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H.P. 1155

House of Representatives, April 22, 2021

An Act To End the Sale of Flavored Tobacco Products

Received by the Clerk of the House on April 20, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MEYER of Eliot.
Cosponsored by Senator DAVIS of Piscataquis and
Representatives: DUNPHY of Old Town, MILLETT of Waterford, MILLETT of Cape
Elizabeth, PIERCE of Falmouth, TALBOT ROSS of Portland, ZAGER of Portland, Senators:
BALDACCI of Penobscot, President JACKSON of Aroostook.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §1551, sub-§1-D**, as enacted by PL 2017, c. 308, §1, is amended
3 to read:

4 **1-D. Electronic smoking device.** "Electronic smoking device" has the same meaning
5 as in section 1541, subsection 1-A means any device that may be used to deliver any
6 aerosolized or vaporized substance to the person inhaling from the device, including, but
7 not limited to, an electronic cigarette, electronic cigar, electronic pipe, vape pen or
8 electronic hookah. "Electronic smoking device" includes any component, part or accessory
9 of the device and also includes any substance that may be aerosolized or vaporized by that
10 device, whether or not the substance contains nicotine. "Electronic smoking device" does
11 not include drugs, devices or combination products authorized for sale by the United States
12 Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and
13 Cosmetic Act.

14 **Sec. 2. 22 MRSA §1551, sub-§1-E** is enacted to read:

15 **1-E. Flavored tobacco product.** "Flavored tobacco product" means any tobacco
16 product that imparts a taste or smell, other than the taste or smell of tobacco, that is
17 distinguishable by an ordinary consumer either prior to or during the consumption of a
18 tobacco product, including, but not limited to, any taste or smell relating to fruit, menthol,
19 mint, wintergreen, chocolate, cocoa, vanilla, honey or any candy, dessert, beverage, herb
20 or spice.

21 **Sec. 3. 22 MRSA c. 262-A, sub-c. 5**, as amended, is amended by amending the
22 subchapter headnote to read:

23 **SUBCHAPTER 5**

24 **FLAVORED CIGARS TOBACCO PRODUCTS**

25 **Sec. 4. 22 MRSA §1560-D**, as amended by PL 2011, c. 380, Pt. II, §2, is repealed.

26 **Sec. 5. 22 MRSA §1560-E** is enacted to read:

27 **§1560-E. Flavored tobacco products**

28 **1. Prohibition on sale or distribution of flavored tobacco products.** A tobacco
29 retailer may not sell or distribute or offer to sell or distribute in this State any flavored
30 tobacco product. A public statement or claim made or disseminated by the retailer or
31 manufacturer of a tobacco product, or by a person authorized or permitted by the retailer
32 or manufacturer to make or disseminate public statements concerning a tobacco product,
33 that a tobacco product has or produces a taste or smell other than tobacco constitutes
34 presumptive evidence that the tobacco product is a flavored tobacco product.

35 **2. Violation.** A tobacco retailer who violates this section commits a civil violation for
36 which a fine may be imposed under subsection 3.

37 **3. Fines.** The fines that apply to violations of this section are as set out in this
38 subsection.

1 A. A tobacco retailer who violates subsection 1 commits a civil violation for which a
2 fine of \$1,000 may be adjudged.

3 B. A tobacco retailer who violates subsection 1 after having previously been convicted
4 of a violation of that subsection commits a civil violation for which a fine of \$5,000
5 may be adjudged.

6 **SUMMARY**

7 This bill prohibits the sale and distribution of flavored tobacco products, including
8 flavored cigars and electronic smoking devices.