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HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 290, L.D. 423, Bill, "An Act To Require Child-resistant Packaging for Products Containing Liquid Nicotine"

Amend the bill by striking out the title and substituting the following:

'An Act To Require Child-resistant Packaging for Nicotine Liquid Containers'

Amend the bill by striking out all of section 1 and inserting the following:

'Sec. 1. 22 MRSA §1560-B is enacted to read:

§1560-B. Liquid nicotine

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

A. "Child-resistant packaging" means packaging meeting the specifications in 16 Code of Federal Regulations, Section 1700.15(b) (2015) and tested by the method described in 16 Code of Federal Regulations, Section 1700.20 (2015).

B. "Electronic nicotine delivery device" means any noncombustible device containing or delivering nicotine or any other substance intended for human consumption that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means and that may be used to simulate smoking through inhalation of vapor or aerosol from the device, including, without limitation, a device manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or so-called vape pen. "Electronic nicotine delivery device" does not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

C. "Nicotine liquid container" means a container used to hold a liquid, gel or other substance containing nicotine that is sold, marketed or intended for use as or with an electronic nicotine delivery device. "Nicotine liquid container" does not include a cartridge or other container that contains a liquid or other substance containing nicotine and is sold, marketed or intended for use as long as the cartridge or other

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1 container is prefilled and sealed by the manufacturer and not intended to be opened  
2 by the consumer.

3 **2. Prohibition.** Beginning January 1, 2016, a person may not sell, furnish, give  
4 away or offer to sell, furnish or give away a nicotine liquid container unless the container  
5 is child-resistant packaging.

6 **3. Penalties.** This subsection applies to violations of subsection 2.

7 A. A person who violates subsection 2 commits a civil violation for which a fine of  
8 \$500 may be adjudged.

9 B. A person who violates subsection 2 after having previously violated subsection 2  
10 commits a civil violation for which a fine of \$1,000 may be adjudged.

11 C. A person who violates subsection 2 after having previously violated subsection 2  
12 more than once commits a civil violation for which a fine of \$5,000 may be adjudged.

13 **4. Repeal.** The commissioner shall monitor the status of any effective date of final  
14 regulations issued by the United States Food and Drug Administration or by any other  
15 federal agency that mandate child-resistant packaging standards for nicotine liquid  
16 containers. The commissioner shall notify the joint standing committee of the Legislature  
17 having jurisdiction over health and human services matters when the final regulations  
18 have been adopted. The joint standing committee, upon receiving this notification, may  
19 report out a bill repealing this section.'

20 **SUMMARY**

21 This amendment provides a definition for "electronic nicotine delivery device." It  
22 provides that the prohibition in the bill applies only to a nicotine liquid container unless  
23 the container is child-resistant packaging. In addition, it directs the Commissioner of  
24 Health and Human Services to monitor the status of any effective date of final regulations  
25 issued by the United States Food and Drug Administration or by any other federal agency  
26 that mandate child-resistant packaging standards for nicotine liquid containers. The  
27 commissioner is required to notify the joint standing committee of the Legislature having  
28 jurisdiction over health and human services matters when the final regulations have been  
29 adopted. Upon receiving this notification, the committee may report out a bill repealing  
30 the provisions in this legislation.

31 **FISCAL NOTE REQUIRED**

32 **(See attached)**