Congress of the United States

Washington, DC 20515

March 20, 2025

The Honorable Kristi Noem
Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue, SE
Washington, DC 20528

The Honorable Pam Bondi
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20500

Sara Brenner, M.D.
Acting Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20903

Dear Secretary Noem, Attorney General Bondi, and Acting Commissioner Brenner:

We write to urge the Department of Justice (DOJ), Department of Homeland Security (DHS), and the Food and Drug Administration (FDA) to strengthen their partnership and take decisive action against the influx of illicit electronic nicotine delivery systems (ENDS), such as e-cigarettes, that are being smuggled into the United States, particularly from the People's Republic of China (PRC).

Recently, your departments seized more than 628,000 illegal e-cigarette products originating from the PRC intended for distribution across the United States.[1] As your departments hit the ground running in the new Administration, we ask you take decisive action to confront this threat once and for all.

The rise in vaping and e-cigarette use among America's youth has been a growing concern in recent years. Even more troubling is that one of our greatest adversaries, the Chinese Communist Party (CCP), is fueling this crisis. The mislabeling of e-cigarette shipments, evasion of customs, and attempts to bypass U.S. Customs and Border Protection demonstrate clear and deliberate intent to turn a blind eye to one of America's greatest public health crises.[2] The CCP has banned the sale of flavored e-cigarettes within its own borders yet continues to export these same products worldwide. [3] If these products are deemed unsafe for their own citizens, we must question their efforts to smuggle and sell these products in the United States.

Since 2020, the number of different electronic cigarette devices sold in the U.S. has nearly tripled to over 9,000 – of which only 34 are approved by the FDA. [4] This means over 8,000 are largely unauthorized disposable vapes, the overwhelming majority of which are from the PRC. As you know, youth vaping puts the next generation at great risk for developing nicotine

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1 https://www.cspdailynews.com/tobacco/federal-agencies-seize-more-7-million-worth-unauthorized-e-cigarettes
2 https://apnews.com/article/vaping-elf-bar-ecigarettes-china-teens-77033584983ad47fc5795baa46b4705e
3 https://www.theguardian.com/society/2022/oct/16/china-bans-fruity-vapes-export-disposable-brand-britain
4 https://apnews.com/article/fda-vapes-vaping-elf-bar-juul-80b2680a874d89b8d651c5e909e39e8f

addictions and harms brain development. In fact, disturbingly, many of these products are deliberately flavored in a manner targeted to youth users.

The illegal importation of PRC-made vapes into the United States violates FDA regulations and, in many cases, is an act of criminal smuggling under U.S. law. This is because any ENDS product that has not received marketing authorization from the FDA is on the market unlawfully. PRC vape manufacturers also exploit regulatory loopholes and actively evade FDA oversight, exporting vapes to the U.S. market with unapproved and hazardous products. As the Select Committee on Strategic Competition between the United States and the CCP has previously documented, and is currently seeking to investigate in further detail, PRC manufacturers manipulate labeling, change product names to circumvent import bans, and use fraudulent QR codes to mislead regulators.

The large-scale smuggling of these illicit vaping products – accounting for more than half of all vapes sold in the U.S. – undermines American public health priorities and contributes to a significant increase in youth vaping. Youth vaping as a general matter is dangerous and directly harms consumers, including minors in particular, but the continued importation of these unapproved products, often through deceptive transshipment tactics, also violates U.S. trade laws.

Last year, the DOJ and FDA established a multi-agency task force to tackle these concerns, which was an important step forward. But it is time to go even further and utilize all enforcement tools at our disposal.

Given these factors, we urge your agencies to work in closer coordination and fully leverage your respective enforcement authorities to combat this serious issue, including by pursuing, as appropriate, civil and criminal penalties both against companies who unlawfully export ENDS products to the United States and the distributors who sell them to America's children. Seizing these products is also an essential step, which currently occurs far too infrequently. Taken together, we believe these enhanced enforcement efforts will represent a major step forward in deterring future unlawful importation of ENDS products and turning the tide of this national health crisis.

Sincerely,

Dusty Johnson
Member of Congress

Raja Krishnamoorthi
Member of Congress

John R. Moolenaar
Member of Congress