

FEDERAL AND NATIONAL UPDATES IN TOBACCO CONTROL & PREVENTION

9TH ANNUAL MARYLAND TOBACCO CONTROL CONFERENCE
BALTIMORE, MD
JUNE 4, 2025

MARISA KATZ SENIOR STAFF ATTORNEY PUBLIC HEALTH LAW CENTER



PRESENTATION ROADMAP



The Federal Landscape



Litigation Updates



**State & Local Policy Updates &
Opportunities**









Discussion

THE PUBLIC HEALTH LAW CENTER





LEGAL TECHNICAL ASSISTANCE

-  Legal Research
-  Policy Development, Implementation, Defense
-  Publications
-  Trainings
-  Direct Representation
-  Lobby

EQUALITY:

Everyone gets the same – regardless if it's needed or right for them.



EQUITY:

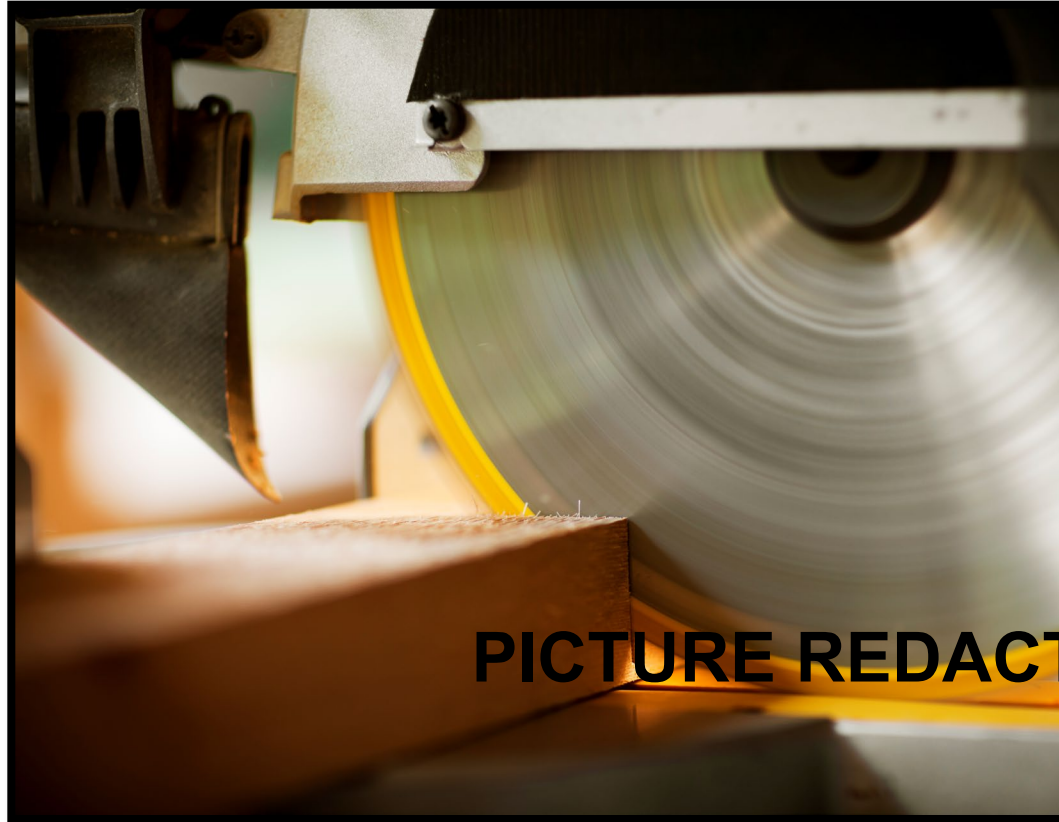
Everyone gets what they need – understanding the barriers, circumstances, and conditions.



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THE FEDERAL LANDSCAPE: CUTS/REORGANIZATION & RULEMAKING UPDATES

WIDESPREAD CUTS TO HHS AGENCIES



- **FDA: Center for Tobacco Products (CTP)**
- **CDC: Office on Smoking & Health (OSH)**
- **NIH/FDA: Tobacco Centers of Regulatory Science (TCORS)**

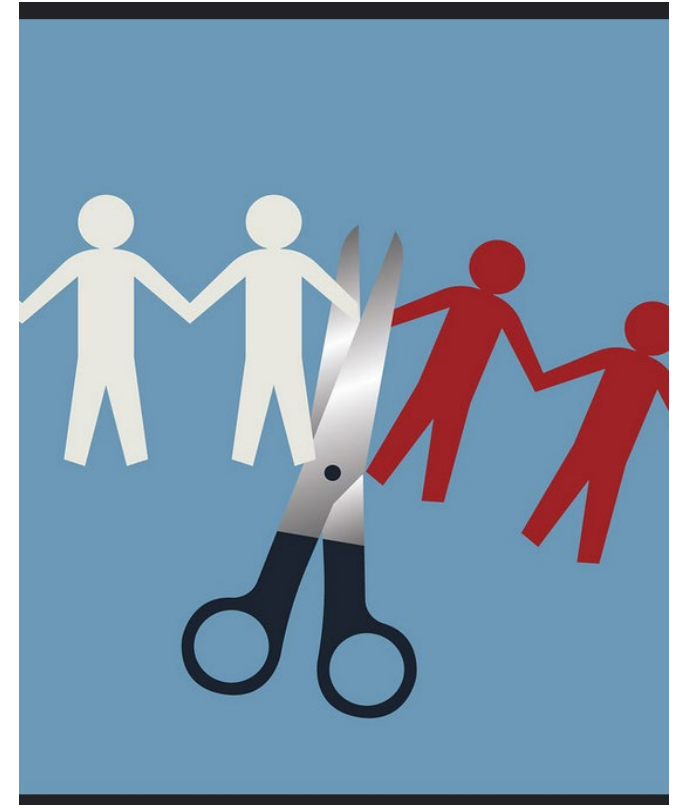
FDA: CENTER FOR TOBACCO PRODUCTS (CTP)

CTP's Duties

- Conduct compliance checks
- Review PMTA applications for marketing authorization
- Enforce advertising restrictions
- Educate about risks of tobacco use

Cuts

- CTP Director + CTP's Office of Science Director on administrative leave
- Compliance & Enforcement, Regulations staff terminated



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CDC: OFFICE ON SMOKING AND HEALTH (OSH)



Smoking and Tobacco Use

EXPLORE TOPICS ▾

Office on Smoking and Health (OSH)

AT A GLANCE

- CDC's Office on Smoking and Health (OSH) works to protect the public's health from the harmful effects of tobacco use.
- OSH works in partnership with organizations and leaders at every level to promote tobacco control interventions.
- Key activities aim to reduce tobacco-related health disparities, death, and disease.

NIH/FDA TCORS RESEARCH GRANTS

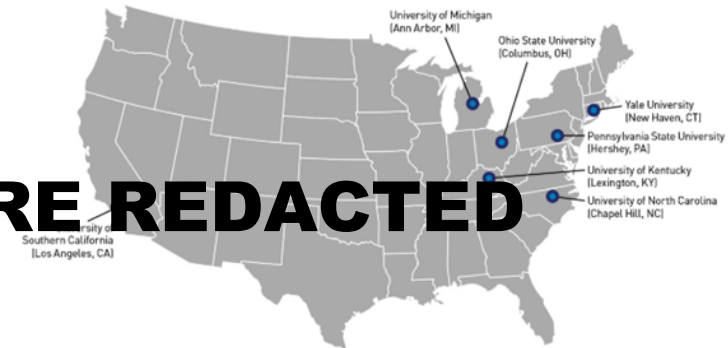
\$140M IN GRANTS TERMINATED APRIL 2025



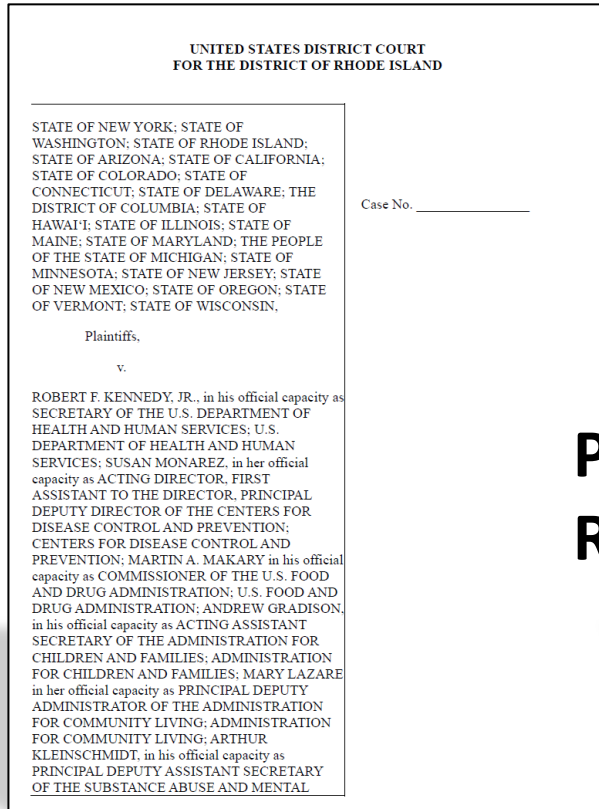
Tobacco Centers of Regulatory Science (TCORS)

FDA and [NIH](#), as part of an on-going interagency partnership, awarded seven Tobacco Centers of Regulatory Science (TCORS) grants in September 2023 to support research to improve the regulation of tobacco products. In the third round of funding, the TCORS 3.0 program awarded grants to seven research centers with a total value of approximately \$140 million in grants from FY 2023-2027.

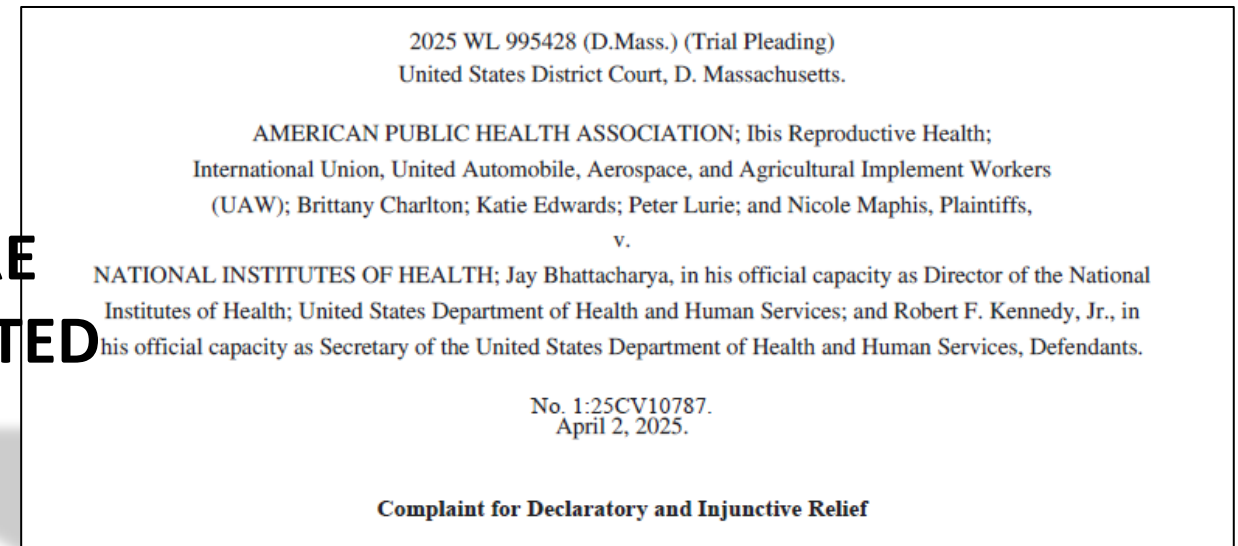
What scientists learn about tobacco through the TCORS program helps inform and assess FDA's ongoing and potential regulatory activities. TCORS investigators also have the flexibility and capacity to respond to FDA's research needs as issues are raised in today's rapidly evolving tobacco marketplace.



LEGAL CHALLENGES TO AGENCY + GRANT CUTS



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State of New York, et al. v. Kennedy, Jr. (District Court of Rhode Island)

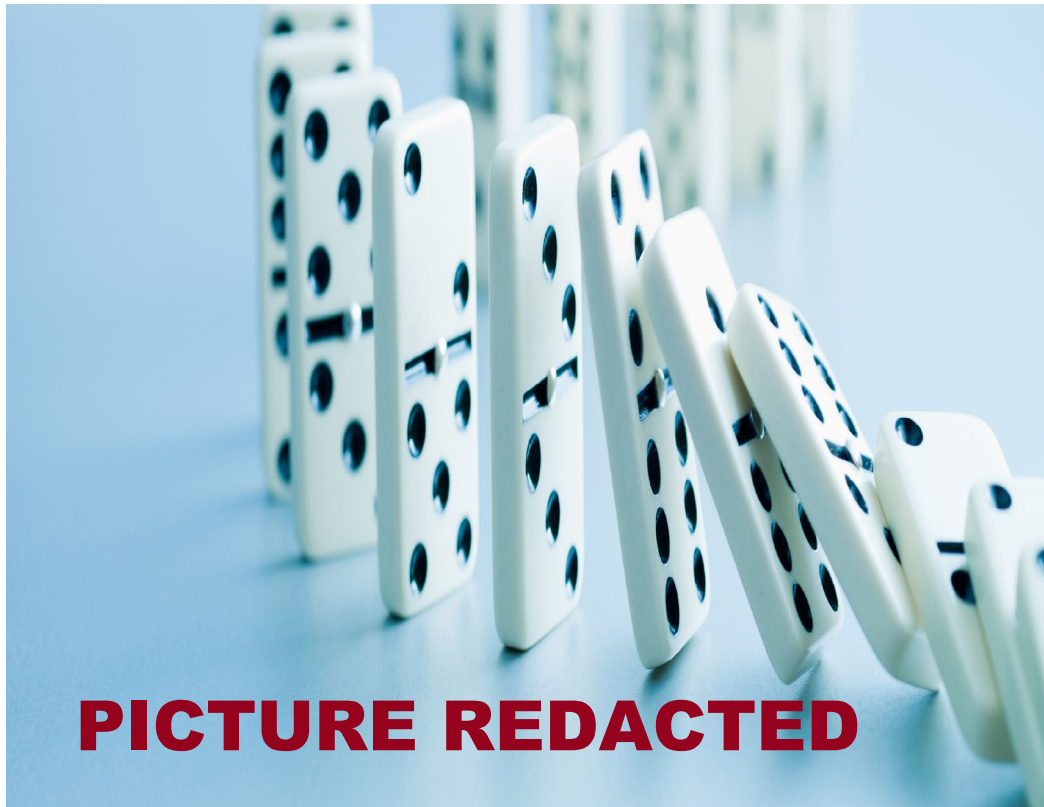
*American Public Health Association, et al. v. National Institutes of Health,
et al. (District Court of Massachusetts)*

CTP STRATEGIC PLAN PRIORITIES



- How will the FDA regulate tobacco in this landscape?
- What will happen to pending PMTA applications?
- Will laws and regulations continue to be enforced?

HOW WILL FEDERAL CUTS IMPACT TOBACCO CONTROL EFFORTS?



What to Expect:

- More tobacco products entering the market.
- Fewer staff to monitor and enforce against illegal sales.
- Less FDA activity on premarket review.
- Elimination of OSH resulting in weakened state tobacco control programs.

FEDERAL RULEMAKING UPDATE: MENTHOL & NICOTINE YIELD PRODUCT STANDARD

MENTHOL RULE “WITHDRAWN”



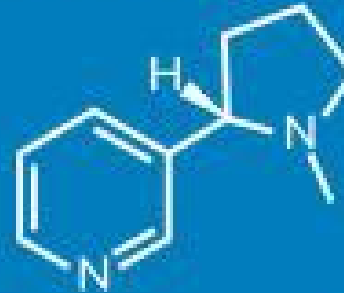
Key Takeaways:

- Expect no action on menthol from federal government anytime soon.
- State/Locals may still enact flavor/menthol product bans.

NICOTINE YIELD PRODUCT STANDARD

FDA Proposes
Reducing Nicotine
Level in Cigarettes
and Certain Other
Tobacco Products

NICOTINE



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NICOTINE YIELD PRODUCT STANDARD

CONTENT OF THE RULE

Covered Products

- Combustible Cigarettes
- Cigars
- Cigarillos
- Roll Your Own
- Pipe Tobacco

Exempted Products

- Waterpipe/Hookah
- Premium Cigars
- E-Cigarettes
- Smokeless Tobacco
- Nicotine Pouches

NICOTINE YIELD PRODUCT STANDARD REGULATORY HISTORY

- July 2017 – FDA announces intention to regulate nicotine in cigarettes
- March 2018 – FDA announces Advanced Notice of Proposed Rulemaking (ANPRM)
 - Which products in addition to cigarettes should be covered
 - What should be the nicotine limit
 - Should it be a single or gradual target
- December 2024 – Rule submitted to OMB
- January 2025 – Rule published in the Federal Register
- September 2025 – Comment Deadline

NICOTINE YIELD PRODUCT STANDARD RULE POTENTIAL PITFALLS

- Increase use of non-combustible tobacco products.
- Limited regulation on ENDS, smokeless, and nicotine analogs.
- E-cigarettes and smokeless products are attractive to young people.

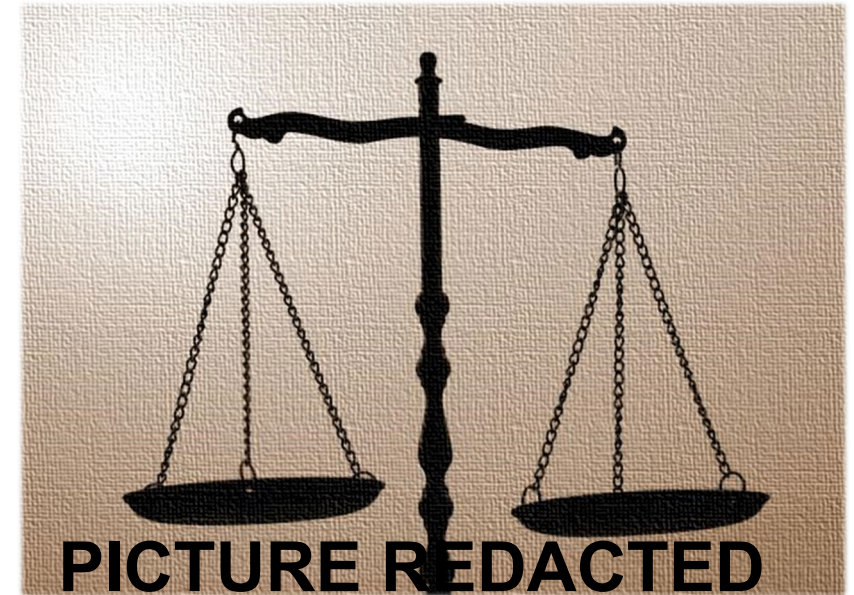


LITIGATION UPDATES

LOPER TRILOGY – BLOW TO ADMINISTRATIVE LAW

United States Supreme Court 2024

- *Loper Bright Enterprises v. Raimondo*
- *Corner Post v. Board of Governors*
- *Jarkesy v. SEC*



LITIGATION UPDATES – 2024

U.S. SUPREME COURT

Loper Bright Enterprises v. Raimondo

- Holding: the APA does not require courts to grant deference to federal agencies.
- Courts may deem agency interpretations of law as persuasive but need not defer to them.



LITIGATION UPDATES – 2024

U.S. SUPREME COURT

Loper Bright Enterprises v. Raimondo: Key Takeaways

- Industry emboldened to challenge federal regulations.
- Federal agencies will have harder time defending challenges to their rulemaking in public health and safety, consumer and worker protections, civil rights, the environment, etc.
- SCOTUS decision directly affects federal agencies, not state ones.

LITIGATION UPDATES – 2024

CORNER POST V. BOARD OF GOVERNORS

- Supreme Court says statute of limitations runs from when the harm occurred, not when the agency rule was finalized.
- Agency actions are now open to constitutional challenges at any time.
- Chilling effect on agency rulemaking.



Credit: Shutterstock

LITIGATION UPDATES – 2024

U.S. SUPREME COURT

SEC v. Jarkesy.

- 7th Amendment right to a jury trial for cases involving financial penalties.
- Restricts SEC from using administrative law proceedings to assess civil penalties.
- Challenges federal agency efficiency.



LEGAL CHALLENGES TO ZYN NICOTINE POUCHES

Bates-Ferreira v. Phillip Morris Int'l Inc. et al.

U.S. District Court for the Eastern District of California
(filed March 2024)

Neumark v. Swedish Match North America LLC


U.S. District Court for the Eastern District of Virginia (filed Nov 2024)

City of Baltimore v. PMI, Swedish Match North America

U.S. District Court for the District of Maryland (filed May 2025)

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PHLC LITIGATION TRACKER



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LITIGATION TRACKER

Litigation is an important tool to defend and advance public health policy. This tracker provides information and official court documents from select lawsuits within the focus areas of the Public Health Law Center, including commercial tobacco control, climate justice, and healthy eating. Some cases are relevant to cross-cutting issues that affect public health, such as preemption and First Amendment considerations. The Public Health Law Center has supported public health goals as an amicus curiae, or friend-of-the-court, by filing briefs (included here) with relevant information that the court may choose to consider. You can read more about the [Function and Role of Amicus Briefs in Public Health Litigation](#).

Q Search

Public Health Topics

Legal Issues

State

Status

SEARCH

☐ Due Process/Equal Protection

☐ Free Speech

☐ Local Authority/Preemption

Displaying 1-10 of 115

RESTAURANT LAW CENTER V. DENVER (2024)
Trade associations representing restaurants, home builders, hotels,

CLEAN ENERGY CHOICE COALITION, NFP V. VILLAGE OF OAK PARK, IL (2025)

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[Litigation Tracker | Public Health Law Center](#)

STATE & LOCAL POLICY UPDATES AND OPPORTUNITIES

STATE + LOCAL POLICYMAKING



TOBACCO CONTROL ACT OF 2009

STATE AND LOCAL AUTHORITY

Preservation of State and Local Authority

Nothing in the Act limits state/local authority to enact a law “prohibiting the sale...of tobacco products.”

Preemption of State/Local Laws

No state/locality may establish “any requirement which is different from...any requirement under [the Act] relating to tobacco product standards.”

Saving Clause

The preemption restriction above “does not apply to [state or local] requirements relating to the sale” of tobacco products.

LOCAL POLICY OPTIONS + STATE PREEMPTION




STATE-LEVEL POLICY TOOLBOX

- **Flavored Product Restrictions**
- **Tobacco Retail Licensing Policy**
- **Taxation**
- **Minimum Price/Discount Restrictions**
- **Advertising Restrictions**
- **All Product Sales Restrictions**
(“Endgame”)



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FLAVORED PRODUCT RESTRICTIONS

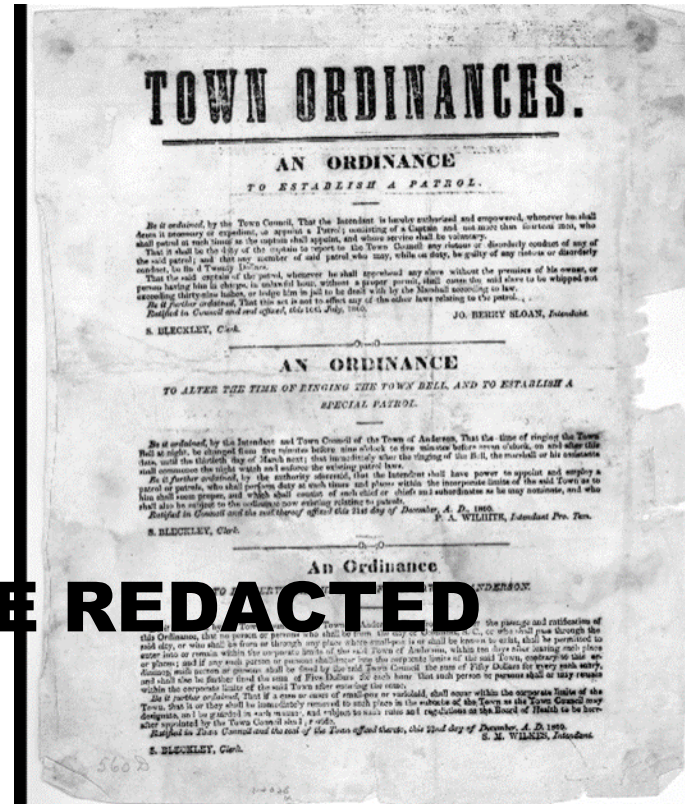


Sec. [_____ (*3)]. SALE OF FLAVORED TOBACCO PRODUCTS PROHIBITED.

(A) FLAVORED TOBACCO PRODUCT SALES PROHIBITED. It shall be unlawful for any tobacco retailer to sell any flavored tobacco product.

PICTURE REDACTED

FLAVORED PRODUCT SALES RESTRICTIONS ARE LEGALLY DEFENSIBLE



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NATIONAL LANDSCAPE OF FLAVORED PRODUCT REGULATION



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SALES RESTRICTIONS

May 2023



U.S. SALES RESTRICTIONS ON FLAVORED TOBACCO PRODUCTS



This document provides select examples of U.S. states, cities, and counties' that restrict the sale of flavored tobacco products. For local jurisdictions, it focuses on those with a population over 75,000. The Public Health Law Center includes the following best practices in its model tobacco flavor restrictions policies: (1) covering the entire jurisdiction, (2) prohibiting menthol, (3) restricting flavors in all tobacco products, and (4) not including exemptions for certain retailers.

The first chart organizes jurisdictions based on how they address these four best practices.


The second chart organizes the jurisdictions by state, capturing variations among flavor restrictions in each of these four areas. The chart

also provides links to each jurisdiction's laws and summarizes relevant legal challenges.

A state or local government considering whether to adapt any language from the following policies should take care to ensure that the language is appropriate, practical, and legal for its jurisdiction. Please note that the Public Health Law Center does not endorse or recommend any of the following policies. We have included these examples to illustrate how various jurisdictions regulate the sale of flavored tobacco products and related electronic nicotine delivery devices.

This chart is not comprehensive. Feel free to contact the Public Health Law Center for more information about flavored tobacco restrictions where you live.





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May 2024

RESTRICTIONS BY TYPE	3	Mendocino County	34	COLORADO	61	MONTANA	82
State Policies	3	Napa	34	Boulder	61	Missoula	82
Local Policies	4	Oakland	35	ILLINOIS	62	NEW JERSEY	83
CALIFORNIA	10	Oxnard	37	Chicago	62	Jersey City	84
Alameda	12	Palmdale	38	MAINE	64	NEW YORK	85
Alameda County	13	Pasadena	39	MARYLAND	65	Hempstead	86
Alhambra	14	Pleasanton	40	Montgomery County	66	Nassau County	87
Antioch	15	Redwood City	41	MASSACHUSETTS	67	Yonkers	89
Baldwin Park	16	Richmond	42	Massachusetts	68	OHIO	90
Berkeley	17	Sacramento	43	Boston	69	Columbus	90
Buena Park	18	Sacramento County	44	Brockton	70	Toledo	92
Burbank	19	San Diego	44	Cambridge	71	OREGON	93
Carson	20	San Diego County	45	Lawrence	72	Multnomah County	93
Chula Vista	21	San Francisco	47	Lowell	72	Washington County	94
Compton	21	San Jose	48	Lynn	73	PENNSYLVANIA	95
Contra Costa County	22	San Leandro	49	Newton	74	Philadelphia	95
El Monte	23	San Mateo	50	Somerville	75	RHODE ISLAND	96
Fremont	24	San Mateo County	51	Worcester	76	Providence	97
Glendale	25	Santa Ana	52	BLOOMINGTON	77	UTAH	98
Hayward	26	Santa Barbara County	53	Bloomington	77	ENDNOTES	98
Hesperia	27	Santa Clara County	54	Duluth	78		
Irvine	28	Santa Cruz County	55	Hennepin County	79		
Livermore	29	Santa Maria	56	Minneapolis	80		
Long Beach	30	Sunnyvale	57	Saint Paul	81		
Los Angeles	31	Ventura (San Buenaventura)	57				
Los Angeles County	32	Ventura County	58				
Marin County	33	Yolo County	59				
		WASHINGTON, D.C.	60				

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U.S. Sales Restrictions on Flavored Tobacco Products 2

[US-sales-restrictions-flavored-tobacco-products.pdf](#)

TAX POLICIES – RECENT WINS

Navajo Nation Tobacco Tax Increase



25TH NAVAJO NATION COUNCIL

25TH NAVAJO NATION COUNCIL
OFFICE OF THE SPEAKER
MEDIA CONTACT:

nnlb.communications@gmail.com

FOR IMMEDIATE RELEASE
November 11, 2024

Navajo Nation strengthens Tobacco Tax to address addiction and
curb youth usage of nicotine products



Maryland Tobacco Tax Increase



PICTURE
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Indiana Tax Increase



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TOBACCO RETAILER LICENSING FEES



FORM - 637

Cigarette and Other Tobacco Products License



TOBACCO N/A INFORMATION

- **What types of licenses can be applied for using this form?**
 - Cigarette wholesaler, subwholesaler, vending machine operator, and storage warehouse licenses, as well as OTP wholesaler, manufacturer, and storage warehouse licenses.
- **What are the fees for these licenses?**
 - The fees range from \$25.00 for manufacturers and storage warehouses to \$750.00 for cigarette wholesalers.
- **What additional documents are required for wholesalers?**
 - Wholesalers must provide a list of proposed customers, payment methods for cigarette tax stamps, and manufacturer confirmation letters.
- **How long is the application process from start to finish?**
 - An applicant can complete filling out the application form in 3-5 minutes.
 - If the permit address resides in Maryland, a premises inspection is required and will need to be scheduled which may take 2-3 weeks depending on availability.
 - Upon receipt of the completed application and required payment, the verification and determination

SECTION

- + Industry
- + **Tobacco Applications & Forms**
- + Regulatory Resources & Agencies

TOOLS & RESOURCES

-  **License & Permit Database**
-  **Cigarette Wholesaler Min. Price Calculator**

Do You Have A Complaint Or Tip?

Report a Violation or
File a Complaint here.

**PICTURE
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LOCAL POLICY EFFORTS – EDUCATION & ENFORCEMENT

Public Awareness
Campaigns

Enforcement of
Existing Laws

NICOTINE DEPENDENCE CESSATION + TREATMENT POLICIES

**PICTURE
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KEEP AN EYE OUT

EMERGING NICOTINE-FREE PRODUCTS

Products marketed as nicotine-free are usually designed to be used just like tobacco products.

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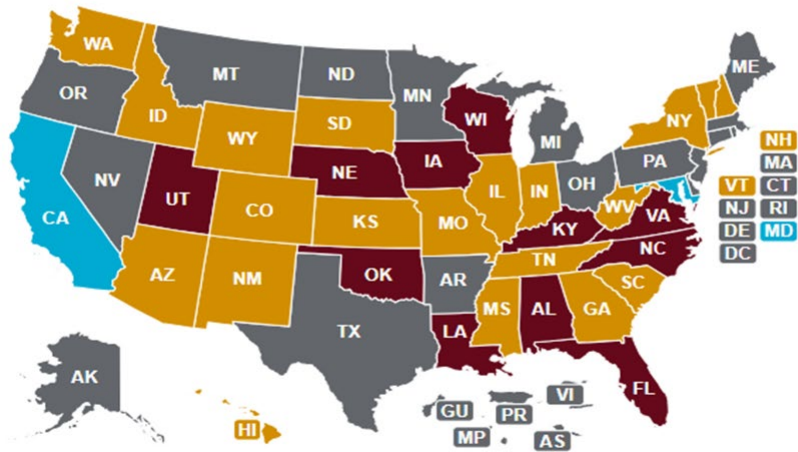
[Nicotine Free Products Overview.pdf](#)

E-REGISTRY BILLS

or the proposed registration. If you have information about new developments for registry laws, please contact the Center at publichealthlawcenter@mitchellhamline.edu.

To review e-cigarette legislation in any given state, select a state on the map below.

- Red** = Has already passed an e-registry bill
- Gold** = Is considering an e-registry bill
- Blue** = Is considering a public-health-oriented e-registry bill
- Gray** = Does not have an e-registry bill in progress



OUR MONTHLY NEWSLETTER

email address

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PHLC's E-Cigarette Registry Bill Map

PICTURE
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HOUSE BILL 1441

5lr3280
CF SB 918

By: Delegates Rogers, Bofo, Fraser-Hidalgo, and A. Johnson
Introduced and second reading: February 7, 2025
Sponsor: Electronic Smoking Devices

A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation – Electronic Smoking Devices Manufacturers –**
3 **Certifications**

4 FOR the purpose of **authorizing** the Executive Director of the Alcohol, Tobacco, and
5 Cannabis Commission and the Attorney General to take certain action relating to
6 the licensure of certain electronic smoking devices manufacturers, wholesalers,
7 importers, and retailers and vape shop vendors in certain circumstances; requiring
8 an electronic smoking devices manufacturer to execute and deliver a certain
9 certification to the Attorney General each year; requiring the Attorney General to
10 develop and make available to the public a certain directory listing certain electronic
11 smoking devices manufacturers; requiring electronic smoking devices
12 manufacturers to place a certain amount of money into a qualified escrow account
13 under certain circumstances; making a certain violation of this Act an unfair,
14 abusive, or deceptive trade practice that is subject to enforcement and penalties
15 under the Maryland Consumer Protection Act; and generally relating to the
16 regulation of electronic smoking devices.

17 BY repealing and reenacting, with amendments,
18 Article – Business Regulation
19 Section 16.7–101 and 16.7–102; and 16.7–202, 16.7–204, 16.7–207, and 16.7–213.1
20 to be under the amended subtitle “Subtitle 2. Electronic Smoking Devices
21 Licenses”
22 Annotated Code of Maryland
23 (2024 Replacement Volume)

24 BY repealing and reenacting, without amendments,
25 Article – Business Regulation
26 Section 16.7–201
27

2025 Regular Session – MD House Bill 1441

REGISTRY BILLS: KEY TAKEAWAYS

Registry Bills Are Not Proven as Effective Tobacco Control Policy

- ☐ Thousands of unauthorized products are permitted on registries
- ☐ Can divert funding and other resources away from proven tobacco control measures.
- ☐ Do not remove flavored tobacco products from market.
- ☐ Inadequate revenue source for states.

CONTACT US



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