

ROB BONTA
Attorney General

State of California
DEPARTMENT OF JUSTICE



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November 12, 2024

Donald M. Douma
Agent
Happy Hippo LLC
4687 Brett Court
Jurapa Valley, CA 91752

RE: California Flavor Ban, Health & Safety Code § 104559.5
Notice of Determination 24-11-A11-1

Dear Mr. Douma:

Since December 21, 2022, California has restricted retailer possession, distribution, and sale of flavored tobacco products. *See* Cal. Health & Saf. § 104559.5. This California “flavor ban” law establishes a rebuttable presumption that a tobacco product is flavored where its manufacturer “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.” *Id.* at § 104559.5(b)(2).

As of January 1, 2025, Assembly Bill 3218’s amendments to the flavor ban go into effect. This includes amending the definition of “tobacco products” to include “a product containing, made, or derived from. . . nicotinic alkaloids and nicotine analogs.” Cal. Health & Saf. § 104559.5(a). The Reviewed Product(s) contain Imotine, a brand name for a “synthetic nicotine analogue.” Sven E. Jordt & Sairam V. Jabba, *Introduction of Nicotine Analogue-Containing Oral Pouch Products in the United States* (Sep. 20, 2024) (Pre-Print), available at <<https://www.researchsquare.com/article/rs-5110349/v1>>.

This letter is to advise you that the Tobacco Unit of the California Department of Justice has reviewed referred packaging and promotional materials for the product(s) below and determined that they are presumptively **FLAVORED** under the California flavor ban law as of January 1, 2025. *Id.*

Determination Number	Reviewed Product(s)	UPC(s)	Determination
24-11-A11-1	Hippotine Wintergreen 25 mg	Various	FLAVORED
24-11-A11-2	Hippotine Guava Juice 15 mg	Various	FLAVORED

We specifically conclude:

- (1) Statement(s) on your packaging and website communicate that the Reviewed Product(s) impart flavors of fruit and/or mint. *See* TAB A.

The California flavor ban law restricts the retail distribution and sale of flavored tobacco products to California consumers. Under the California flavor ban law, retailers and their agents are subject to fines for the possession and sale of such flavored tobacco products. *See* Cal. Health & Saf. § 104559.5(f). Other state statutes and local ordinances may impose additional penalties on retailers or other vendors as well. *Id.* at § 104559.5(g); *see also* Cal. Bus. & Prof. § 17200. To encourage uniform application of the California flavor ban law, this Notice of Determination will be posted on the California Department of Justice’s public website.

You are encouraged to provide a copy to your California distributor and retailer customers as well.

If you believe these determinations or conclusions are in error, or if you believe any Reviewed Product(s) is properly classified as UNFLAVORED, we encourage you to submit a response with any supporting materials to the mailing or email address below on or before December 12, 2024, identifying the Notice of Determination number in your response. The Tobacco Unit will review any such submission and may, in its discretion, update, modify, or rescind this determination in response. In such case, an updated Notice of Determination will be issued.

Flavor Determination [Determination Number(s)]

**Office of the Attorney General
California Department of Justice
1300 “I” Street, PO Box 944255
Sacramento, California 94244-2550
Tobacco@doj.ca.gov**

<https://oag.ca.gov/tobacco/contact>

Sincerely,

/s/ Taylor Ann Whittemore

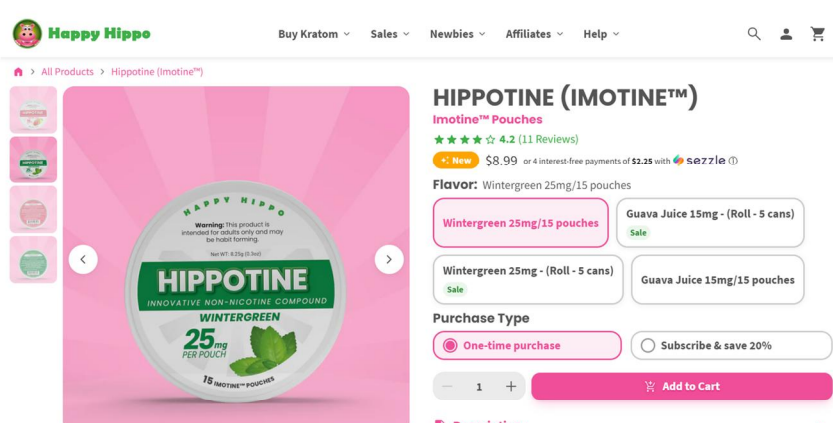
TAYLOR ANN WHITTEMORE
Deputy Attorney General

For ROB BONTA
Attorney General

TAB A – WEBSITE IMAGES

REVIEWED PRODUCT(S)

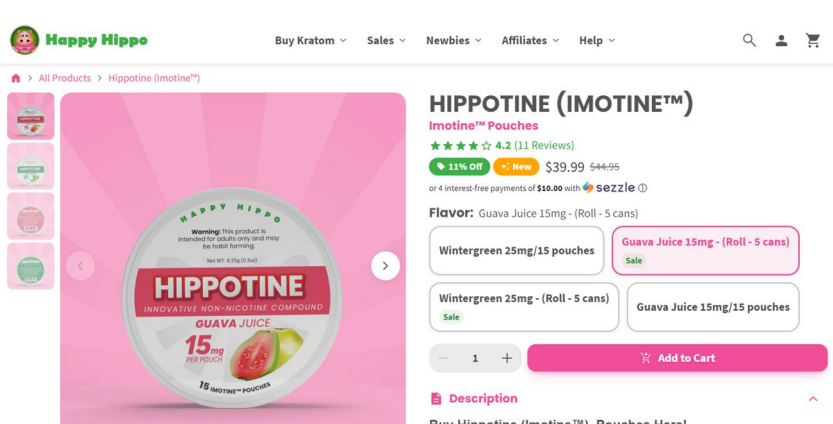
Happy Hippo, Hippotine (Imotine), Wintergreen,
<<https://happyhippo.com/products/buy-imotine?variant=42924436586633>>,
as of Nov. 5, 2024.



The screenshot shows the Happy Hippo website interface. At the top, there is a navigation bar with links for 'Buy Kratom', 'Sales', 'Newbies', 'Affiliates', and 'Help'. Below the navigation bar, a breadcrumb trail reads 'All Products > Hippotine (Imotine™)'. The main content area features a large image of a 'HIPPOTINE WINTERGREEN' pouch, which is labeled '25mg PER POUCH' and '15 IMOTINE™ POUCHES'. To the right of the image, the product title 'HIPPOTINE (IMOTINE™) Imotine™ Pouches' is displayed, along with a 4.2 star rating from 11 reviews. The price is listed as '\$8.99' with a 'New' badge, and a note about interest-free payments of \$2.25 with Sezzle. Below the price, the flavor is identified as 'Wintergreen 25mg/15 pouches'. There are two buttons for purchase: 'Wintergreen 25mg/15 pouches' (with a 'Sale' badge) and 'Guava Juice 15mg - (Roll - 5 cans)'. A 'Purchase Type' section offers 'One-time purchase' (selected) and 'Subscribe & save 20%'. A quantity selector shows '1' and an 'Add to Cart' button. A 'Description' section is partially visible, starting with 'Buy Hippotine (Imotine™) Pouches Here!'.

REVIEWED PRODUCT(S)

Happy Hippo, Hippotine (Imotine), Guava Juice,
<<https://happyhippo.com/products/buy-imotine?variant=42909805379721>>,
as of Nov. 5, 2024.



The screenshot shows the Happy Hippo website interface for the Guava Juice flavor. The navigation bar and breadcrumb trail are identical to the previous screenshot. The main product image is 'HIPPOTINE GUAVA JUICE', labeled '15mg PER POUCH' and '15 IMOTINE™ POUCHES'. The product title is 'HIPPOTINE (IMOTINE™) Imotine™ Pouches' with a 4.2 star rating. The price is '\$39.99' (11% off from \$44.95), with a note about interest-free payments of \$10.00 with Sezzle. The flavor is 'Guava Juice 15mg - (Roll - 5 cans)'. Purchase options include 'Wintergreen 25mg/15 pouches' (with a 'Sale' badge) and 'Guava Juice 15mg - (Roll - 5 cans)'. The 'Purchase Type' section shows 'One-time purchase' selected. The quantity selector shows '1' and an 'Add to Cart' button. The 'Description' section begins with 'Buy Hippotine (Imotine™) Pouches Here!'.