



# 132nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2025

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Legislative Document

No. 1519

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H.P. 1004

House of Representatives, April 8, 2025

### **An Act to Create a Stewardship Program for Electronic Smoking Devices and Related Products**

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Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script, reading "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative GRAMLICH of Old Orchard Beach.  
Cosponsored by Senator TEPLER of Sagadahoc and  
Representatives: BELL of Yarmouth, BRIDGEO of Augusta, DOUDERA of Camden, OSHER  
of Orono, RIELLY of Westbrook.

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

2 Sec. 1. 38 MRSA §1617 is enacted to read:

3 **§1617. Stewardship program for electronic smoking devices**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
5 following terms have the following meanings.

6 A. "Brand" means a name, symbol, word or mark that identifies an electronic smoking  
7 device, rather than its components, and attributes the device to the owner of the brand.

8 B. "Electronic smoking device" or "device" means any device that may be used to  
9 deliver any aerosolized or vaporized substance to a person inhaling from the device,  
10 including, but not limited to, an electronic cigarette, electronic cigar, electronic pipe,  
11 so-called vape pen or electronic hookah. "Electronic smoking device" includes any  
12 component, part or accessory of the device and any substance that may be aerosolized  
13 or vaporized by that device, whether or not the substance contains nicotine. "Electronic  
14 smoking device" does not include drugs, devices or combination products authorized  
15 for sale by the United States Food and Drug Administration, as those terms are defined  
16 in the Federal Food, Drug, and Cosmetic Act.

17 C. "Electronic smoking device stewardship organization" or "stewardship  
18 organization" means a corporation, nonprofit organization or other legal entity created  
19 by a producer or group of producers pursuant to this section to implement an electronic  
20 smoking device stewardship program.

21 D. "Electronic smoking device stewardship plan" or "stewardship plan" means a plan  
22 to establish an electronic smoking device stewardship program to be submitted to the  
23 department for review pursuant to subsection 6.

24 E. "Electronic smoking device stewardship program" or "program" means the program  
25 established under this section to provide for the collection, transportation, reuse and  
26 recycling or disposal, or both, of unwanted electronic smoking devices.

27 F. "Producer" means a person that:

28 (1) Has legal ownership of the brand of an electronic smoking device sold in or  
29 into the State;

30 (2) Imports an electronic smoking device branded by a person that meets the  
31 requirements of paragraph A and has no physical presence in the United States; or

32 (3) Sells an electronic smoking device in the State at wholesale or retail, does not  
33 have legal ownership of the brand of the device and elects to fulfill the  
34 responsibilities of the producer for that device.

35 G. "Proprietary information" has the same meaning as in Title 38, section 1771,  
36 subsection 6-A.

37 H. "Recycling" has the same meaning as in Title 38, section 1771, subsection 7.

38 I. "Reuse" has the same meaning as in Title 38, section 1771, subsection 8.

39 J. "Unwanted electronic smoking device" means an electronic smoking device that is  
40 no longer wanted by its owner or that has been abandoned or discarded or is intended  
41 to be discarded by its owner.

1       **2. Program.** Pursuant to this section, a producer that sells an electronic smoking  
2       device in the State shall, individually, collectively or through a stewardship organization,  
3       implement and finance an electronic smoking device stewardship program to manage, in  
4       accordance with the priorities in section 2101, unwanted electronic smoking devices sold  
5       by the producer at the end of the device's life.

6       A. The program must include a collection system for unwanted electronic smoking  
7       devices that is convenient and adequate to serve the needs of persons in both rural and  
8       urban areas. No later than one year following commencement of the collection of  
9       electronic smoking devices by the program's collection system, the collection system  
10       must include permanent collection locations located within 15 miles of 90% of the  
11       residents of the State unless the department determines that the requirements of this  
12       paragraph are not practicable due to geographical constraints or that an alternative  
13       collection system that does not meet the requirements of this paragraph will result in  
14       equivalent and more efficient collection.

15       B. The program must provide for effective education and outreach to promote the use  
16       of the program and to ensure that collection options are understood by the public.

17       C. A producer or stewardship organization, including a producer's or stewardship  
18       organization's officers, members, employees and agents that organize an electronic  
19       device stewardship program under this section, is immune from liability for the  
20       producer's or stewardship organization's conduct under state laws relating to antitrust,  
21       restraint of trade, unfair trade practices and other regulation of trade or commerce only  
22       to the extent necessary to plan and implement the producer's or stewardship  
23       organization's chosen organized collection or recycling system.

24       D. The program must include at a minimum a half-time employee or contracted agent  
25       whose job duties are dedicated to implementing the program in the State unless the  
26       department determines that a lesser staffing requirement is adequate to provide the  
27       administrative oversight, training and ongoing technical support to collection locations,  
28       education and outreach efforts, program performance assessment and reporting  
29       necessary for program implementation.

30       **3. Requirement for sale.** One hundred eighty days after a stewardship plan submitted  
31       to the department pursuant to subsection 6 is approved by the department in accordance  
32       with subsection 7, a producer may not sell or offer for sale in the State an electronic  
33       smoking device unless the producer participates in an electronic smoking device  
34       stewardship program under this section in accordance with an approved stewardship plan.

35       **4. No fee.** An electronic smoking device stewardship program may not charge a person  
36       a fee at the time an unwanted electronic smoking device is delivered or collected for  
37       recycling or disposal under the program.

38       **5. Costs.** Producers participating in an electronic smoking device stewardship  
39       program shall finance the collection, transportation and reuse, recycling or disposition of  
40       unwanted electronic smoking devices; effective education and outreach related to the  
41       program; program assessment; program reporting; any incentives necessary to achieve  
42       program goals; payment of reasonable fees to the department for review of the producers'  
43       stewardship plan and any proposed amendments; and payment of annual fees to the  
44       department to cover the department's actual costs for the program for annual report review,  
45       oversight, administration and enforcement, which may not exceed \$100,000 per year per

1 program and which must be properly documented and provided by the department to the  
2 program prior to or at the time that such payment is required.

3 **6. Requirement to submit stewardship plan.** On or before November 1, 2026, a  
4 producer of electronic smoking devices, individually, collectively or through a stewardship  
5 organization, shall submit a stewardship plan to the department for approval. The  
6 stewardship plan must include:

7 A. Identification and contact information for:

8 (1) The individual or entity submitting the stewardship plan;

9 (2) All producers participating in the program;

10 (3) The owners of the brands covered by the program; and

11 (4) The stewardship organization, if using a stewardship organization, including a  
12 description of the stewardship organization and the tasks to be performed by the  
13 stewardship organization. The description must include information on how the  
14 stewardship organization is organized, including administration of the stewardship  
15 organization and management of the stewardship organization;

16 B. A description of the collection system to be implemented under the program,  
17 including:

18 (1) The types of locations or other collection services to be used;

19 (2) How all electronic smoking devices covered under the program will be  
20 collected in all counties of the State; and

21 (3) How the collection system will be convenient and adequate to serve the needs  
22 of all persons seeking to use the program for the management of unwanted  
23 electronic smoking devices;

24 C. The names and locations of recyclers, processors and disposal facilities that may be  
25 used by the program;

26 D. Information on how the unwanted electronic smoking devices will be safely and  
27 securely transported, tracked and handled from collection through final disposition;

28 E. A description of the methods to be used to reuse, deconstruct and recycle the  
29 unwanted electronic smoking devices to ensure that the device components are  
30 transformed or remanufactured to the extent feasible;

31 F. A description of how the convenience and adequacy of the collection system will  
32 be monitored and maintained;

33 G. A description of how the amount of unwanted electronic smoking devices collected,  
34 recycled, processed, reused and disposed of will be measured;

35 H. A description of the education and outreach methods that will be used to recruit,  
36 train and monitor collection locations and to encourage participation in the program on  
37 an ongoing basis by collection locations and by persons throughout the State;

38 I. A description of how education and outreach methods will be evaluated, including,  
39 at a minimum, completion of an annual consumer awareness survey to assess consumer  
40 knowledge regarding management options and collection locations for unwanted

1 electronic smoking devices. The survey questions and methodology must be approved  
2 by the department, and the survey must be administered by a qualified 3rd party;

3 J. A description of how program performance will be assessed, including performance  
4 goals to show success of the program. When a performance goal is expressed as a  
5 recycling rate or a diversion from disposal rate, the stewardship plan must include a  
6 description of the methodology and the relevant historic sales data used to develop the  
7 rate. Sales information submitted to the department pursuant to this paragraph that is  
8 identified by the producer or stewardship organization as proprietary information is  
9 confidential and must be handled by the department in accordance with subsection 11.  
10 The performance goals under this paragraph must include, at a minimum, one of the  
11 following:

12 (1) That at least 50% of the residents of the State will be aware of the program by  
13 no later than the end of the 3rd year of program implementation and at least 70%  
14 of the residents of the State will be aware of the program by no later than the end  
15 of the 6th year of program implementation;

16 (2) That a diversion from disposal rate of at least 50% will be achieved by the  
17 program by no later than the end of the 4th year of program implementation; or

18 (3) An alternative performance goal that does not meet the criteria in subparagraph  
19 (1) or (2) as long as sufficient evidence is provided to the department to justify that  
20 alternative performance goal;

21 K. A description of how the program will be financed. If the program is financed by  
22 a per unit assessment paid by the consumer at the point of sale, a plan for an annual  
23 3rd-party audit to ensure revenue from the assessment does not exceed the costs of  
24 implementing the program must be included;

25 L. An anticipated annual budget for the program that includes identification of specific  
26 anticipated administrative, collection, transportation, disposition and communication  
27 costs for the program. The anticipated annual budget must be sufficient to fund the  
28 program staffing required under subsection 2, paragraph D and the reimbursement by  
29 the producer or stewardship organization of the department's actual costs incurred in  
30 annual report review and in overseeing, administering and enforcing the program. The  
31 anticipated annual budget may not include costs for legal fees or costs related to  
32 legislative efforts that have been or will be incurred by the producer or stewardship  
33 organization; and

34 M. Any other information required by the department.

35 **7. Department review and approval.** Within 120 days after receipt of a proposed  
36 stewardship plan, or a proposed amendment to a previously approved stewardship plan, the  
37 department shall determine whether the stewardship plan complies with this section. If the  
38 stewardship plan is approved, the department shall notify the person that submitted the plan  
39 in writing. If the department rejects the stewardship plan, the department shall notify the  
40 person that submitted the plan in writing stating the reason for rejecting the stewardship  
41 plan.

42 **8. Stewardship plan availability.** Within 30 days of approval by the department of  
43 a stewardship plan submitted pursuant to subsection 7, or approval of an amendment to a

1 previously approved stewardship plan submitted pursuant to subsection 9, the department  
2 shall place the approved stewardship plan on the department's publicly accessible website.

3 **9. Stewardship plan amendments.** In accordance with the provisions of this  
4 subsection, a producer or stewardship organization or the department may initiate changes  
5 to an approved electronic smoking device stewardship plan.

6 A. A change to an approved stewardship plan by a producer or stewardship  
7 organization operating the program implemented under the stewardship plan must be  
8 submitted to the department for review and approval prior to the implementation of  
9 that change, except that if the producer or stewardship organization determines that the  
10 change is not substantive, such as the addition of or a change to collection locations, or  
11 if an additional producer joins the program, the producer or stewardship organization  
12 must inform the department of the change within 14 days of implementing the change  
13 but need not receive department approval unless the department determines that the  
14 change is substantive. The department shall review and approve stewardship plan  
15 amendments in accordance with subsection 7.

16 B. If the department determines that a program has failed to make adequate progress  
17 toward achieving the program's performance goals described in the approved  
18 stewardship plan pursuant to subsection 6, paragraph J, the department shall notify the  
19 producer or stewardship organization operating the program in writing regarding its  
20 determination and may direct the producer or stewardship organization to implement  
21 specific changes to the stewardship plan within 6 months of the written notification,  
22 which may include, but are not limited to, improvements to the convenience of the  
23 collection system or to the education and outreach efforts under the program to improve  
24 program performance. The department may also recommend in its annual report under  
25 section 1772, subsection 1 that the program be amended to require financial incentives  
26 or, if appropriate, implementation of a deposit and refund system.

27 **10. Annual report.** By March 1st of the calendar year after the calendar year in which  
28 an approved stewardship plan is implemented, and annually thereafter, the producer or  
29 stewardship organization operating the program shall submit to the department a report on  
30 the program for the previous calendar year. The report must include:

31 A. The amount of unwanted electronic smoking devices collected at each collection  
32 location;

33 B. A description of the methods used to collect, transport and process the electronic  
34 smoking devices;

35 C. An evaluation of program performance, including, if possible, diversion and  
36 recycling rates together with certificates of recycling or similar confirmations and an  
37 evaluation of the convenience of the collection system implemented under the  
38 program;

39 D. A description of the methods used for education and outreach efforts and an  
40 evaluation of the effectiveness of those efforts. The report must include the results of  
41 an assessment of the methods used for and effectiveness of education and outreach  
42 efforts. The assessment must be completed by a qualified 3rd party;

E. If applicable, the report of the 3rd-party audit conducted to ensure that revenue collected from the assessment does not exceed implementation costs pursuant to subsection 6, paragraph K;

F. Any recommendations for changes to the program and to the approved goals for the program to improve convenience of collection, consumer education and program evaluation;

G. A financial report on the program, including the total cost of implementing the program as determined by a 3rd-party audit that includes identification of specific administrative, collection, transportation, disposition and communication costs for the program, and an anticipated budget for the program for the next program year; and

H. Any other information required by the department.

The department shall include the information reported by a producer or stewardship organization pursuant to this subsection in the department's annual report under section 1772, subsection 1.

**11. Proprietary information.** Proprietary information submitted to the department in a stewardship plan, in an amendment to a stewardship plan or pursuant to reporting requirements of this section that is identified by the submitter as proprietary information is confidential and must be handled by the department in the same manner as confidential information is handled under section 1310-B.

**12. Administration and enforcement; rules.** The department shall enforce this section and may adopt rules as necessary for the purposes of implementing, administering and enforcing this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## SUMMARY

This bill requires that, on or before November 1, 2026, a producer of electronic smoking devices, individually, collectively or through a stewardship organization, must submit to the Department of Environmental Protection for review and approval a plan for the establishment of a stewardship program to manage unwanted electronic smoking devices sold by the producer at the end of the device's life. One hundred eighty days after a stewardship plan is approved by the department, a producer of electronic smoking devices may not sell or offer for sale in the State an electronic smoking device unless the producer participates, individually, collectively or through a stewardship organization, in an approved electronic smoking device stewardship program.