



California Fuels and Convenience Alliance

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September 14, 2023

Commissioner Robert Califf
Food and Drug Administration
10903 New Hampshire Ave
Silver Spring, MD 20993-0002

Office of the Attorney General, Robert Bonta
1300 "I" Street
Sacramento, CA 95814-2919

Dear Commissioner Califf & California Attorney General Robert Bonta,

My name is Alessandra Magnasco. I am the Governmental Affairs and Regulatory Director with the California Fuels and Convenience Alliance (CFCA) trade association. Most of our almost 300 members we represent are small business owners, many of whom are long standing family-owned businesses passed down from one generation to the next. I am writing today regarding the recent bi-partisan letter sent on August 29, 2023, that was signed by 33 Attorneys General that advocated for an immediate crackdown by the Food and Drug Administration (FDA) on the proliferation of illegal flavored disposables vapor products that are flooding the U.S. Market.

In the letter, the coalition of Attorneys General make common sense recommendations to the FDA. Notably, the letter calls on the FDA to “(a)dopt new enforcement priorities that clearly communicate the illegality of flavored disposable e-cigarettes” and “(t)ake stronger enforcement actions against manufacturers, distributors, and retailers of flavored disposable e-cigarettes.” We at CFCA could not agree more with those recommendations as we are deeply concerned with the lax enforcement of the hundreds of different illegal disposable e-cigarette brands that come in youth-enticing flavors in California. These products are widespread across the state and are entering illegally, most likely by way of our deep-water ports.

As you are aware, the State of California has completely outlawed the sale of all flavored tobacco products as of 12/21/22 via state law SB 793. The implementation of the flavor ban, however, has left many without clear guidance on which products can still be sold, and retailer and wholesaler concerns continue to be ignored. We would greatly appreciate support from both the FDA and our Attorney General to establish an accurate directory of products that can and cannot be sold, as well as enforcement action of the many non-compliant businesses out there.

I bring this to your attention because the enforcement of SB 793 in California has been entirely disjointed, and it feels hypocritical to ask the FDA to do a job our own state has failed to enforce with consistency. Therefore, I implore your offices to immediately begin working with state & local law enforcement officials and enforce the state flavor ban with a focus on disposable e-cigarettes in youth-enticing flavors.

The retailers who we represent follow all laws as they are written and they are essentially losing millions in overall store sales per year to unscrupulous competitors who continue to offer these illegal products for sale. We want to be your partner in this endeavor and are willing to work with your offices to identify non-compliant retailers who continue to intentionally flout the law.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alessandra Magnasco', written in a cursive style.

Alessandra Magnasco
Governmental Affairs and Regulatory Director
California Fuels and Convenience Alliance