



NATIONAL SHERIFFS' ASSOCIATION

December 17, 2023

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave SE
Washington, D.C. 20528

Dear Secretaries Becerra and Mayorkas, and Attorney General Garland:

On behalf of the National Sheriffs' Association, representing 3,081 sheriffs nationwide, we urge the Federal Multi-Agency Task Force to maintain swift and sustained enforcement actions to combat illicit vapor products. The formation of this task force was a crucial step in addressing a serious threat to the communities Sheriffs are sworn to protect. These products not only endanger public health but also strain local law enforcement resources and exacerbate existing interior enforcement challenges. These illicit products must be regulated at the federal level.

We are quite concerned that the task force has not convened the national, local, and state law enforcement organizations to solicit our collective extensive experience and insights. Since the announcement of the establishment of the taskforce in June, we have not received any guidance, coordination, or engagement request from members of the taskforce, including FDA or DOJ. Unaware of the strategy and enforcement actions already in progress, we rely solely on publicly available information such as the July announcement of FDA and CBP's joint operation seizing \$76 million in illegal vapor products back in July.¹ While we are encouraged by this progress, we strongly urge the task force to continue and expand its enforcement efforts. Moreover, we request regular briefings, and collaborative conversations to enhance coordination and maximize the impact of these critical operations.

Without a sustained and comprehensive federal enforcement effort, the Chinese Communist Party (CCP) will continue to profit from the sales of illicit vapor products to American youth. These products have not undergone FDA review, evaluation, or authorization, leaving their chemical composition and potential dangers entirely unknown. It is undisputed that these illicit products originate primarily from China and continue to flood into our communities where they are widely available. We are very concerned the unknown impacts this could have on our youth.

It only takes one "bad batch" of unknown substances in illicit vapor products to create serious health impacts in youth, as evidences in 2020 when illicit vapor products containing vitamin E acetate poisoned thousands.² We cannot tolerate the ongoing threat these illegally trafficked products pose to public health

¹ FDA News Release, "\$76 Million in Illegal E-Cigarettes Seized in Joint Federal Operation," Oct. 22, 2024, at <https://www.fda.gov/news-events/press-announcements/76-million-illegal-e-cigarettes-seized-joint-federal-operation>.

² CDC, "Update: Characteristics of a Nationwide Outbreak of E-cigarette, or Vaping, Product Use—Associated Lung Injury — United States, August 2019–January 2020", January 24, 2020, at

and safety. Strong, decisive federal action is urgently needed to protect our communities from these dangers.

The prevalence of these illicit products invites bad actors into our communities. In the absence of comprehensive and sustained federal enforcement, local law enforcement is increasingly forced to act independently, as shown by a recent enforcement action by the Rensselaer County Sheriff's Office in coordination with the health departments to seize illicit vapor products.³ While we applaud local and state efforts, they are not a sustainable solution. Without a coordinated, well-organized, and adequately funded federal multi-agency task force to take lead, these local enforcement actions, while laudable, barely scratch the surface of the ongoing problem. Without large scale enforcement, these local actions continue to divert state and local resources from other local priorities including combatting the fentanyl crisis, addressing violent crime, and countering cartel activity.

Finally, illicit vapor products are the main driver of youth usage. While the recently released National Youth Tobacco Survey (NYTS) revealed an encouraging decline in youth tobacco use, it also highlighted that the top 3 brands used by youth are illicit Chinese brands – Elf Bar, Breeze, and Mr. Fog.⁴ Reports indicate that illicit disposable product availability has surged by over 1,500%,⁵ often through marketing to youth on platforms like Tik-Tok.⁶ In short, Chinese companies and the CCP have inundated the U.S. market with unregulated, illicit products, profiting an estimated \$3.5 billion a year from U.S. citizens without facing any consequences.⁷

We urge the task force to sustain and increase its efforts to combat the influx of these illicit products streaming across our borders. Additionally, we request meaningful engagement and coordination from the taskforce with Sheriffs and other local law enforcement. We'd like to be partners in this effort, which will require regular updates from the taskforce on its strategies, efforts, and progress, while also incorporating the concerns and insights from local law enforcement.

Thank you for your attention to this pressing issue. We look forward to collaborating to safeguard our communities from the threats posed by illicit vapor products.

Sincerely,



Sheriff Kieran Donahue
Canyon County, ID
President
National Sheriffs' Association



Jonathan Thompson
Executive Director, CEO
National Sheriffs' Association

<https://www.cdc.gov/mmwr/volumes/69/wr/mm6903e2.htm#:~:text=%E2%80%A0%E2%80%A0-Vitamin%20E%20acetate%20is%20strongly%20linked%20to%20the%20EVALI%20outbreak,using%20FDA%2Dapproved%20cessation%20medications.&text=They%20should%20contact%20their%20health,young%20adults%2C%20or%20pregnant%20women.>

³ De La Fuente, James, News 10, Aug 20, 2024, at <https://www.news10.com/video/top-video/sting-operation-for-flavored-tobacco-vapes/>.

⁴ FDA, Results from the Annual National Youth Tobacco Survey, 2024, <https://www.fda.gov/tobacco-products/youth-and-tobacco/results-annual-national-youth-tobacco-survey>.

⁵ Perrone, <https://apnews.com/article/fda-vapes-vaping-elf-bar-juul-80b2680a874d89b8d651c5e909e39e8f> (Jun 26, 2023).

⁶ Page D. Dobbs, Eric D. Schisler, Charlotte McCormick, #Discreetshipping: Selling E-cigarettes on TikTok. Nicotine Tob Res. (May 23, 2024). Epub ahead of print. PMID: 38778482.

⁷ The Associated Press, Elf Bar and other e-cigarette makers dodged US customs and taxes after China's ban on vaping flavors <https://apnews.com/article/vaping-elf-bar-ecigarettes-china-teens-77033584983ad47fc5795baa46b4705e>.