

Tobacco Product Labeling and Advertising Warnings

Federal Regulation of Tobacco: A Summary
July 2009



Background

On June 22, 2009, President Barack Obama signed into law the Family Smoking Prevention and Tobacco Control Act, giving the U.S. Food and Drug Administration (FDA) comprehensive authority to regulate the manufacturing, marketing, and sale of tobacco products. The new law represents the most sweeping action taken to date to reduce what remains the leading preventable cause of death in the United States.

Before enactment of the new law, tobacco products were largely exempt from regulation under the nation's federal health and safety laws, including the Food, Drug, and Cosmetic Act. The FDA has regulated food, drugs and cosmetics for many decades, but not tobacco products, except in those rare circumstances when manufacturers made explicit health claims.

What the New Law Does

The new law prescribes stronger health warning labels on certain tobacco product packages and advertisements. Currently, the warning labels for cigarettes read as follows, as they have for the past quarter century:

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, and May Complicate Pregnancy

SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health

SURGEON GENERAL'S WARNING: Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth, and Low Birth Weight

SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide

Under the new law, the warnings for cigarettes will be changed to read as follows (no later than 39 months after enactment):

WARNING: Cigarettes are addictive

WARNING: Tobacco smoke can harm your children

WARNING: Cigarettes cause fatal lung disease

WARNING: Cigarettes cause cancer

WARNING: Cigarettes cause strokes and heart disease

WARNING: Smoking during pregnancy can harm your baby

WARNING: Smoking can kill you

WARNING: Tobacco smoke causes fatal lung disease in non-smokers

WARNING: Quitting smoking now greatly reduces serious risks to your health

The law mandates that the new warnings cover 50 percent of the top half of the front and back of each pack with graphics depicting the health consequences of tobacco use, and that the word “WARNING” appear in 17-point type in black and white text only. Warnings will be randomly displayed in each 12-month period and rotated quarterly.

Currently, the warning labels for smokeless tobacco products read as follows:

WARNING: This product may cause mouth cancer

WARNING: This product may cause gum disease and tooth loss

WARNING: This product is not a safe alternative to cigarettes

Under the legislation, the warnings for smokeless tobacco products will be changed to read as follows (12 months after enactment):

WARNING: This product can cause mouth cancer

WARNING: This product can cause gum disease and tooth loss

WARNING: This product is not a safe alternative to cigarettes

WARNING: Smokeless tobacco is addictive

The smokeless tobacco warnings will cover 30 percent of the two principal display panels of each package, and the word “WARNING” will appear in 17-point type in black and white text only. Warnings will be randomly displayed in each 12-month period and rotated quarterly.

The law requires the placement of the same cigarette and smokeless tobacco product warning labels in advertisements, rotated at random and in equal proportion in each 12-month period. The warnings will comprise at least 20 percent of the entire area of each advertisement and appear in black and white text only.

The FDA is also authorized to further revise the labeling requirements for cigarettes and smokeless tobacco products, including changing the text, format and type size, without new action by Congress. The FDA may also establish warning labels on other tobacco products.

Through an amendment to the Federal Cigarette Labeling and Advertising Act, the new law grants the FDA authority to require the posting of information concerning tar and nicotine yields on cigarette packages or advertisements. The FDA can also require disclosure of information relating to other tobacco product constituents—in package or advertising inserts, or in other ways—if the agency determines that such disclosure would benefit public health or





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otherwise increase consumer awareness of the health consequences of tobacco use.

Unrelated to warning labels per se, but likewise affecting the messages to which consumers are exposed, the law prohibits the use of such terms as “light,” “mild” and “low-tar” on tobacco product packages and in advertisements because of such terms mislead consumers into believing that certain cigarettes are safer than others.



To learn more about FDA regulation of tobacco, visit www.tclconline.org.

The Tobacco Control Legal Consortium provides information and technical assistance on issues related to tobacco and public health, but does not provide legal representation or advice. This fact sheet should not be considered legal advice or a substitute for obtaining legal advice from an attorney who can represent you. If you have specific legal questions, we recommend that you consult with an attorney familiar with the laws of your jurisdiction.

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