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OP-EDS

Trump FDA's chance to crack down on Chinese black market harming our children

By **Richard Burr**

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Since taking the helm of the Food and Drug Administration, President Donald Trump and his administration have taken meaningful steps to address the illicit nicotine product market — a crisis that threatens public health, consumer trust, and our national security. The recent Operation Red Mist effort led by U.S. Customs and Border Protection stopped 18 million units of illegal vapes from reaching our country — no small feat and a welcome change from the inaction of the Biden years.

In fact, according to a recent Government Accountability Office report, the Trump administration increased enforcement of illicit e-cigarettes fourfold in 2025 alone. While continued crackdowns are a positive development, authorizations of more smoke-free, reduced-harm products from American manufacturers playing by the rules must be part of the equation.

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To truly eliminate the staggering influx of illicit nicotine products flowing into our country, we need a well-regulated marketplace with effective enforcement and legal, regulated choices.

OPINION: AMERICAN MOTHERS ARE DONE BEING CHINA'S VAPE DUMPING GROUND

Consider that in our country today, an estimated 85% of the U.S. e-cigarette market is illegal. Most of these illicit products come from China. Many of them target underage users with youth-appealing features and can have extremely high puff counts. Their ingredients, manufacturing processes, and safety components have no oversight from the FDA — the agency charged with reviewing these products under the Tobacco Control Act.

The illicit market that continues to evade FDA oversight brazenly is the biggest risk factor of all for underage users. It is filled with bad actors ignoring FDA regulation altogether and using flavors freely in egregiously youth-oriented product designs more dangerous than anything the FDA would or should authorize.

To correct this growing crisis, the FDA must fully enforce the law against bad actors evading oversight and endangering American consumers, and streamline the authorization of less harmful, smoke-free products from American companies seeking to operate within a legal market. Adult consumers want better alternatives to smoking, and a well-regulated marketplace will provide reduced-harm products through responsible and accountable retail channels that better prevent underage user access.

At the core of the TCA is the principle of harm reduction. Congress understood

the science showing that smoke — not nicotine — causes almost all tobacco-related disease. We set a standard for manufacturers to be able to operate within a legal market if they invested in innovative technology and created the next generation of smoke-free products for adult smokers seeking less harmful alternatives.

Yet, the FDA has thwarted the opportunity innovative smoke-free products offer to the more than 25 million Americans who smoke combustible cigarettes. The process the FDA built for reviewing less harmful products has made it so difficult that only nine e-cigarette devices have been authorized out of the millions of applications it has reviewed. The FDA ignores the 180-day application review timeline Congress established under the TCA.

The consequences of a prohibitionist policy are steep for both adult and underage consumers. What happens when a legal market can't exist? The black market fills the void, a lesson we are learning firsthand as China has largely overtaken the almost $14 billion e-cigarette market in the United States.

Lawmakers and regulators who care about protecting America's youth cannot in good conscience support the broken status quo. The illicit market is fueling a widespread illicit market of distributors and vape shops unconcerned with what they are selling or to whom.

The path forward is clear: better enforcement and more legal, regulated smoke-free choices.

The **Trump administration** has met the moment with both resources and interagency coordination. In September 2025, the FDA, working with CBP and other partners, seized 4.7 million units of unauthorized e-cigarette products valued at over $86.5 million — nearly all originating from China.

Targeted operations such as “Operation Vape Trail” by the Drug Enforcement Administration have seized over 2.3 million vape devices and related items since September 2025. Last fall’s government funding legislation allocated at least $200 million in FDA tobacco user fees toward enforcement, including $2 million for a multi-agency federal task force focused on illegal imports.

While the enforcement actions are significant, removing illicit products does not diminish existing demand for adult consumers seeking alternatives to combustible tobacco. If the prohibitionists have their way and there are no legal vape or pouch products on the market, consumers face two unappealing choices: buy illicit products or continue smoking cigarettes.

OPINION: ILLICIT VAPES FLOODED OUR BORDERS. THE TRUMP ADMINISTRATION IS FIGHTING BACK

I am hopeful that the FDA is moving away from the failures of prohibition and embracing a **regulatory** approach with harm reduction at its core. Harm reduction will better protect consumers,

prevent youth access, and root out the Chinese-fueled illicit black market.

The FDA has the opportunity to reduce cigarette smoking further, save more American lives, and crack down on bad actors from China seeking to harm our children and our nation.

Richard Burr was a Republican U.S. senator from North Carolina from 2005 to 2023 and is a former chairman of the Senate Select Committee on Intelligence. He now serves as the chairman of the Regulate Smarter Coalition for Smarter Regulation of Nicotine.

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