

Good Morning, and thank you, Chairman Browne and members of the Senate Finance Committee, for giving me the opportunity to speak to you today.

My name is Gary McGuirk Jr, I am President of Liberty USA located in Pittsburgh, PA

- We have been in business for 50yrs
- I am the 3<sup>rd</sup> generation of ownership at Liberty USA
- We currently employ 330 people...310 in Commonwealth of PA
- We sell to over 1,000 convenience stores in PA that employ approx 10,000 people
- We sell a large variety of products to the convenience store segment in 6 states...approx 10,000 skus
- I currently serve on the AWMA board of directors which represents convenience store distributors like us across the United States
- I also serve on the board of HASNA in Washington D.C. Hasna's main goal is to bring peace and capitalism to middle eastern countries like Turkey and Cyprus
- I serve as a volunteer for a group called OTA (Operation Troop Appreciation). OTA is a non-profit organization that seeks to provide supplies, necessities to our troops in harm's way

Today, I would like to talk to you about the state of our industry and the state of the tobacco industry:

- As you know, PA has recently instituted smoking bans on indoor smoking. This has drastically reduced consumption by limiting the opportunities smokers have to enjoy a cigarette. As you know, reductions in consumption ultimately lead to reductions in excise tax collections
- PA has recently instituted a new "FIRE SAFE" cigarette standard. This new standard has negatively affected the taste and quality of cigarettes in PA thus leading, again, to reduced consumption and reduced excise tax collections. We are also starting to see border consumers crossing into WV and OH to purchase their cigs.
- We are also facing the possibility of a Federal Excise Tax (FET) increase of \$6.10 per carton of cigarettes in April of 2009. This will lead to a reduction in legal consumption of at least 7 – 10% across the country in a category that is already decreasing 2 – 4% per year nationally
- If you noticed, a said "legal consumption" will decrease. What we have found is that any type of state excise and/or federal excise tax that increases the end price of cigarettes leads to illegal and illicit trade. This is an unintended consequence of excise tax increases. Basically, consumption remains steady but it moves to illegal systems of trade like the internet and/or grey markets (i.e., trunk slammers)
- When consumption moves to these illegal channels, good tax paying retailers and wholesalers have a hard time paying the bills (New York is a prime example) and the states have trouble collecting their taxes.
- Higher taxes also lead to increase theft...(i.e., hi-jacked trucks, warehouse break-ins, employee theft, etc...) due to large cargo value and demand for product. This forces us to invest in higher, more costly security measures to protect ourselves and our drivers.
- Higher SET's lead to cross border sales

- In some states, higher SET's have lead directly to a loss in tax collections (i.e., New Jersey, New York)
- Along with lost sales and theft, higher SET's and FET's increase distributors and retailer's inventory requirements, cost of doing business and accounts receivable. Distributors collect tax for the state, when taxes go up, our collections and bad debt also go up.
  1. We pay 3 days in advance of receiving cigs
  2. We purchase stamps well in advance of affixing them to cartons
  3. We carry 1-2 weeks of inventory
  4. Our industry typically collects at 17 days on average
  5. 50% of our volume is pass through tax collections
  6. 50% of our bad debt is pass through debt
  7. As you can see, this is a substantial cash burden for us; some do not survive
- In conclusion, lost sales, theft, illicit trade, increased costs of business and bad debt put thousands of companies and thousands of PA residents in danger of lost jobs. These things also lead to reduced excise tax collections for the Commonwealth of PA

Thank you very much Chairman Browne and members of Senate Finance Committee.

Gary McGuirk Jr

President

Liberty USA, Inc.

920 Irwin Run Rd

West Mifflin, PA

15122

412-326-1046