

Materials & Solid Waste Management Research Group
Senator George J. Mitchell Center for Sustainability Solutions
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April 23, 2025

Committee on Environment and Natural Resources
Cross Building, Rm. 216
100 State House Station
Augusta, ME 04333

Testimony in Opposition to LD 1423 – An Act to Improve Recycling by Updating the Stewardship Program for Packaging

Dear Members of the Environment and Natural Resources Committee:

We appreciate the opportunity to provide written testimony in **opposition** to LD 1423 — An Act to Improve Recycling by Updating the Stewardship Program for Packaging.

As members of the Materials Management Research Group at the University of Maine’s Senator George J. Mitchell Center for Sustainability Solutions, we have been following Maine’s first-in-the-nation packaging EPR regulation very closely. Our interdisciplinary research group is composed of faculty and graduate students at the University of Maine whose academic expertise centers around sustainable materials management across a wide range of disciplines, including economics, civil and environmental engineering, anthropology, sociology, psychology, and nursing. Our long-term stakeholder engagement with materials managers, local officials, and industry partners across the state offers us a deep understanding of both the challenges and potential solutions for materials management in Maine. We are writing today to express concern about the proposed bill LD 1423, which we believe will weaken Maine’s packaging stewardship program. Specifically, our concerns include the proposed bill’s intention to: 1) shift control and enforcement authority away from Maine DEP; 2) create loopholes that enable producers to avoid taking responsibility for packaging materials; and 3) weaken toxicity requirements around packaging materials.

Shifting Control to Producers: Based on our own research on packaging EPR policies, enabling producers to set their own performance measurements and targets in plans submitted to the state for approval has resulted in a lack of transparency and poor program performance.^{1,2} This has been well documented in the case of British Columbia’s packaging EPR program and the reason why Ontario and other Canadian provinces have since started insisting on “outcome

¹ Isenhour, Cindy, Brienne Berry, and Erin Victor. 2023. “Circular Economy Disclaimers: Rethinking Property Relations at the End of Cheap Nature.” *Frontiers in Sustainability* 3 (January):1007802.
<https://doi.org/10.3389/frsus.2022.1007802>.

² Victor, Erin. Forthcoming. “The politics of disposable packaging: An ethnographic analysis of Extended Producer Responsibility (EPR) policies in the United States and Canada. [Doctoral dissertation, University of Maine].

based” regulations where targets are set in legislation, there are strong data reporting and transparency requirements, and clear enforcement mechanisms for producers who fail to meet targets. When LD 1451 was passed, it was unmistakable that Maine residents and municipalities did not want to establish an EPR legislation that put the producers in charge, rejecting the industry-sponsored bill LD 1471. Yet, LD 1423 proposes to do just this. The Maine DEP and hundreds of stakeholders worked for years to develop rules for Maine’s packaging stewardship program, including setting strong performance metrics and targets. LD 1423 would effectively undermine this significant investment made by concerned Maine residents by allowing producers under the Stewardship Organization to disregard the vision that Maine stakeholders established and set their own fees, performance evaluation, and targets. As other jurisdictions have found, once the DEP approves any producer plan, this acts as a “blessing” which makes it nearly impossible to hold producers accountable when they fail to meet their own established targets.

Creating Loopholes: LD 1423 introduces a number of concerning loopholes that allow producers to avoid responsibility for the packaging materials they sell in Maine. Specifically, Section 12. 38 MRSA §2146, sub-§2, E establishes criteria that will let many producers receive exemptions if the packaging material they put on the market is not collected by residential recycling services, separated at the MRF, sent to a responsible end market, or meet a recycling rate of 65% for three consecutive years. This creates a perverse incentive that may result in producers choosing to switch to packaging materials that do not meet these criteria in order to avoid reimbursing municipalities for material management costs. Yet, Maine municipalities and taxpayers will continue to pay for managing this packaging material.

Toxicity: A prominent theme within the materials management group’s recent research has been around the toxicity of materials.^{3,4} The changes that LD 1423 introduces to amend the definition of “toxicity” are of particular concern to us. Introducing the language of “intentional” addition of chemicals of concern will make it significantly more difficult for Maine to hold producers responsible for the toxicity of their packaging choices. Additionally, the removal of chemicals of concern and chemicals of high concern identified in chapter 16-D notably narrows what harmful chemicals producers can be held accountable for. Lastly, the removal of consideration for what chemicals of concern are used in manufacturing, recycling, or disposal of packaging materials is problematic since it downplays the harm of packaging materials that takes place upstream (at the point of manufacturing) and downstream (when recycled or disposed of). This is an environmental justice concern since these harms are disproportionately borne by BIPOC communities.^{5,6}

³ Berry, Brienne, Travis Blackmer, Michael Haedicke, Susanne Lee, Jean D. MacRae, T. Reed Miller, Balunkeswar Nayak, et al. 2024. “Safe Circular Food Systems: A Transdisciplinary Approach to Identify Emergent Risks in Food Waste Nutrient Cycling.” *Foods* 13 (15): 2374. <https://doi.org/10.3390/foods13152374>

⁴ Isenhour, Cindy, Michael Haedicke, Brienne Berry, Jean MacRae, Travis Blackmer, and Skyler Horton. 2022. “Toxicants, Entanglement, and Mitigation in New England’s Emerging Circular Economy for Food Waste.” *Journal of Environmental Studies and Sciences* 12 (2): 341–53. <https://doi.org/10.1007/s13412-021-00742-w>.

⁵ Lerner, Steve. 2010. *Sacrifice Zones: The Front Lines of Toxic Chemical Exposure in the United States*. Cambridge, Mass.: MIT Press.

⁶ Mah, Alice. 2023. *Petrochemical Planet: Multiscalar Battles of Industrial Transformations*. Durham and London: Duke University Press.

Ultimately, we see this bill as undermining *years* of hard work by hundreds of stakeholders actively engaged with rule development for Maine’s packaging EPR program. Further, this would delay much-needed financial assistance to Maine municipalities and taxpayers who continue to manage packaging materials. We urge you to vote “ought not to pass” on LD 1423.

Sincerely,

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The views expressed here represent the authors' opinions based on their expertise and do not speak on behalf of the University of Maine.