

TESTIMONY OF MEAGAN SWAY, ESQ.

**Neither For Nor Against**  
**LD 1174 - An Act to Prohibit the Sale of Flavored Tobacco Products**  
**LD 1215 - An Act to End the Sale of Flavored Tobacco Products**

Joint Standing Committee on Health and Human Services

April 25, 2023

Senator Baldacci, Representative Meyer and members of the Joint Standing Committee on Health and Human Services, good morning. My name is Meagan Sway, and I am Policy Director for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions through advocacy, education, and litigation. On behalf of our members, we wish to testify neither for nor against LDs 1174 and 1215, but to caution the committee against a prohibitionist approach to substance use.

If enacted, this bill would prohibit the sale of flavored tobacco products, including flavored cigars and electronic smoking devices. The intention behind this section is good: to address the adverse health consequences of this product that has been directly marketed to youth, people of color (especially Black people), and LGBTQIA+ people for years. Due to the structural inequities faced by people of color and LGBTQIA+ people in our country, those populations face higher stressors and trauma that tobacco can soothe, as well as less access to health care and treatment options to stop. Moreover, the enforcement mechanism for this bill is not criminal, which is particularly commendable. Criminal penalties do not deter drug use, but instead stigmatize it and create barriers to healthy living. Instead of arrests or imprisonment, the stated penalty for violating this legislation would be a civil fine to retailers and distributors.

However, in banning the sale or distribution of flavored tobacco, this bill takes a prohibitionist approach to drug use. Prohibition promises a healthier society by denying people the opportunity to consume drugs, and possibly, to become addicted. The reality of prohibition belies that promise. Accordingly, as we have done with past legislation and will do with future bills, we recommend that the committee consider other means of enforcing its drug policy. We support funding a robust education campaign, increasing resources for smoking cessation, and

addressing underlying stressors created by inequality that make people turn to tobacco in the first place. The legislature ought to focus its energy on these preventative measures.

Thank you for your time and attention.