

## THE UNIVERSE OF JUUL LITIGATION:

## WHAT STATE ATTORNEY GENERAL ACTION AND MULTIDISTRICT LITIGATION SETTLEMENTS MEAN FOR PUBLIC HEALTH



PUBLIC HEALTH  
LAW CENTER  
at Mitchell Hamline School of Law





# THE PUBLIC HEALTH LAW CENTER



# LAND ACKNOWLEDGMENT

**“We acknowledge our presence in the tribal and treaty homelands of the Dakota Oyate since time immemorial. These lands are home to the Sisseton, Wahpeton, Mdewakanton and Wahpekute Dakota peoples.”**







Developed by:

**Native American Law and Sovereignty Institute (NALS Institute)**

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# LEGAL TECHNICAL ASSISTANCE

-  Legal Research & Litigation Support
-  Policy Development, Implementation, Defense
-  Publications
-  Trainings
-  Direct Representation
-  Lobby

## Equality



## Equity



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based on work for First Nations Health Authority at Gathering Wisdom VI

Drawing  
CHANGE

Image credit: [Sam Bradd](#)

# “E-CIGARETTE USE IS AN EPIDEMIC AMONG TEENAGERS” FDA SAYS SEPTEMBER 2018





# WHAT DID THE FDA DO ABOUT IT?



# ALLEGATIONS AGAINST JUUL



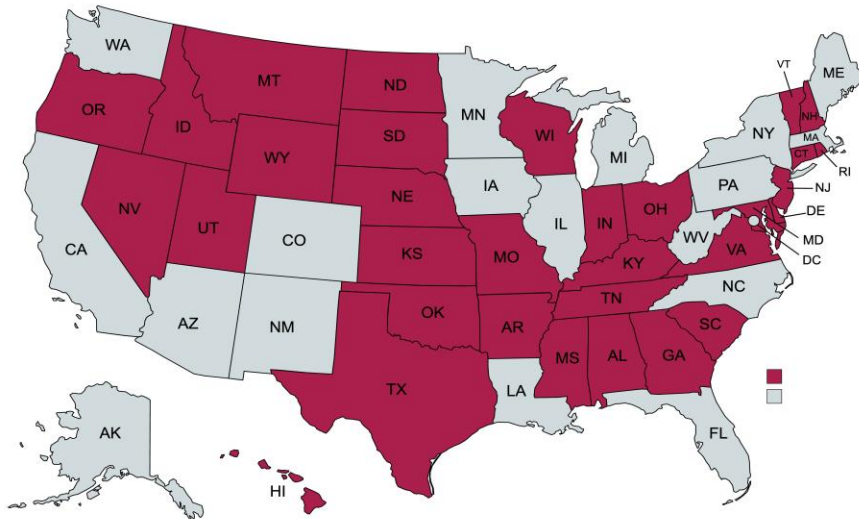
- 1. Marketing to Minors
- 2. Failure to Warn
- 3. Deceptive Trade Practices

# STATE AG SETTLEMENTS

## THE 33-MULTISTATE SETTLEMENTS- SEPT. 2022

### Attorney General Settlements

**\$438.5 million settlement**



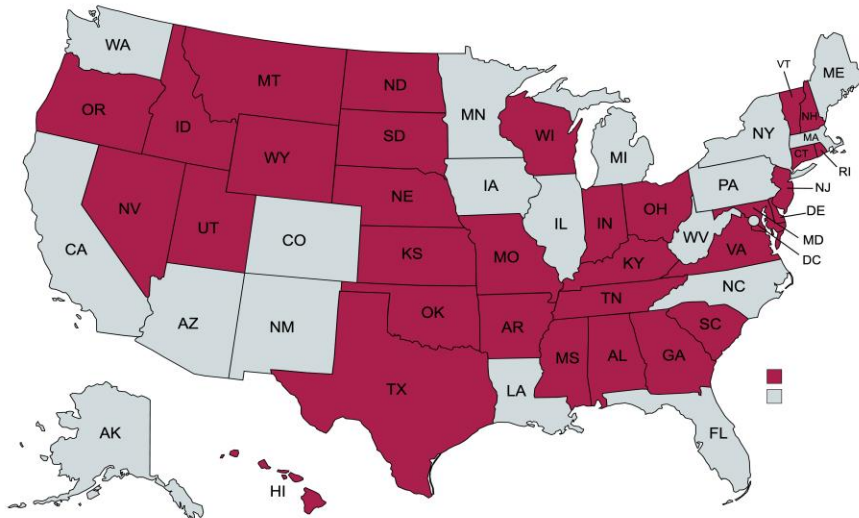
- Announced in September 2022; Finalized in December 2022
- Resolves marketing and deceptive sales practices
- Monetary & Non-monetary Relief



# STATE AG SETTLEMENTS

## THE 33-MULTISTATE SETTLEMENTS- SEPT. 2022

### Non-Monetary Relief Provisions



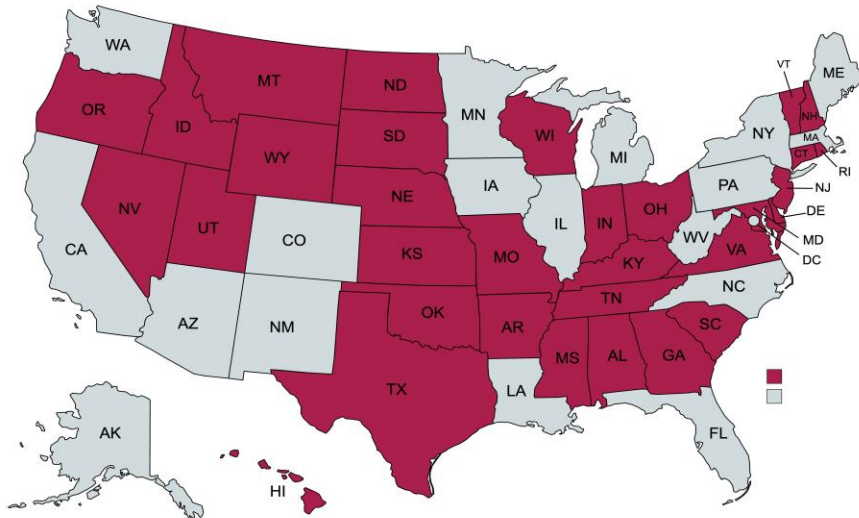
### Category I: Prohibited Practices on Permanent Basis

- Youth marketing
- Operating or directly funding youth education
- Depiction of persons under 35
- Use of cartoon imagery
- Selling flavors not approved by the FDA
- Comparing nicotine amounts/ nicotine content
- Outdoor advertising near schools/billboards
- Paid social media influencers
- Direct to consumer ads

# STATE AG SETTLEMENTS

## THE 33-MULTISTATE SETTLEMENTS- SEPT. 2022

### Non-Monetary Relief Provisions



### Category II: Prohibited Practices for next six years

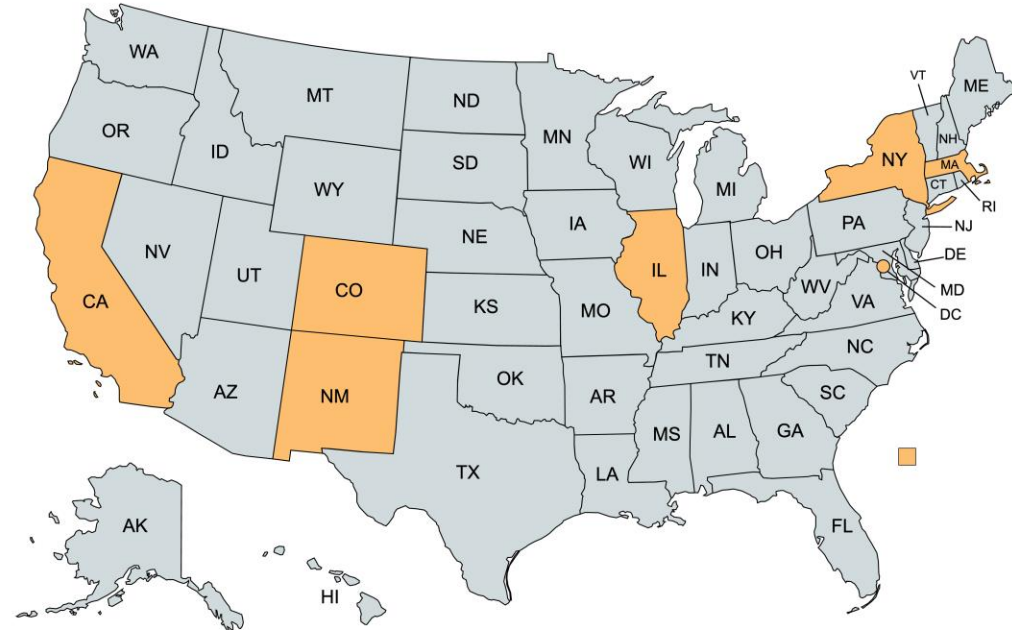
- Product placement at adult-only facilities
- Sale of brand-name merchandise
- Access to websites without age verification
- Paid sponsorships at adult-only facilities
- Advertising for audience 85% adult-aged
- Public transportation advertising
- Social media advertising
- Samples
- Product displays in stores, online sales

# STATE AG SETTLEMENTS

## THE 7-MULTISTATE SETTLEMENTS - APRIL 11, 2023

### \$462 Million Settlement

- California - \$175.8 million
- Colorado - \$31.7 million
- District of Columbia - \$15.2 million
- Illinois - \$67.6 million
- Massachusetts - \$41 million
- New Mexico - \$17.1 million
- New York - \$112.7 million





# STATE AG SETTLEMENTS

## THE 7-MULTISTATE SETTLEMENTS- APRIL 2023

### Non-Monetary Provisions

- Refrain from marketing directly or indirectly to youth
- Limit number of retail and online purchases per individual
- Retail compliance checks
- Treat synthetic nicotine as nicotine
- No samples
- Product placement prohibited in virtual reality systems
- Submit documents into depository

# STATE AG SETTLEMENTS

## THE 7-MULTISTATE SETTLEMENTS- APRIL 2023

### The Document Depository Provisions

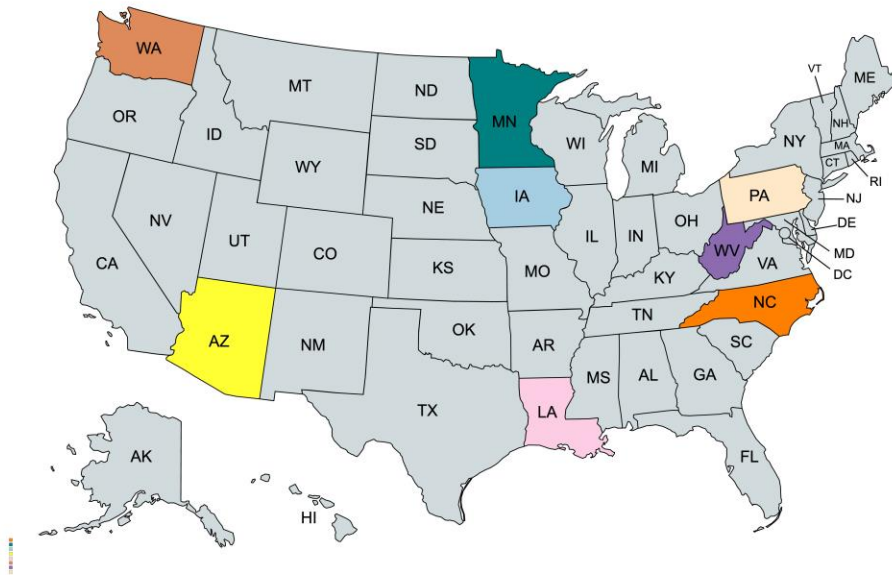
- Similar to the depository est. from NC settlement
- Make publicly available evidence produced in litigation
- Exceptions (privileged communications; trade secrets; etc.)
- Settling states may object to withheld documents
- Must be accessible and free to the public in perpetuity



# STATE AG SETTLEMENTS

## THE INDIVIDUAL STATE SETTLEMENTS

### Individual State Settlements 2021-2023



Created with mapchart.net

### Monetary Amounts

- Arizona - \$14.5 million
- Iowa - \$5 million
- Louisiana - \$10 million
- **Minnesota - ?**
- North Carolina - \$40 million
- Pennsylvania – \$ 38.8 million
- Washington - \$22.5 million
- West Virginia - \$7.9 million



# NON-SETTLING STATES

## WHO'S LEFT?

Photo credit: Wikimedia

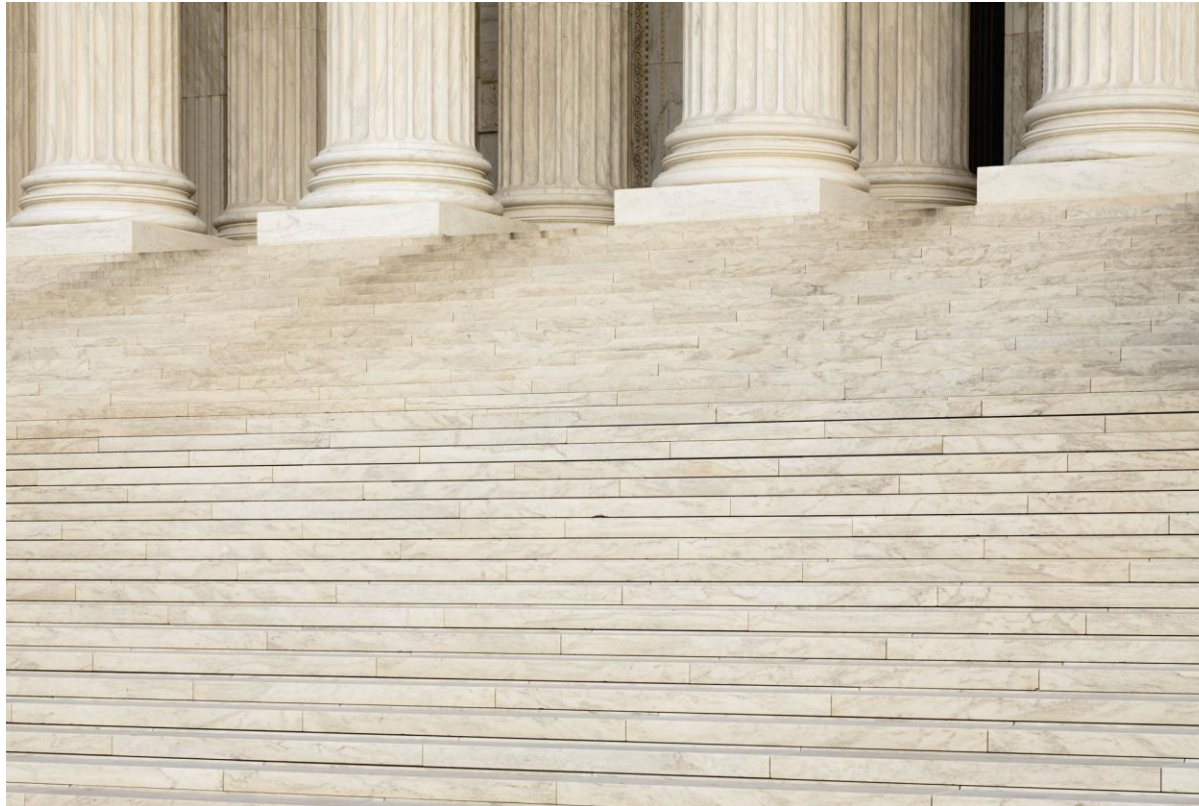


## Remaining States

- Alaska
- Florida
- Maine
- Michigan

# THE MULTIDISTRICT LITIGATION SETTLEMENTS

## DECEMBER 2022



# **THE MULTIDISTRICT LITIGATION- TRIAL**

## ***SAN FRANCISCO UNIFIED SCHOOL DIST. V. ALTRIA***



# IS VAPING IN SCHOOL A NUISANCE?





# WHY THE JUUL SETTLEMENTS ARE IMPORTANT TO PUBLIC HEALTH





# ADDRESSES THE YOUTH VAPING EPIDEMIC





**PROMOTES COMMERCIAL TOBACCO CONTROL MEASURES  
TO STOP TARGETING YOUTH**





# **HOLDS E-CIGARETTE COMPANIES ACCOUNTABLE**





**ALLOCATES RESOURCES TO SUPPORT  
PUBLIC HEALTH INITIATIVES**

## WHAT DOES THIS MEAN MOVING FORWARD?

*“As we reach total resolution of the company’s past, we are focused on our path forward to maximize the value and impact of our product technology and scientific foundation. Our technology already has transitioned over two million adult smokers from combustible cigarettes.”*

Juul said in its press release announcing the settlement with the State of Minnesota on April 17, 2023.

# THE SOLVENCY QUESTION

## *WHAT HAPPENS IF JUUL GOES BANKRUPT?*

- Chapter 11 is a form of bankruptcy that involves the reorganization of a debtor business's affairs, debts, and assets.
- Chapter 11 allows a company to stay in business while its debt obligations are restructured.
- Any reorganization plan must be in the best interest of the creditors and approved by the bankruptcy court.
- Debts can and often are renegotiated (can include liquidation of assets to pay creditors).



# **THE SOLVENCY QUESTION**

## ***WHAT HAPPENS IF JUUL GOES BANKRUPT?***

- The 33-multistate settlements contain an Affirmation of Agreement in Bankruptcy.
- The 7-multistate settlements allow for judgment on liability on damages OR immediate collection efforts by the AGs.
- MDL settlements: unclear if reaffirmation or other agreements made.
- Any payouts will be subject to Bankruptcy Court approval and lifting of the automatic stay regardless of settlement provisions.





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# QUESTIONS, ANSWERS, COMMENTS

