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March 10, 2010

The Honorable Evan Bayh
131 Russell Senate Office Building
Washington, DC 20510

Dear Senator Bayh,

Attached is a letter that I have joined with my colleagues across the country to members of congress showing our support of the PACT Act, Senate Bill 1027 currently being considered by the Senate.

The PACT Act would require Internet cigarette retailers to abide by state tax requirements just like an in-state retailer, and prohibit delivery of product unless taxes have been collected. Based on reports from only one Internet seller (out of hundreds), we estimate that Indiana alone loses at least $600K annually in state excise tax from illegal sales and manufacturers who avoid their tax obligations.

While I support state sovereignty, federal regulation in this area will be much more effective in limiting Internet sales of tobacco products which are used by individuals who seek to avoid their own sales tax obligations, as well as help states with efforts to reduce sales to minors.

This is a matter that has been of importance to Indiana for several years and the Attorney General has reached out to you supporting versions of the PACT Act in 2003 and again in 2007.

Thank you for your consideration and help to the enforcers of tax and tobacco laws in our individual states.

Sincerely,

Gregory F. Zoeller
Attorney General

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March 9, 2010

All Members of the
United States Senate
Washington, D.C. 20510

Re: Senate Bill 1147, the "Prevent All Cigarette Trafficking Act of 2009" (PACT Act)

Dear Senators:

We, the undersigned Attorneys General, write to express our strong support for Senate Bill 1147, the "Prevent All Cigarettes Trafficking Act of 2009" (PACT Act). This bill is currently pending in the Senate and has broad, bipartisan support, including 20 United States Senator Co-sponsors. Passage of the PACT Act is imperative to preserve jobs, enhance both state and federal budgets, eliminate a potential funding source for terrorists, and protect the health of our nation's children.

Virtually all online tobacco retailers engage in illegal sales by: (1) failing to verify the age of their customers; (2) failing to report shipments of cigarettes to the tobacco tax administrator of the state into which such shipments are made as required by 15 U.S.C. § 375 et seq. ("the Jenkins Act"); (3) violating state laws regulating and/or prohibiting the shipment of tobacco products directly to individual consumers; (4) violating state tax laws; and/or (5) utilizing the Internet and the mail to complete illegal tobacco transactions, in violation of federal wire fraud and mail fraud statutes.

The PACT Act would curtail online sales of illegal tobacco products by:

- Amending the Jenkins Act to require all Internet retailers selling or delivering into a state to comply with all state laws relating to the collection of state and local taxes on cigarettes and smokeless tobacco products, just as if they were physically located within the state.

- Curtailing illegal activities of purveyors of contraband cigarettes where the final point of sale is to non-tribal members in other states. The PACT Act does not affect the important principle of tribal sovereignty.

- Stopping the ever-increasing number of rogue distributors of contraband tobacco products, seeking refuge from state regulation and taxes under the false guise of tribal sovereignty.

The PACT Act would also significantly help state budgets suffering from enormous deficits. The vast number of illegal Internet sales are hurting the economy by (1) draining sizeable tax revenues from the states; and (2) making it impossible for law-abiding tobacco sellers to compete with illegal Internet sellers whose entire business is premised on evading taxes and other payment obligations, and avoiding identification requirements for sales to minors.

What the PACT Act does not do:

- The PACT Act does *not* prevent lawful sales of tobacco products.

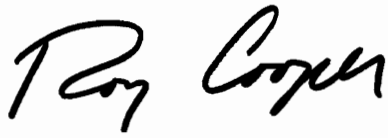
The need for federal regulation is imperative. The states have tried to stop these sales in a number of ways, but despite these efforts, have been unable to fully address the problem on a state-by-state basis. The tools contained in this legislation would significantly strengthen the ability of law enforcement, at both the state and federal levels, to put an end to illegal online sales of tobacco products which evade taxes, a necessary revenue source for many states, are suspected to be linked to terrorist operations, and, most disturbingly, place tobacco products in the hands of children.

We thank the 20 Members of the United States Senate who are co-sponsors of the PACT Act for their leadership and efforts on behalf of S. 1147 and we join together to urge Congress to enact this important legislation.

Respectfully,

Martha Coakley
Attorney General of Massachusetts

Jon Bruning
Attorney General of Nebraska



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