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Memorandum

Date: April 21, 2023

To: Members of the Joint Health and Human Services Committee

From: Adam Hoffer, PhD, Director of Excise Taxation, Tax Foundation

Subject: Comments on LD 1174, LD 1215, and LD 1558 Regarding a Ban on the Sale of Flavored Tobacco Products

Multiple U.S. states and localities have banned the sale of flavored tobacco products, including Massachusetts, California, and the District of Columbia. The flavor bans in Massachusetts and California have been costly. Massachusetts saw a \$125 million decline in revenues the first year after implementation and California saw cigarette tax revenue decline by roughly 17.3 percent in the first month after imposing its ban. California's annualized revenue decline could surpass \$300 million, exceeding the state's revenue loss estimates by more than 37 percent.¹ A ban on flavored tobacco would disrupt Maine's tobacco market and significantly decrease the state's tax revenue.

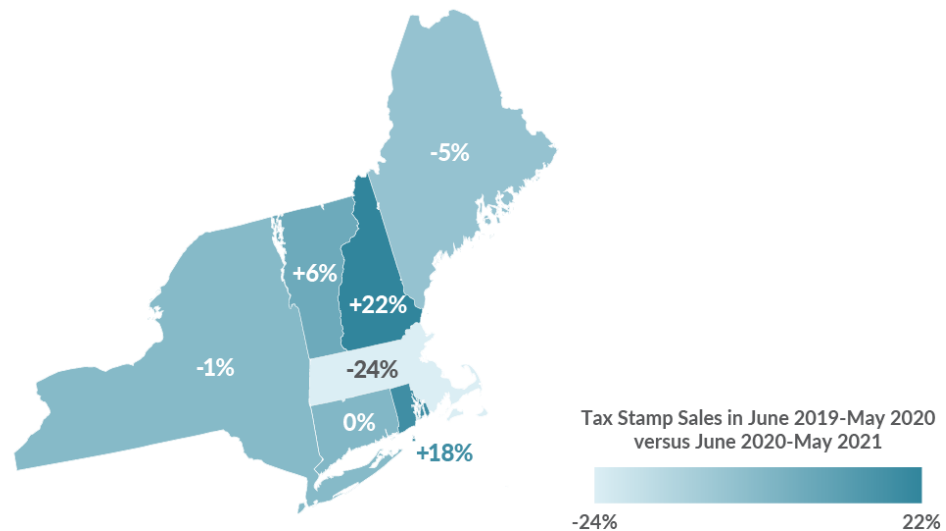
Proponents of flavored tobacco bans point to the decline in legal purchases as a measure of success. But identifying the cause of the decline is paramount to determining the policy's effects. Flavored tobacco smokers may quit smoking after no longer being able to purchase their preferred products or they may continue to smoke by buying products across state borders or products that have been smuggled into the state.

In the year following the Massachusetts flavored cigarette ban, roughly 90 percent of the decline in state cigarette sales simply shifted to neighboring states. The 24 percent decline in Massachusetts sales was offset almost entirely by a 22 percent increase in sales in New Hampshire and an 18 percent increase in sales in Rhode Island.

¹ Adam Hoffer, "California Flavored Tobacco Ban May Cost More than \$300 Million in First Year," Tax Foundation, Feb. 24, 2023, <https://taxfoundation.org/california-flavored-tobacco-ban-revenue/>.

Tobacco Flavor Bans Move Sales to Neighboring States

Tax Stamp Sales in June 2019-May 2020 versus June 2020-May 2021



Source: Orzechowski & Walker Survey of State Departments of Revenue; Author's calculations.

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Maine is in the middle of the pack when it comes to cigarette smuggling. Roughly 5 million packs are smuggled into the state each year, giving the state the 24th highest smuggling rate in the country.² A ban on the sale of flavored tobacco products will likely skyrocket the state's smuggling rate and illicit cigarette market to all-time highs.

Legislators must strike a difficult balance. They must simultaneously try to reduce the harm caused by smoking, raise enough revenue to fund smoking cessation and other public health programs, and maintain a legal, well-regulated marketplace where participants can safely transact. As you consider these matters, we are happy to be a resource and would be delighted to provide you with more research on this topic.

² Adam Hoffer, "Cigarette Taxes and Cigarette Smuggling by State, 2022," Tax Foundation, Dec. 6, 2022, <https://taxfoundation.org/cigarette-taxes-cigarette-smuggling-2022/>.