



**Testimony of the American Lung Association
In Support of LD 1550
“An Act to End the Sale of Flavored Tobacco Products”**

Good morning Chairs Claxton and Meyer and distinguished members of the Joint Standing Committee on Health and Human Services. My name is Lance Boucher and I am the Senior Division Director, State Public Policy for the American Lung Association. The Lung Association is the nation’s oldest voluntary public health organization with a mission to save lives by improving lung health and preventing lung disease. We do this through education, advocacy, and research.

The American Lung Association supports measures to end the sale of menthol and all other flavored tobacco products in states and local communities. Indeed, the measure before you, LD 1550, is a comprehensive proposal that with swift enactment and implementation stands to be one of the most important public health measures in recent memory. For the Lung Association, this is about 3 things: first, helping Maine kids to achieve their full potential, 2) preventing lung disease, and 3) creating more resilience to COVID and future respiratory diseases.

This committee and the Maine Legislature have shown real leadership in your work to stem the tobacco use epidemic. Our state was an early adopter of Tobacco 21 legislation that was voted out of this committee, you have expressed strong support for robust funding of the Maine CDC’s tobacco prevention and treatment programs and have long supported our strong and popular smokefree laws. No one policy is a silver bullet, but collectively strong measures can help address the youth tobacco epidemic in Maine and improve the health of all Mainers. While our past work has been commendable we must continue to advance evidenced based policies to keep up with an industry focused on hooking the next generation of tobacco users. Flavors are what make tobacco products so appealing to young people and we urge you to pass a comprehensive policy to address all flavored tobacco products this session.

The Need is Clear:

Nationally and in Maine since the late 1990’s, we have been making tremendous progress in reducing cigarette smoking rates to all-time lows. However, this positive news has been tempered by a dramatic increase in youth e-cigarette use and a tobacco product use rate that hasn’t really changed in a decade.¹ Unfortunately, with this stalled progress, Maine’s youth tobacco rate remains higher than the national average with 1 in 3 Maine High School youth using some form of tobacco products.

In 2021, tobacco use is a very present and real issue in Maine impacting too many, especially our most vulnerable populations. The health and financial impact to our state is substantial:

- 2,400 Mainers die due to tobacco annually.
- Tobacco costs Maine more than \$1.7 billion, including \$261 million to the state Medicaid program, every year.²

Additionally, there has never been such attention to lung health in our lifetime. The COVID-19 pandemic has caused nearly 580,000 deaths nationwide, disrupting the lives of everyone in the country and caused us to investigate how to minimize future respiratory pandemics. The U.S. Surgeon General has conclusively linked smoking to suppression of the immune system, and smoking can cause more severe COVID-19 symptoms, according to the Centers for Disease Control and Prevention (CDC). With the threat of COVID-19 in addition to the numerous tobacco-caused diseases, it is imperative to prevent youth from starting to use tobacco and to help everyone quit.

Why address flavors?

Flavors are one of the main reasons kids use tobacco products and have played a big role in the youth vaping epidemic. Research shows that 81% of kids who have ever used tobacco products started with a flavored product. Youth also cite flavors as a major reason for their current use of tobacco products.³

Recognizing that almost all tobacco users begin their use during their adolescence or young adulthood, tobacco companies have spent billions of dollars marketing their products and making them more attractive to young people. It is well established that flavors are attractive to children and young people. Both the U.S. Surgeon General⁴ and the National Academy of Sciences, Engineering and Medicine⁵ have written comprehensive reports on e-cigarettes that discuss the subject. For decades, the tobacco industry has used flavors to attract youth. Indeed, the industry's decades-long conspiracy to deceive the public includes many documents that demonstrate the industry's understanding of the role flavors play in kids starting to use tobacco products. While most flavored cigarettes are prohibited, the industry is once again using flavored e-cigarettes – as well as cigars – to attract youth – and then addict them. With products claiming to taste like Gummy Bears, Atomic Fireball, Captain Crunch, Apple Juice and a wide variety of other fruit, candy and sweet flavors, there is no question that these flavors appeal to youth.

Kids clearly follow flavors. The National Youth Tobacco Survey (NYTS) 2020 revealed that teens made several notable changes in how they used e-cigarettes in 2020. Disposable e-cigarette use skyrocketed by 1,000% among high school e-cigarette users (from 2.4% to 26.5%) and 400% among middle school e-cigarette users (from 3% to 15.2%). Flavored e-cigarette use among current e-cigarette users also increased from 71.7% to over 82.9% among high school students and from 59.9% to 73.9% among middle school students. In addition, higher levels of menthol e-cigarette use were observed with 37% of high school students and 23.5% of middle school

students using menthol flavored products. The percentage was even higher among kids who used cartridge-based e-cigarettes.⁶

A comprehensive approach: We should not pick winners and losers of public health protections based on the method of nicotine addiction? We must treat all tobacco products the same.

Electronic Cigarettes

Contrary to what you will hear today, E-cigarettes are not a tobacco cessation device. Public health authorities in the U.S., including the CDC and Surgeon General have found there is no valid scientific evidence demonstrating that flavored electronic cigarettes are effective at helping smokers quit.

E-cigarettes have been increasingly popular among youth and young adults, but not nearly as popular among older adults. In 2019, 4.5 percent of adults used e-cigarettes every day or some days, and 36.9 percent of adults who used e-cigarettes also used traditional/combustible cigarettes. Adult e-cigarette use is highest among young adults: 9.3 percent of 18 – 24 year olds use e-cigarettes compared to 3.0 percent of 45 – 64 year olds.⁷

Menthol Cigarettes and Other Flavored Tobacco Products

Much like COVID-19 has a disproportionate impact on certain communities, especially communities of color, so does tobacco use and exposure to secondhand smoke. Menthol cigarettes remain a key vector for tobacco-related death and disease in Black communities, with over 80% of Black Americans who smoke using them. Nearly 9 in 10 African-American smokers (88.5 percent) aged 12 years old and older use menthol cigarettes.⁸ This is not by chance – the sale and marketing of menthol cigarettes disproportionately burdens the African-American community because of the tobacco industry.⁹ Also, use of menthol cigarettes is more common among youth, female smokers, LGBTQ+ smokers¹⁰, and those with mental illness.

A recent study showed that while overall cigarette use declined by 26% over the past decade, 91% of that decline was due to non-menthol cigarettes.¹¹ This underscores what an FDA scientific advisory committee already found:¹² menthol cigarettes are hard to quit, and they disproportionately affect Black communities.¹³

Sales of flavored cigars have also increased by nearly 50 percent since 2008, and flavored cigars made up more than half of the U.S. cigar market in 2015. The number of unique cigar flavor names more than doubled from 2008 to 2015 from 108 to 250.¹⁴

The health disparities we see with tobacco use and tobacco related disease are some of the reasons the American Lung Association supports a comprehensive policy solution to remove all flavored tobacco products from the market.

Why States Must Act?



For more than a decade, the American Lung Association has urged the United States Food and Drug Administration to remove menthol and all flavored tobacco products from the marketplace. We applaud the recent announcement by the Biden Administration to end the sale of menthol cigarettes and flavored cigars from the market but Maine kids cannot afford to wait for federal action.

Knowing that it could be several years before a prohibition on menthol cigarettes and flavored cigars takes effect, we continue to urge states and localities to act now to end the sale of menthol cigarettes and other flavored tobacco products. We encourage your swift and unanimous approval of LD 1550. With your support we have the opportunity to make sure that our current middle- and high-school aged kids have the opportunity to be the first tobacco-free generation.

I appreciate your attention to addressing the crisis before us and the opportunity to share these comments on behalf of the American Lung Association. With a vision of a world free of lung disease, the American Lung Association is working to eliminate the use of all tobacco products. We support strong tobacco prevention policies that are proven to reduce tobacco rates. A comprehensive approach, including passage of LD 1550 prohibiting the sale of all flavored tobacco products is needed to realize this vision and prevent today's youth from being the next generation of kids addicted to tobacco products.

¹ E-cigarettes are Reversing Progress in Reducing Youth Tobacco Use. Campaign for Tobacco Free Kids. <https://www.tobaccofreekids.org/assets/factsheets/0408.pdf> Accessed January 29, 2021.

² Campaign for Tobacco Free Kids. *The Toll of Tobacco in Connecticut*. Accessed February 8, 2017. <https://www.tobaccofreekids.org/problem/toll-us/maine>

³ Flavored Tobacco Products Attract Kids: Brief Overview of Key Issues. Campaign for Tobacco-Free Kids. <https://www.tobaccofreekids.org/assets/factsheets/0399.pdf> Accessed January 29, 2021.

⁴ U.S. Department of Health and Human Services. (2016.) E-Cigarette Use Among Youth and Young Adults. Retrieved from https://e-cigarettes.surgeongeneral.gov/documents/2016_sgr_full_report_non-508.pdf

⁵ National Academies of Sciences. (2018). Public Health Consequences of E-Cigarettes. Retrieved from <http://nationalacademies.org/hmd/Reports/2018/public-health-consequences-of-e-cigarettes.aspx>

⁶ Wang TW, Neff LJ, Park-Lee E, Ren C, Cullen KA, King BA. E-cigarette Use Among Middle and High School Students—United States, 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:1310–1312.

⁷ Electronic Cigarettes: Brief Overview of Key Issues. Campaign for Tobacco Free Kids. <https://www.tobaccofreekids.org/assets/factsheets/0396.pdf> Accessed January 29, 2021.

⁸ <https://truthinitiative.org/news/6-key-takeaways-new-fda-plan-e-cigarettes-flavored-tobacco-products>

⁹ Too Many Cases, Too Many Deaths: Lung Cancer in African Americans, American Lung Association. <https://www.lung.org/assets/documents/research/ala-lung-cancer-in-african.pdf>

¹⁰ Menthol cigarette smoking among lesbian, gay, bisexual, and transgender adults. Fallin A1, Goodin AJ2, King BA3. <https://www.ncbi.nlm.nih.gov/pubmed/25245795>

¹¹ Delnevo CD, Ganz O, Goodwin RD, Banning Menthol Cigarettes: A Social Justice Issue Long Overdue. *Nicotine Tob Res*, 2020 Oct 8;22(10):1673-1675. <https://doi.org/10.1093/ntr/ntaa152>.

¹² Tobacco Products Scientific Advisory Committee (TPSAC). Menthol cigarettes and public health: review of the scientific evidence and recommendations. Rockville, MD: Food and Drug Administration, 2011.

¹³ Delnevo CD, Ganz O, Goodwin RD, Banning Menthol Cigarettes: A Social Justice Issue Long Overdue. *Nicotine Tob Res*, 2020 Oct 8;22(10):1673-1675. <https://doi.org/10.1093/ntr/ntaa152>.

¹⁴ Delnevo, CD, et al., "Changes in the mass-merchandise cigar market since the Tobacco Control Act," *Tobacco Regulatory Science*, 3(2 Suppl 1): S8-S16, 2017. [In Press]