

January 24, 2025

Cigarette Menthol Ban and Flavored Cigar Proposed Rules Withdrawn

With a new White House Administration, the FDA has withdrawn two proposed rules that would ban the sale of menthol cigarettes and flavored cigars. As a result, these proposals are no longer under consideration.

State Legislative Bill Introductions

State tobacco-related legislative bills that have been introduced in the past week are listed below alphabetically by state:

Alaska:

- HB49 establishes a tax on vapor products at 25% of the retail sales price and sets a cap on nicotine content for electronic smoking products at 50 milligrams of nicotine per milliliter of vapor product, effective 1/1/27. Companion SB 24 introduced last week.

Connecticut:

- SB792 proposes a 75% tax on the sale of non-tobacco nicotine products.

Georgia:

- HB83 increases the cigarette tax from \$.37 to \$.57 per pack.
- HB96 increases the cigarette tax from \$.37 to \$1.37 per pack; and provides an annual adjustment based on the national average tax on cigarettes.
- HB84 increases the tax on closed vapor products 5-cents/ml and open vapor products 7% wholesale price by taxing all vapor products at 15% of the wholesale price, effective 7/1/25.

Hawaii:

- SB468 repeals preemption and by allowing local ordinances and regulations that regulate the sale of cigarettes, tobacco products, and electronic devices. Effective upon approval.
- SB89 repeals existing law that preempted local ordinances or regulations that regulate the sale of all tobacco products by allowing counties to adopt ordinances that regulate the sale of all tobacco products. Effective July 1, 2025.

- SB429 creates an incremental prohibition on all tobacco products by restricting their sale, possession, or consumption to people born after January 1, 2005. Effective January 1, 2026.
- HB441 increases the cigarette tax by \$3.20 to \$3.60 cents per pack. Effective July 1, 2025.
- HB756 prohibits the sale of flavored nicotine products and the mislabeling of e-liquids as nicotine free.

Massachusetts:

- Governor Healy’s Budget Proposal includes a new nicotine pouch tax at the OTP rate of 210% of wholesale price.
- HD3162 (same as SD1333) taxes nicotine pouches at \$2.00 per ounce. Oral nicotine products are defined as any noncombustible product containing nicotine that is in the form of a solid, gum, or paste that is intended for human consumption or placement in the oral cavity for absorption into the human body.
- HD3848 relates to tobacco harm reduction—exempt from the flavor ban any tobacco product that receives a marketing order from the FDA.

Mississippi:

- HB688 increases the state legal age to purchase tobacco products to 21 years of age.
- HB996 imposes a new tax on vapor products at 25% of the manufacturer’s list price effective 7/1/25.
- HB1486 requires any business selling flavored nicotine products to be licensed.
- SB2139 adds vapor products to the definition of “Tobacco Product” for the purpose of including electronic smoking devices in the 15% excise tax on tobacco products other than cigarettes effective 7/1/25.

Nebraska:

- LB212 specifies that the tax rate on cigars and cheroots is 20% of the purchase price, with a cap of fifty cents per cigar.
- LB688 prohibits the advertising of any vapor product.

New Mexico:

- SB20 increases the tax on cigarettes from \$2.00 to \$3.00 per pack, increases the vapor and OTP tax to 67.5% of the product value, and implements a new tax on modern oral products at 67.5% of the product value, effective 7/1/25.

New York:

- S195 (same as A2102) prohibits the sale of vape products that resemble school supplies, or toys, or are packaged or advertised in any way to appeal to or target minors or the youth population.

North Dakota:

- HB1570 increases taxes on cigarettes to 44-cents to \$1.09 per -pack, on snuff 60-cents to \$1.96 per ounce, and on chewing tobacco 16-cents to 52-cents per ounce. The bill imposes

new taxes on nicotine pouches and vapor products at 56% of the wholesale purchase price, effective 7/1/25

Rhode Island:

- Governor McKee's Budget Proposal includes a cigarette tax increase from \$4.50 to \$5.00 per pack.

South Dakota:

- HB1069 requires a vapor product distributor to obtain a certification by the manufacturer of the vapor product stating (1) the manufacturer received a marketing granted order from the FDA or (2) the vapor product was marketed in the U.S. on or before August 8, 2016 and the manufacturer submitted a PMTA for the vapor product to the FDA on or before September 9, 2020, and the application was accepted. Requires a person to register with the DOR before selling vapor products at retail. A separate registration is required for each place of business. A vapor product retailer may buy or receive vapor products only from a vapor product distributor. A person engaged in the business of selling or distributing vapor products may not ship vapor products directly to any consumer in this state. Requires licensing and imposes penalties for violations.

Washington:

- HB1416 would increase taxes on closed vapor products from 27-cents/ml to 30-cents/ml and on open vapor products from 9-cents/ml to 10-cents/ml; moist snuff from \$2.526 to \$2.776 per tin and OTP from 95% to 100.05% effective 10/1/25.

State Legislative Bill Actions

State tobacco-related legislative bills that have been acted on by a state legislative committee or state legislature are listed below alphabetically by state:

New Hampshire:

- HB290, which increases the cigarette tax from \$1.78 to \$2.78 per 20-pack and increases the vapor tax from 35 cents per ml to 65% of the wholesale sales price, was heard in the House Ways and Means Committee on January 22, 2025.

North Dakota:

- SB2281, which increases the cigarette tax by \$.25 per 20-pack, the cigar tax to 32% of the wholesale purchase price and imposes a new tax on alternative tobacco products and electronic smoking devices at 28% of the wholesale purchase price, will be heard in the Senate Finance and Tax Committee on January 27, 2025.

Virginia

- HB1946, which prohibits the possession of retail tobacco products and hemp products intended for smoking by a person under 21 years of age (does not apply to the delivery of such products) reported from subcommittee with a recommendation for referral to the House Committee on Appropriations on January 17, 2025.

- SB1147, which increases penalties for violations of selling or distributing tobacco products or hemp products intended for smoking to any person under 21 years of age. (\$1,000 for the first violation; license suspension for a second violation within a three-year period; license revocation for a third violation within a three-year period), reported from the Senate Committee on Courts of Justice as substituted on January 20, 2025.

Washington:

- HB1203 would ban the sale of flavored tobacco and nicotine products, as well as “entertainment vapor products”, effective 1/1/26 will be heard in House Consumer Protection & Business Committee will hold a hearing on Friday, January 31. The bill also includes public education initiatives and penalties for non-compliance.

State Legislative Sessions

All 50 states are holding state legislative sessions in 2025. The following 44 states have convened their 2025 session:

- AK, AR, AZ, CA, CO, CT, DE, GA, HI, IA, ID, IL, IN, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NM, NJ, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY.