

Title 32: PROFESSIONS AND OCCUPATIONS
Chapter 26-A: REDUCTION OF TOXICS IN PACKAGING

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Maine Revised Statutes
Title 32: PROFESSIONS AND OCCUPATIONS
Chapter 26-A: REDUCTION OF TOXICS IN PACKAGING

§1731. PURPOSE

The purpose of this chapter is to reduce toxicity of packaging waste without impeding or discouraging the expanded use of post-consumer materials in the production of packaging and its components. Under this chapter, reduction of the toxicity in packaging is accomplished by prohibiting the unnecessary addition of heavy metals, such as lead, mercury, cadmium and hexavalent chromium, in packaging and packaging components. [1989, c. 849, §1 (NEW).]

SECTION HISTORY

1989, c. 849, §1 (NEW).

§1732. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 849, §1 (NEW).]

1. Agency.

[1995, c. 656, Pt. A, §7 (RP) .]

1-A. Department. "Department" means the Department of Environmental Protection.

[1995, c. 656, Pt. A, §8 (NEW) .]

2. Distributor. "Distributor" means any person, firm or corporation that sells a packaged product to a retailer in this State or any person, firm or corporation that receives a shipment or consignment of, or in any other manner acquires, packaged products outside the State for sale to consumers in the State.

[1989, c. 849, §1 (NEW) .]

2-A. Incidental presence. "Incidental presence" means the presence of a regulated metal as an unintended or undesired ingredient of a package or packaging component.

[1995, c. 184, §1 (NEW) .]

2-B. Intentional introduction. "Intentional introduction" means the act of deliberately using a regulated metal in the formation of a package or packaging component when its continued presence is desired in the final package or packaging component to provide a specific characteristic, appearance or quality.

The use of a regulated metal as a processing agent or intermediate to impart certain chemical or physical changes during manufacturing, when the incidental retention of a residue of the metal in the final package or packaging component is neither desired nor deliberate, is not considered intentional introduction for the purposes of this chapter.

The use of recycled materials as feedstock for the manufacture of new packaging materials, when a portion of the recycled materials may contain amounts of the regulated metals, is not considered intentional introduction for the purposes of this chapter when the new package or packaging component is in compliance with section 1733.

[1995, c. 184, §1 (NEW) .]

3. Manufacturer. "Manufacturer" means any person who manufactures a package or packaging component.

[1989, c. 849, §1 (NEW) .]

4. Package. "Package" means a container used in marketing, protecting or handling a product and includes a unit package and a shipping container defined by the American Society for Testing and Materials in its annual book of standards as ASTM, D996. "Package" also includes such unsealed receptacles as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags and tubs.

[1989, c. 849, §1 (NEW) .]

5. Packaging component. "Packaging component" means any individual assembled part of a package such as, but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks and labels. Tin-plated steel that meets the American Society for Testing and Materials specification A-623 must be considered as a single package component. Electrogalvanized coated steel and hot-dipped coated galvanized steel that meets the American Society for Testing and Materials specifications A-525 and A-879 must be treated in the same manner as tin-plated steel.

[1995, c. 184, §2 (AMD) .]

6. Supplier. "Supplier" means any person, firm or corporation that sells packages or packaging components to a distributor.

[1989, c. 849, §1 (NEW) .]

SECTION HISTORY

1989, c. 849, §1 (NEW). 1995, c. 184, §§1,2 (AMD). 1995, c. 465, §A9 (AMD). 1995, c. 465, §C2 (AFF). 1995, c. 656, §§A7,8 (AMD).

§1733. PROHIBITION; SCHEDULE FOR REMOVAL OF INCIDENTAL AMOUNTS

1. Prohibition of sale of packaging. A manufacturer, supplier or distributor may not offer for sale or for promotional purposes a package or packaging component that includes inks, dyes, pigments, adhesives, stabilizers or any other additives to which any lead, cadmium, mercury or hexavalent chromium has been intentionally introduced during manufacturing or distribution. This prohibition does not apply to the incidental presence of any of these elements.

[1989, c. 849, §1 (NEW) .]

2. Prohibition of sale of product in packaging. A manufacturer or distributor may not offer for sale or for promotional purposes any product in a package that includes, in the package itself or any packaging components, inks, dyes, pigments, adhesives, stabilizers or any other additives to which any lead, cadmium, mercury or hexavalent chromium has been intentionally introduced during manufacturing or distribution. This prohibition does not apply to the incidental presence of any of these elements.

[1989, c. 849, §1 (NEW) .]

3. Concentration levels. The sum of the concentration levels of lead, cadmium, mercury and hexavalent chromium present in any package or packaging component may not exceed:

- A. Effective April 1, 1992, 600 parts per million by weight, or 0.06%; [1989, c. 849, §1 (NEW) .]

B. Effective April 1, 1993, 250 parts per million by weight, or 0.025%; and [1989, c. 849, §1 (NEW).]

C. Effective April 1, 1994, 100 parts per million by weight, or 0.01%. [1989, c. 849, §1 (NEW).]

[1989, c. 849, §1 (NEW).]

4. Substitute materials. No material used to replace lead, cadmium, mercury or hexavalent chromium in a package or packaging component may be used in a quantity or manner that creates a hazard as great as or greater than the hazard created by the lead, cadmium, mercury or hexavalent chromium.

[1989, c. 849, §1 (NEW).]

SECTION HISTORY

1989, c. 849, §1 (NEW).

§1734. EXEMPTIONS

All packages and packaging components are subject to the provisions of section 1733 unless: [1989, c. 849, §1 (NEW).]

1. Manufactured prior to effective date. The package or packaging component has a code indicating a date of manufacture prior to the effective date of this section;

[1991, c. 177, §1 (AMD); 1991, c. 177, §2 (AFF).]

2. Health and safety requirements; feasibility; post-consumer materials. The manufacturer, supplier or distributor petitions the department for an exemption for a particular package or packaging component and the department grants an exemption for one or more of the following reasons.

A. The package or packaging component contains lead, cadmium, mercury or hexavalent chromium added in the manufacturing, forming, printing or distribution process in order to comply with health or safety requirements of state or federal law. [1989, c. 849, §1 (NEW).]

B. There is no feasible alternative to the use of lead, cadmium, mercury or hexavalent chromium in the package or packaging component. For the purposes of this section, "no feasible alternative" means a use in which the regulated substance is essential to the protection, safe handling or function of the package's contents. [1989, c. 849, §1 (NEW).]

C. The addition of post-consumer materials causes the package or packaging component to exceed the maximum concentration levels set forth in section 1733, subsection 3. [1989, c. 849, §1 (NEW).]

For packages or packaging components exempted under paragraph A or B, a 2-year exemption may be granted and that exemption may be renewed for an additional 2 years. An exemption granted under paragraph C is valid for 6 years;

[1995, c. 656, Pt. A, §9 (AMD).]

3. Alcoholic beverages bottled prior to effective date. The package or packaging component contains an alcoholic beverage bottled prior to April 1, 1992; or

[1995, c. 184, §4 (AMD).]

4. Packaging and packaging components; reused.

[T. 32, §1734 (RP) .]

SECTION HISTORY

1989, c. 849, §1 (NEW). 1991, c. 177, §1 (AMD). 1991, c. 177, §2 (AFF). 1993, c. 310, §A1 (AMD). 1995, c. 184, §§3-5 (AMD). 1995, c. 656, §A9 (AMD). MRSA T.32 ., §1734/4 (AMD).

§1735. CERTIFICATE OF COMPLIANCE

A certificate of compliance is a document developed by a manufacturer and furnished to its purchasers that attests that one or more packages or packaging components meet the standards established in section 1733 or are exempt under the provisions of section 1734. If compliance is achieved under the exemptions provided in section 1734, the certificate must state the specific basis upon which the exemption is claimed. A certificate of compliance must be signed by an authorized official of the manufacturer. A certificate of compliance may cover more than one type of package or packaging component as long as they are separately identified. [1993, c. 310, Pt. A, §2 (AMD).]

1. New or reformulated packaging. If the manufacturer reformulates or creates a new package or packaging component, the manufacturer shall furnish its purchasers with an amended or new certificate of compliance for the reformulated or new package or packaging component.

[1993, c. 310, Pt. A, §2 (AMD) .]

2. Presentation of certificates. Each manufacturer shall furnish the department, at the department's request, with a copy of any certificate of compliance and each manufacturer or supplier shall furnish, at the department's request, copies of a certificate of compliance for distribution to the public.

[1995, c. 656, Pt. A, §10 (AMD) .]

SECTION HISTORY

1989, c. 849, §1 (NEW). 1993, c. 310, §A2 (AMD). 1995, c. 656, §A10 (AMD).

§1736. ENFORCEMENT AND PENALTIES

1. Enforcement. The department shall enforce the provisions of this chapter and may inspect, with the consent of the owner or agent, any property or building to accomplish the objectives of this chapter.

[1995, c. 656, Pt. A, §11 (AMD) .]

2. Violation. Any manufacturer or supplier that violates this chapter commits a civil violation for which a forfeiture of not more than \$100 may be adjudged. Each package or packaging component in violation constitutes the basis of a separate offense.

[1989, c. 849, §1 (NEW) .]

SECTION HISTORY

1989, c. 849, §1 (NEW). 1995, c. 656, §A11 (AMD).

§1737. RULES

The department shall adopt rules implementing the provisions of this chapter in consultation with the Department of Agriculture, Conservation and Forestry. Rules must be adopted in accordance with the Maine Administrative Procedure Act. No rule adopted pursuant to this chapter may add or remove prohibitions on packaging or packaging components. [1995, c. 656, Pt. A, §12 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1989, c. 849, §1 (NEW). 1995, c. 656, §A12 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§1738. PUBLIC ACCESS

A citizen of the State may request in writing from the department a copy of the certificate of compliance for a package or packaging component found in use or for sale in the State. [1995, c. 656, Pt. A, §13 (AMD).]

SECTION HISTORY

1989, c. 849, §1 (NEW). 1995, c. 656, §A13 (AMD).

§1739. EFFECTIVE DATE

This chapter takes effect April 1, 1992. [1989, c. 849, §1 (NEW).]

SECTION HISTORY

1989, c. 849, §1 (NEW).

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