

Press Coverage | November 13, 2023

Giving C-store Operators the Lowdown on the FDA Crackdown

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Bryan Haynes, a partner with Troutman Pepper, was quoted in the November 13, 2023 *Convenience Store News* article, [“Giving C-store Operators the Lowdown on the FDA Crackdown.”](#)

While this and harsher penalties haven’t happened at the retailer level yet, that doesn’t mean they’re not coming. Retailers currently selling unlawfully marketed e-cigarette products face a greater risk of more enforcement action on a second inspection, according to Bryan Haynes, a partner specializing in tobacco/nicotine with the national law firm Troutman Pepper.

He calls these legal issues “fairly black and white,” and encourages retailers that have and have not received warning letters to be prudent and stop selling unlawful products.

“I would return them to the manufacturer or distributor,” he advised. “Continuing sales even in an effort to liquidate inventory would be risky.”

Haynes would like to see tobacco retailers get onboard only with suppliers that are FDA authorized or have a premarket tobacco application (PMTA) pending with the agency.

“The biggest thing for retailers is due diligence,” he said. “Ask for documentation that a PMTA was submitted ... how it was received and accepted for filing and ultimately, for review. Those are verifications that suppliers should be able to provide to retailers that they want to do business with.”

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