

From: [Adam Hoffer](#)
To: [Public Testimony](#)
Subject: Tax Foundation Comments on Ordinance/Resolution #240897 Regarding a Ban on the Sale of Flavored Tobacco and the Effects of Smuggling
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Attachments: [image002.png](#)
[Tax Foundation Comments on 2024 KC tobacco flavor ban and smuggling effects.pdf](#)

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Please find attached Comments from the Tax Foundation regarding Ordinance/Resolution #240897 Regarding a Ban on the Sale of Flavored Tobacco and the Effects of Smuggling.

Thank you,
Adam Hoffer



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Memorandum

Date: October 23, 2024

To: Members of the City Council

From: Adam Hoffer, PhD, Director of Excise Taxation, Tax Foundation

Subject: Comments on Ordinance/Resolution #240897 Regarding a Ban on the Sale of Flavored Tobacco and the Effects of Smuggling

A flavor ban would likely cost Kansas City more than \$1 million in revenue per year. Kansas City is a net exporter of cigarettes to smokers in other states. Statewide, Missouri is the third largest net exporter of cigarettes, behind only Virginia and Indiana.¹ The relatively low tax rates in Missouri, combined with Kansas City's location on the state border make Kansas City, MO a major beneficiary of interstate commerce.

Missouri is a net exporter of more than 52 million packs of cigarettes each year, according to the latest (not-yet-released) data. This generates nearly \$9 million in excise tax revenue and nearly \$13 million in sales tax revenue for the state. Estimate that Kansas City may play a disproportionate role in that net export.

Tobacco flavor bans are a costly and ineffective means of addressing harms associated with smoking. Data from statewide bans in Massachusetts and California provide evidence. Massachusetts saw a \$125 million decline in revenue the first year of its flavor ban. California saw annualized revenue decline by roughly \$300 million, surpassing the state's revenue loss estimates by more than a third.²

Identifying the cause of the decline in legal purchases following the flavor ban is paramount to determining the effects of the policy. Menthol smokers may have quit smoking after no longer being able to purchase their preferred products or they may be continuing to smoke by buying products across state borders or products that have been smuggled into the state.

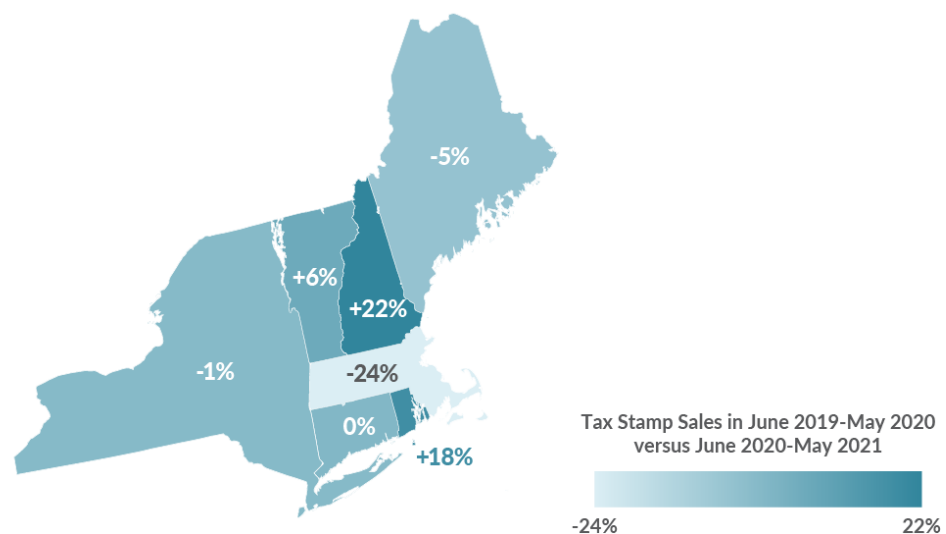
¹ Adam Hoffer, "Cigarette Taxes and Cigarette Smuggling by State, 2021." Tax Foundation, December 5, 2023. <https://taxfoundation.org/data/all/state/cigarette-taxes-cigarette-smuggling-2023/>.

² Adam Hoffer, "California Flavored Tobacco Ban May Cost More than \$300 Million in First Year," Tax Foundation, Feb. 24, 2023, <https://taxfoundation.org/california-flavored-tobacco-ban-revenue/>.

In the year following the Massachusetts flavored cigarette ban, roughly 90 percent of the decline in state cigarette sales simply shifted to neighboring states. The 24 percent decline in Massachusetts sales was offset almost entirely by a 22 percent increase in sales in New Hampshire and an 18 percent increase in sales in Rhode Island.

Tobacco Flavor Bans Move Sales to Neighboring States

Tax Stamp Sales in June 2019-May 2020 versus June 2020-May 2021



Source: Orzechowski & Walker Survey of State Departments of Revenue; Author's calculations.

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Kansas City is uniquely positioned among American cities, straddling Kansas and Missouri. A flavor ban on one side of the border would almost certainly encourage would-be users of flavored products to drive across the border to stock up on their preferred products.

Banning flavors on products other than combustible cigarettes also thwarts efforts to convert smokers to users of less harmful nicotine products. The US Food and Drug Administration approved reduced harm products for sale in the US, including flavored e-cigarettes³, heat-not-burn sticks, and oral tobacco products.⁴ Any move that limits consumer

³ "FDA Authorizes Marketing of Four Menthol-Flavored E-Cigarette Products After Extensive Scientific Review." US Food and Drug Administration. June 21, 2024. <https://www.fda.gov/news-events/press-announcements/fda-authorizes-marketing-four-menthol-flavored-e-cigarette-products-after-extensive-scientific>

⁴ "Modified Risk Tobacco Products," US Food and Drug Administration, July 15, 2024. <https://www.fda.gov/tobacco-products/advertising-and-promotion/modified-risk-tobacco-products>

access to these products will result in persistently higher smoking rates and worse public health outcomes.

Legislatures are charged with the difficult task of striking the right balance among reducing the harm caused by smoking, raising enough revenue to fund smoking cessation and other public health programs, and maintaining a legal, well-regulated marketplace where participants can safely transact. As you consider these matters, we are happy to be a resource and would be delighted to provide you with more research on this topic.