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May 7, 2021

Senator Ned Claxton, Chair
Representative Michele Meyer, Chair
Members of the Health and Human Services Committee

RE: Testimony in OPPOSITION to LD 1550, An Act to End the Sale to Flavored Tobacco Products

Dear Senator Claxton, Representative Meyer and members of the Health and Human Services Committee:

My name is Curtis Picard and I am the President and CEO of the Retail Association of Maine. I am a resident of Topsham. We have more than 350 members statewide and represent retailers of all sizes. I am here to testify in opposition to LD 1550.

In late April, the US FDA announced that it is already working on addressing flavored tobacco products, and it would be better to work on a national solution rather than a state by state solution.¹ Last year, Massachusetts enacted a similar flavor ban which led to a significant fiscal deficit in sales tax revenues not because consumers stopped using these products. They simply bought these products in neighboring New Hampshire and Rhode Island. Massachusetts sold fewer than 31 million stamps since the law took effect and NH and RI saw an increase of 24 million stamps in that same period. So, Massachusetts's loss was a gain for NH and RI. Maine would certainly see a similar situation.

Maine's retailers large and small do a very good job of policing unauthorized purchases of tobacco products by underage individuals.

According to the FDA², Maine conducted 1,407 inspections in calendar 2019. We used calendar year 2019 as we feel that the current pandemic in calendar year 2020 may not be a good indicator with various business restrictions in place. In fact, a quick look at the data shows that only 289 inspections took place in 2020.

¹ <https://www.fda.gov/news-events/press-announcements/fda-commits-evidence-based-actions-aimed-saving-lives-and-preventing-future-generations-smokers>

² https://www.accessdata.fda.gov/scripts/oc/inspections/oc_insp_searching.cfm

Of those 1,407 inspections in 2019, 9 resulted in a civil monetary penalty, and another 68 inspections resulted in warning letters. This shows that retailers do a great job policing the age requirements for tobacco products.

For those reasons, we ask the committee to let the FDA address this issue and vote the bill Ought Not to Pass.

Thank you for the consideration of our comments.

Curtis Picard, CAE
President and CEO