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May 12, 2025

Senator Denise Tepler, Chair
Representative Lori Gramlich, Chair
Members of the Environment and Natural Resources Committee

RE: Testimony Neither for Nor Against LD 754, An Act to Ban the Sale, Use and Possession of Single-use Electronic Cigarettes and to Review Extended Producer Responsibility Options for All Batteries

Dear Senator Tepler, Representative Gramlich and members of the Environment and Natural Resources Committee:

The Maine Grocers & Food Producers Association and the Retail Association of Maine are providing joint testimony neither for nor against *LD 754, An Act to Ban the Sale, Use and Possession of Single-use Electronic Cigarettes and to Review Extended Producer Responsibility Options for All Batteries*. Our business trade associations represent Main Street businesses including independently owned and operated grocery stores and supermarkets, general merchandise and specialty retailers, convenience stores, distributors, food and beverage manufacturers, and supporting partners — together representing more than 450 members statewide. Maine's retail sector employs more than 85,000 Mainers.

First, I would like to thank Senator Bennett for introducing this legislation and for his willingness to engage with stakeholders as this discussion continues. We appreciate the recognition that industry expertise and real-world operational feedback are important as this bill is further evaluated.

That said, we do want to raise several important considerations about LD 754 in its current form.

LD 754 should not be evaluated in isolation. Just weeks ago, the Committee voted LD 1519 out amended "Ought to Pass," and it's essential that the language, intent, and scope of LD 754 be aligned—or at least not in conflict—with that legislation. It's unclear at this time how the two bills would intersect, particularly in terms of product categories and regulatory overlap.

If enacted as drafted, LD 754 would have a substantial financial impact on the state. Disposable and pod-based products account for an estimated 90% of the vapor product market. Based on estimated annual vapor tax

revenue of approximately \$17.1 million, the state could lose up to \$15.4 million in revenue if these products are banned. A fiscal note will be critical to fully assess this impact.

The definition of “single-use electronic nicotine delivery device” in Section 1 is problematic. It describes single-use products as those “not rechargeable.” However, most illicit disposable products on the market are rechargeable, not because they are meant for multi-use, but because they contain more nicotine liquid than a single battery charge can exhaust. As such, many of these high-volume illicit products would be exempt from the prohibition—undermining the bill’s intent and creating a loophole easily exploited by non-compliant manufacturers.

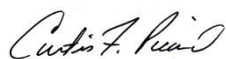
As you learned during the discussion of LD 1519, about 60% of the e-vapor market consists of illicit products—primarily from overseas manufacturers that have repeatedly altered products to sidestep regulations. If Maine prohibits legitimate, FDA-regulated disposable products while leaving a path open for illicit imports, the result could be a loss of legitimate retail business and an increase in black-market activity. The UK’s experience with a similar policy shows that manufacturers can quickly redesign products to appear compliant while avoiding substantive regulation.¹

We also urge the Committee to consider how LD 754 would affect FDA-authorized products that have been granted premarket tobacco product application (PMTA) approval and deemed “appropriate for the protection of public health.” These are legal products under federal law. As drafted, LD 754 could inadvertently ban even these federally authorized products—such as the NJOY Daily—while failing to stop unregulated alternatives. We believe this outcome would be counterproductive.

We support the stakeholder process outlined in Section 2 of the bill and agree that discussions around extended producer responsibility (EPR) for batteries are timely. We would encourage that any final policy decisions on product bans or battery regulations wait until that process has been completed.

We commend Senator Bennett for recognizing that additional work on this bill is necessary, and we welcome the opportunity to participate in any stakeholder discussions going forward. We believe that any effective policy in this space must strike a careful balance: reducing harm and environmental impact, protecting youth, supporting legitimate retail businesses, and ensuring Maine doesn’t unintentionally drive consumers to unregulated and unsafe markets.

Thank you for your consideration, and we are happy to answer any questions.



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¹ <https://www.dailymail.co.uk/news/article-14426501/Warning-Chinese-vapes-flavours-aimed-children-disposables-ban.html>