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## Local view: Taxing our way to higher crime

By MICHAEL LaFAIVE and TODD NESBIT Feb 13, 2016

Sen. Mike Gloor wants to see Nebraska hike the excise tax on cigarettes by more than 234 percent, from 64 cents to \$2.14. The senator's intentions may be good but the Cornhusker State risks a massive increase in cigarette smuggling and other harmful consequences if this bill is adopted.

Smuggling may be as old as civilization and taxes. People have made a living — or at least supplemented their incomes — by covertly moving goods across borders, often to avoid a tax or import duty. Cigarettes are a popular item to smuggle because they are lightweight (and therefore easily transportable) and it is possible to make massive profits by shipping smokes even short distances.

We have attempted to estimate the degree to which this occurs in the continental United States by comparing legal-paid sales of cigarettes to reported smoking rates for each state. Nebraska's 2013 smuggling rate was a puny 2.8 percent of total cigarette consumption in the state (legal and illegal). But if the proposed bill, LB 1013, is adopted that rate will rocket to 32.3 percent of the total market, putting Nebraska 5th overall behind Rhode Island, a perennial cigarette smuggling state.

We break our overall smuggling rates into two major parts: casual and commercial smuggling. A casual smuggler typically crosses a nearby border or shops on the Internet to save some money on items bought for personal consumption. (Some states permit a small amount of legal cross-border purchases but our model accounts for that.) A commercial smuggler, meanwhile, brings in large shipments from long distances as a business enterprise. In our model, about 17 percent of smuggling in the future would be of the casual sort. It is easy to see why.

Nebraska's borders are touched by six other states, and all of them have lower excise tax rates on tobacco. On average, Nebraska's neighbors impose a tax of only 96.5 cents, but Missouri imposes only a 17-cent tax. If Nebraska's tax is raised, especially to over two dollars, people who live near a neighboring state would have every incentive to buy smokes there and save a buck. We have seen this play out elsewhere, and we are not the only scholars to report high rates of tax avoidance when it comes to cigarettes.

Last February, the Institute of Medicine and National Academy of Sciences published a study to estimate the frequency of smuggling. It gave a reasonable range of cigarette smuggling (or tax avoidance and evasion) of between 8.5 percent and 21 percent of all cigarettes purchased. That same report said our research suggested a national smuggling rate of 13.5 percent. Those are just national averages; individual states can have much higher rates.

Illicit cross-border activity is not the only problem associated with confiscatory excise tax rates. Some illegal cigarette trafficking in the United States have been associated with murder-for-hire plots; financing of terrorist groups overseas; steps to adulterate cigarettes (which can leave them more unhealthy); counterfeiting; violence against police; corruption of government officials — including police officers — and the substitution of one cigarette product for a more potent and dangerous one.

There is an "iron law of prohibition" that nearly guarantees a targeted product will become more potent. As efforts to thwart their use "becomes more intense the potency of prohibited substances increases." While cigarettes are not illegal, government-imposed price increases have led to what we call "prohibition by price." When that happens, people do a lot of things that would make you think the product is actually prohibited by law. As excise tax on cigarettes increases, people begin substituting more potent nicotine (like roll your own cigarettes with no filter) in place of traditional brands.

A better idea than hiking taxes is to cut existing spending to finance those items that are most important to the person advocating the increase. At a minimum, the hike should leave Nebraska with a rate that is no more than the average of surrounding states. This would raise some revenue while militating against the rampant smuggling foretold by our model.

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