



April 23, 2025

Senator Denise Tepler, Chair
Representative Victoria Doudera, Chair
Joint Standing Committee on Environment and Natural Resources
Maine Legislature
100 State House Station
Augusta, Maine 04333

RE: Testimony in Opposition to L.D. 1423 – An Act to Improve Recycling by Updating the Stewardship Program for Packaging.

Dear Chair Tepler, Chair Doudera, and Members of the Joint Standing Committee on Environment and Natural Resources:

Thank you for the opportunity to submit testimony in opposition to L.D. 1423. This testimony is submitted on behalf of Just Zero. Just Zero is a national environmental non-profit advocacy organization that works to implement proven and effective policies that reduce waste, improve recycling, and protect the environment.

In 2021, Maine made history by enacting the nation's first extended producer responsibility (EPR) for packaging program—a groundbreaking step toward reducing waste, improving recycling, and shifting the financial burden of managing packaging waste off of municipalities and onto the producers who create it. This landmark law was the result of years of thoughtful collaboration among local leaders, environmental advocates, businesses, and national experts. Since its passage, that collaborative spirit has continued. The Department of Environmental Protection (Department) has led a thorough, inclusive, and transparent stakeholder process to prepare for successful implementation. Maine's EPR program is now at a critical juncture: it is strong, balanced, and ready to move forward.

LD 1423 threatens to undermine that progress. Rather than improving the law, this bill would weaken it and introduce harmful delays—stalling benefits to Maine's environment, communities, and economy. The changes proposed in LD 1423 would make the program significantly less effective at achieving its core goals. This includes:

- (1) Exempting a large array of packaging materials that can and should be included in the program.
- (2) Adding an off-ramp that allows producers to escape compliance with key provisions of the law.
- (3) Weakening key provisions of the law that incentivize companies to reduce and eliminate the presence of toxic chemicals in their packaging.
- (4) Redefining post-consumer recycled material in a way that will mislead consumers, and disincentivize investments in residential recycling systems.

I. Maine's EPR for Packaging Law Already Includes Provisions to Ensure the Program is Updated and Improved Over Time.

Proponents of L.D. 1423 argue the bill is necessary to align Maine's program with the four other EPR for packaging laws in the U.S. However, this is an impossible goal. All five existing EPR for packaging programs in the U.S. are designed to address the unique challenges associated with each specific states solid waste and recycling systems. They reflect where each state is and where they want to go when it comes to responsibly managing packaging waste. They were developed with different goals and are being implemented in different ways to achieve those specific goals.

For instance, California's program is extremely primarily focused on addressing the plastic pollution crisis. The law has numerous plastic specific provisions designed to eliminate needless plastic waste, increase the recyclability of plastic packaging, and phase out non-recyclable materials. Conversely, Colorado's program is largely focused on increasing the collection and recycling of packaging materials. Many communities in Colorado currently lack access to recycling programs. Therefore, Colorado's program is largely focused on developing and expanding services across the state.

Additionally, Maine's EPR for packaging program already includes important provisions that will ensure the program is updated and improved over time. This includes language requiring the Department to review and respond to developments in other jurisdictions. The law requires the Department to submit an annual report to the legislature that includes any recommendations for amendments to the program to address new learnings and program challenges.¹ Additionally, every five years the Department must conduct a "comprehensive review" of the program rules.² This review must include information regarding criteria and standards adopted in other jurisdictions. Collectively, these provisions will ensure that Maine's program is adapting to challenges and incorporating lessons learned from across the country.

II. L.D. 1423 Creates Broad Exemptions to Materials That Should be Included in the Program

If enacted, L.D. 1423 will exempt an array of packaging materials from the law. These exemptions would remove responsibility from national and multi-national corporations who generate large amounts of problematic packaging and shift the costs back onto Maine municipalities and residents. The Department thoroughly explored which materials should be exempt from the program through the rulemaking process. We urge the legislature to defer to their expertise and reject attempts to needlessly exempt huge categories of packaging materials.

Most of the exemptions included in L.D. 1423 apply to products that are regulated in some way by federal law. While these federal laws and regulations do specify how certain products are packaged and labeled, none of the requirements directly impact Maine's ability to include these products in the EPR for Packaging Program. Nothing preempts these products from state level regulation that collects fees to cover the end-of-life management of packaging waste.

¹ 38 M.R.S.A. §2146(13)(E)(1).

² 38 M.R.S.A. §2146(13)(E)(2).

The Department has already evaluated whether packaging material associated with certain federally regulated products should be excluded from the program.³ The Department held two stakeholder meetings on this topic and accepted public comments for several months.⁴ The stakeholder meetings and comment period were in addition to the numerous opportunities presented during the formal rulemaking process.

III. L.D. 1423 Seeks to Create an Off-Ramp That Will Exempt Producers from Compliance with the Requirements of Maine's EPR for Packaging Law.

L.D. 1423 will exempt producers from all the requirements of Maine's EPR for packaging program if they can demonstrate that their packaging: (1) isn't collected through residential recycling systems, (2) isn't sent to comingled recycling facilities, and (3) has a demonstrated recycling rate of 65% for three consecutive years.⁵

A foundational principle of EPR for packaging is that all producers who generate packaging waste should share in the responsibility and cost of managing it, regardless of how easily their packaging may be recycled. Exempting producers from the program based on a narrowly defined criteria – undermines the very purpose and effectiveness of this policy.

Even if a packaging material type is not collected through residential recycling programs, it is still part of the waste stream, and someone must pay to manage it. Exempting producers under this provision will shift the burden back onto Maine communities and consumers who will continue to pay for disposal, recycling, litter clean-up and other downstream costs.

Moreover, Maine's EPR for packaging program is designed to do more than increase recycling rates. The law also focuses on increasing the use of post-consumer recycled content, driving a reduction in the use of toxic chemicals in consumer packaging, reducing litter, and spurring innovation in more sustainable and closed-loop packaging systems. Exempting producers from these broader obligations based solely on recycling rates ignores the interconnected goals of the program. It lets companies sidestep obligations to address the full spectrum of environmental and public health impacts associated with their packaging waste.

IV. L.D. 1423 Will Limit Maine's Ability to Address Toxic Chemicals Commonly Found in Consumer Packaging.

Much of the packaging that covers our food, cosmetics, and medicine is known to contain toxic chemicals and chemicals of concern. These chemicals leach into our food, cosmetics, and medicine, providing exposure pathways for dozens of carcinogens and endocrine disruptors.

³ 38 M.R.S.A. §2146(13)(D). This section requires the Department to "review packaging material associated with certain federally regulated products to determine whether that packaging material should be excluded from the definition of "packaging material""

⁴ Maine Department of Environmental Protection, [Packaging stakeholder meeting – schedule and producer exemptions planning](#).

⁵ L.D. 1423, Section 12.

For instance, a recent study found that nearly 200 chemicals connected to breast cancer are found in food packaging and these carcinogens can migrate into the human body.⁶ Another study found that more than 3,000 chemicals used in food packaging commonly leach into food and enter the human body.⁷ These chemicals include BPA, phthalates and PFAS which are lined to disruption of the endocrine system, tumor growth, abnormal reproductive function, neurological harm, immune issues, and other effects.⁸

The presence of these chemicals in common packaging materials also impacts recycling. Studies have found that recycling increases the toxicity of plastics. Recycled plastics often contain higher levels of chemicals that can poison people and contaminate communities, including toxic flame retardants, benzene and other carcinogens, environmental pollutants like brominated and chlorinated dioxins, and numerous endocrine disruptors that can cause changes to the body's natural hormone levels.⁹

To help address the presence of toxic chemicals and chemicals of high concern in consumer packaging the legislature opted to include two key requirements in Maine's EPR for packaging program. First, the law requires the Department to develop a producer fee structure that incentivizes companies to lower the toxicity of their packaging material. Second, the law requires the Department to make recommendations to the legislature regarding the need for new program amendments or goals that will address toxicity if the toxicity is demonstrated to have a disproportionate impact on any community in the state.

L.D. 1423 would significantly reduce the impact of these provisions. The bill redefines "toxicity." The new definition downplays the environmental and public health concerns associated with using toxic chemicals in manufacturing and recycling processes. Moreover, the new definition limits the applicability of the toxic chemical provisions of the law to packaging where the toxic chemicals were "intentionally" introduced. These changes are unnecessary and will create ambiguity over whether a specific toxic chemical was intentionally or incidentally introduced. We strongly urge the committee to retain the existing definition of toxicity.

V. The Legislature Should Reject Changes to the Definition of "Post-Consumer Recycled Materials."

L.D. 1423 will redefine "post-consumer recycled material" to include both post-industrial material and post-consumer material. While this is a subtle change, it will significantly weaken two key aspects of Maine's EPR for packaging program:

- 1) The post-consumer recycled materials goal. The definition of post-consumer recycled material is used when determining whether producers are complying with the post-consumer recycled material goal set by the Department.¹⁰

⁶ Sandee LaMotte, [Chemicals linked to breast cancer leach into our foods, study finds](#), CNN. (Sept. 24, 2024)

⁷ Pien Huang, [Chemicals from food packaging leach into food – affecting people's health](#), NPR (Sept. 19, 2024)

⁸ Bailee Henderson, [High levels of toxic plasticizers phthalates, bisphenols, found in nearly all foods in U.S.](#), Food Safety Magazine. (Jan. 5, 2024).

⁹ Tegan Gregory, [Forever toxic: the science on health treats from plastic recycling](#), GreenPeace, pg. 7. (May 24, 2023).

¹⁰ 38 M.R.S.A. §2146(13)(A)(5).

- 2) The eco-modulated fee structure. The definition is also used when adjusting producer fees.¹¹ Producers who increase the use of post-consumer recycled material in their packaging pay lower fees.

Maine's EPR for packaging program is designed to improve recycling and promote the use of recycled material in new products. In order to do that, the program must focus on solving a core issue with recycling: what happens to the materials after consumers are done with them. Post-industrial or pre-consumer materials—such as manufacturing scrap, trimmings, or off-spec products—were never in the hands of consumers and were never at risk of becoming waste. They are already part of a closed-loop system within manufacturing environments. Including them in recycled content calculations misrepresents progress toward true circularity and diverts attention and resources from the real challenge: post-consumer waste.

Allowing pre-consumer and post-industrial material to count toward recycled content goals will mislead consumers and regulators. It gives the impression that companies are supporting recycling systems and reducing the use of virgin feedstocks in manufacturing, when in fact, they're simply repurposing their own scrap – something most companies are already doing. This dilutes the value and meaning of recycled content goals and undermines transparency.

By only counting post-consumer recycled material, Maine's EPR program is incentivizing the development of recycling systems that will collect, sort, and recycle used packaging into new products. Conversely, including pre-consumer and post-industrial materials would allow regulated producers to meet important program goals without addressing the harder task of post-consumer recovery.

VI. Conclusion

We don't need to update a law that hasn't even begun yet. Maine should trust the systems it has already incorporated into the EPR for Packaging law, as well as the expertise of the Department to implement this important new program.

Thank you for your time and consideration of this testimony. I'm happy to answer any questions you may have.

Respectfully submitted,

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Just Zero

¹¹ 38 M.R.S.A. §2146(13)(A)(1)(c).