



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1431

H.P. 1041

House of Representatives, March 28, 2019

Resolve, To Support Municipal Recycling Programs

(EMERGENCY)

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

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DEVIN of Newcastle.
Cosponsored by Senator CARSON of Cumberland and
Representatives: FAY of Raymond, GRAMLICH of Old Orchard Beach, GROHOSKI of
Ellsworth, KESCHL of Belgrade, RECKITT of South Portland, TUCKER of Brunswick,
Senator: FOLEY of York.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** many of Maine's communities are struggling to maintain or improve, or in
4 some cases are eliminating, recycling programs, and the State has not yet achieved the
5 50% state recycling goal established in state law in 1989; and

6 **Whereas,** packaging, which includes plastic, steel, aluminum, glass and cardboard,
7 constitutes approximately 30 to 40% of the materials managed by weight in waste
8 management programs in the State; and

9 **Whereas,** Maine taxpayers currently bear 100% of the responsibility and pay an
10 estimated \$16 million to \$17 million each year to finance the management of packaging
11 through fragmented and increasingly expensive municipal disposal or recycling options;
12 and

13 **Whereas,** producers of packaging have little incentive to design packaging to
14 minimize waste, reduce toxicity or maximize recyclability, and there is no organized
15 coordination between the producers of packaging and municipalities that are responsible
16 for disposing of or recycling the packaging; and

17 **Whereas,** producers of packaging have taken some or all responsibility for the
18 management of post-consumer packaging in other parts of the world, including in all
19 European Union member states and 5 provinces in Canada, with some programs dating
20 back 30 years, and as a result have greatly increased recycling rates and infrastructure
21 investment, created jobs and reduced taxpayer costs; and

22 **Whereas,** development of a stewardship program for packaging must be initiated
23 before the 90-day period expires in order for an extended producer responsibility law for
24 packaging to be developed and submitted in time to be considered in the next legislative
25 session; and

26 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
27 the meaning of the Constitution of Maine and require the following legislation as
28 immediately necessary for the preservation of the public peace, health and safety; now,
29 therefore, be it

30 **Sec. 1. Development of product stewardship law for packaging. Resolved:**
31 That the Department of Environmental Protection shall develop legislation establishing
32 an extended producer responsibility law for packaging in the State. The proposed
33 legislation must, to the greatest extent practicable, adhere to the product stewardship
34 framework law established in the Maine Revised Statutes, Title 38, chapter 18 and must:

35 1. Include a definition of "packaging" that covers, at a minimum, materials used to
36 wrap or protect consumer goods, including food and personal care products, and
37 containers and packaging used in the shipping, storage, protection and marketing of
38 consumer products;

- 1 2. Include a definition of "producer" that clearly identifies the person ultimately
2 financially responsible;
- 3 3. Include exemptions for small producers and for product packaging that is already
4 covered under Maine's beverage container redemption law;
- 5 4. Allow producers to voluntarily participate in the program if not required by the
6 law;
- 7 5. Provide for the establishment of a nonprofit stewardship organization of producers
8 of packaging to support the State's municipal solid waste management programs. The
9 agreement establishing the stewardship organization must require producers to:
 - 10 A. Cover at least 80% of the cost of recycling packaging material sold in the State
11 that is required to be recycled;
 - 12 B. Provide per capita reimbursement payments to municipalities for nonrecyclable
13 packaging to help municipalities cover the cost of packaging needing disposal; and
 - 14 C. Invest in waste reduction and recycling education and infrastructure;
- 15 6. Require that the stewardship organization establish an equitable funding scheme
16 among covered producers that encourages better packaging design in which:
 - 17 A. Producers pay higher fees for packaging materials sold into the market that are
18 not readily recyclable, are made of multiple materials or are toxic, in order to
19 discourage the creation of materials needing disposal; and
 - 20 B. Producers pay lower fees for packaging materials sold into the market that are of
21 higher value reusable components and that contain higher percentages of recycled
22 content to ensure that the stewardship program supports a strong recycling economy;
- 23 7. Describe the preferred methods to be used for regular data collection and reporting
24 and recycling rate and contamination calculations in order that:
 - 25 A. There is transparency and accountability in assessing the success of the program;
 - 26 B. The costs of collecting and reporting data are paid for by the stewardship
27 organization; and
 - 28 C. There is consistency with internationally accepted standards and there is sufficient
29 information to evaluate the effectiveness of the program;
- 30 8. Create incentives for municipalities and producers to reach predetermined
31 performance goals based on reporting and data collection as described in subsection 7;
32 and
- 33 9. Establish a method by which producers can protect themselves against producers
34 that fail to register with a program. These methods may include private right of action,
35 requirements that online retailers of packaging be responsible for paying into a fund in
36 support of the program if the products they sell are from producers who are not part of the
37 stewardship program or other strategies that ensure fairness and full compliance.

1 **Sec. 2. Proposed legislation. Resolved:** That the Department of Environmental
2 Protection shall submit proposed legislation pursuant to section 1 to the Joint Standing
3 Committee on Environment and Natural Resources no later than December 16, 2019. The
4 joint standing committee is authorized to report out a bill relating to the proposal to the
5 Second Regular Session of the 129th Legislature.

6 **Emergency clause.** In view of the emergency cited in the preamble, this
7 legislation takes effect when approved.

8

SUMMARY

9 This resolve requires the Department of Environmental Protection to develop
10 proposed legislation to establish a new product stewardship program requiring producers
11 of packaging to assist Maine municipalities in managing and financing packaging waste
12 disposal and recycling programs in the State. The proposed legislation is required also to
13 incentivize producers of packaging to design packaging to be recycled or made of
14 recycled content to strengthen the recycling markets. The resolve requires the department
15 to submit the proposed legislation to the Joint Standing Committee on Environment and
16 Natural Resources no later than December 16, 2019.