

ZYN & THE RISE IN POPULARITY OF NICOTINE POUCHES

Frequently Asked Questions

/// Nicotine pouches have grown in popularity in California 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 contain nicotine and/or commercial tobacco.¹ The user places the pouch between the upper lip and gums and absorbs nicotine through the gums into the bloodstream. Typically, each pouch contains a comparable amount of nicotine as a cigarette (much of the nicotine in a cigarette is not ingested), although some pouches contain more or less than this.²



Q: What is Zyn?

A: Though several nicotine pouch brands exist on the market, one gaining popularity and notoriety is a brand called Zyn.³ Zyn was created by Swedish Match and has been available in the U.S. since 2014.³ Philip Morris International acquired Zyn in 2022.⁴

Smokeless products containing tobacco like snus have existed for years, but Zyn differs from snus in that it does not contain commercial tobacco leaves. Instead, it is made up of a powdered form of nicotine salt derived from commercial tobacco leaves that is mixed with fillers. It comes in several flavors, including wintergreen, spearmint, cool mint, peppermint, cinnamon, coffee, and citrus, as well as products marketed as “Zyn Chill” and “Zyn Smooth.”

Q: What are other brands of nicotine pouches?

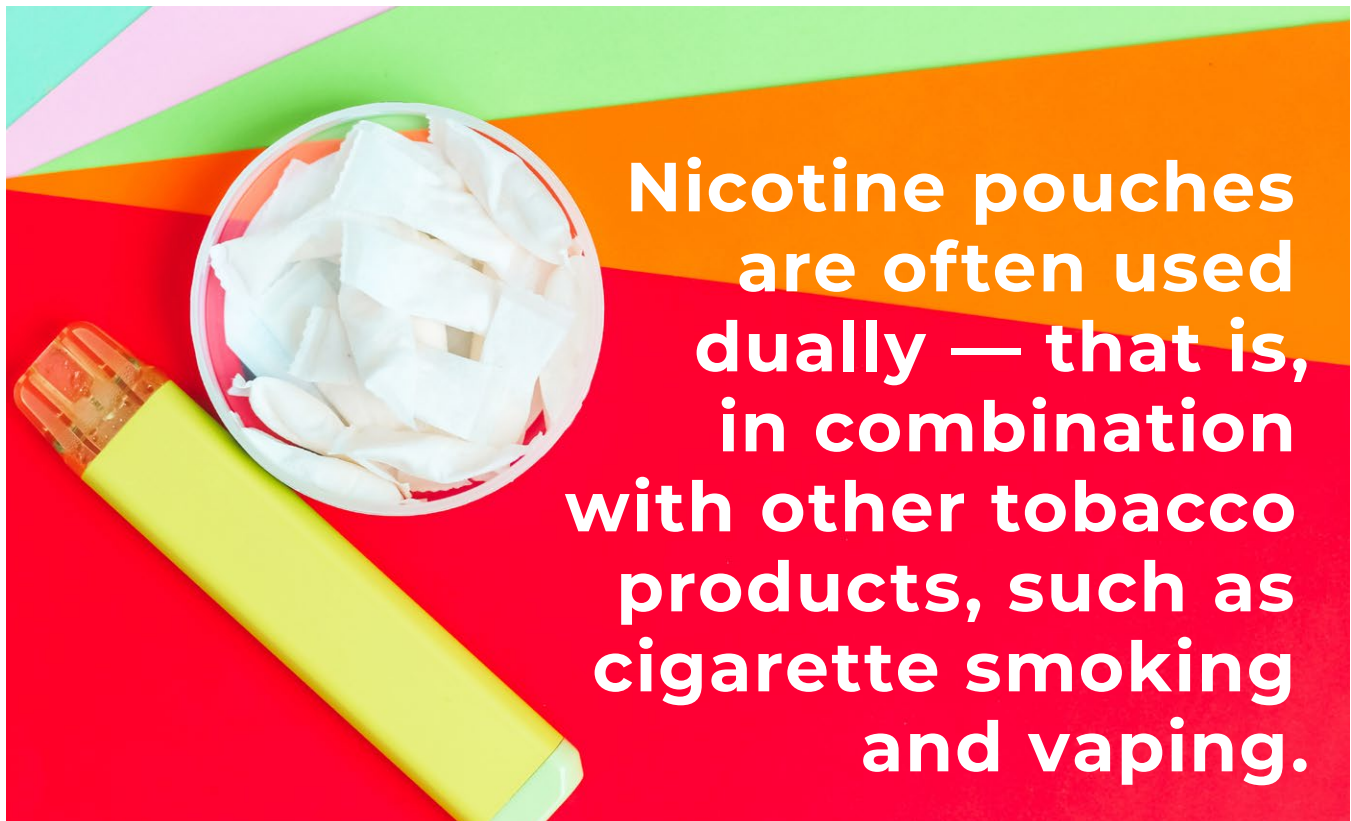
A: While Zyn seems to dominate the nicotine pouch market, other brands include On!, which is owned by Altria; Velo, owned by British American Tobacco; and Lucy. Philip Morris claims that Zyn accounted for 72.8 percent of the nicotine pouch market by the end of 2023.⁵

Q: Is Zyn popular among youth and young adults?

A: The evidence suggests that nicotine pouches are growing in popularity among youth, in large part because they offer a discrete way to obtain a nicotine fix without alerting adults to nicotine use. 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.⁶ This survey found that 7.7 percent of youth respondents indicated they had used e-cigarettes within the past month, compared with 1.5 percent who reported use of nicotine pouches. It is important to note that the 2023 survey data is based on survey results gathered in 2022.

Another recent study found a higher use rate for nicotine pouches among youth and young adults (aged 15–24): 16 percent of participants had ever used a nicotine pouch, and 12 percent reported current use.⁷ This study also raises an alarm that many youth and young adults using nicotine pouches are using them dually — that is, in combination with other tobacco products, such as cigarette smoking (73 percent) and vaping (49 percent).⁸

The dramatic increase in sales of the product also indicates Zyn’s growing popularity. Between 2018 and 2023, the number of Zyn cans shipped in the U.S. rose from 6 million to 334 million,⁹ and Philip Morris indicates that its shipment volume of Zyn increased by 60 percent in 2023.¹⁰ According to recent news reports, the popularity of nicotine pouches seems to be on the rise,



especially among youth.¹¹ Philip Morris emphasizes that it uses age-gating on Zyn’s website and states that its products are only intended for people who are at least 21 years old, but there may be evidence that the company used so-called “Zynfluencers” to help promote its products to youth on social media outlets like TikTok.¹² The U.S. Food and Drug Administration has also issued warnings to numerous tobacco retailers for selling Zyn to underage decoys.¹³

Q: What are some of the claims Zyn has been making?

A: Zyn markets itself as a nicotine product that is “completely smoke and tobacco-free — meaning you can use it discreetly, whenever and wherever you want.”¹⁴ Thus, somewhat confusingly, some products like Zyn are marketed as commercial tobacco-free even though they use nicotine derived from commercial tobacco, whereas others are marketed as commercial tobacco-free but use synthetic nicotine that is not derived from tobacco. While this has caused confusion, it seems clear that Zyn does not claim to use synthetic nicotine and that it should meet most state and local definitions of a tobacco product. It is worth noting that nicotine presents the same inherent harms whether it is derived from commercial tobacco or synthetically derived.

Zyn has also made claims that some of its pouches, Zyn Chill and Zyn Smooth, are “flavor-ban approved.”¹⁵ This, along with claims that the product can be used discreetly, seem geared at increasing use of Zyn in areas where nicotine use or sale is otherwise prohibited. Importantly, a recent study shows that the variety of flavors, the marketing messages of helping people feel comfortable in social situations, and the ability to use the products anywhere were primary drivers of desire to use nicotine pouches among those under the age of 21.¹⁶

Q: Are nicotine pouches regulated by the FDA?

A: Yes, the FDA regulates nicotine pouches. The Family Smoking Prevention and Tobacco Control Act has given the FDA authority to regulate “tobacco products” since 2009, and since 2016, all products made or derived from commercial tobacco are considered tobacco products under the Act. Thus, even though Zyn pouches do not contain commercial tobacco leaf, they are still tobacco products within the meaning of the Tobacco Control Act because they contain nicotine derived from commercial tobacco.

As mentioned earlier, Zyn has been marketed in the U.S. since 2014. It was not until 2020, however, that Swedish Match submitted a premarket tobacco product application (PMTA) to get authorization from the FDA to sell the product.¹⁷ Although the company did submit a PMTA, the product still remains under review — that is, the FDA has not yet decided whether to issue a marketing granted or a marketing denial order. All products with PMTAs submitted to the FDA by September 9, 2020 are permitted to remain on the market until the FDA makes a final decision. Zyn, Velo, and On! likely fall into this category — their manufacturers all submitted PMTAs in 2020 and these products have remained on the market pending a final decision from the FDA.¹⁸

Q: Does SB 793 prohibit the sale of flavored Zyn and other nicotine pouches?

A: Yes, Senate Bill 793 prohibits the sale of flavored nicotine pouches. SB 793, which prohibits the sale of most flavored tobacco products throughout California, uses an expansive definition of tobacco product.¹⁹ This definition is broad enough to cover nicotine pouches like Zyn because these pouches are made or derived from tobacco. In addition, the law defines a “flavored tobacco product” as one containing a “characterizing flavor,” which in turn is defined to mean:

a distinguishable taste or aroma, or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product. Characterizing

flavors include, but are not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice.

SB 793 also prohibits the sale of “presumptively flavored products,” meaning:

[Products about which] “a manufacturer or any of the manufacturer’s agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the tobacco product has or produces a characterizing flavor, including, but not limited to, text, color, images, or all, on the product’s labeling or packaging that are used to explicitly or implicitly communicate that the tobacco product has a characterizing flavor.”

Under SB 793, all of Zyn’s flavored products — including wintergreen, spearmint, cool mint, peppermint, cinnamon, coffee, and citrus — appear to be prohibited for sale as either presumptively or explicitly flavored.

Q: What about Zyn Chill and Zyn Smooth?

A: Under SB 793, most Zyn products appear to be flavored. However, the company markets Zyn Smooth as entirely flavorless — that is, not even containing tobacco flavor. Inasmuch as Zyn Smooth is not flavored, it would not be covered by a law prohibiting the sale of flavored tobacco products.

Zyn also comes in a variety called Zyn Chill, which uses the chemical WS-3 to impart a cooling sensation. Whether or not tobacco products that use WS-3 to impart such a sensation are flavored within the meaning of SB 793 is an issue currently being litigated in court (see *R.J. Reynolds v. Bonta* (2023)). The resolution of that case may have implications for the legality of products like Zyn Chill in California.

Q: Can local jurisdictions prohibit the sale of nicotine pouches?

A: For local jurisdictions, well-crafted flavor sales prohibitions should capture Zyn’s flavored products. Most California jurisdictions that have adopted flavor sales prohibitions have adopted language that either mirrors SB 793 or that, in many instances, is more comprehensive and in line with the Public Health Law Center’s model language.

By using the Public Health Law Center’s model definitions for “tobacco product” and “flavored tobacco product,” jurisdictions should comprehensively capture all flavors of Zyn and other nicotine pouches. The Center recently updated its flavored tobacco product definition to capture sensation products more explicitly:

“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.

Jurisdictions can also ask the Public Health Law Center for individualized legal technical assistance in helping analyze and ensure that California communities are comprehensively regulating Zyn and other nicotine pouches.

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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.itcni.org>.
- 2 Nadja Mallock et al., *Levels of Nicotine and Tobacco-Specific Nitrosamines in Oral Nicotine Pouches*, 33 TOBACCO CONTROL 193 (2024).
- 3 Jamie Ducharme, *Zyn Is the New Vaping*, TIME (Mar. 4, 2024), <https://time.com/6836195/zyn-nicotine-pouches-popularity>.
- 4 *Philip Morris International Inc. (PMI) Reports 2022 Fourth-Quarter and Full-Year Results*, Philip Morris International (Feb. 9, 2023), <https://www.pmi.com/media-center/press-releases/press-details?newsId=25946>.

- 5 *CAGNY Conference*, Philip Morris International (Feb. 21, 2024), <https://philipmorrisinternational.gcs-web.com/static-files/02acf04a-b35c-48a1-9dc4-457f3e6ca097>.
- 6 Jan Birdsey et al., *Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023*, 72 *Morbidity & Mortality Wkly. Rep.* 1173 (2023).
- 7 Minal Patel et al., *Patterns of Oral Nicotine Pouch Use Among U.S. Adolescents and Young Adults*, 34 *PREVENTATIVE MED. REP.* 102239 (2023).
- 8 *Id.*
- 9 *Doe v. Philip Morris International*, No. 2:24-at-00393, at 16 (E.D. Cal., Mar. 29, 2024).
- 10 *CAGNY Conference*, *supra* note 5.
- 11 *See, e.g., Ducharme, supra* note 3; Christina M. Fiedler, *Zyn Nicotine Pouches Are the Latest Dangerous Social Media Trend for Teens*, *PARENTS* (Feb. 23, 2024), <https://www.parents.com/what-is-zyn-and-why-are-teens-using-it-8599249>; Sasha Rogelberg, *A New Wave of Gen Z “Zynfluencers” Are Fueling a Tobacco Industry Resurgence with Nicotine Pouch Sales*, *FORTUNE* (Jan. 26, 2024), <https://fortune.com/2024/01/26/gen-z-zynfluencers-tobacco-zyn-nicotine-pouch>.
- 12 *See, e.g., Doe*, No. 2:24-at-00393, at 3, 23.
- 13 *FDA Issues Warning Letters to and Files Civil Money Penalty Complaints Against Retailers for Underage Sales of ZYN Nicotine Pouches*, *FDA* (Apr. 4, 2024), <https://www.fda.gov/tobacco-products/ctp-newsroom/fda-issues-warning-letters-and-files-civil-money-penalty-complaints-against-retailers-underage-sales>.
- 14 *How to Use ZYN Nicotine Pouches*, *ZYN*, <https://uk.zyn.com/blog/behind-zyn/how-to-use-nicotine-pouches/>.
- 15 Alayna P. Tackett et al., *“Flavor Ban Approved”: New Marketing Strategies from Tobacco-Free Nicotine Pouch Maker Zyn*, 32 *TOBACCO CONTROL* e134 (2023).
- 16 Shivani M. Gaiha et al., *Use, Marketing, and Appeal of Oral Nicotine Products Among Adolescents, Young Adults, and Adults*, 140 *ADDICTIVE BEHAVIORS*, 107632 (2023).
- 17 *Swedish Match Results Presentation: Q1 2020*, *Swedish Match*, https://www.swedishmatch.com/globalassets/documents/presentations/2020_q1_interimpresentation_swedishmatch_en.pdf.
- 18 *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*, <https://www.prnewswire.com/news-releases/velo-pouch-premarket-tobacco-applications-submitted-to-fda-for-review-by-reynolds-301122281.html>.
- 19 SB 793 prohibits the sale of all flavored tobacco products, including menthol, with the exception of shisha (or hookah), premium cigars, and loose-leaf tobacco. *See Bill Text, SB-793*.