

**Jamie Plume**

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**From:** SLegislation  
**Sent:** Tuesday, March 24, 2026 10:26 AM  
**To:** Senate Finance  
**Subject:** FW: S2360 - ACS CAN Opposing Testimony  
**Attachments:** S2360\_ACS CAN\_Oppose\_3.24.26.pdf; S2360\_ACS CAN\_Peddling Harm TI and Rebranding Harm\_3.24.26.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged



**Meghan Connors**  
*Legislative Aide*

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**From:** Ryan Strik <[ryan.strik@cancer.org](mailto:ryan.strik@cancer.org)>  
**Sent:** Monday, March 23, 2026 3:39 PM  
**To:** SLegislation <[slegislation@rilegislature.gov](mailto:slegislation@rilegislature.gov)>  
**Cc:** Jason Martiesian <[jmartiesian@capitolcitygrp.com](mailto:jmartiesian@capitolcitygrp.com)>  
**Subject:** S2360 - ACS CAN Opposing Testimony

Greetings –

On behalf of the American Cancer Society Cancer Action Network, I wish to submit the attached testimony documents in opposition of Senate Bill 2360, which is up for a hearing in the Senate Committee on Finance on Tuesday March 24<sup>th</sup>. Thank you!

Warmest Regards,  
Ryan



**Ryan Strik**  
Government Relations Director, Rhode Island  
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## Senate Finance Committee Testimony in Opposition to Senate Bill 2360

TO: Sen. Louis P. DiPalma, Chair,  
& Members of the Senate Finance Committee

FROM: American Cancer Society Cancer Action Network (ACS CAN)

DATE: March 24, 2026

SUBJECT: Testimony in Opposition to Senate Bill 2360

The American Cancer Society Cancer Action Network (ACS CAN) is the non-partisan, non-profit advocacy affiliate of the American Cancer Society. As an organization dedicated to advocating for public policies to end cancer as we know it for everyone, **ACS CAN strongly opposes Senate Bill 2360**, which would reduce the tax on all ‘modified risk tobacco products’ by 75 percent, thereby making deadly and addictive tobacco products cheaper in Rhode Island.

Reducing tobacco taxes makes them more appealing to price-sensitive consumers, including youth. In Rhode Island, 17.3% of our high school students are using tobacco products.<sup>1</sup> All tobacco products, including “modified risk tobacco products,” are unsafe and should be taxed and regulated in the same manner to encourage people who use tobacco products to quit and keep youth from ever starting.

Increasing tobacco taxes is one of the most effective ways to reduce tobacco use, especially among kids, and tobacco companies know it. **Exempting certain tobacco products from taxation and, therefore, lowering the price of tobacco products is one major way for the tobacco industry to protect their bottom line, addict people with cheap products, and keep them addicted.**

ACS CAN, along with our public health partners, have opposed the tobacco industry’s existing and proposed modified risk marketing orders. All tobacco products are unsafe, including those the FDA decides are permitted to use a modified risk claim. Tobacco products contain nicotine, which is highly addictive. The U.S. Surgeon General reports that smoking cessation is beneficial at any age and “only complete cessation of all tobacco products fully eliminates all tobacco-related health risks.” The modified risk tobacco product applications to date have been insufficient in proving that the products as used by consumers would lead to a reduction in risk. In addition, all the applications have lacked any information on the impact on youth – which is required under the law.

**Rhode Island must continue to tax “modified risk tobacco products” at a rate parallel to the tax on cigarettes and all other tobacco products. Please review the attached policy sheets**

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on why *The Tobacco Industry is Not the Public Health Solution* and *FDA Regulation of Tobacco Products: Modified Risk Tobacco Products*.

This bill would be nothing more than a handout to Big Tobacco, at the expense of all Rhode Islanders. ACS CAN urges you to protect kids, not Big Tobacco's profits, and opposes efforts to reduce taxes on any tobacco products, including *modified risk tobacco products*. For that reason, and for the health of generations of Rhode Islanders, we respectfully urge you to reject Senate Bill 2360.

Please feel free to contact ACS CAN's Rhode Island Government Relations Director, Ryan Timothy Strik, at [ryan.strik@cancer.org](mailto:ryan.strik@cancer.org) or at (401) 259-1052 for any additional questions or information.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Ryan Strik".

**Ryan Timothy Strik**  
Rhode Island Government Relations Director  
American Cancer Society Cancer Action Network

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<sup>1</sup> Centers for Disease Control and Prevention. 2023 Youth Risk Behavior Survey.

## The Tobacco Industry is Not the Public Health Solution

Big tobacco has a history of prioritizing corporate profits over people and communities burdened by tobacco-related illness and death.<sup>i</sup> Tobacco industry marketing strategies have led to disparities in tobacco use, including higher use of tobacco products in limited-income communities, among people of color and individuals who identify as LGBTQ+.<sup>ii</sup> For example, tobacco industry memos revealed a 1990s R.J. Reynolds cigarette marketing plan, known as “Project Subculture Urban Marketing,” that targeted marketing at gay men and individuals experiencing homelessness in San Francisco.<sup>iii</sup> For decades, the tobacco industry has lied to specific communities and the public at large saying their products are not addictive, harmful or deadly. Tobacco manufacturers continue to create and flood the market with newly designed products they market as being less harmful and alternatives to quitting – a tactic that is not new.

### The Tobacco Industry’s Long History of Deceit about the Harm Caused by Cigarettes



In the 1950s, scientific studies by the American Cancer Society and others established a definitive link between tobacco use and cancer. As health concerns about smoking started to emerge at this time and in the 1960s, cigarette manufacturers began to redesign their products to offer individuals who smoke, products they claimed to be “less harmful” or as an alternative to quitting. For instance, so-called “light” cigarettes were marketed as healthier with less tar and nicotine. Yet, due to the design of these cigarettes, people who smoked actually smoked longer, inhaling more deeply and more frequently to get their desired dose of nicotine. These design changes may have actually led to an increase in lung cancer cases. Cigarette manufacturers knew these products posed no less risk, yet fraudulently sold them to Americans as such.

One of the most stunning examples of industry tactics was revealed in the landmark case of *U.S. v Philip Morris*, the litigation brought by the U.S. government against the industry accusing it of violating the Racketeering Influenced and Corrupt Organizations (or RICO) Act. After six years of litigation, nine months of trial and hundreds of depositions, U.S. District Court Judge Gladys Kessler found the tobacco industry engaged in an illegal, decades-long campaign to deceive people who smoke about the health hazards of smoking in violation of RICO. Kessler held that the defendants “have **marketed and sold their lethal product with zeal, with deception, with a single-minded focus on their financial success, and without regard for the human tragedy or social costs that success exacted.**”<sup>iv</sup> The Court of Appeals for the DC Circuit upheld Kessler in numerous appeals, most recently in 2015, allowing a variety of remedies because defendants “**would likely commit similar violations in the future.**”<sup>v</sup>

### New Tobacco Products Marketed Using the Same Message

There is no safe form of tobacco despite the many different forms of tobacco on the market. Despite the fact that 68% of adults who smoke report that they want to quit,<sup>vi</sup> tobacco manufacturers continue to sell cigarettes and create new addictive tobacco products intended to attract new users and keep existing users. Contrary to claims from manufacturers that e-cigarettes transition people off cigarettes, 58.81% of young adults who currently used e-cigarettes in 2020 had never previously smoked cigarettes.<sup>vii</sup>

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The tobacco industry is using the same marketing strategies as the “light” and “low” cigarettes campaigns from the past by using messages and imagery to promote and sell dangerous and highly addictive e-cigarettes, heated tobacco products, and nicotine pouches. One study showed how e-cigarette companies have used similar marketing themes historically used to sell cigarettes, including using cartoons to appeal to youth and using young models in in newspapers, magazines, TV ads as well as in, movies/streaming services geared towards young individuals. Similarly, a 2019 Stanford research report compared Juul’s 2015-2018 marketing campaigns to specific cigarette ads, highlighting the similar use of playful tones and bright colors, the hiring of celebrities, and distribution of free samples at sponsored youth-oriented entertainment venues.<sup>viii</sup>

**No existing tobacco products have been FDA-approved to help individuals quit.**

### **E-cigarette Avoidance of Federal & State Regulation**

E-cigarettes started to become available on the U.S. marketplace in 2007. The FDA took action to deny importation of these products on the grounds they were approved cessation products. To escape FDA’s authority, in 2009, two companies operating as NJOY sued the FDA for denying importation of its products. NJOY successfully argued their e-cigarettes are meant to deliver nicotine as a substitute for cigarettes and therefore are not therapeutic cessation devices.<sup>xii</sup> In 2009, Congress granted FDA the authority over all tobacco products, but it was not until 2016 that the FDA asserted its authority over e-cigarettes as tobacco products as part of the “Deeming Rule.” Unsurprisingly, a number of tobacco industry lawsuits were filed against the FDA to invalidate the deeming rule, alleging the FDA did not have the ability to regulate e-cigarette and cigar products. ACS CAN along with other public health groups filed an amicus brief outlining the importance of the agency’s role in regulating these products. Meanwhile, the eight years the FDA took to finalize the deeming rule and the time for the tobacco industry lawsuits to be resolved, the U.S. marketplace was flooded with e-cigarettes and other new tobacco products. The lack of FDA regulation allowed a new generation of youth to become addicted to tobacco products. E-cigarettes became the most commonly used tobacco product among U.S. youth in 2014.<sup>xiii</sup> By December 2018, the alarming and continued rate at which youth and young adults were using e-cigarettes lead to the U.S. Surgeon General declaring youth e-cigarette use to be an epidemic.<sup>xiv</sup> The tobacco industry’s latest trick to sell their products without FDA oversight involved claiming certain products are made from synthetic nicotine and not tobacco. Notably some e-cigarettes that were denied marketing orders to sell their products, including Puffbar<sup>xv</sup> and Vapor Salon,<sup>xvi</sup> began to publicly announce their intentions to reintroduce their same e-cigarette products using synthetic nicotine – a loophole in the Tobacco Control Act – to circumvent FDA regulation. Fortunately, Congress closed this glaring loophole in 2022 by clarifying the definition of tobacco products to include any product that contains nicotine, regardless of the source of the nicotine.

To also avoid state regulations, the tobacco industry often requests specific tobacco product exemptions or loopholes to state and local policies. These laws can allow e-cigarettes, cigars, products with modified risk orders or products containing synthetic nicotine to be excluded from excise taxes or taxed at a significantly lower excise tax rate. Exemptions are never added to policies for public health reasons and can contribute to worsening health disparities. In addition, some state tobacco control funding has been redirected to fund the comparative risks of “alternative” products, instead of funding fact-based tobacco prevention and control programs.

In September 2022, Altria, one of the RICO defendants and the maker of Marlboro cigarettes, and owner of the controlling share of Juul, agreed to pay \$438.5 million dollars to 32 states and Puerto Rico to resolve claims of illegal conduct. According to Connecticut Attorney General William Tong, who led the bi-partisan investigation, Juul “relentlessly marketed vaping products to underage youth, manipulated their chemical composition to be palatable to inexperienced users, employed an inadequate age verification process, and misled consumers about the nicotine content and addictiveness of its products.”<sup>x</sup>

## **FDA Inadequately Enforcing Therapeutic Modified Risk Claims**

Studies have shown how e-cigarette companies have marketed their products using a variety of cessation and unsubstantiated therapeutic claims both before<sup>x</sup> and after the FDA had authority over e-cigarettes as a tobacco product. E-cigarettes are often illegally promoted as healthier alternatives to cigarettes or as tools to help individuals quit smoking.<sup>xi</sup> Cessation claims, including that a product can help a person quit using tobacco, are claims that must be approved by the FDA as a medical drug or device. Tobacco manufacturers cannot make cessation claims unless they have been approved as such. Use of these illegal claims may misinform individuals to believe the tobacco products are safe, which isn’t true.

Congress granted FDA the authority to regulate the tobacco industry’s use of marketing claims because of the industry’s long history of misleading the public on the harms of its products. To claim a tobacco product poses a “modified risk,” a tobacco product manufacturer must apply and prove to the FDA the product *significantly* reduces harm and the risk of tobacco-related disease to the individuals using the product as well as non-users, while also proving how use of the modified risk claim will not result in increased initiation of the tobacco product by individuals who do not use it, particularly youth. Also, as part of this authority, tobacco manufacturers are both explicitly and implicitly prohibited from saying their product is “FDA approved.” The FDA does not approve the sale of new tobacco products, as all tobacco products are harmful.

Unfortunately, the FDA has inadequately enforced the use of both therapeutic claims and modified risk claims used to sell tobacco products. ACS CAN, with its tobacco control partners, have opposed the tobacco industry’s existing and proposed modified risk marketing orders, as their product applications to date have been insufficient in proving that the products as used by consumers would lead to reduced harm and risk. In addition, all the applications have lacked any information on the impact on youth – which is required under the law. ACS CAN has also sent letters to FDA urging the agency to investigate the illegal use of cessation claims by tobacco companies to market tobacco products.

## **ACS CAN’s Position**

Tobacco companies have violated civil racketeering laws and defrauded the American public by lying for decades about the health effects of smoking, manipulating their products to make them more addictive, marketing products directly to children, and more. Letting tobacco companies draft the solution to reduce tobacco product use is shortsighted. ACS CAN urges lawmakers to protect public health, not Big Tobacco’s profits, by passing comprehensive tobacco control policies that apply to all tobacco products.

Ensuring tobacco control policies are comprehensive and evidenced based is the best way to overcome the tobacco industry’s attempts to undermine existing laws and reduce tobacco use. The tobacco industry

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motives are very clear, they will aggressively market their products to underage individuals, people with limited-income, communities of color and LGBTQ+ individuals. All tobacco products should be treated equally in tobacco control laws because all tobacco products cause harm. The tobacco industry's constant request for exemptions to be added or requests to delay the implementation of strong tobacco control regulations only benefits Big Tobacco at the expense of everyone else's health.

Well established and effective multi-prong tobacco control policies that are comprehensive are necessary to eliminate tobacco-related disparities and health inequities. Specifically, ACS CAN advocates for evidence-based tobacco control policies at the federal, state and local levels, including:

- ❖ the FDA using its full authority to enforce premarket review of new tobacco products, restrict the marketing of these products to youth, and enforce the prohibition on unsubstantiated therapeutic claims;
- ❖ fully fund federal and state tobacco control programs to prevent initiation of tobacco products, monitor tobacco product use, identify tobacco related disparities, and promote effective strategies to help individuals who use tobacco products to successfully quit;
- ❖ enact comprehensive tobacco control policies with clear definitions that apply to all tobacco products, including e-cigarettes, hookah and other emerging tobacco products and do not exclude specific products from regulations or make location exemptions for the use of certain products;
- ❖ increase the tax on cigarettes by at least \$1.00 per pack with a parallel tax on all other tobacco products, including e-cigarettes;
- ❖ end the sale of menthol cigarettes and all other flavored tobacco products;
- ❖ enact comprehensive smoke-free policies in all workplaces, including restaurants, bars and gaming facilities;
- ❖ provide access to comprehensive tobacco cessation services and effective FDA-approved cessation medications without barriers or cost-sharing to help people quit tobacco; and
- ❖ preserve the right of local governments to pass public health policies that are stronger than state and federal laws.

## References

<sup>1</sup> Tobacco Control Legal Consortium, *The Verdict Is In: Findings from United States v. Philip Morris, The Hazards of Smoking* (2006). Retrieved from <https://publichealthlawcenter.org/sites/default/files/resources/tclc-verdict-is-in.pdf>.

<sup>2</sup> Stevens P, Carlson LM, Hinman JM. An Analysis of Tobacco Industry Marketing to Lesbian, Gay, Bisexual, and Transgender (LGBT) Populations: Strategies for Mainstream Tobacco Control and Prevention. *Health Promotion Practice*. 2004;5(3\_suppl):129S-134S. doi:10.1177/1524839904264617.

<sup>3</sup> Washington HA. Burning Love: big tobacco takes aim at LGBT youths. *Am J Public Health*. 2002 Jul;92(7):1086-95. doi: 10.2105/ajph.92.7.1086. PMID: 12084686; PMCID: PMC322279.

<sup>4</sup> *United States v. Philip Morris USA et al*, 9 F. Supp. 2d 1 (D.D.C., 2006).

<sup>5</sup> *United States v. Philip Morris USA Inc.*, 801 F.3d 250 (D.C. Cir. 2015).

<sup>6</sup> National Health Interview Survey, 2020. American Cancer Society, Inc., Surveillance Research.

<sup>7</sup> National Health Interview Survey, 2020. American Cancer Society, Inc., Surveillance Research.

<sup>8</sup> JUUL Advertising Over its First Three Years on the Market. Jackler RK, Chau C, Getachew BD, Whitcomb MM, Lee-Heidenreich J, Bhatt AM, Kim-O'Sullivan SHS, Hoffman ZA, Jackler LM, Ramamurthi D. SRITA Research Paper. January 31, 2019.

<sup>9</sup> Attorney General Tong Leads \$438.5 Million Multistate Agreement With JUUL Labs, retrieved from <https://portal.ct.gov/AG/Press-Releases/2022-Press-Releases/AG-Tong-Leads-Multistate-Agreement-With-JUUL-Labs>, September 6, 2022.

<sup>10</sup> Klein EG, Berman M, Hemmerich N, Carlson C, Htut S, Slater M. Online E-cigarette Marketing Claims: A Systematic Content and Legal Analysis. *Tob Regul Sci*. 2016 Jul;2(3):252-262. doi: 10.18001/TRS.2.3.5. Epub 2016 Jul 1. PMID: 27446984; PMCID: PMC4950517.

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<sup>x</sup> Collins L, Glasser AM, Abudayyeh H, Pearson JL, Villanti AC. E-Cigarette Marketing and Communication: How E-Cigarette Companies Market E-Cigarettes and the Public Engages with E-cigarette Information. *Nicotine Tob Res.* 2019 Jan 1;21(1):14-24. doi: 10.1093/ntr/ntx284. PMID: 29315420; PMCID: PMC6610165.

<sup>xi</sup> *Sottera, Inc. v. Food Drug Admin.*, 627 F.3d 891 (D.C. Cir. 2010).

<sup>xiii</sup> Office of the Surgeon General. E-cigarette Use among Youth and Young Adults: A Report of the Surgeon General. Washington, DC: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention; 2016. Retrieved from [https://www.cdc.gov/tobacco/data\\_statistics/sgr/e-cigarettes/pdfs/2016\\_sgr\\_entire\\_report\\_508.pdf](https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf).

<sup>xiv</sup> Office of the Surgeon General, "Surgeon General's Advisory on E-Cigarette Use Among Youth," December 18, 2018. <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf> Statement from FDA

<sup>xv</sup> CBS News, CBS MORNINGS, How companies like Puff Bar have avoided FDA regulation: "The industry can innovate around it." December 15, 2021, retrieved from <https://www.cbsnews.com/news/puff-bar-fda-regulation-loopholes/>.

<sup>xvi</sup> Filter Magazine, Denied FDA Authorization, Vaping Companies Start to Explore Loopholes, August 30, 2021, retrieved from <https://filtermag.org/fda-vaping-marketing-synthetic-nicotine/>.

## FDA Regulation of Tobacco Products: Modified Risk Tobacco Products

The Family Smoking Prevention and Tobacco Control Act (TCA) of 2009 granted the U.S. Food and Drug Administration (FDA) the authority to regulate tobacco products for the first time. The agency now has authority to regulate the manufacture, marketing, sale, and distribution of tobacco products.

The tobacco industry has a long history of misleading the public on the harms of its products. One of the most critical provisions of the TCA requires tobacco companies to receive a marketing order to prove the truthfulness of any claims that their product is “modified risk.”

### What are Modified Risk Tobacco Products

The term “modified risk tobacco product” is defined in federal law as any product that is sold or distributed for use to reduce the harm or the risk of tobacco-related disease associated with commercially marketed tobacco products. A modified risk tobacco product cannot be sold in the US without a marketing order from the FDA. A product manufacturer can apply for a marketing order to make any of the following claims:

- Disease claim: The tobacco product presents a lower risk of tobacco-related disease or is less harmful than one or more other tobacco products.
- Exposure claim: The tobacco product or its smoke contain a reduced level of a substance or present a reduced exposure to a substance.
- Exposure claim: The tobacco product or its smoke does not contain or is free of a substance.

Cessation claims, including that a product can help a person quit using tobacco, are medical claims that must be approved by FDA as a medical drug or device. Tobacco products cannot make cessation claims.

### FDA Regulation of Modified Risk Products

A manufacturer can submit an application to FDA for a marketing order to make a modified risk claim. That application must include at a minimum:

- A description of the proposed product and any proposed advertising;
- The conditions for using the product;
- Sample product labels and labeling;
- All documents (including underlying scientific information) relating to the research findings conducted, supported, or possessed by the tobacco product manufacturer relating to the effect of the product on tobacco-related disease and health-related conditions, including information both favorable and unfavorable to the ability of the product to reduce risk or exposure and relating to human health; and
- Data and information on how consumers actually use the tobacco product.

ACS CAN does not believe any product has met the standard to receive a marketing order as a modified risk tobacco product.

FDA must make the application available to the public for comment. In addition, the application is referred to the Tobacco Products Scientific Advisory Committee for its review and recommendation.

FDA can only issue a modified risk marketing order if the applicant has demonstrated that the tobacco product, as *used by consumers*, will:

- *Significantly* reduce harm and the risk of tobacco-related disease to the individual; and
- Benefit the health of *the population as a whole* taking into account both users of tobacco products and persons who do not currently use tobacco products.

In other words, the manufacturer must prove there will be a reduction in risk or a benefit to health based on how consumers would actually use the product. Simply stating a product is less harmful without providing information on how consumers would use it would be insufficient. When issuing a modified risk marketing order, FDA will review the proposed product, labeling and advertising for use of the claim. Additionally, FDA will determine a fixed time period for permitting the claim at which time the application would have to be renewed. In addition, the manufacturer must conduct post-market surveillance and submit annual reports to FDA. FDA has the authority to remove a modified risk product from the market if it is not having the intended public health effect.

## So-called “Light,” “Low,” and “Mild” Cigarettes

As health concerns about smoking started to emerge in the 1950s and 1960s, cigarette manufacturers created so-called “light” cigarettes, marketing them as healthier with less tar and less nicotine. Due to the design of these cigarettes, smokers actually smoked longer, inhaling more deeply and more frequently to get their desired dose of nicotine. These design changes may have led to an increase in lung cancer cases. Cigarette manufacturers knew these products posed no less risk, yet fraudulently sold them to Americans as such. Decades later, the TCA outright prohibited the terms “light,” “low,” and “mild.”

## FDA Decisions

As of September 2022, the FDA has permitted modified risk claims for four products: (1) Swedish Match USA, Inc. snus, (2) Philip Morris Products S.A. IQOS, (3) 22<sup>nd</sup> Century Group, Inc. VLN low nicotine cigarettes, and (4) Philip Morris Products S.A. IQOS 3 System holder and Charger.

1. Swedish Match USA, Inc. is permitted to make a disease risk claim for eight of its snus products, including several mint-flavored products.
2. Philip Morris Products S.A. is permitted to make an exposure risk claim for its IQOS products, including menthol-flavored heatsticks. Philip Morris Products S.A. was denied a disease risk claim.
3. 22<sup>nd</sup> Century Group, Inc. is authorized both modified risk and exposure modification orders for their lower nicotine combusted cigarettes, including lower nicotine menthol-flavored cigarettes, allowing the products to be marketed with reduced exposure claims that they include “95% less nicotine.”
4. Philip Morris Product S.A. can market the IQOS 3 System Holder and Charger noting that the product “heats tobacco but does not burn it.” In addition, applications are under review for six R.J. Reynolds Camel Snus products and U.S. Smokeless Tobacco Company’s Copenhagen Snuff Fine Cut.

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On August 23, 2022, the FDA issued a Final Guidance on Tobacco Product Perception and Intention Studies for tobacco product manufacturer applicants to develop and conduct studies that assess, among other things, individuals' perceptions of tobacco products, understanding of tobacco product information and intentions to use tobacco products.

## ACS CAN's Position

ACS CAN, with its tobacco control partners, has opposed the tobacco industry's existing and proposed modified risk marketing orders. All tobacco products are unsafe, including those the FDA decides are permitted to use a modified risk claim. Tobacco products contain nicotine, which is highly addictive. The U.S. Surgeon General reports that smoking cessation is beneficial at any age and "only complete cessation of all tobacco products fully eliminates all tobacco-related health risks."<sup>1</sup>

The modified risk tobacco product applications to date have been insufficient in proving that the products as used by consumers would lead to a reduction in risk. In addition, all the applications have lacked any information on the impact on youth – which is required under the law. In addition, local and state governments should not exempt products that have received a marketing order for a modified risk claim from their tobacco control laws, nor tax them at lower rates than cigarettes and other tobacco products. ACS CAN will continue to urge the FDA to deny any applications that are incomplete and do not meet the standard required by the Tobacco Control Act.

### References

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<sup>1</sup> Department of Health and Human Services. Smoking Cessation. A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2020.

# Peddling Harm:

## How the Tobacco Industry Continues to Mislead Our Communities

### Protecting Profits by Rebranding Harm

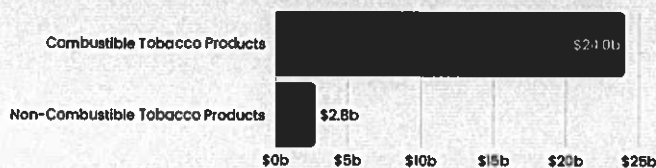
Since its inception, the tobacco industry has relied on deception to peddle its deadly products.<sup>9</sup> Now, as cigarette use in the U.S. continues to decline and the industry faces mounting regulatory pressure, it is expanding its tactics. The industry is attempting to rebrand itself and co-opt the language of public health. The goal hasn't changed—sell as many addictive products to as many people as possible—but the messaging has. **By framing the conversation around so-called harm reduction, the industry seeks to distract from the deadly nature of its products.** For tobacco companies, harm reduction is not about saving lives. It is about protecting profits.

Today, manufacturers are flooding the market with “next-generation” products such as e-cigarettes, nicotine pouches and heated tobacco devices, the vast majority of which are illegally marketed as “less harmful” or alternatives to quitting. This playbook isn't new; the industry used it before when it falsely marketed light and low-tar cigarettes as safer, with deadly results. **Once again, the tobacco industry is simply peddling harm in new packaging.**

### Follow the Money

For Altria, the parent company of Philip Morris USA, which manufactures Marlboro and other leading cigarette brands, the rhetoric of becoming a ‘tobacco harm reduction’ company stands in stark contrast to its financial reality. In 2024, the company generated about \$24 billion from combustible products—cigarettes, cigars, and cigarillos—compared to just \$2.8 billion from non-combustibles such as nicotine pouches, heated tobacco products, and e-cigarettes.<sup>1</sup> An industry that claims to be concerned about the harms of tobacco is **still profiting primarily from products that kill most of its users.**

### Altria's Revenue Reality: Combustibles vs. Non-Combustibles (2024)<sup>1</sup>



### Countering Tobacco Industry Harmful Propaganda

- **The tobacco industry makes a majority of its billions each year from selling products it knows kill a majority of the people who use them.**<sup>1</sup> Its sole interest is making money by selling products that keep people addicted.
- **The tobacco industry claims minimal harm from e-cigarettes, vapes, and nicotine pouches** despite emerging evidence that these products present health risks and still lack long-term study.<sup>2</sup>
- **Tobacco products are not cessation products.** They are designed to create and sustain addiction, not help people quit. In contrast, FDA-approved cessation medications are highly regulated, tested for safety and effectiveness, and designed to help people quit.
- **Dual use of tobacco products escalates harm** by sustaining tobacco use, maintaining nicotine dependence, and potentially increasing overall exposure to toxicants.<sup>3</sup>
- **E-cigarettes and nicotine pouches are the most commonly used tobacco product among U.S. youth,** despite claims that these products are marketed to adults.<sup>4</sup>
- **Youth-appealing flavors<sup>10</sup> in products** such as nicotine pouches and e-cigarettes **have fueled uptake by youth and young adults.**<sup>4</sup>
- **If the industry's concern for public health were genuine, its behavior would look very different.** Instead it fights all regulations, markets its products to youth, and peddles in misleading and false claims that downplay the harms of its products.
- **A fact-based public health approach to tobacco use and addiction** incorporates behavior change strategies including prevention, cessation, and health promotion to equip tobacco users with life-saving tools and information.

## Harm Escalation: Targeting of Young People

Although the look and names of the novel tobacco products entering the market may have changed – **e-cigarettes, vapes, heated tobacco products (HTPs) and nicotine pouches** – they have many things in common with combustible cigarettes. **All deliver nicotine which is addictive. All contain chemicals proven to cause harm.** None have been FDA-approved to help people quit smoking and all have been deliberately targeting a new generation of tobacco users.

**New tobacco products** – including e-cigarettes and nicotine pouches – **escalate harm by hooking young people who might never have used tobacco otherwise.**

The long-term health effects of these newer tobacco products are just starting to be understood, however, **what is already clear is that these products are not without potentially significant health risks.** From their impact on Chronic Obstructive Pulmonary Disease (COPD) to their role in cancer, these products are unsafe, particularly for people who do not currently use any form of tobacco.<sup>6,7</sup> **These products also escalate harm by attracting young people who never used a tobacco product before.**<sup>4</sup>

The industry markets “novel” flavored tobacco products on social media to entice new users, including youth, many of whom have never smoked a combustible cigarette. Following the decades old playbook, nicotine pouches are now being marketed to youth through colorful packaging, social media influencers, and enticing flavors. The result has been significant youth uptake: an estimated 480,000 middle and high school students used nicotine pouches in 2024, with 85% choosing a flavored product.<sup>4</sup>

## Harm Escalation: Dual-Use of Tobacco Products

People who use more than one tobacco product are engaging in ‘dual use.’ Dual use of combustible cigarettes and e-cigarettes is the most common multiple tobacco-use pattern. **The tobacco industry promotes dual use to keep nicotine levels high and dependence strong,** using targeted marketing messages like “for when you can’t smoke” to keep people addicted. This strategy appears to be working: instead of switching completely, people often continue to use these products at the same time and may then be exposed to toxicants at even higher levels than single product use, all while maintaining nicotine dependence.<sup>3</sup>

## Blurring the lines: The Pharmaceuticalization of the Tobacco Industry

**If the industry’s concern for public health were genuine, its behavior would look very different.** Instead, it promotes novel tobacco products as “healthier” and “clean,” increasingly blurring the lines between their products and pharmaceutical nicotine-replacement therapies, while evading the strict regulatory oversight required of pharmaceutical products. In fact, no tobacco product has been approved by FDA as a cessation product.

The Center for Tobacco Control Research and Education at the University of California San Francisco termed this behavior “*the pharmaceuticalization of the tobacco industry*”, in which the tobacco industry strives to *transition into a pharmaceutical-like industry through the manufacture and sale of noncombustible tobacco and nicotine products for smoking cessation or long-term nicotine maintenance without the testing and oversight required of traditional pharmaceutical products.*”

**1 in 5 tobacco users**  
use two or more types of tobacco  
products<sup>8</sup>



## Countering Tobacco Industry Efforts

Ensuring tobacco control policies are comprehensive and evidence-based is the most effective way to counter the tobacco industry’s efforts to weaken existing laws and reduce tobacco use. **All tobacco products should be subject to all tobacco control laws because they pose serious health risks.**

The tobacco industry’s persistent push for exemptions or delays in implementing strong tobacco control policies serves only to protect industry profits at the expense of public health.

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