



NICOTINE POUCHES IN NEW YORK STATE

Frequently Asked Questions



Nicotine pouches have grown in popularity in New York State and across the U.S. This fact sheet addresses frequently asked questions about nicotine pouches, including their use among youth, the way they have been marketed, and how they are regulated.

Q: What are nicotine pouches?

A. Nicotine pouches are smokeless commercial tobacco products, like snus and tobacco chew, that contain nicotine, whether naturally or synthetically derived.¹ Users place the pouch between the lip and gums, where the nicotine can be absorbed through the gums and into the bloodstream. Each pouch contains nicotine, as well as fillers added by manufacturers. The pouches are *not* nicotine replacement therapeutic products and there is no evidence that they can help someone quit smoking or vaping, even though they have been marketed as a better alternative to cigarettes and e-cigarettes.²



Q: What is Zyn?

A. Zyn is a brand of nicotine pouches, owned by Swedish Match, and bought by Phillip Morris in 2022.³ Unlike other smokeless tobacco products such as snus, Zyn does not contain tobacco leaves, but instead contains powdered nicotine salts mixed with fillers. The pouches come in ten

available flavors, such as peppermint, spearmint, wintergreen, cinnamon, coffee, and citrus, with names like “Zyn Chill” and “Zyn Smooth.” The pouches are designed to melt in the mouth. Zyn is especially popular among college and high school students who enjoy the flavored nicotine. Some users report mixing different flavors, such as coffee and mint.⁴

Q: What are other brands of nicotine pouches?

A. Other brands of nicotine pouches include On!, owned by Altria; Velo, owned by British American Tobacco; and Silicon Valley-based company Lucy. Philip Morris claims that Zyn accounted for 72.8 percent of the nicotine pouch market by the end of 2023.⁵ New brands of nicotine pouches are popping up regularly.

Q: How popular are Zyn and other nicotine pouches, including among youth?

A. Nicotine pouches have gained popularity across the U.S. in recent years, as combustible and non-combustible tobacco products like cigarettes and e-cigarettes become less popular. According to the Centers for Disease Control and Prevention and tobacco researchers, nicotine pouch sales in the United States have exploded since 2016, going from 6 million sold to 334 million by 2023, with Zyn the top-seller.⁶

Nicotine pouches offer a discrete way to consume nicotine without any kind of smoke or vapor, which makes them especially popular among youth. In the 2023 National Youth Tobacco Survey, nicotine pouches were the fourth most used tobacco products among youth, after e-cigarettes, combustible cigarettes, and cigars.⁷ High school newspapers across the country have published pieces on the rise of Zyn among students.⁸ Slang terms for using Zyn include “lip pillow” and “Zynbabwe.”⁹



Zyn is such a popular product that there was a nationwide shortage during the summer of 2024, and Philip Morris will be building a \$600 million factory in Colorado to meet market demand.¹⁰ Significant social media campaigns market Zyn on platforms like TikTok, where “Zynfluencers” promote the product to viewers, many of whom are minors. Philip Morris

claims it does not pay social media influencers in the U.S., but these influencers do make money from TikTok views and engagement. Zyn has become especially popular among podcasters such as Joe Rogan and some right-wing personalities, including Tucker Carlson, who has aggressively marketed the product, and has been nicknamed online as “Tucker Carl-Zyn.” After Senator Chuck Schumer called on the Food and Drug Administration (FDA) and Federal Trade Commission (FTC) to investigate Zyn in January 2024, some right-wing politicians spoke out in favor of Zyn. These personalities and influencers are spreading the myth that nicotine is a work-enhancing drug that can be used for “biohacking.”

Another selling point for nicotine pouches is that many of these brands are flavored, which is essential to their appeal to young people. Zyn also offers a rewards program that allows users to redeem products such as gift cards, coffee machines, cooking grills, and headphones.¹¹

As elsewhere in the U.S., Zyn is growing in popularity in the state of New York, especially among youth. In addition to recreational use, there have been reports of students using these products as a performance-enhancing drug for both academic and athletic purposes.¹² Students may view Zyn products and nicotine pouches as safer than smoking and vaping. The pouches are easy to conceal and the colorful packaging may appeal to youth. There have also been concerning reports that some parents also view nicotine pouches as less harmful than e-cigarettes and vapes.¹³

Q: Do nicotine pouches contain commercial tobacco?

A. Nicotine pouches either contain nicotine derived either from tobacco leaves or they contain “synthetic” nicotine. Zyn, for instance, claims to be free of commercial tobacco and advertises itself as “completely smoke and tobacco-free.”¹⁴ Zyn does not, however, affirmatively state that its products are derived from synthetic nicotine, so it could be considered a tobacco product under certain state and local definitions of a tobacco product. Other brands of nicotine pouches claim to use *synthetic* nicotine that is not derived from tobacco leaves. Nicotine may be derived from other non-tobacco plant sources, such as nightshade plants. However, there is no way to verify the source of the nicotine in these products. It is worth noting that nicotine presents the same inherent harms whether it is derived from commercial tobacco or synthetically derived.

Q: Are nicotine pouches really that bad for consumer health?

A. Some public health researchers, including many supported by the tobacco industry, may argue that smokeless tobacco products, such as nicotine pouches, are less harmful than combustible products such as cigarettes and e-cigarettes. Other public health researchers argue that nicotine products still have inherent health risks, regardless of whether they are combustible.

Nicotine is a highly addictive and toxic substance; the U.S. Surgeon General found nicotine comparable to heroin in terms of addictiveness.¹⁵

Moreover, nicotine is toxic not only to the human body but to non-human animals and the environment, and nicotine (excluding approved nicotine replacement therapy (NRT) products) is still classified as a hazardous substance by the EPA.¹⁶

Nicotine use is particularly harmful for teenagers and young adults, whose brains are still developing and are more greatly impacted by addictive substances. Flavors make nicotine addiction and its consequences much worse, given the way molecules interact in the brain, especially in younger people. Nicotine pouch users may go through a single can in as little as two days.¹⁷

Q: Are nicotine pouches subject to federal regulations?

A. Yes, the Food and Drug Administration (FDA) has the power to regulate nicotine pouches. Since 2009, The Family Smoking Prevention and Tobacco Control Act has given the FDA authority to regulate “tobacco products,” and since 2016, all products made or derived from commercial tobacco are considered tobacco products under the Act. Because Zyn contains nicotine derived from commercial tobacco, it should still be considered a tobacco product within the meaning of the Tobacco Control Act. However, as Zyn has advertised itself as tobacco-free, it has flouted federal and state regulations applied to tobacco products, such as bans on marketing through coupons, branded merchandise, event sponsorships, and giveaways.



Reward programs for tobacco products (as long as the reward is not more tobacco products) are legal, but bans on branded merchandise apply to both combustible and smokeless tobacco products. Despite this, social media users have reported receiving branded merchandise from Zyn.¹⁸

The FDA has allowed companies to continue to sell unapproved tobacco products as long as they submitted premarket tobacco product applications (PMTAs) by August of 2020. The companies owning Zyn, as well as On! and Velo, all submitted PMTAs for these products in 2020.¹⁹ However, the FDA has not made a final decision on any of these applications, nor has it issued a marketing granted order or a marketing denial order for any brand of nicotine pouches. These companies thus have temporary permission from the FDA to continue to sell their products, even though they lack a marketing granted order.

The FDA is also surveilling the nicotine pouch market to see if such products are being sold to underage consumers. For example, the agency sent youth decoys to attempt to purchase nicotine pouches at retailers across the country between 2023 and 2024. The agency then issued 119 warning letters and 41 civil monetary penalty complaints against numerous brick and mortar retailers for selling to underage consumers.²⁰

One of the reasons Senator Chuck Schumer called on the FDA and FTC in early 2024 to investigate Zyn was in response to growing concern about underage sales. In addition, in July 2024, Zyn halted online sales of its products after it was subpoenaed by the Attorney General of the District of Columbia, where all flavored tobacco and nicotine products (including synthetic nicotine) are banned.²¹

Q: Are nicotine pouches legal in New York State?

A. New York State bans flavored nicotine vapor products,²² but does not ban the sale of flavored non-vapor nicotine products. Zyn is thus technically legal in the state of New York. Zyn's online store finder shows many retailers across New York State that sell Zyn products.²³

Under New York state tax laws,²⁴ tobacco products are defined as: "Any cigar, including a little cigar, or tobacco, other than cigarettes, intended for consumption by smoking, chewing, or as snuff. 'Tobacco products' shall not include research tobacco products." Snuff is defined as "Any finely cut, ground, or powdered tobacco that is not intended to be smoked." Zyn does not fit perfectly into these definitions, as it does not contain tobacco leaves, although it is likely derived from commercial tobacco leaves, so an argument could be made to tax Zyn the same as snuff. If the definition of snuff included powdered nicotine, Zyn could be taxed as snuff as well.

New York State's Adolescent Tobacco Use Prevention Act (ATUPA)²⁵ defines "tobacco products" as: "one or more cigarettes or cigars, bidis, chewing tobacco, powdered tobacco, nicotine water or any other tobacco products." Since Zyn is likely derived from commercial tobacco leaves, it could be considered a tobacco product under ATUPA. However, the status under ATUPA of nicotine pouches made of *synthetic nicotine* is unclear.

Q: Can local jurisdictions in New York State ban nicotine pouches, including Zyn?

A. Yes. Localities can seek to ban all flavored commercial tobacco and nicotine products, including nicotine pouches like Zyn. State and local laws that define commercial tobacco products as those that use tobacco or nicotine (and are not FDA-approved nicotine replacement therapy drugs) unequivocally capture nicotine pouches, regardless of the purported source of their nicotine.



New York State law empowers local governments to pass laws to protect the health and well-being of their communities, which would include banning the sale of deadly flavored tobacco products.²⁶

By using the Public Health Law Center's comprehensive model definitions for "tobacco product" and "flavored tobacco product," jurisdictions will capture all nicotine pouch products, including flavored nicotine pouches:

"Tobacco Product" means:

- (1) any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;
- (2) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or
- (3) any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.

“Tobacco product” does not mean drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

“Flavored tobacco product” means any tobacco product that imparts:

- (1) a taste or smell, other than the taste or smell of tobacco, distinguishable by an ordinary consumer either prior to or during the consumption of such tobacco product, including but not limited to the taste or smell of fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, menthol, herb, or spice; or
- (2) a cooling or numbing sensation distinguishable by an ordinary consumer either prior to or during the consumption of such tobacco product.

“Presumptive flavored tobacco product.” Any communication by, or on behalf of, the manufacturer or retailer of a tobacco product that indicates that the product imparts: a taste or smell other than the taste or smell of tobacco; or a cooling or numbing sensation, constitutes presumptive evidence of a violation of this section. Presumptive evidence may include but is not limited to the use of terms such as “cool,” “chill,” “ice,” “fresh,” “arctic,” or “frost” to describe the product.

Enforcement will likely be a challenge, but the most effective method is to focus on retailers and suppliers instead of individuals. A “presumptive flavored tobacco product” provision helps local enforcement as well, since it puts the burden on the tobacco industry to prove its products are not flavored in the way that an ordinary consumer would consider flavored, while giving local enforcement agents a potent source of information (consumer experiences and product reviews) upon which to base their actions.

Q: What else can New York State localities do about these products?

A. In addition to passing local bans, localities can engage in education campaigns to help raise public awareness about the harm caused by nicotine pouches like Zyn. Given the prevalence of these products among youth, these campaigns can be directed to students, teachers and administrators, and parents. Non-punitive school policies focused on treating nicotine addiction should be encouraged.

Also, nicotine pouches whose manufacturers have not submitted a PMTA request to the FDA should be reported. The agency provides an [online form](#) for notifying the agency of tobacco product violations.

For more information about nicotine pouches, see [Zyn & the Rise in Popularity of Nicotine Pouches \(2024\)](#), a fact sheet from the Public Health Law Center for our California partners,

as well as *Frequently Asked Questions About Nicotine Pouches* (2024), a nationally focused publication.

Contact us for assistance! If you're working on New York State commercial tobacco control issues and need assistance, contact the Public Health Law Center at (651) 290-7506 or PHLC.NYS@mitchellhamline.edu.

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Endnotes

- 1 Traditional and commercial tobacco are different in the ways they are planted, grown, harvested, and used. Traditional tobacco is and has been used in sacred ways by Indigenous communities and Tribes for centuries. Commercial tobacco is manufactured for recreational use and profit, resulting in disease and death. When the word "tobacco" is used throughout this document, a commercial context is implied and intended. For more information, visit the National Native Network website: <https://keepitsacred.itcml.org>.
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- 6 Kristy L. Marynak et al., *Nicotine Pouch Unit Sales in the US, 2016–2020*, 326 JAMA 566 (2021); Anuja Majmundar et al., *Nicotine Pouch Sales Trends in the U.S. by Volume and Nicotine Concentration Levels from 2019 to 2022*, 5 JAMA e2242235 (2022).
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- 15 *Surgeon General's Report: Smoking and Nicotine Addiction*, C-SPAN (1988), <https://www.c-span.org/video/?2611-1/surgeon-generals-report-smoking-nicotine-addiction>.
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- 19 *Swedish Match Results Presentation: Q1 2020*, SWEDISH MATCH, https://www.swedishmatch.com/globalassets/documents/presentations/2020_q1_interimpresentation_swedishmatch_en.pdf; *The Science of Oral Tobacco-Derived Nicotine*, Altria Science, <https://sciences.altria.com/en/product-platforms/oral-tobacco-derived-nicotine>; *VELO Pouch Premarket Tobacco Applications Submitted to FDA for Review by Reynolds*, PR NEWswire (Sept. 1, 2020), <https://www.prnewswire.com/news-releases/velo-pouch-premarket-tobacco-applications-submitted-to-fda-for-review-by-reynolds-301122281.html>.
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