



Critical News for Members on Tobacco Legislation, Litigation and Regulations

May 23, 2025

FDA Center for Tobacco Products New Interim Director

FDA Commissioner Dr. Marty Makary announced that Bret Koplow will be temporarily filling the role of Director, Center for Tobacco Products. Koplow has worked in various roles for the FDA since 2011, including most recently as senior counselor to the FDA Commissioner.

FDA Enforcement Actions on Illicit Vapor Products

This week, the FDA in collaboration with U.S. Customs and Border Protection (CPB) announced the seizure of unauthorized vapor products in Chicago, with an estimated retail value of \$33.8 million. During this operation, the team uncovered shipments of various illegal vapor products, almost all of which originated in China. FDA and CBP personnel determined that, in an apparent attempt to evade duties and the review of products for import safety concerns, many of these unauthorized e-cigarette shipments contained vague product descriptions with incorrect values.

Also, for the first time, FDA sent import informational letters to 24 tobacco importers and entry filers responsible for importing these illegal e-cigarettes. The letters advise the recipients that it is a federal crime to make false statements or entries to the U.S. government, and the FDA seeks information on the steps they have taken to ensure compliance with applicable federal tobacco laws and regulations. Specifically, the letters advise the firms to ensure their import entries contain complete and accurate information moving forward. Failure to do so may also be viewed as an intentional attempt to circumvent the FDA's review of the shipment. Firms are requested to respond to the letters within 30 days with the requested information.

FDA continues to prioritize enforcement on illicit vapor products. In a recent Senate hearing, Health and Human Services Secretary Robert Kennedy was asked about illicit flavored vapor products from China. In his response, he cited the problem because of the lack of vapor product PMTA approvals, which has created a vacuum that has been filled by illicit vapor products. Secretary Kennedy pledged to "wipe these products off the market."

NATO continues to track FDA's recent administrative and enforcement actions, and below is a link to the disposable vapor brands cited as unauthorized or illegally sold as they have been cited with FDA enforcement actions:

[NATO: FDA - Enforcement Actions \(natocentral.org\)](https://natocentral.org/fda-enforcement-actions)

State Legislative Bill Introductions

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

New Jersey:

- SB4505 (same as AB4080) phases in cigarette tax increases per pack (currently at \$2.70 per pack): 7/1/24 to \$3.25, 7/1/25 to \$3.50, 7/1/26 to \$3.75, 7/1/27 to \$4.00.

New York:

- S8080 amends tax law to include “selected nicotine products,” defined as nicotine pouches or products intended to be made into a nicotine pouch by the consumer. The bill taxes these products at 75% of the wholesale price.
- S8092 (same as A7814) prohibits offering gifts, rewards, or incentives for the purchase of oral nicotine pouches.

Pennsylvania:

- SB773 increases the cigarette retail minimum markup from 7% to 9%, July 1, 2026 through December 31, 2026; to 10% in 2027; to 11% in 2028, and to 12% in 2029 and thereafter.

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:

Arizona:

- SB1247 raises the legal age for purchasing, possessing, or using tobacco and nicotine products from 18 to 21 years of age. The bill was amended on the House floor to include an exception for active military personnel aged 18 and over if they hold valid military ID.

Connecticut:

- HB7275 revises the cigarette tax definition to include heated tobacco products. The bill also extends the restrictions on shipping of cigarettes to tobacco products, electronic nicotine delivery systems, and vapor products and establishes an additional penalty for violating such restrictions and requires a seller or seller's agent to request age verification for the purchase of vapor products. The bill increases penalties for sales to a minor to a maximum of \$1,000 for each offense. The Joint Committee on Finance Revenue and Bonding reported that the substitute bill “ought to pass” on May 12, 2025.

Louisiana:

- HB325, which modifies the tax on certain cigars from 20% of the invoice price to 50 cents per cigar, failed after not receiving a two-thirds vote in the House on May 21, 2025. A motion to reconsider is pending.
- HB412 is currently pending in the Senate (previously passed the House). This bill requires that manufacturers of vapor and alternative nicotine products sold in the state must submit a certification to the commissioner of the alcohol and tobacco commission. This

certification must affirm that the product was on the market in the U.S. by specific dates and that a premarket tobacco product application was submitted to the FDA by certain deadlines. For vapor products, the relevant dates are August 8, 2016, and September 9, 2020, while for alternative nicotine products, they are April 14, 2022, and May 14, 2022. The bill also requires manufacturers to provide a copy of the cover page of their FDA application or marketing order and to notify the commissioner of any material changes. The bill also includes a prohibition on remote sales of vapor and alternative nicotine products to unlicensed individuals.

- HB517 creates the “Youth Cessation and Prevention Fund” passed the Senate on May 20, 2025. A tax increase on vapor products from fifteen cents per milliliter to 33% of the invoice price was removed from the bill prior to adoption.

Maine:

- LD 754 (SP262) prohibits the sale, use, and possession of single-use electronic cigarettes and provides that the Department of Environmental Protection is to convene a stakeholder group to review extended producer responsibility options for all batteries. The bill was voted to be carried over to the next session by the Joint Committee on Environment and Natural Resources.
- LD1938 (HP1297) modifies provisions of law governing the regulation of cigarettes and other tobacco products as follows: (1) prohibits the sale of tobacco products in vending machines; (2) increases the penalties for licensing violations for cigarette distributors; (3) revises the definition of a “electronic smoking device” for tax purposes to clarify that components, parts and accessories of the device are part of the definition but any separately sold batteries or chargers, or drugs, devices or combination products authorized for sale by the federal Food and Drug Administration, are not included in that definition. The bill is scheduled for a work session in the Joint Committee on Health and Human Services on May 22, 2025.
- LD1960 (SP767), which exempts from the tax imposed on tobacco products an electronic smoking device or other tobacco product containing ingestible consumer products containing hemp or cannabidiol derived from hemp, is scheduled for a work session in the Joint Committee on Taxation on May 22, 2025.

New York:

- A7814 (same as S8092) prohibits offering gifts, rewards, or incentives for the purchase of oral nicotine pouches, passed the Assembly Health Committee on May 19, 2025.

Oregon

- SB702, which prohibits retail sales of flavored tobacco and nicotine products at all locations other than liquor stores established by the Oregon Liquor and Cannabis Commission beginning July 1, 2026. The bill was heard in the Senate Committee on Finance and Revenue on May 21, 2025.
- SB1198, which prohibits the sale or distribution of inhalant delivery systems (vapor products) that are in packaging that is inconsistent with rules adopted by the Oregon Health Authority, which aims to prohibit packaging that is deemed attractive to minors. The bill passed the Senate and was sent to the House Rule Committee for consideration on May 22, 2025.

Texas:

- SB1313, which prohibits certain imagery in tobacco product advertising to minors, was reported favorably from the House Public Health Committee on May 15, 2025.
- SB1316 amends the Health and Safety Code to prohibit e-cigarette advertising within 1,000 feet of churches and schools, was signed by the Governor and takes effect September 1, 2025.
- SB2024 prohibits the marketing and sale of e-cigarette products appealing to minors, passed the House Public Health Committee on May 15, 2025 (previously passed the Senate).

Washington:

- SB5814, which imposes the current 95% tax on tobacco products to products that contain nicotine, whether derived from tobacco or synthetically (nicotine pouches), was signed by the Governor on May 20, 2025. The tax will take effect January 1, 2026.

Wisconsin:

- SB257 (same as AB234), relative to the electronic vaping device directory adopted in 2023, modifies the definition of “electronic vaping device” to a device that delivers for inhalation an aerosolized or vaporized liquid that contains nicotine. The current definition states, “regardless of whether the liquid or other substance contains nicotine.” The bill was heard in the Senate Committee on Agriculture and Revenue on May 21, 2025.

State Legislative Sessions

All 50 states are holding state legislative sessions in 2025. The following 26 states are currently in session:

- AZ, CA, CT, DE, FL, IL, LA, ME, MA, MI, MN, NE, NV, NH, NJ, NY, NC, OH, OK, OR, PA, RI, SC, TX, VT, WI

24 states have adjourned their 2025 legislative session:

- AL, AK, AR, CO, GA, HI, ID, IN, IA, KS, KY, MD, MT, ND, MS, MO, NM, SD, TN, UT, VA, WA, WV & WY

Alaska: Adjourned its 2025 Legislative Session. The following bills will carry over to the 2026 Legislative Session:

- SB24 establishes a tax on electronic smoking products and vapor products at 25% of the retail sales price and sets a cap on nicotine content for electronic smoking products at 70 milligrams of nicotine per milliliter.
- HB49 establishes a tax on electronic smoking products and products at 25% of the retail sales prices and sets a cap on nicotine content for electronic smoking products at 50 milligrams of nicotine per milliliter.