

# ILLEGAL TOBACCO TASK FORCE

## Public #50 Meeting Minutes

**Meeting Date:** Tuesday, August 9, 2022

**Meeting Time:** 10:00 am

**Meeting Location:** Via WebEx conferencing, dial (408) 418-9388, Meeting ID# 2331 824 0883

**Board Members Present:** John Hayes (Co-Chair), Major Brian Connors (Co-Chair), Mark William Bracken, Patricia Henley, Nicole Nixon, Nicholas Ogden, Susan Terrey

### **Call to Order:**

- Meeting was called to order at 10:03 AM by Mr. Hayes.
- Mr. Hayes informed all participants that this meeting will not be recorded by WebEx and that notes will be taken to complete the minutes. He reminded everyone to mute their phones and/or computers to limit background noise.
- Mr. Hayes welcomed board members and thanked Cole Doherty-Crestin for administrative support. Mr. Hayes then asked members of the board to introduce themselves.

### **Opening Remarks:**

- Mr. Hayes thanked everyone for attending. Mr. Hayes introduced the Task Force's new designee Nicole Nixon, Massachusetts Office of the Attorney General Assistant Attorney General. The Letter of Appointment is attached at the end of this document.
- Mr. Hayes indicated that today's meeting will primarily focus on a training provided by Jeff Cohen, Federal Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) Chief Counsel.
- Cohen will provide an overview of the federal Prevent All Cigarette Trafficking Act (PACT Act). The PACT Act governs the collection of taxes on, and trafficking in, cigarettes and smokeless tobacco.

### **Approval of Minutes from Meeting #49 on June 9, 2022:**

- Mr. Hayes emailed a copy of the minutes for Meeting #49 to Task Force members prior to this meeting. Mr. Hayes asked members if there were any recommended edits to be made and hearing none, he asked for a motion to approve. Susan Terrey approved. Major Brian Connors seconded the motion. Mr. Hayes stated that with no objection, the minutes were approved.

### **Presentation on the PACT Act by Jeff Cohen, ATF Chief Counsel:**

- Mr. Hayes welcomed Jeff Cohen, Federal Bureau of Alcohol, Tobacco, Firearms, & Explosives (ATF) Chief Counsel. Cohen provided brief background on the Bureau, its relation to the mission of the Task Force, a presentation on the federal Prevent All Cigarette Trafficking Act (PACT Act), and an overview of global tobacco trafficking.
- The PACT Act was passed in 2010 to amend Jenkins Act. The PACT Act requires extensive recordkeeping and reporting requirements for tobacco resellers to tax jurisdictions into which their products are sold and grants ATF criminal enforcement jurisdiction of the Federal Tobacco Laws. This allows ATF to assist local, state, and other law enforcement and tax agencies in investigating interstate trafficking of contraband cigarettes. The Act was amended on 03/29/2021 to include electronic nicotine delivery devices (ENDS).
- Cohen discussed funding and civil penalties of the PACT Act. The PACT Act creates a fund in which 50% of proceeds collected in enforcing the Act will be deposited and are available to enforce the Act. For most violations, the profits gained are subject to seizure & forfeiture. ATF can confiscate proceeds

associated with illegal cigarette trafficking and share the proceeds with participating state or local law enforcement agencies. Violations include a 3-year felony sentence and penalties of \$5,000 for the first violation and \$10,000 for following violations and up to 2% gross sales from the prior year.

- Cohen asked members of the Task Force if they had any questions. Cohen and the Task Force further discussed the primary types of tobacco products being trafficked. Cohen and the Task Force further discussed the impact of the amendment to include ENDS and the potential challenges associated with enforcement, particularly with online sales.

### **Update on ENDS Disposal Procedures**

- Mr. Hayes provided an update on ENDS disposal procedures to the Task Force. The Task Force has been working towards completing the necessary steps to lawfully dispose of confiscated ENDS products.
- Once an EPA ID is established with Environmental Protection Agency, a contract with a vendor is required. The vendor will pick up and properly dispose of the ENDS products. Mr. Hayes stated he is hopeful a vendor will be approved and contracted sooner rather than later.

### **Update on Legislative Recommendations**

- Mr. Hayes stated DOR staff is currently reviewing feedback on legislative recommendations. The Task Force had received two written statements from the public. One statement is from the American Heart Association, the other statement is from Public Health Advocacy Institute, Inc. Copies of these statements can be found on attached at the end of this document.
- Mr. Hayes confirmed a master redlined version of the legislative recommendations will be available soon. Once finalized, recommendations will be distributed to members and the public for review.

### **Member Agency Updates & Other Business**

- Mr. Hayes inquired whether board members had any agency updates. Member agencies did not have any updates to report.

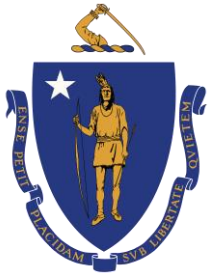
### **Closing Remarks**

- Mr. Hayes kindly thanked board members for their attendance.
- Mr. Hayes asked whether there was a motion to end the meeting. Patricia Henley approved the motion. Major Brian Connors seconded. Mr. Hayes thanked everyone for attending and concluded the meeting at 10:59 AM.

*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.*

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<sup>1</sup> This notice is being given in accordance with Sections 18-25 of Chapter 30A of the Massachusetts General Laws and An Act Extending Certain COVID-19 Measures, St. 2021, c. 20, June 16, 2021.



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June 14, 2022

*By email only*

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*Re: Attorney General's new co-designee to the Illegal Tobacco Task Force*

Dear Nicole:

Under G.L. c. 64C, § 40(a), the Attorney General or her designee serves on the Illegal Tobacco Task Force. In practice, two designees are permitted to serve on behalf of our office.

I am pleased to appoint you to serve as my co-designee on the Illegal Tobacco Task Force. Nicholas Ogden will continue to serve as co-designee.

Thank you for your service to the Commonwealth.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Maura Healey".

Maura Healey

cc: John H. Hayes, Co-Chair, Illegal Tobacco Task Force, Dept. of Revenue designee  
Brian Connors, Co-Chair, Illegal Tobacco Task Force, State Police designee  
Nicholas Ogden, Co-designee, Illegal Tobacco Task Force and Senior Tobacco Enforcement Counsel, Trial Division, AGO  
Thomas Bocian, Chief, Appeals Division, AGO  
Anna E. Lumelsky, Previous Co-designee, Illegal Tobacco Task Force, and Deputy Chief, Appeals Division, AGO