

Ariz. Reaches \$14.5M Settlement With Juul Over Youth Vaping

By Sarah Jarvis

Law360 (November 23, 2021, 5:43 PM EST) -- Arizona Attorney General Mark Brnovich announced Tuesday that the state has reached a \$14.5 million settlement with Juul Labs in a case the Grand Canyon State brought against the e-cigarette maker for allegedly marketing its products to youth.

Brnovich said in his announcement that the settlement, which is pending court approval, also requires Juul Labs Inc. to change its corporate practices and ensure that its products aren't marketed or sold to youth in Arizona. The stipulated consent judgment notes that Juul denies the state's claims and that the parties settled without any admission of wrongdoing or liability.

"Today's settlement holds Juul accountable for its irresponsible marketing efforts that pushed Arizona minors toward nicotine and the addiction that follows," Brnovich said. "Combatting the youth vaping epidemic remains a priority for our office with both our undercover Counter Strike program and zero tolerance for vaping companies that mislead or deceive."

According to Brnovich's announcement, \$12.5 million of the settlement will be used for programs to stop youth vaping, and the remaining \$2 million will go toward litigation reimbursement and a state fund for consumer protection and consumer fraud.

In a Tuesday statement, Juul called the settlement "another step in our ongoing effort to reset our company," adding that it applauds Brnovich's plan to deploy resources to address underage use. The company said it is in discussions with other stakeholders about litigation "related to our past."

"We will continue working with federal and state stakeholders to advance a fully regulated, science-based marketplace for vapor products," Juul said. "As part of that process, we will continue to support Tobacco 21 and enforcement against illicit and illegally marketed products, such as certain disposables, that jeopardize the harm reduction potential of alternative vapor products."

Brnovich's January 2020 suit, filed in Maricopa County Superior Court, claimed Juul "has exploited a generation of youth by implementing tactics and marketing themes once used by the tobacco industry and updating these strategies to craft a marketing plan that appealed to, targeted, misled, and exploited Arizona's youth." The company also misled all consumers about the actual concentration of nicotine in its products, the state said.

The complaint also alleged violations of the Arizona Consumer Fraud Act.

Per the settlement, Juul will send representatives to conduct at least 25 compliance checks at Arizona stores that sell Juul products every month for two years. The company will try to conduct the compliance checks at different stores each month and to conduct at least three checks in each county per year.

Among other things, the company has also agreed to not advertise near schools or target Arizonans under 21 with its marketing, use cartoons in any of its marketing, sell its products to Arizonans under 21, or display its products at stores if they aren't behind the counter or in a secured display case.

Juul will allow Arizona residents to report the serial number of any device confiscated from an Arizona resident under 21 through a "track-and-trace" program on the company's website, Brnovich said.

The company also won't sell its pods in any flavors in Arizona other than tobacco or menthol, unless it receives authorization from the U.S. Food and Drug Administration, per the consent judgment. And the proposed agreement specifies certain stipulations regarding statements Juul can make about the nicotine content of its products in advertisements.

Juul is represented in-house by Tyler Mace, and by David Rosenbaum of Osborn Maledon, and Renee D. Smith, Peter A. Farrell, Katherine R. Katz and Thomas P. Weir of Kirkland & Ellis LLP.

Arizona is represented by Joseph Sciarrotta Jr., Laura Dilweg, Erika Mansur, Jane Fallon, Leslie Cooper and Matthew du Mee of the state's attorney general's office.

The case is State of Arizona v. Juul Labs Inc., case number CV2020-000317, in the Maricopa County Superior Court.

--Editing by Adam LoBelia.