

J. Polep Distribution Services
705 Meadow Street
Chicopee, Massachusetts 01013

Marikae Toye, Co-Chair, Illegal Tobacco Task Force
Massachusetts Department of Revenue
General Counsel's Office, Criminal Investigations Bureau
100 Cambridge St., 8th Floor
Boston, MA 02114

Dear Marikae,

June 11, 2020

Please accept this written response to the Illegal Tobacco Task Force June 3rd meeting request for written comments.

J. Polep Distribution Services along with Harold Levinson Distributors, now known as National Convenience Distributors is the largest tobacco wholesale/stamper in Massachusetts, collecting over \$300 million in excise and sales tax on behalf of the Commonwealth annually. We are also an "Essential Business" during these COVID-19 times, supplying food, and commissary products to many businesses, of which a high percentage are in urban markets. Therefore, we are in the unique position of representing the importance of urban convenience to their communities as well as the very real likelihood of hundreds of store closures because of the June 1st ban on menthol, mint, and wintergreen.

In response to the Task Force questions:

- 1) What technology is available to the Task Force's member agencies to allow us to address both the taxation of vaping products and the enforcement of the flavored tobacco ban?
- 2) What is the expected business impact of the Act and what increased enforcement mechanisms by the member agencies could address this impact?
- 3) What data is available concerning black market sales of electronic nicotine delivery systems/vape products during the state's recent ban on vaping that could inform the Task Force's next steps?
- 4) What are the current black-market conditions for smokeless tobacco that might inform the Task Force's enforcement of the flavored tobacco ban moving after June 1, 2020?

I have grouped the response to the first four (4) questions together since the theme of the questions are somewhat similar.

Referencing Jon shaer of NECSEMA and my testimony to the Task force during the September 23, 2019 meeting. We both were in favor of the Commonwealths potential plan to control the youth vaping epidemic but also warned of vaping products availability in neighboring states as well as the strong demand for vape products through the internet.

During the 2019 Massachusetts vape ban, New Hampshire and Connecticut vape sales skyrocketed, New Hampshire retail customers that typically ordered product from us by the box started ordering in CASE quantities and continue to do so. Internet sales into the Commonwealth continued with little or no controls, as supported by the recent article in the State House news titled "Puff Bar charged with violating Massachusetts' ban on flavored e-cigarettes" a company that has continued to sell into the state for the past 9 months by bypassing all the legal licensed channels and going direct to the consumer.

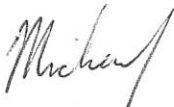
We also spoke in depth about the extreme concerns we had should the flavor ban extend further than just Vaping products and into tobacco and cigarettes.

On June 1, 2020 we started receiving panic calls from retail customers in New Hampshire, Rhode Island and Connecticut looking for emergency orders on menthol cigarette products. In the days after June 1st the purchase volume of flavor tobacco, especially menthol cigarettes, continues to increase daily at historic rates in all the bordering states around Massachusetts. Based on what is currently happening in the New England market with product being purchased over the boarders either by consumers and/or "mules" who are purchasing directly for consumers. Any technology proposed for track and trace at the wholesale level or retail level within the Commonwealth, will only burden the already fragile legal supply chain and ultimately will have zero impact to the enforcement of illegal tobacco products.

The only suggestion we can offer, is to reverse the ban on flavored tobacco and cigarettes and allow licensed legal retailers to sell the products. Then use the tax revenue that is now headed to the coffers of neighboring states and the pockets of black marketeers to educate our youth on the dangers of tobacco use. A portion of that revenue could also be used to establish smoking cessation health centers in the urban areas where menthol is prevalent. The thought of any Board of Health members or Law enforcement members, as proposed during your meeting, controlling the sale of illegal tobacco on the urban streets within the Commonwealth is just illogical, especially in these times!

We are committed to the continued support of the Task Force as a resource on its efforts. We are equally concerned that if something is not done soon, the Commonwealth can expect not only flavored tobacco and menthol cigarettes but also non-menthol/non-flavored products to be sold on the streets with no verification on the quality of the product or the age of its consumer.

Sincerely

A handwritten signature in black ink, appearing to read "Michael".

Michael D'Ortenzio
Vice President of Corporate Development
J. Polep Distribution Services