

Charles E. Giblin SB33 Testimony before Maryland State Senate Finance Committee

Madam Chair, members of the Senate Finance Committee, thank you for your time. My name is Charles E. Giblin. I'm testifying at the request of Altria Client Services' registered lobbyist. The views I am sharing are entirely my own.

While we all appreciate the sponsor's public health intention of this legislation, as a 45-year law enforcement official, I need to strongly caution you: while this bill is very well-intentioned, it won't end the sale of these products. It will just change how they get into your communities. This bill will create a public safety crisis, by creating a sprawling criminal enterprise and worsening an already-fragile relationship with the law enforcement community responsible for protecting our communities

I spent 36 years of my career as a special agent with the NJ department of the treasury, office of criminal investigation. I retired as the special agent in charge. As a "state revenue law enforcement officer" I have not only made hundreds of arrests for tobacco and financial related crimes, but I have developed and promulgated programs, policies and procedures, some of which have been adopted by other jurisdictions. I was awarded the federation of tax administrators lifetime achievement award for tobacco enforcement and have been an expert witness in federal and state courts.

We all agree that reducing underage access to tobacco and vaping is an appropriate goal. I have personal experience with this in my own family.

I understand the desire to take more action. But this legislation won't eliminate flavored tobacco products from Maryland communities. Instead, it will just shift the market from legal and regulated businesses to illegal, unregulated smuggling networks.

Once the bill passes, cross border smuggling from neighboring states will dramatically increase. For Maryland this migration from legal to illicit market will be very easy. Maryland is situated at the epicenter of cigarette smuggling activity in the United States - the interstate i-95 corridor. Currently millions of cigarette cartons and other tobacco products are smuggled annually from low tax states such as Virginia, through Maryland, to higher tax states including New York, New Jersey and points north. And Maryland is ringed with hundreds of Virginia, Delaware, D.C., and Pennsylvania retailers who will become ready sources for smugglers bringing in illicit products without regard to tax, licensing, or age verification laws.

Secondly, contraband activities bring other and very serious crimes with them. There are many criminal cases that have made the link between contraband tobacco smuggling and terrorism. Additionally, cigarette smugglers often engage in racketeering, extortion, attempted murder, narcotics, gun smuggling, and id theft. And, without a doubt, with every contraband case comes general tax evasion from Maryland's treasury. I'm happy to provide a list of these cases to the committee, which include a November 2019 bust by Maryland comptroller agents which seized nearly half million dollars' worth of contraband cigarettes.

With this increased criminal activity come increased demands on law enforcement personnel. But at the same time, because it moves these products out of the tax-paying distribution channel, Maryland will see a very significant reduction in tax revenues, and thus less funding to pay for increased policing.

This increased burden cannot be overstated and must be considered as you review this legislation.

In closing, I applaud your effort to help reduce the level of youth usage of vaping products. But regulating these products by criminalizing them has enormous implications that require much more discussion, with law enforcement at the table. Thank you for your time and I'm happy to answer any questions you may have.

RECENT EXAMPLES OF CONTRABAND CIGARETTE CASES INVOLVING OTHER CRIMINAL CONDUCT

Smuggling

'Floor to ceiling': Maryland comptroller touts biggest tobacco bust in state history

Maryland's comptroller says his agents have completed the largest bust of untaxed tobacco products in state history.

State agents announced Wednesday that they seized more than \$450,000 worth of cigars, hookah tobacco, cigarettes and other tobacco products during a series of raids earlier this month at storage units, stores, a home and a car in Prince George's County. They also inspected stores in Prince George's County and Baltimore City.

The storage units were packed "floor to ceiling" with untaxed tobacco products, said Jeffrey A. Kelly, chief of the comptroller's Field Enforcement Division.

Kelly said his team believes the tobacco products were smuggled into Maryland from Pennsylvania, and if they had been taxed properly, the state would have taken in \$286,000 in taxes.

Comptroller Peter Franchot said the smuggling and illicit sales were coordinated by "a vast organized crime ring of bad actors" who were trying to circumvent state tax laws.

Monzurul Islam, 29, of Columbia and Mehboob Chowdhury, 37, of Capitol Heights were charged with selling tobacco products that weren't bought from a wholesaler, according to the comptroller's office. Neither man's charges were listed in online court records Wednesday, and officials said they could face additional charges.

Abdul Karim Rubel, an 18-year-old store clerk from Baltimore, faces misdemeanor charges of selling tobacco products that weren't bought from a wholesaler, possessing untaxed tobacco products and possessing and selling untaxed cigarettes.

The comptroller's agents began their investigation with a tip from state Sen. Joanne C. Benson, who said she noticed a proliferation of tobacco stores while on a bus tour of southern Prince George's County last fall. She asked the comptroller and Prince George's County officials to look into whether they were legal.

"We are working hard in the state of Maryland to discourage people from smoking," said Benson, a Democrat.

Benson praised Franchot and Prince George's County State's Attorney Aisha Braveboy for their work on the case. She said that perhaps lawmakers should rethink the law they passed earlier this year to eventually move tobacco and alcohol enforcement out of Franchot's office.

"In view of what has happened here ... I think we in the Senate and House should revisit what we discussed last year," Benson said.

Franchot said the tobacco bust shows that the enforcement system is "not broken."

The new law strips Franchot of tobacco and alcohol authority starting July 1, 2020. By then, the state is required to create an independent Alcohol and Tobacco Commission that would employ agents and run investigations.

The law was passed amid a feud between Franchot, a Democrat, and the Democratic-led General Assembly.

Franchot claimed lawmakers were stripping his power as punishment for his outspoken support for the craft beer industry.

Lawmakers countered that they didn't think it was appropriate for the state's chief alcohol regulator and tax collector to be collecting campaign donations from the very industry he oversees. And they said the idea came from a task force that studied the state's liquor laws.

Franchot said the move would cost state taxpayers \$50 million over the next decade. But an analysis by the nonpartisan Department of Legislative Services found that it would cost \$4 million in the first year to establish the commission and move the field investigators. After that, the state would face about \$700,000 each year in increased expenses.

Organized Crime

U.S. v. Pirk, case no. 1:15-CR-00142 (W.D.N.Y. 2019) (convictions of members of the Kingsmen Motorcycle Club, a criminal organization which engaged in distribution of controlled substances, possession, use and sale of firearms, sales of untaxed cigarettes, and promoting prostitution; 16 members convicted of RICO, drug and firearm offenses for participating in a drive-by shooting of rival Club members), *see* DOJ Press Release at <https://www.justice.gov/usao-wdny/pr/another-kingsmen-motorcycle-club-member-sentenced-rico-conspiracy>

U.S. v. Chow, case no. CR 14-00196 (N.D. Calif. 2018) (defendants were members of a San Francisco Chinatown-based organization, the Chee Kung Tong, that engaged in racketeering activity; charges included money laundering, drug trafficking, cigarette trafficking, trafficking in stolen liquor, firearms trafficking, and murder for hire), *see* DOJ Press Release at <https://www.justice.gov/usao-ndca/pr/eight-defendants-sentenced-prison-crimes-charged-shrimp-boy-indictment>

U.S. v. Shulaya, U.S. v. Fishman, U.S. v. Jikia, U.S. v. Gindinov (S.D.N.Y. 2017) (indictments of members of Russian crime syndicate for racketeering, extortion, robbery/theft, murder-for-hire, fraud, narcotics (cocaine and heroin), firearm offenses, gambling and cigarette trafficking, committed across the country), *see* DOJ Press Release at <https://www.justice.gov/usao-sdny/pr/members-and-associates-russian-crime-syndicate-arrested-racketeering-extortion-robbery> ; indictments at <https://www.justice.gov/usao-sdny/press-release/file/972206/download> ; <https://www.justice.gov/usao-sdny/press-release/file/972191/download> ; <https://www.justice.gov/usao-sdny/press-release/file/972201/download> ; <https://www.justice.gov/usao-sdny/press-release/file/972196/download>

U.S. v. Parrello, case no. 16crim522 (S.D.N.Y. 2016) (indictments of 46 individuals who were part of a long-running racketeering conspiracy composed of members of the Genovese, Gambino, Luchese, Bonanno and La Cosa Nostra crime families, operating throughout the East Coast of the United States; charges include racketeering, extortion, arson, illegal trafficking in firearms, assault, gambling, credit card and healthcare fraud and contraband cigarette trafficking), *see* indictment at <https://www.justice.gov/usao-sdny/file/882166/download>

U.S. v. Chen, case no. 2:05-cr-00806-DSF-2 (C.D. Calif. 2010) (conviction of individual under anti-terrorism statute for smuggling Chinese-made QW-2 shoulder-fired missiles into the United States; the conviction was the result of an investigation of 87 individuals for smuggling counterfeit U.S. currency (\$100 super notes made in North Korea), drugs (methamphetamine and cocaine), counterfeit and contraband cigarettes, and other

contraband into the United States), *see* DOJ Press Release at <https://www.justice.gov/archive/usao/cac/Pressroom/pr2010/144.html>

Congressional Research Services, *Report on Senegal* (March 2019) (“According to the State Department, Senegal is a transit point for cocaine trafficking between South America and Europe. Cannabis is also cultivated in Casamance for domestic and regional markets. The drug trade may leverage networks used to smuggle duty-free cigarettes, counterfeit medications, small arms, and migrants.”), found at <https://www.justice.gov/eoir/page/file/1148566/download>

U.S. State Department, *The Global Illicit Trade in Tobacco: A Threat to National Security* (Dec. 2015) (“Cigarettes are one of the most smuggled ‘legal’ products in the world, and cigarette smuggling is a form of transnational organized crime (TOC). Moreover, the illicit trade in tobacco, including cigarettes, has been linked to the financing of terrorist organizations. In some cases, smugglers deal in cigarettes and other illicit commodities, such as drugs, weapons, bulk cash smuggling, stolen antiquities, diamonds, and counterfeit goods. In most cases, the criminals also engage in identity theft, money laundering, and bulk cash smuggling to either continue their illicit enterprises, or to use their illegal profits.”), found at <https://2009-2017.state.gov/documents/organization/250513.pdf>

Controlled Substances and Firearms

U.S. v. Feliciano, case no. 3:19-cr-00135 (D. Connecticut 2020) (individual convicted of drug (cocaine) trafficking and illegal firearm possession; cigarettes with fraudulent tax stamps also found), *see* DOJ Press Release at <https://www.justice.gov/usao-ct/pr/hartford-man-sentenced-46-months-federal-prison-gun-possession-and-cocaine-distribution>

U.S. v. Landon (D. Id. 2018) (indictment of seven correctional officers involved in a large-scale drug trafficking organization for trafficking in contraband cigarettes, distribution of controlled substances (including cocaine), and possession of firearm in connection with a drug trafficking crime), *see* DOJ press release at <https://www.justice.gov/usao-id/pr/four-correctional-officers-indicted-federal-court>

U.S. Collins (C.D. Cal. 2018) (indictment of four law enforcement officers for providing security for distribution of 45 pounds of cocaine, 13 pounds of methamphetamine, marijuana, counterfeit cigarettes and cash), *see* DOJ Press Release at <https://www.justice.gov/usao-cdca/pr/deputy-sheriff-three-cohorts-arrested-drug-trafficking-scheme-after-agreeing-provide>

U.S. v. Almuttan, case no. 4:17CR00234 (E.D. Mo. 2017) (indictment of 35 individuals on charges of trafficking in contraband cigarettes and distribution of synthetic drugs (K2) and importation of K2 precursors from China), *see* indictment at <https://www.justice.gov/usao-edmo/press-release/file/970366/download>

U.S. v. Saed, 2:16-cr-00171 (E.D. La. 2017) (convictions of three individuals for trafficking in narcotics (heroin) and contraband cigarettes, and firearms violations), *see* DOJ Press Release at <https://www.justice.gov/usao-edla/pr/three-men-including-two-former-local-law-enforcement-officers-plead-guilty-trafficking>

U.S. v. Rakhamimov (D. Md. 2016) (conviction for trafficking in contraband cigarettes, distribution of oxycodone and counterfeit drugs, and international money laundering); *see* DOJ Press Release at <https://www.justice.gov/usao-md/pr/leader-conspiracy-distribute-over-66-million-contraband-cigarettes-sentenced-prison>

Fraud

U.S. v. Williams, case no. 1:17-cr-214, 226, 227, 240, 252, 251, 254, 312 (E.D. Va. 2018) (convictions of 12 individuals in credit card fraud and ID theft ring; defendants purchased stolen information and credit/debit card numbers, forged credit cards, and purchased cigarettes with stolen/forged credit cards to resell on illicit market; one defendant participated in an organized dog-fighting ring), *see* DOJ Press Release at <https://www.justice.gov/usao-edva/pr/ringleader-sentenced-credit-card-fraud-and-id-theft-scheme>

U.S. v. Salahedin, case no. 3:36-cr-29 (E.D. Va. 2017) (conviction of individual for using fictitious identity to set up businesses in Virginia to purchase cigarettes and traffic them to New York and New Jersey), *see* DOJ Press Release at <https://www.justice.gov/usao-edva/pr/new-jersey-man-sentenced-trafficking-contraband-cigarettes>

U.S. v. Diallo, case no. 5:15cr146 (E.D.N.C. 2016) (two individuals convicted for using stolen credit card account information to purchase large quantities of cigarettes in North Carolina which were resold in other states; the defendants acquired stolen credit card data from other conspirators and encoded the stolen data onto the magnetic strip of what appeared to be legitimate gift cards), *see* DOJ Press Release at <https://www.justice.gov/usao-ednc/pr/identity-thief-sent-prison-more-7-years-role-credit-card-and-cigarette-trafficking>

Contraband in Correctional Institutions

U.S. v. Plummer, case no. 2:19-cr-25 (E.D. Va. 2019) (conviction for smuggling heroin, cocaine, cell phones and e-cigarettes into Chesapeake City Jail), *see* DOJ Press Release at <https://www.justice.gov/usao-edva/pr/former-chesapeake-sheriff-s-deputy-sentenced-corruption>