

IPCPR Presents:

Tobacconist Frequently Asked Questions

What are the latest talking points you want our customers to emphasize when talking to their Members of Congress – Can you please email them to us?

Our message as an industry has intensified in its veracity but remains fairly consistent. The current regulatory regime set up by the deeming rule is disastrous to the premium cigar industry – including the manufacturers, distributors and importantly, the small businesses that make up the majority of the retailers. It is needlessly punishing American businesses, limiting American consumer choice and above all threatening thousands of American jobs. Upwards of 50% of the premium cigar and premium tobacco industry could be put out of businesses if the FDA’s short-sighted one-size-fits all approach to regulating premium cigars and pipe tobacco does not change. Or, more simply:

- The FDA deeming rule went into effect last year,
- Onerous requirements under the rule are creating rising costs and significant strains on American small businesses and jobs,
- An immediate fix of some kind is needed before further deadlines in 2017 and 2018 go into force,
- Support H.R. 564 -or- S. 294 and their companion appropriations language to define, exempt and preserve premium cigars.

What definition of premium cigar is currently being supported by CRA, IPCPR & CAA

Below is the definition is the proposed definition currently in H.R. 564 – *The Traditional Cigar Manufacturing and Small Business Jobs Preservation Act of 2017*:

“(C) TRADITIONAL LARGE AND PREMIUM CIGAR DEFINED.—

“(i) means any roll of tobacco that is wrapped in 100 percent leaf tobacco, bunched with 100 percent tobacco filler, contains no filter, tip or non-tobacco mouthpiece, weighs at least 6 pounds per 1,000 count, and—

“(I) has a 100 percent leaf tobacco binder and is hand rolled;

“(II) has a 100 percent leaf tobacco binder and is made using human hands to lay the leaf tobacco wrapper or binder onto only one machine that bunches, wraps, and caps each individual cigar; or

“(III) has a homogenized tobacco leaf binder and is made in the United States using human hands to lay the 100 percent leaf tobacco wrapper onto only one machine that bunches, wraps, and caps each individual cigar; and

“(ii) does not include a cigarette (as such term is defined by section 900(3)) or a little cigar (as such term is defined by section 900(11)).”.

Can you please elaborate on the efforts to engage with the Department of State and Latin American Embassies?

We have actively worked to engage the embassies of each of the cigar producing nations in our advocacy efforts, specifically the embassies of the Dominican Republic, Honduras and Nicaragua.

We regularly brief their staff on the regulatory and legislative issues, and support their messaging to Congress and the Administration. In addition, we have engaged in such discussions with the tobacco producing nations of Brazil, Mexico, Indonesia, Ecuador, Costa Rica and Cameroon, whereas the industry is quite reliant on the leaf being produced in those nations, as well. We have also conducted briefings and related communications with the State Department, as well as with the National Security Council on the geo-political and economic impact of regulation within this sensitive region of the Hemisphere

Can you please tell retailers how they can contact local congressman to sign on to our bill

That’s a great question. There are several ways in which you can find and contact your member of Congress – by phone, email or hand written note. Finding your representatives website, address or office phone number is easy.

- First, both the House of Representatives and the US Senate have resources on their websites to find and contact your Members of Congress,
 - Click here for the [House site](#)
 - Click here for the [Senate site](#)
- Second – IPCPRlegislative.org has an easy-to use tool to find your representative – the site also has on it talking points and fact sheets regarding both the House and Senate bills.

IPCPR has plenty of information available on its website, including fact sheets on legislation and on our association to assist with any outreach to a Member of Congress. IPCPR is happy to serve as a resource for our member retailers and their customers to reach out to their representatives in Congress. For additional information, please contact Daniel Trope, Director of Federal Government Affairs at daniel@ipcpr.org.

Can customers weighing out of 1lb bags into their own 2 oz packages at a self-service blend bar exempt us from the manufacturing status?

Short answer – unfortunately we don’t know for sure. The FDA’s rule remains purposely vague regarding repacking. However, under our current understanding of the regulations, our best interpretation is that a retailer who allows customers to either repackage or blend pipe tobacco themselves would not qualify as a “repackager” in the eyes of the FDA. So a self service blend bar may be compliant with the rule as we understand it. This could also include retailers who repackage bulk tobacco into smaller units (1lb – 2oz in this instance) at the specific request of a customer. Please note however, that if the pipe tobacco

(or cigar sampler) is repackaged into a bag with specific labeling or branding, then the FDA would very likely consider that the actions of a “manufacturer.”

If the premium cigar exemption legislation is included in either the appropriations process or if the stand alone legislation is passed, does that exempt premium cigar manufacturers from the user fee requirements?

The exemption language, as written, would prohibit the collection of user fees relating to premium cigars.

What is the likelihood of retail sales getting banned across state lines?

The current political climate makes the chances of legislation or regulation prohibiting the interstate sales of tobacco unlikely. However, the legislative process purposely allows for any number of avenues in which Members of Congress can include their own priorities in specific legislation. IPCPR & CRA will continue to guard against any adverse legislation and engage Capitol Hill as well as the members of our respective organizations.

Our local city councils have passed smoking bans in bars, on patios, etc..... Can you please give any examples of retailers having success getting these repealed or relaxed? If so, what are some successful strategies employed in the pass

One of the greatest challenges facing the premium tobacco industry is the proliferation of local laws and regulations in nearly 40,000 local governments across the United States. The difficulty with some local governments is that by the time an ordinance is introduced, the anti-tobacco group behind it already has the votes to pass it. There is generally little to no time for opposition groups to mobilize if it is publicized at all. We recommend establishing relationships with your local officials and setting up Google alerts for the locality where your business is located. This minimizes the chances of something happening without your knowledge. The first step is awareness, the second is having a seat at the table. Recently in Mountain Brook, Alabama, Harris Saunders was successful in amending a proposed smoking ban to suit the needs of his business. He weighed in on the proposed sidewalk and patio smoking restrictions and cigar bar definition through a letter to the council and in person meetings. All requested changes were honored by the city attorney who drafted the legislation. We recommend emails, phone calls, and preferably in person meetings. Educate your local officials on the impact a proposed ordinance could have on your local small business. Start by meeting with your local officials. To help address the local issue, the International Premium Cigar and Pipe Retailers Association (IPCPR) began increased local reporting to our members in collaboration with the National Association of Tobacco Outlets (NATO) effective January 1, 2017. We also publish a report on local activity on www.ipcprlegislative.org each Monday. If you become aware of an anti-tobacco ordinance in your locality, you may reach out to Rachel@ipcpr.org for assistance.

Who is the enforcement arm of the FDA's regulations?

The Center for Tobacco Products (CTP) within the FDA is tasked with devising, promulgating and *enforcing* regulations concerning tobacco. The CTP (and through it the FDA) contracts with state and local governments, as well as using it's own in-house officials, to conduct in-store inspections and test orders (for instance requesting mail order without age verification) – More on the FDA and CTP's compliance enforcement measures can be found on their [compliance and enforcement website here](#).

Can you speculate on the new executive order that would require eliminating two previous regulations for any one new regulation implemented – and how it would impact retailers and the premium tobacco industry

Executive Order 13771 along with other EO's focused on regulatory reform is a positive development for any industry attempting to change, rollback or erase existing and onerous regulations. Put simply, for every one regulation an agency wants to enact – it must repeal or amend two existing regulations to offset the costs of the proposed new rule. This obviously would be beneficial to the premium cigar industry should the deeming rule, or at least provisions relating to premium cigars, is nominated. However, it's not a quick fix. For any regulation to be repealed, it must undergo a lengthy review by several government agencies, including OMB, to justify it's removal. IPCPR and CRA continue to advocate for the Administration to use all tools at it's disposal to address and amend the issues within the deeming rule.

Should we expect a delay on the warning label & warning plan deadline?

Two major deadlines have already been delayed by the FDA – the December 31st Manufacturers Registration deadline and the February 8th Ingredient Listing deadline. These delays could have happened for any number of reasons, but likely had something to do with the incoming administration, ongoing legal action or simply the lack of preparedness of the FDA. Whatever the reason, we believe it is possible that future deadlines could be delayed – **HOWEVER** – we strongly encourage retailers to not simply assume/wish/hope for any delays. Until the rule is rolled back permanently, IPCPR strongly advises retailers to take all actions necessary to stay in compliance with pending requirements before they go into effect.

From a retailer perspective – is it true that if retailers buy a product prior to May 10th, 2018 without the health warning, can I continue to sell that product essentially forever?

On July 22, 2010, the FDA ban on the use of the descriptors "light," "low," or "mild," or any similar descriptor in the label, labeling, or advertising of cigarettes took effect. At that time, FDA said that if the products were manufactured before June 22, 2010, and introduced into domestic commerce by the manufacturer before July 22, 2010, then distributors, wholesalers, and retailers could distribute or sell tobacco products in their possession that still used the words "light," "low," or "mild" as descriptors. *Accordingly, it is IPCPR's best interpretation of the rule, at the moment, that as long as the product was manufactured before May 10, 2018 and shipped before June 8th, 2018 – and that the retailer & manufacturer can prove this fact – then the FDA will not object to selling cigars that do not contain a health warning.*