



**February 9, 2022**

**RE: LD 1693, An Act To Advance Health Equity, Improve the Well-being of All Maine People and Create a Health Trust - Opposed to "Part D"**

Chairs Claxton and Meyer, and honorable members of the Committee on Health and Human Services,

Thank you for the opportunity to write on behalf of our more than 900 members in Maine expressing our concerns and extreme opposition to LD 1693, Part D, which would prohibit sales of low-risk nicotine products in flavors other than tobacco. The language in Part D is a hasty reaction to an emotionally fueled issue that is only being made worse by well-meaning, but misguided attempts to prevent youth use of tobacco and nicotine products.

The proposal to ban the sale of vapor products sold in flavors other than tobacco will deny people who smoke access to the most popular low-risk smoking replacement product in generations. Focusing solely on a particular feature of vapor products ignores other aspects of these products that people find enjoyable--a key factor in helping people who smoke make the switch and dramatically improve their health. Moreover, we believe it is a mistake to focus on the issue of flavors to the exclusion of underlying factors affecting youth use. Socioeconomic status, trauma, peer pressure, stress, depression, and a natural inclination toward taking risks all motivate young people to experiment with potentially harmful behaviors and coping strategies.

The leading indicator of whether or not a young person will smoke is if they live with a parent who smokes. Maine can do more to promote healthy behaviors among young people by encouraging parents who smoke to switch completely to a low-risk smoke-free alternative. In order to achieve a rapid and enduring transition to safer nicotine products, people who smoke must have access to products they enjoy. This necessitates the availability of a diverse range of flavored smoke-free products. For these and the following reasons CASAA is urging the Committee on Health and Human Services to remove Part D from LD 1693.

## **LD 1693, Part D will deprive people who smoke access to life saving products**

- **The availability of enjoyable smoke-free nicotine products is helping millions of people quit smoking.**

It is very disappointing that some of the comments the committee will hear on this legislation callously dismiss the experiences of millions of people who quit smoking<sup>1</sup>, or are on their way to living smoke-free by switching to a safer nicotine product like vaping. You are being asked to disbelieve the experiences of surgical patients who will have better outcomes after switching to vaping,<sup>2</sup> parents and grandparents who will be around longer for their children, and young adults who are quitting before lasting damage is done, or who will never take up smoking because vaping is a better, safer alternative to combustible cigarettes.<sup>3</sup>

You are right to be skeptical of claims that vaping is unhelpful because just as we all know someone who has died early due to smoking, we are also increasingly more likely to know someone who quit by switching. Enjoyable, flavored products are being linked to positive outcomes in both people trying to quit<sup>4 5</sup> and those who quit by accident.<sup>6</sup>

- **A ban on flavored vapor products will force Maine vape shops to close.**

We defer to data being presented by trade representatives from the vapor industry with regard to sales data, but it is our understanding that a majority of purchases involve e-liquid in flavors other than tobacco by people older than the federal minimum legal sales age of 21. To date, we are unaware of any retailer or manufacturer that sells a popular line of unflavored e-liquid.

It is unlikely that specialty vapor retailers will be able to remain open if they are restricted to selling just vapor devices and tobacco flavored e-liquid. It is the diversity of vapor products that both supports independent businesses and provides a customizable experience to people who are attempting to transition to a smoke-free lifestyle.

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<sup>1</sup> Clive Bates, The Counterfactual, E-cigarette risk perceptions – an American crime scene, February 3, 2022. Accessed from <https://clivebates.com/e-cigarette-risk-perceptions-an-american-crime-scene/>, February 8, 2022.

<sup>2</sup> Nolan M, Leischow S, Croghan I, et al. Feasibility of Electronic Nicotine Delivery Systems in Surgical Patients. *Nicotine Tob Res.* 2016;18(8):1757-1762. doi:10.1093/ntr/ntw003

<sup>3</sup> Zhu S, Zhuang Y, Wong S, Cummins S E, Tedeschi G J. E-cigarette use and associated changes in population smoking cessation: evidence from US current population surveys *BMJ* 2017; 358 :j3262 doi:10.1136/bmj.j3262

<sup>4</sup> Friedman AS, Xu S. Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation. *JAMA Netw Open.* 2020;3(6):e203826. doi:10.1001/jamanetworkopen.2020.3826

<sup>5</sup> Eva C. Rest, Kristin N. Brikmanis, Robin J. Mermelstein, Preferred flavors and tobacco use patterns in adult dual users of cigarettes and ENDS, *Addictive Behaviors*, Volume 125, 2022, 107168, ISSN 0306-4603, <https://doi.org/10.1016/j.addbeh.2021.107168>.  
(<https://www.sciencedirect.com/science/article/pii/S0306460321003531>)

<sup>6</sup> Kasza KA, Edwards KC, Kimmel HL, et al. Association of e-Cigarette Use With Discontinuation of Cigarette Smoking Among Adult Smokers Who Were Initially Never Planning to Quit. *JAMA Netw Open.* 2021;4(12):e2140880. doi:10.1001/jamanetworkopen.2021.40880

- **Vapor product specialty shops (vape shops) play a vital role in helping smokers switch to a low-risk alternative**

Vape shops are a source of peer-to-peer support that is not effectively replicated by current tobacco control strategies. Vape shops provide knowledgeable staff who offer individualized attention to help customers find devices and eliquid flavors that will help them successfully make the switch. Just as important, vape shops provide a space for peer-to-peer support for people who used to smoke and people who are transitioning to a smoke-free product.

By way of background, vapor retailers and manufacturers in the United States are prohibited by federal law from marketing e-cigarettes as smoking cessation products or even less harmful than cigarettes.<sup>7</sup> Customers, however, are bound by no such law. It is not uncommon to hear customers exchange successful quit smoking stories between one another in a vape shop. To the casual observer, sharing such a story might not seem like much, but between people who are recovering from a multiyear or multi-decade cigarette addiction, it can mean the difference between living a smoke-free life or returning to the devil they know.

By comparison, vapor retailers in the United Kingdom are not subject to the same limitations on marketing communication in face-to-face transactions. Research conducted in the UK demonstrates that people who shop for vapor products in specialty vapor shops have a remarkable quit rate of >40% after 12 months.<sup>8</sup> Other than quitting “cold turkey,” no other smoking cessation intervention comes close to the success rate found in the UK. And while the retail environment studied in the UK is not a 1:1 match with vapor shops in the United States, when we consider customer-to-customer interactions within the retail environment, which are not regulated by federal law, it stands to reason that the results found in the UK may be generalizable to consumers in the United States.

For the foregoing reasons we respectfully urge the Committee to remove Part D from LD 1693. This legislation will place unnecessary barriers in front of people who would otherwise be improving their health.

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<sup>7</sup> 21 USC 387k: Modified risk tobacco products, accessed from <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title21-section387k&num=0&edition=prelim>

<sup>8</sup> Polosa, Riccardo et al. “Quit and smoking reduction rates in vape shop consumers: a prospective 12-month survey” *International journal of environmental research and public health* vol. 12,4 3428-38. 24 Mar. 2015, doi:10.3390/ijerph120403428

## Recommendations

- We urge committee members to refocus their attention on the most pressing concern of reducing the early death and disease attributed to smoking by seeking ways the state can help promote safer alternatives to people who smoke.
- Effective substance use prevention starts by empowering young people with strong social skills, critical thinking, and healthy coping strategies. People are generally resourceful and, historically, find ways to circumvent prohibitions on tobacco, drugs, and alcohol. Strong life skills training during adolescence has a greater potential to positively shape a young person's life well into adulthood.
- Maine consistently spends only a small fraction of the amount recommended by the Centers for Disease Control on tobacco prevention. Arguably, the state hasn't given existing tobacco prevention strategies a chance to succeed. We assert here that if the State of Maine believes that traditional tobacco control strategies are effective, then compliance and enforcement should be fully funded.

Thank you for considering our comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Alex Clark', with a stylized flourish at the end.

Alex Clark  
CEO

The Consumer Advocates for Smoke-free Alternatives Association