

**TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Taxation
Hearing Date: *February 12, 2025, Wednesday, at 1:00 PM*

LD 278 – *“An Act to Eliminate the Tobacco Products Tax on Certain Products
That Contain Nicotine”*

Senator Grohoski, Representative Cloutier, and members of the Taxation Committee – good afternoon, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am testifying at the request of the Administration Against LD 278, *“An Act to Eliminate the Tobacco Products Tax on Certain Products That Contain Nicotine.”*

This bill would reverse a recent law change that equalized the taxation of similar nicotine products and aligned the tobacco products tax definition of “tobacco products” with that of the Maine DHHS, Center for Disease Control & Prevention’s Retail Tobacco Licensing Program.

The 131st Legislature enacted PL 2023, c. 618, “An Act to Amend Certain State Tax Laws,” which amended the definition of “tobacco products” to include any product that is either derived from tobacco *or* that contains natural or artificial nicotine. The bill before you today would partially reverse that law change by amending the definition of “tobacco product” to exclude certain products not derived from tobacco, even if they contain nicotine, removing those products from the tobacco products tax.

As an example, there are nicotine pouches that do not contain tobacco leaf but do contain nicotine powder, which may be either tobacco-derived or synthetic. If this

bill was enacted, the tobacco products tax would continue to apply to those products that contain tobacco-derived nicotine but not those that contain synthetic nicotine, creating a disparity in taxation among very similar products.

Additionally, the Maine DHHS, Center for Disease Control & Prevention, Health Inspection Program governs the Retail Tobacco Licensing Program. The definition of “tobacco products” under Title 22, §1551(3) includes “any product that is made from or derived from tobacco, *or that contains nicotine*” [Emphasis added]. This bill would un-align the Title 36 definition of “tobacco products” and the Title 22 Retail Tobacco Licensing Program’s definition of “tobacco products.”

It is important to note that there is an existing tobacco products tax exemption for any tobacco product, including one made from synthetic nicotine, that has been authorized for sale by the U.S. Dept. of Health and Human Services, Food and Drug Administration as a “drug, device, or combination product,” for smoking cessation.

This bill is estimated to reduce revenue by approximately \$5.5 million per year.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee’s questions.