



April 25, 2023

The Honorable Joe Baldacci, Co-Chair
The Honorable Michelle Meyer, Co-Chair
Joint Health and Human Services Committee members

Dear Co-Chairs Baldacci and Meyer and members of the Joint Health and Human Services Committee,

On behalf of National Taxpayers Union, the nation's oldest taxpayer advocacy organization, I am testifying in strong opposition to LD1174. I speak to you not only in my role at NTU but also as a former nurse practitioner and former Wisconsin state senator who chaired the Senate Committee on Health. This legislation would place the government between buyers and sellers, regulate FDA-approved products out of existence, and also create the unintended consequence of an illicit market for these products. I hope you will consider these concerns and oppose this legislation.

LD1174 is a broad and expansive ban on tobacco and vaping products that are currently FDA-approved and, in essence, creating a prohibition of these products. This is an excessive government overreach that will invariably spur an illicit market in the state of Maine.

History is replete with examples of negative outcomes that arise from government prohibitions. Alcohol prohibition pushed individuals into the black market and exposed them to toxic levels of boot-legged alcohol. Similarly, LD1174 is likely to expose individuals to dangerous counterfeit products, posing an undue public health risk. If we have learned one thing from history it is that government bans will never eliminate demand for the prohibited product but rather will shift demand to more harmful alternatives. As lawmakers concerned about the health of the citizenry, surely this is a consequence worth preventing.

The prohibition of menthol cigarettes in LD1174 also carries the risk of unintended consequences. [A 2012 study](#) in the journal, *Addiction* concluded that 25 percent of menthol cigarette smokers said, "they might seek out menthol cigarettes, implying they might consider black market purchases." Not only does this expose individuals to potential negative health consequences from unregulated products, but also places a strain on law enforcement who will likely require additional taxpayer dollars to enforce the law.

There are lessons to learn from other states that have passed similar legislation. Massachusetts passed a flavored tobacco ban and, according to [a study conducted by the Tax Foundation](#), the ban did not result in a reduction of flavored tobacco products. It merely changed where products

were bought. Despite flavored tobacco products being technically banned, people found what they wanted by crossing state lines or using the illicit market.

As lawmakers, you should carefully consider the unintended consequences these bans will have on public health as well as their potential to inflict harm on small businesses and individual consumers who will possibly pay more for safer alternatives to smoking, be exposed to greater harm from black-market products or worse yet, be driven back to smoking cigarettes.

I hope you stand with the residents of Maine and oppose LD1174. Thank you for your time and consideration of NTU's comments, please reach out should you have any questions.

Sincerely,

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