

Nicole Grohoski
Senator, District 7



P.O. Box 1732
Ellsworth, ME 04605

THE MAINE SENATE
131st Legislature

**Testimony of Senator Nicole Grohoski
In Support of LD 2091, "An Act Regarding Businesses' and Consumers' Use of Returnable,
Reusable and Refillable Containers for Food, Beverages and Nonfood Items"**

**Before the Committee on Agriculture, Conservation and Forestry
22 January 2024**

Good morning Senator Ingwersen, Representative Pluecker, and members of the Agriculture, Conservation and Forestry Committee. I am Nicole Grohoski and I represent the 22 coastal communities of Senate District 7. Thank you for providing me the opportunity to express my support for **LD 2091: An Act Regarding Businesses' and Consumers' Use of Returnable, Reusable and Refillable Containers for Food, Beverages and Nonfood Items**.

Background:

A law enacted in 2021 requires that the Department of Agriculture, Conservation, and Forestry's rules allow a business to accept a customer's reusable container for the purchase of shelf-stable foods and nonfood items, at the discretion of the business. The Department (DACF) has helpful guidance for businesses that are interested in allowing reusable containers, which I have attached. This is great because reusable packaging cuts costs for businesses, reduces waste, extends shelf life, and is the preferred customer experience for many.

The Health Inspection Program of the Maine Center for Disease Control and Prevention (CDC) oversees food safety policies for licensed eating establishments. Also in 2021, the CDC updated its policy on refilling returnables to match the 2017 FDA Food Code.¹ These changes to the Maine Food Code allow a restaurant to 1) package any food in a reusable container provided by the restaurant, 2) send it home with a customer, 3) accept it back, 4) clean, sanitize and inspect it, and 5) refill it for reuse by another customer.

You'll notice that I underlined some phrases above. What they point to is this:

- You can fill any container with shelf-stable foods and non-food items at any business that allows you to.

¹ <https://www.maine.gov/dhhs/mecdc/environmental-health/el/site-files/Reusable%20Container%20Guidance%20Handout10-7-21.pdf>

- A restaurant can put any food, including foods that are not shelf-stable, into a reusable container they provide and reuse with other customers.

This means that a business that is not a restaurant, but has access to identical cleaning and sanitizing equipment as a restaurant, cannot provide and reuse the same containers with the same food in them as a restaurant can. The Maine CDC recognizes that there is a safe way for reusable containers to be used to package food that is not shelf-stable, but this finding does not apply to all business types. This bill aims to correct that discrepancy.

There has been a lot of research on how to safely reuse containers for food, which informs national and global standards.² For example, supermarkets in Australia have worked with their Food Safety Information Council to establish requirements to reduce the risk of foodborne illness.³ Some key principles they follow are:

- Keep food in highly durable and easy-to-wash containers
- Use sealable lids
- Rinse fresh produce and proteins before cooking
- Refrigerate raw and or cooked food promptly
- Discard any reusable packaging that is cracked, broken or otherwise allows contact with the outside environment

Standards that follow these principles can be incorporated in the Maine Food Code to ensure that reusable containers do not pose any greater health threat than single-use containers.

Sponsor's Amendment:

I worked with your analyst to propose changes to the printed bill, which were circulated publicly on January 10th. Since then, I have received helpful feedback and expect additional input that I will be glad to help your committee incorporate into another amendment. At this time, I have committed to:

- Making it clear that the use of reusable containers is voluntary for any business
- Ensuring that a business has the right to refuse to accept any container
- Reincorporating a more specific version of the phrase “in accordance with any applicable national or global standards for health and safety” that better defines which standards are appropriate.

All of the changes thus far and anticipated aim to accomplish the goals of the bill, which are to:

- Allow a consenting business and customer to use reusable containers for any products,
- Protect health by requiring that cleaning, sanitizing, and inspection standards are followed by businesses opting into reusables, and
- Provide technical assistance to ensure best practices are followed.

² <https://www.reusables.org/reusable-packaging/food-safety/>

³ <https://cosmosmagazine.com/health/reusable-containers-safety/>

Why this bill matters:

This bill would help an innovative small business in my district – Farm & Fish, who you will hear from today – as well as other aspiring food entrepreneurs and well-established retailers and restaurants, to succeed without unnecessary regulation regarding reusable food containers. When we're talking about reusable containers, everyone involved wants to use them. They are not being foisted on anyone.

Furthermore, expanding the safe use of reusable containers is a great economic opportunity for Maine. Reusable containers have been shown to cut a business's bottom line⁴ and there are plenty of business opportunities for companies that can provide, collect, clean, and redistribute reusable containers.

Thank you for your attention and I am happy to answer any questions you may have.

⁴ <https://www.reusables.org/reusable-packaging/cost-savings/>
"The Economics of Reuse Systems," Zero Waste Europe.
<https://drive.google.com/file/d/16roSp8u9zRA8Dbafnboe2YmmLV8fuwS2/view>



Reusable Container Guidance for Retail

In 2021, the Maine legislature passed “An Act to Promote Bulk Retail Purchasing.” This legislation highlights the ability of consumers, with the consent and agreement of retail business owners, to bring clean, reusable containers from their homes to bulk purchase **shelf stable food** and **non-food** items. While the state of Maine has never prohibited this practice, many consumers and businesses alike have been unaware that this option is available. By following some simple guidelines, consumers can reduce the waste created by single use plastics. The Division of Quality Assurance and Regulation (QAR) would like to share best practice guidelines for both consumers and businesses outlining safe practices for the use of reusable containers for bulk purchases.

Consumers: Tare, Fill, Pay

- Utilize clean, dry, non-porous containers. Examples include: Plastic, ceramic, glass
- Prior to filling your container with the shelf stable or non-food goods, obtain a tare weight from the appropriate store department. This will prevent being charged for the weight of your container.
 - A Tare Weight is simply the weight of the empty container.
- Store employees should record the tare weight on the bag or container if unable to generate a final label with price.
- Once containers have been filled with product they should be closed, sealed, and labeled.
- You are ready for check-out.

Vendors: Tare, Label, Weigh

- Store employee verifies container is clean, dry and non-porous.
- Store employee weighs empty consumer container to obtain tare.
- Record tare weight.
- Either employee will fill container or return to customer for self-fill.
- If possible, store employee will generate final label and price reflecting tare.
- Consumer is ready to check out.

Please note: The use of reusable containers is entirely voluntary and occurs by mutual agreement of both retail vendor and consumer. This practice will occur at the discretion of the business owner or company. QAR recommends every participating business develop internal policies and protocols to facilitate the safe implementation of this practice. QAR inspection staff can provide support for this on an individual basis. Please contact QAR at (207) 287-3841 for more information.