

United States Senate

WASHINGTON, DC 20510

May 11, 2016

The Honorable Sylvia M. Burwell
Secretary
U.S. Department of Health and Humans Services
200 Independence Avenue, SW
Washington, D.C. 20201

The Honorable Robert M. Califf
Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, M.D. 20993

Dear Secretary Burwell and Commissioner Califf,

We commend the Food and Drug Administration (FDA) for finalizing the deeming rule that extends FDA regulatory authority to include all tobacco products, including e-cigarettes, cigars, and pipe tobacco, to protect the public's health—and especially the health of the youngest Americans—from the harmful effects of tobacco. The deeming rule is a much-needed step to give the FDA crucial tools to prevent manufacturers and retailers of currently unregulated tobacco products from targeting our children and teens, and we urge your agencies to remain diligent in working quickly to further limit the effect and reach of these products on our nation's youth.

Public health awareness campaigns and FDA regulatory authority have been effective in preventing young people from becoming cigarette smokers, but tobacco companies continue to use manipulative marketing to encourage children and teens to smoke e-cigarettes, cigars, and other tobacco products. In fact, between 2011 and 2015, there was a ten-fold increase in e-cigarette use among high school students and a record-high of three million young adults – including middle-school kids– using e-cigarettes. Following the deeming rule, we believe there remain critical opportunities to further restrict marketing targeted to youth. The Centers for Disease Control and Prevention (CDC) recently found an association between exposure to e-cigarette advertisements and use by middle and high school students. As e-cigarette makers continue to target youth through channels that are already prohibited for cigarettes, like the sponsorship of sporting events and concerts, and television and radio advertisements, seven in ten young people are exposed to e-cigarette marketing, attracting millions of youth e-cigarette users.

In addition, tobacco companies are producing e-cigarettes and other products in fruit and candy flavors, a practice not prohibited under the deeming rule. This is particularly concerning because children are more likely to use products with these types of flavors, and because children can purchase these previously unregulated products online without their parents' knowledge. It is

unacceptable that tobacco companies are once again targeting children using the same tactics they once used to promote cigarettes. For this reason, we recognize this rule as an important step to prevent the youngest Americans from becoming a new generation of smokers and are committed to continue working together to swiftly ensure, through the product application process and other means, that children are fully protected from these harmful marketing and flavoring tactics for all tobacco products now subject to FDA's regulatory authority.

Thank you again for taking this critical step to further protect our country's health from the harmful effects of tobacco. We look forward to working together to ensure these protections, and additional protections, are implemented as quickly as possible.

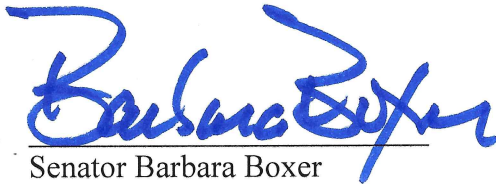
Sincerely,



Senator Patty Murray
United States Senator



Senator Richard Blumenthal
United States Senator



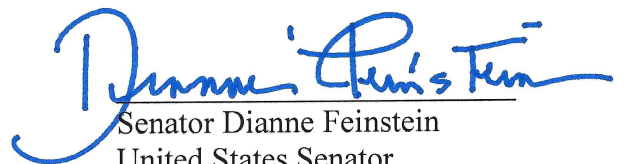
Senator Barbara Boxer
United States Senator



Senator Sherrod Brown
United States Senator



Senator Richard J. Durbin
United States Senator



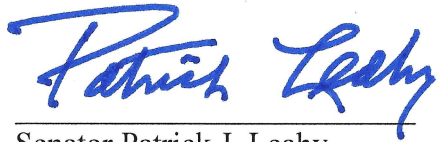
Senator Dianne Feinstein
United States Senator



Senator Al Franken
United States Senator



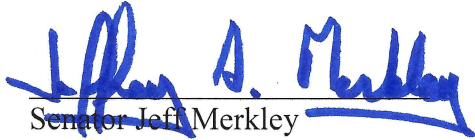
Senator Kirsten Gillibrand
United States Senator



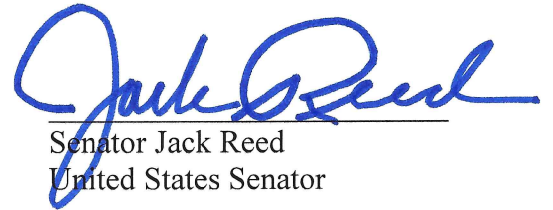
Senator Patrick J. Leahy
United States Senator



Senator Edward J. Markey
United States Senator



Senator Jeff Merkley
United States Senator



Senator Jack Reed
United States Senator



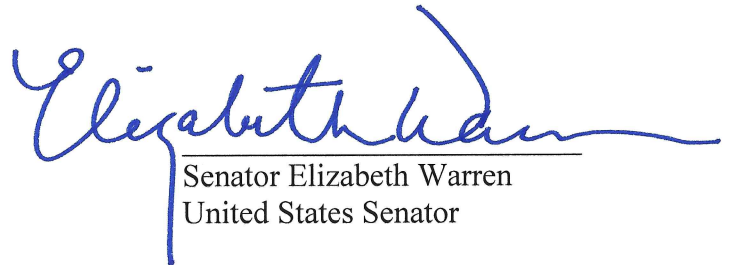
Senator Brian Schatz
United States Senator



Senator Charles E. Schumer
United States Senator



Senator Tom Udall
United States Senator



Senator Elizabeth Warren
United States Senator



Senator Sheldon Whitehouse
United States Senator