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## Written Testimony on Oregon House Bill 2528

*RELATING TO PUBLIC HEALTH; PRESCRIBING AN EFFECTIVE DATE; PROVIDING FOR REVENUE RAISING THAT REQUIRES APPROVAL BY A THREE-FIFTHS MAJORITY.*

**Submitted to the House Committee on Revenue by Dr. Brian Erkkila, Senior Advisor on Scientific Engagement, on behalf of Swedish Match North America LLC**

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May 13, 2025

Good afternoon, Chair Nathanson and members of the Committee on Revenue. Thank you very much for the opportunity to offer comment against House Bill 2528, which would impose a substantial state excise tax on oral nicotine pouches that provide a better option for adults who consume combustible cigarettes and traditional oral tobacco products.

My name is Dr. Brian Erkkila, and I have studied nicotine and tobacco for about 25 years, holding positions at the National Institutes of Health and the Food and Drug Administration (FDA) Center for Tobacco Products. I serve as Senior Advisor on Scientific Engagement for Swedish Match North America LLC, a part of Philip Morris International and its U.S.-based family of companies (collectively, “PMI”), which is at the forefront of developing reduced risk tobacco and nicotine products in the United States. PMI’s mission is to reduce smoking by replacing combustible cigarettes with less harmful alternatives for the approximately 28 million American adults who still smoke, which includes over 360,000 adults in Oregon.<sup>1</sup>

Of note, PMI has never, and will never, sell combustible cigarettes in the United States. Rather, our goal is to offer a portfolio of FDA-authorized smoke-free products that can provide legal-age adult smokers with a better choice than combustible cigarettes. While no product is risk-free and all products containing nicotine are addictive, smoke-free oral nicotine products are better options for people who would otherwise continue to smoke or use traditional oral tobacco products.

Today, 10.6% of adults in Oregon smoke, which is below the national average. However, this rate still represents real and considerable human costs; 5,500 deaths in the state annually and 27.9% of cancer-related deaths are still attributed to smoking combustible cigarettes. Smoking also continues to significantly contribute to financial burdens on the state, amounting to \$1.79 billion in annual healthcare costs and nearly \$373.6 million in annual Medicaid expenses. Additionally, smoking leads to \$3.7 billion in lost productivity in Oregon each year.<sup>2</sup>

PMI manufactures a product called ZYN, the first FDA-authorized modern oral nicotine pouch product. While ZYN contains nicotine derived from tobacco, it does not contain tobacco leaf like traditional oral tobacco products. Rather, it is a cellulose pouch containing nicotine that is placed between the gum and the cheek or upper lip.

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<sup>1</sup> Campaign for Tobacco-Free Kids: The Toll of Tobacco in Oregon, <https://www.tobaccofreekids.org/problem/toll-us/oregon>

<sup>2</sup> *ibid*

Before concluding a product should be authorized, 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; and product quality and potential for misuse. After years of independent scientific review, and in one of the Biden Administration’s final actions, the FDA determined that ZYN meets the authorization standard of “appropriate for the protection of public health.” In making this determination, experts at the FDA—including an engineer, a chemist, a toxicologist, a microbiologist, social scientists, an epidemiologist, a medical reviewer, a behavioral clinical pharmacologist, and a regulatory health project manager, among others—rigorously reviewed millions of pages of submitted scientific data over the course of nearly 4 years.

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.”<sup>3</sup> 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.”<sup>4</sup>

Consumer attitudes toward novel, reduced-risk<sup>5</sup> smoke-free products like ZYN are shaped in substantial part by legislative and regulatory choices made by policymakers. As adult consumers see and use these products, it is increasingly important to have policies in place that affirm they are making a better choice. This is consistent with the accepted principle of tobacco harm reduction.

Unfortunately, HB 2528 would do precisely the opposite by imposing an excessive tax on nicotine pouches of 65% of the wholesale price, thereby substantially increasing their cost to adult consumers and taxing oral nicotine products at the same rate as traditional oral tobacco products. This action sends the wrong message to adult smokers who might otherwise switch to a reduced-risk<sup>6</sup> alternative and ignores public health authorities, including the FDA, that have recognized that nicotine products exist on a continuum of risk, with smoke-free alternatives at the lower health risk end when compared to combustible cigarettes, the most harmful tobacco product. It is a fact that most adults who smoke in Oregon will not quit the use of nicotine, even if they no longer want to smoke combustible cigarettes—and these adults deserve access to affordable alternatives. Instead, to achieve positive outcomes in public health, states should encourage adult smokers to switch to FDA-authorized oral nicotine products like ZYN by ensuring the state’s tax policy is consistent with tobacco harm reduction. We urge you to reconsider the well-intentioned, but shortsighted approach to taxing oral nicotine products in HB 2528 and decline to advance this legislation. We stand ready to work with you on a better approach that reflects tobacco harm reduction in service to Oregon’s over 360,500 adult smokers.

Thank you very much for your time.

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<sup>3</sup> FDA, Technical Project Lead (TPL) Review of PMTAs (Jan. 16, 2025), pg. 27, <https://tinyurl.com/3kxnyfzy>

<sup>4</sup> FDA, Technical Project Lead (TPL) Review of PMTAs (Jan. 16, 2025), pg. 6, <https://tinyurl.com/3kxnyfzy>

<sup>5</sup> Reduced-risk is the term PMI uses to refer to smoke-free products that present, are likely to present, or have the potential to present less risk of harm to smokers who switch to these products versus continued smoking.

<sup>6</sup> *Ibid.*

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