



1212 New York Ave. NW
Suite 900
Washington, D.C. 20005
202-525-5717

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Testimony from:
Marc Hyden, Director of State Government Affairs, R Street Institute

In OPPOSITION to LD 1550, HP 1155 “An Act To End the Sale of Flavored Tobacco Products.”

May 7, 2021

Joint Committee on Health and Human Services

Chairs and members of the committee,

My name is Marc Hyden, and I am the director of state government affairs for the R Street Institute, which is a nonprofit, nonpartisan, public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas, including integrated harm reduction. That is why LD 1550 is of special interest to us.

The R Street Institute has long been concerned with the dangerous consequences of smoking combustible cigarettes. In fact, years before it became law, we were outspoken proponents of raising the age to purchase tobacco products to 21 years old, and we have urged—and still urge—officials to enforce measures to keep tobacco products out of youths’ hands.

What is more, we believe that evidence-based harm reduction strategies are central to limiting the hazards facing people who use addictive substances but for whom abstinence-only approaches do not work. While I believe that LD 1550 was drafted with the best of intentions, I believe that it could ultimately work against what I presume is the goal of leading to improved public health outcomes.

One of the most promising weapons used to combat the dangers of combustible cigarettes are e-cigarettes. The simple truth is that e-cigarettes have become one of the primary tools smokers rely on to quit and they are a much better alternative to combustible cigarettes.¹ In fact, the highly respected Public Health England announced that e-cigarettes are 95 percent less harmful than combustibles because e-cigarettes do not employ the combustion process found in traditional cigarettes that releases many hundreds of chemicals—some of which are carcinogenic.² Further, according to a 2020 study, e-cigarettes are a more effective cessation tool than nicotine replacement therapies, like the patch, lozenges or gum.³ Considering this, officials and policymakers ought to be pleased when more adult smokers consider switching to less harmful e-cigarettes.

However, experts have learned that e-cigarettes’ reduced harm profile is often not enough to inspire some adults to quit smoking, but e-cigarette flavors give adults another reason to switch from combustible cigarettes. Indeed, studies show that adults greatly prefer non-tobacco flavors.⁴ Yet if all

non-tobacco flavors are banned—as is proposed in this bill—then that greatly reduces the likelihood that current smokers will make the switch to less harmful products. This is something that Maine cannot afford to risk. As it stands, almost a half million Americans die from tobacco usage annually—many right here in Maine—and about 17.8 percent of those in Maine smoke combustible cigarettes.⁵

Beyond these matters, placing a prohibition on flavored e-cigarettes will likely spur the formation of an unregulated black market to meet consumer demand, and this poses a real risk. This market may ultimately lead to the proliferation of unregulated, tainted products that may result in serious public health effects.

The bottom line is that Maine should not eliminate tools and incentives that help smokers kick the habit. Rather, Maine should ensure that adults have the opportunities to make less harmful decisions. That is why it is so vital that the legislature re-consider LD 1550.

Thank you for your time.

Marc Hyden
Director, State Government Affairs
R Street Institute
(404) 918-2731
mhyden@rstreet.org

¹ Shu-Hong Zhu et al., “E-cigarette use and associated changes in population smoking cessation: evidence from US current population surveys,” *The BMJ*, July 26, 2017. <https://www.bmj.com/content/358/bmj.j3262>.

² Ann McNeill et al., *Evidence review of e-cigarettes and heated tobacco products 2018: executive summary*, Public Health England, March 2, 2018. <https://www.gov.uk/government/publications/e-cigarettes-and-heated-tobacco-products-evidence-review/evidence-review-of-e-cigarettes-and-heated-tobacco-products-2018-executive-summary>.

³ J Hartmann-Boyce, et al., “Can electronic cigarettes help people stop smoking, and do they have any unwanted effects when used for this purpose?,” *Cochrane*, Issue 10, April 29, 2021. https://www.cochrane.org/CD010216/TOBACCO_can-electronic-cigarettes-help-people-stop-smoking-and-do-they-have-any-unwanted-effects-when-used.

⁴ Christopher Russell, et al., “Changing patterns of first e-cigarette flavor used and current flavors used by 20,836 adult frequent e-cigarette users in the USA,” *Harm Reduction Journal*, 15, Article 33 (June 28, 2018). <https://harmreductionjournal.biomedcentral.com/articles/10.1186/s12954-018-0238-6>.

⁵ Centers for Disease Control and Prevention, “Tobacco-Related Mortality,” Department of Health and Human Services, April 28, 2020. https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/tobacco_related_mortality/index.htm; Centers for Disease Control and Prevention, “Map of Current Cigarette Use Among Adults,” Department of Health and Human Services, Sept. 14, 2020. <https://www.cdc.gov/statesystem/cigaretteuseadult.html>.