

Commonwealth of Massachusetts

# Annual Report of Multi-Agency Illegal Tobacco Task Force

February 25, 2025

An updated Report on the work of the Multi-Agency Illegal Tobacco Task Force to combat illegal tobacco distribution and the resulting loss of revenue to the Commonwealth of Massachusetts

## **Members of the Multi-Agency Illegal Tobacco Task Force**

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### **Brian Connors, *Co-Chair*** *(through January 10, 2025)*

Lieutenant Colonel – Division of Investigative Services  
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### **Gerald Collins, *Co-Chair*** *(effective January 17, 2025)*

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## I. Task Force Creation and Legislative Background

As part of the Fiscal Year 2014 General Appropriations Act<sup>1</sup>, the Massachusetts Legislature created the Commission on Illegal Tobacco (Commission) to study the magnitude and economic impact of the illegal tobacco market in the Commonwealth. On March 1, 2014, the Commission issued its “Report of Commission on Illegal Tobacco,” which provided a general overview of the illicit tobacco market in Massachusetts and contained a series of findings and recommendations.<sup>2</sup> One of the Commission’s primary recommendations was the creation of a Multi-Agency Illegal Tobacco Task Force. The Commission recognized that enforcement of the Commonwealth’s tobacco laws was spread across multiple agencies and envisioned the Multi-Agency Illegal Tobacco Task Force as the vehicle by which information and resources could be shared across agencies to maximize the effectiveness of enforcement efforts.<sup>3</sup> The Commission also recommended several statutory changes and updates designed to improve compliance and the collection of tobacco excise taxes.

The Multi-Agency Illegal Tobacco Task Force (Task Force) was created pursuant to section 71 of the Fiscal Year 2016 (FY16) General Appropriations Act.<sup>4</sup> According to its enabling statute, the Task Force is co-chaired by the Colonel of the State Police and the Commissioner of Revenue, or their designees, and additional members include the Secretary of Public Safety and Security, State Treasurer, Attorney General, and Commissioner of Public Health, or their respective designees. The Task Force is statutorily required to “coordinate efforts to combat contraband tobacco distribution, including efforts to foster compliance with the law and conduct targeted investigations and enforcement actions against violators.”<sup>5</sup> Further, the Task Force must:

- (i) facilitate timely information sharing among state agencies to advise or refer matters of potential investigative interest;
- (ii) dedicate not less than an aggregate of 20 personnel from member agencies to carry out enforcement and investigative strategies;
- (iii) identify where illegal tobacco distribution is most prevalent and target task force members’ investigative and enforcement resources against those in violation of [chapter 64C] and chapter 62C, including through the formation of joint investigative and enforcement teams;
- (iv) assess existing investigative and enforcement methods in the Commonwealth and in other jurisdictions and develop and recommend strategies to improve those methods; and
- (v) solicit the cooperation and participation of other relevant enforcement agencies and establish procedures for referring cases to prosecuting authorities as appropriate.<sup>6</sup>

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<sup>1</sup> St. 2013, c. 38, § 182.

<sup>2</sup> <https://www.mass.gov/doc/dor-report-of-commission-on-illegal-tobacco/> (accessed on January 17, 2025) (hereafter “Commission Report”).

<sup>3</sup> Commission Report at pp. 5-6, 26-27.

<sup>4</sup> St. 2015, c. 46, § 71; M.G.L. c. 64C § 40.

<sup>5</sup> M.G.L. c. 64C § 40(a).

<sup>6</sup> M.G.L. c. 64C, § 40(b).

The Task Force is required to meet at times and places determined by the Co-Chairs as “deemed necessary to carry out its mandate” and to submit a report by March 1 of each year “on the results of its findings, activities and recommendations from the preceding year...”<sup>7</sup> Specifically, the report shall include: (i) a description of the Task Force’s efforts and activities during the year; (ii) identification of any administrative or legal barriers, including any barriers to multi-agency action or enforcement efforts; and (iii) proposed legislative or regulatory changes necessary to strengthen operations and enforcement efforts and reduce or eliminate any impediments to those efforts.<sup>8</sup> The report is to be filed with the clerks of the Senate and House of Representatives, the Chairs of the Joint Committee on Revenue, the Chairs of the Senate and House Committees on Ways and Means, and the Chairs of the Joint Committee on Public Safety and Homeland Security. The Task Force is filing this Annual Report of the Multi-Agency Illegal Tobacco Task Force (Annual Report) in compliance with its March 1, 2025, reporting obligation.<sup>9</sup>

## II. Results and Trends

During the past year, the Task Force has continued to address several challenges associated with the expansion of the scope of the Task Force’s investigations due to prior changes in the tobacco control laws, including challenges associated with the storage and destruction of Electronic Nicotine Delivery Systems (ENDS) products. Irrespective of these challenges, the Task Force has continued to work with federal, state, and local partner agencies to successfully disrupt and intercept sophisticated tobacco smuggling operations.

### A. Most Recent Legal Changes Concerning Tobacco Control

There have been no major changes to the tobacco laws since former Governor Charlie Baker, on November 27, 2019, signed “An Act Modernizing Tobacco Control” into law.<sup>10</sup> The new law resulted in several changes to the statutes governing tobacco products in Massachusetts. Notable changes included a ban on the retail sale of flavored tobacco products, new regulatory requirements, and a 75% excise tax on the wholesale price of “electronic nicotine delivery systems” (“ENDS”), commonly referred to as “vape.” These laws became effective on June 1, 2020, and are still in effect.

### B. Trends for Tobacco Excise Tax Collection Data

The chart below (**Figure 1**) identifies the tobacco excise tax collected by DOR for FY18 through FY24.<sup>11</sup> An analysis of the revenue data identifies a longer-term trend related to a decline in cigarette and smokeless tobacco excise tax collections with slight fluctuations in excise collections related to cigars, smoking tobacco, and ENDS.

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<sup>7</sup> St. 2015, c. 46, § 71; M.G.L. c. 64C, § 40.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* For the Task Force’s prior reports, see <https://www.mass.gov/info-details/dor-illegal-tobacco-task-force#current-reports> (see tab entitled “DOR Illegal Tobacco Task Force Past Cases & Reports” for prior years) (accessed on February 3, 2025). The FY23 Annual Report was filed on February 28, 2024, and the FY22 Annual Report was filed on March 1, 2023.

<sup>10</sup> St. 2019, c. 133.

<sup>11</sup> It is important to note that all collections figures cited in this Annual Report exclude sales taxes collected on sales of tobacco products. The Department of Revenue does not separately track sales taxes collected on sales of tobacco products.

**Figure 1: MA Tobacco Excise Collections Broken Down by Product Category<sup>12</sup>**

<b>Collections by Type (in \$ Millions)</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>
Cigarettes	554.6	515.4	486.0	370.6	363.9	338.7	315.3
Smokeless Tobacco	22.9	23.1	21.6	12.3	12.3	11.3	9.2
Cigar & Smoking Tobacco	16.5	18.2	16.3	15.2	14.5	15.3	15.0
ENDS	N/A	N/A	1.7 <sup>13</sup>	13.3	16.3	13.9	14.8
<b>Totals</b>	<b>594.0</b>	<b>556.7</b>	<b>525.6</b>	<b>411.4</b>	<b>407.0</b>	<b>379.2</b>	<b>354.3</b>

Cigarette excise tax collections in FY24 decreased \$24.9 million from the prior fiscal year. In terms of an overall trend over the past several years, the decline in revenue corresponds to a national trend of a decreasing number of cigarettes manufactured and sold in the United States<sup>14</sup> as well as a decrease in the number of smokers since 2019.<sup>15</sup> The percentage of Massachusetts adults who currently smoke cigarettes has also consistently declined each year for the past decade – from 14.7% in 2014 to 9.8% in 2023.<sup>16</sup>

Smokeless tobacco excise tax collections, which used to be the second highest revenue source for tobacco excise, have consistently declined since FY18, falling by \$13.7 million. The overall trend in the decrease of smokeless tobacco revenue is not overly surprising given that use of smokeless tobacco among adults in Massachusetts has consistently declined<sup>17</sup> and the amount of smokeless tobacco sold (in terms of pounds) in the United States over the last several years has also continued to decline.<sup>18</sup> However, as documented in last year’s annual report, inspectors and investigators in the field have observed significant amounts of synthetic nicotine pouches on store shelves, as opposed to

<sup>12</sup> The FY24 Tobacco Excise Tax Collections on Cigarettes and ENDS can be found in Commonwealth of Massachusetts Department of Revenue Monthly Report of Collections and Refunds of June 2024. Breakdowns by category provided by DOR Miscellaneous Excise Bureau. See <https://www.mass.gov/lists/massachusetts-dor-blue-book-reports#fy2024> - (accessed on January 17, 2025).

<sup>13</sup> The “Act Modernizing Tobacco Control” imposing a 75% excise tax on the wholesale price of ENDS became effective on June 1, 2020, so there is only one month of data available for ENDS excise tax revenue during FY 2020. See The Commonwealth of Massachusetts Department of Revenue Monthly Report of Collections and Refunds of July 2020. <https://www.mass.gov/lists/blue-book-reports-department-of-revenue> (accessed on February 3, 2025).

<sup>14</sup> See <https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-releases-reports-cigarette-smokeless-tobacco-sales-marketing-expenditures-2022> (documenting the decrease in nationwide cigarette sales during between 2021 and 2022) (accessed January 29, 2024). See also <https://www.ttb.gov/tobacco/tobacco-statistics> (confirming a 10-year decline in the number of cigarettes manufactured in the United States) (accessed January 29, 2025).

<sup>15</sup> See <https://www.cdc.gov/tobacco/php/data-statistics/adult-data-cigarettes/> (Centers for Disease Control and Prevention, *Cigarette Smoking Among Adults in the United States, 2022* - Current cigarette smoking among adults has declined from 20.9% in 2005 to 11.6% in 2022, although that represents a 0.1% increase from 2021) (accessed on January 29, 2025). This is the most recent data produced by the CDC.

<sup>16</sup> See <https://www.mass.gov/lists/brfss-statewide-reports-and-publications> (Massachusetts Behavioral Risk Factor Surveillance System (BRFSS) data for 2014, 2018, 2020, 2021, 2022, and 2023) (accessed on February 3, 2025).

<sup>17</sup> See <https://www.mass.gov/lists/brfss-statewide-reports-and-publications> (Massachusetts Behavioral Risk Factor Surveillance System (BRFSS) data – smokeless tobacco use among adults has declined since 2018 when 2.8% of adults reported using smokeless tobacco and has continued to decrease to 2.3% in 2019, 1.7% in 2021, and 1.4% in 2023) (accessed on February 3, 2025).

<sup>18</sup> See <https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-releases-reports-cigarette-smokeless-tobacco-sales-marketing-expenditures-2022> (the amount of smokeless tobacco sold in the United States (in pounds) has declined approximately 13.5% since 2017) (accessed January 29, 2025).

traditional smokeless tobacco pouches. The introduction and popularity of these new products may also be contributing to the decline in smokeless tobacco revenue as the synthetic nicotine pouches do not currently meet the Commonwealth’s definition of smokeless tobacco and are therefore not subject to the Massachusetts smokeless tobacco excise tax.

Since FY21, the first full year DOR collected ENDS excise taxes, ENDS revenue has fluctuated between a low of \$13.3 million in FY21 and a high of \$16.3 million in FY22. The reason for the fluctuations is not yet clear and will require further research. State public health data indicates that the percentage of Massachusetts adults who currently use ENDS products has increased from 5.6% in 2021 to 6.2% in 2023,<sup>19</sup> There has also been a 34.7% increase in ENDS sales nationwide between February of 2020 and June of 2024.<sup>20</sup> However, the number of youth (middle and high school) nationwide and in Massachusetts who currently use ENDS declined to the lowest level in a decade.<sup>21</sup> In future reports, the Task Force will continue to monitor changes in the ENDS excise tax collections to identify any longer-term trends.

The Task Force can only speculate as to the reasons for the overall decline in tobacco and ENDS excise tax revenues between FY18 and FY24 – approximately 40% over seven years. The decline in tobacco excise revenue could be due to the overall decline in tobacco use identified in Massachusetts as well as nationally for the past several years.<sup>22</sup> However, the smuggling of untaxed tobacco products into Massachusetts could also be a factor contributing to the decline in revenue.

### C. Trends for Tobacco Seizure Data

Beginning in November 2021, the Task Force adopted universal metrics for all agencies to track the seizure of tobacco products. The Task Force now tracks the types and amounts of tobacco products seized during regulatory inspections or criminal investigations. It has been four years since the Task Force began reporting on the quantity of tobacco products seized by the State Police or the DOR’s Criminal Investigations Bureau (“CIB”) and Miscellaneous Excise Bureau (“MEB”). The new tracking program allows the Task Force to identify trends and better allocate resources in the future.

The charts below identify the quantities of untaxed tobacco products seized by the State Police (**Figure 2**), DOR (**Figure 3**), and all Task Force agencies (**Figure 4**) during FY22 – FY24.

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<sup>19</sup> See <https://www.mass.gov/lists/brfss-statewide-reports-and-publications> (comparing ENDS use by adults in the 2021 - 2023 reports) (accessed on February 3, 2025).

<sup>20</sup> See <https://www.cdc.gov/media/releases/2023/p0622-ecigarettes-sales.html> for sales data related to 2020 - 2022 and see <https://www.cdcfoundation.org/programs/monitoring-e-cigarette-use-among-youth> for ENDS sales data for 2020 – 2024 (accessed February 3, 2025).

<sup>21</sup> See <https://www.fda.gov/tobacco-products/youth-and-tobacco/results-annual-national-youth-tobacco-survey> (comparing 2023 and 2024 Annual National Youth Tobacco Survey) (accessed on February 6, 2025). And <https://www.mass.gov/lists/massachusetts-youth-health-survey-myhs> for Massachusetts data (accessed February 6, 2025)

<sup>22</sup> See <https://www.mass.gov/lists/brfss-statewide-reports-and-publications> and <https://www.cdc.gov/media/releases/2024/p0905-youth-ecigarette.html> for nationwide data (accessed on February 3, 2025).

**Figure 2: State Police Tobacco Seizures**

<b>State Police Tobacco Seizures</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>
Cigarettes (packs)	1,972	64	<b>89</b>
Smokeless Tobacco (tins/cans/bags)	15	25	<b>58</b>
Cigars	785	0	<b>390</b>
Smoking Tobacco (bags)	23	0	<b>82</b>
<b>ENDS</b>	<b>6,406</b>	<b>1,326</b>	<b>279,432<sup>23</sup></b>

**Figure 3: DOR Tobacco Seizures**

<b>DOR Tobacco Seizures</b>	<b>FY22</b>		<b>FY23</b>		<b>FY 24</b>	
	<b>CIB</b>	<b>MEB</b>	<b>CIB</b>	<b>MEB</b>	<b>CIB</b>	<b>MEB</b>
Cigarettes (packs)	7,864	8,647	6,945	2,738	<b>817</b>	<b>4,123</b>
Smokeless Tobacco (tins/cans/bags)	20,514	29,005	20,360	4,977	<b>11,859</b>	<b>2,576</b>
Cigars	190,977	180,544	30,133	64,642	<b>115,321</b>	<b>36,364</b>
Smoking Tobacco (bags)	161	5,069	469	1,971	<b>1,549</b>	<b>1,047</b>
<b>ENDS</b>	<b>33,509</b>	<b>31,831</b>	<b>14,917</b>	<b>20,261</b>	<b>13,217</b>	<b>15,451</b>

**Figure 4: Task Force (State Police & DOR) Seizures**

<b>Task Force Seizures</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>
Cigarettes (packs)	18,483	9,747	<b>5,029</b>
Smokeless Tobacco (tins/cans/bags)	49,534	25,362	<b>14,493</b>
Cigars	372,306	94,775	<b>152,075</b>
Smoking Tobacco (bags)	5,253	2,440	<b>2,678</b>
<b>ENDS</b>	<b>71,746</b>	<b>36,504</b>	<b>308,100</b>

Generally, the Commonwealth’s high tax rates on OTP and ENDS relative to other states provide smugglers an incentive to import such products from low-tax states and sell them to in-state buyers thereby evading the applicable Massachusetts tobacco excise.<sup>24</sup> The Task Force has seized fewer cigarettes and less smokeless tobacco in FY24 than FY23, but seized greater quantities of cigars, smoking tobacco, and ENDS during that same time. While civil inspections and investigations have

<sup>23</sup> The significant increase in ENDS seizures by the State Police during FY24 was due mostly to a single large seizure and is not indicative of an increase in seizures across the Commonwealth.

<sup>24</sup> See <https://www.mass.gov/info-details/dor-cigarette-tobacco-and-vaping-excise-tax#> (related to the Massachusetts excise tax rate on smokeless tobacco products as 210% of wholesale price (highest in the nation) and the rate on cigars and smoking tobacco as 40% of wholesale price). See also <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-tobacco-enforcement#> (related to the trafficking pattern of smuggling tobacco products from states with low tax rates to states with higher tax rates) (accessed on January 29, 2025).



increased overall from last fiscal year, seizures of untaxed products have declined overall which could be due to increased enforcement and improved compliance (see Section III-A below). However, intelligence received from inspectors, investigators, and law enforcement officers working in the field indicates that the smuggling of untaxed tobacco and ENDS products remains a challenge. Field personnel are still encountering or seizing untaxed menthol cigarettes (although less than in prior years) and flavored ENDS products and cigars purchased from unlicensed distributors operating both within and outside the Commonwealth. Without providing too much detail about the processes and methods of Task Force enforcement strategies, smugglers are developing more sophisticated smuggling operations to counter the Task Force’s targeted investigations. The Task Force will continue to monitor the Commonwealth’s tobacco excise revenues and seizures of untaxed tobacco products to identify any new trends.

### **III. Summary of Task Force Activities**

The Task Force has continued to meet as needed to share information with member agencies, hear about recent developments in tobacco taxation and enforcement, and to discuss important policy issues.

The Task Force has convened five public meetings in the past year. Each of these meetings was held via videoconference in accordance with Sections 18-25 of Chapter 30A of the Massachusetts General Laws and the Governor’s Order suspending certain provisions of the Open Meeting Law, M.G.L. c. 30A § 20. These meetings took place on the following dates:

May 22, 2024  
September 24, 2024  
January 28, 2025  
February 12, 2025  
February 25, 2025

On September 24, 2024, the Task Force held a public meeting and discussed several issues related to new tobacco products with a cooling effect, the popularity of synthetic nicotine pouches, the cost of ENDS disposal, and the prevalence of ENDS products that are labeled as “clear” (non-flavored), but are actually flavored products.

During the September meeting, DPH provided a presentation about the DPH Advisory issued to tobacco retailers on June 6, 2024, which established that certain new tobacco products with “cooling” properties were now characterized as “flavored tobacco products” within the meaning of M.G.L. c. 270 § 28 and DPH regulation 105 CMR 665.000. DPH also provided a brief presentation on the prevalence of nicotine pouches in Massachusetts. During this same meeting, Task Force members discussed the high cost of disposing of seized ENDS and possible solutions, to include requiring offenders to pay for the cost of disposal as several other states have recently considered. The Task Force also discussed the prevalence of ENDS products being sold by retailers throughout the Commonwealth that are labeled as “clear” products (indicating they contain no flavor), but which in fact are flavored tobacco products and being sold in violation of M.G.L. c. 270 § 28.

Pursuant to the Open Meeting Law, detailed minutes of Task Force meetings were taken, including all votes, presentations and discussions, and these minutes were published for the public according to the requirements of G.L. c. 30A, §§ 18-25.

In addition to its regular public meetings, the Task Force continued to successfully collaborate among Task Force agencies to conduct civil and criminal enforcement actions undertaken by the State Police, DOR, and DPH – operating through the Local Boards of Health (“LBOH”).

### A. Civil Investigations/Inspections/Litigation

According to DOR records, there are currently 6,344 tobacco retailers and 125 tobacco distributors located in Massachusetts.<sup>25</sup> DOR’s MEB and CIB and LBOH (in collaboration with the DPH) have worked hard to help combat the sale of untaxed tobacco products and/or unlawful tobacco products associated with tobacco diversion. Significantly, DOR has increased the number of annual inspections by approximately **45%** since FY20. The charts below (**Figure 5 and 6**) provide inspection, seizure, and civil action data for FY20 - FY24.

**Figure 5: DOR Tobacco Inspections**

<b>DOR Tobacco Inspections</b>	<b>FY20</b>	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>
MEB Inspections	2,975	3,405	4,236	4,203	4,319
MEB Seizures	7	157	298	225	227
MEB Actions (warning letters, suspensions, revocations) <sup>26</sup>	1	56	577	394	353
CIB Inspections	3	13	28	32	46
CIB Seizures	3	13	28	19	36

It is important to note that during FY24, for the second year in a row, **94%** of licenses inspected by the DOR fully complied with the Commonwealth’s tobacco tax laws and regulations. The summaries below provide examples of DOR inspections during the past year.

- In April of 2024, MEB conducted an inspection of a licensed retailer in northeastern Massachusetts and seized a large quantity of untaxed ENDS – representing the evasion of approximately \$5,600 in excise taxes. As a result of the seizure, DOR issued a 90-day suspension of the retailer’s ENDS license.
- In June of 2024, MEB conducted an inspection of a licensed retailer in northeastern Massachusetts and seized a large quantity of untaxed ENDS – representing the evasion of approximately \$19,900 in excise taxes. As a result of the seizure, DOR issued a 90-day suspension of the retailer’s ENDS license.
- In June of 2024, MEB conducted an inspection of a licensed retailer in western Massachusetts and seized a large quantity of untaxed ENDS as well as cigars – representing the evasion of approximately \$5,500 in excise taxes. As a result of the seizure, DOR issued a 90-day suspension of the retailer’s ENDS license and a Cigar/Smoking Tobacco Warning.

<sup>25</sup> Licensee information obtained from DOR MEB, but see also <https://www.mass.gov/info-details/dor-cigarette-tobacco-and-vaping-excise-tax#licensed-tobacco-retailers-and-distributors-> (accessed on January 22, 2025).

<sup>26</sup> In addition to license suspensions or revocations imposed by DOR related to a tobacco licensee’s violations of the tobacco tax regulations or laws, it should be noted that the Massachusetts Lottery Commission, in accordance with M.G.L. c. 10 § 30B, also suspended the lottery licenses of fifty-seven (57) licensees based upon DOR tobacco license suspensions.

- In June of 2024, MEB conducted an inspection of a licensed retailer in Massachusetts Middlesex County and seized a large quantity of untaxed ENDS. The seized products represented the evasion of approximately \$5,100 in excise taxes and resulted in a 90-day ENDS suspension.
- In June of 2024, CIB and MEB conducted joint inspections of more than ten (10) tobacco retailers located throughout the state that are owned by the same parent company and seized a significant quantity of untaxed cigar and ENDS products. As a result of the seizures, DOR issued suspensions ranging from 30-days to 120-days for several of the retailer’s cigar and ENDS licenses.
- In October of 2024, CIB conducted an inspection of a licensed retailer in southeastern Massachusetts and seized a significant quantity of untaxed ENDS and cigar products. As a result of the seizure, which was a second violation, DOR issued a 180-day suspension of the retailer’s ENDS license and warning letter for the cigar license.
- In October of 2024, MEB conducted an inspection of a licensed retailer in western Massachusetts and seized untaxed ENDS. The seized products represented the evasion of approximately \$1,100 in excise taxes. As a result of the seizure, which was a second violation, DOR issued a 180-day suspension of the retailer’s ENDS license.
- In October of 2024, MEB conducted an inspection of a licensed retailer in western Massachusetts and seized untaxed cigarettes, smokeless tobacco, cigars, smoking tobacco, and ENDS. The seized products represented the evasion of approximately \$2,600 in excise taxes. As a result of the seizure, DOR issued a 30-day suspension of retailer cigar license, a 30-day suspension of the ENDS, and a 60-day suspension of the cigarette license.
- In October of 2024, MEB conducted an inspection of a licensed retailer in central Massachusetts and seized a large quantity of untaxed cigarettes. The seized products represented the evasion of approximately \$615 in excise taxes. As a result of the seizure, DOR issued a 30-day suspension of the retailer’s cigarette license.
- In January of 2025, CIB conducted an afterhours inspection of a licensed retailer in southeastern Massachusetts and seized a large quantity of unstamped cigarettes and untaxed flavored ENDS and cigar products – representing the evasion of an estimated \$7,500 in excise taxes. As this was a second offense, the retailer is facing between a 120-day suspension up to revocation of the retailer’s ENDS license.

The Litigation Bureau within the General Counsel’s office is another important part of DOR’s civil tobacco enforcement team. The tobacco seizures, license suspensions, and audit assessments generated by CIB and MEB are sometimes appealed to the Appellate Tax Board (“ATB”). The Litigation Bureau, comprised of dedicated civil attorneys, defends the DOR Commissioner before the ATB. Since last year’s report, DOR successfully managed 34 ATB appeals, having secured significant license suspensions without the need for a trial. To date, the Litigation Bureau has maintained a perfect 11 for 11 record on tobacco license suspension trials before the ATB. Additionally, the Litigation Bureau prevailed in an appellate case before the Massachusetts Appeal Court this past year. CIB and MEB will continue to work very closely with the Litigation Bureau to further the Task Force’s mission.

**Figure 6: Local Boards of Health Tobacco Inspections (POST Data)**

<b>LBOH Tobacco Inspections</b>	<b>FY20<sup>27</sup></b>	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>
Inspections	2840	4935	6290	6342	6610
Violations Cited <sup>28</sup>	650	2178	2080	1514	1480

LBOH inspectors completed 6,610 tobacco retail inspections in FY24, which represents a 133% increase since FY20. The great majority of inspections during FY24 indicate retailers complied with local and state laws with a compliance rate of approximately 77.6%. The violations indicated are reflective of both state and local policy violations and are the total number of violations found, not violations per unique retail establishment. The summaries below provide examples of significant LBOH inspections during the past year.

- In February of 2024, the LBOH received a complaint that a store sold flavored ENDS devices to two 17-year-olds. The LBOH forwarded the complaint to the CIB, which in March of 2024 conducted an inspection leading to the seizure of a large quantity of untaxed flavored tobacco products. As a result of the seizure, DOR issued a 30-days suspension for the cigarette license and a 90-day suspension for the ENDS license.
- Throughout 2024, the LBOH received continuous complaints that a retail store in southeastern Massachusetts, whose local tobacco permit was previously revoked by the LBOH, was selling flavored tobacco products. The LBOH forwarded these complaints to the CIB, which initiated an investigation. See related summary dated November of 2024 in “Section B. Criminal Investigations” below.
- In June of 2024, the LBOH conducted an inspection of a store in southeastern Massachusetts. The LBOH inspector discovered a hidden compartment located underneath the floor of the office which was concealed by a carpet. The hidden compartment contained numerous flavored ENDS products. The LBOH cited the store owner for possession of the flavored tobacco products, but also referred the information to the DOR. CIB conducted a follow-up inspection and seized additional untaxed ENDS and smoking tobacco products. As a result of the CIB seizure, DOR issued a 60-day suspension for the ENDS license and a warning for the cigar license.
- In October of 2024, the LBOH conducted an inspection of tobacco retailer in southeastern Massachusetts who was operating with expired tobacco licenses. During the inspection, the LBOH inspector observed flavored ENDS and other tobacco products inside the store. The inspector then exited the store to call for additional assistance with the inspection. The retailer then locked the door and would not let the LBOH inspector back into the store. The LBOH referred the information to the CIB, which conducted a follow-up inspection and seized a quantity of untaxed ENDS, cigarettes, and other tobacco products which were hidden

<sup>27</sup> In FY20 and FY 21, the number of inspections is lower than average because the DPH and LBOH temporarily suspended retail tobacco inspections during the initial phase of the COVID-19 pandemic.

<sup>28</sup> It should be noted there could be multiple violations issued during a single inspection.

throughout the store. As a result of the seizure, CIB issued civil penalties in the amount of \$10,000 to the retailer based on the violations associated with the ENDS and cigarettes laws.

During the past several years, the DPH updated the Point-of-Sale Toolkit (POST) database that tracks enforcement and inspection visits of tobacco retailers throughout Massachusetts. POST enables DPH and LBOH to record violations of all state and local policies. The LBOH monitors and collects information on compliance and violations, from signage, product types, and product placement.

The updates to POST allowed DPH to monitor the type of violations cited by LBOH during inspections. Most violations were cited for technical or administrative matters, but there were 298 violations issued for selling flavored tobacco products during FY24 – which is a decrease from last fiscal year (428). That said, most retailers complied with flavor regulations during both years, with a **95%** compliance rate in FY24. The 298 flavor violations identified represent the number of inspections where a flavor violation was identified. The decrease in flavor law violations could have various contributing factors such as continued enhanced enforcement efforts by DPH, LBOH, and DOR or a decrease in the use of flavored ENDS products by youth.<sup>29</sup> These findings indicate the need for continued data collection, compliance resources, and enforcement coordination to uphold state public health tobacco policies and laws. DPH and LBOH will continue to provide retailer education, resources, and signage to support compliance with tobacco policies.

DPH tobacco enforcement staff and LBOH inspectors continue to work with the CIB to coordinate the sharing of intelligence regarding retail inspection and compliance results. CIB and DPH established a system so LBOH can share information related to the discovery of potential untaxed flavored tobacco products.<sup>30</sup> This collaborative effort has strengthened enforcement efforts.

## **B. Criminal Investigations**

The State Police Detectives assigned to the Attorney General’s Office and CIB continued their criminal investigation efforts in conjunction with other law enforcement partners. Below are some highlights from the past year:

- In February of 2024, the State Police along with CIB, the Woburn and Worcester Police Departments, and Homeland Security Investigations executed 29 search warrants and seized a large quantity of flavored tobacco and ENDS products as well as unstamped cigarettes (as summarized in last year’s annual report). The investigation has led to the arrest of a New Hampshire man on tobacco-related tax evasion charges. The investigation remains open and ongoing.
- In April of 2024, the State Police arrested a Framingham man in the Town of Milford in possession of ENDS products, various narcotics, and US Currency. This case is being prosecuted by the Worcester County District Attorney’s Office.

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<sup>29</sup> See <https://www.mass.gov/lists/massachusetts-youth-health-survey-myhs> Per 2023 MYHS Report - 16% of youth reporting using an ENDS (vape) product within the past 30 days which is down from a high of 32% in 2019 (accessed February 12, 2025)

<sup>30</sup> The intelligence sharing program between DPH/LBOH and DOR was created because the 2019 Act Modernizing Tobacco Control is silent regarding LBOH’s authority to seize any flavored tobacco products if located during an inspection. The LBOH has been advised to ask the retailer to box up the flavored tobacco products. However, the LBOH may report the discovery of flavored tobacco products to the DOR for possible follow-up and seizure of any untaxed tobacco products, which could then lead to civil or criminal penalties.

- In April of 2024, CIB, with assistance from the State Police, executed an administrative search warrant at a warehouse used by an unlicensed tobacco seller in northeastern Massachusetts. As a result of the search warrant, CIB seized large quantities of untaxed tobacco products, including cigars, smokeless tobacco, and ENDS products. The smuggling involved the evasion of approximately \$100,000 in excise taxes. The investigation remains open with potential for either criminal and/or civil remedies.
- In April of 2024, CIB concluded an investigation of a tobacco retailer in southeastern Massachusetts which revealed that the owner of the store routinely purchased untaxed tobacco products from an unlicensed out-of-state distributor over the period of several years and sold the untaxed products at the retail store. The smuggling involved the evasion of approximately \$340,000 in excise taxes. The investigation has been referred to DOR's Audit Division for assessment.
- In July of 2024, law enforcement issued a summons for a Quincy woman for Possession and Transportation of over 12,000 unstamped cigarettes. The original charges were filed through the Essex District Attorney's Office, but later adopted through the Attorney General's Office.
- In July of 2024, the Georgetown Police Department, with assistance from CIB, conducted a search warrant at a licensed smoke shop in Georgetown. During the search, law enforcement discovered a remote-controlled hidden compartment in a partition wall which contained a large amount of untaxed cigarettes, flavored ENDS, and THC products. The Georgetown Police Department arrested three individuals on drug and tobacco related charges. The CIB investigation remains open and ongoing.
- In August of 2024, the Worcester Police Department and the Worcester Department of Public Health, with the assistance of State Police, conducted an inspection of a store in the City of Worcester, which resulted in the seizure of a large quantity of tobacco and ENDS products and unstamped cigarettes. The State Police have maintained custody of the tobacco products pending disposal. The City of Worcester pursued civil charges and revoked the store's license.
- In September of 2024, the State Police, with assistance from CIB, Quincy Police, Braintree Police, Lexington Police, Essex County Sheriff's Office, US Customs and Border Protection, and the Massachusetts National Guard, executed multiple criminal search warrants on residences, businesses, vehicles, and individuals in the South Shore area. These search warrants were the culmination of an extensive joint State Police and CIB investigation into the illegal trafficking of domestic and foreign unstamped cigarettes as well as gaming violations. State Police arrested a Braintree couple for cigarette trafficking and gaming violations and the couple was subsequently indicted for possession and transportation of unstamped cigarettes, possession of electronic gaming devices, registering bets, and money laundering.
- In November of 2024, CIB, with assistance from State Police and the New Bedford Police Department, executed an administrative search warrant at a retailer in southeastern Massachusetts. The CIB investigation determined that the retailer was purchasing untaxed ENDS products from an out-of-state unlicensed ENDS distributor and reselling the products to customers at multiple retail stores. The search warrant resulted in the recovery of untaxed cigarettes, cigars, smoking tobacco, and ENDS products. As a result of the seizure, DOR issued a 180-day suspension of the retailer's ENDS license, a 120-day suspension of the cigar

license, and a 30-day suspension of the cigarette license in addition to the imposition of civil penalties.

- In January of 2025, CIB concluded an investigation of a tobacco retailer in east central Massachusetts which determined that the owner of the store routinely purchased untaxed tobacco products from an unlicensed out-of-state distributor over the period of several years and sold the untaxed products at the retail store. The smuggling involved the evasion of approximately \$140,000 in excise taxes. The investigation has been referred to DOR's Audit Division for assessment.
- In January of 2025, a Hopkinton man, the owner of a retail store in east-central Massachusetts, pled guilty to tax evasion charges related to the illegal importation of ENDS products from several unlicensed out-of-state distributors. The smuggling involved the evasion of approximately \$467,000 in ENDS excise taxes. The case was prosecuted by the Middlesex County District Attorney's Office following a CIB investigation.

The Task Force has continued to streamline communication with the public and between its member agencies. The Task Force began utilizing social media to announce meeting dates and topics, which has increased attendance.

As noted above, the Task Force has utilized a robust, multi-faceted enforcement model whereby the Task Force has suspended tobacco licenses of retailers or distributors selling illegal (untaxed) tobacco products; seized and confiscated illegal tobacco products; issued civil assessments and penalties for unpaid tobacco excise taxes; and prosecuted large-scale smugglers for violations of the Commonwealth's tobacco tax laws. Despite these notable successes, the illegal tobacco market continues to operate, depriving the Commonwealth of some tobacco excise tax revenue.

#### **IV. Legislative Proposals**

No substantive legislative changes have been made to the tobacco revenue or compliance laws since the "Act Modernizing Tobacco Control" was approved in 2019 and became effective on June 1, 2020.

The FY21 Budget, approved on December 11, 2020, amended M.G.L. c. 64C, § 40 to expand the scope and budget of the Task Force to include ENDS within the Task Force's enforcement efforts.<sup>31</sup> The budget increase funded the new enforcement obligations.<sup>32</sup> The FY24 Budget, approved on August 9, 2023, provided level funding for the Task Force.

Pursuant to its statutory mandate, the Task Force is charged with making recommendations to the legislature, "to strengthen operations and enforcement efforts and reduce or eliminate any impediments to those efforts."<sup>33</sup> During 2022 and early 2023, the Task Force held several public meetings to discuss statutory and regulatory changes that could improve enforcement efforts by

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<sup>31</sup> St. 2020, c. 227 §§ 33, 34.

<sup>32</sup> St. 2020, c. 227 § 2, line item 1201-0400.

<sup>33</sup> M.G.L. c. 64C § 40(d)(iii)

enhancing certain civil and criminal provisions and updating regulatory and administrative procedures. The Task Force has only one minor change to the previously approved recommendations. Below is a summary of the Task Force’s recommended changes to existing tobacco enforcement laws and regulations.<sup>34</sup>

M.G.L. c. 62C § 16 (Filing of Returns):

- Change timing of payment of excise tax for unlicensed wholesalers/distributors (i.e., retailers purchasing from unlicensed distributors) of smokeless tobacco, cigars/smoking tobacco, and ENDS so that returns are filed upon purchase or importation of untaxed products. This would correct existing inconsistencies between timing of filing returns for different tobacco license types.

M.G.L. c. 62C § 68 (Suspension/Revocation of Licenses):

- Add language that conviction for violation of chapter 64C or federal tobacco trafficking statutes could serve as basis for suspension/revocation of tobacco license.
- Add language that a licensee’s refusal to allow DOR access to conduct inspection is grounds for suspension/revocation of license.
- Amend appeals language so licensee is required to notify DOR commissioner of appeal and file bond before appeal hearing can take place – consistent with current DOR Administrative Policies and M.G.L. c. 58A § 9.

M.G.L. c. 62C § 67(2) (Licensing):

- Add the words “suspension or” prior to “cancellation” so that the DOR Commissioner has the authority to revoke tobacco licenses in those circumstances when a “new” owner files for a tobacco license as a subterfuge to avoid a tobacco suspension or revocation. The current law only allows the Commissioner to revoke a license if “new” licensee is seeking to avoid a revocation, but not a suspension.

M.G.L. c. 62C § 73 (Tax Evasion):

- Amend tax evasion criminal sentencing provision to change “imprisonment for not more than five years” to “imprisonment in the house of correction for not more than 2 ½ years or state prison for not more than 5 years...” None of the tobacco-related criminal statutes include this jail/prison distinction, which is common in other criminal statutes.
- Authorize DOR/CIB investigators to file criminal complaints pursuant to Chapter 218 § 35A.

M.G.L. c. 64C § 1 (Definitions):

- Modify definitions to update language and resolve conflicts/confusion. For example, “tobacco products” does not include cigars and smoking tobacco under current definition.

M.G.L. c. 64C § 5 (Record Keeping):

- Modify language to require cigarette licensees to maintain records on-site for cigarette and smokeless tobacco.
- Add civil penalty for hindering, obstructing, or preventing authorized DOR inspection.

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<sup>34</sup> DOR has completed a draft document containing the detailed changes summarized in this report.



M.G.L. c. 64C § 7B (Cigars):

- Add on-demand inspection authority for cigar and smoking tobacco products.
- Add records as an item to be seized in addition to untaxed cigars/smoking tobacco.

M.G.L. c. 64C § 7E (ENDS):

- Add on-demand inspection authority for ENDS products.
- Add records as an item to be seized in addition to untaxed ENDS products.

M.G.L. c. 64C § 8 (Prosecution for Illegal Possession):

- Modernize language (apply to all tobacco products) and remove outdated sections.
- Add reference to the new Section 10 criminal provision (see below).

M.G.L. c. 64C § 10 (Tobacco Trafficking & Penalties):

- Create a new criminal provision for Dealing in Tobacco Products without a License. This would create a criminal provision that applies to trafficking and associated tax evasion for all tobacco products, with the amount of tobacco sold or possessed with intent to sell serving as the basis for a misdemeanor or felony charge. This provision would apply to individuals as well as licensees who are acting outside the scope of their license (e.g., a retailer acting as an unlicensed distributor).
- Require payment by licensees to purchase tobacco products to be in the form of a check, EFT, or credit/debit card (cash payment prohibited) and impose civil and criminal penalties for violations. This will create transparency and allow more efficient and effective civil and criminal enforcement of the tobacco laws.
- Add civil penalty for violation of new criminal provision of Dealing in Tobacco Products without a License.
- Add authority for DOR/CIB investigators to file criminal complaints pursuant to Chapter 218 § 35A.

M.G.L. c. 64C § 11 (Records/Reporting):

- Clarify DOR authority to examine cigarettes and smokeless tobacco products in addition to records.

M.G.L. c. 64C § 34 (Possession Unstamped Cigarettes):

- Add house of correction and prison sentence language (see M.G.L. c. 62C § 73 above).

M.G.L. c. 64C § 35 (Possession/Transportation of Unstamped Cigarettes):

- Add house of correction and prison sentence language (see M.G.L. c. 62C § 73 above).

M.G.L. c. 64C § 38A (Seizure/Forfeiture of Unstamped Cigarettes & Smokeless Tobacco):

- Add records as an item to be seized in addition to untaxed cigarettes & smokeless tobacco.

The Task Force finds that the above legislative recommendations are necessary so the Task Force can effectively disrupt illegal tobacco trafficking and reduce, as well as recover, lost revenue.

## **V. Anticipated Barriers**

The Task Force is committed to a whole-of-government approach to carry out its mandate to enforce the tobacco tax laws, collect revenue, and help protect the health and safety of the citizens of the Commonwealth. However, there remain several administrative and legal barriers which continue to hinder the Task Force's ability to carry out its mandate. The administrative barriers with civil enforcement relate to challenges with inspection authority, licensing, and penalties while the challenges with criminal enforcement relate to jurisdiction, legal authority, and prosecution. The Task Force, through discussion of feedback from the member agencies and the public, has identified solutions, noted above in Section IV Legislative Proposals, to help "strengthen operations and enforcement efforts and reduce or eliminate any impediments to those efforts."<sup>35</sup> The Task Force asks that the legislature consider the above proposals to help remove some of the barriers to effective tobacco regulation and enforcement.

## **VI. Conclusion and Next Steps**

Over the past year, the Task Force has successfully built upon the foundation it established with federal, state, and local law enforcement partners since its creation in 2015. While there are still challenges concerning the disposal of ENDS and much needed changes to the tobacco regulations and laws, as noted above, the Task Force remains committed to effectively combatting the problems associated with tobacco smuggling.

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<sup>35</sup> M.G.L. c. 64C, § 40