

April 25, 2023

TO: Chair Baldacci, Chair Meyer, and members of the Joint Committee on Health and Human Services

FROM: Dr. Brian E. Erkkila, Director of Regulatory Science, Swedish Match North America

Swedish Match North America is providing the following testimony on Legislative Document 1215, “An Act to End the Sale of Flavored Tobacco Products”:

At Swedish Match our vision is “A world without cigarettes”. To the end, we manufacture products which help adults who smoke, move to products which reduce their risks. It was with this vision in mind that we developed our General Snus products, which the FDA Center for Tobacco Products determined were appropriate for public health and allowed us to inform consumers that switching to our products can reduce the risk of cancer, heart and respiratory disease¹. The FDA evaluation of General Snus products by dozens of the Center’s experienced scientists noted that the General snus products, including flavored products, not only were less harmful than cigarettes, but also were not likely to entice non-users, including youth, to initiate use of the products. This decision was in line with the FDA’s position that there is a “continuum of risk” across tobacco products, with cigarettes being the most harmful and smoke-free products (e.g., electronic-cigarettes, smokeless tobacco, nicotine pouches) being much less harmful. If LD 1215 were to be enacted, these federally vetted products would no longer be available to people who smoke in Maine, potentially sending many adult Mainers back to smoking. This is despite the fact that rates of youth use of smokeless tobacco in Maine are lower than the rates of youth use of alcohol, cannabis, and unprescribed prescription drugs²³.

In the United States there are ~31 million people who smoke and this ultimately leads to the death of ~480,000 Americans each year⁴⁵. Maine has made great strides in reducing the impact of cigarette smoking with a record low prevalence of smoking, however, over 2,300 Mainers still lose their lives each year. For the more than 200,000 adults who smoke in Maine, LD 1215 would eliminate a majority of reduced risk alternatives available, leaving them at elevated risk for death and disease through continued smoking. Among adults who want to stop using combusted products, the flavor and sensory experience of non-tobacco flavored alternative products are one of the main characteristics which make them an appealing product to switch to, allowing them to leave behind the taste and smell of combusted tobacco. This says nothing of the more 80,000 of adult Mainers who have already switched to less harmful smoke-free products and could reinitiate combusted use. LD 1215 ignores countless peer-reviewed scientific articles

¹ <https://www.fda.gov/news-events/press-announcements/fda-grants-first-ever-modified-risk-orders-eight-smokeless-tobacco-products>

² Centers for Disease Control and Prevention (CDC). 1991-2019 High School Youth Risk Behavior Survey Data. Available at <http://yrbs-explorer.services.cdc.gov/>. Accessed on April 19, 2023

³ 2021 Maine Integrated Youth Health Survey. Maine Department of Health and Human Services

⁴ Cornelius ME, Loretan CG, Wang TW, Jamal A, Homa DM. Tobacco Product Use Among Adults — United States, 2020. *MMWR Morb Mortal Wkly Rep* 2022; 71:397–405.

⁵ U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress. A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014 [accessed 2015 Aug 17].

demonstrating this continuum of risk, treating much less harmful smokefree products and combusted cigarettes as equally harmful in a clear affront to available evidence⁶. Additionally, LD 1215 does not take into account that youth tobacco use peaked decades ago when flavored products were not readily available⁷.

Since 2019, the FDA Center for Tobacco Products has been reviewing millions of pre-market tobacco applications and has denied marketing to ~99%, drastically reducing the number of tobacco harm reduction products on the market. Also during this time, the federal age limit for purchasing tobacco was raised to 21, and FDA/CDC data indicate that use of tobacco products by youth was reduced by >50% and reached record lows⁸. In order to accelerate reductions in tobacco-related disease the focus should be on not only providing people who smoke acceptable alternatives, but to ensure that adults are appropriately informed about the continuum of risk. This can be done in concert with marketing and age verification policies, to minimize the risk of youth using these products.

Maine is a national leader when it comes to harm reduction. Harm reduction is a public health approach which minimizes judgment and puts people first, referring to “people who smoke” rather than “smokers.” It not only notes the disproportionate rates of combusted tobacco use by race, ethnicity, mental health status, sexual orientation, social class or intersections of these communities, identities, and circumstances, but provides an equitable way to move away from harm. It is difficult to understand how LD 1215, which eliminates a vast majority of the tobacco harm reduction products adults use to reduce their risk and leaves adult consumers with only the most harmful product, combusted cigarettes, would be in line with the compassionate spirit of harm reduction.

In an environment where FDA review permits marketing of only products deemed appropriate for the protection of public health (users AND non-users), where youth tobacco use rates are in precipitous decline, and hundreds of thousands of Mainers continue to smoke combusted products, we strongly urge you to reject LD 1215.

Sincerely,

Brian E. Erkkila

Brian E. Erkkila, PhD
Brian.erkkila@swedishmatch.com
(804) 614-8278

⁶ Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division of Population Health. BRFSS Prevalence & Trends Data [online]. 2015. [accessed Apr 19, 2023]. URL: <https://www.cdc.gov/brfss/brfssprevalence/>.

⁷ Centers for Disease Control and Prevention (CDC). 1991-2019 High School Youth Risk Behavior Survey Data. Available at <http://yrbs-explorer.services.cdc.gov/>. Accessed on 3/20/2023.

⁸ Park-Lee E, Ren C, Cooper M, Cornelius M, Jamal A, Cullen KA. Tobacco Product Use Among Middle and High School Students — United States, 2022. MMWR Morb Mortal Wkly Rep 2022;71:1429–1435.