

Good morning, thank you for the opportunity to testify before the task force today. My name is Charles Giblin. I've been asked to provide expert testimony on behalf of Altria Client Services.

I am the retired Special Agent in Charge of the New Jersey Department of the Treasury Office of Criminal Investigation where I was responsible for the State Law Enforcement Agency that enforces the criminal laws of NJ relative to smuggling, counterfeiting and diversion of tobacco products and other financial crimes. From my 45 years in law enforcement, 36 of which were involved in revenue, alcohol, fuels and tobacco enforcement, I have a unique perspective as the Chief Executive of the agency. I have been recognized by the US Bureau of Alcohol Tobacco & Firearms with a National award and was presented with a lifetime achievement award in tobacco enforcement by the Federation of Tax Administrators. This included serving as the Regional Governor of northeast States for that organization's tobacco section. It allowed me significant insight into each States capabilities and challenges with enforcement programs. I have been recognized by both Federal District Courts and NJ State Superior Courts as an expert witness. Serving as a Task Force Officer provided me with a wider experience and led me to provide instruction to Federal Law Enforcement including members of the FBI's Joint Terrorism Task Force. I was part of the pilot program at the Federal Law Enforcement Training Center, in Georgia that set the pattern for advanced training in smuggling, counterfeiting of tobacco products and revenue stamps for traditional law enforcement and revenue agencies across the United States.

I previously testified at the request of the Massachusetts Illegal Tobacco Task Force as a subject matter expert and have also spoken before the National Association of Attorneys General and American Bar Association on these issues. Sitting on the Board of Directors of the International Association of Chiefs of Police has also provided me an opportunity to speak with law enforcement executives on a wide variety and the ever-increasing challenges to police agencies of every type and level.

While I realize there are many operational demands confronting the Commonwealth's law enforcement agencies at this time, such as enforcing Covid19 related issues during this health crisis, I am concerned that placing an added burden and tasking them with the enforcement of a flavored tobacco ban will only serve to create a significant new black market. This includes both cross state border smuggling and counterfeit tobacco.

At the onset, you will see increased trafficking between Massachusetts and New Hampshire, and the illegal importation, via the internet, of counterfeit flavored cigarettes from countries including China and Paraguay will skyrocket. Another underestimated source will be Canadian First Native reservation cigarette manufacturers who are already providing flavored tobacco products online. My research has found flavor kits designed to add flavor to both vape and tobacco are already available and being sold online.

Please also remember contraband crimes are frequently connected to crimes of violence and numerous other offenses and conspiracies. NJ was not immune from strong arm and armed robbery, shootings and even hijacking of cross border smugglers when they returned to NJ from Virginia with loads of cigarettes. Aggravated assaults on the corner of the busiest intersection of Newark, NJ over sales of loose cigarettes resulted in serious injuries and a number of arrests. It underscores the result of violence following unreported monies and illicit trade.

It appears that in the face of the notable media coverage of violence along "Tobacco Road", surprisingly law enforcement's input has not been at the forefront of this legislative activity, and there has been little consideration to the impact on the local police agencies as to how these new policies will be shaped and enforced. Not soliciting local law enforcement to participate in discussions leading up to the implementation of this legislation will result in numerous unintended consequences. During a very recent Chiefs Association online survey and discussion, I learned of the current detrimental impact Covid19 has had on police budgets, resources, community relations and the prioritization of existing investigations. These are just a few immediate concerns; not to mention the resurgence of traditional and nontraditional organized crime elements that will exploit the new black market set in motion by the ban. Unfortunately, because illicit tobacco offenses have long been considered a low enforcement priority and victimless crime, prosecutors continue to be reluctant to pursue tobacco smuggling conspiracies, which may result in rendering the ban ineffective; forcing agencies to ignore or low priority tobacco enforcement.

Evaluating the unexpected connection to the drug trade based on in-person briefings from the DEA Special Operations Division prior to my retirement, detailed the ongoing concerns of counterfeit products that follow the same trafficking patterns as counterfeit and illicit pharmaceuticals and other dangerous drugs. My visit to Hong Kong and meetings with their Chief Inspector (prior to the takeover) crystallized my understanding and experience of how widespread and insidious the international counterfeiting of tobacco and cigarettes has become along with other trafficked counterfeit goods.

Please understand that across the world, organized crime has already exploited these unfortunate circumstances as a result of the pandemic. It is paramount to prepare to meet the inevitable flood of counterfeit flavored tobacco products that will surge into the Commonwealth's cities and towns. I will provide a monograph from the Center for the Advancement of Public Safety and Security (CAPSS) of which I am a contributor. This monograph details the current relationship between organized crime, Covid19 and tobacco. I believe it will provide the Task Force with a detailed insight of current conditions.

I'd like to focus for a moment on one flavor in particular, menthol. As studies of user habits show, more than three-quarters of [African American smokers use menthols](#); so banning menthol will disproportionately affect your minority communities.

How much attention is being paid to other **non-mainstream** flavored tobacco? I'm not even speaking about Vaping which as I'm sure the Task Force members know is a challenge in and of itself. There are two major segments of products that are not usually recognized by state revenue agencies.

Flavored tobacco use in the South Asian American community is very common. In these communities, specialty stores sell a wide variety of tobacco products along with other "ethnic goods". A recent article of the Hindawi Journal on Oncology speaks to the makeup of South Asian communities of Pakistani, Indians and Bangladeshi and their use of various types of tobacco. Numerous types of smokeless tobacco are consumed most of which are flavored as are bidi cigarettes manufactured in both Pakistan and especially India and imported into the US. My observations show that Bidis have been frequently adopted by young teens as a cheap flavored alternative to highly taxed mainline tobacco! Another product is water pipe tobacco commonly known as "hookah". It is almost always found in flavored form. Used by many middle eastern cultures it is popular with younger people where the mixture of Hookah and cannabis are commonly smoked in so called lounges. In New Jersey we found flavorings being mixed in large vats in the back rooms of these "lounges". We documented 10-15 different flavors being made available to smoke on the premises and packaged to go.

Adding a flavored tobacco ban to law enforcements' "plate" will be met with great frustration within police agencies across the Commonwealth, particularly in urban areas. The new law effectively splits the legal taxable tobacco market into legal and illegal, and then asks police to sort it out. This without benefit of specific training, understanding of developing a case that identifies what is cross bordered smuggled or counterfeited product when that product is discovered in the course of policing! Knowing the difference may decide the degree of crime and the scope of related criminal networks and conspiracies. I know from my prior testimony that evidence storage may still remain a challenge for Massachusetts State Police. Now you will add another burden of unintended consequences, examination of possible counterfeit flavored tobacco, handling, dependency of forensic labs and delay of other types of cases dependent on those laboratories.

I would also add that additional responsibilities will be placed upon the Revenue Department and they too will be affected by unintended consequences. Something I observed with the taxing of vape products in New Jersey. While Health agencies have traditionally been at the forefront of successful tobacco control, the criminal activities related to the current and potential expansion of organized crime are outside their bailiwick.

In closing, this flavor ban will unfortunately task and burden law enforcement and unnecessarily and seriously reduce Commonwealth tax revenues which have already been affected by Covid19 and resulting in negatively impacting State programs for the foreseeable future. It may create community reactions that will result in distrust and lack of support of legitimate tobacco control efforts of Health, Revenue and law enforcement agencies.

Thank you for your time and am available to answer any questions relative to my testimony.

