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**AMERIPEN  
American Institute for Packaging and the Environment**

**Testimony  
in Opposition to  
LD 295  
An Act to Ensure Accurate Recyclability Labeling of Plastic Containers and  
Plastic Packaging Material**

**Joint Committee on Environment and Natural Resources  
January 24, 2024**

Senator Brenner, Representative Gramlich and members of the Joint Committee on Environment and Natural Resources.

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to provide testimony on LD 295 that would ban recyclability claims and labels on plastic packaging by creating a Maine-specific recyclable labeling mandate. AMERIPEN supports policies that improve recycling, consumer education and moves materials into circularity. LD 295 will unfortunately result in more – not less – packaging materials going to disposal in Maine. Additionally, LD 295 sets a negative precedent not just for plastic, but for all recyclable materials, as it will deprive consumers of useful information about how to recycle packaging. It also ignores the purpose and the functionality of the readily-recyclable list that will be developed under the extended producer responsibility (EPR) for packaging law that passed in 2021 under LD 1541 (38 MRS §2146) and that is now being implemented.

AMERIPEN is a trade association dedicated to improving packaging and the environment. We are the only material-inclusive packaging industry trade association in the United States representing the entire packaging supply chain. Our membership also includes a robust array of industry, material, and product-specific trade associations who are essential to the AMERIPEN fabric. This includes materials suppliers, packaging manufacturers, consumer packaged goods companies, and end-of-life materials managers. We focus on science and data to support our public policy positions, and our advocacy and policy engagement is based on rigorous research rooted in our commitment to achieve sustainable packaging policies. We have several member companies with a presence in Maine, and many more who import packaging materials and products into the state.

Packaging plays a vital role in Maine, ensuring the quality of consumer goods as they are manufactured, shipped, stored, and consumed, protecting the health and safety of Mainers who consume, use and handle those products. Packaging has value and none of it belongs in landfills, roadsides, or waterways. We need to recover it to be recycled and reused, and no one knows better how to do that than the AMERIPEN members who design, supply, produce, distribute, collect, and process it. They are driving innovation, designing packaging for better environmental performance to boost recycling and evolve the recycling infrastructure.

AMERIPEN supports policy solutions, including packaging producer responsibility, that are:

- **Results Based:** Designed to achieve the recycling and recovery results needed to create a circular economy.
- **Effective and Efficient:** Focused on best practices and solutions that spur positive behaviors, increase packaging recovery, recapture material values and limit administrative costs.
- **Equitable and Fair:** Focused on all material types and funded by shared cost allocations that are scaled to make the system work and perceived as fair among all contributors and stakeholders.

LD 295 unfortunately does not meet these principles and we are therefore opposed to it as drafted. Following below are critical flaws with the current version of the bill that we believe must be considered with regard to recyclability labels.

### 1. Recyclability Criteria

LD 295, as currently drafted, would restrict the use of a chasing arrows symbol or a chasing arrows symbol surrounded by a resin identification code (RIC) or other symbol or statement indicating a product is recyclable if

the product does not meet certain requirements. We believe uniform labeling standards are essential to the free flow of interstate and international commerce and support the adoption of the Federal Trade Commission (FTC) Green Guides by states in conjunction with existing state truth-in advertising statutes. We are concerned that it will be very difficult, if not impossible, for manufacturers to comply with the labeling standards in the bill as currently drafted to make their products available in Maine.

Specifically, LD 295 will create a new definition of recyclability with unworkable criteria that will be conflicting and confusing to producers and consumers. The criteria stipulate both a 60% recycling access rate and a 75% recycling rate to achieve the ability to claim “recyclable” on a plastic package. The criteria also ban recyclability claims based upon chemicals that are intentionally added and already restricted in other areas of Maine laws. Since these chemicals are already banned in packaging in other areas of law, the new mandate here is duplicative and unnecessary.

The labeling restrictions in LD 295 will not allow manufacturers to communicate with their consumers on how to properly recycle those materials, causing less materials to be recycled and manufactured into new packaging and products. More – not less – materials will go to landfill, having a resounding negative impact on the ability of the state to reach its diversion goals and the ability to meet recycling goals currently being developed under the packaging EPR law.

## **2. ASTM Resin Identification Code (RIC):**

The labeling provisions in the current version of LD 295 are extremely problematic for any producers that follow the ASTM resin identification code (RIC) standard and voluntarily use the How2Recycle labels with the chasing arrows symbol on their products. We believe that LD 295 as currently drafted will prohibit these, and potentially other future, commonly used labels identifying a package or product as recyclable, or other valuable environmental traits, under the FTC Green Guides.

The ASTM RIC was developed in 1988 to meet the needs of recyclers and manufacturers for a consistent, uniform resin identification coding system that can be applied worldwide and is currently required in at least 35 state laws – including Maine. The RIC is not a symbol or statement indicating the packaging or product is recyclable or a direction to consumers to recycle the product or packaging. Originally intended to assist waste recovery facilities in the quality sorting of plastics products prior to recycling, the RIC system has today become a vital foundational tool used by municipalities, scrap brokers, recyclers, manufacturers, consumers, and others for managing the end-of-life of plastics materials.

## **3. How2Recycle Labels:**

Further, LD 295 would likely ban the use of many How2Recycle labels that have become an important and standardized tool in recyclable labeling across the country. How2Recycle is an example of a nationally recognized product labeling system that began in 2008 as a project of the Sustainable Packaging Coalition (SPC). The goal of the How2Recycle label is to reduce consumer confusion with a clear and consistent recycling label and corresponding informational website. The label informs consumers about the proper way to recycle regularly purchased items. Attached to this testimony is information regarding those labels and the positive impacts that they have had on informing consumers and improving packaging design.



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#### 4. Inconsistent with EPR Law and California Labeling Law:

LD 295 is also inconsistent with the Maine's new packaging EPR law, as it requires an entirely separate process for determining what plastic packaging would be considered "recyclable." This is in direct conflict the concept of "readily recyclable" developed under that law, in 38 MRS §2146 (13)(2) – that drives what will be collected and recycled in Maine into the future. LD 295 sets up a scenario where mandated recyclable claims in Maine may not be consistent with what is collected by participating municipalities as readily recyclable. The conflicting decisions, and additional programmatic burden on the Maine Department of Environmental Protection (DEP) will make this approach confusing and unworkable. At a minimum, the standard should align with 38 MRS §2146.

Additionally, California is the only other state to attempt to regulate recyclable labeling claims. While that law has not yet been fully implemented, LD 295 stands in contrast to California's program. California's law impacts all packaging types, not just plastic, and has very different criteria. Given these facts, Maine is not an effective market or geographic area to attempt to regulate national packaging recycling claims.

#### 5. Other Concerns:

- The materials characterization list to be created by the Department is based on criteria that are not defined in the bill (ex: regularly collected, regularly sorted, regularly processed).
- It is unclear how a package or product would be able to be added to the materials characterization list if there is an increase in its recycling rate if they are precluded from making statements regarding its recyclability.
- LD 295 establishes creation of a new civil crime if producers violate the provisions, creating unknown legal costs and liabilities.

If Maine restricts the use of certain symbols, while other states mandate their use, it's likely to increase consumer confusion, leading to reduced recycling rates and potentially *increased* contamination. We encourage this Committee and other interested stakeholders to engage in further discussions with packaging brand owners and manufacturers on this issue to determine what, if any, labeling language and requirements might be workable within the confines of LD 295 and the new packaging EPR law that is being implemented.

**In conclusion**, AMERIPEN recognizes the need to improve recycling and consumer education for many types of packaging and we remain committed to being a partner to find the right paths forward to recycle and reuse more packaging materials. However, LD 295 goes beyond a reasonable approach to labeling, and we urge you to **vote ought not to pass on LD 295**. Please feel free to contact Dan Felton, Executive Director of AMERIPEN at [danf@ameripen.org](mailto:danf@ameripen.org), or Andy Hackman at [ahackman@serlinhaley.com](mailto:ahackman@serlinhaley.com) for any questions or for stakeholder discussions on the important issue improving recycling of packaging materials. Thank you for your consideration of our comments.