PMI US CORPORATE SERVICES

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Written Testimony in Support of Rhode Island Senate Bill No. 3131

AN ACT RELATING TO TAXATION -- CIGARETTE, OTHER TOBACCO PRODUCTS, AND ELECTRONIC NICOTINE-DELIVERY SYSTEM PRODUCTS

Submitted to the Committee on Finance by Chris Newbry, Director of Fiscal Affairs, on behalf of PMI US Corporate Services Inc.

March 24, 2026

Good afternoon, Chair DiPalma and members of the Senate Finance Committee. Thank you very much for the opportunity to testify in support of S 3131.

My name is Chris Newbry, and I serve as Director of Fiscal Affairs for PMI US Corporate Services Inc., a part of Philip Morris International and its family of companies. PMI does not, and has never, sold combustible cigarettes in the United States. Our mission is to reduce smoking by replacing combustible cigarettes with scientifically substantiated, less harmful alternatives.

Nearly 30 million adults continue to smoke in the United States today,[1] including 9.9% of Rhode Islanders. This represents real and considerable human costs; 1,800 deaths in the state annually and 31.3% of cancer-related deaths are attributed to smoking combustible cigarettes. Smoking also significantly contributes to financial burdens on the state, amounting to $744 million in annual healthcare costs and $233 million in annual Medicaid expenses. Additionally, smoking leads to $1.1 billion in lost productivity in Rhode Island each year.[2]

PMI's U.S. businesses (PMI U.S.) manufacture a product called ZYN, the first FDA-authorized modern oral nicotine pouch product[3] and the market leader in the category. ZYN is a cellulose pouch containing nicotine that is placed between the gum and the cheek or upper lip. ZYN contains nicotine derived from tobacco but does not contain tobacco leaf like traditional oral tobacco products.

[1] CDC: Burden of Cigarette Use in the U.S., https://www.cdc.gov/tobacco/campaign/tips/resources/data/cigarette-smoking-in-united-states.html

[2] Campaign for Tobacco-Free Kids: The Toll of Tobacco in Rhode Island, https://www.tobaccofreekids.org/problem/toll-us/rhode_island

[3] FDA: FDA Authorizes Marketing of 20 ZYN Nicotine Pouch Products after Extensive Scientific Review, https://www.fda.gov/news-events/press-announcements/fda-authorizes-marketing-20-zyn-nicotine-pouch-products-after-extensive-scientific-review

Public health authorities, including the U.S. Food and Drug Administration, recognize that tobacco and nicotine products exist along a continuum of risk, with combustible cigarettes posing the greatest harm and smoke-free alternatives representing lower-risk options. The FDA states, "Adults who smoke who fully switch from cigarettes to a lower-risk alternative can generally reduce their health risk and exposure to toxic and cancer-causing chemicals." Nicotine pouches, while not risk-free, are a better option than combustible cigarettes for adults who completely switch. According to the FDA, "For adults who smoke, switching completely from cigarettes to nicotine pouches may reduce exposure to many harmful chemicals found in cigarettes."[4]

In its orders granting marketing authorization to ZYN, the FDA acknowledged studies showing that ZYN encourages switching from other tobacco products, noting that "nearly one quarter (83 of 346 participants) of those who used the new products completely switched from other tobacco products and reported exclusive use of the new product by end of the 10-week prospective study period." FDA also determined that switching to ZYN has the potential to benefit adults who currently use tobacco products, noting "to the extent that people who currently smoke cigarettes or use most other smokeless tobacco products switch completely to these products instead of using their current products, we would expect their health risks to decline substantially."[5]

Consistent with the science and to maximize public health outcomes, Rhode Island should encourage the state's adult smokers to switch from cigarettes to products like nicotine pouches. This is most directly accomplished with tax policy, which has significant impact on not just the retail price of products to adult consumers, but also their purchasing patterns. Tax policy should reflect differences in risk between tobacco products, encouraging people who smoke to move away from the most harmful tobacco products and minimizing cross-border purchasing by keeping smoke-free alternatives affordable.

Unfortunately, last year, Rhode Island opted instead to apply the state's "other tobacco products" tax to nicotine pouches like ZYN, imposing a tax at a rate of 80% of the wholesale cost—one of the highest nicotine pouch taxes in the nation, amounting to a tax of approximately $3.20 per can of ZYN. Since implementation on October 1, this tax has had significant market impact and provided the nation's clearest warning of how misapplied nicotine pouch tax policy can be counterproductive.

Upon implementation, Rhode Island's nicotine pouch excise tax had the immediate effect of substantially raising the retail price paid by consumers, particularly as compared to retail prices paid by consumers in neighboring states of Connecticut and Massachusetts, where there is no excise tax on nicotine pouches. Predictably, this price differential has incentivized consumers to travel across state borders to purchase nicotine pouches at more favorable prices—a phenomenon observed with other states that similarly imposed high nicotine pouch taxes. Rhode Island's unique

[4] FDA: The Relative Risks of Tobacco Products, https://www.fda.gov/tobacco-products/health-effects-tobacco-use/relative-risks-tobacco-products#NewNic
[5] FDA: Technical Project Lead (TPL) Review of PMTAs, https://www.accessdata.fda.gov/static/searchtobacco/ZYN/PMTA_TPL_PM593-PM612_Zyn_01_13_2025_Redacted.pdf

geography, however, means the majority of the state's consumers are within a short distance of excise tax-free, lower cost products in neighboring states, exacerbating the cross-border purchasing effect. In fact, aggregated industry sales data shows that Rhode Island experienced a 27% decline in nicotine pouch volume in the first quarter of the tax's implementation. The same data shows corresponding sales increases in neighboring Connecticut and Massachusetts.[6]

The 80% tax was intended to provide a source of revenue for Rhode Island—$12 million for FY2027. As recent sales data indicates, it has had the perverse effect of driving sales to neighboring states, which means Rhode Island is unlikely to meet its revenue projections and local businesses lose customers. Rhode Island cannot collect revenue on products that many consumers refuse to buy within its borders, and the data indicates that consumers are unwilling to bear an 80% ad valorem tax. We expect these trends to become more pronounced with time. Concerningly, customers that do purchase within the state will be incentivized to choose low cost, potentially illicit products rather than FDA-authorized options, as the ad valorem tax structure amplifies price differences within the category. As seen with e-cigarettes, such a "race to the bottom" would most likely affect the state's lower income and more vulnerable populations who deserve access to affordable, scientifically substantiated options.

I applaud the Committee's willingness to confront this issue and consider solutions that will better serve not only the state, but also its adult nicotine consumers. S 3131 is an important step in the right direction. Instead of a tax on the wholesale cost of the product, S 3131 would impose a specific unit tax of $2 per can of up to 20 nicotine pouches. Importantly, this tax would ensure that all products in the marketplace are taxed alike, removing existing incentives for unauthorized or illegal low-cost products to gain market advantage. Additionally, per unit taxes are simple to apply and a much less administrative burden for both state regulators and wholesalers, reducing complexity across the board.

S 3131 would provide some retail price relief for consumers, as the $2 per unit tax would be lower than the approximately $3.20 in taxes currently applied to a can of ZYN in Rhode Island. However, it is important to note that $2 is still a substantial tax and cost contributor for consumers, particularly in comparison to neighboring zero-excise tax jurisdictions. It should not be a foregone conclusion that this will provide sufficient tax relief to reverse observed cross-border purchasing trends, and a reduction to a lower tax assessment may be required to incentivize consumers to conduct purchases within the state's borders.

I encourage the Committee to advance S 3131, as changing the methodology of nicotine pouch taxes is a significant step in the right direction for Rhode Island. I also encourage the Committee to carefully monitor the effectiveness of this change if implemented and remain willing to revisit the policy in the future should the solution prove insufficient.

Thank you for your consideration.

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[6] Management Science Associates Inc., 2021-2025 quarterly data.

ZYN®: A BETTER OPTION FOR ADULT SMOKERS

WHAT IS ZYN?

A small pouch made with plant-based fibers, ZYN contains pharmaceutical-grade nicotine derived from tobacco leaves, food-grade fillers and flavorings for a smoke-free, spit-free experience. ZYN products do not contain any tobacco leaf or stems.

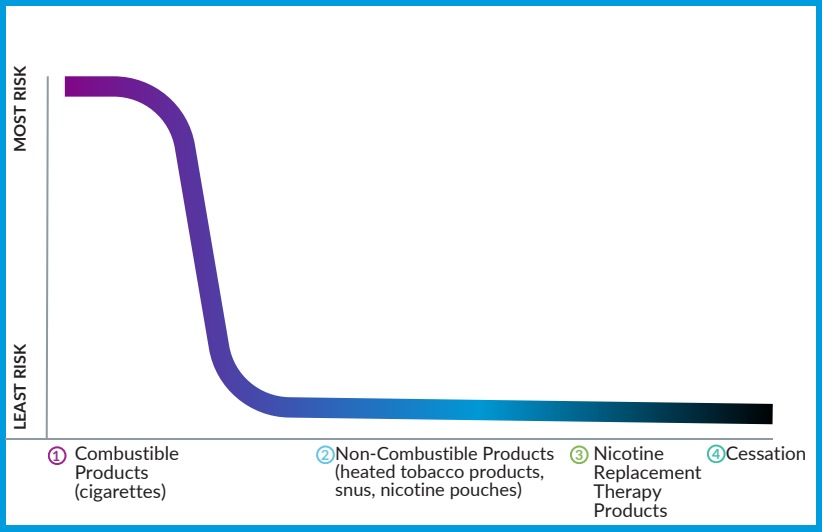
HOW IS IT USED?

ZYN is placed between the upper lip and gum, allowing nicotine to be absorbed orally.

IS ZYN AUTHORIZED BY THE FDA?

Following extensive scientific review, ZYN was the first in its category to be authorized for marketing by the U.S. Food and Drug Administration in January 2025. The FDA found that ZYN, available in 10 varieties and two nicotine concentrations, is "appropriate for the protection of public health" and may benefit adult smokers and users of smokeless tobacco products that completely switch.[1]

COMBUSTION AND THE RISK CLIFF



Adapted from Nutt, et. al. Estimating the Harms of Nicotine-Containing Products Using the MCDA Approach. Eur. Addict Res 2014; 20:218-225.

EFFECTIVELY REDUCING HARM

- Smoking remains the leading preventable cause of death and disease in the United States. Nearly 30 million Americans continue to smoke combustible cigarettes and nearly 500,000 Americans will die each year from cigarette smoking.[2]
- As the graph indicates, nicotine, while addictive and not risk-free, is delivered on a spectrum with combustible products being the most harmful. For adults who smoke, quitting all tobacco products is always the best choice. But many won't quit. The FDA has recognized that completely switching to smoke-free nicotine products like ZYN offers a better option for adults 21+ who smoke than continuing to use cigarettes.[3]
- Government policies on tobacco and nicotine use should be based on science, risk level, and common sense to ensure legal-age adults who smoke have access to FDA-authorized smoke-free products.

"To receive marketing authorizations, the FDA must have sufficient evidence that the new products offer greater benefits to population health than risks. In this case, the data show that these nicotine pouch products meet that bar by benefiting adults who use cigarettes and/or smokeless tobacco products and completely switch to these products."

-Dr. Matthew Farrelly, director of the Office of Science in the FDA's Center for Tobacco Products[4]

1. *FDA, Technical Project Lead (TPL) Review of PMTAs, https://tinyurl.com/3kxnyfzy*
2. *CDC, Burden of Cigarette Use in the U.S., https://tinyurl.com/4cxtf6w9*
3. *FDA, The Relative Risks of Tobacco Products, https://shorturl.at/AUmEf*
4. *FDA, FDA Authorizes Marketing of 20 ZYN Nicotine Pouch Products after Extensive Scientific Review, https://shorturl.at/5QNlr*

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FDA NEWS RELEASE

FDA Authorizes Marketing of 20 ZYN Nicotine Pouch Products after Extensive Scientific Review

Agency Will Closely Monitor Youth Use and Company's Compliance with Marketing Restrictions

For Immediate Release:

January 16, 2025

Today, the U.S. Food and Drug Administration authorized the marketing of 20 ZYN nicotine pouch products through the premarket tobacco product application (PMTA) (/tobacco-products/market-and-distribute-tobacco-product/premarket-tobacco-product-applications) pathway following an extensive scientific review. This is the first time the agency has authorized products commonly referred to as nicotine pouches (https://www.fda.gov/tobacco-products/products-ingredients-components/other-tobacco-products#Nicotine%20Pouches), which are small synthetic fiber pouches containing nicotine designed to be placed between a person's gum and lip.

The FDA determined that the specific products receiving marketing authorization met the public health standard (https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/premarket-tobacco-product-applications) legally required by the 2009 Family Smoking Prevention and Tobacco Control Act. This standard considers the risks and benefits of products to the population as a whole.

Among several key considerations, the agency's evaluation showed that, due to substantially lower amounts of harmful constituents than cigarettes and most smokeless tobacco products, such as moist snuff and snus, the authorized products pose lower risk of cancer and other serious health conditions than such products. The applicant also provided evidence from a study showing that a substantial proportion of adults who use cigarette and/or smokeless tobacco products completely switched to the newly authorized nicotine pouch products.

"To receive marketing authorizations, the FDA must have sufficient evidence that the new products offer greater benefits to population health than risks," said Matthew Farrelly, Ph.D., director of the Office of Science in the FDA's Center for Tobacco Products. "In this

case, the data show that these nicotine pouch products meet that bar by benefiting adults who use cigarettes and/or smokeless tobacco products and completely switch to these products."

Additionally, the FDA found that the applicant showed these nicotine pouch products have the potential to provide a benefit to adults who smoke cigarettes and/or use other smokeless tobacco products that is sufficient to outweigh the risks of the products, including to youth. As part of its evaluation, the FDA reviewed data regarding youth risk and found that youth use of nicotine pouches remains low despite growing sales in recent years. For example, the 2024 National Youth Tobacco Survey (/tobacco-products/youth-and-tobacco/results-annual-national-youth-tobacco-survey) showed that 1.8% of U.S. middle and high school students reported currently using nicotine pouches.

"It's critical that the manufacturer market these products responsibly to prevent youth use," said Brian King, Ph.D., M.P.H., director of the FDA's Center for Tobacco Products. "While current data show that youth use remains low, the FDA is closely monitoring the marketplace and is committed to taking action, as appropriate, to best protect public health."

While today's actions permit these specific tobacco products to be legally marketed in the U.S. to adults 21 and older, it does not mean these tobacco products are safe, nor are they "FDA approved." There is no safe tobacco product; youth should not use tobacco products and adults who do not use tobacco products should not start.

The FDA will closely monitor the marketing and use of these products. To reduce the potential for youth exposure to advertising of these products, the authorizations impose stringent marketing restrictions for digital, TV and radio, including measures to ensure ads are carefully targeted to adults ages 21 and older and the demographics of the audiences reached by the ads are tracked and measured by the manufacturer. The company also stated that they intend to implement additional measures to restrict youth access, reduce youth appeal and limit youth exposure to their labeling and advertising, such as: not using mass-market advertising on radio and TV; employing actors/models for marketing that are no younger than 35 years old, or styled to appear under 35; and avoiding any content designed to target youth, including characters, images or themes. The agency may suspend or withdraw a marketing granted order issued under the PMTA pathway for a variety of reasons if the agency determines the continued marketing of a product no longer meets the necessary public health standard, such as if there is a notable increase in youth initiation.

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The products for which the FDA issued marketing granted orders are the following, each with two nicotine strengths (3 milligram and 6 milligram): ZYN Chill, ZYN Cinnamon, ZYN Citrus, ZYN Coffee, ZYN Cool Mint, ZYN Menthol, ZYN Peppermint, ZYN Smooth, ZYN Spearmint and ZYN Wintergreen. Importantly, today's actions are specific to these products only; the authorizations do not apply to any other nicotine pouch or other ZYN products. Additionally, the authorization does not allow the company to make reduced risk claims about the authorized products, which would require a modified risk tobacco product application.

Today's actions are the latest of many the FDA has taken to ensure all new tobacco products marketed in the U.S. undergo science-based review and have received marketing authorizations by the agency. To date, the FDA has received applications for nearly 27 million products and has made determinations on more than 26 million of those applications. This includes authorization of other flavored oral tobacco products, including nicotine mints and chews in 2021 and mint smokeless tobacco in 2015. To find a list of tobacco products that may be legally marketed and sold in the U.S., visit the FDA's Searchable Tobacco Products Database (https://www.accessdata.fda.gov/scripts/searchtobacco/).

Related Information

- ZYN: Order Letters (https://www.accessdata.fda.gov/static/searchtobacco/ZYN/MGO_Ltr_SMUSA_PM593-PM612_Zyn_MM_DD_2024_Redacted.pdf) and Decision Summaries (https://www.accessdata.fda.gov/static/searchtobacco/ZYN/PMTA_TPL_PM593-PM612_Zyn_01_13_2025_Redacted.pdf)
- Other Tobacco Products: What Are Nicotine Pouches? (https://www.fda.gov/tobacco-products/products-ingredients-components/other-tobacco-products#Nicotine%20Pouches)
- Searchable Tobacco Products Database (https://www.accessdata.fda.gov/scripts/searchtobacco/)
- Quitting Smoking and Other Tobacco Public Health Resources (/tobacco-products/health-effects-tobacco-use/quitting-smoking-and-other-tobacco-public-health-resources)
- The Relative Risks of Tobacco Products (/tobacco-products/health-effects-tobacco-use/relative-risks-tobacco-products)

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The FDA, an agency within the U.S. Department of Health and Human Services, protects the public health by assuring the safety, effectiveness, and security of human and veterinary drugs, vaccines and other biological products for human use, and medical devices. The agency also is

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responsible for the safety and security of our nation’s food supply, cosmetics, dietary supplements, radiation-emitting electronic products, and for regulating tobacco products.

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FDA AUTHORIZATION OF ZYN NICOTINE POUCHES: WHAT DOES IT MEAN?

> *"To receive marketing authorizations, the FDA must have sufficient evidence that the new products offer greater benefits to the population health than risks. In this case, the data show that these nicotine pouch products meet that bar by benefitting adults who use cigarettes and/or smokeless tobacco products and completely switch to these products."*
>
> *– Matthew Farrelly, Ph.D., Director of CTP's Office of Science*

Before concluding a product is "appropriate for the protection of public health," FDA carefully considers, among other things:

- Risks and benefits to the population as a whole – users, nonusers, and youth
- Potential health effects
- Product standards, such as nicotine levels and flavors
- Product quality and potential for misuse

In authorizing 10 varieties of ZYN in 2 nicotine levels, FDA concluded the following:

Switching to ZYN has the potential to benefit adults who currently use tobacco products

> "...to the extent that people who currently smoke cigarettes or use most other smokeless tobacco products switch completely to these products instead of using their current products, we would expect their health risks to decline substantially. (pg. 6)"

Studies show ZYN encourages switching from other tobacco products...

> "Nearly one quarter (83 of 346 participants) of those who used the new products completely switched from other tobacco products and reported exclusive use of the new product by end of the 10-week prospective study period. (pg. 27)"

...and risks to non-users, including youth, remains relatively low

> "FDA expects that there would be low intentions to use these oral tobacco products [ZYN] among youth...risk of initiation with the new [ZYN] products is expected to be relatively low and exclusive use of the new products is likely associated with substantially lower health risks when compared to cigarettes or smokeless tobacco. (pg. 55)"

Appropriate for the Protection of Public Health: ZYN is an important harm reduction tool for adults who use tobacco

> "Finally, the new products' potential health benefits to adult tobacco product users are not outweighed by risks to nonusers, including youth. (pg. 54)"

> "Together, based on information provided in the PMTAs and the available evidence, the potential to benefit adults who use smokeless tobacco and adults who smoke who switch completely to the new products would outweigh the risk to youth, provided the applicant follows post-marketing requirements aimed at reducing youth exposure and access to the products. (pg. 57)"

FDA, Technical Project Lead (TPL) Review of PMTAs (Jan. 16, 2025), https://tinyurl.com/3kxnyfzy

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