

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1519

H.P. 1004

House of Representatives, April 8, 2025

An Act to Create a Stewardship Program for Electronic Smoking Devices and Related Products

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script, reading "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GRAMLICH of Old Orchard Beach.
Cosponsored by Senator TEPLER of Sagadahoc and
Representatives: BELL of Yarmouth, BRIDGEO of Augusta, DOUDERA of Camden, OSHER
of Orono, RIELLY of Westbrook.

1 Be it enacted by the People of the State of Maine as follows:

2 Sec. 1. 38 MRSA §1617 is enacted to read:

3 **§1617. Stewardship program for electronic smoking devices**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Brand" means a name, symbol, word or mark that identifies an electronic smoking
7 device, rather than its components, and attributes the device to the owner of the brand.

8 B. "Electronic smoking device" or "device" means any device that may be used to
9 deliver any aerosolized or vaporized substance to a person inhaling from the device,
10 including, but not limited to, an electronic cigarette, electronic cigar, electronic pipe,
11 so-called vape pen or electronic hookah. "Electronic smoking device" includes any
12 component, part or accessory of the device and any substance that may be aerosolized
13 or vaporized by that device, whether or not the substance contains nicotine. "Electronic
14 smoking device" does not include drugs, devices or combination products authorized
15 for sale by the United States Food and Drug Administration, as those terms are defined
16 in the Federal Food, Drug, and Cosmetic Act.

17 C. "Electronic smoking device stewardship organization" or "stewardship
18 organization" means a corporation, nonprofit organization or other legal entity created
19 by a producer or group of producers pursuant to this section to implement an electronic
20 smoking device stewardship program.

21 D. "Electronic smoking device stewardship plan" or "stewardship plan" means a plan
22 to establish an electronic smoking device stewardship program to be submitted to the
23 department for review pursuant to subsection 6.

24 E. "Electronic smoking device stewardship program" or "program" means the program
25 established under this section to provide for the collection, transportation, reuse and
26 recycling or disposal, or both, of unwanted electronic smoking devices.

27 F. "Producer" means a person that:

28 (1) Has legal ownership of the brand of an electronic smoking device sold in or
29 into the State;

30 (2) Imports an electronic smoking device branded by a person that meets the
31 requirements of paragraph A and has no physical presence in the United States; or

32 (3) Sells an electronic smoking device in the State at wholesale or retail, does not
33 have legal ownership of the brand of the device and elects to fulfill the
34 responsibilities of the producer for that device.

35 G. "Proprietary information" has the same meaning as in Title 38, section 1771,
36 subsection 6-A.

37 H. "Recycling" has the same meaning as in Title 38, section 1771, subsection 7.

38 I. "Reuse" has the same meaning as in Title 38, section 1771, subsection 8.

39 J. "Unwanted electronic smoking device" means an electronic smoking device that is
40 no longer wanted by its owner or that has been abandoned or discarded or is intended
41 to be discarded by its owner.

1 **2. Program.** Pursuant to this section, a producer that sells an electronic smoking
2 device in the State shall, individually, collectively or through a stewardship organization,
3 implement and finance an electronic smoking device stewardship program to manage, in
4 accordance with the priorities in section 2101, unwanted electronic smoking devices sold
5 by the producer at the end of the device's life.

6 A. The program must include a collection system for unwanted electronic smoking
7 devices that is convenient and adequate to serve the needs of persons in both rural and
8 urban areas. No later than one year following commencement of the collection of
9 electronic smoking devices by the program's collection system, the collection system
10 must include permanent collection locations located within 15 miles of 90% of the
11 residents of the State unless the department determines that the requirements of this
12 paragraph are not practicable due to geographical constraints or that an alternative
13 collection system that does not meet the requirements of this paragraph will result in
14 equivalent and more efficient collection.

15 B. The program must provide for effective education and outreach to promote the use
16 of the program and to ensure that collection options are understood by the public.

17 C. A producer or stewardship organization, including a producer's or stewardship
18 organization's officers, members, employees and agents that organize an electronic
19 device stewardship program under this section, is immune from liability for the
20 producer's or stewardship organization's conduct under state laws relating to antitrust,
21 restraint of trade, unfair trade practices and other regulation of trade or commerce only
22 to the extent necessary to plan and implement the producer's or stewardship
23 organization's chosen organized collection or recycling system.

24 D. The program must include at a minimum a half-time employee or contracted agent
25 whose job duties are dedicated to implementing the program in the State unless the
26 department determines that a lesser staffing requirement is adequate to provide the
27 administrative oversight, training and ongoing technical support to collection locations,
28 education and outreach efforts, program performance assessment and reporting
29 necessary for program implementation.

30 **3. Requirement for sale.** One hundred eighty days after a stewardship plan submitted
31 to the department pursuant to subsection 6 is approved by the department in accordance
32 with subsection 7, a producer may not sell or offer for sale in the State an electronic
33 smoking device unless the producer participates in an electronic smoking device
34 stewardship program under this section in accordance with an approved stewardship plan.

35 **4. No fee.** An electronic smoking device stewardship program may not charge a person
36 a fee at the time an unwanted electronic smoking device is delivered or collected for
37 recycling or disposal under the program.

38 **5. Costs.** Producers participating in an electronic smoking device stewardship
39 program shall finance the collection, transportation and reuse, recycling or disposition of
40 unwanted electronic smoking devices; effective education and outreach related to the
41 program; program assessment; program reporting; any incentives necessary to achieve
42 program goals; payment of reasonable fees to the department for review of the producers'
43 stewardship plan and any proposed amendments; and payment of annual fees to the
44 department to cover the department's actual costs for the program for annual report review,
45 oversight, administration and enforcement, which may not exceed \$100,000 per year per

1 program and which must be properly documented and provided by the department to the
2 program prior to or at the time that such payment is required.

3 **6. Requirement to submit stewardship plan.** On or before November 1, 2026, a
4 producer of electronic smoking devices, individually, collectively or through a stewardship
5 organization, shall submit a stewardship plan to the department for approval. The
6 stewardship plan must include:

7 A. Identification and contact information for:

8 (1) The individual or entity submitting the stewardship plan;

9 (2) All producers participating in the program;

10 (3) The owners of the brands covered by the program; and

11 (4) The stewardship organization, if using a stewardship organization, including a
12 description of the stewardship organization and the tasks to be performed by the
13 stewardship organization. The description must include information on how the
14 stewardship organization is organized, including administration of the stewardship
15 organization and management of the stewardship organization;

16 B. A description of the collection system to be implemented under the program,
17 including:

18 (1) The types of locations or other collection services to be used;

19 (2) How all electronic smoking devices covered under the program will be
20 collected in all counties of the State; and

21 (3) How the collection system will be convenient and adequate to serve the needs
22 of all persons seeking to use the program for the management of unwanted
23 electronic smoking devices;

24 C. The names and locations of recyclers, processors and disposal facilities that may be
25 used by the program;

26 D. Information on how the unwanted electronic smoking devices will be safely and
27 securely transported, tracked and handled from collection through final disposition;

28 E. A description of the methods to be used to reuse, deconstruct and recycle the
29 unwanted electronic smoking devices to ensure that the device components are
30 transformed or remanufactured to the extent feasible;

31 F. A description of how the convenience and adequacy of the collection system will
32 be monitored and maintained;

33 G. A description of how the amount of unwanted electronic smoking devices collected,
34 recycled, processed, reused and disposed of will be measured;

35 H. A description of the education and outreach methods that will be used to recruit,
36 train and monitor collection locations and to encourage participation in the program on
37 an ongoing basis by collection locations and by persons throughout the State;

38 I. A description of how education and outreach methods will be evaluated, including,
39 at a minimum, completion of an annual consumer awareness survey to assess consumer
40 knowledge regarding management options and collection locations for unwanted

1 electronic smoking devices. The survey questions and methodology must be approved
2 by the department, and the survey must be administered by a qualified 3rd party;

3 J. A description of how program performance will be assessed, including performance
4 goals to show success of the program. When a performance goal is expressed as a
5 recycling rate or a diversion from disposal rate, the stewardship plan must include a
6 description of the methodology and the relevant historic sales data used to develop the
7 rate. Sales information submitted to the department pursuant to this paragraph that is
8 identified by the producer or stewardship organization as proprietary information is
9 confidential and must be handled by the department in accordance with subsection 11.
10 The performance goals under this paragraph must include, at a minimum, one of the
11 following:

12 (1) That at least 50% of the residents of the State will be aware of the program by
13 no later than the end of the 3rd year of program implementation and at least 70%
14 of the residents of the State will be aware of the program by no later than the end
15 of the 6th year of program implementation;

16 (2) That a diversion from disposal rate of at least 50% will be achieved by the
17 program by no later than the end of the 4th year of program implementation; or

18 (3) An alternative performance goal that does not meet the criteria in subparagraph
19 (1) or (2) as long as sufficient evidence is provided to the department to justify that
20 alternative performance goal;

21 K. A description of how the program will be financed. If the program is financed by
22 a per unit assessment paid by the consumer at the point of sale, a plan for an annual
23 3rd-party audit to ensure revenue from the assessment does not exceed the costs of
24 implementing the program must be included;

25 L. An anticipated annual budget for the program that includes identification of specific
26 anticipated administrative, collection, transportation, disposition and communication
27 costs for the program. The anticipated annual budget must be sufficient to fund the
28 program staffing required under subsection 2, paragraph D and the reimbursement by
29 the producer or stewardship organization of the department's actual costs incurred in
30 annual report review and in overseeing, administering and enforcing the program. The
31 anticipated annual budget may not include costs for legal fees or costs related to
32 legislative efforts that have been or will be incurred by the producer or stewardship
33 organization; and

34 M. Any other information required by the department.

35 **7. Department review and approval.** Within 120 days after receipt of a proposed
36 stewardship plan, or a proposed amendment to a previously approved stewardship plan, the
37 department shall determine whether the stewardship plan complies with this section. If the
38 stewardship plan is approved, the department shall notify the person that submitted the plan
39 in writing. If the department rejects the stewardship plan, the department shall notify the
40 person that submitted the plan in writing stating the reason for rejecting the stewardship
41 plan.

42 **8. Stewardship plan availability.** Within 30 days of approval by the department of
43 a stewardship plan submitted pursuant to subsection 7, or approval of an amendment to a

1 previously approved stewardship plan submitted pursuant to subsection 9, the department
2 shall place the approved stewardship plan on the department's publicly accessible website.

3 **9. Stewardship plan amendments.** In accordance with the provisions of this
4 subsection, a producer or stewardship organization or the department may initiate changes
5 to an approved electronic smoking device stewardship plan.

6 A. A change to an approved stewardship plan by a producer or stewardship
7 organization operating the program implemented under the stewardship plan must be
8 submitted to the department for review and approval prior to the implementation of
9 that change, except that if the producer or stewardship organization determines that the
10 change is not substantive, such as the addition of or a change to collection locations, or
11 if an additional producer joins the program, the producer or stewardship organization
12 must inform the department of the change within 14 days of implementing the change
13 but need not receive department approval unless the department determines that the
14 change is substantive. The department shall review and approve stewardship plan
15 amendments in accordance with subsection 7.

16 B. If the department determines that a program has failed to make adequate progress
17 toward achieving the program's performance goals described in the approved
18 stewardship plan pursuant to subsection 6, paragraph J, the department shall notify the
19 producer or stewardship organization operating the program in writing regarding its
20 determination and may direct the producer or stewardship organization to implement
21 specific changes to the stewardship plan within 6 months of the written notification,
22 which may include, but are not limited to, improvements to the convenience of the
23 collection system or to the education and outreach efforts under the program to improve
24 program performance. The department may also recommend in its annual report under
25 section 1772, subsection 1 that the program be amended to require financial incentives
26 or, if appropriate, implementation of a deposit and refund system.

27 **10. Annual report.** By March 1st of the calendar year after the calendar year in which
28 an approved stewardship plan is implemented, and annually thereafter, the producer or
29 stewardship organization operating the program shall submit to the department a report on
30 the program for the previous calendar year. The report must include:

31 A. The amount of unwanted electronic smoking devices collected at each collection
32 location;

33 B. A description of the methods used to collect, transport and process the electronic
34 smoking devices;

35 C. An evaluation of program performance, including, if possible, diversion and
36 recycling rates together with certificates of recycling or similar confirmations and an
37 evaluation of the convenience of the collection system implemented under the
38 program;

39 D. A description of the methods used for education and outreach efforts and an
40 evaluation of the effectiveness of those efforts. The report must include the results of
41 an assessment of the methods used for and effectiveness of education and outreach
42 efforts. The assessment must be completed by a qualified 3rd party;

E. If applicable, the report of the 3rd-party audit conducted to ensure that revenue collected from the assessment does not exceed implementation costs pursuant to subsection 6, paragraph K;

F. Any recommendations for changes to the program and to the approved goals for the program to improve convenience of collection, consumer education and program evaluation;

G. A financial report on the program, including the total cost of implementing the program as determined by a 3rd-party audit that includes identification of specific administrative, collection, transportation, disposition and communication costs for the program, and an anticipated budget for the program for the next program year; and

H. Any other information required by the department.

The department shall include the information reported by a producer or stewardship organization pursuant to this subsection in the department's annual report under section 1772, subsection 1.

11. Proprietary information. Proprietary information submitted to the department in a stewardship plan, in an amendment to a stewardship plan or pursuant to reporting requirements of this section that is identified by the submitter as proprietary information is confidential and must be handled by the department in the same manner as confidential information is handled under section 1310-B.

12. Administration and enforcement; rules. The department shall enforce this section and may adopt rules as necessary for the purposes of implementing, administering and enforcing this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill requires that, on or before November 1, 2026, a producer of electronic smoking devices, individually, collectively or through a stewardship organization, must submit to the Department of Environmental Protection for review and approval a plan for the establishment of a stewardship program to manage unwanted electronic smoking devices sold by the producer at the end of the device's life. One hundred eighty days after a stewardship plan is approved by the department, a producer of electronic smoking devices may not sell or offer for sale in the State an electronic smoking device unless the producer participates, individually, collectively or through a stewardship organization, in an approved electronic smoking device stewardship program.