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**Testimony of Hilary Schneider, Regional Government Relations Director, American Cancer Society Cancer Action Network,**

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**In Opposition to LD 1923 "An Act to Provide for Licensing of and Tax Collection from Remote Retail Sellers of Pipe Tobacco and Premium Cigars"**

**May 17, 2023**

Senator Baldacci, Representative Meyer, and members of the Health and Human Services Committee My name is Hilary Schneider, and I am the Regional Government Relations Director of the North Atlantic Region for the American Cancer Society Cancer Action Network (ACS CAN) In this role, I serve as the lead Government Relations Director for Maine ACS CAN, the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society, supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem As the nation's leading advocate for public policies that are helping to defeat cancer, ACS CAN ensures that cancer patients, survivors, and their families have a voice in public policy matters at all levels of government The American Heart Association (the Association) is the nation's oldest and largest voluntary organization dedicated to fighting heart disease and stroke, whose mission is to be a relentless force for a world of longer, healthier lives The American Lung Association (ALA) is the leading organization working to save lives by improving lung health and preventing lung disease, through research, education and advocacy The Campaign for Tobacco-Free Kids (CTFK) is the leading advocacy organization working to reduce tobacco use and its deadly consequences in the United States and around the world Through strategic communications and policy advocacy campaigns, Tobacco-Free Kids works to change public attitudes about tobacco and promote evidence-based policies that are most effective at reducing tobacco use and save the most lives

I would like to thank you for this opportunity to submit the following testimony on behalf of ACS CAN, the Association, ALA, and CTFK in opposition to LD 1923 More specifically, we are strongly opposed to the provisions in the bill that would allow for remote sales of pipe tobacco and ask that your committee remove all references to pipe tobacco in the bill

Our organizations do not support remote, or Internet, sales of any tobacco product as allowing for remote sales makes enforcement of tobacco retail licensing and sales laws, including underage sales laws, more challenging It also makes tax collection more challenging Our organizations oppose tobacco products being shipped directly to consumers All tobacco products and all tobacco retailers should be regulated in the same manner, shipments directly to consumers should be prohibited and only allowed to in-state brick & mortar licensed retailers As such, our organizations oppose any expansion of tobacco products being delivered directly to consumers as done in LD 1923

Maine's cancer incidence rate is significantly higher than the national average, driven largely by a higher-than-average incidence of tobacco-related cancers Maine has the 16<sup>th</sup> highest rate of adult smoking in the nation and the 9<sup>th</sup> highest rate of smoking-related cancer deaths<sup>1</sup> You may be surprised to learn that Maine's adult smoking rate is higher than that of Georgia, Florida, North Carolina, and Texas An estimated 2,400 deaths are caused by smoking each year in Maine including nearly 34% of cancer deaths<sup>2</sup> Smoking is estimated to cost Maine \$942 million in direct health care costs, including \$281 million in Medicaid costs annually<sup>3</sup>

Laws preventing the sale of tobacco products to youth and young adults play an essential role in averting a lifetime of addiction and tobacco-related disease. Internet retailers have often failed to implement necessary controls to avoid illegally selling tobacco products to underage individuals. Illegal sales of tobacco products to underage individuals can significantly undermine efforts to protect public health and play a role in increasing youth tobacco use. Federal law prohibits the shipment and transport of many types of tobacco products including cigarettes, e-cigarettes and their parts and accessories, and smokeless tobacco through the U.S. mail, with limited exceptions.<sup>iv</sup> In Maine, a retail tobacco license is required to sell tobacco products.<sup>v</sup> Tobacco products must be sold in retail settings only in a direct face-to-face exchange with requirements for age verification, with few exceptions.<sup>vi</sup> One exception is the sales of premium cigars, which are allowed for sale through delivery sales.<sup>vii</sup>

Our understanding is that the intent of this bill is to address issues that have arisen with such delivery sales and collection of taxes on those sales. It is also our understanding that this bill is based on a national model from the tobacco industry, and, as such, inadvertently included pipe tobacco. As mentioned above, ACS CAN strongly opposes allowing for the sale of tobacco products including pipe tobacco through delivery, remote, or internet sale. If there are current issues with online sales of premium cigars, our organization recommends removing the current exemption for premium cigars and include them in the prohibition of all other tobacco products from being sold through delivery sales.

If this committee is going to make changes to current Maine law regarding tobacco product sales, it is important to ensure that none of the changes will promote increased tobacco sales and that any change ensure that there are strong protections against underage sales. It's also important to note that the tax committee is considering a department bill (LD 1808) that makes changes to the taxation statute pertaining to remote tobacco product sales. As such, it's important to note that LD 1923 repeals the current statute regarding delivery sales of premium cigars (Title 22, §155-C) in part 4 of the bill and incorporates similar provisions into the tax statute (Title 36). The new provisions proposed in this bill would weaken current provisions in law pertaining to age verification. Current age verification requirements in Title 22 explicitly require delivery sellers to obtain a "copy of a valid government-issued document" with name, current address, photograph and dates of birth, and cross-reference the proof of age with a commercially available database derived solely from government records. Section 24 of LD 1923 includes less stringent age verification, only relying on personal information entered by the consumer during the ordering process and allows cross-reference with a "database or aggregate of databases that is regularly used by government agencies and *businesses*."

LD 1923 also changes how remote sales of premium cigars are taxed, with the potential of lowering the tax burden. This bill moves from a tax rate of 43% of wholesale sales price to a tax rate of 43% of "retail sales price." Wholesale price excludes discounts and other reductions, but retail sales price does not. According to numerous sources, the tobacco industry spends millions of dollars each year for price discounts that effectively lower the price of products.<sup>viii</sup> If the "actual price paid," or "retail sales price," includes the price with those discounts, then the price on which the tax is calculated, and therefore the tax payment, would be lower. Our organizations oppose any reductions in tobacco tax rates. Our organizations have some additional concerns with some of the provisions related to remote sellers in LD 1923 that differ from the department's bill (LD 1808) under consideration in the tax committee. If this vehicle moves forward with remote sales, we would be happy to put those additional concerns in writing.

We appreciate your time and consideration of our comments. I would be happy to answer any questions about this testimony.

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<sup>i</sup> State adult smoking rates from the CDC 2021 Behavioral Risk Factor Surveillance System (BRFSS) data available online. Smoking-related cancer deaths data from the American Cancer Society.

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<sup>ii</sup> Campaign for Tobacco-Free Kids The Toll of Tobacco in Maine Updated Feb 17, 2023,  
[https://www.tobaccofreekids.org/facts\\_issues/toll\\_us/maine](https://www.tobaccofreekids.org/facts_issues/toll_us/maine)

<sup>iii</sup> Campaign for Tobacco-Free Kids The Toll of Tobacco in Maine Updated Feb 17, 2023,  
[https://www.tobaccofreekids.org/facts\\_issues/toll\\_us/maine](https://www.tobaccofreekids.org/facts_issues/toll_us/maine)

<sup>iv</sup> For more details on the federal law, see the pp 12-14 of the Public Health Law Center's May 2022 publication on Online Sales of E-cigarettes and Other Tobacco Products,  
<https://www.publichealthlawcenter.org/sites/default/files/resources/Online-Sales-E-Cigarettes-Other-Tobacco-Products.pdf#~:text=Internet%20sales%20of%20commercial%20tobacco%20products%20to%20underaged,because%20adolescent%20brains%20are%20more%20sensitive%20to%20nicotine>

<sup>v</sup> Title 22, §1551-A

<sup>vi</sup> Title 22, §1555-B

<sup>vii</sup> Title 22, §1555-C

<sup>viii</sup> Wang TW, Falvey K, Gammon DG, et al Sales trends in Price-Discounted cigarettes, large Cigars, little Cigars, and Cigarillos-United states, 2011-2016 *Nicotine Tob Res* 2018,20 1401–6 doi: 10.1093/ntr/ntx249pmid <http://www.ncbi.nlm.nih.gov/pubmed/29253226>, Reimold AE, Lee JGL, Ribisl KM Tobacco company agreements with tobacco retailers for price discounts and prime placement of products and advertising a scoping review *Tobacco Control* Published Online First 24 January 2022 doi: 10.1136/tobaccocontrol-2021-057026