

Senator Nicole Grohoski, Chair  
Representative Joe Perry, Chair  
Taxation Committee



February 8, 2024

**Re: Testimony in Opposition to LD 2028: An Act to Amend Certain State Tax Laws**

Senator Grohoski, Representative Perry and members of the Taxation Committee, I am Dan Riley, an attorney with the law firm of Norman, Hanson & DeTroy in Portland, Maine. I appear today in my capacity as General Counsel for the Northeast Wholesalers Association (NEWA), a regional trade association representing wholesale distributors of convenience products from Maine to Maryland.

Our wholesaler members are opposed to this legislation because a tax code amendment that will impose more than \$3 million in new taxes<sup>1</sup> must be considered individually and not as part of a tax code clean-up bill, like LD 2028.

None of the other provisions of LD 2028 result in tax increases: they merely change language regarding timing of tax payments and distribution of collected tax revenues.

However, the change in the definition of "tobacco product", deftly tucked into these otherwise revenue neutral amendments to Maine's tax laws, sweeps an entire category of new products into state excise taxation.

The change would include 100 percent tobacco-free modern oral nicotine pouches/products under the definition of "tobacco product."

The definition change creates an entirely new excise tax on these products: 43 percent of the wholesale price of each tin. This will drive an increase in the price of nicotine pouches of roughly \$2 per tin.

This is the same tax rate applied to traditional, combusted tobacco products, such as cigars, pipe tobacco, and roll-your-own cigarette tobacco.

Modern oral nicotine products/pouches contain nicotine; but nicotine is not the chemical in tobacco products that causes cancer, heart disease or lung disease.

Nicotine pouches are not burned/combusted (unlike cigars, pipe tobacco, roll-your-own tobacco) and pose a fraction of the health risk of traditional, combusted tobacco products.

To incentivize Maine's roughly 180,000 adult smokers to switch to alternative nicotine products, that present far less risk to their health, less harmful nicotine products like nicotine pouches should be taxed at a lower rate than traditional, combustible tobacco products.

Thank you for your consideration of these comments.

Respectfully,

  
Dan Riley

<sup>1</sup> Based on shipments to retail data on nicotine pouches sold in Maine in 2022, an excise tax of 43 percent of wholesale price would generate \$2.8 million and increase sales tax revenues on nicotine pouches by \$667K, even assuming a decrease in sales as a result of higher consumer price.