



Maine Grocers &
Food Producers
Association
PO Box 5234
Augusta, ME 04332
207.622.4461
info@mgfpa.org

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IN OPPOSITION – LD 1550 ‘An Act To End the Sale of Flavored Tobacco Products’

Dear Senator Claxton - Chair, Representative Meyer - Chair, and Members of the Committee On Health and Human Services,

My name is Christine Cummings and I am the Executive Director of the Maine Grocers & Food Producers Association (MGFPA). The Maine Grocers & Food Producers Association is a business trade association representing Maine’s food community; Main Street businesses, including independently owned and operated grocery stores and supermarkets, food and beverage producers and processors, manufacturers, wholesalers, distributors, and supportive service companies.

On Thursday, April 29, 2021, the U.S. Food and Drug Administration announced it is working toward issuing proposed product standards *within the next year* to ban menthol as a characterizing flavor in cigarettes and ban all characterizing flavors (including menthol) in cigars. The FDA further clarified that it cannot and will not enforce against individual consumer possession or use of menthol cigarettes or any tobacco product, and that they will work to make sure that any unlawful tobacco products do not make their way onto the market. Addressing menthol and flavored cigars at the federal level is the best strategy for Maine. It will ensure an evidence-based process. Most importantly a federal policy will not pit Maine stores against our neighboring states’ stores who continue to carry flavored tobacco products — if Maine bans them prematurely.

A flavor ban puts our Maine retailers at a significant disadvantage in relation to bordering New Hampshire. “New Hampshire has the highest level of outbound smuggling at 66.8 percent of consumption.”¹ This statistic is undoubtedly projected to increase if an entire product line is no longer available in Maine. Banning flavored tobacco will shift sales away from licensed, trained professional retailers and springboard smuggling or counterfeit activities.

New Hampshire retailers have made a strong effort to entice consumers from outside its borders to shop. They actively campaign to target out of state consumers to purchase tobacco, spirits, wine, beer, milk and lottery tickets. As adult smokers shift their purchases across state lines, Maine will take the brunt and loose out. Lost sales hurt the bottom lines of our grocers and mom and pop markets as cigarettes are often purchased with other items, such as food and beverages. A reduction in tobacco revenue puts retail jobs at risk, affects more than 1,900 retailers, and has a compounding effect on the economic prosperity of Maine’s communities.

Bans do not stop the purchases; they simply switch the point of purchase, “Seven months into Massachusetts’ flavor ban, early data is available for the real-world effects.” In the first half of 2020, Massachusetts only experienced a decline of roughly 10 percent compared to the first half of 2019. In fact, sales of cigarette tax stamps in the Northeast (Massachusetts as well as Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont) have stayed remarkably stable, even increased a bit, following Massachusetts’ ban when compared to sales in 2019.² This demonstrates that cigarette sales in Massachusetts have decreased but consumption and acquiring in neighboring states has increased.

Maine wholesalers and retailers promote and embrace the responsible sales of licensed tobacco products. Retail strategies to prevent tobacco use by underage youth involve due diligence including staff training, in store tools and ongoing management. Maine retailers embrace the National We Card Program, Maine’s No Buts! Program, FDA Tobacco Training Materials and other training programs provided by wholesale and industry partners to reject underage tobacco

¹ <https://taxfoundation.org/cigarette-taxes-cigarette-smuggling-2020/>

² <https://taxfoundation.org/massachusetts-flavored-tobacco-ban/>

purchase attempts. From all accounts, these safeguards are working. From January 1, 2019 – December 31, 2019 the FDA ‘Compliance Check Inspections of Tobacco Product Retailers’ 1,407 inspections were performed, 77 incidents involved a minor, a 95.5% compliance rate (Compared to New Hampshire’s 80% compliance rate) and from January 1, 2020 – December 31, 2020, there were 289 inspections performed, 22 incidents involved a minor, a 93% compliance rate (Compared to New Hampshire’s 91% compliance rate). For this year, through March 31, 2021 there have been 30 Compliance Checks with no reported incidents involving a minor. MGFPA members and Maine tobacco retailers take their role in limiting youth’s access to age-restricted products very seriously. MGFPA supports efforts to reduce youth access to and interest in tobacco via continued education and training opportunities and addressing youth access from those customers of age from whom they’ve acquired the products.

The Committee and Maine’s legislature must strike a balance between protecting Maine’s youth while not limiting the market for those permitted to purchase tobacco products. MGFPA supports efforts that increase barriers and access without hindering the market for Maine businesses and consumers.

We urge the Committee to Vote Ought Not To Pass on LD 1550.

Thank you for the opportunity to provide testimony.



Christine Cummings
Executive Director