⁵ And in fact, retailers are suggesting to customers that they do so. One retailer executive stated, “Little cigars are an easy product to suggest to price-sensitive customers. If anybody complains about the cigarette prices all we have to say is, ‘Hey, have you tried these?’ You hold them up; they look like a cigarette pack. You tell them, ‘Yeah, the wrapper is brown, but don’t knock them until you try them.’ We do have quite a lot of people convert to them.”

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-- Andrea Myers, executive vice president of Kocolene Marketing LLC⁴³

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Westfort Strawberry Filtered Cigars 10 Packs of 20

List Price: \$9.99
Our price \$8.79

Out of Stock ✉

Rating: ★★★★★ | [Write Review](#)

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Description **Reviews**

A superior cigar without any compromises. Westfort cigars are made by seasoned cigarette makers and bring that quality into their cigars. Westfort Filtered Cigars provide outstanding quality and flavors.

TobaccoGeneral.com lists a carton of 10 packs of 20 strawberry-flavored “filtered cigars” for \$8.79 – meaning 88 cents per pack. The product description also states, “Westfort cigars are made by seasoned cigarette makers...” to imply the similarity to cigarettes.

wrapper is brown, but don’t knock them until you try them.’ We do have quite a lot of people convert to them.”⁴⁶

Cigarette and cigar makers have manipulated their products to avoid federal and state taxes in order to make them cheaper. Flavored “large cigars” have been advertised for as little as 88 cents for a pack of 20.

Manipulation of Cigarettes and Cigars to Circumvent Regulations

Taking advantage of the current lack of regulation of cigars, tobacco companies have avoided cigarette regulations, such as the federal ban on flavored cigarettes, by making small changes to

their cigarettes so that they technically qualify as “cigars.” They have also made small changes to the weight of some of their products to take advantage of lower tax rates for large cigars.

The federal government and most states define cigarettes and little cigars by the contents of the wrapper and the weight of the stick, so to change a cigarette to a small cigar, manufacturers merely mix tobacco remnants into the cigarette’s paper wrapper. To change a small cigar into a large cigar, manufacturers just add some weight to the stick (often by making the filter heavier) so that they weigh more than three pounds per 1,000 sticks, the most common weight threshold in federal and state cigarette and little cigar definitions.



Manipulating products to avoid regulation is not new. R.J. Reynolds developed Winchester little cigars in the late 1960s and early 1970s to avoid the threat of a broadcast advertising ban on cigarettes and higher cigarette prices from increasing cigarette tax rates. Although R.J. Reynolds developed these products to meet the technical “cigar” definitions, they wanted these products to have the look and feel of cigarettes to appeal to cigarette smokers. As one study showed, the company sought to “look for additional clues as to how to position Winchester closer to cigarettes” in its product marketing.⁴⁷ Similarly, noting the “considerably lower taxation for cigars/cigarillos than for manufactured cigarettes,” one Philip Morris document stated that a cigarillo-type product should be developed that is “acceptable taste-wise for usual cigarette smokers.”⁴⁸

The intentional similarity between cigarette-like cigars and traditional cigarettes is effective. Surveys show that this marketing strategy is working – when smokers were asked what type of *cigarette* brand they usually smoke, some participants actually named *little cigar* brands like Phillies, Swisher Sweets, and Captain Black.⁴⁹ In addition, data from the 2011 National Survey on Drug Use and Health show that when youth aged 12-17 were asked to name their usual *cigarette* brand, some responded with brands of little cigars or cigarillos.⁵⁰

Avoiding the Federal Flavored Cigarette Ban

To circumvent the FDA's ban on fruit- and candy-flavored cigarettes,^{*} several flavored cigarette manufacturers modified their products so that they would be considered cigars, not cigarettes. In doing so, they also escaped other FDA regulations, including a requirement that cigarettes be placed behind the counter. The 2012 Surgeon General's report, *Preventing Tobacco Use Among Youth and Young Adults*, noted that flavored cigarettes such as Sweet Dreams re-emerged as flavored cigars.⁵¹



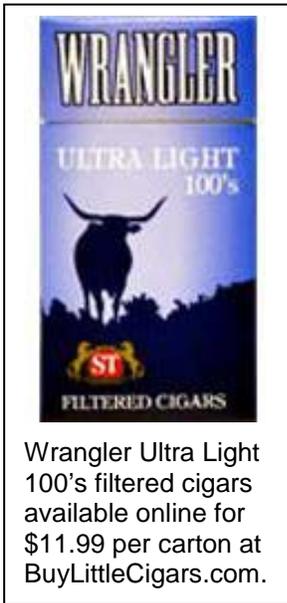
Cigar manufacturers are already considering ways to circumvent possible restrictions on flavored cigars – by substituting names that allude to flavors instead of actual descriptive flavor names. A cigar manufacturer executive stated, “The expectation that many observers have about flavors is that the FDA will make manufacturers shift from using names of specific descriptive flavors such as vanilla, chocolate or cherry, to using ‘concept names’ such as, for instance, ‘purple passion.’”⁵²

These changes have effectively blurred the lines between cigarettes and cigars. In 2012, more than two years after the FDA's prohibition on flavored cigarette sales, nearly five percent of Florida high school students responded that they currently used flavored cigarettes. More likely, the students being surveyed were mistaking flavored little cigars as cigarettes.⁵³

Avoiding the Federal Ban on Misleading Descriptors

The 2009 Tobacco Control Act also prohibited the use of misleading terms such as “light” and “low-tar” for cigarettes. Since cigars are not yet subject to the Tobacco Control Act, some filtered cigars come in “light” or “ultra light” varieties. In August 2012, U.S. Representative Henry Waxman sent a letter to FDA Commissioner Margaret Hamburg with internal tobacco industry documents detailing how tobacco companies have been circumventing the cigarette descriptors ban by becoming little or filtered cigars.⁵⁴

^{*} Specifically, Section 907 of the Tobacco Control Act states, “Beginning 3 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke. Nothing in this subparagraph shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act applicable to menthol or any artificial or natural flavor, herb, or spice not specified in this subparagraph.”



The cigarette companies first introduced these descriptors in the 1950s and 1960s to relieve smoker’s fears about the health consequences of smoking and discourage quitting. “Light” and “low-tar” cigarettes were no safer than full-strength brands, yet the tobacco companies marketed and sold them as safer products. A 2006 study published by the *American Journal of Public Health* found that smokers who switched to light cigarettes to reduce health risks were about 50 percent less likely to quit smoking than those who smoked non-light cigarettes.⁵⁵ By continuing to make such claims about cigars, tobacco companies perpetuate what U.S. District Court Judge Gladys Kessler found as “false and misleading statements regarding low tar cigarettes in order to reassure smokers and dissuade them from quitting.”⁵⁶

Avoiding Higher Federal and State Cigarette and Little Cigar Taxes

In 2009, Congress increased federal tobacco taxes and equalized the tax between small cigars and cigarettes at a rate of \$1.0066 per 20-pack. At the federal level, small cigars are defined as those weighing less than three pounds per 1,000 sticks; any cigar weighing more than that weight threshold is considered a “large cigar” and is subject to the federal cigar tax, currently at 53.72 percent of the manufacturer’s price, with a cap of 40.26 cents per cigar.

The lower federal tax on large cigars compared to cigarettes and small cigars makes these products more affordable to price-sensitive youth and encourages cigarette smokers to switch to virtually identical cigars, rather than quit.

“Price matters. It makes sense to have a large cigar because it’s a cheaper product. It doesn’t get any more complicated than that.”

-- Paul Marquardt, marketing director for Prime Time International⁵⁷

In its March 2011 report, the GAO found that the higher tax rates on cigarettes and small cigars compared to large cigars “created an incentive for producers to modify products to qualify as large cigars according to TTB [U.S. Alcohol and Tobacco Tax and Trade Bureau].”⁵⁸ And a retailer magazine article boasted, “When it came to [federal] taxation..., manufacturers simply bumped up the sizes of their cigars to make them unaffected large cigars.”⁵⁹ Representative Waxman’s August 2012 letter also discussed how tobacco companies changed their products to avoid the higher federal tax on little cigars.⁶⁰ Most recently, *Bloomberg News* reported that Cheyenne International added sepiolite, a clay substance also used in cat litter, to its filters to create “heavy weight” cigars and avoid higher tax rates.⁶¹

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1 2 3

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Wrangler Filtered Cigars

Wrangler Filtered Cigars are made in the U.S.A. by Sunshine Tobacco. With a quality blend of tobacco it is a great product for any smoker switching over to filtered cigars from cigarettes. Here is what one customer said about Wrangler Light:

"It's very hard to believe these aren't cigarettes! Compared to the Seneca 100 lights that I have been smoking, these Wrangler light cigars can't be beat! And one can't beat the fantastic price either compared to cigarettes! One can't afford NOT TO try them - they're a sure bet!"

So come and be part of the growing population of Filtered Cigar smokers. Enjoy a great smoke at a great price!

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- Dark Hawk Filtered Cigars
- Dark Horse Filtered Cigars
- Hats Off Filtered Cigars
- Murano Filtered Cigars
- Muriel Filtered Cigars
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- Racer Filtered Cigars
- Red Buck Filtered Cigars
- Richwood Filtered Cigars
- Santa Fe Filtered Cigars
- Seneca Sweets Filtered Cigars
- Smoker's Best Filtered Cigars
- Stampede Filtered Cigars
- Supre Sweet Filtered Cigars

Wrangler Full Flavor Filtered Cigars
\$14.99
★★★★☆
Average Customer Rating: 3 out of 5

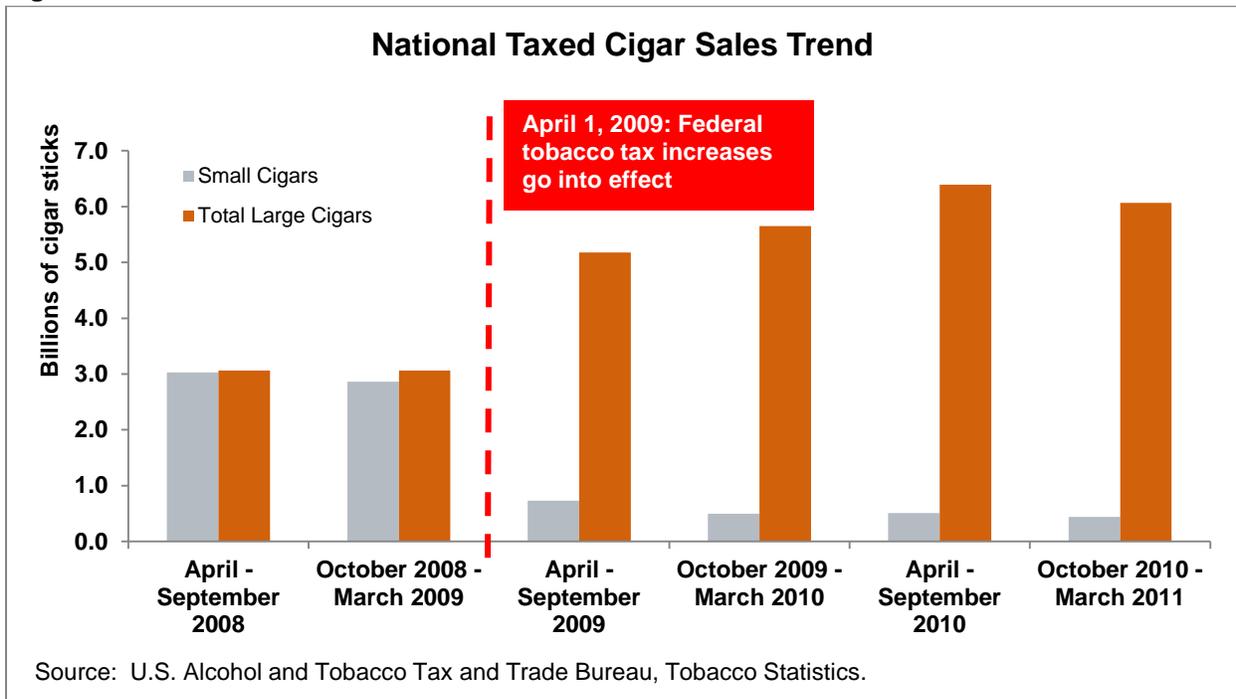
Wrangler Light Filtered Cigars
\$14.99
★★★★★
Average Customer Rating: 4.5 out of 5

Wrangler Menthol Filtered Cigars
\$14.99
★★★★★
Average Customer Rating: 5 out of 5

This website includes comments from a user comparing the price of Wrangler filtered cigars to cigarettes. It states, "It's very hard to believe these aren't cigarettes! Compared to the Seneca 100 lights that I have been smoking, these Wrangler light cigars can't be beat! And one can't beat the fantastic price either compared to cigarettes! One can't afford NOT TO try them – they're a sure bet!"

As a result of these tax avoidance strategies, sales of large cigars increased, while sales of small cigars decreased, even though there was actually little change in the mix of products sold (Figure 4). The shift was not due to a sudden increase in people smoking the traditional "stogies," but rather to an increase in the products that, because of the manipulated weight, qualified for the large cigar category.⁶² These sales data reinforce results from a 2004 study of adult cigar use in New Jersey before and after the state's 2002 cigarette tax increase, which concluded that "a small but notable proportion of recently quit cigarettes smokers tried cigars, substituted cigars for cigarettes, or remained tobacco users in the form of cigars."⁶³

Figure 4.



Cigars Harm Health and Must be Regulated Based on Scientific Evidence and Without Political Interference

Given the serious health risks associated with cigar use and the appeal of these products to kids, it is critical that clear steps be taken to address this growing public health problem. At a minimum, all tobacco users, including cigar smokers, deserve to know what is in their products and to expect that the products are not changed in ways that make them more harmful or addictive.

Federal Regulation

The FDA should quickly assert jurisdiction over all tobacco products, as authorized by the Tobacco Control Act. The Tobacco Control Act gives the FDA flexibility to determine what specific regulations to apply to each type of tobacco product. The FDA would not be required to impose the same regulations over cigars as cigarettes or to regulate all types of cigars in the same way. Some provisions, such as registration, would automatically apply to all newly-regulated products.⁶⁴ Otherwise, the FDA would base its regulations on what is necessary to best protect the public health, taking into account the harms caused by different products, who uses the products, how the products are marketed, and other evidence-based criteria. Any regulations would have to undergo a public rulemaking process in which all parties would have the right to comment.

The FDA has announced that it intends to issue regulations asserting jurisdiction over cigars and all tobacco products.⁶⁵ But it has not yet done so, nor has it stated which regulatory provisions it proposes to apply to which products.

By regulating all tobacco products, the FDA can prevent tobacco companies from exploiting regulatory loopholes as they have done since enactment of the Tobacco Control Act and the 2009 tax increase. Without oversight, cigar makers could make their products more hazardous and more addictive, not to mention more appealing to kids, all without the knowledge of cigar smokers or health agencies. Congress should allow the FDA to move forward in determining the appropriate oversight for each type of tobacco product, including cigars, based on the science and without political interference.

Federal and State Taxation

Increasing the tax rates of all cigars to the same rate as the excise tax on cigarettes would reduce the use of lower-taxed tobacco products. At the very least, there should be a minimum tax rate for all cigars that is equal to the cigarette tax rate, to ensure that all cigars are adequately taxed and that cigarettes cannot masquerade as cigars to escape taxation. These improvements to the tax system can be implemented at the state and federal level.

“It’s cheaper, so it’s more in the grasp of kids.”

-- Nik Modi,
senior tobacco analyst, UBS⁶⁶

Other State and Local Policies

States and localities also have the authority to regulate how cigar products are marketed and sold. States can restrict sales of cigar products with flavors that appeal to youth; require that cigar products be placed behind the counter (and prohibit self-service displays) like cigarettes and smokeless tobacco products; require minimum pack sizes of four or more cigars per package; and/or require a minimum price on cigar products. More detail about state and local policies is provided in Appendix B.

Cigar Industry’s Efforts to Exempt Cigars from Regulation

As this report demonstrates, cigar use is becoming more prevalent, kids and young adults are smoking cigars at the highest rates and manufacturers are targeting kids with cheap, sweet-flavored cigars. Yet some cigar manufacturers and retailers are asking Congress to exempt many of these products from any regulation by the FDA.

Recent Efforts to Exclude Cigars from FDA Regulation

Legislation was introduced in late February 2013 in the U.S. House of Representatives (H.R. 792) to exempt certain cigars from regulation by the FDA. The bill would prohibit FDA from issuing any regulation of “traditional large and premium cigars” no matter how significant the

benefit to public health or how little the cost to cigar manufacturers or retailers. The science-based process created by the Tobacco Control Act to determine the appropriate regulatory structure for tobacco products would be undermined, and FDA would be prohibited from providing any oversight over these cigars. FDA would be prevented from implementing even basic public health protections such as registration and measures to reduce youth access to these products.

The bill is similar to legislation that was introduced in 2011 but with a somewhat different definition of “traditional large and premium cigar.” The new definition, like the previous bill, would likely include cigars that are not commonly considered “premium” cigars. The new bill would not only exempt hand-made cigars from FDA oversight, but also some machine-made cigars. The bill could even exempt cigars with strawberry, grape, cherry or other flavors that appeal to kids. The number of cigars that would be exempt from FDA’s jurisdiction would likely increase over time as cigar manufacturers modify their products or change their manufacturing processes to qualify for the exemption from FDA oversight. Their recent actions show they are all too willing and able to modify their products to avoid regulations or higher tax rates.

Even if legislation included a definition that would only exclude so-called “premium” cigars, it would not be appropriate to exempt these cigars from FDA oversight. Federal agencies oversee virtually all products that Americans consume. For example, FDA requires food manufacturers under its authority to disclose ingredients, follow rules for making health claims and for the use of additives, and adhere to good manufacturing practices. FDA requires that drugs and medical devices are safe and effective and are not mislabeled or adulterated. FDA also regulates vaccines, animal food and drugs, and cosmetics. Yet H.R. 792 would exempt a product that is known to cause serious harm to health from any oversight by FDA.

Cigars have been shown to be harmful to health. FDA should have the authority to implement common sense rules to protect the public from these products.



- Wrapped in whole leaf
- Weighs >6 lbs per 1,000 sticks



- Wrapped in whole leaf & HTL*
- Weight unknown

- Wrapped in HTL and "100% natural wrapper"
- Weight unknown

- Wrapped in whole leaf
- No filter
- Weighs <3 lbs per 1,000 sticks



- Wrapped HTL
- Weighs >6 lbs per 1,000 sticks



- Wrapped HTL
- Weighs >6 lbs per 1,000 sticks



- Wrapped HTL
- Weighs >6 lbs per 1,000 sticks



- Wrapped in whole leaf
- Internal filter
- Weighs <3 lbs per 1,000 sticks



- Wrapped in HTL
- Internal filter
- Weighs >4 lbs per 1,000 sticks



- Wrapped in HTL
- Internal filter
- Weighs >4 lbs per 1,000 sticks



- Labeled as "filtered cigar"
- Wrapped in paper with tobacco remnants
- Internal filter
- Weighs >3 lbs per 1,000 sticks



- Labeled as "little cigar"
- Wrapped in paper with tobacco remnants
- Internal filter
- Weighs <3 lbs per 1,000 sticks



Descriptions of some cigar products. Images are not to scale.

* HTL = homogenized tobacco leaf, which is made from ground tobacco, combustible additives, and water.

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Appendix A. Categories of Cigar Products

This table attempts to place cigar products into four categories. However, as discussed in the body of the report, there is a lot of overlap in product characteristics that makes it difficult to delineate between categories without exceptions.

	Premium	Cigarillos	Blunts	Little Cigar/Small Cigar/Filtered Cigar
Wrapper	100% whole leaf	Usually HTL*, sometimes whole leaf	Usually HTL, sometimes whole leaf	Paper with tobacco remnants
Manufacturing Process	Hand-rolled	Usually machine-made	Usually machine-made	Machine-made
Filler	100% whole leaf	Usually ground tobacco and additives	Usually ground tobacco and additives	Ground tobacco and additives
Weight (per 1,000 sticks)	Varies between 3 lbs. and more than 40 lbs.	Varies between 5 lbs. and 9 lbs.	Varies between 8 lbs. and 20 lbs.	Less than 5 lbs.
Filter	No	No	No	Like cigarettes
Flavorings	Some	Many	Many	Many

* HTL = homogenized tobacco leaf, which is made from ground tobacco, combustible additives, and water.

Appendix B. State and Local Regulation of Cigar Products

State and Local Regulation. Regulation of cigars at the state level includes taxation and policies related to the sale of cigars.

States tax cigars per stick or as a percentage of price (either wholesale, manufacturer, or retail price). Some state cigar tax rates differ depending on the type of cigar, while others apply the same tax rate across all cigars, and some states specifically tax little cigars at the same rate as cigarettes. Some states include a maximum tax rate (also called a “tax cap”) on cigars. Two states, Florida and Pennsylvania, do not tax cigars at all, while New Hampshire only taxes non-premium cigars*. In most cases, cigars are taxed at lower rates compared to cigarettes.

States have regulated the sale of cigars in a variety of ways. Some states and localities have passed policies that restrict the sale of cigars, including prohibiting flavored cigar sales or requiring minimum pack sizes on cigars. Limiting or prohibiting the sale of flavored cigars would reduce the attractiveness of the products to youth, while requiring minimum pack sizes would make the products less accessible by youth, since the prices would be higher. Not surprisingly, the cigar industry and its allies, particularly the convenience store industry, have filed lawsuits or otherwise worked to block implementation of the policies.

Here is a list of some of the state or local policies:

- **Maine:** A law prohibiting the sale of cigarettes and cigars with characterizing flavors (with the exception of menthol, clove, coffee, nuts, or peppers) went into effect on July 1, 2009, and was amended to apply only to non-premium cigars after the 2009 federal Tobacco Control Act went into effect.¹
- **New York City:** All flavored tobacco products, including cigars, are prohibited from being sold in the city except in tobacco bars, effective February 25, 2010. The tobacco companies filed suit against the city just before the effective date, but a federal judge upheld the law. An appellate court affirmed the decision in February 2013.²
- **Providence, Rhode Island:** The City Council passed an ordinance in 2012 to prohibit the sale of all flavored tobacco products, including cigars. Tobacco companies and retailers filed suit against the city, but a federal judge upheld the law in December 2012.³
- **Boston, Massachusetts:** The Boston Public Health Commission passed changes to its Youth Access Regulation to require that cigars selling for \$2.00 or less at wholesale only be sold in packs of four or more.⁴

* “Premium cigar” is defined differently in each place. In New Hampshire, “ ‘Premium cigars’ means cigars which are made entirely by hand of all natural tobacco leaf, hand constructed and hand wrapped, wholesaling for \$2 or more, and weighing more than 3 pounds per 1000 cigars. These cigars shall be kept in a humidor at the proper humidity.” [New Hampshire Revised Statutes, §78-1]

- **Baltimore, Maryland:** The Baltimore City Health Department passed an ordinance in 2009 to require a minimum pack size of five cigars, but the cigar industry sued the city and the lawsuit is still pending.⁵
- **Prince George's County, Maryland:** The county council passed an ordinance in 2009 to require minimum pack sizes of five cigars, but like Baltimore, the county has been sued and the policy is not in effect pending the outcome of the lawsuit.⁶
- **Washington, DC:** Single cigars cannot be sold at convenience stores and gas stations.⁷

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