

ROB BONTA
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Public: (510) 879-1300
Telephone: (510) 879-3310
Facsimile: (510) 622-2170
E-Mail: TaylorAnn.Whittemore@doj.ca.gov

November 12, 2024

Jaimison D. Schellenger
Associate General Counsel
Swedish Match North America LLC
1021 East Cary Street
Suite 1600
Richmond, VA 23219
jaimison.schellenger@swedishmatch.com

RE: California Flavor Ban, Health & Safety Code § 104559.5
Notice of Determination 24-11-A9-1

Dear Mr. Schellenger:

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 modifications to the flavor ban law go into effect. Those modifications include a clarification that the flavor ban applies to products with a “cooling sensation.” *See* Cal. Health & Saf. § 104559.5(a).

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-A9-1 | Zyn Chill 3 mg | Various | FLAVORED |
| 24-11-A9-2 | Zyn Chill 6 mg | Various | FLAVORED |

We specifically conclude:

- (1) Statement(s) on your packaging communicate that the Reviewed Product(s) impart a cooling sensation. *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 – PACKAGING IMAGES

REVIEWED PRODUCT(S)

Swedish Match, Zyn Chill 3 mg,
Image Submitted May 17, 2023.

ZYN
CHILL
15 NICOTINE POUCHES **3** MG
WARNING: This product contains nicotine. Nicotine is an addictive chemical.

PER POUCH **3** MG
CHILL

ZYN Rewards
Collect, track, redeem at ZYN.COM/REWARDS
Visit the site for full terms & conditions. 21+

▲ BEST BEFORE: ▲ 6 09249 92001 0

Underage sale prohibited. Keep out of reach of children. One nicotine pouch contains 3 mg nicotine. Pouch and contents are not intended to be consumed. Discard after use. Sale Only Allowed in the United States. US Patent 9,304,000 B2. Net weight approx. 0.25 oz. (6g).

©2022 Swedish Match Inc. Richmond, VA 23191 U.S.A.
CONTACT US:
1-855-TYBAC ZYN

REVIEWED PRODUCT(S)

Swedish Match, Zyn Chill 6 mg,
Image Submitted May 17, 2023.

ZYN
CHILL
15 NICOTINE POUCHES **6** MG
WARNING: This product contains nicotine. Nicotine is an addictive chemical.

PER POUCH **6** MG
CHILL

ZYN Rewards
Collect, track, redeem at ZYN.COM/REWARDS
Visit the site for full terms & conditions. 21+

▲ BEST BEFORE: ▲ 6 09249 92022 5

Underage sale prohibited. Keep out of reach of children. One nicotine pouch contains 6 mg nicotine. Pouch and contents are not intended to be consumed. Discard after use. Sale Only Allowed in the United States. US Patent 9,304,000 B2. Net weight approx. 0.25 oz. (6g).

©2022 Swedish Match Inc. Richmond, VA 23191 U.S.A.
CONTACT US:
1-855-TYBAC ZYN