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1st Session }

COMMITTEE PRINT

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GOVERNMENT  
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THE PUBLIC HEALTH CIGARETTE SMOKING  
ACT OF 1969 AND BACKGROUND INFOR-  
MATION FOR HEARINGS ON H.R. 7482,  
S. 1165 AND OTHER SIMILAR AND  
IDENTICAL BILLS RELATING  
TO "SMALL CIGARS"

DOCUMENTS

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FOR THE USE OF THE  
COMMITTEE ON INTERSTATE AND  
FOREIGN COMMERCE  
U.S. HOUSE OF REPRESENTATIVES  
PREPARED BY ITS STAFF



MAY 15, 1973

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# PUBLIC HEALTH CIGARETTE SMOKING ACT OF 1969 AND BACKGROUND INFORMATION FOR HEARINGS ON BILLS RELATING TO "SMALL CIGARS"

## PUBLIC HEALTH CIGARETTE SMOKING ACT OF 1969



Public Law 91-222  
91st Congress, H.R. 6543  
April 1, 1970

### An Act

To extend public health protection with respect to cigarette smoking and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Health Cigarette Smoking Act of 1969".*

SEC. 2. Sections 2 through 10 of Public Law 89-92 (15 U.S.C. 1331-1338) are amended to read as follows:

Public Health  
Cigarette  
Smoking Act of  
1969.  
79 Stat. 282.  
15 USC 1331-1339.

#### "DECLARATION OF POLICY

"SEC. 2. It is the policy of the Congress, and the purpose of this Act, to establish a comprehensive Federal program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, whereby—

"(1) the public may be adequately informed that cigarette smoking may be hazardous to health by inclusion of a warning to that effect on each package of cigarettes; and

"(2) commerce and the national economy may be (A) protected to the maximum extent consistent with this declared policy and (B) not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health.

84 STAT. 87

84 STAT. 88

#### "DEFINITIONS

"SEC. 3. As used in this Act—

"(1) The term 'cigarette' means—

"(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

"(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

"(2) The term 'commerce' means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof; (B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or (C) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island.

"(3) The term 'United States', when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and Johnston Island. The term 'State' includes any political division of any State.

"(4) The term 'package' means a pack, box, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise distributed to consumers.

"(5) The term 'person' means an individual, partnership, corporation, or any other business or legal entity.

"(6) The term 'sale or distribution' includes sampling or any other distribution not for sale.

#### "LABELING

"SEC. 4. It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear the following statement: 'Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health'. Such statement shall be located in a conspicuous place on every cigarette package and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

#### "PREEMPTION

"SEC. 5. (a) No statement relating to smoking and health, other than the statement required by section 4 of this Act, shall be required on any cigarette package.

"(b) No requirement or prohibition based on smoking and health shall be imposed under State law with respect to the advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

84 STAT. 88

84 STAT. 89

#### "UNLAWFUL ADVERTISEMENTS

Termination  
date.

"SEC. 6. After January 1, 1971, it shall be unlawful to advertise cigarettes on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission.

#### "FEDERAL TRADE COMMISSION

Notification  
to Congress.

Trade regula-  
tion effective  
date.

"SEC. 7. (a) The Federal Trade Commission shall not take any action before July 1, 1971, with respect to its pending trade regulation rule proceeding relating to cigarette advertising. If at any time on or after July 1, 1971, the Federal Trade Commission determines it is necessary to take action with respect to such pending trade regulation rule proceeding, it shall notify the Congress of the determination. Such notification shall include the text of the trade regulation rule and a full statement of the basis for such determination. No trade regulation rule adopted in such proceeding may take effect until six months after the Commission has notified the Congress of the text of such rule, in order that the Congress may act if it so desires.

"(b) Except as provided in subsection (a), nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes.

"(c) Nothing in this Act shall be construed to affirm or deny the Federal Trade Commission's holding that it has the authority to issue trade regulation rules or to require an affirmative statement in any cigarette advertisement.

#### "REPORTS

Report to  
Congress.

"SEC. 8. (a) The Secretary of Health, Education, and Welfare shall transmit a report to the Congress not later than January 1, 1971, and annually thereafter, concerning (A) current information in the health consequences of smoking, and (B) such recommendations for legislation as he may deem appropriate.

“(b) The Federal Trade Commission shall transmit a report to the Congress not later than January 1, 1971, and annually thereafter, concerning (A) the effectiveness of cigarette labeling, (B) current practices and methods of cigarette advertising and promotion, and (C) such recommendations for legislation as it may deem appropriate. Report to Congress.

“CRIMINAL PENALTY

“SEC. 9. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$10,000.

“INJUNCTION PROCEEDINGS

“SEC. 10. The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this Act upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

“CIGARETTES FOR EXPORT

“SEC. 11. Packages of cigarettes manufactured, imported, or packaged (1) for export from the United States or (2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this Act, but such exemptions shall not apply to cigarettes manufactured, imported, or packaged for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States. Exemption. 84 STAT. 89 84 STAT. 90 Nonapplicability provision.

“SEPARABILITY

“SEC. 12. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the other provisions of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.”

SEC. 3. Section 5 of the amendment made by this Act shall take effect as of July 1, 1969. Section 4 of the amendment made by this Act shall take effect on the first day of the seventh calendar month which begins after the date of the enactment of this Act. All other provisions of the amendment made by this Act except where otherwise specified shall take effect on January 1, 1970. Effective dates.

Approved April 1, 1970.

93<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 7482\*

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## IN THE HOUSE OF REPRESENTATIVES

MAY 3, 1973

Mr. MACDONALD introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

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## A BILL

To amend the Federal Cigarette Labeling and Advertising Act of 1965 amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar", and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the "Little Cigar Act of  
4       1973".

5       SEC. 2. Section 3 of the Federal Cigarette Labeling and  
6       Advertising Act (15 U.S.C. 1331-1340) as amended by  
7       the Public Health Cigarette Smoking Act of 1969 is  
8       amended by inserting the following new subsection:

9       “(7) The term ‘little cigar’ means any roll of tobacco

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\*H.R. 7482 is identical with S. 1165, as passed by the Senate on April 30, 1973.

1 wrapped in leaf tobacco or any substance containing tobacco  
2 (other than any roll of tobacco which is a cigarette within  
3 the meaning of subsection (1) ) and as to which one thousand  
4 units weigh not more than three pounds.”

5       SEC. 3. Section 6 of the Federal Cigarette Labeling and  
6 Advertising Act (15 U.S.C. 1331-1340) as amended by  
7 the Public Health Cigarette Smoking Act of 1969 is amended  
8 by inserting the words “and little cigars” after the word  
9 “cigarettes”.

10       SEC. 4. The amendment made by this Act shall become  
11 effective thirty days after the date of enactment.

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## CHRONOLOGY OF CIGARETTE LABELING AND ADVERTISING LEGISLATION

On June 7, 1962, the Surgeon General of the Public Health Service appointed an advisory committee to study all published literature bearing on the relationship of cigarette smoking to human health. The committee submitted its report to the Surgeon General on January 11, 1964.

The Federal Trade Commission, on January 18, 1964, issued notice of its intention to adopt trade regulation rules which would have required that cigarette packages and advertisements bear a health warning. Modified trade regulation rules were issued by the Commission in June of 1964. The Interstate and Foreign Commerce Committee held 4 days of hearings on the question in June and July of that year. At the request of the committee, the Federal Trade Commission postponed the effective date of its proposed rules in order to permit the committee to consider the matter further.

In April and May 1965, 7 additional days of hearings were held on the relationship of cigarette smoking to human health and the desirability of regulating cigarette labeling and advertising.

The Federal Cigarette Labeling and Advertising Act (Public Law 89-92) was enacted on July 27, 1965, and made effective January 1, 1966.

The 1965 act—

(1) Required that each cigarette package bear a conspicuous and legible label stating: "Caution: Cigarette Smoking May Be Hazardous to Your Health.";

(2) Prohibited any other statement relating to smoking and health from being required on cigarette packages so labeled;

(3) Provided that, until July 1, 1969, no statement relating to smoking and health could be required in any advertisement of cigarettes the packages of which were labeled in accordance with the act;

(4) Established a penalty of \$10,000 for violations of the act; and

(5) Required the Secretary of Health, Education, and Welfare and the Federal Trade Commission to submit annual reports and recommendations to the Congress.

### *Cigarette advertising on radio and television*

In June of 1967, the Federal Communications Commission sustained a citizen's complaint that cigarette advertisements on radio and to raise onside of a controversial issue of public importance. Therefore, it held that its "fairness doctrine" was applicable to cigarette advertising and radio and television stations which carried such advertising had an obligation to provide a significant amount of free time for other viewpoints. As a result, broadcasting stations which carried cigarette advertising were required to carry so-called anticigarette commercials prepared under the auspices of such organizations as the American Cancer Society.

The Commission's position was sustained by the U.S. Court of Appeals for the District of Columbia (*Banzhaf v. Federal Communications Commission*, 405 F. 2d 1082, 1968; cert denied 396 U.S. 842, 1969).

Subsequent to its application of the fairness doctrine to cigarette advertising, the FCC on February 6, 1969, issued a notice of proposed rulemaking (FCC Docket No. 18434; 34 F.R. 1959, Feb. 11, 1969) to ban cigarette advertising from radio and television. This was done for the announced purpose of apprising the Congress with respect to the action the FCC proposed to take "assuming the absence of a contrary congressional direction."

In April 1969, the Interstate and Foreign Commerce Committee undertook hearings on legislation amending the Federal Cigarette Labeling and Advertising Act. The Public Health Cigarette Smoking Act of 1969 (Public Law 91-222) was enacted into law on April 1, 1970. This act amended the 1965 Federal Cigarette Labeling and Advertising Act in several ways.

The 1969 Act—

(1) Changed the labeling statement required on cigarette packages manufactured, imported, or packaged for sale or distribution within the United States to "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health";

(2) Made it unlawful to advertise cigarettes on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission after January 1, 1971; and

(3) Maintained a preemption provision on the Federal Trade Commission, with respect to a pending trade regulation rule relating to cigarette advertising, until July 1, 1971. The Federal Trade Commission was further required to notify Congress in advance of any determination it makes to take action with respect to the pending trade regulation rule affecting cigarette advertising. The Federal Trade Commission was additionally required to stay the effectiveness of any trade regulation rule adopted in such a proceeding until six months after the Commission had notified the Congress including the text of such trade regulation, in order that the Congress may act if it so desires.

In each case the Congress acted with regard to "cigarettes" as defined in section 3(1) of the Public Health Cigarette Smoking Act of 1969 (Public Law 91-222).\*

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\*See p. 1.

LETTER TO CHAIRMAN STAGGERS FROM THE FEDERAL TRADE  
COMMISSION RELATING TO SMALL CIGARS

FEDERAL TRADE COMMISSION,  
Washington, D.C., June 27, 1972.

HON. HARLEY O. STAGGERS,  
Chairman, Committee on Interstate and Foreign Commerce,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Recently the Federal Trade Commission tested 25 varieties of domestic small cigars for "tar" and nicotine content and transmitted those test results to Jesse L. Steinfeld, M.D., Surgeon General of the Public Health Service.

Because of the interest of your Committee in matters related to the promotion and sale of tobacco products, I am enclosing copies of the tests results, a news release about these results which the Commission intends to issue in the near future, and my letter to the Surgeon General. As you can see from that letter, the test results were obtained in the Commission's cigarette testing laboratory by analyzing small cigars for "tar" and nicotine content using the Federal Trade Commission methodology for testing cigarettes.\* Because of the limited availability of specific brands of small cigars, the test samples were collected from stocks available in the cities of Washington, D.C. and New York, New York, at the time of sampling. The sample therefore represents each product at a single point of purchase, rather than on a nationwide sampling basis, as in the case of cigarettes sampled for official Federal Trade Commission testing. The Commission is aware of at least one small cigar variety which ordinarily is sold in Washington and New York, but which was not tested because it could not be purchased at the time the sample was collected.

In transmitting the attached report of "tar" and nicotine values obtained by analyzing the smoke from small cigars, the Commission draws no conclusions as to the relative hazard, or lack thereof, among the various brands listed or between small cigars and cigarettes. The quantitative test method used by the Commission is intended only to provide information on the amount of "tar" and nicotine produced by different brands of small cigars when smoked under standardized conditions.

Similarly, the Commission takes no position at the present time as to whether "small cigars" should be included within the definition of "cigarettes" for purposes of taxation and the prohibition of broadcast cigarette advertising. Rather, the Commission believes that before these determinations are made, additional evidence should be obtained on the question of whether, in actual use by consumers, "small cigars" are inhaled in the same manner as cigarettes.

\*The testing methodology used by the Federal Trade Commission is the Cambridge Filter method specified in the Federal Register notice of November 4, 1966 (31 F.R. 14278), as described in an article entitled "Determination of Particulate Matter and Alkaloids (as Nicotine) in Cigarette Smoke," by C. L. Ogg, Journal of the Association of Official Agricultural Chemists, Vol. 47, No. 2, 1964, and as modified by the Federal Trade Commission in accordance with the Federal Register notice of August 1, 1967 (36 F.R. 11178).

For these reasons, the Commission has sent copies of the test results to the Surgeon General, and has requested any evaluation which the Public Health Service may be able to make about the consequences to human health that may result from the consumption of small cigars.

By direction of the Commission.

MILES W. KIRKPATRICK,  
*Chairman.*

### REPORT OF "TAR" AND NICOTINE CONTENT OF THE SMOKE OF 25 VARIETIES OF SMALL CIGARS

The Federal Trade Commission's laboratory has determined the "tar" (dry particulate matter) and total alkaloid (reported as nicotine) content of 25 varieties of small cigars. The laboratory utilized the Cambridge filter method specified in the Federal Register notice of November 4, 1966 (31 F. R. 14278), as described in an article entitled "Determination of Particulate Matter and Alkaloids (as Nicotine) in Cigarette Smoke", by C. L. Ogg, Journal of the Association of Official Agricultural Chemists, Vol. 47, No. 2, 1964, and as modified by the Federal Trade Commission in accordance with the Federal Register notice of August 1, 1967 (32 F. R. 11178).

Samples used in this test were purchased in Washington, D.C. and New York, New York, during February of 1972. Results are based on a test of not less than 90 small cigars of each variety.

The "tar" content is report to the nearest 1/10th. milligram and the nicotine content to the nearest 1/100th. milligram, each with appropriate statistical values. The average weight is reported in grams per small cigar and the butt length range to the nearest 1/10th. millimeter.

[Definitions for symbols are as follows: F—filter; NF—nonfilter; M—menthol; C—cherry; HP—hard pack; HWP—hard wide pack; SP—soft pack]

Name	Type	Milli-meters	Average weight	Butt length (Milli-meters)	TPM dry	Nicotine
Action 100's	F, SP	100	1.2723	29.0-26.8	17.4±0.3	1.21±0.03
Do	C, M, SP	100	1.2883	28.0-27.6	18.3±0.4	0.87±0.02
Alfred Dunhill	NF, HWP	85	.9863	23.0	27.3±0.7	1.39±0.05
All	F, SP	85	1.1656	24.6-23.5	47.8±0.8	2.73±0.04
Antonio y Cleopatra	F, HWP	100	1.2361	34.0-32.6	24.7±0.4	1.34±0.03
Do	F, M, HWP	100	1.2206	34.4-33.0	27.8±0.4	1.50±0.03
Bantam	NF, SP	70	1.0076	23.0	28.1±0.7	1.73±0.06
Do	NF, SP	85	1.1214	23.0	34.3±0.9	1.81±0.06
Between The Acts	NF, HP	70	1.1208	23.0	24.6±0.3	1.75±0.04
Herald	F, SP	85	1.1207	24.3-23.7	30.4±0.4	1.75±0.04
Kingston	F, M, SP	85	1.1199	24.4-23.5	30.5±0.8	1.51±0.04
Madison	NF, SP	70	1.1161	23.0	27.4±0.6	2.60±0.06
Milds	NF, SP	70	.9921	23.0	41.0±0.5	1.31±0.02
Omega	F, SP	85	1.1298	25.4-24.6	31.4±0.5	1.90±0.05
Do	F, SP	100	1.2170	29.7-28.6	43.7±0.6	3.11±0.07
Roi-Tan	F, SP	100	1.2792	33.8-33.0	31.5±0.6	1.89±0.04
Roi-Tan (cherry)	F, SP	100	1.3180	33.3-32.8	33.5±0.6	1.99±0.03
Sherman's Little Cigars	NF, HWP	102	1.1936	23.0	32.2±0.5	2.12±0.06
Tall 'n' Slim	F, SP	100	1.3126	29.1-26.9	23.6±0.6	0.52±0.02
Tall 'n' Slim Menthol	F, M, S	100	1.2713	28.6-27.2	24.3±0.5	0.70±0.01
Trend	NF, SP	70	1.1502	23.0	32.3±0.6	1.54±0.08
Winchester	F, SP	85	.9559	27.9-26.7	16.5±0.3	0.80±0.02
Wolf Bros. (rum)	F, SP	100	1.2594	28.6-27.5	17.5±0.3	0.67±0.02
Wolf Bros. (cherry)	F, SP	100	1.2915	28.4-27.4	27.3±0.5	0.98±0.02
Zig-zag	F, SP	100	1.3194	28.5-27.3	25.5±0.7	0.55±0.01

[Federal Trade Commission News]

## FEDERAL TRADE COMMISSION RELEASES TEST RESULTS FOR SMALL CIGARS

Results of tests for tar and nicotine content of 25 varieties of domestic small cigars were announced by the Federal Trade Commission today.

The test results were sent to the Surgeon General of the Public Health Service for any evaluation or conclusions which that agency may be able to draw from the data about the consequences to human health which may result from consumption of small cigars. Copies of the test results were also sent to the Chairman of the Senate Committee on Commerce and to the Chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives.

Although the Commission has been testing domestic cigarettes for tar and nicotine content since 1967, this is the first Commission test of "small cigars"—tobacco products categorized by the Internal Revenue Service as cigars weighing not more than three pounds per thousand.

In releasing these test results, the Commission draws no conclusions as to the relative hazard, or lack thereof, among the various brands listed or between small cigars and cigarettes. The quantitative test method used by the Commission is intended only to provide information on the amount of tar and nicotine produced by different brands of small cigars when smoked under standardized conditions.

Similarly, the Commission takes no position at the present time as to whether "small cigars" should be included within the definition of "cigarettes" for purposes of taxation and the prohibition of broadcast cigarette advertising. Rather, the Commission believes that before these determinations are made, additional evidence should be obtained on the question of whether, in actual use by consumers, "small cigars" are inhaled in the same manner as cigarettes.

Because of the limited availability of specific brands of small cigars, the test samples were collected from stocks available in the cities of Washington, D.C., and New York, New York, at the time of sampling, rather than on the nation-wide sampling basis used for the Commission cigarette testing program. The Commission is aware of at least one small cigar variety which ordinarily is sold in Washington and New York, but which was not tested because it could not be purchased at the time the sample was collected.

The tests were conducted using the Commission's methodology for testing cigarettes for tar and nicotine content. Tar content of the varieties tested ranged from 16.5 milligrams to 47.8 milligrams, and nicotine content ranged from 0.52 milligrams to 3.11 milligrams.

Details of the test results may be obtained from the Legal and Public Records Division, Federal Trade Commission, Washington, D.C. 20580.



In releasing the test results, the Commission stated the desire to obtain evidence on the question of whether consumers inhale the smoke from small cigars in the same manner as from cigarettes. The Commission expressed its opinion that such evidence about the use of small cigars by consumers was needed in order to make a judgement about whether small cigars should be included within the definition of "cigarettes" for purposes of taxation and the prohibition of broadcast cigarette advertising. The test results and a copy of the Commission's news release are reproduced at Appendix B.\*

On December 14, 1972, Action on Smoking and Health petitioned the Federal Trade Commission to begin a proceeding against R. J. Reynolds Tobacco Company for violation of the Federal Trade Commission Act in the advertising and promotion of Winchester small cigars. The petitioners alleged that most persons who use Winchester small cigars inhale the smoke from that product in the same manner as smoke from cigarettes, and for that reason, petitioners argue that Winchester small cigars present the same danger to human health as cigarettes. Petitioners claimed that the failure to include any warning in Winchester packaging or advertising about dangers to health posed by the use of this product is unfair and deceptive, and requested the Commission to take action to require a health warning on Winchester packaging and in all Winchester advertising. Petitioners also sought to require disclosure of Winchester's tar and nicotine content in all advertising for that product. The Commission has taken this petition under consideration, but at the time of this writing had not announced its disposition of the matter.

During 1972, the Commission's cigarette testing laboratory completed two tests of domestic cigarettes for tar and nicotine content. These test results appear in Appendix C. These test results were published in the Federal Register, and were included in cigarette advertisements published by domestic manufacturers, in accordance with a voluntary agreement submitted by those firms to the Commission in 1970.

#### LEGISLATIVE RECOMMENDATIONS

Broadcast advertisements for small cigars during 1972 have brought into question the adequacy of the definition of the term "cigarette" which appears in Section 3 of the Public Health Cigarette Smoking Act. As Appendix B illustrates, more than two dozen varieties of domestic small cigars are marketed in this country. Most varieties have filters; all are sold in packages of 20 and resemble cigarettes in size and shape. All "Class A cigarettes" and all "small cigars" weigh not more than three pounds per thousand. See 26 CFR Sections 270.11 and 270.24.

Of the 25 varieties of small cigars tested by the Commission laboratory for tar and nicotine content, 22 varieties had a tar content within the range of tar yields reported for domestic cigarettes (1 to 35 milligrams per cigarette) and 22 varieties had a nicotine content within the range reported for cigarettes (0.1 to 2.4 milligrams). See Appendixes B and C.

The Commission has received information from the Department of Health, Education and Welfare which indicates that small cigars may well present the same public health problem as cigarettes if small

\*See pages 10 and 15.

cigars are smoked in the same quantities as cigarettes and if the smoke from small cigars is inhaled.

For these reasons, the Commission believes that the public interest would be better served if the definition of the term "cigarette" which now appears in the Public Health Cigarette Smoking Act were amended to include all rolls of tobacco weighing not more than three pounds per thousand, without regard to the kind of tobacco in the inner roll or the substance in which the roll is wrapped. Such a change would classify as "cigarettes" all products now designated "small cigars" for purposes of the prohibition of broadcast cigarette advertising. Additionally, this change would subject all products currently designated as "small cigars" to the requirement of a warning statement on the package.

\* \* \* \* \*

EXCERPT FROM THE HEALTH CONSEQUENCES OF SMOKING, JANUARY 1973, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, PUBLIC HEALTH SERVICE:

\* \* \* \* \*

LITTLE CIGARS

In the past year, several new brands of little cigars (weighing three pounds or less per 1,000) have appeared on the national market. These cigarette-sized products are manufactured, packaged, advertised, and sold in a manner similar to cigarettes. Little cigars enjoy several legal advantages over cigarettes: They have access to television advertising; they are taxed by the Federal Government and by most states, at much lower rates than cigarettes, resulting in a significant price advantage; and they do not carry the warning label required on cigarette packages and in cigarette advertising. A market appears to be developing for these products, as there has recently been a sharp increase in the shipment of little cigars destined for domestic consumption (table 32).

It is important to estimate the potential public health impact of these little cigars. An adequate epidemiological evaluation of the effect of little cigar smoking on health could take 10 to 15 years and is probably an impractical consideration; however, a review of the epidemiological, autopsy, and experimental data concerning the health consequences of cigarette, pipe, and cigar smoking summarized in this and previous reports is helpful in considering the potential impact on health of smoking little cigars. An analysis of the chemical constituents suggests that both cigarettes and cigars contain similar compounds in similar concentrations. Two exceptions are reducing sugars, which are not found in quantity in the fermented tobaccos commonly used in cigars, and the pH of the inhaled smoke. The pH of the smoke from U.S. commercial cigarettes is below 6.2 from the first to the last puff, whereas the smoke from the last half of a cigar may reach as high as pH 8 to 9. With increasing pH, nicotine is increasingly present in the smoke as the free base. Skin painting experiments in mice indicate that tumor yields with cigar or pipe "tars" are nearly identical with those obtained with cigarette "tars". In addition, the epidemiological data suggest that depth of inhalation probably accounts for the fact that cigarettes are so much more harmful than cigars and pipes in contribution to the development of lung cancer, coronary heart disease, and non-neoplastic respiratory disease. For such diseases as cancer of the oral cavity, larynx, and esophagus, where smoke from cigars, pipes, and cigarettes is available to the target organ at comparable levels, the mortality ratios are very similar for all three forms of tobacco use. Several factors, including "tar", nicotine, and the pH of the smoke, probably operate to influence inhalation patterns of smokers. The relative contribution of individual factors to the inhalability of a tobacco product has not been determined.

TABLE 36.—MORTALITY RATIOS FOR PEPTIC ULCER DISEASE IN MALE CIGAR AND PIPE SMOKERS—SUMMARY OF PROSPECTIVE STUDIES

Author, reference	Illness	Type of smoking					Mixed
		Non-smoker	Cigar only	Pipe only	Total pipe and cigar	Cigarette only	
Hammond and Horn (40).....	Duodenal ulcer.....	1.00	0.25	1.67		2.16	
Doll and Hill (26, 27).....	Gastric ulcer.....	1.00			4.00	7.00	5.30
Hammond (38).....	do.....	1.00			2.04	2.95	
	Duodenal ulcer.....	1.00			.92	2.86	
Kahn (50).....	Gastric ulcer.....	1.00	2.90	2.84	2.48	4.13	
	Duodenal ulcer.....	1.00	1.58	1.59	1.39	2.98	

Smoking those brands of little cigars which can be inhaled by a significant portion of the population in a manner similar to the present use of cigarettes would probably result in an increased risk of developing those pulmonary and cardiovascular diseases which have been associated with cigarette smoking. On the other hand, smoking those little cigars which are used like most large cigars whereby the smoke is rarely inhaled would probably result in lower rates of those pulmonary and cardiovascular diseases than would be found among cigarette smokers.

Only a limited analysis is available comparing the chemical compounds found in little cigars, cigarettes, and large cigars. The FTC analyzed the "tar" and nicotine content of all the little cigars (34) and cigarettes (97) currently available on the market. Little cigars have generally a higher "tar" and nicotine level than cigarettes, although considerable overlap results in some little cigar brands having "tar" and nicotine levels comparable to those of some brands of cigarettes (figures 4 and 5). Hoffmann and Wynder (44) recently compared three brands of little cigars with an unfiltered cigarette, a filtered cigarette, and a large cigar. They measured a number of smoke constituents, including: "tar", nicotine, carbon monoxide, carbon dioxide, reducing sugars, hydrogen cyanide, acetaldehyde, acrolein, pyridines, phenols, benz(a)anthracene, and benzo(a)pyrene (table 32). Cigarette A was the Kentucky reference cigarette, cigarette B was a popular brand of filter cigarette. Cigar A was an 85 mm. little cigar, cigar B was an 85 mm. little cigar, cigar C was a 95 mm. small cigar, and cigar D was a 112 mm. popular brand of medium sized cigar.

The smoke pH was analyzed puff by puff (table 39). Cigarette smoke was found to be acidic (pH less than 7) for the entire cigarette. The smoke from little cigars became alkaline only in the last puff or two, whereas about the last 40 percent of the puffs from the larger cigar were alkaline. Although the pH of the total condensate obtained from cigarettes is usually acidic and the total condensate obtained from cigars is usually alkaline, the above data indicate that smoke pH of tobacco products changes during the combustion process. Smoke from large cigars may be acidic during the first portion of the smoke and not become alkaline until the last half of the cigar is smoked.

Brunneman and Hoffman (15), using the same techniques described above, examined the effect of 60 leaf constituents on smoke pH. For several varieties of cigarette tobacco, they found a high correlation between the total alkaloid and nitrogen content and smoke pH. Stalk position also affected smoke pH. Tobacco leaves near the top of the

plant, which contain high levels of "tar" and nicotine, yielded a smoke with a much higher pH than leaves lower on the plant. At present it is not known to what extent these factors influence the pH of the smoke of tobaccos commonly used in cigars or how these kinds of pH changes influence the inhalability of tobacco smoke.

The inhalation of smoke, however, appears to be the most important factor determining the impact a cigar will have on overall health. Those physical and chemical characteristics of a tobacco product which most influence inhalation of tobacco smoke have not been accurately determined. Nevertheless, it appears likely that the smoke of some brands of cigars may be compatible with inhalation by a significant portion of the smoking population, since (a) little cigars have "tar" and nicotine levels which, in some brands, are similar to the levels found in cigarettes, and (b) the pH of the smoke of some little cigar brands is acidic for the major portion of the little cigar and becomes alkaline only in the last puff or two.

It is reasonable to conclude that smoking little cigars may result in health effects similar to those associated with smoking cigarettes if little cigars are smoked in amounts and with patterns of inhalation similar to those used by cigarette smokers, for the reasons cited above, and these additional reasons: (a) In those little cigars for which preliminary data are available, the concentrations of carbon monoxide, hydrogen cyanide, acetaldehyde, acrolein, pyridine, phenol, and polycyclic hydrocarbon levels are comparable to those found in cigarettes; (b) cigarette smokers who switch to cigars appear to be more likely to inhale cigar smoke than cigar smokers who have always smoked cigars (14); and (c) cigarette smokers who switch to little cigars may be inclined to use them as they did cigarettes because of the physical similarities between the little cigars and cigarettes, including their size and shape, the number in a package, the burning rate, and the time it takes to smoke them.

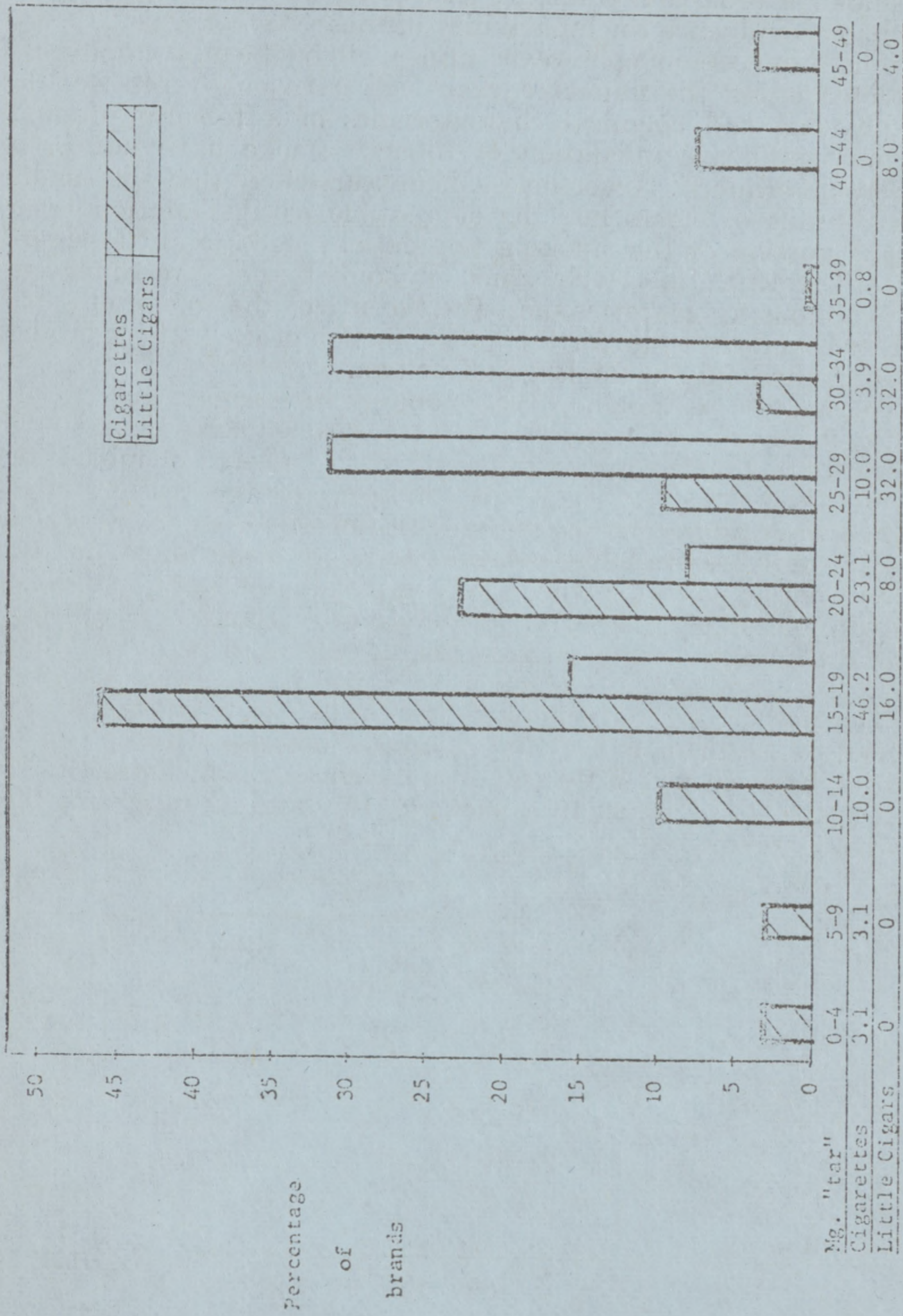


Figure 4.--Percent distribution of 130 brands of cigarettes and 25 brands of little cigars by "tar" content.

SOURCE: U.S. Department of Health, Education, and Welfare (97) and Federal Trade Commission (34).

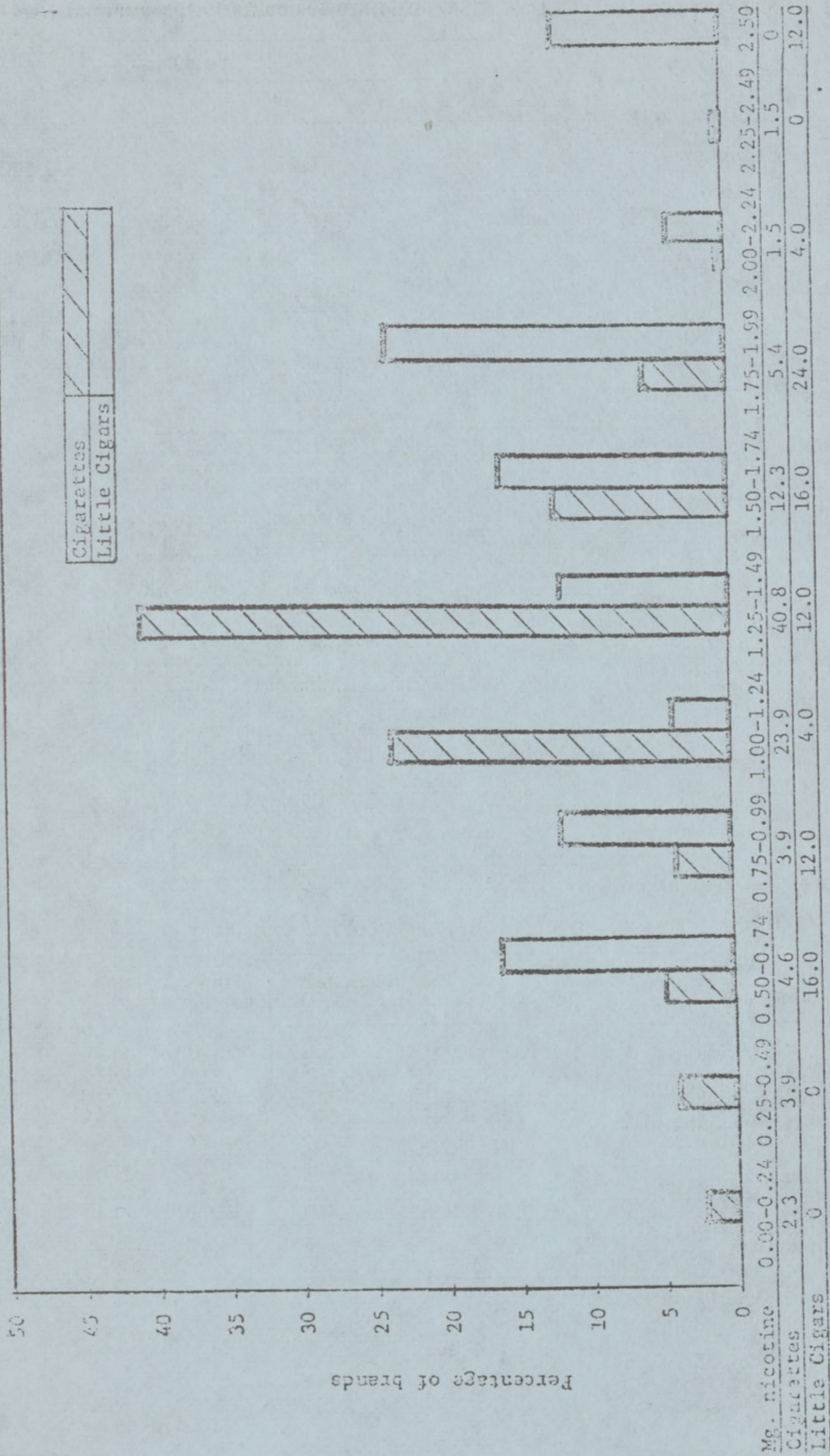


Figure 5.--Percent distribution of 130 brands of cigarettes and 25 brands of little cigars by nicotine content.

SOURCE: U.S. Department of Health, Education, and Welfare (97) and Federal Trade Commission (34).

TABLE 37.—SHIPMENT OF SMALL AND LARGE CIGARS DESTINED FOR DOMESTIC CONSUMPTION (1970-72)

	Small Cigars		
	1970	1971	1972
<b>Small cigars:</b>			
January.....	58,328,520	85,753,780	123,477,550
February.....	63,431,580	72,092,205	179,817,839
March.....	85,881,860	46,542,800	198,165,593
April.....	101,613,500	59,059,920	125,335,740
May.....	81,093,180	93,237,473	159,334,565
June.....	82,471,120	94,560,140	180,582,243
Subtotal.....	472,819,760	451,246,318	966,713,530
July.....	62,143,140	70,332,500	127,713,320
August.....	68,220,365	127,709,310	670,936,869
September.....	79,101,045	95,027,340	422,534,705
October.....	90,752,880	109,567,900	708,116,830
November.....	64,290,600	106,666,107	-----
December.....	63,806,010	123,809,553	-----
Subtotal.....	428,314,040	633,112,710	-----
Yearly total.....	901,133,800	1,084,359,028	-----
<b>Large cigars:</b>			
January.....	581,742,001	573,039,120	534,565,488
February.....	595,249,522	586,810,844	562,414,577
March.....	629,977,375	665,998,099	654,827,796
April.....	652,800,200	655,850,213	554,242,048
May.....	748,040,796	670,064,933	719,489,529
June.....	644,539,031	692,436,529	578,501,068
Subtotal.....	3,852,348,925	3,844,199,738	3,604,040,506
July.....	647,397,547	619,838,386	520,873,339
August.....	673,082,971	662,970,148	682,331,630
September.....	721,561,449	680,476,418	591,843,957
October.....	797,601,253	679,420,968	693,150,668
November.....	696,526,464	742,821,752	-----
December.....	596,244,159	516,852,065	-----
Subtotal.....	4,132,413,843	3,902,379,737	-----
Yearly total.....	8,084,762,768	7,746,579,475	-----

Source: U.S. Department of the Treasury (101).

TABLE 38.—SELECTED COMPOUNDS IN MAINSTREAM SMOKE

Smoke compound	Cigarette A (nonfilter)	Cigarette B (filter)	Little cigar A	Little cigar B	Small cigar C
Tar (mg./cig.).....	36.1	20.3	17.4	31.8	40.6
Nicotine (mg./cig.).....	2.7	1.4	.6	1.8	3.1
Carbon monoxide (vol. percent).....	4.6	4.5	5.3	11.1	7.7
Carbon dioxide (vol. percent).....	9.4	9.6	8.5	13.2	12.7
Reducing sugars (percent of tob. wgt.).....	9.3	7.9	1.5	2.9	2.7
Hydrogen cyanide ( $\mu$ g./cig.).....	536.0	361.0	381.0	697.0	1,029.0
Acetaldehyde ( $\mu$ g./cig.).....	770.0	774.0	630.0	1,238.0	1,150.0
Acrolein ( $\mu$ g./cig.).....	105.0	71.0	41.0	54.0	66.0
Total pyridines ( $\mu$ g./cig.).....	82.8	27.3	58.0	85.3	80.3
Phenol ( $\mu$ g./cig.).....	124.2	33.0	35.1	63.4	94.1
Benz(a)anthracene (ng./cig.).....	74.0	31.0	34.0	25.0	39.0
Benzo(a)pyrene (ng./cig.).....	47.0	20.0	18.0	22.0	30.0

Source: Hoffmann, D., Wynder, E. L. (44).

TABLE 39.—THE PH OF THE MAINSTREAM SMOKE OF SELECTED TOBACCO PRODUCTS

Average pH	Cigarette A (nonfilter)	Cigarette B (filter)	Little cigar A	Little cigar B	Small cigar C	Cigar D
3d puff.....	6.19	6.15	6.44	6.55	6.53	6.47
5th puff.....	6.14	6.12	6.34	6.46	6.49	6.47
7th puff.....	6.09	6.01	7.03	6.51	6.56	6.27
9th puff.....	6.02	5.83		6.98	6.59	6.39
13th puff.....						6.41
18th puff.....						6.81
23d puff.....						7.22
28th puff.....						7.53
33d puff.....						7.78
38th puff.....						7.96
Last puff.....	5.96	5.76	7.73	7.25	7.11	7.96
Number of last puff.....	(11)	(10)	(8)	(10)	(11)	(43)

Source: Hoffmann, D., Wynder, E. L. (44).

\* \* \* \* \*

93D CONGRESS }  
1st Session }

SENATE

{ REPORT  
No. 93-103

## LITTLE CIGAR ACT OF 1973

---

APRIL 5 (legislative day, APRIL 4), 1972.—Ordered to be printed

---

Mr. Moss, from the Committee on Commerce,  
submitted the following

## REPORT

together with

## ADDITIONAL VIEWS

[To accompany S. 1165]

The Committee on Commerce, to which was referred the bill (S. 1165) to amend the Federal Cigarette Labeling and Advertising Act of 1965 as amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar", and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

The bill as reported is as follows:

[S. 1165, 93d Cong., 1st sess.]

**A BILL** To amend the Federal Cigarette Labeling and Advertising Act of 1965 as amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar", and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Little Cigar Act of 1973".*

SEC. 2. Section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331-1340) as amended by the Public Health Cigarette Smoking Act of 1969 is amended by inserting the following new section:

"(7) The term 'little cigar' means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subsection (1)) and as to which one-thousand units weigh not more than three pounds."

SEC. 3. Section 6 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331-1340) as amended by the Public Health Cigarette Smoking Act of 1969 is amended by inserting the words, "and little cigars" after the word "cigarettes".

SEC. 4. The amendment made by this Act shall become effective thirty days after the date of enactment.

#### PURPOSE AND SUMMARY OF THE BILL

The Little Cigar Act of 1973 (S. 1165) would amend the Federal Cigarette Labeling and Advertising Act (15 USC 1331-1340) as amended by the Public Health Cigarette Smoking Act of 1969 by expanding the prohibition on advertising of certain tobacco products in the broadcast media to include "little cigars." The amendment made by the Little Cigar Act would become effective 30 days after the date of enactment.

S. 1165 provides for a definition of the term "little cigar" to mean any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco, other than a cigarette, which weighs not more than 3 pounds per thousand units. The bill further provides that it shall be unlawful to advertise little cigars on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission.

The amendment to the Federal Cigarette Labeling and Advertising Act made by the Little Cigar Act (S. 1165) would become effective 30 days after the date of enactment.

#### BACKGROUND

Public Law 89-92 enacted July 27, 1965, declared that the policy and the purpose of the Federal Cigarette Labeling and Advertising Act was to establish a comprehensive Federal program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health. The 1965 Act provided for the labeling of cigarette packages with the statement: "Caution: Cigarette Smoking May Be Hazardous To Your Health." The Act directed that the statement be located in a conspicuous place on every cigarette package and appear in conspicuous and legible type in contrast by topography, layout, or color with other printed matter on the package. This requirement became effective on January 1, 1966.

The 1965 Federal Cigarette Labeling and Advertising Act further preempted Federal regulatory agencies and State legislatures from requiring any statement relating to smoking and health, other than the statement required by the Act, from appearing on cigarette packages or in the advertising of any cigarettes. The Act further provided that the preemption provision affecting the regulation of cigarette advertising would terminate on July 1, 1969.

The 1965 Act also required the Secretary of Health, Education, and Welfare to transmit to the Congress annually a report concerning "(A) current information on the health consequences of smoking, and (B) such recommendations for legislation as he may deem appropriate." Additionally, the Federal Trade Commission was directed

to transmit annually a report concerning "(A) the effectiveness of cigarette labeling, (B) current practices and methods of cigarette advertising and promotion, and (C) such recommendations for legislation as it may deem appropriate."

The Federal Cigarette Labeling and Advertising Act provided that violations of the Act be a misdemeanor and upon conviction subject to a fine of not more than \$10,000. The Attorney General was granted enforcement responsibility for the legislation.

An exemption was provided in the legislation for cigarettes manufactured, imported, or packaged for export from the United States or for delivery to a vessel or aircraft for consumption beyond the jurisdiction of the internal revenue laws of the United States. Provision was made, however, that the exemption not apply to cigarettes manufactured, imported, or packaged for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

Upon the expiration of the preemption provision of the Federal Cigarette Labeling and Advertising Act, the Congress enacted Public Law 91-222 the "Public Health Cigarette Smoking Act of 1969". This act amended the 1965 Federal Cigarette Labeling and Advertising Act in several ways.

The 1969 Act changed the labeling statement required on cigarette packages manufactured, imported, or packaged for sale or distribution within the United States to "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health".

The Act further made it unlawful to advertise, after January 1, 1971, cigarettes on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission.

Furthermore, the 1969 Act maintained a preemption provision on the Federal Trade Commission, with respect to a pending trade regulation rule relating to cigarette advertising, until July 1, 1971. The Federal Trade Commission was further required to notify Congress in advance of any determination it makes to take action with respect to the pending trade regulation rule affecting cigarette advertising. The Federal Trade Commission was additionally required to stay the effectiveness of any trade regulation rule adopted in such a proceeding until six months after the Commission had notified the Congress including the text of such trade regulation, in order that the Congress may act if it so desires.

In each case the Congress acted with regard to the product category "cigarette" which was defined as "(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and (B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging or labeling, is likely to be offered to, or purchased by, consumers as a cigarette describes in subparagraph (A)."

#### NEED

In September 1971, the R. J. Reynolds Tobacco Company began test marketing a "little cigar" product called Winchester. R. J. Reynolds, in its test markets, made use of advertising in the broadcast media

which was reminiscent of the cigarette advertising which had been eliminated from the broadcast media by Public Law 91-222. The product was classified by the Internal Revenue Service as a "little cigar" using the same definitions in the IRS Code as Public Law 89-566 used for cigarettes. In other words, the product was determined not to be a cigarette. Thus, there was no legal prohibition on the advertising of Winchester in the broadcast media.

In February 1972, the Consumer Subcommittee of the Committee on Commerce held both legislative and oversight hearings on the Public Health Cigarette Smoking Act amendments to the Federal Cigarette Labeling and Advertising Act. (Hearings on S. 1454, Serial No. 92-82.) During the course of the hearings, the Committee received considerable testimony concerning the marketing and the physical makeup of little cigar products.

On June 11, 1972, Surgeon General Jesse L. Steinfeld, in response to an inquiry from Senator Frank E. Moss, Chairman of the Consumer Subcommittee, concerning the potential health hazards of smoking little cigars, commented: "It is conceivable that the design, blend, flavorings, and filters, and not least, the advertising support being given the new little cigars, is resulting in more inhaling than formerly. If so, a health problem exists which should concern all of us. However, we have no evidence that this is taking place."

On June 27, 1972, the Federal Trade Commission reported tar and nicotine content test results for 25 varieties of domestic little cigars. In commenting on those test results, Surgeon General Jesse L. Steinfeld stated: "If 'little cigars' are smoked in the same fashion as are cigarettes with the smoker inhaling the products of the 'little cigar' it is clear that the health hazard to which he exposes himself will be similar to that from cigarettes. In the absence of years of experience of millions of Americans smoking 'little cigars' it is not possible to state categorically the exact health hazard the public suffers from smoking 'little cigars,' but it is clear that the government has an opportunity to prevent, rather than encourage, a problem if it can discourage the smoking of 'little cigars' while at the same time not encouraging the smoking of cigarettes."

In January 1973, the Federal Trade Commission and the Department of Health, Education, and Welfare submitted their annual reports to the Congress as required by the Federal Cigarette Labeling and Advertising Act. The Federal Trade Commission recommended that "the public interest would be better served if the definition of the term 'cigarette' which now appears in the Public Health Cigarette Smoking Act were amended to include all rolls of tobacco weighing not more than 3 pounds per thousand, without regard to the kind of tobacco in the inner roll or the substance in which the roll is wrapped". Such a change would classify as "cigarettes" all products now designated "small cigars" for purposes of the prohibition against broadcast cigarette advertising.

In the 1973 report filed by the Department of Health, Education, and Welfare on the Health Consequences of Smoking, an entire chapter was devoted to pipe and cigar smoking. In a subsection on little cigars, there appeared the following statement:

The inhalation of smoke, however, appears to be the most important factor determining the impact a cigar will have

on overall health. Those physical and chemical characteristics of the tobacco product which most influence inhalation of tobacco smoke have not been accurately determined. Nevertheless, it appears likely that the smoke of some brands of cigars may be compatible with inhalation by a significant portion of the smoking population since (a) little cigars have "tar" and nicotine levels which, in some brands, are similar to the levels found in cigarettes, and (b) the pH of the smoke of some little cigar brands is acidic for the major portion of the little cigar and becomes alkaline only in the last puff or two.

It is reasonable to conclude that smoking little cigars may result in health defects similar to those associated with smoking cigarettes if little cigars are smoked in amounts and with patterns of inhalation similar to those used by cigarette smokers, for the reasons cited above, and these additional reasons: (a) In those little cigars for which preliminary data are available, the concentrations of carbon monoxide, hydrogen cyanide acetaldehyde, acrolein, pyridine, phenol, and polycyclic hydrocarbon levels are comparable to those found in cigarettes; (b) cigarette smokers who switch to cigars appear to be more likely to inhale cigar smoke than cigar smokers who have always smoked cigars; and (c) cigarette smokers who switch to little cigars may be inclined to use them as they did cigarettes because of physical similarities between the little cigars and cigarettes, including their size and shape, the number in a package, the burning rate, and the time it takes to smoke them.

In February 1973, the R. J. Reynolds Tobacco Company and P. Lorillard, manufacturers of Winchester and Omega little cigars, announced that they would discontinue the advertising of their little cigar products on radio and television and temporarily diffused the necessity for the legislation. Senators Magnuson, Moss and Cook hailed this voluntary agreement as a responsible step in meeting the public's concern.

On March 22, 1973, the Chairman and Senators Moss and Cook, wrote to all manufacturers of little cigar products praising the decision by P. Lorillard and R. J. Reynolds to terminate broadcast advertising for Omega and Winchester little cigars, and requesting that other manufacturers similarly "in the exercise of your social responsibility would assure us that you will refrain from advertising such products on the broadcast media." However, contrary to this undertaking, on April 2, 1973, the Committee received a letter from the Chairman of Consolidated Cigar Corporation indicating that their little cigar product "Dutch Treats" would be advertised in the broadcast media.

The Committee subsequently met in executive session on April 3, 1973, and in recognition of the pressing public need acted expeditiously by ordering reported S. 1165 which would eliminate little cigar advertising from the broadcast media. The overriding public interest and the immediacy of the problem, owing to Consolidated Cigar Corporation's announced intention to commence its broadcast advertising pro-

gram for its little cigar, "Dutch Treats", on April 15, 1973, prompted the Committee to act without hearings since such an opportunity had been afforded by its hearings in February 1972 on S. 1454 (Serial No. 92-82).

#### SECTION-BY-SECTION ANALYSIS

##### *First Section*

This section provides for the short title of the Act to be the "Little Cigar Act of 1973".

##### *Section 2*

This section would amend section 3 of the Federal Cigarette Labeling and Advertising Act as amended by the Public Health Cigarette Smoking Act of 1969, by inserting a new subsection (7) defining the term "little cigar" to mean "any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subsection (1)) and as to which one thousand units weigh not more than three pounds." This definition would encompass products classified by the Internal Revenue Service as little cigars. Furthermore it would encompass all rolls of tobacco, other than cigarettes, which are the same size as cigarettes.

##### *Section 3*

This section would amend section 6 of the Federal Cigarette Labeling and Advertising Act, as amended by the Public Health Cigarette Smoking Act, by inserting the term "little cigars" in the provision making it unlawful to advertise on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.

##### *Section 4*

This section provides that the amendment made by this Act would become effective 30 days after the date of its enactment.

#### COST

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the Committee estimates that there would be no additional cost incurred by this Act.

The Committee is not aware of any estimates of cost made by any Federal agency which are different from those made by the Committee.

\* \* \* \* \*

\*Omitted here are materials showing the changes in existing law which would be made by S. 1165, as reported.

## AGENCY COMMENTS

Comments of the agencies and departments follow:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,  
SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE,  
*Washington, D.C., June 11, 1972.*

Hon. FRANK E. MOSS,  
*U.S. Senate,*  
*Washington, D.C.*

DEAR SENATOR MOSS: Thank you for your letter of May 7 asking about the potential health hazards of smoking little cigars.

Since the smoke of cigars, including little cigars, contains as much as or more tar and nicotine than the equivalent amount of cigarette smoke, the question appears to be whether a substantial number of the cigar smokers inhale. If they do, then the hazard to health can be presumed to be at least equal to the hazard of smoking cigarettes.

In the past, the average cigar smoker tended not to inhale, or inhaled less deeply than the cigarette smoker. A suggested reason for this is that the high alkalinity of cigar smoke discourages inhalation because of its irritating effect. It is conceivable that the design, blend, flavorings, and filters and not least, the advertising support being given the new little cigars, is resulting in more smokers inhaling than formerly. If so, a health problem exists which should concern all of us. However, we have no evidence that this is taking place.

I am asking the Lung Cancer Task Force of the National Cancer Institute to consider including this problem among their priorities in research projects on smoking and health. I will of course keep you informed of what we are able to learn.

Sincerely yours,

JESSE L. STEINFELD, M.D.,  
*Surgeon General.*

\* \* \* \* \*

JULY 18, 1972.

Hon. MILES W. KIRKPATRICK,  
*Chairman, Federal Trade Commission,*  
*Washington, D.C.*

DEAR MR. CHAIRMAN: Thank you for your letter of June 27 and the attached listing of "tar" and nicotine content of the smoke of 25 varieties of small cigars. The Public Health Service has under preparation a review of the health aspects associated with the smoking of pipes and cigars, for inclusion in the 1972 review on smoking and health to be submitted to the Congress in January 1973. The data suggest that the chemical constituents of cigar, pipe, and cigarette smoke show marked similarities and that pipe and cigar smoke tends to be more alkaline than cigarette smoke while the tobacco used in pipes and cigars contain somewhat less reducing sugars than those used in cigarettes.

† The materials omitted here are set out on pp. 9 and 10.

There appears to be little difference between the tumorigenic activities of tars obtained from any of these tobaccos. If anything, malignant skin tumors appear more rapidly and in larger numbers in animals painted with cigar tars than those painted with cigarette tars.

Accordingly, if "little cigars" are smoked in the same fashion as are cigarettes with the smoker inhaling the products of the "little cigar," it is clear that the health hazard to which he exposes himself will be similar to that from cigarettes. In the absence of years of experience with millions of Americans smoking "little cigars" it is not possible to state categorically the exact health hazard the public suffers from smoking "little cigars" but is clear that the government has opportunity to prevent, rather than encourage, a problem if it can discourage the smoking of "little cigars" while at the same time not encouraging the smoking of cigarettes. This Department has responsibility for the health of the citizens of the United States and will do its utmost to provide adequate and appropriate information about the health hazards of smoking "little cigars" as rapidly as this information is developed.

Since "little cigars" appear to be substitutes for cigarettes rather than the usual cigar, it is my personal opinion that "little cigars" should be subject to the same regulation regarding warnings and advertising and the FCC fairness doctrine in broadcasting advertisements as are cigarettes.

Sincerely yours,

JESSE L. STEINFELD, M.D.,  
*Surgeon General.*

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FEDERAL TRADE COMMISSION,  
*Washington, D.C., January 26, 1973.*

HON WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN MAGNUSON: This is in response to your letter dated December 29, 1972, inviting recommendations for legislation which would affect the marketing of small cigars.

A copy of the Commission's Report to Congress on Cigarette Labeling and Advertising dated December 31, 1972, is enclosed. Among the recommendations for legislation included in this Report is one which urges amendment of the definition of the term "cigarette" used in the Public Health Cigarette Smoking Act.

The Commission believes that the public interest would be better served by a definition which would classify all rolls of tobacco weighing less than three pounds per thousand as cigarettes, without regard to the substance in which they are wrapped or the type of tobacco used in the filler. Such an amendment would have the effect of reclassifying as "cigarettes" all tobacco products now designated "small cigars" for purposes of the prohibition of broadcast cigarette advertising imposed by Section 6 of the Public Health Cigarette Smoking Act. This suggested change would also have the effect of requiring packages of "small cigars" to bear the same warning statement as cigarette packages. The Commission's reasons for recommending this change are discussed in detail on page 14 of the enclosed Report.

By direction of the Commission, Commissioner MacIntyre abstaining from the action of the Commission in recommending legislation to include small cigars because he feels that the Commission should have more information.

MILES W. KIRKPATRICK,  
*Chairman.*

Enclosure.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,  
*Washington, D.C., April 2, 1973.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the Department's recommendations with respect to federal policy on little cigars.

The 1973 report on the health consequences of smoking was transmitted to Congress earlier this year. A portion of the report discusses the health aspects of little cigars and concludes that to the extent that these little cigars are inhaled, they pose health hazards substantially similar to those of cigarettes.

The Administration is now studying the relationship of federal policy on cigarettes to federal policy on little cigars. We will be in touch with you further upon completion of this review.

Sincerely,

CASPAR W. WEINBERGER,  
*Secretary.*

## ADDITIONAL VIEWS OF SENATOR MOSS

While I concur with the Committee's decision to report out S. 1165, the Little Cigar Act of 1973, I continue to feel that more far-reaching legislation is necessary in order to prevent recurring attempts to undermine the expressed intent of Congress in eliminating broadcast advertising for certain tobacco products. In my view it would be more appropriate for the Congress to enact legislation which would make it unlawful to advertise *any* tobacco or tobacco product in any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission. In that way, we would not be faced periodically and repeatedly with the kind of intensive effort necessary to achieve voluntary solutions and thus preempt the need for further legislative consideration of advertising in the electronic media of tobacco products.

It is completely conceivable that unless such a complete and thorough effort is made, the Congress will be faced once again within a very few years with additional legislation to regulate the advertising of other tobacco products. In lieu of this haphazard approach to regulation of tobacco advertising, I am seriously contemplating offering an amendment to eliminate all tobacco advertising from the broadcast media as an alternative to the bill affecting only little cigars.

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CHAPTER VII. THE LIFE OF ST. AUGUSTINE

The first part of the life of St. Augustine is a history of his early years, from his birth in the city of Tagaste, in the province of Numidia, to his conversion to Christianity. He was born in the year 354, and was educated in the liberal arts at the university of Carthage. He then went to Rome, where he studied law, and afterwards to Milan, where he was converted to Christianity by the preaching of St. Ambrose. He then returned to his native country, and became a priest, and afterwards a bishop of Hippo. His most famous work is his "Confessions," which is a history of his own life, written in a simple and plain style. He also wrote many other works, including a "City of God," which is a treatise on the nature of the Christian Church, and a "Trinity," which is a treatise on the doctrine of the Trinity. He died in the year 430, and was buried in the city of Hippo.