



UNITED STATES SENATE

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Contact: Maddie Carlos (Durbin) 202-224-7115

Nicole L'Esperance (Wyden) 202-224-5244

Kevin Donohoe (Brown) 202-631-0016

Maria McElwain (Blumenthal) 202-224-6452

DURBIN, WYDEN, SANDERS, BROWN, BLUMENTHAL URGE CONVENIENCE STORES, WHOLESALERS TO FOLLOW THE LAW AND REMOVE UNAUTHORIZED E-CIGARETTES FROM THEIR SHELVES

After inaction from FDA results in millions of children vaping, Chairs of key Senate Committees send letters to 22 major retailers & distributors across the country

WASHINGTON – U.S. Senate Majority Whip Dick Durbin (D-IL), Chair of the Senate Judiciary Committee, along with U.S. Senators Ron Wyden (D-OR), Chair of the Senate Finance Committee; Bernie Sanders (I-VT), Chair of the Senate Health, Education, Labor, and Pensions Committee; Sherrod Brown (D-OH), Chair of the Senate Banking, Housing, and Urban Affairs Committee; and Richard Blumenthal (D-CT), Chair of the Senate Permanent Subcommittee on Investigations, sent letters to 22 major convenience stores and their wholesalers reminding them of their obligations and legal liability under the *Family Smoking Prevention and Tobacco Control Act (P.L. 111-31)*. The Senators' letters highlight the apparent widespread violations of federal law that prohibits the sale and distribution of unauthorized tobacco products at convenience stores, gas stations, and other retail outlets across the nation.

Under the law, no tobacco product—including electronic nicotine delivery systems such as e-cigarettes or vaping devices, including those containing nicotine not made or derived from tobacco—may legally enter the market for sale without having first received authorization by the Food and Drug Administration (FDA) that the product is “appropriate for the protection of public health” (21 U.S.C. § 387j(c)).

The Senators wrote, “**Every single e-cigarette or vaping product that is not on this list was not authorized by FDA, making such products illegal and adulterated and misbranded under Sections 902 and 903 of the *Federal Food, Drug, and Cosmetic Act*. Companies distributing or selling any such unauthorized products are subject to enforcement penalties by the FDA, which may include a civil monetary penalty or no-tobacco-sale order. To date, FDA has issued more than 440 warning letters and 88 civil monetary penalties to retailers for the sale**

of illegal e-cigarettes and vaping products. Retailers and distributors engaged in the sale or distribution of such unauthorized products risk liability.”

Despite these statutory requirements, a trip to many convenience stores, gas stations, or similar retail outlets reveals scores of unauthorized e-cigarettes and vaping products being sold. The majority of the retailers who received letters from the Senators have received warning letters and civil monetary penalties from FDA within the past year for selling e-cigarettes to underage purchasers. A 2022 [independent report](#) from the Reagan-Udall Foundation highlighted the potential value to enhancing communication and enforcement actions with retailers, wholesalers, and distributors who are handling illegally marketed products. These illegal sales also pose a tremendous public health threat. Today, millions of children use unauthorized e-cigarettes, risking nicotine addiction, respiratory illness, exacerbation of depression and anxiety, and many other harms.

The Senators continued, “As Chairs of the Senate Judiciary Committee; Finance Committee; Health, Education, Labor, and Pensions Committee; Banking, Housing, and Urban Affairs Committee; and Permanent Subcommittee on Investigations, we are working with the Department of Justice, FDA, and other agencies, to ensure adequate enforcement of federal laws to protect public health and prevent the unauthorized sale of tobacco products. We strongly encourage your company to ensure compliance with federal laws to prevent youth use of harmful tobacco products and protect your company from liability.”

Durbin has been a vocal leader in the fight against Big Tobacco, particularly since he lost his father to lung cancer when the Senator was 14. Durbin went after Big Tobacco when he served in the House of Representatives and led the charge to ban smoking on airplanes, which eventually led to bans in restaurants, office buildings, trains, and much more. Durbin has also led efforts to grant FDA jurisdiction over tobacco, raise tobacco taxes to prevent youth initiation, and enhance support for tobacco cessation tools.

Last month, Durbin urged FDA to use its authority to protect children from the dangers of vaping as the agency continues to miss and delay critical deadlines [in a letter](#) to FDA Commissioner Dr. Robert Califf. Durbin has repeatedly criticized FDA for its long-overdue review of pre-market tobacco product applications (PMTAs) from e-cigarette manufacturers, which had a federal court deadline of September 9, 2021. FDA has missed that court-ordered deadline by 29 months as unauthorized e-cigarettes flood the market and addict America’s children.

Text of the letter to 7-Eleven can be found [here](#).

Text of the letter to Circle K Stores, Inc. can be found [here](#).

Text of the letter to Casey's General Stores, Inc. can be found [here](#).

Text of the letter to Murphy USA Inc. can be found [here](#).

Text of the letter to EG America can be found [here](#).

Text of the letter to GPM Investments, LLC can be found [here](#).

Text of the letter to bp America can be found [here](#).

Text of the letter to Chevron/ExtraMile Convenience Stores LLC can be found [here](#).

Text of the letter to Wawa Inc. can be found [here](#).

Text of the letter to QuikTrip Corporation can be found [here](#).

Text of the letter to Kwik Trip, Inc. can be found [here](#).

Text of the letter to Sheetz, Inc. can be found [here](#).

Text of the letter to Pilot Company can be found [here](#).

Text of the letter to Love's Travel Stops & Country Stores, Inc. can be found [here](#).

Text of the letter to RaceTrac, Inc. can be found [here](#).

Text of the letter to Royal Farms can be found [here](#).

Text of the letter to Amcon Distributing Company can be found [here](#).

Text of the letter to Atlantic Dominion Distributors can be found [here](#).

Text of the letter to Core-Mark can be found [here](#).

Text of the letter to McLane Company, Inc can be found [here](#).

Text of the letter to Imperial Trading Co, LLC can be found [here](#).

Text of the letter to H.T. Hackney can be found [here](#).