

MPHA

Maine Public Health Association

Testimony of Maine Public Health Association In Support of: LD 1215: An Act to End the Sale of Flavored Tobacco Products

Joint Standing Committee on Health and Human Services
Room 209, Cross State Office Building
Tuesday, April 25, 2023

Dear Senator Baldacci, Representative Meyer, and distinguished members of the Joint Standing Committee on Health and Human Services. My name is Rebecca Boulos. I am a resident of South Portland and executive director of Maine Public Health Association.

MPHA is the state's oldest, largest, and most diverse association for public health professionals. We represent more than 700 individual members and 60 organizations across the state. The mission of MPHA is to improve and sustain the health and well-being of all people in Maine through health promotion, disease prevention, and the advancement of health equity. As a statewide nonprofit association, we advocate, act, and advise on critical public health challenges, aiming to improve the policies, systems, and environments that underlie health inequities – but which also have potential to improve health outcomes for all people in Maine. We are not tied to a national agenda, which means we are responsive to the needs of Maine's communities, and we take that responsibility seriously.

This bill would end the sale and marketing of all flavored tobacco products, including prohibiting the use of “characterizing” terms, such as “ice” to describe menthol. This is a tactic that has been used by the tobacco industry for marketing purposes and to dodge regulation. MPHA is in strong support of this proposal, which is a human and environmental health issue, as well as a social and environmental justice issue.

Smoking causes disease and disability, harming nearly every organ of the body.¹ Yet, tobacco use among Maine youth and adults is higher than national averages. Among Maine high school students, 20% use some form of tobacco, including cigarettes, cigars, e-cigarettes, and smokeless tobacco,² compared with 13.4% nationally.³ The use of tobacco products among Maine adults is lower than the youth use rate (16.5%) but still higher than the national average (15.5%).⁴ Thirty-two percent of high school students have ever used e-cigarettes (17.4% in the past 30 days),² compared with 4.1% of Maine adults. In other words, while we've seen an explosion in youth tobacco use, after decades of a downward trend, we have not seen that same level increase in adult use.

That's because the tobacco industry knows that 95% of adults who smoke start by age 21,⁵ and 80% of kids who have used tobacco started with a flavored product.⁶ To attract younger “replacement smokers,”⁷ the industry has developed and markets more than 15,000 flavored tobacco products. These flavors include everything from Rocky Road-flavored cigars to Dr. Pepper-flavored dissolvables to Unicorn Frappe on Ice nicotine juice (flavored to taste like raspberries, mangoes, fresh cream, cotton candy, and menthol). Findings published in *The New England Journal of Medicine* showed that the same chemicals used in “cherry,” “grape,” “apple,” “peach,” and “berry” Jolly Rancher candies, Life Savers, and Kool-Aid drink mix were also used in similarly flavored tobacco products. According to the authors, “What we are seeing is truly candy-flavored tobacco.” Included with my testimony is an infographic of the various types and flavors of tobacco products.

This epidemic started with Juul; a high-tech device disguised as a USB drive that comes in a variety of flavors to entice kids. One Juul pod contains as much nicotine as a pack of 20 cigarettes.⁸ This high concentration is a serious concern for youth, who are already uniquely susceptible to nicotine addiction.⁹ Despite action by the U.S. Food & Drug Administration (FDA), flavored e-cigarettes – especially menthol e-cigarettes and sweet-flavored disposables – remain widely available. Many popular e-cigarettes are pod-based with single-use plastic cartridges. These disposable e-cigarettes, which are designed entirely for one-time use, have skyrocketed in popularity with a 1,000% increase in use among high school students between 2019 and 2020.¹⁰ And while almost all e-cigarettes contain liquid nicotine,¹¹ which the EPA classifies as an acute hazardous waste,¹² too many Maine youth think it's just harmless flavoring.²

Flavored tobacco products also include mint and menthol combustible cigarettes. Menthol cigarettes are the most dangerous flavored tobacco product. Menthol flavoring makes it easier for youth to start smoking and become addicted to cigarettes.¹³ Menthol masks the harsh taste of tobacco and numbs the throat, making the smoke easier to inhale more deeply.¹⁴ People who smoke menthol cigarettes are also less likely to successfully quit smoking than other people who smoke.¹⁵ Half of youth who have ever tried smoking started with menthol cigarettes.¹⁶

The tobacco industry has a long and lethal history of targeting kids and other populations with flavored products. For example, tobacco industry documents reveal aggressive marketing, including cheaper prices, increased retail density, and more advertising of menthol cigarettes in Black neighborhoods.¹⁷ This marketing works: 85% of Black adults who smoke use menthol cigarettes,¹⁸ compared with 27% of white smokers. The tobacco industry has also targeted the lesbian, gay and bisexual community with predatory advertising in LGBTQ+ magazines and sponsorships of local Pride events and celebrations.¹⁹ As an example of the industry's intentional focus on already marginalized populations, in the 1990s, the tobacco industry ran a marketing campaign called Project SCUM, which stands for Sub-Culture Urban Marketing. Project SCUM targeted LGBTQ and homeless populations in California. The targeting of populations that experience marginalization is not new for this industry, and that includes people with mental, developmental, and behavioral health challenges, women, people with low-income, and people living in rural areas.

Even today, the industry markets some their products as “harm reduction” options, but if tobacco companies were actually serious about lowering smoking rates, they would stop selling addictive products altogether. Indeed, while e-cigarettes are marketed as a harm reduction tool for tobacco smokers wishing to quit, systematic reviews suggest a lack of clear efficacy of e-cigarettes in smoking cessation.^{20,21} Moreover, in addition to nicotine, e-cigarettes contain several harmful and potentially harmful ingredients, including ultrafine particles that can be inhaled deep into the lungs. There is evidence to suggest that these particles lead to cardiovascular injury, with links to negative effects on resting heart rate, blood pressure and the cells that line the blood vessels.²² Bystanders can also breathe in, and be harmed by, this aerosol. E-cigarettes also contain flavorants such as diacetyl, a chemical linked to serious lung disease; volatile organic compounds; and heavy metals, such as nickel, tin, and lead.²³ While many of the flavorings and humectants used in e-liquids have been approved by the FDA for oral consumption, they have not been approved for inhalation. Thus, their health consequences are not well known when consumed in this manner.²⁰ In other words, the harm from using e-cigarettes is not reduced; it's just different.

A recent randomized controlled trial reported that smoking cessation was achieved in more participants using e-cigarettes than in those using conventional Nicotine Replacement Therapy (NRT) – but with the caveat that participants in both groups had regular face-to-face meetings with clinicians.²⁴ This form of support is not provided to the majority of those seeking to quit smoking; medical personnel support and knowledge are not uniformly provided for e-cigarette users looking to quit combustible tobacco. Furthermore, only 18% of participants using e-cigarettes achieved smoking abstinence, suggesting that e-cigarettes are not the “cure” for tobacco use; and 80% of e-cigarette users who were tobacco abstinent continued to use e-cigarettes 12 months later, suggesting e-cigarettes may promote continued nicotine dependence.

Moreover, despite using e-cigarettes to quit smoking cigarettes, most adults continue to smoke combustibles (“dual use”). Among adults, 54.6% of current e-cigarette users also smoke cigarettes.²² Data from Phillip Morris International show that “dual use of heated tobacco products along with cigarettes is, by far, the most dominant pattern of use, which raises substantial issues about what impact they might have on overall public health. Notably, research has shown that dual use is not associated with reduced cigarette use, but rather increased exposure and poorer health outcomes than using cigarettes or e-cigarettes alone.”²⁵ Evidence suggests many e-cigarette users continue to smoke cigarettes,²⁵ and the extent of harm minimization, if any, in dual users is unclear. Even more worrisome, e-cigarette use may contribute to relapse of smoking in ex-smokers^{26,27} and may encourage initiation of tobacco use among nonsmokers.²⁷

Data show relationships between cigarette and alcohol use, and risk for use of illicit drugs, like cannabis, heroin, and cocaine.²⁸ In a recent national survey, more than 90% of adult cocaine users smoked cigarettes before they began using cocaine.²⁹ In a landmark 2011 study, researchers identified a proposed biological mechanism to explain the association:³⁰ nicotine reprograms the expression pattern of specific genes associated with addiction, and ultimately alters the behavioral response to cocaine.

Another problem with tobacco products is that their waste makes its way into the environment, where it pollutes water, air, and land with toxic chemicals, heavy metals, and residual nicotine, which harms the health of humans, waterways, and wildlife. While all tobacco products contribute to pollution, e-cigarette waste is potentially a more serious environmental threat since e-cigarettes introduce plastic, nicotine salts, heavy metals, lead, mercury, and flammable lithium-ion batteries into waterways, soil, and to wildlife. E-cigarette waste doesn't biodegrade even under severe conditions, so e-cigarettes left on the street eventually break down into microplastics and chemicals that flow into the storm drains to pollute our waterways and wildlife.

Unlike other electronics, e-cigarette manufacturers do not provide consumers with clear instructions on how to properly handle e-cigarette waste once the e-cigarette or its accessories reaches the “end of life.” They leave the onus of figuring out how to safely dispose of e-cigarettes to the consumer, which is how they end up in all sorts of places.

In December 2022, a new article was published about the problem posed by the volume of e-cigarettes being put in the trash, all of which contain lithium-ion batteries. According to the article, “Five disposable vapes are being thrown away every second by young people in the US despite the devices containing reusable lithium-ion batteries. Over a year, this amounts to 150 million devices – which together contain enough lithium for about 6,000 Teslas. Lithium is an in-demand metal because of its use in rechargeable batteries that power everything from mobile phones to electric cars. But producing it is a complex process that typically generates high carbon emissions.”³¹

Flavored tobacco products, including cigarettes, cigars, chewing tobacco, and e-cigarettes, undermine Maine's efforts to prevent youth tobacco use. Tobacco use puts our kids' health and futures at risk. This bill confronts the tobacco industry for putting profits before people and the environment and calls out their widely adopted playbook among other poisoning and polluting industries of misinformation, denial, and regulatory delay.

MPHA supports legislation that protects public health, advances health equity, and reduces health disparities. This bill achieves those aims, and we are in strong support. We respectfully request you to vote LD 1215 “Ought to Pass.” Thank you for your consideration.

- ¹ U.S. Centers for Disease Control and Prevention, Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion. Smoking and tobacco use: Health effects. Accessed January 15, 2021.
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- ³ Gentzke AS, Wang TW, Cornelius M, et al. Tobacco product use and associated factors among middle and high school students — National Youth Tobacco Survey, United States, 2021. *MMWR Surveill Summ* 2022;71(No. SS-5):1–29.
- ⁴ U.S. Centers for Disease Control and Prevention. Behavioral Risk Factor Surveillance System. 2020.
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- ⁸ Walley SC, Wilson KM, Winickoff JP, Groner J. A public health crisis: Electronic cigarettes, vape, and JUUL. *Pediatrics*. 2019;143(6):e20182741.
- ⁹ U.S. Department of Health and Human Services, in partnership with the Office of the U.S Surgeon General and the U.S. Centers for Disease Control and Prevention, Office on Smoking and Health. 2020. Know the risks.
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- ¹³ U.S. Centers for Disease Control and Prevention. Menthol and cigarettes.
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- ¹⁵ Park-Lee E, Ren C, Sawdey MD, Gentzke AS, Cornelius M, Jamal A, Cullen KA. Notes from the field: E-cigarette use among middle and high school students - National Youth Tobacco Survey, United States, 2021. *MMWR Morb Mortal Wkly Rep*. 2021 Oct 1;70(39):1387-1389.
- ¹⁶ Cohn AM, Rose SW, D'Silva J, Villanti AC. Menthol smoking patterns and smoking perceptions among youth: Findings from the Population Assessment of Tobacco and Health Study. *Am J Prev Med*. 2019;56(4):e107-e116.
- ¹⁷ Campaign for Tobacco-Free Kids. Tobacco company marketing to African Americans.
- ¹⁸ Delnevo CD, Ganz O, Goodwin RD. Banning menthol cigarettes: A social justice issue long overdue. *Nicotine Tob Res*. 2020(10):1673-1675.
- ¹⁹ U.S. Department of Health and Human Services, in partnership with the National Institutes of Health and National Cancer Institute. Marketing tobacco to LGBT communities.
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- ²² Truth Initiative. E-cigarettes: Facts, stats and regulations. 2019.
- ²³ U.S. Department of Health and Human Services, in partnership with the Office of the U.S Surgeon General and the U.S. Centers for Disease Control and Prevention, Office on Smoking and Health. 2020. Know the risks: E-cigarettes and young people. 2020.
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- ²⁷ Gomajee R, El-Khoury F, Goldberg M, et al. Association between electronic cigarette use and smoking reduction in France. *JAMA Intern Med*. 2019;179(9): 1193–1200.
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What Are Flavored Tobacco Products?

E-Cigarettes

Example flavors: Cotton Candy, Unicorn Frappe

Menthol Cigarettes

Cigarette Papers

Example flavors: Coconut, Milk Chocolate, Bubblegum, Menthol

Snus/Pouches

Example flavors: Watermelon, Blueberry

Lozenges/Tobacco

Example flavors: Cherry, Menthol Mint

Chewing Tobacco

Example flavors: Wintergreen, Cherry

Gummies

Example flavors: Blue Raz, Cherry Bomb, Strawberry

Gum

Example flavors: Cool Mint, Cinnamon, Fruit Medley

Dissolvables/Lozenges

Example flavors: Crema, Berry, Dark Mint

Sticks

Example flavors: Lemon Mint, Menthol

Flavored Cigars, Little Cigars, Cigarillos

Example flavors: Rocky Road, Cream, Chocolate

Other

Example flavors: Blueberry, Strawberry, Watermelon



HIT Dr. Pepper



There are more than 15,000 flavored tobacco products on the market.

What new product will the tobacco industry create to hook our kids?
Let's not wait to find out.

We need to act today by putting common sense limits on this deadly industry.

To: Interested Parties
 From: Alysia Snell, Cate Gormley, and Izzy Vinyard
 Re: Maine Voters' Attitudes on Ending Sale of Flavored Tobacco Products that Can Appeal to Youth
 Date: April 3, 2023

A survey of likely 2024 voters in Maine found that voters are concerned about young people in their community becoming addicted to tobacco products and would favor a law that would end the sale of all flavored tobacco products that can appeal to youth. Maine voters prioritize preventing addiction in young people over arguments about helping smokers quit, protecting the rights of adults to use tobacco, or protecting small businesses who sell tobacco. Maine voters are either more likely to vote for a candidate for the state legislature who supports ending the sale of flavored tobacco products to prevent youth from starting and becoming addicted to tobacco products, or they say this position does not impact their vote.

Context

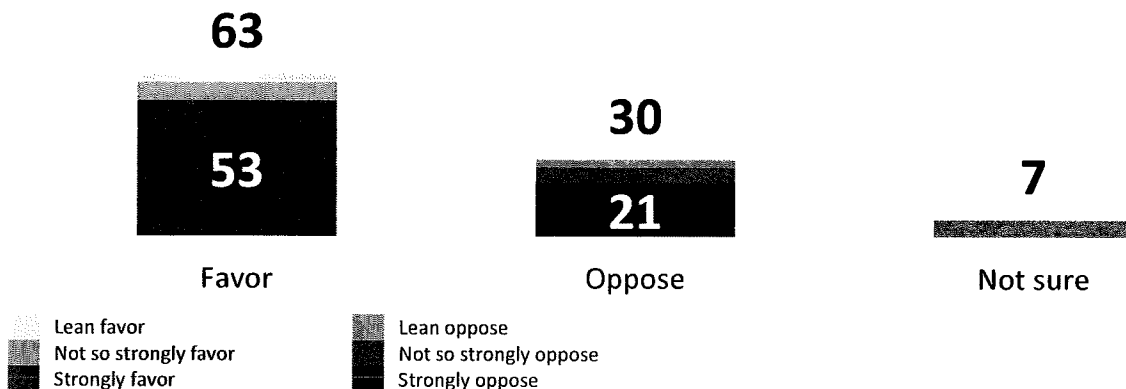
Voters worry about young people becoming addicted to tobacco products. Seven in ten (71%) Maine voters are concerned, and a plurality (45%) are very concerned about young people in their community becoming addicted to tobacco products, including e-cigarettes. About a quarter (28%) are not concerned.

This concern crosses party lines – 82% of Democrats are concerned (51% very concerned); 70% of Independents are concerned (48% very concerned); 64% of Republicans are concerned (40% very concerned).

Support for Ending the Sale of All Flavored Tobacco Products that Can Appeal to Youth

By a two-to-one margin, Maine voters favor a law that would end the sale of all flavored tobacco products that can appeal to youth, including fruit and candy-flavored e-cigarettes, menthol-flavored cigarettes, and other flavored tobacco products. A majority strongly favors this law to end the sale of all flavored tobacco products that can appeal to youth.

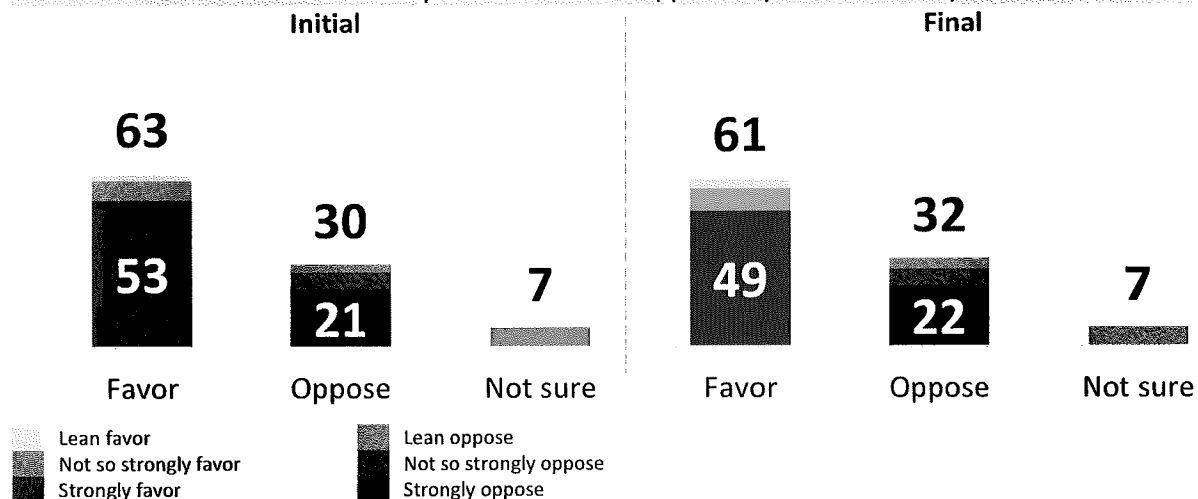
The State Legislature is considering legislation that would end the sale of all flavored tobacco products that can appeal to youth, including fruit and candy-flavored e-cigarettes, menthol-flavored cigarettes, and other flavored tobacco products. Do you favor or oppose this law to end the sale of all flavored tobacco products that can appeal to youth or aren't you sure?



Favorability for a law that would end the sale of all flavored tobacco products that can appeal to youth crosses demographic and attitudinal subgroups. Solid majorities across gender, age, educational attainment, and parental status favor this law, as do Democrats, Independents, voters who have never used tobacco products, and former tobacco users. Republican voters split between favoring and opposing the law. Current tobacco users oppose it by wide margins.

After engaged debates in favor of and in opposition to ending the sale of all flavored tobacco products that can appeal to youth, there is little movement over the course of the survey.

The State Legislature is considering legislation that would end the sale of all flavored tobacco products that can appeal to youth, including fruit and candy-flavored e-cigarettes, menthol-flavored cigarettes, and other flavored tobacco products. Do you favor or oppose this law to end the sale of all flavored tobacco products that can appeal to youth or aren't you sure?

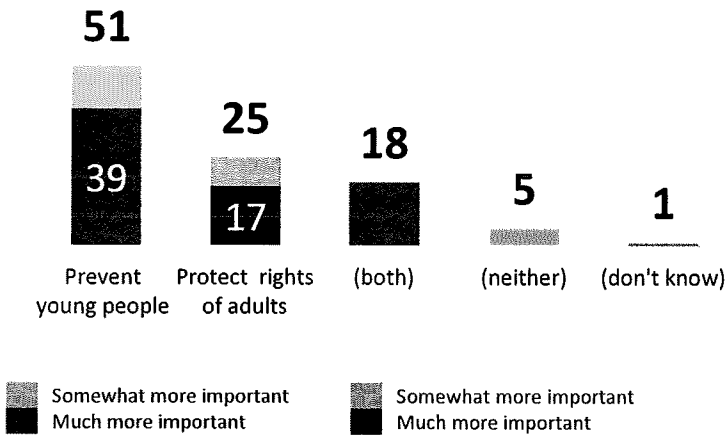


Engaged Debates

Voters side with ending the sale of all flavored tobacco products by wide margins no matter the frame and believe it is more important to prevent young people from becoming addicted.

A majority of voters say it is more important to help prevent young people from starting and becoming addicted to tobacco than it is to protect the rights and freedoms of adults to use tobacco; nearly one in five say both are important.

Which one of the following do you think is more important?

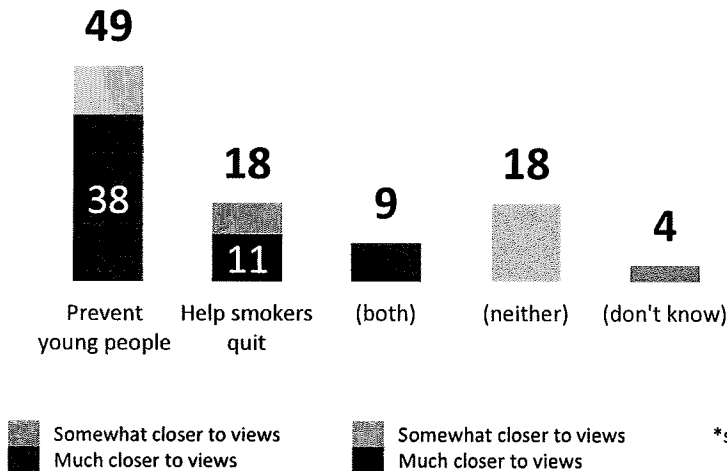


To help prevent young people from starting and becoming addicted to tobacco by ending the sales of fruit and candy-flavored e-cigarettes, menthol-flavored cigarettes, and other flavored tobacco products.

To protect the rights and freedoms of adults to use the tobacco, e-cigarette, and vaping products of their choice, including those with candy, mint, fruit, and menthol flavors.

About half of voters side with a statement about preventing young people from starting and becoming addicted to tobacco by ending the sales of flavored tobacco products over a statement about helping smokers quit by giving them access to flavored products. Nearly one in five say neither statement is close to their own views.

Which statement comes closer to your own view?*

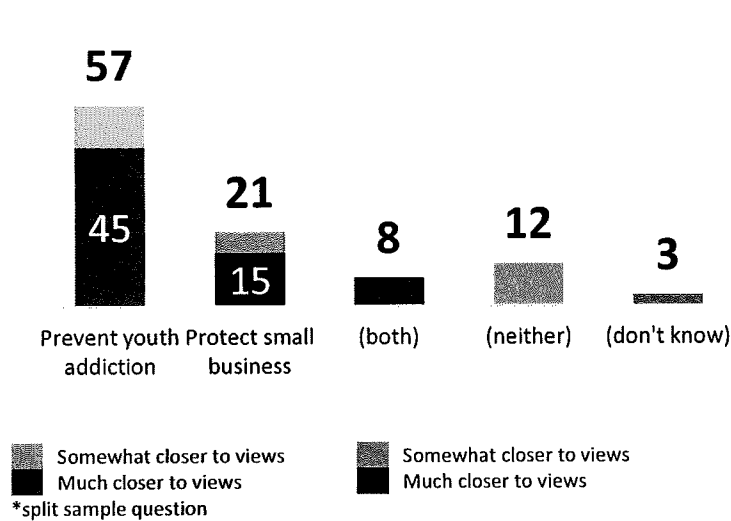


To help prevent young people from starting and becoming addicted to these products we need to end the sales of fruit and candy flavored e-cigarettes, menthol-flavored cigarettes, and other flavored tobacco products.

To help smokers try to quit cigarettes, we need to give them access to the flavored e-cigarette and vaping products of their choice including those with candy, mint, fruit, and menthol flavors.

A solid majority of voters side with a statement that says flavored tobacco is not keeping stores afloat and it is more important to prevent youth from becoming addicted over a statement that says we must protect local small businesses who profit from selling flavored tobacco products.

Which statement comes closer to your own view?*



Stores don't need to sell flavored tobacco products to stay in business and it is more important to end the sales of flavored tobacco products to help prevent our youth from starting and becoming addicted to these products.

It is more important to protect the local small businesses who depend on the sale of flavored tobacco products to stay in business and continue to employ members of their community.

Statements

When voters hear different statements, the one that raises the most concern is one that says, “If we don’t end the sale of flavored tobacco products, then our youth will continue to have access to these highly addictive and dangerous products,” with a strong majority expressing concern (59% concerned, 35% very concerned).

In contrast, a statement about Maine youth buying more dangerous products on the dark web if flavored tobacco products are taken off the market is not a concern to a majority of voters (54% not concerned, 33% not concerned at all), although 42% express at least some concern (23% very concerned). Majorities across party lines express less concern about this statement (56% Democrats and Independents; 52% Republicans).

Voters are the least concerned about a statement about how ending the sale of these products will negatively impact fishermen and lobstermen – “Our fishermen and lobstermen use flavored tobacco while they are working and ending the sale of these products will negatively impact them” (75% not concerned, 61% not concerned at all). Across party lines there is less concern about this statement – Democrats 81% not concerned, Independents 82% not concerned, Republicans 69% not concerned.

Now I am going to read you some statements people have made. Please tell me how concerned the statement makes you – very concerned, somewhat concerned, a little concerned, or not concerned at all.

If we don't end the sale of flavored tobacco products, then our youth will continue to have access to these highly addictive and dangerous products



If flavored tobacco products are taken off the market, Maine youth will buy more dangerous products on the dark web



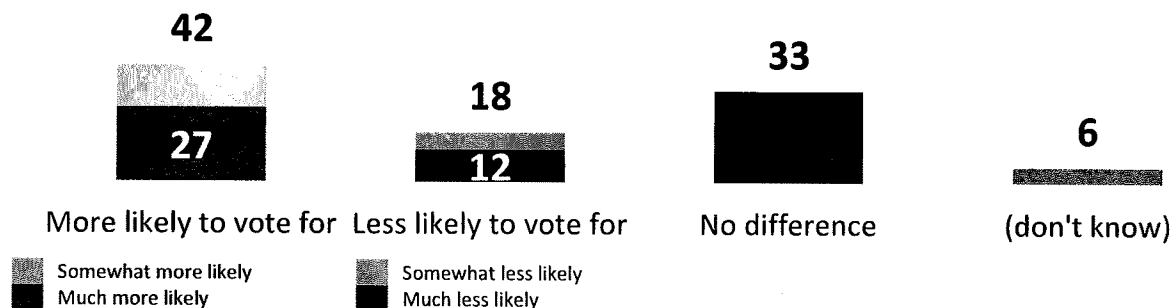
Our fisherman and lobsterman use flavored tobacco while they are working and ending the sale of these products will negatively impact them



Voting for a Candidate Who Would End the Sale of All Flavored E-Cigarettes and Tobacco Products

Voters would reward a candidate who supports ending the sale of flavored tobacco products. Three-quarters of voters say they would either be more likely to vote for a state legislature candidate or it would make no difference to their vote if that candidate supported ending the sales of fruit- and candy-flavored e-cigarettes, menthol-flavored cigarettes, and other flavored tobacco products to prevent youth from starting and becoming addicted to tobacco products.

If a candidate for the state legislature supported ending the sales of fruit- and candy-flavored e-cigarettes, menthol-flavored cigarettes, and other flavored tobacco products to prevent youth from starting and becoming addicted to tobacco products, would that make you more or less likely to vote for that candidate or would it make no difference?

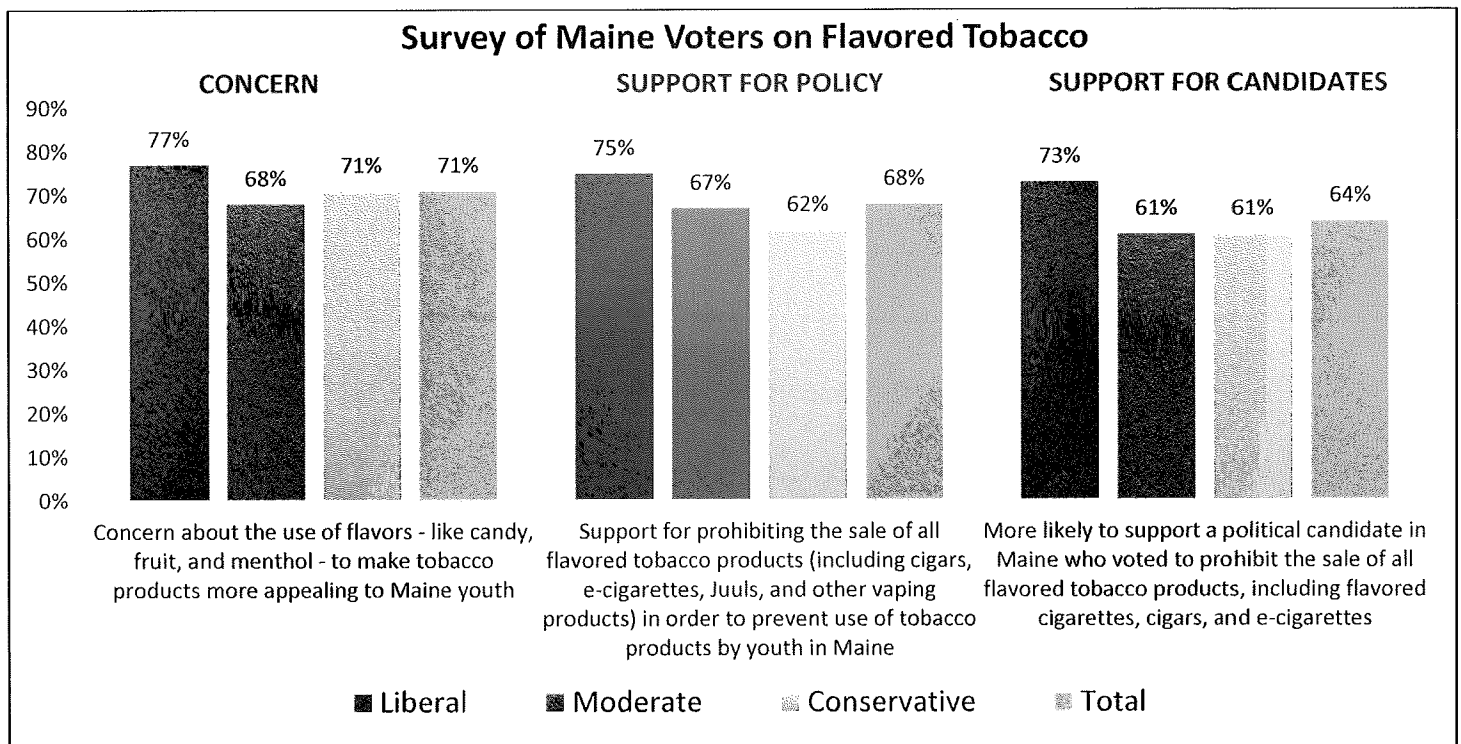


Survey of Maine Voters on Tobacco

Mainers Strongly Support Ending the Sale of Flavored Tobacco Products

According to a comprehensive survey of Maine voters commissioned by Maine Public Health Association, conducted by DRI-Critical Insights, and funded by Maine Cancer Foundation, a large, bipartisan majority of Maine voters are:

- **Concerned** about the use of flavors in tobacco products (71%)
- **In support** of ending the sale of all flavored tobacco products (68%)
- **More likely** to support political candidates who voted to end the sale of all flavored products (64%)



Other survey findings:

- 85% of Maine voters believe it is important to prevent Maine youth from using tobacco products.
- More than 70% of Maine voters don't believe the false claim that e-cigarettes help cigarette smokers quit smoking; in fact, 73% believe e-cigarettes, Juuls, and other vaping products increase nicotine addiction among youth and young adults.

The poll was conducted by DRI/Critical Insights between April 4 and April 15, 2019. Data were gathered online from 450 registered Maine voters aged 18 and older, offering a sampling error of +/- 4.7 percentage points, at 95% confidence. The state was sampled by county population in proportion to the most recent election turnout. Percentage figures have been rounded to the nearest whole number. Full results and additional poll information are available at: <https://mainepublichealth.org/advocacy/advocacy-resources>.



Flavors hook Maine kids.

**4 out of 5 kids who have used tobacco started with a flavored product.
It's time to end the sale of all flavored tobacco products in Maine.**

SUPPORTING ORGANIZATIONS

Access Health	Maine Cancer Foundation
American Academy of Pediatrics, Maine Chapter	Maine Children's Alliance
American Cancer Society Cancer Action Network	Maine Conservation Voters
American Heart Association	Maine Dental Association
American Lung Association	MaineHealth
Apex Youth Connection	Maine Medical Association
Aroostook Mental Health Center	Maine Osteopathic Association
Bangor Public Health	Maine Public Health Association
Be The Influence	Maine Recreation and Parks Association
Boys & Girls Clubs Across Maine	Mid Coast Youth Center
Brunswick Teen Center	New England Arab American Organization
Campaign for Tobacco-Free Kids	Northern Light Health
Center for Black Health & Equity	OutMaine
Central Maine Healthcare	Partnership for Children's Oral Health
Christian Civic League of Maine	Penquis Community Action
Consumers for Affordable Health Care	People Plus
Defend Our Health	PIRG
EqualityMaine	Planned Parenthood of Northern New England
Healthy Acadia	Portland Recovery Community Center
Healthy Androscoggin	River Valley Healthy Communities Coalition
Healthy Communities of the Capital Area	Sagadahoc County Board of Health
Maine Association for Health, Physical Education, Recreation, and Dance	Tobacco-Free Maine Works
	Westbrook Partners for Prevention
	YMCA Alliance of Northern New England



Together, we can give Maine youth and young adults a fair shot at a healthy and productive future, free from tobacco addiction.

www.flavorshookkidsmaine.org



Engage • Educate • Inspire



YMCA ALLIANCE OF NORTHERN NEW ENGLAND