



NEW YORK STATE SENATOR

Jeffrey D. Klein

## New Analysis Shows New York City Losing Up to \$150 Million a Year from Internet Cigarette Websites

JEFFREY D. KLEIN April 5, 2009



### Weiner & Klein Announce New Legislation to Shut Down Internet Tobacco Smuggling

New York City – With the federal government raising new taxes on cigarettes, a new study shows that internet tobacco sales are cutting a deep hole into the city's tax revenue.

Representative Anthony D. Weiner (D – Brooklyn and Queens), a member of the House Judiciary Committee, and State Senator Jeff Klein (D – Bronx), Deputy Majority Leader,

released a new report today showing that New York City is losing up to \$150 million in revenue from untaxed cigarettes purchased over the Internet. Weiner announced Congress will soon consider legislation to ban the mailing of cigarettes – effectively shutting down these websites.

When purchasing cigarettes in a retail store, consumers pay \$2.75 per pack for the State excise tax and \$1.50 per pack for the City excise tax. There is also an 8.375% sales tax that the consumer pays on the entire sale price. So a carton of cigarettes includes a combined \$4.25 City and State tax plus sales tax. Smokers buying cigarettes online are still required to pay these City, State and sales taxes, but cigarette sites almost never report the sales to state and local governments.

This week the federal cigarette excise tax was increased from 39 cents to \$1.01 to help fund an expansion of the State Children's Health Insurance Program. The average price per pack in New York City will now approach \$10. While the higher cigarette taxes will help curb the deadly consequences of smoking, an unfortunate consequence of increased cigarette taxes is greater incentives for black market sites.

#### Highlights of New Online Cigarette Sales Analysis

- With city smokers representing between 10% and 20% of the state's online cigarette purchasers, the city is losing between \$50 million and \$150 million in taxes each year.
- According to this analysis, New York State loses between \$370 and \$500 million a year in tax revenue from cigarette sales via online cigarette sales.

- The average cost of a carton of Marlboro cigarettes on the internet is \$41.76. The average cost of a carton in New York City with all taxes and fees is approximately \$95.
- The City loses out on an average \$18.50 per carton in untaxed cigarettes sold over the internet. The average annual tax revenue lost is as much as \$148 per New York City smoker.
- Of the more than 2.7 million smokers statewide, an estimated 1 million, or 28%, live in the city.

According to data from the New York State Department of Tax and Finance and a recent report from the New York Association of Convenience Stores, Native Americans in New York State sell approximately 30 and 40 million cartons of cigarettes. Additionally, based on market data New York State tribes represent approximately 90% of sales over the Internet. Due to the highest cigarette excise tax in the nation of \$42.50 per carton, industry experts suggest that New York City consumers represent between 10% to 20% of the sales online. As a result, Rep. Weiner's office estimated that 3 million to 8 million cartons of cigarettes are purchased online by New York City residents. This translates into \$50 - \$150 million annually in revenue lost by New York City from cigarettes sold over the Internet.

Congress will soon consider Weiner's Prevent All Cigarette Trafficking Act, which makes it a felony for selling tobacco in violation of any state tax law and effectively ends internet tobacco smuggling by requiring the United States Postal Service to stop shipping cigarettes. FedEx, UPS, and DHL have already agreed not to mail tobacco.

Rep. Weiner said, "Cigarette smuggling means one thing for New York: lost revenue. It's time to pull the plug on these backdoor internet sales."

Senator Klein said, "The sale of cigarettes over the Internet with no restrictions and without collecting taxes jeopardizes the health and welfare of our children and robs our state blind. During these tough fiscal times, taxing cigarettes sent through the mail would bring in millions of dollars in critical revenue that could help get New York back on the road to recovery."

Klein's 2007 report, *Up in Smoke: Buttlegging, Cybersmokes, and the Disappearance of New York State Tax Revenue*, found that New York State has lost approximately \$270 million in uncollected cigarette tax revenues from Native-American owned businesses, and that minors routinely purchase cigarettes illegally over the internet. Most of the missing revenues are earmarked to fund the Health Care Reform Act (HCRA) of 2000, which insures over 1.3 million New York families, children, and seniors.

In this legislative session Senator Klein has re-introduced legislation which authorizes the state to offer a 50/50 revenue split with Native American tribes who agree to uphold the law and collect taxes on sales to their non-tribal customers. Klein also called for better state enforcement of existing tax laws and his 2000 law which bans the direct sale of cigarettes over the internet to New York consumers.

Klein's 2000 law, the first of its kind in the nation, banned most direct shipments of cigarettes to consumers and imposed tougher penalties for cigarette tax evasion in addition to closing a much abused loop-hole through which tax evading retailers could reapply for revoked licenses through a proxy.