ILLEGAL TOBACCO TASK FORCE

Public Meeting #55 Minutes

Meeting Date: Thursday, May 18, 2023
Meeting Time: 1:00 pm
Meeting Location: Via Zoom conferencing, dial (646) 558-8656, Meeting ID# 819 6919 5471, Passcode 634244
Board Attendance: John Hayes (DOR), Lieutenant Colonel Brian Connors (MSP), Jackie Doane (DPH), John Melander (EOPSS), Nicholas Ogden (AGO), Nicole Nixon (AGO), and Dan O'Neil (TRE).
Public Attendance: 18 attendees

Call to Order:
• Mr. Hayes called the meeting to order at 1:03 PM.
• Mr. Hayes informed all participants that this meeting will not be recorded by Zoom and that Cole Doherty-Crestin will take notes to complete the minutes, which will be posted to the website.

Opening Remarks:
• Mr. Hayes thanked everyone for attending. Mr. Hayes welcomed John Melander, new board member designee from the Executive Office of Public Safety and Security. Mr. Hayes noted Patricia Henley's retirement and thanked her for her service to the Commonwealth of Massachusetts. Mr. Hayes asked the board to introduce themselves. Jackie Doane stated she is serving as Patricia Henley's replacement for today's meeting.
• Mr. Hayes indicated the purpose of today's meeting is to review tobacco investigation case studies provided by the Department of Revenue (DOR) and the Massachusetts State Police (MSP).

Approval of Minutes from Meeting #54 on February 22, 2023:
• Cole Doherty-Crestin emailed a copy of the minutes for Meeting #54 to Task Force members prior to this meeting. Mr. Hayes asked members if there were any recommended edits to be made and hearing none. Mr. Hayes stated that with no objection, the minutes were approved and will be posted to Task Force website.

Case Study – Tobacco Investigation (DOR):
• Mr. Hayes introduced Michael Azevedo, DOR Criminal Investigation Bureau. Mr. Azevedo provided an overview of a recent tobacco smuggling investigation conducted by DOR. The presentation is provided at the end of this document.

Case Study – Tobacco Investigation (MSP):
• Mr. Hayes introduced Sgt. Patrick Johnson, Massachusetts State Police. Sgt. Johnson provided an overview of a recent tobacco smuggling investigation conducted by MSP. The presentation is provided at the end of this document.

Member Agency Updates & Other Business

• Mr. Hayes provided an update on DOR's ENDS disposal process. Mr. Hayes noted that DOR's process is nearly finalized, and that disposal of ENDS products is expected to begin as early as the end of this month.

Closing Remarks

• Mr. Hayes stated the next meeting will held in late-June or early July. Mr. Hayes kindly thanked board members for their attendance. Mr. Hayes asked whether there was a motion to end the meeting. Dan O'Neil approved the motion. Nicole Nixon seconded. Mr. Hayes thanked everyone for attending and concluded the meeting at 1:32 PM.

If any member of the public wishing to attend this meeting seeks special accommodations in accordance with the Americans with Disabilities Act, please contact DOR Human Capital Development at 617-626-2355.

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
One Ashburton Place, Room 2133
Boston, Massachusetts 02108
Tel: (617) 727-7775
TTY Tel: (617) 727-6618
Fax: (617) 727-4764
www.mass.gov/eopss

MAURA T. HEALEY
Governor

KIMBERLEY DRISCOLL
Lieutenant Governor

TERRENCE M. REIDY
Secretary

March 15, 2023

Governor Maura Healey
Massachusetts State House
Room 360
Boston, MA 02133

Dear Governor Healey:

Under, MGL Ch 64C, Section 40 I appoint John Melander as my designee and representative to the Illegal Tobacco Task Force. You may contact John Melander at 617-727-7775 and via email at John Melander@mass.gov.

Please do not hesitate to contact me if you have any questions. Thank you very much for your attention to this matter.

Sincerely,

Terrence M. Reidy,
Secretary Executive Office of Public Safety and Security

cc: William Francis Galvin, Secretary of the Commonwealth

CIB TOBACCO SMUGGLING INVESTIGATION

Receipt of Info

- In October of 2021, CIB was notified of an inspection conducted by investigators of the RI Division of Taxation after receipt of a tip from a concerned citizen alleging that an individual was attempting to sell counterfeit ENDS products to a retail store employee in Providence, Rhode Island.
- The individual explained to the investigators that he was a delivery driver for a tobacco distributor in Southeastern, Massachusetts.

RI Inspection of Vehicle

- Investigators located a large quantity of flavored ENDS disposable devices, including Crave and Flair Plus.
- There were numerous invoices for convenience stores in MA and RI dating back to 2020. The invoices reviewed totaled approx. 100k or more.

Tobacco Licenses & MA SOC

- CIB determined that the business held Cigarette/Smokeless, Cigar/Smoking, and ENDS Retailer Licenses with the DOR. However, the business had not applied for any distributors licenses with the DOR.
- CIB learned that the business registered a new corporate officer with the SOC on the same date of the RI inspection.

Analysis of Bank Operating Account

CIB identified approx. $663k in check deposits from retail stores in MA, RI, CT, and other states in 2020 and 2021.

CIB identified approx. $1 million dollars in check withdrawals to in-state and out-of-state distributors in 2020 and 2021.

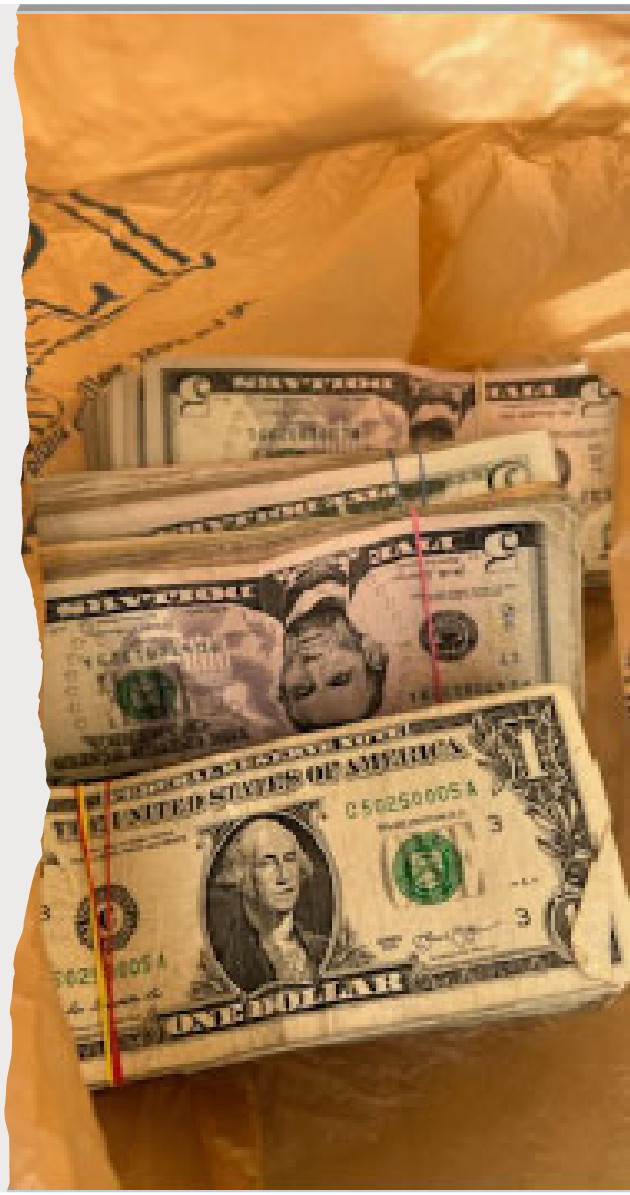
CIB's Review of the Target's ENDS Purchases from an Out-of-State Distributor

In May of 2022, CIB received invoices from a non-resident unlicensed ENDS distributor documenting the sales of taxable ENDS products to the target business.

CIB analyzed invoices provided by the non-resident ENDS distributor and determined that the target purchased approx. $159K in taxable ENDS products from the distributor resulting in a tax loss of approx. $119K to the Commonwealth.

Police Traffic Stop of Delivery Driver

- On May 24, 2022, PD performed a motor vehicle stop of white delivery van in Southeastern, Massachusetts.
- Upon PD's search of the vehicle, officers discovered several cardboard boxes containing ENDS disposable devices, $2,000 in US currency, and several ledgers.
- The operator of the delivery van told officers that he purchases ENDS products from an Indian male at our target location.
- CIB observed the same delivery van routinely enter and exit the target location during prior surveillances.
- PD did not seize the ENDS products as it can be difficult to determine whether the products are taxed or not.



Surveillance at Target Location

- On June 28, 2022, CIB investigators conducted physical surveillance at the target location.
- During the afternoon, investigators followed a delivery driver to a retail store in Southeastern, Massachusetts.
- The delivery driver parked at the back of the store where he met with a store employee.
- Both individuals carried two ENDS master cases into the store via a rear entrance.

Inspection at Retail Store

- CIB investigators initiated a tobacco and ENDS compliance inspection of the retail store subsequent to the delivery drivers departure.
- During the inspection, the investigators located several Crave Max and Luto ENDS master cases (mostly flavored) in the basement of the store in addition to cigar products (flavored and non-flavored). The owner of the store admitted that a delivery of ENDS was made to the store that same day. The owner said that he was not provided an invoice for the order.
- The investigators seized a total of 1,674 ENDS and 4,033 cigar products from the retailer.

CIB & MSP ADMINISTRATIVE SEARCH WARRANT & INSPECTION

JULY 13, 2022

- During the summer of 2022, CIB investigators & MSP Officers executed a Section 8 administrative search warrant and a tobacco & ENDS compliance inspection of the unlicensed distributor in Southeastern, Massachusetts.
- CIB seized 20,338 smokeless tobacco pouches, 11,446 ENDS products, 4,800 Newport Menthol cigarettes packs affixed with NH excise tax stamps, and 2,455 cigar products with a total estimated tax loss of approx. $86K. The untaxed tobacco products were discovered in a separate business attached to the target location.
- CIB investigators obtained a signed affidavit from the owner of the other business stating that he rented the storage room to the target.
- In addition to the illegal tobacco, CIB investigators seized purchase and sales invoices that were located in the target warehouse.

ENDS/OTP Excise Tax Evasion RE Invoiced Sales to Massachusetts Retailers				
Year	ENDS Tax Loss	Cigar/Smoking Tobacco Tax Loss	Smokeless Tobacco Tax Loss	Combined Tax Loss
2020	$0.00	$1,294.32	$0.00	$1,294.32
2021	$136,646.71	$46,285.70	$12,012.02	$194,944.43
2022	$396,331.61	$28,449.69	$7,971.41	$432,752.71
No Invoice Date	$2,358.66	$3,478.94	$0.00	$5,837.60
Grand Totals	**$535,336.98**	**$79,508.65**	**$19,983.43**	**$634,829.06**

Smokeless Tobacco Excise Tax Evasion RE Invoiced Purchases from [redacted]		
Year	Smokeless Purchase Amount	Smokeless Tax Loss Amount
2020	$2,419.00	$5,079.90
2021	$42,108.50	$88,427.85
2022	$33,540.50	$70,435.05
Grand Totals	**$78,068.00**	**$163,942.80**

Distributors	ENDS Tax Loss	Cigar/Smoking Tax Loss	Smokeless Tax Loss	Combined Tax Loss Amount
[redacted]	$535,336.98	$79,508.65	$19,983.43	$634,829.06
[redacted]	N/A	N/A	$163,942.80	$163,942.80
Unnamed Distributor	$4,548.38	N/A	N/A	$4,548.38
Grand Totals	**$539,885.36**	**$79,508.65**	**$183,926.23**	**$803,320.24**

Referral to Audit/MEB for an Assessment

- CIB recommended an assessment of $939,654.93 against the unlicensed distributor for tobacco excise taxes due the Commonwealth, an assessment of a $5,000 civil penalty pursuant to MGL Chapter 64C § 7E (l)(1) for acting as an unlicensed ENDS distributor, and an assessment of a $5,000 civil penalty pursuant to MGL Chapter 64C § 7B (l)(1) for acting as an unlicensed cigar distributor.
- Furthermore, the unlicensed distributor's Cigarette/Smokeless, Cigar/Smoking, and ENDS Retailer Licenses were revoked.

Commonwealth v. Springfield Man

2019-2020

Case Background

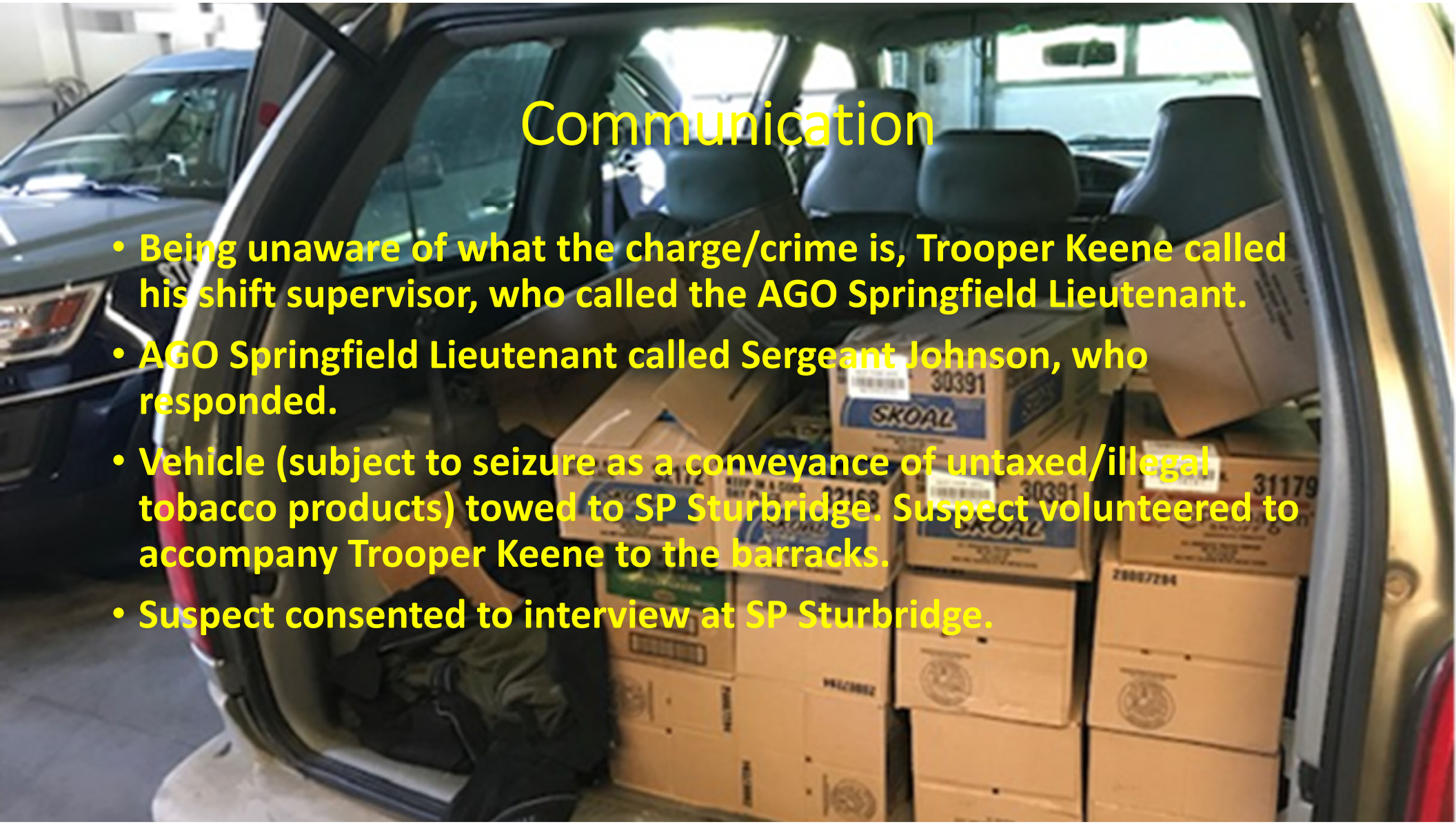
- March, 2019, UC buys and inspections were conducted at convenience stores in Westfield. These produced untaxed smokeless tobacco product seizures.
- Store owner provided his source of smokeless tobacco by name and provided a phone number. DOR and MSP both aware of this trafficker.
- Information provided by CT DOR indicated that they were aware of this target and had previously interacted with him, leading to seizures of untaxed products.
- CT DOR also aware of target's source of smokeless tobacco.

Target Observations

- AGO West Trooper assigned.
- Surveillance of the CT distributor begins in May and June, 2019. Target observed making purchases, loading his van, and returning to MA on multiple occasions.
- Affidavit begins for the investigation.

SP Sturbridge Traffic Stop

- July 1, 2019, Trooper Chris Keene of SP Sturbridge conducts a motor vehicle stop of a 2000 Chrysler Voyager on Route 84 for a traffic violation. Route 84 is a short stretch of highway between CT and the Mass Pike known for drug trafficking.
- Trooper Keene observed that the trunk was full up to the windows with what appeared to be smokeless tobacco products.
- Operator lived in Springfield and claimed to be delivering to a store in Tewksbury. Also claimed to be an employee of a wholesaler in CT. The wholesaler disagreed when Trooper Keene called them to confirm.



Communication

- Being unaware of what the charge/crime is, Trooper Keene called his shift supervisor, who called the AGO Springfield Lieutenant.
- AGO Springfield Lieutenant called Sergeant Johnson, who responded.
- Vehicle (subject to seizure as a conveyance of untaxed/illegal tobacco products) towed to SP Sturbridge. Suspect volunteered to accompany Trooper Keene to the barracks.
- Suspect consented to interview at SP Sturbridge.

Interview

- Suspect claimed to be exempt from tobacco excise taxes due to his company being “grandfathered.”
- Suspect admitted to being self-employed, not employed by CT distributor.
- Claimed to have a “Certificate” that allowed/grandfathered him and his company from paying typical state tobacco excise taxes. Stated that he made deliveries all over the Commonwealth, which he confirmed with his customer list of stores all over Massachusetts.
- Suspect allowed to leave with his vehicle, not his tobacco.

Inventory Approx $9k Wholesale Value

Item	Description	Location	Officer
1.	9 GRIZZLY SLEEVE 9 GRIZZLY LONG CUT PREMIUM SLEEVE	BOX 1	
2.	9 GRIZZLY SLEEVE 6 SKOAL CLASSIC MINT SLEEVE 1 COPENHAGEN SLEEVE	BOX 2	
3.	18 SKOAL MINT LONGCUT SLEEVE	BOX 3	
4.	18 SKOAL CLASSIC MINT LONGCUT SLEEVE	BOX 4	
5.	18 COPENHAGEN SLEEVE	BOX 5	
6.	18 COPENHAGEN LONGCUT SLEEVE	BOX 6	
7.	18 SKOAL MINT XTRA SLEEVE	BOX 7	
8.	18 SKOAL CLASSIC MINT LONGCUT SLEEVE	BOX 8	
9.	6 SKOAL CLASSIC STRAIGHT LONGCUT SLEEVE 5 COPENHAGEN WITNERGREEN LONGCUT SLEEVE 1 COPENHAGEN WINTERGREEN SLEEVE 1 GRIZZLY DARK WINTERGREEN LONGCUT SLEEVE 2 SKOAL WINTERGREEN XTRA SLEEVE 2 SKOAL CLASSIC MINT LONGCUT SLEEVE 1 COPENHAGEN MINT LONGCUT SLEEVE	BOX 9	
10.	18 KODIAK PREMIUM WINTERGREEN SLEEVE	BOX 10	
11.	18 KODIAK PREMIUM WINTERGREEN SLEEVE	BOX 11	
12.	18 KODIAK PREMIUM WINTERGREEN SLEEVE	BOX 12	
13.	18 KODIAK PREMIUM WINTERGREEN SLEEVE	BOX 13	
14.	18 GRIZZLY WINTERGREEN LONGCUT SLEEVE	BOX 14	
15.	18 GRIZZLY WINTERGREEN LONGCUT SLEEVE	BOX 15	
16.	18 GRIZZLY WINTERGREEN LONGCUT SLEEVE	BOX 16	
17.	18 GRIZZLY WINTERGREEN LONGCUT SLEEVE	BOX 17	
18.	18 GRIZZLY WINTERGREEN LONGCUT SLEEVE	BOX 18	
19.	18 GRIZZLY WINTERGREEN LONGCUT SLEEVE	BOX 19	
20.	18 GRIZZLY WINTERGREEN LONGCUT SLEEVE	BOX 20	
21.	18 GRIZZLY WINTERGREEN LONGCUT SLEEVE	BOX 21	
22.	18 GRIZZLY WINTERGREEN POUCHES SLEEVE	BOX 22	
23.	18 GRIZZLY WINTERGREEN POUCHES SLEEVE	BOX 23	
24.	18 GRIZZLY WINTERGREEN POUCHES SLEEVE	BOX 24	
25.	18 GRIZZLY WINTERGREEN POUCHES SLEEVE	BOX 25	
26.	18 GRIZZLY LONGCUT PREMIUM MINT SLEEVE	BOX 26	
27.	18 GRIZZLY LONGCUT PREMIUM MINT SLEEVE	BOX 27	
28.	18 GRIZZLY MINT POUCHES SLLEVE	BOX 28	

Inventory Continued

29.	4 GRIZZLY DARK LONGCUT WINTERGREEN SLEEVE 1 COPENHAGEN LONGCUT SLEEVE 1 SKOAL CLASSIC MINT LONGCUT SLEEVE 1 SKOAL WINTERGREEN POUCHES SLEEVE 2 SKOAL WINTERGREEN POUCHES TIN	PLASTIC BAG	
30.	20 TITAN PHILLIES CIGAR 3 TINS NATURAL AMERICA SPIRIT TOBACCO 1 TIN STOCKERS LONG CUT 4 SLEEVES GRIZZLY PREMIUM WINTERGREEN POUCHES 1 BAG PREMIER SLEECT CIGARETTE TOBACCO	BOX 29	
31.	4 KODIAK PREMIUM WINTERGREEN SLEEVE 2 SKOAL APPLE TOBACCO POUCHES 1 SKOAL MINT XTRA LONGCUT SLEEVE 1 SKOAL CHERRY TOBACCO LONGCUT SLEEVE 1 SKOAL CLASSIC MINT SLEEVE 1 COPENHAGEN ORIGINAL SLEEVE 2 COPENHAGEN WITNERGREEN LONGCUT SLEEVE 2 GRIZZLY WINTERGREEN LONGCUT SLEEVE 1 GRIZZLY DARK WINTERGREEN POUCHES SLEEVE 1 GRIZZLY PREMIUM WINTERGREEN POUCHES SLEEVE 2 BOXES BACKWOODS LEAF WRAPPER 1 BOX BLACK AND MILD 2 BOXES GAME GREEN CIGAR 2 BOXES GAME BLUE CIGAR 2 BOXES DUTCH MASTERS CIGAR	BOX 30	
32.	3 BAGS CRISS CROSS MENTHOL PIPE TOBACCO 3 BAGS CRIS CROSS ORIGINAL PIPE TOBACCO 2 BAGS GOLDEN HARVEST PIPE TOBACCO 2 BAGS ROUSECO 2 BAGS GAMBLER PIPE TOBACCO 4 BOXES GAME BLUE CIGAR 2 BOXES GAME RED SWEETS CIGAR 4 BOXES GAME NATURAL SILVER CIGAR 2 CARTONS CHEYENNE CIGARS 1 BOX LARGO PIPE TOBACCO 10 BOXES DUTCH MASTERS 1 BOX ENTOURAGE CIGARS 2 GRIZZLY WINTERGREEN POUCHES SLEEVE 1 GRIZZLY PREMIUM WINTERGREEN LONGCUT SLEEVE 1 GRIZZLY PREMIUM MINT LONGCUT SLEEVE	BOX 31	

Seized Invoices from CT Distributor

- 6/10/19 Invoice $15k
- 6/11/19 Invoice $21k
- 6/12/19 Invoice $20k
- 6/14/19 Invoice $23k
- 6/17/19 Invoice $21k
- 6/19/19 Invoice $16k
- 6/20/19 Invoice $15k
- 6/24/19 Invoice $13k
- 6/25/19 Invoice $15k
- 6/26/19 Invoice $14k
- 6/27/19 Invoice $21k
- 6/27/19 Invoice another $21k
- June, 2019 total = **$215,000**

Subpoena Service in Connecticut

- January, 2020 (approximately six months after the motor vehicle stop), MSP Troopers with CT DOR Agents deliver subpoena to CT Distributor.
- **During subpoena service, suspect arrives to CT Distributor with ledger for a new order.**
- Subpoena #1 encompassed prior three years of purchases.
- Interview of manager revealed suspect had been a customer for approximately five years.
- Information obtained that wholesaler was selling to other MA customers.
- Subpoena #2 delivered three weeks later encompassing years four and five.

Subpoena Response and Sentence

- Five years of invoices provided by CT distributor for purchases made by the suspect.
- Invoices turned over to MA DOR Investigators for assessment.
- **DOR assessed tax loss to the Commonwealth = $4,190,000.**
- Suspected indicted for Tobacco Excise Tax Fraud.
- Suspect pled guilty and sentenced to two years of superior court probation (through July, 2024).

Secondary Investigations

- CT Distributor investigated and sanctioned by ATF for PACT Act Violations.
- Cooperation by CT distributor led to records documenting sales to 80 MA retailers for an additional estimated tax loss to Commonwealth of **$7,000,000**.
- Two store owners indicted in Middlesex County (by MDAO) and another in a different county still pending resolution.
- A fourth store owner is pending state indictment for an approximately **$3,000,000** tax fraud.