

Janet T. Mills
Governor

Jeanne M. Lambrew, Ph.D.
Commissioner



Maine Department of Health and Human Services
Maine Center for Disease Control and Prevention
11 State House Station
286 Water Street
Augusta, Maine 04333-0011
Tel; (207) 287-8016; Fax (207) 287-9058
TTY: Dial 711 (Maine Relay)

Testimony of the Maine Center for Disease Control and Prevention
Department of Health and Human Services

Before the Joint Standing Committee on Health and Human Services
In Support of LD 1174, *An Act to Prohibit the Sale of Flavored Tobacco Products*

Hearing Date: April 25, 2023

Senator Baldacci, Representative Meyer, and Members of the Joint Standing Committee on Health and Human Services, my name is Jamie Cotnoir and I am the Associate Director of the Division of Disease Prevention at Maine CDC. I am here today to provide testimony on behalf of the Maine Center for Disease Control and Prevention and will be speaking in support of LD 1174, *An Act to Prohibit the Sale of Flavored Tobacco Products*.

LD 1174 prohibits the sale and distribution of flavored tobacco products. This bill defines a “flavored tobacco product” to mean any tobacco product that imparts a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of a tobacco product. This bill also amends the definition of electronic smoking device (22 MRS § 1551, sub-§ 1-D) to further clarify that "electronic smoking device" includes any component, part or accessory of the device and also includes any substance that may be aerosolized or vaporized by that device, whether or not the substance contains nicotine and that it does not include drugs, devices or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

The Maine Center of Disease Control and Prevention (Maine CDC) supports this bill and offers the following information for consideration.

Cigarette smoking is the number one modifiable cause of death and disease in the United States. In Maine, 2,400 adults die annually from smoking and 27,000 Maine youth currently under the age of 18 will die prematurely from smoking-related illness.

Nationally, cigarette smoking is linked to between 80% and 90% of lung cancer deaths. According to the Campaign for Tobacco Free Kids, in 2019, tobacco use was estimated to cost \$811,120,557 in direct health care expenditures in Maine. Flavored tobacco products, no matter the type, appeal to youth. In 2021, nearly 8 in 10 youth who reported using tobacco products used flavored varieties.

Cigarettes are prohibited from containing flavors except for tobacco or menthol. Other tobacco products including cigars and e-cigarettes are available in myriad of fruit, candy, and other flavors that mask the harshness and are appealing to young people. The vast majority of adult smokers first start before the age of 18 are more likely to start with flavored products. Menthol has analgesic properties making it even easier to inhale, increases the likelihood of nicotine dependence, decreases the likelihood of

quitting, and contributes to disparity in use in certain vulnerable populations. Young people, racial and ethnic minority groups, LGBTQ+ people, women, people with a low income, people with mental health conditions, and members of the BIPOC community also are more likely to use flavored tobacco products than other population groups.

Flavored tobacco products also disproportionately impact African Americans. It is estimated that approximately 40% of excess deaths due to menthol cigarette smoking in the U.S. between 1980 - 2018 were those of African Americans, despite African Americans making up only about 12% of the U.S. population.

Many states and communities, including a growing number in Maine, have restricted the sale of flavored tobacco products. This decision made in the interest of public health has resulted in loss of tax revenue. The Legislature will need to identify funding to offset this loss of revenue.

Federal courts have found that federal law does not limit the authority of these jurisdictions to prohibit the sale of tobacco products in accordance with the Family Smoking Prevention and Tobacco Control Act passed in 2009. Research has also found that laws that do not include menthol cigarettes, or that do not apply to all tobacco retailers, may reinforce health disparities.

In summary, the Maine CDC respectfully recommends this bill ought to pass as evidence shows that flavored tobacco products, including menthol cigarettes, increase the risk of youth initiation, undermine tobacco treatment efforts, and contribute to health disparities. Additionally, the Maine CDC suggests that the language specific to electronic smoking device found in the bill be reviewed for potential impact on regulations governing Maine's Medical Use of Cannabis Program and, specifically, that the legislation clarifies whether the provisions of this bill apply to these laws that refer to permissible paraphernalia.

Thank you for your consideration of this matter and for the opportunity to provide testimony today. I can address questions from the Committee, and I will be available to participate in the work session.