

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1215

S.P. 496

In Senate, March 20, 2023

An Act to End the Sale of Flavored Tobacco Products

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator DUSON of Cumberland.
Cosponsored by Speaker TALBOT ROSS of Portland and
Senators: BALDACCI of Penobscot, BRENNER of Cumberland, President JACKSON of
Aroostook, Representatives: CYRWAY of Albion, GATTINE of Westbrook, MEYER of Eliot,
MILLETT of Cape Elizabeth, SCHMERSAL-BURGESS of Mexico.

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

2 **Sec. 1. 22 MRSA §1551, sub-§1-D**, as enacted by PL 2017, c. 308, §1, is amended
3 to read:

4 **1-D. Electronic smoking device.** "Electronic smoking device" has the same meaning
5 as in section 1541, subsection 1-A means any device that may be used to deliver any
6 aerosolized or vaporized substance to the person inhaling from the device, including, but
7 not limited to, an electronic cigarette, electronic cigar, electronic pipe, so-called vape pen
8 or electronic hookah. "Electronic smoking device" includes any component, part or
9 accessory of the device and also includes any substance that may be aerosolized or
10 vaporized by that device, whether or not the substance contains nicotine. "Electronic
11 smoking device" does not include drugs, devices or combination products authorized for
12 sale by the United States Food and Drug Administration, as those terms are defined in the
13 Federal Food, Drug, and Cosmetic Act.

14 **Sec. 2. 22 MRSA §1551, sub-§1-E** is enacted to read:

15 **1-E. Flavored tobacco product.** "Flavored tobacco product" means any tobacco
16 product that imparts:

17 A. A taste or smell, other than the taste or smell of tobacco, that is distinguishable by
18 an ordinary consumer either prior to or during the consumption of the tobacco product,
19 including, but not limited to, any taste or smell relating to fruit, menthol, mint,
20 wintergreen, chocolate, cocoa, vanilla, honey or any candy, dessert, beverage, herb or
21 spice; or

22 B. A cooling or numbing sensation distinguishable by an ordinary consumer during
23 the consumption of the tobacco product.

24 **Sec. 3. 22 MRSA c. 262-A, sub-c. 5, headnote** is amended to read:

25 **SUBCHAPTER 5**

26 **FLAVORED CIGARS TOBACCO PRODUCTS**

27 **Sec. 4. 22 MRSA §1560-D**, as amended by PL 2011, c. 380, Pt. II, §2, is repealed.

28 **Sec. 5. 22 MRSA §1560-E** is enacted to read:

29 **§1560-E. Flavored tobacco products**

30 **1. Prohibition on sale or distribution of flavored tobacco products.** A tobacco
31 retailer may not sell or distribute or offer to sell or distribute in this State any flavored
32 tobacco product. A public statement or claim made or disseminated by the retailer or
33 manufacturer of a tobacco product, or by a person authorized or permitted by the retailer
34 or manufacturer to make or disseminate public statements concerning a tobacco product,
35 that a tobacco product imparts a taste or smell other than tobacco or imparts a cooling or
36 numbing sensation constitutes presumptive evidence that the tobacco product is a flavored
37 tobacco product. A public statement or claim under this subsection includes, but is not
38 limited to, text, color and images on the tobacco product's labeling or packaging that are

1 used to explicitly or implicitly communicate that the tobacco product imparts a taste or
2 smell other than tobacco or imparts a cooling or numbing sensation.

3 **2. Violation.** A tobacco retailer who violates this section commits a civil violation for
4 which a fine may be imposed under subsection 3.

5 **3. Fines.** The fines that apply to violations of this section are as set out in this
6 subsection.

7 A. A tobacco retailer who violates subsection 1 commits a civil violation for which a
8 fine of \$1,000 may be adjudged.

9 B. A tobacco retailer who violates subsection 1 after having previously been convicted
10 of a violation of that subsection commits a civil violation for which a fine of \$5,000
11 may be adjudged.

12 **SUMMARY**

13 This bill prohibits the sale and distribution of flavored tobacco products, including
14 flavored cigars and electronic smoking devices.