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THE MAINE SENATE  
132<sup>nd</sup> Legislature

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

**Joint Standing Committee on Taxation  
February 12, 2025**

Senator Grohoski, Representative Cloutier and Distinguished Members of the Joint Standing Committee on Taxation:

I am Matthew Harrington; and I am proud to represent Senate District 33, which includes the municipalities of Alfred, Lebanon, Sanford and Waterboro. I am here today to present LD 278, “*An Act to Eliminate the Tobacco Products Tax on Certain Products That Contain Nicotine.*” This bill is a vital step toward aligning Maine’s tax policy with the principles of harm reduction, economic fairness, and consumer choice. It would also undo LD 2028 from the 131st Legislature, which redefined tobacco products in Maine law to include any product which contains nicotine, even if that product does not contain tobacco.

### **Reducing Health Risks**

As policymakers, we must recognize that not all nicotine products are created equal. Decades of research have shown that traditional combustible tobacco products, such as cigarettes, pose the greatest health risks to users. Meanwhile, alternative nicotine products, such as nicotine pouches and electronic nicotine delivery systems, provide a significantly lower-risk option for those who seek to transition away from smoking.

The US Food and Drug Administration has approved Zyn and other non-tobacco nicotine products for marketing; and since these products are used by tobacco addicts to quit tobacco, it is absolutely necessary for Maine to make it easier for people to access these products.<sup>1</sup> I assume due to the Governor’s ardent concern for the side effects of tobacco addiction on Mainers, she would support this policy, due to its direct reduction effects on tobacco use.

### **Economic Fairness and Reducing Regressive Taxation**

Tobacco and nicotine product taxes disproportionately impact lower-income individuals, creating a regressive tax burden that punishes those who may already be struggling financially. While sales taxes, in general, are known to be regressively targeted towards lower-income Mainers, tobacco products are known to be disproportionately consumed by lower-income people and those who are

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<sup>1</sup> <https://www.bakerlaw.com/insights/fda-authorizes-marketing-of-zyn-nicotine-pouches/>

uninsured.<sup>2</sup> This bill seeks to address that inequity by ensuring that safer alternatives to smoking are not subjected to the same punitive tax rates as traditional tobacco products.

Moreover, excessive taxation often drives consumers toward illicit markets or out-of-state purchases, which results in lost revenue for Maine businesses.<sup>3</sup> By eliminating the tax on non-combustible nicotine products, LD 278 supports our local retailers and small businesses, ensuring that Mainers have access to legal, regulated products rather than resorting to the black market.

### **Alignment with Best Practices in Public Health Policy**

Non-tobacco nicotine products, while still addictive, have noted health benefits over tobacco-based products. For one, not being tobacco-based means these products do not have the same level of carcinogens as tobacco products.<sup>4</sup> Additionally, due to the smokeless nature of many of these products, they do not have the same direct link with lung cancer that cigarettes do.

To quote FDA director of the Office of Science, Matthew Farrelly, on why his office authorized these types of non-tobacco products for marketing, “the data show that these nicotine pouch products meet that bar by benefiting adults who use cigarettes and/or smokeless tobacco products and completely switch to these products.”<sup>5</sup>

### **Conclusion**

LD 278 is a pragmatic, science-based policy that improves public health, promotes economic fairness, and aligns Maine’s tax framework with best practices in public health. By eliminating the tobacco tax on certain nicotine-containing products, this legislation will create incentives for individuals to transition away from harmful forms of nicotine consumption while also easing burdens on consumers and retailers.

I urge this committee to support LD 278 and move Maine toward a more balanced, effective, and science-based approach to nicotine taxation.

Thank you for your time and consideration. I am happy to answer any questions you may have.

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<sup>2</sup> <https://www.lung.org/research/sotc/by-the-numbers/top-10-populations-affected#:~:text=People%20in%20the%20U.S.%20with,a%20smoking%20rate%20of%2019.5%25.&text=Uninsured%20individuals%20in%20the%20U.S.,whose%20smoking%20rate%20is%208.4%25>.

<sup>3</sup> <https://taxfoundation.org/data/all/state/cigarette-taxes-smuggling-state-2022/#:~:text=Higher%20tax%20rates%20incentivize%20smuggling,or%20no%20tax%20at%20all>.

<sup>4</sup> <https://hub.jhu.edu/2024/03/08/zyn-nicotine-pouch-tory-spindle/>

<sup>5</sup> <https://www.fda.gov/news-events/press-announcements/fda-authorizes-marketing-20-zyn-nicotine-pouch-products-after-extensive-scientific-review>