

February 1, 2024

Maine State Legislature
Committee on Health and Human Services
c/o Legislative Information Office
100 State House Station
Augusta, ME 04333

RE: **LD 2157- *An Act to Prohibit Tobacco Sales Near Schools* – NECSEMA Opposes**

Dear Members of the Committee on Health and Human Services:

The New England Convenience Store & Energy Marketers Association (NECSEMA) represents convenience stores and gasoline retailers, independent transportation fuel distributors, and the businesses which supply them. NECSEMA members own, operate and/or supply the majority of the 900+ convenience stores in Maine which employ over 15,000 people. Every year, our stores remit roughly \$1 Billion in taxes to the state of Maine.

LD 2157 would prohibit the Department of Health and Human Services from issuing new or renewed retail tobacco licenses to retailers operating within 1,000 feet of a K-12 grade school, as measured from the front door of the establishment to the front door of the school. While undoubtedly well-intentioned, NECSEMA strongly opposes this legislation for several reasons.

Our industry supports efforts to prevent youth smoking, and we stand at the forefront of efforts to prevent youth access to tobacco products. In Maine, it is illegal for a person to legally purchase any tobacco product unless they are at least 21 years old. Our retailers ensure that underage buyers cannot legally purchase tobacco products at their stores through strict age-verification processes. Retailers who do violate this law, even unknowingly, are subject to hefty fines of “not less than \$300 for the first offense, not less than \$600 for the 2nd offense and not less than \$1,000 for each offense thereafter, plus court costs”. *Maine Revised Statutes* Title 22, Chapter 262-A § 1555-B: Sales of Tobacco Products.

Accordingly, our retailers are trained and incentivized to prevent sales of tobacco products to underage buyers. Creating an arbitrary buffer greater than the length of three football fields between an elementary school and a retailer that sells tobacco products will not do anything to prevent youth usage of tobacco products. To the extent that underage users are acquiring tobacco products, it is highly unlikely that they are purchasing these products at our members’ stores. “The internet” is by far most common answer given in recent studies when youths are asked where they acquire tobacco and nicotine products.

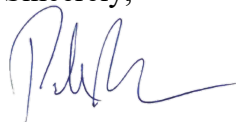
NECSEMA's retailer members sell many products, in addition to tobacco, at their stores. Some products such as tobacco and alcohol are age-restricted and treated carefully to prevent underage access. The percentage of in-store sales revenue that a store derives from tobacco sales varies from store to store, but for stores that retail these products, that number is not zero. Nationally, the average percentage of in-store sales revenue at convenience stores made up by tobacco sales is around 30%, and our stores in Maine likely follow this trend with variances based on store location and product offerings.

Importantly, this legislation would not only prevent the issuance of a new retail tobacco license to a store within the arbitrary 1,000-foot barrier, but it would also prevent the renewal of a license within that barrier. A store owner that is unlucky enough to find themselves within this new imaginary barrier could see the value of their business reduced significantly through no fault of their own if this bill is enacted as drafted. NECSEMA does not yet know the number of stores that would be impacted by this proposal but based on the huge 1,000-foot buffer zone contemplated by the legislation, it is likely significant. Consequently, what the legislation proposes is a massive government taking of certain Maine retailers' property with no compensation.

Standing at the front door of a school it is presumably hard to see a convenience store or other retailer that is located 1,000 feet away. A store could be located several neighborhoods away from the school, and might pre-date the school altogether, and could still be caught within this proposed zone. We support crackdowns, stings and the appropriate punishments for retailers that sell tobacco and nicotine products to customers under 21-years of age. However, we strongly oppose efforts to arbitrarily punish retailers for the location of their stores.

For the foregoing reasons, I urge you to vote no on LD 2157. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter A. Brennan".

Peter A. Brennan, Esq.