

**HB**

**224**

<TARGET><BILL>HB 224</BILL><SUBJECT>HB  
224</SUBJECT><COMM>SJUD27</COMM></TARGET>

Alaska State Legislature

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**REPRESENTATIVE Paul Seaton**

District 35

MEMORANDUM

**TO:** Senator Hollis French Senate Judiciary Committee  
**FROM:** Representative Paul Seaton *Paul Seaton*  
**DATE:** March 28, 2012  
**RE:** Hearing request for HB224 banning nicotine product sales to minors

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I respectfully request a hearing on HB224 in Judiciary Committee. Attached you will find the following information:

- HB224 (Fin)am
- Sponsor Statement
- Fiscal Note
- Brandweek Article R.J. Reynolds Preps Dissolvable Tobacco
- Harvard School of Public Health Press Release
- On line will be Dept. of law Andrew Harrington to answer questions
- Present is a Representative from Dept. of Health & Social Services to answer questions

Thank you for your consideration.

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## **REPRESENTATIVE Paul Seaton**

District 35

### **Sponsor Statement HB 224 Banning the Sale of Products Containing Nicotine to a Minor**

Faced with lagging sales, given the unpopularity and banning of smoking in many public places, tobacco companies are investing in new and innovative ways to deliver their product. Some of the newest items on the market, called "dissolvable products" are mints, lozenges, strips and toothpicks containing nicotine. These products slowly dissolve in the mouth and deliver a nicotine hit between 0.6 and 3.0 mg per item while a cigarette contains 1 mg of nicotine (Brandweek, 2008). Some have legitimate uses for promoting smoking cessation and providing smokers relief when they are in situations where they cannot smoke. However, the opportunity for abuse is wide with the over the counter availability of dissolvable products containing nicotine.

HB 224 makes it illegal to sell or give a product containing nicotine to a minor. Under this bill an individual is fined \$300 if convicted of selling or giving a product containing nicotine to a individual under 19. HB 224 addresses the need for minors to access products that are regulated and marked for smoking cessation, such as nicotine gum, by allowing a minor to purchase products containing nicotine with the prescription of a health care provider, obtain it from an parent or legal guardian or from an state approved tobacco cessation program. Also, an 18 year old or older can purchase from a pharmacist independently.

There is a very real risk that increased nicotine use in youth and adolescents promotes addiction to nicotine at a young age and could encourage future tobacco use and addiction (Science Daily, 2003). A recent Harvard School of Public Health study found dissolvable nicotine products to be toxic if ingested by children (Harvard School of Public Health, 2010). A 14-year old boy in England was hospitalized after overdosing on nicotine gum (Vapure News, 2009).

Many of the products containing nicotine that are entering the market now look and taste like candy. A study conducted by student volunteers in Virginia surveyed 1400 teens and 42% identified Camel Orbs as a candy based on their packaging (Virginia Foundation for Healthy Youth, 2010). According to Brandweek, a professional publication on brand identity marketing, "camel dissolvable will not be positioned as a smoking cessation or reduced risk product, per the company" (Brandweek, 2008). Products containing nicotine are not subject to FDCA Chapter IX, the regulations that govern tobacco (Chicago Breaking News, 2011).

Without the regulation of products containing nicotine by the state there is an increased chance of children becoming addicted to nicotine, and tobacco later in life. Many of these products are new to the market and have not yet been introduced in Alaska. HB 224 takes a proactive approach to encouraging the responsible use of dissolvable nicotine products.

HB224v.X  
Updated 2/29/12

# FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

cost # codes

Bill Version

HB 224

Fiscal Note Number

Publish Date

Identifier (file name) HB224CS(FIN)am-LAW-CIV-03-27-12

Dept. Affected

Law

Title An Act prohibiting the sale or gift of a product containing  
nicotine to a minor under certain conditions.

Appropriation

Civil

Allocation

Commercial and Fair Business

Sponsor Representative(s) Seaton

Requester (S) Health & Social Services

OMB Component Number

2717

**Expenditures/Revenues**

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							
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Estimated SUPPLEMENTAL (FY12) operating costs \_\_\_\_\_ (separate supplemental appropriation required,  
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs \_\_\_\_\_ (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated for new Attorney General.

Prepared by Sheila Bugbee, Administrative Officer  
Division Administrative Services  
Approved by Michael C. Geraghty, Attorney General  
Department of Law

Phone 465-3675  
Date/Time 03/27/2012 1:30PM  
Date 3/27/2012

FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. HB 224

**Analysis**

HB 224 adds a new AS 11.76.109 making it a violation (punishable by a fine of \$300-\$500) to sell a non-tobacco product containing nicotine to persons under 19. (Sales of tobacco to persons under 19 are already a violation under AS 11.76.100.) An employer can also be prosecuted for negligently failing to advise an employee making the sale of this prohibition. The bill excepts products approved by the FDA as tobacco cessation products (e.g., nicotine patches) if they are marketed as such and are provided to the individual by one of four routes (prescribed by a health care professional, given to the person by a parent or guardian, supplied through a DHSS-administered tobacco cessation program, or provided by a pharmacist even without a prescription to a customer 18 or older).

There should be no anticipated fiscal impact on the Department of Law. Although there might be a slight increase in prosecutions, it should fall within Law's ability to handle with current resources.

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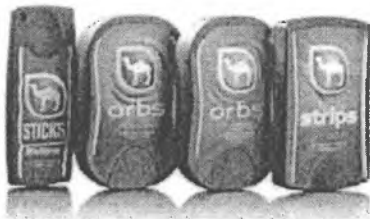
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## R.J. Reynolds Preps Dissolvable Tobacco

Oct 3, 2008

- Mike Beirne



R.J. Reynolds Tobacco will dive deeper into the smokeless category next year by nationally distributing Camel Snus and introducing in test markets dissolvable alternatives to cigarettes called Camel Sticks, Camel Orbs and Camel Strips.

The new products, grouped under the Camel Dissolvables banner, are smokeless and spit-free; they are made from finely milled tobacco and held together with food grade binders. The products will launch in the first quarter in Columbus, Ohio, Portland, Ore., and Indianapolis. The Camel Dissolvables Sticks can be placed in the mouth like a toothpick or broken into a piece that is placed between the upper lip and gum, where it dissolves after 10 minutes. RJR recommends the same usage for Orbs, which is a pellet that lasts about 15 minutes, and Strips, which dissolve after about 3 minutes.

The three forms of smokeless tobacco will be packed in plastic, child-resistant packaging. Strips will come in Fresh mint flavor and Sticks in Mellow; Orbs will be available in both flavors. Camel Dissolvables deliver between 0.6 to 3.1 milligrams of nicotine, while cigarette smokers typically inhale about 1 mg per cigarette.

Advertising is still being developed, but a company rep said print ads, direct marketing, sampling (at bars and nightclubs) and POP will support. The Reynolds American unit currently has a company policy that restricts advertising cigarettes in consumer publications. That self-imposed ban does not apply to other tobacco products and trade publications. Gyro, Philadelphia, and Agent 16, New York, are the lead agencies.

By introducing the products in select test markets, RJR hopes to find out which forms of Camel Dissolvables are the most popular, and how demographics or usage determines preferences. The product concept partly evolved from consumer feedback, following a test of Camel Snus in 2006. Camel Snus is also spitless, but some smokers said they didn't care for loose tobacco or pouched smokeless products, particularly ones they had to remove from their mouth after use.

The smokeless category has been a magnet for cigarette makers with sales averaging 5% to 7% annually, per various estimates. Although there is a growing body of literature contending that smokeless tobacco is less harmful than smoking cigarettes, a 2007 study by the American Cancer Society found that male smokers who switched to smokeless had higher death rates than men who quit or never smoked. Camel Dissolvables will not be positioned as a smoking cessation or reduced risk product, per the company.

"The consumer should be aware of the information available about the potential risks of each tobacco product. There are none that are safe and there are none that are without risks," said RJR rep David Howard.

In addition to introducing the new dissolvable alternatives, RJR will expand distribution for Camel Snus (pronounced snooze) by offering retailers countertop and under the counter refrigerator units to keep the product cold.

In 2006, Reynolds American acquired Conwood, the second largest maker of smokeless products in the U.S. Philip Morris USA's smokeless products include Marlboro Snus and Marlboro Snuff. Altria, Philip Morris' parent company, expects to close by January on its purchase of UST, the holding company for U.S. Smokeless Tobacco, the largest smokeless product company and maker of Skoal and Copenhagen.

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## Harvard School of Public Health

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### Press Releases

#### *2010 Releases*

# Tobacco Company's New, Dissolvable Nicotine Products Could Lead to Accidental Poisoning in Infants and Youth

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For immediate release: Monday, April 19, 2010

Boston, MA—A tobacco company's new, dissolvable nicotine pellet--which is being sold as a tobacco product, but which in some cases resembles popular candies--could lead to accidental nicotine poisoning in children, according to a new study from the Harvard School of Public Health (HSPH), the Northern Ohio Poison Control Center, the Centers for Disease Control and Prevention (CDC) and the Food and Drug Administration (FDA). The researchers also say the candy-like products could appeal to young people and lead to nicotine addiction as well.

The study appears in an advance online edition of the journal *Pediatrics* on April 19, 2010 and will appear in a later print issue.

In 2009, the R.J. Reynolds Tobacco Company launched a dissolvable nicotine product called Camel Orbs, which according to the company's promotional literature contains 1 mg nicotine per pellet and is flavored with cinnamon or mint. The company also introduced Camel Strips (to contain 0.6 mg nicotine per strip) and Sticks (to contain 3.1 mg nicotine per strip).



It appears that the product is intended as a temporary form of nicotine for smokers in settings where smoking is banned. However, the potential public health effect could be disastrous, particularly for infants and adolescents, said Professor Gregory N. Connolly, lead author of the study and director of the Tobacco Control Research Program at HSPH.

Ingestion of tobacco products by infants and children is a major reason for calls to poison control centers nationwide. In 2007, 6,724 tobacco-related poisoning cases were reported among children five years of age and under. Small children can experience nausea and vomiting from as little as 1 mg of nicotine.

“This product is called a ‘tobacco’ product, but in the eyes of a 4-year-old, the pellets look more like candy than a regular cigarette. Nicotine is a highly addictive drug and to make it look like a piece of candy is recklessly playing with the health of children,” said Connolly.

The researchers computed, based on median body weight, how much nicotine ingestion would lead to symptoms of poisoning in children: A one-year-old infant could suffer mild to moderate symptoms of nicotine poisoning by ingesting 8 to 14 Orbs, 14 Strips or 3 Sticks; ingesting 10 to 17 Orbs, 17 Strips or 3 to 4 Sticks could result in severe toxicity or death. A four-year-old child could have moderate symptoms by ingesting 13 to 21 Orbs, 14 Strips or 4 Sticks and could suffer severe toxicity or death by consuming 16 to 27 Orbs, 27 Strips or 5 Sticks. The researchers report that a poison control center in Portland, Oregon, a test market for Orbs, reported a case in which a three-year old ingested an Orbs pellet.

R.J. Reynolds claims that Orbs packaging is “child resistant,” but the researchers say adults could unknowingly leave the pellets out in the open where children could easily access them. The researchers also say that the candy-like appearance and flavoring and ease-of-use of the product could appeal to children.

“Unintentional Childhood Poisonings Through Ingestion of Conventional and Novel Tobacco Products,” Gregory N. Connolly, Patricia Richter, Alfred Aleguas Jr., Terry F. Pechacek, Stephen B. Stanfill, Hillel R. Alpert, *Pediatrics*, online April 19, 2010.

photo: Andrew Seidenberg

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we should put child health risks on record