



**Agenda Item No. 4  
October 2, 2013 Meeting**

**DATE:** September 20, 2013

**TO:** Children and Families Commission of Orange County

**FROM:** Christina Altmayer, Executive Director

A handwritten signature in black ink, appearing to read "Christina Altmayer", is written over the printed name.

**SUBJECT:** Prevent All Cigarette Trafficking (PACT) Act Legislation

**SUMMARY:**

The Commission received an update on the exemption of cigars from the Prevent All Cigarette Trafficking (PACT) Act at the September meeting. In response to the Commission's direction, a draft letter to members of the Orange County federal delegation has been drafted to inform them of the discrepancy in the PACT Act that may impact Proposition 10 tobacco tax revenue collection. This item requests approval of the letter and authorization to send the letter to members of the Orange County federal delegation.

**BACKGROUND:**

The Commission has previously received public comments about how the PACT Act ensures tax collection on Internet and remote sellers of cigarettes and smokeless tobacco but that cigars are exempt from these provisions. The PACT Act was enacted into law effective June 2010 and amended the Jenkins Act, 15 U.S.C. Chapter 10A, which governs the collection of taxes on cigarettes and other tobacco products and requires sellers of tobacco products to register with the federal government. Cigars are excluded from these requirements. This exemption may have a negative impact on Proposition 10 revenues from limitations on the ability of the State Board of Equalization to collect tobacco taxes.

Currently, there is limited capacity for enforcement of tax requirements on cigar sales or the capacity to estimate the revenue. California law requires purchasers of cigars from an out of state company to pay the current state tobacco tax rate. The California State Board of Equalization can audit personal income tax returns in conjunction with out of state cigar retailers/mail order warehouse records to determine if unpaid taxes are due, but limited enforcement is done on approach. Currently, no method exists for measuring or estimating illicit or untaxed tobacco trade in the United States. The Federal PACT Act would need to be amended to remove the exemption in order to require remote sellers to register their sales with the Board of Equalization.

Since the Commission does not directly fund lobbyists, and has not historically adopted a federal or state policy agenda, staff has been working with the First 5 Association and First 5 LA to incorporate this issue as part of their policy agenda. This issue is monitored in collaboration with First 5 LA through their federal lobbyist. Staff continues to promote awareness of this issue through these partnerships.

**Commissioners**

**Executive Director**

In response to the Commission's direction in September, a draft letter (Attachment 1) to members of the Orange County federal delegation has been drafted to inform them of the discrepancy in the PACT Act that may impact Proposition 10 tobacco tax revenue collection. Commission approval and authorization to send the letter to the Orange County federal delegation is requested. The letter will be send under the signature of the Commission chair.

**STRATEGIC PLAN & FISCAL SUMMARY:**

Implementation of this action has no immediate financial impact.

**PRIOR COMMISSION ACTIONS:**

- September 2013 – Directed staff present a draft letter at the October 2013 meeting
- February 2013 – Executive Officer's Report
- November 2012 – Executive Officer's Report

**RECOMMENDED ACTION:**

Approve draft letter on the discrepancy regarding the Prevent All Cigarette Trafficking (PACT) Act and authorize staff to send the letter to members of the Orange County federal delegation

**ATTACHMENT:**

1. Prevent All Cigarette Trafficking (PACT) Act draft letter to Orange County Federal Delegation

**Contact:** Christina Altmayer

**DRAFT: PACT Act Letter to Orange County Federal Delegation**

October X, 2013

Honorable (Representative)  
(Address)  
Washington, DC 20515

Dear (Title Name):

On behalf of the Children and Families Commission of Orange County, this letter is to make you aware of the discrepancy that has come to the Commission's attention regarding the Prevent All Cigarette Trafficking (PACT) Act. The PACT Act works to ensure appropriate tax collection and recording keeping of internet and remote sales of cigarettes and smokeless tobacco, however cigars and pipe tobacco are excluded from these requirements.

The PACT Act, which took effect in 2010, amended the Jenkins Act which governs the collection of taxes on cigarettes and other tobacco products. In addition, it requires sellers of tobacco products to register with the federal government. Recently, the Federation of Tax Administrators (FTA) approved a Resolution seeking to have cigar and pipe tobacco included in the PACT Act. The FTA provides services to state tax authorities, including the California State Board of Equalization.

While the Children and Families Commission of Orange County does not advocate nor take positions on tax policy, the Commission is responsible for the allocation of funds from Proposition 10, a 50-cent tax on tobacco products sold in California. Last year the Commission allocated funding to support 1.9 million health, early education, and family support services for young children and families. The Commission is bringing this discrepancy related to cigars and pipe tobacco in the PACT Act to your attention as it may impact funding to support critical programs for young children in Orange County under Proposition 10.

We appreciate your time and consideration of this matter.

Sincerely,

Michael L. Riley, Ph.D.  
Chair