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Andrew B. MacLean, JD, CEO | Dan Morin, Director of Communications & Government Affairs

TO: The Honorable Cathy Breen, Chair
The Honorable Teresa Pierce, Chair
Members, Joint Standing Committee on Appropriations and Financial Affairs

FM: Dan Morin, Director of Communications and Government Affairs

DATE: May 20, 2021

RE: **Support**

General Fund Governor's Change Package to LD 221: Part WWW

The [Maine Medical Association](#) is the state's largest professional physician organization representing more than 4300 physicians, residents, and [medical students](#) across all clinical specialties, organizations, and practice settings is submitting testimony in support of [Part WWW on page 59](#) in the [Governor's Change Package to LD 221](#).

Part WWW does four things:

- It redefines "Electronic Smoking Device" under [22 MRSA §1551, sub-§1-D](#).
- It adds a new section in law ([22 MRSA §1551](#), sub-§1-E) defining "Flavored Tobacco Product".
- Changes the title of [22 MRSA c. 262-A, Subchapter 5](#) from "Flavored Cigars" to "Flavored Tobacco Products."
- Repeals the entirety of [22 MRSA §1560-D](#) under Subchapter 5 and replaces it with 22 MRSA §1560-E as written in the bill which includes the following:
 - Prohibits a tobacco retailer from selling, distributing, or offering to sell and distribute any flavored tobacco product in Maine and details to prohibitions on making any claims or statements about a tobacco product that it contains flavors other than tobacco.
 - Violation of this law is a civil penalty with fines that may be applied ranging from \$1,000 for a first violation, up to the possibility of a \$5,000 fins for subsequent violations.

Practically applied, Part WWW of the Change Package outlines that a tobacco retailer may not sell any tobacco product with a taste or smell of fruit, mint, candy, menthol, or other non-tobacco flavors.

Leaving any flavors on the market is dangerous for child health. **Flavors are appealing to children, that is why we flavor certain medications—they taste better!** We should not allow any flavoring for products as dangerous as tobacco.

Menthol makes it [easier to start smoking, more likely to progress to established smoking, and harder to quit](#). As a consequence, menthol cigarettes were responsible for [10.1 million extra smokers and an additional 378,000 premature deaths from 1980 to 2018](#).

It is not new information to the Committee that smoking is the [leading cause of preventable death in the United States](#).

- On average, smokers die 10 years earlier than nonsmokers.
- If smoking continues at the current rate among U.S. youth, 5.6 million of today's Americans younger than 18 years of age are expected to die prematurely from a smoking-related illness. This represents about one in every 13 Americans aged 17 years or younger who are alive today.

According to the latest [American Society of Clinical Oncology \(ASCO\)'s National Cancer Opinion Survey](#) released in October 2020, there is growing support for banning flavored e-cigarette products (55% vs. 46% in 2019).

In September of 2020, the American Medical Association (AMA) joined the African American Tobacco Control Leadership Council (AATCLC) and Action on Smoking and Health (ASH) as co-plaintiffs [in a lawsuit against the Food and Drug Administration](#) (FDA). The [lawsuit](#) requests that the court compel the FDA to fulfill its mandate to take action on FDA's own conclusions that it would benefit the public health to add menthol to the list of prohibited characterizing flavors and therefore

ban it from sale.

In 2009, the [Family Smoking Prevention and Tobacco Control Act](#) was signed into federal law. It created a flavor ban in cigarettes but excluded menthol, subject to further research. In 2011, the newly established [Tobacco Products Scientific Advisory Committee](#) (TPSAC) released a review of the effects of the use of menthol in cigarettes on public health, including use by children, African Americans, and other racial and ethnic minorities. It concluded that "removal of menthol cigarettes from the marketplace would benefit public health." In 2013, the [FDA produced a report](#) on its own internal scientific investigation. Similarly, to TPSAC, FDA found "it likely that menthol cigarettes pose a public health risk above that seen with nonmenthol cigarettes."

When the AMA joined the FDA lawsuit, the FDA has not begun the rulemaking process of removing menthol from combustible cigarettes. While the [FDA's announcement last week](#) of a proposal to ban menthol in cigarettes and cigars is encouraging, it is important the Committee understand that the actual implementation of regulations at the federal level, should it even occur, is years into the future. The [federal rulemaking process](#) is obscenely complex and bureaucratic, and Wall Street knows it. Tobacco investors are not worried. Stock prices for cigarette companies hardly budged in response to the news. We urge Maine to act in 2021.

Passing Part WWW, as written, out of Committee will help prevent young people from becoming smokers and reflect a strong commitment by Maine's leaders to reducing tobacco use and the associated health consequences. Seventy-five percent of chronic illness is preventable, and tobacco is primary driver. Strong tobacco policy is the key to strong health care system The MMA urges a vote of Ought to Pass. Thank you for your public service.

For more information call/text/email:

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