



A U.S. Surgeon General's Warning for All 50 States: Overcoming Federal Gridlock to Raise Awareness of Alcohol Cancer Risk

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May 27, 2025



In January of 2025, the U.S. Surgeon General released a new Advisory describing the scientific evidence that alcohol consumption causes at least seven different types of cancer, including breast (in women), colorectum, esophagus, voice box, liver, mouth, and throat cancers.¹ The Advisory notes that alcohol is the third leading preventable cause of cancer in the United States, after tobacco and obesity, with nearly 100,000 cancer cases and 20,000 deaths attributed to alcohol each year. The Advisory also points out that fewer than half of adults are aware that drinking alcohol can cause cancer. As a result of this combination of high harm and low awareness among consumers of alcohol cancer risk, the Surgeon General's Advisory recommends that Congress amend federal law to provide for a cancer warning on alcoholic beverage labels.

Congress has shown no signs of acting on this recommendation. However, the Surgeon General's report paves the way for state and local legislators to protect their constituents from the alcohol industry's aggressive marketing and misinformation campaigns. This paper presents an argument for one particularly effective, low-cost option: requiring a cancer warning statement on alcohol advertising such as **"According to the U.S. Surgeon General, consuming alcohol increases the risk of developing cancer, including breast and colon cancers."** While federal law preempts state governments from requiring their own warning language on alcoholic beverage labels, states may require such disclosures on alcohol advertising. Before the Surgeon General's Advisory, state laws requiring cancer warnings on alcohol advertising ran a risk of being challenged for violating alcohol advertisers' First Amendment rights. The Advisory's unequivocal statements on alcohol and cancer have greatly diminished that legal risk. State and local legislators now have an opportunity to leverage the Surgeon General's guidance to reduce alcohol-related harm in their jurisdictions.

Why an Alcohol Cancer Warning?

Cancer now causes almost as many deaths as heart disease in the United States.² As the Surgeon General's Advisory explains, researchers have long understood the mechanisms by which alcohol causes cancer. When the body metabolizes alcohol, it produces acetaldehyde, itself a carcinogen that degrades DNA and inhibits DNA methylation. Alcohol induces oxidative stress, increases inflammation, disrupts folate absorption, and reduces immune system function, all of which contribute to carcinogenesis.³ Way back in 1987, the World Health Organization's

¹ *Alcohol and Cancer Risk*. (2024, December 19). [Page]. U.S. Department of Health and Human Services. <https://www.hhs.gov/surgeongeneral/reports-and-publications/alcohol-cancer/index.html>

² Xu JQ, Murphy SL, Kochanek KD, Arias E. Mortality in the United States, 2021. NCHS Data Brief, no 456. Hyattsville, MD: National Center for Health Statistics. 2022. DOI: <https://dx.doi.org/10.15620/cdc:122516>. The top three causes of death in 2021 were heart disease (695,547), cancer (605,213) and COVID-19 (416,893).

³ *Alcohol and Cancer Risk*. (2024, December 19). [Page]. U.S. Department of Health and Human Services. <https://www.hhs.gov/surgeongeneral/reports-and-publications/alcohol-cancer/index.html>



International Agency for Research on Cancer (IARC) designated alcohol a Class I carcinogen.⁴ In the years since, research has shown that even small amounts of alcohol increase cancer risk, and that “no safe amount of alcohol consumption for cancers and health can be established.”⁵ According to the latest estimates, the 20,000 annual cancer deaths in the U.S. attributable to alcohol exceed those caused by processed meat consumption, human papillomavirus (HPV) infection, and even UV radiation exposure.⁶

Yet despite the scientific understanding of how alcohol causes cancer, and the outsized burden of alcohol attributable cancers on public health, few consumers are aware of the link between alcohol and cancer. The American Institute for Cancer Research repeatedly surveyed over a thousand respondents on cancer risk factors between 2001 and 2019. While large majorities of respondents correctly identified that tobacco (89%) or excessive exposure to sunlight (82%) “has a significant effect on whether or not the average person develops cancer,” the number of respondents linking alcohol to cancer never surpassed 46%.⁷ Similarly, the National Cancer Institute’s 2022 Health Information National Trends Survey (HINTS) included the question: “Have you ever heard or read that alcohol increases the risk of cancer?” In response, just 40.2% of some 6,013 respondents answered “yes” with nearly as many (38.7%) indicating they had not and another 20% or so unsure.⁸ Ten percent of respondents to an earlier HINTS study indicated (incorrectly) that drinking wine decreases the risk of getting cancer.⁹

This lack of awareness regarding a significant health risk presents an opportunity for policymakers. Lung cancer warnings on cigarettes may now seem mundane, but breast cancer warnings on alcohol will catch many consumers’ attention. The warnings may prompt some consumers to reevaluate the tradeoffs they are willing to make between immediate indulgence and long-term health. They could lead others to seek a cancer screening, or simply to revisit questionable assumptions about the health benefits associated with “moderate” drinking.¹⁰

⁴ IARC *Monographs on the Evaluation of Carcinogenic Risks to Humans: Alcohol Drinking*, World Health Organization International Agency for Research on Cancer, <https://monographs.iarc.fr/wp-content/uploads/2018/06/mono44.pdf>.

⁵ Anderson, B. O., Berdzuli, N., Ilbawi, A., Kestel, D., Kluge, H. P., Krech, R., Mikkelsen, B., Neufeld, M., Poznyak, V., Rekve, D., Slama, S., Tello, J., & Ferreira-Borges, C. (2023). Health and cancer risks associated with low levels of alcohol consumption. *The Lancet Public Health*, 8(1), e6–e7. [https://doi.org/10.1016/S2468-2667\(22\)00317-6](https://doi.org/10.1016/S2468-2667(22)00317-6)

⁶ Farhad Islami et al., *Proportion and number of cancer cases and deaths attributable to potentially modifiable risk factors in the United States*, 68 CA CANCER J. CLIN. 31, 36 (2018), <https://doi.org/10.3322/caac.21440>.

⁷ American Institute for Cancer Research. “2019 AICR Cancer Risk Awareness Survey,” available at: <https://www.aicr.org/assets/can-prevent/docs/2019-Survey.pdf>

⁸ HINTS Response. Health Information National Trends Survey. https://hints.cancer.gov/view-questions/question-detail.aspx?PK_Cycle=14&qid=1904

⁹ *Id.*; see also Seidenberg AB, Wiseman KP, Eck RH, Blake KD, Platter HN, Klein WMP. Awareness of alcohol as a carcinogen and support for alcohol control policies. *Am J Prev Med* 2022; 62: 174-82.

¹⁰ See Zhao J, Stockwell T, Naimi T, Churchill S, Clay J, Sherik A. Association Between Daily Alcohol Intake and Risk of All -Cause Mortality: A Systematic Review and Meta-analyses. *JAMA Network Open*. 2023;6(3):e236185-e236185. doi:10.1001/jamanetworkopen.2023.6185; Zhao J, Stockwell T, Roemer A, Naimi T, Chikritzhs T. Alcohol Consumption and Mortality From Coronary Heart Disease: An Updated Meta-Analysis of Cohort Studies. *Journal of Studies on Alcohol and Drugs*. 2017;78(3):375-386. doi:10.15288/jsad.2017.78.375.



The alcohol industry has invested considerably in building up a “health halo” around alcohol. This investment has included funding research that purports to demonstrate alcohol’s cardioprotective effects.¹¹ At the same time, the industry has fought to prevent the dissemination of accurate information regarding alcohol’s harms,¹² including by lobbying members of Congress.¹³ Indeed, Rep. James Comer, Chairman of the House Committee on Oversight and Government Reform, recently launched an investigation seeking “a complete list of staff” at the Department of Health and Human Services that contributed to federal reports linking alcohol to cancer.¹⁴ By requiring a cancer warning on alcohol, state and local elected leaders can fight back against the industry’s attack on science and distortion of the evidence, and help to untangle legitimate health concerns from political theater.

Federal Preemption of Alcohol Cancer Warnings

As the Surgeon General’s Advisory notes, a cancer warning on alcoholic beverage labels would help to raise awareness of alcohol cancer risk. Indeed, a pilot study of cancer warning labels in the Canadian Yukon province was so effective that the alcohol industry sued the government there to shut it down.¹⁵ Starting in May of 2026, Ireland will join South Korea in requiring a cancer warning on alcoholic beverage labels. The Irish label will read: “There is a direct link between alcohol and fatal cancers.”¹⁶ In the United States, however, only Congress can require such a warning.

The federal Alcoholic Beverage Labeling Act of 1988, or ABLA, prescribes the health warning statement that appears on the labels of all containers of alcoholic beverages manufactured, imported, or bottled for sale or distribution in the United States. The law expressly preempts states from requiring any alternative “statement relating to alcoholic beverages and health” on “any box, carton, or other package, irrespective of the material from which made, that contains such a container.”¹⁷ This means that until Congress acts, consumers will continue to see the same health warning statement on alcoholic beverages that they have seen for over three decades.

¹¹ Mitchell, G., Lesch, M., & McCambridge, J. (2020). Alcohol Industry Involvement in the Moderate Alcohol and Cardiovascular Health Trial. *American Journal of Public Health*, 110(4), 485–488. <https://doi.org/10.2105/AJPH.2019.305508>

¹² Cueto, I. (2024, August 12). *What’s in a drink? U.S. regulators consider new alcohol label, but health advocates want even more*. STAT. <https://www.statnews.com/2024/08/12/alcohol-health-warning-labels-industry-opposition-updated-rules/>

¹³ Letter to U.S. Department of Health and Human Services Secretary Xavier Becerra from Representative James Comer and Representative Lisa McClain (April 4, 2024). Available at: <https://oversight.house.gov/wp-content/uploads/2024/04/Letter-to-HHS-re-alcohol-review.pdf>

¹⁴ *Comer Continues Investigation into Biden-Era Alcohol Consumption Guidelines*. (2025, April 28). United States House Committee on Oversight and Accountability. <https://oversight.house.gov/release/comer-continues-investigation-into-biden-era-alcohol-consumption-guidelines/>

¹⁵ Vallance K, Stockwell T, Hammond D, Shokar S, Schoueri-Mychasiw N, Greenfield T, McGavock J, Zhao J, Weerasinghe A, Hobin E. Testing the Effectiveness of Enhanced Alcohol Warning Labels and Modifications Resulting From Alcohol Industry Interference in Yukon, Canada: Protocol for a Quasi-Experimental Study. *JMIR Res Protoc*. 2020 Jan 10;9(1):e16320. doi: 10.2196/16320. PMID: 31922493; PMCID: PMC6996737.

¹⁶ Caffrey, M. (2025, March 17). *Cancer Labels on Alcohol? Ireland, Where Pubs Still Rule, Will Have Them by Next Year*. *AJMC*. <https://www.ajmc.com/view/cancer-labels-on-alcohol-ireland-where-pubs-still-rule-will-have-them-by-next-year>

¹⁷ 27 U.S.C. § 216.



Fortunately, the preemption does not extend to health warning requirements on alcohol advertising. As one of the ABLA’s sponsors, Republican South Carolina Senator Strom Thurmond, emphasized during debate on the bill, “the preemption should not be construed to indicate that the States do not have the authority in other areas—such as industry advertisements, warning posters, and other educational campaigns—to protect the health and safety of their citizens.”¹⁸ Since 1986, California has required retailers to post an alcohol cancer “warning poster” pursuant to Proposition 65,¹⁹ a move that Alaska recently followed to warn consumers of breast and colon cancer risk associated with alcohol.²⁰ No state has yet required a health warning statement on alcohol advertising, but the Surgeon General’s Advisory should draw renewed attention to the policy.

Alcohol companies invest billions of dollars annually in advertising, placing them among the top spenders across all industries.²¹ Alcohol advertisements dominate every media platform, with market researchers estimating that alcohol brands “spend twice as much on television as the average brand” and nearly four times as much on so-called “out-of-home” ads like billboards, retail signage, and stadium ads.²² The industry has particularly stepped up digital advertising—estimated to account for “61% of total U.S. alcohol ad spend”—capitalizing on the sustained popularity of online alcohol sales and delivery spurred by the pandemic.²³ Digital advertising, especially on social media, raises concerns about youth exposure to alcohol-branded content, given the limited reach of voluntary industry marketing codes.²⁴ Such exposure is associated with more binge drinking and other alcohol-related risks.²⁵ Requiring a cancer warning on these ads could help to reduce these harmful effects, both by raising consumer awareness and curbing the growth of alcohol advertising.

While states do not yet require a health warning statement on alcohol advertising, they do require warning labels on advertising in a broad range of formats for other addictive products. New York, for example, requires gambling operators to post a warning statement that includes a gambling

¹⁸ Amanda Grove, Sobering News for the Alcohol Industry, 11 *Hastings Comm. & Ent L.J.* 643, 669 (1989) citing (emphasis added). See also <https://www.mayerbrown.com/en/insights/publications/2025/04/alcohol-advertising-and-regulation-of-health-claims-following-outgoing-surgeon-generals-advisory>.

¹⁹ See Budenz, A.; Moser, R.P.; Eck, R.; Agurs-Collins, T.; McNeel, T.S.; Klein, W.M.P.; Berrigan, D. “Awareness of Alcohol and Cancer Risk and the California Proposition 65 Warning Sign Updates: A Natural Experiment.” *Int. J. Environ. Res. Public Health* 2022, 19, 11862. <https://doi.org/10.3390/ijerph191911862>

²⁰ Cassandra, R. (2025, May 1). *New law requires Alaska businesses selling alcohol to post cancer warning*. Alaska Public Media. <https://alaskapublic.org/news/health/2025-04-30/new-law-requires-alaska-businesses-selling-alcohol-to-post-cancer-warning>

²¹ Jernigan, D., & Ross, C. S. (2020). The Alcohol Marketing Landscape: Alcohol Industry Size, Structure, Strategies, and Public Health Responses. *Journal of Studies on Alcohol and Drugs. Supplement*, 19, 13–25. <https://doi.org/10.15288/jsads.2020.s19.13>

²² Barnard, J. (2021). *Business Intelligence - Alcohol: Beer + Spirits*. Zenith. <https://www.zenithmedia.com/business-intelligence-alcohol-beer-spirits/>

²³ Hardimon, Z. (2024, June 5). *61% of total U.S. alcohol ad spend is digital*. The Current. <https://www.thecurrent.com/us-alcohol-advertising-spend-digital>

²⁴ Noel, J. K., Sammartino, C. J., & Rosenthal, S. R. (2020). Exposure to Digital Alcohol Marketing and Alcohol Use: A Systematic Review. *Journal of Studies on Alcohol and Drugs. Supplement, Suppl 19*, 57–67. <https://doi.org/10.15288/jsads.2020.s19.57>

²⁵ Graupensperger, S., Calhoun, B. H., Fairlie, A. M., & Lee, C. M. (2024). Exposure to media with alcohol-related content across young adulthood: Associations with risky drinking and consequences among high-risk 2- and 4-year college students. *Drug and Alcohol Review*, 43(1), 98–110. <https://doi.org/10.1111/dar.13654>



support hotline number on print ads, billboards, radio and television ads, and “websites, including social media sites and mobile phone applications.”²⁶ Similarly, Massachusetts requires a standard warning statement on “All Advertising produced by or on behalf of a Marijuana Establishment for Marijuana or Marijuana Products.”²⁷ Finally, the federal government has long required health warning statements on cigarette advertisements including “print advertisements and other advertisements with a visual component (including, for example, advertisements on signs, retail displays, Internet web pages, social media web pages, digital platforms, mobile applications, and email correspondence).”²⁸ These laws provide a template for legislators to require warnings on alcohol.

Avoiding First Amendment Conflicts

Freedom of speech does not conjure up the right to advertise addictive substances for most Americans, but U.S. courts have established a “commercial speech” doctrine that gives the alcohol industry significant legal tools to fight marketing restrictions.²⁹ Fortunately, lawmakers can use the Surgeon General’s Advisory to design a cancer warning requirement on alcohol advertising that minimizes potential First Amendment challenges from alcohol companies.

The U.S. Supreme Court set out the test for whether the government may compel speech, such as a cancer warning, in a commercial advertising context, in the case of *Zauderer v. Office of the Disciplinary Counsel*.³⁰ The case involved an Ohio lawyer who published an advertisement for services representing victims of the defective Dalkon Shield intrauterine contraceptive device. The advertisement stated that “if there is no recovery, no legal fees are owed by our clients,” but it failed to mention that clients might be liable for some litigation costs, even if they lost their case. Ohio authorities told the lawyer he could not leave out that information, and he challenged their decision. The U.S. Supreme Court upheld the required disclosure, establishing a test for when regulators can require a commercial actor to divulge information that is “reasonably related to the State’s interest in preventing deception of consumers.”³¹

The Zauderer test has three parts: 1) the requirement must be reasonably related to the government’s interest; 2) it may only compel “purely factual and uncontroversial information” about

²⁶ N.Y. Rac. Pari-Mut. Wag. & Breed. Law § 1363.

²⁷ 935 Mass. Code Regs. 500.105

²⁸ *Cigarette Labeling and Health Warning Requirements*. (2025, January 15). U.S. Food and Drug Administration; FDA. <https://www.fda.gov/tobacco-products/labeling-and-warning-statements-tobacco-products/cigarette-labeling-and-health-warning-requirements>

²⁹ See, e.g., Nathan Cortez & William Sage, *The Disembodied First Amendment*, 100 Wash. U.L. Rev. 707, 713 (2023) (“The Free Speech Clause has become the centerpiece of the Roberts Court’s broadly deregulatory agenda, under which the First Amendment is used to question the constitutionality of all kinds of regulation, from business licensing, to warning labels, to mandatory workplace disclosures, to country-of-origin labeling, to warnings of cellular phone radiofrequency exposure, to enforcement actions for unsubstantiated marketing claims, to disclosure requirements for “conflict minerals.”).

³⁰ 471 U.S. 626 (1985).

³¹ *Zauderer*, 471 U.S. at 651.



the product or service at issue; and 3) it cannot be unjustified or unduly burdensome.”³² Federal courts have applied *Zauderer* to uphold a wide variety of warning labels.³³ Prior to the Surgeon General’s Advisory, however, some caselaw suggested that alcohol companies might succeed in challenging a cancer warning under the test’s second prong.³⁴ By enabling a warning statement to simply report on a public health authority’s finding—e.g. “According to the Surgeon General, the more alcohol consumed, the greater the risk of cancer”—the Surgeon General’s Advisory allows state and local governments to avoid having to make a direct assertion of alcohol’s link to cancer that industry opponents might seek to characterize as “controversial.”

Model Legislation

Appendix A contains a model bill that may serve as a template for translating the Surgeon General’s Advisory into action. The bill defines the applicable advertising subject to a cancer warning requirement, specifies the warning language, size, font, and length (for audio advertisements), and provides for a mechanism to allow consumers to opt out of direct advertising messages, which can be especially detrimental to consumers with a history of alcohol dependence.³⁵ Public health advocates should work with their state and local legislators to tailor the bill to their needs. For example, an alternative bill might specify a rotating warning requirement, with one message on cancer and another on the dangers associated with drinking during pregnancy. Organizations such as the American Public Health Association offer legislative advocacy tools that can help those who are newly engaging in the democratic process to build coalitions, identify champions in the legislature, and achieve success.³⁶

³² *Id.* at 651.

³³ See Jennifer L. Pomeranz, 2019: Abortion Disclosure Laws and the First Amendment: The Broader Public Health Implications of the Supreme Court’s *Becerra* Decision, *American Journal of Public Health* 109, 412–418, <https://doi.org/10.2105/AJPH.2018.304871>

³⁴ See, e.g. *Am. Beverage Ass’n v. City & Cnty. of San Francisco*, 871 F.3d 884, 895 (9th Cir. 2017) (finding that a county ordinance requiring a warning on certain advertisements that “drinking beverages with added sugar(s) contributes to obesity, diabetes, and tooth decay” was “at a minimum, controversial” because it failed to account for when the beverages were “consumed as part of a diet that balances caloric intake with energy output,” and unfairly singled out beverages with added sugars when other sugary foods also contributed to health risks.)

³⁵ Babor, T. F., Robaina, K., Noel, J. K., & Ritson, E. B. (2017). Vulnerability to alcohol-related problems: A policy brief with implications for the regulation of alcohol marketing. *Addiction*, 112(S1), 94–101. <https://doi.org/10.1111/add.13626>

³⁶ *APHA Legislative Advocacy Handbook*. (2020). American Public Health Association. <https://kpha.us/wp-content/uploads/2020/10/APHA-Legislative-Advocacy-Handbook1.pdf>



Appendix A: Model Alcoholic Beverages and Cancer Act (“ABC Act”)

Section 1. Purpose

To protect public health by requiring clear, consistent cancer risk warnings on all advertisements for alcoholic beverages.

Section 2. Definitions

- (a) “Advertisement” means any public communication promoting the sale or consumption of alcoholic beverages, including print, digital, outdoor, broadcast, and radio media.
- (b) “Direct Advertisement” means any advertisement as described in paragraph (a) of this subdivision that is disseminated to a specific individual or individuals.
- (c) “Alcoholic beverage” means any liquid containing at least 0.5% alcohol by volume (ABV) intended for human consumption.
- (d) “Alcoholic beverage advertisement” refers to any advertisement promoting the sale of an alcoholic beverage or a retailer engaged primarily in the sale of alcoholic beverages.

Section 3. Required Warning Text

- All alcohol advertisements must display the following warning:

WARNING: According to the Surgeon General, drinking alcohol increases cancer risk, including for breast and colon cancers. The more alcohol consumed, the greater the risk of cancer.

Section 4. Display Requirements

- The warning text must:
 - Occupy at least 10% of the advertisement’s vertical space.
 - Use a font size no smaller than 14pt for print/digital or at least 2% of billboard height.
 - Appear in high-contrast colors (e.g., black text on white background) with no overlapping imagery.
 - Be clear, conspicuous, and not obscured by other elements.
 - Use a sans-serif font with consistent stroke width throughout all characters.
 - Maintain minimum letter spacing (kerning) of no less than 5% of font size.
 - Have a minimum x-height (midline height) of 45% of the capital letter height.
 - Not employ visual distortion effects that reduce legibility.

Section 5. Broadcast and Digital Media



- **TV/Video Ads:**

- The visual warning must display for at least 5 seconds in a 30-second ad (proportionally adjusted for shorter/longer ads).
- The audio warning must play for at least 3 seconds, simultaneously with the visual warning.
- Audio content:

“Warning: According to the Surgeon General, drinking alcohol increases cancer risk, including for breast and colon cancers. The more alcohol consumed, the greater the risk of cancer. Learn more at [state health department URL].”

- **Radio Ads:**

- The audio warning must occupy at least 10% of total ad time (e.g., 3 seconds in a 30-second ad).
- Audio content:

“Warning: According to the Surgeon General, drinking alcohol increases cancer risk, including for breast and colon cancers. The more alcohol consumed, the greater the risk of cancer. Learn more at [state health department URL].”

Section 6. Direct Advertising

Each direct advertisement shall, clearly and conspicuously, describe a method or methods by which an individual may designate that the individual does not wish to receive any future direct advertisement.

(a) The described method must be by at least two of the following:

(1) Telephone;

(2) Regular U.S. mail; or

(3) Electronic mail.

(b) Upon receipt of an individual’s request to discontinue receipt of future advertisement, an alcoholic beverage advertiser shall block the individual in the advertiser’s database so as to prevent the individual from receiving future direct advertisements with-in fifteen days of receipt of the request.