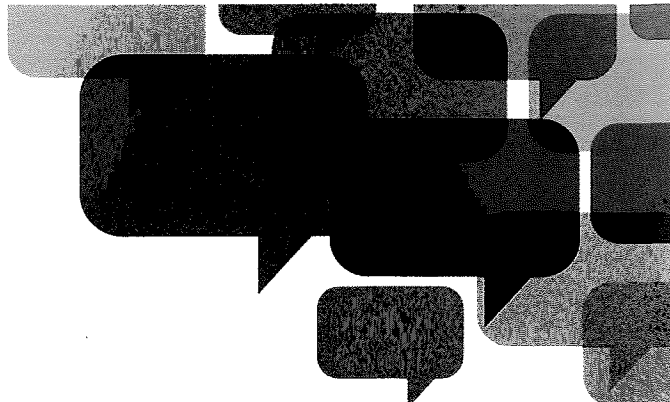




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April 26, 2023

Senator Stacy Brenner, Chair  
Representative Lori Gramlich, Chair  
Members of the Environment and Natural Resources Committee

**RE: Testimony in SUPPORT of LD 1214, An Act to Clarify the Laws to Combat Perfluoroalkyl and Polyfluoroalkyl Substances Contamination**

**Testimony in SUPPORT of LD 217, An Act to Support Manufacturers Whose Products Contain Perfluoroalkyl and Polyfluoroalkyl Substances AS AMENDED**

**Testimony in QUALIFIED SUPPORT of LD 1273, An Act to Exempt Some Businesses from Certain Laws Relating to Perfluoroalkyl and Polyfluoroalkyl Substances in Accordance with the Size of the Business**

**Testimony in OPPOSITION to LD 1537, An Act to Amend the Laws Relating to the Prevention of Perfluoroalkyl and Polyfluoroalkyl Substances Pollution and to Provide Additional Funding**

**No Position on LD 304, An Act to Establish Statewide Standards for Perfluoroalkyl and Polyfluoroalkyl Substances – CONCEPT DRAFT**

Dear Senator Brenner, Representative Gramlich, and members of the Environment and Natural Resources Committee:

My name is Curtis Picard and I am the President and CEO of the Retail Association of Maine. I am a resident of Topsham. We have more than 350 members statewide and represent retailers of all sizes. Maine's retailers employ more than 85,000 Mainers.

We all agree that PFAS is being detected in Maine water wells, and on Maine farm fields. We do not dispute that PFAS is a harmful chemical and that regulations need to be set to best manage the issue. It has been well-documented that there are more than 12,000 different formulations of PFAS, and that its use is widespread. It is so prevalent, I recall the challenge Maine DEP had in testing Maine well water with most water testing equipment because PFAS is prevalent in

most water testing equipment. Additionally, we understand that there is limited capability to be able to adequately test for all 12,000 combinations, and that the current testing regimen can only test for 40-50 formulations. Although the 2021 legislation was well-intentioned, it contained a number of unintended consequences, and has been difficult, if not impossible, for thousands of businesses to comply with the law. Consequently, Maine DEP understood the challenge. They have delayed enforcement of the law to the thousands of companies that requested, and were granted, an extension. Maine DEP has been working on adopting a rule to help clarify the law and to provide clearer guidance to businesses as they try to comply.

We also think it is important for policymakers and citizens to try to understand the primary source of PFAS in Maine farms and wells. We understand that the likely source is the spreading of sludge on farmland as fertilizer that occurred over decades with the authorization of the State. The sludge contained the waste products of paper mills, and perhaps household septic systems. In fact, a recent report detected PFAS in household toilet paper which could explain the presence of PFAS in septic systems.<sup>1</sup> Consequently, we believe efforts should be focused on the primary sources of the contamination, and to not take a wholesale approach that all uses of PFAS must be the culprit.

The bills before you today are a direct result of the challenges and unintended consequences from the 2021 law. We would like to primarily focus on LD 1214, as we believe it will provide the most reasonable path forward, and provide clarity to manufacturers. It will also help meet the goal of limiting the amount of PFAS in our land, water, and natural resources. We appreciate Senator Baldacci and Senate President Jackson for submitting LD 1214.

LD 1214 will help narrow the scope of PFAS formulations to better align with current testing capabilities. It is not possible to test for all 12,000+ formulations so steps should be taken to address this. Additionally, the bill helps clarify that confidential business information will be protected, and the bill pushes out the date for compliance for one year to allow the Maine DEP and stakeholders to continue to work on clear and sustainable rules.

We know many manufacturers are working hard to remove PFAS from their products. Many will be able to comply before the 2030 deadline, but some manufacturers will continue to be challenged as the process to find acceptable alternatives can take seven to ten years. For many years, there was a push to remove polystyrene because of the difficulty in recycling it. However, the replacement for polystyrene food packaging seems to be lined paper food containers that

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<sup>1</sup> <https://time.com/6259819/pfas-found-in-toilet-paper/>

can include PFAS. Ultimately, we need to make sure the alternatives are not worse than the product that is being eliminated.

We also want to support LD 217 as amended. The bill will push out the reporting deadline until January 2025. While this is one-year longer than what LD 1214 is proposing, we think that having more time for compliance will provide a better framework towards eliminating PFAS from products.

We are also supportive of the intent of LD 1273 which proposes a small business exemption of 10 or fewer employees, or \$1,000,000 in annual sales from the reporting requirement. While we do believe there should be a small business exemption, we believe the proposed thresholds are not significant enough. \$1 million in annual sales is not a lot for a small margin business, nor is an employee threshold of 10 enough. While we do not know what the best levels should be, they should be significantly higher than what is proposed. LD 1273 also exempts certain products that are federally regulated, and products included in Title 32, Section 26-A and 26-B. We are supportive of that proposal.

We will close with some thoughts on LD 1537, and why we oppose it. First, the reporting delay to October 2023 is not long enough. Additionally, although LD 1537 exempts small businesses with less than \$20,000,000 in sales (a better number than LD 1273) it does not impact the sales prohibition. We want to be clear that retailers should not be the enforcement arm to police which products are or are not compliant. Small businesses especially will be unable to determine which products are compliant with the law. We would instead suggest language that if a retailer is found to be selling a non-compliant product, then the manufacturer would be required to buy back to the product so that the retailer is made whole. We are also uncertain how the annual product category designation will work.

In closing, we understand these are difficult issues to navigate, and there are no easy answers, but we stand ready to be a resource and provide input where necessary. Thank you for the opportunity to share our thoughts with you, and we look forward to the discussion.

Sincerely,

Curtis Picard, CAE  
President and CEO