



# State Health Policy Update

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# Legislative Tracking

# WHAT ARE WE TRACKING?

## Policy Strategies:

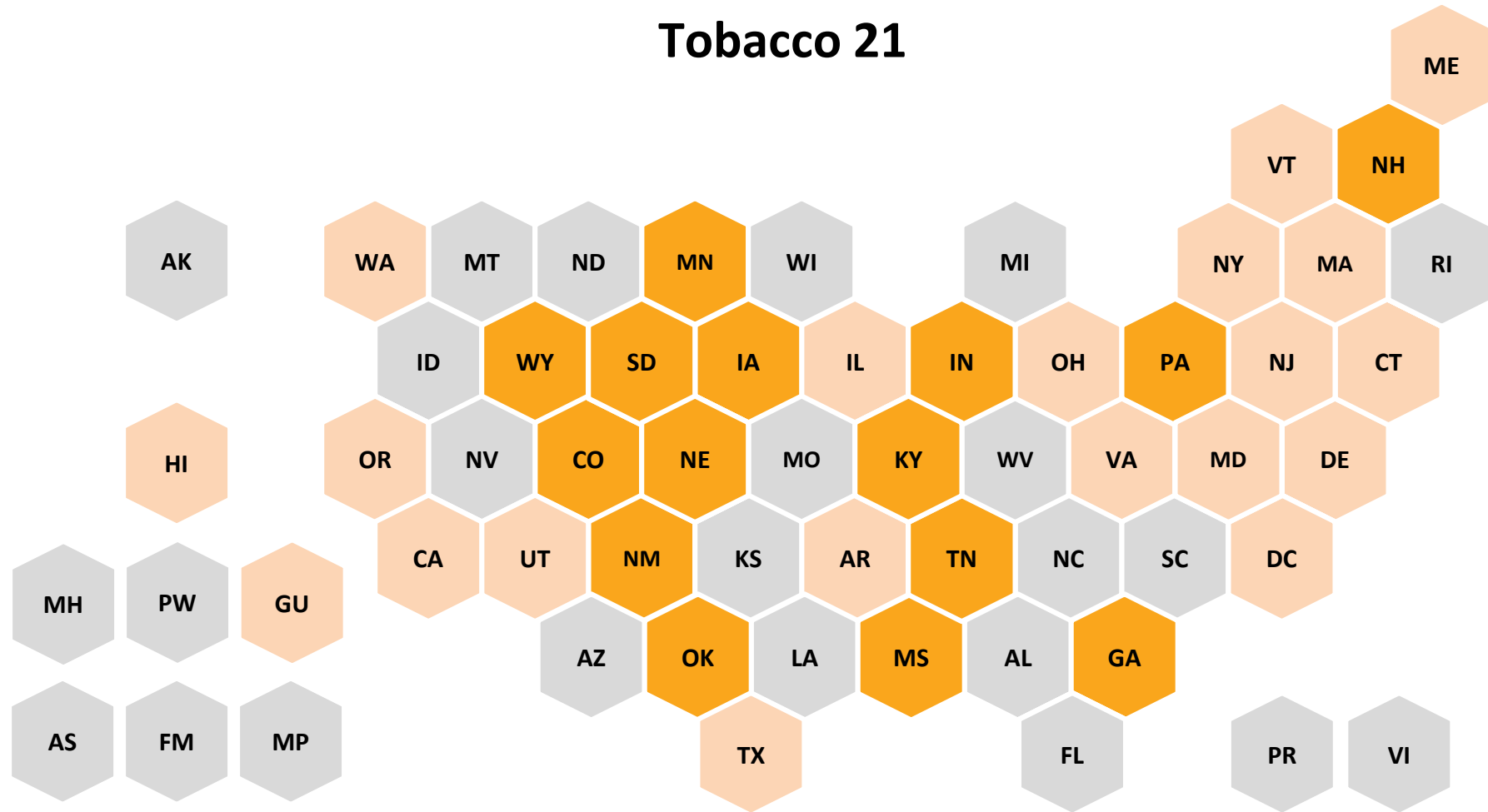
- Tobacco 21
- Flavor Restrictions
- Price Increases
- Smoke Free Environments
- Point of Sale Restrictions
- Preemption
- E-cigarettes
- Tobacco Cessation

ASTHO Members, Staff,  
& Policy Committees

TA Requests &  
Emerging Issues

Partners &  
Policymakers

# Tobacco 21

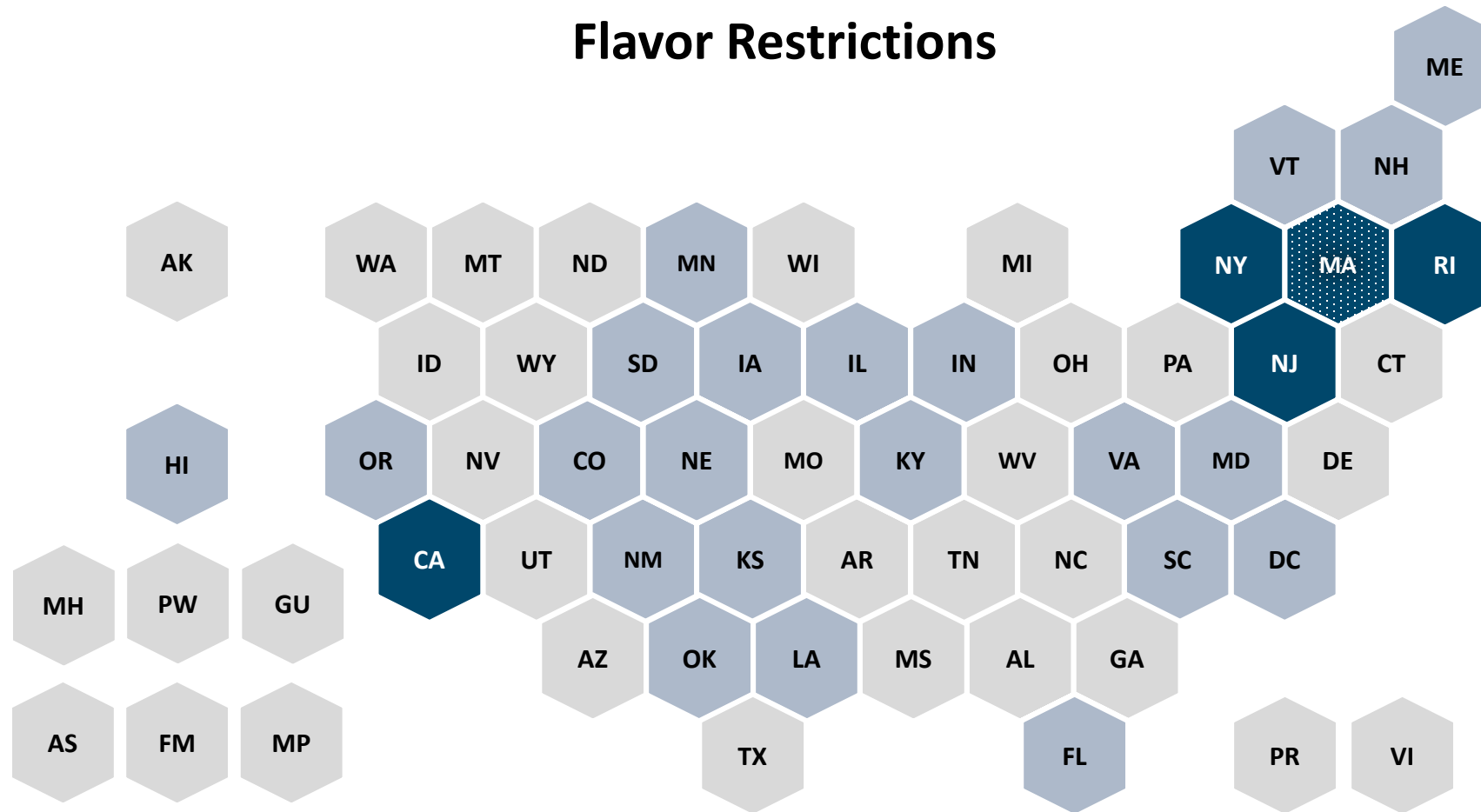


■ Jurisdictions enacting Tobacco 21 between January 1, 2020 and August 28, 2020\*

Jurisdictions enacting Tobacco 21 prior to 2020

\*Effective on January 1, 2021 in GA, KY, NM, and TN

# Flavor Restrictions



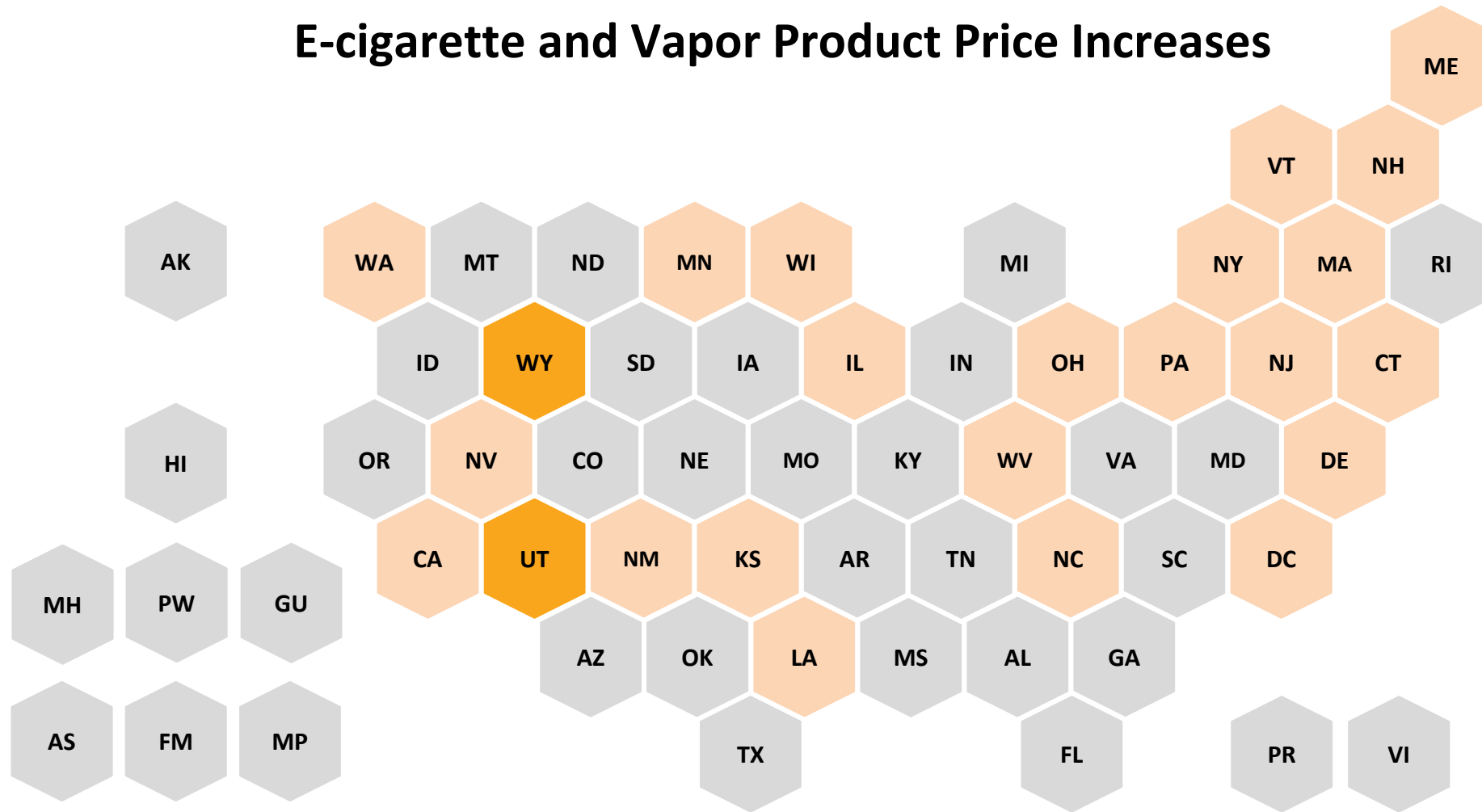
■ Flavor restriction adopted in 2020\*



■ Flavor restriction existing prior to 2020

■ Flavor restriction introduced in legislature in 2020

\*RI flavor restriction adopted by agency rulemaking

# E-cigarette and Vapor Product Price Increases



-  Jurisdictions adopting price increases between January 1, 2020 and August 28, 2020
-  Jurisdictions adopting price increases prior to 2020

## Tobacco 2020 Ballot Initiatives

- Colorado Tobacco and E-Cigarette Tax Increase for Health and Education Programs Measure
  - Increase cigarette taxes to \$2.64 per pack by 2027
  - Raise the current 40% tax rate on other tobacco products to 62% by 2027
  - Impose new tax on e-cigarettes, begin at 30% and increase to 62% by 2027
- Oklahoma Question 814, the Decrease Tobacco Settlement Endowment Trust Fund Payments and Fund Medicaid Program Amendment
  - Reduces the annual amount of the MSA deposited to a fund for tobacco prevention and smoking cessation to 25% and directs 75% of MSA money be used for Medicaid match funding.
- Oregon Measure 108, the Tobacco and E-Cigarette Tax Increase for Health Programs Measure
  - Increase from \$1.33 to \$3.33 per 20-pack of cigarettes.
  - Tax e-cigarettes at a rate of 65% of the wholesale sales price.
  - Increase cigar tax to 65% of wholesale prices, not to exceed \$1.00 per cigar.
  - Revenues, after administration and enforcement costs, dedicated to the Oregon Health Authority for medical and healthcare-assistance programs, mental health services, tribal health providers, and other programs concerning tobacco and nicotine health issues.

## Tobacco 21

After the adoption of the federal Tobacco 21 law and the changes to the Synar Amendment at the end of 2019 several states this year have adopted their own Tobacco 21 laws. So far in 2020, 15 states have adopted laws raising the minimum age of tobacco sales to 21, adding to the 20 other jurisdictions (i.e., 18 states, D.C., and Guam) that had done so in preceding years. Included in these states is Nebraska which raised its minimum age of sale to 19 in 2019 and now, one year later has moved the age to 21.

## Flavor Restrictions

Regulating the sale of flavored tobacco and vaping products is viewed as a way to reduce youth e-cigarette use. In 2019, Massachusetts became the first state to ban all flavored tobacco products. So far in 2020, three other states have adopted flavor bans for vapor products, in New Jersey [S 3265](#), New York [S 7506B](#), and Rhode Island via [rulemaking](#). In Florida a [bill](#) (SB 810) that includes a ban on the sale of flavored vapor products passed the legislature and is awaiting the governor's signature. In Massachusetts, a ban on all flavored tobacco products that was adopted toward the end of 2019 went into effect on June 1 of this year. On August 28, the governor of California signed a bill ([A 793](#)) banning the sale of flavored tobacco products in retail stores.

## E-Cigarette Taxation

States have regulated e-cigarette prices by applying a percentage price increases based on the sale price, pricing e-cigarettes and vapor products at the same rates as combustible cigarettes, and imposing a per milliliter (ml) price increase on liquid nicotine or consumable material.

In 2020, three states increased prices of e-cigarettes, e-liquids or vapor products:

- **Massachusetts:** The law enacted toward the end of 2019 imposing a 75% excise tax on the wholesale price of nicotine e-cigarette and vaping products went into effect on June 1, 2020.
- **Utah ([SB 37](#)):** A tax of 56% of the manufacturer's sales price is imposed on an electronic cigarette substance, a prefilled electronic cigarette, a nontherapeutic nicotine device substance, and a prefilled nontherapeutic nicotine device. A tax of \$1.83 per ounce is imposed on an alternative nicotine product.
- **Wyoming ([HB 73](#)):** Imposes upon wholesalers a fifteen percent (15%) excise tax on electronic cigarettes and vapor material purchased or imported into this state by wholesalers for resale. If the excise tax imposed upon wholesalers is not paid, the bill imposes a seven and one-half percent (7.5%) excise tax upon the use or storage by consumers. Preempts local taxes.

## Tobacco 2020 Ballot Initiatives

[Colorado Tobacco and E-Cigarette Tax Increase for Health and Education Programs Measure](#) – If adopted the measure would incrementally increase cigarette taxes by \$1.80 per pack by 2027 for a total \$2.64 tax per pack and incrementally raise the current 40% tax rate on other tobacco products to 62% by 2027. A new tax on nicotine products such as e-cigarettes would be created and begin at 30% and increasing to 62% by 2027.

Oklahoma Question 814, the [Decrease Tobacco Settlement Endowment Trust Fund Payments and Fund Medicaid Program Amendment](#) – Currently, 75% of the annual amount the state receives from the 1998



Master Settlement Agreement (MSA) is deposited in the state's Tobacco Settlement Endowment Trust Fund for tobacco use prevention and smoking cessation programs. If approved, the measure would reduce the amount deposited to the fund to 25% of the annual MSA payment with the remainder deposited to a fund subject to legislative appropriation. The measure also directs the legislature to use the redirected money for Medicaid match funding.

Oregon Measure 108, the [Tobacco and E-Cigarette Tax Increase for Health Programs Measure](#) – If adopted, the measure would increase taxes on distributors of tobacco products and e-cigarettes. The cigarette would increase from \$1.33 to \$3.33 per 20-pack of cigarettes. E-cigarettes and other nicotine inhalants would be taxed at a rate of 65% of the wholesale sales price. The cigar tax would increase to 65% of wholesale prices, not to exceed \$1.00 per cigar. Revenues that remain after being used for the administration and enforcement of the tax would be dedicated to the Oregon Health Authority for medical and healthcare-assistance programs, including mental health services, tribal health providers, including Urban Indian Health Program, and other programs concerning tobacco and nicotine health issues.