



Testimony in Opposition to LD 1938:
“An Act Regarding the Regulation of Tobacco”

Senator Ingwersen, Representative Meyer, and the distinguished members of the Committee on Health and Human Services, my name is Harris Van Pate, and I serve as policy analyst for Maine Policy Institute. Maine Policy is a free-market think tank, a nonpartisan, non-profit organization that advocates for individual liberty and economic freedom in Maine. Thank you for the opportunity to submit testimony in opposition to LD 1938, “An Act Regarding the Regulation of Tobacco.”

While well-intentioned in its stated goal to improve public health, LD 1938 introduces a series of overreaching regulatory changes that would impose unnecessary burdens on small businesses, restrict adult consumer choice, and potentially undermine harm-reduction efforts without offering clear benefits in return.

Ban on Vending Machine Tobacco Sales

LD 1938 eliminates the ability for retailers to sell tobacco products through vending machines. This provision may appear minor, but in practice, it threatens the viability of small, seasonal businesses—including fairground vendors, independent operators at agricultural festivals, and family-run shops in rural communities—that rely on vending machine sales as a low-overhead means of distribution.

These vendors already operate under multiple restrictions and location limitations. Removing this channel unjustly without offering a viable alternative penalizes these entrepreneurs and curtails legal adult access to a legal product. No new public health data has been presented justifying such a sweeping restriction, particularly given that youth access to tobacco is already heavily regulated and enforced under existing state and federal law.

Excessive Penalties for Distributors

LD 1938 would double the minimum and maximum civil penalties for unlicensed tobacco distribution (Sec. 9, 36 MRSA §4362-A). While maintaining regulatory compliance is essential, dramatically increasing fines—from \$250 to \$500 for first offenses, and up to \$2,000 for repeat violations—risks disproportionately harming small or newly established wholesalers who may make administrative errors, not willful violations. Maine should not erect higher barriers to entry for smaller market participants or threaten their operations with punitive fines that bear no relation to public harm.



Regulatory enforcement should be fair, targeted, and proportional. If compliance is a concern, the state should consider expanding educational outreach or streamlining the licensing process before defaulting to punitive escalation.

Overbroad Definition of “Electronic Smoking Device”

The bill also revises the definition of “electronic smoking device” to include components, accessories, and substances (Sec. 12), but explicitly excludes batteries and FDA-approved therapeutic products. This lack of clarity invites confusion for retailers, consumers, and regulators alike. More importantly, the expanded scope risks disincentivizing the use of e-cigarettes and vaping products by adults who have switched from traditional combustible tobacco. Numerous public health bodies—including Public Health England and the Royal College of Physicians—have recognized the potential role of vaping as a harm-reduction tool.^{1 2}

By lumping these products into an overly broad regulatory framework, LD 1938 could inadvertently push adults back toward smoking rather than encouraging safer alternatives. The state should be cautious not to undermine harm reduction pathways in the name of regulatory uniformity.

Ban on Smoking in All Hotel and Motel Rooms

Finally, LD 1938 eliminates the longstanding exception allowing smoking in designated hotel and motel rooms rented by consenting adults. This provision exemplifies unnecessary government overreach. Adult guests and business owners should be free to engage in voluntary arrangements so long as they are disclosed and managed. Tourists from states or nations with less burdensome smoking rules may be penalized unfairly by this change in the law.

Conclusion

LD 1938 reflects a growing trend of excessive regulation that substitutes top-down control for personal responsibility and market choice. Maine already has some of the strongest tobacco control policies in the country. This bill oversteps by increasing penalties, banning legitimate sales channels, and regulating adult behavior in private settings, while offering minimal public health improvement.

We urge this committee to seek less restrictive alternatives that promote responsible behavior without undermining liberty, consumer choice, or economic opportunity. We

¹ <https://evapo.co.uk/blog/royal-college-of-physicians-continue-to-endorse-vaping>

² <https://pmc.ncbi.nlm.nih.gov/articles/PMC6775894/>



respectfully urge you to vote "Ought Not to Pass" on LD 1938. Thank you for your time and consideration.