

# Proposed tax hike and flavor prohibition recipe for lawlessness

Michigan could soon have the fourth-highest smuggling rate in the nation

By Michael D. LaFaive | March 2024

Each year since 2008, the Mackinac Center has estimated the degree to which cigarettes are smuggled in and out of the Great Lake State, as well as other states. Our latest estimate is that 17.1% of all cigarettes consumed in Michigan in 2022 were a function of tax evasion and avoidance.

We expect that figure to rocket to as high as 40.7% if recently introduced legislation to raise cigarette excise taxes and ban flavored nicotine products is enacted. Such a smuggling rate would be nearly 6 percentage points higher than our previously estimated high for the state, measured in 2006. We expect the proposed cigarette tax hike by itself would take nearly \$377.5 million more from consumers. Absent smuggling, the state's tax haul would be larger.

Hiking taxes and prohibiting the sale of flavored products, such as menthol cigarettes, may also introduce a host of other, ugly unintended consequences. Menthol cigarettes made up 37% of

U.S. cigarette sales in 2021, according to the Centers for Disease Control and Prevention.

Our estimates use a methodology that compares the smoking rate of each state to its amount of legal paid sales. The difference between cigarettes getting

smoked and those being sold legally represents our smuggling rate. We also adjust for factors that might influence our findings: Native American reservations, cigarette tax rates, population size, health trends and international borders with Canada and Mexico.

Our latest estimates, published in concert with the Washington, D.C.-based Tax Foundation, continue to show New York as America's number one smuggling state, at 54.3%. That is, more than half of all the cigarettes consumed in the Empire State in 2022 were smuggled. New York is followed by California (46.7%), New Mexico (41.2%), Massachusetts (39.7%) and Washington state (36.8%).

**“Michigan lawmakers should not pursue more tax hikes and a new form of Prohibition.”**

The Golden and Bay states, respectively, have high state cigarette taxes and were the first two states to ban flavored products such as menthol cigarettes and other related products.

Much of the trafficked smoke comes from states with lower excise taxes, but not always. Some come through America's ports and over the Mexican border. In fact, some evidence suggests that Mexico's hyperviolent drug cartels have been pushing menthol smokes into California since the state's ban on flavored products took effect.

These cartels are known for distributing fentanyl or methamphetamine into the Midwest, including Michigan specifically, and are expanding into the cigarette business. It would not be hard to add menthol cigarettes to an established distribution network. It's only a matter of time before such illicit cigarettes arrive in Michigan courtesy of cartels. They may be coming here already.

In Massachusetts last month, law enforcement executed 29 search warrants in a single bust to stop one trafficking cell. The investigation turned up 280,000 electronic nicotine delivery systems, flavored cigars, and untaxed cigarettes, which were confiscated along with marijuana-related products.

"Field personnel are routinely encountering or seizing untaxed menthol cigarettes originally purchased in other states," the Bay State's illegal tobacco task force reported bluntly on Feb. 28. It also mentioned flavored electronic nicotine delivery products and cigars. This report should serve as a warning to Michigan lawmakers insistent on a big new cigarette tax hike and bans of flavored favorites.

If Michigan adopts a ban on flavored products and increases its excise tax, it could leap to having the fourth-highest smuggling rate in the nation, up from 19th. That's a heady change that would likely lead to unintended consequences beyond smuggling. Our state once had a rich history of cigarette tax-related violence against people, property, and police. We've also dealt with brazen retail theft and hijackings, and it could all happen again with increased frequency.

One smuggling cell that moved products from North Carolina to Michigan during the 2000s was caught selling illicit smokes in our state. It has used its profits to supply a terrorist organization — Hezbollah — with cash and equipment.

The smuggling cell's larger network also trafficked in baby formula and Viagra. This might be funny if all such smuggling involved relatively innocent goods, but it doesn't. One cigarette smuggler sentenced in California conspired to bring in from China smokes, drugs and even shoulder-fired missiles capable of downing aircraft.

Michigan lawmakers should not pursue more tax hikes and a new form of Prohibition. They should instead use existing resources to help smokers quit and persuade non-smokers never to start.

Available online at: [www.mackinac.org/v2024-09](http://www.mackinac.org/v2024-09)



**Michael D. LaFaive** is the senior director of the Morey Fiscal Policy Initiative for the Mackinac Center for Public Policy



This piece was originally published on the Mackinac Center website. Permission to reprint in whole or in part is hereby granted, provided that the author and the Mackinac Center are properly cited.

 [www.mackinac.org](http://www.mackinac.org)

 [/MackinacCenter](https://www.facebook.com/MackinacCenter)

 [@MackinacCenter](https://twitter.com/MackinacCenter)