



FOR IMMEDIATE RELEASE: August 22, 2023

Contact: Andrew Sharp at ASharp@sandiego.gov or (619) 723-1674

City Attorney Mara W. Elliott sues local chains for violating new law against flavored tobacco

Following an alarming increase in the use of electronic cigarettes by young people, both the State of California and the City of San Diego banned the sale of tobacco with flavors like chocolate and bubblegum. Today, City Attorney Mara W. Elliott sued two local retail chains for violating the flavored tobacco ban, saying they repeatedly sold flavored tobacco products to undercover investigators. The City Attorney has filed a lawsuit against Payless Smoke Shop and Keg ‘N Bottle stores, seeking heavy fines and asking the Court to require their compliance with the law.

“As a mother and a prosecutor, I am appalled by the tactics of the tobacco industry, which continues to manufacture and advertise deadly products with kid-friendly flavors, like cotton candy, bubblegum, and a wide range of fruits. No wonder 14 percent of high school students report using e-cigarettes,” said Elliott. “Today, my Office is holding accountable two retail chains that put profit before the lives of our kids, and sending a clear message to other retailers that this important law will be enforced. Enough is enough!”

According to the complaint filed today in Superior Court, Payless Smoke Shop, with three San Diego locations, and Keg ‘N Bottle, which operates six San Diego stores, repeatedly violated the California Health and Safety Code and the San Diego Municipal Code by selling flavored tobacco. Earlier this month, City investigators, acting undercover, purchased flavored tobacco products at both retailers. A store clerk at Keg ‘N Bottle even asked the investigator to conceal the tobacco when leaving the store, because it is illegal to sell.

Recent City media releases can be accessed on the San Diego City Attorney’s website: <https://www.sandiego.gov/cityattorney>
Follow the City Attorney’s Office on Instagram: [San Diego City Attorney Mara W. Elliott \(@sdcityattorney\)](https://www.instagram.com/sdcityattorney) • [Instagram photos and videos](#)

1200 Third Avenue, Suite 1620, San Diego, California 92101-4188 (619) 236-6220

City Attorney Elliott thanked the undercover investigators, Senior Chief Deputy City Attorney Mark Ankcorn and Deputy City Attorney Kevin B. King for their dedicated work on this case.

E-cigarette use by teens and young adults is a serious public health concern nationwide. E-cigarette sales have spiked overall by 46 percent from 2020 to 2022. Flavored tobacco products are an easy “on ramp” to nicotine addiction by young people. The nicotine from e-cigarettes is highly addictive and is particularly problematic for youth due to its effects on brain development. Nicotine addiction can lead to the use of other addictive substances, like traditional cigarettes, alcohol, and drugs. Nicotine use can also cause reduced impulse control, deficits in attention and cognition, and mood disorders.

Recognizing the dangers of flavored tobacco, last year, San Diego City Councilmember Marni von Wilpert authored and advocated for the passage of the Stop Adolescent Addiction to Flavored E-Cigarettes (SAAFE) Act to make the sale and distribution of flavored tobacco illegal in San Diego from the first of January. A similar state measure later took effect after voters rejected an industry initiative to repeal the state law.

“I applaud today’s action by the City Attorney as the next step in our fight to keep these poisonous nicotine products out of communities and especially out of the hands of our children,” said Councilmember von Wilpert. “We worked alongside youth and families to pass our city’s ban on flavored tobacco, which paved the way for historic statewide legislation and gave our City Attorney the tools to pursue the enforcement action we're seeing today. This lawsuit is a big first step for our city, and we look forward to working with our partners across the region and state to put the health and safety of our young people first, and prevent a lifetime of nicotine addiction.”

The litigation filed today by the City Attorney charges the Payless Smoke Shop and Keg ‘N Bottle with violating the State’s Unfair Competition Law by unlawfully selling flavored tobacco and maintaining an unfair advantage over other, law-abiding retailers in doing so. Violations of the law are punishable by up to \$2,500 per sale of the unlawful item (in this case, flavored tobacco.) In addition to the fines, the City Attorney asked the Court to require the stores comply with the law and pay the City’s legal fees for enforcement action against them.

###