



AMERIPEN
American Institute for Packaging and the Environment

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

Joint Committee on Environment and Natural Resources
April 23, 2025

Chair Tepler, Chair Doudera and Members of the Joint Committee on Environment and Natural Resources.

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to offer testimony on LD 1423, An Act to Improve Recycling by Updating the Stewardship Program for Packaging, that would make changes to the State’s packaging extended producer responsibility (EPR) law that passed in 2021 under LD 1541 (38 MRS §2146).

This legislation represents significant hard work and development to make Maine’s law slightly more consistent with the packaging EPR laws and bills that have passed in **6 other states**, while not overturning the existing program. AMERIPEN appreciates the Department of Environmental Protection’s (DEP) efforts to try and create a workable program, however, as demonstrated in most recent stakeholders’ meetings it has become apparent that changes are needed to the law, to protect the viability of many of Maine’s businesses and products sold into the state.

AMERIPEN is a coalition of stakeholders dedicated to improving packaging and the environment. We are the only material neutral packaging association in the United States. Our membership represents the entire packaging supply chain, including materials suppliers, packaging producers, consumer packaged goods companies and end-of-life materials managers. We focus on science and data to define and support our public policy positions and our comments are based on this rigorous research rooted in our commitment to achieve sustainable packaging, and effective and efficient recycling 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 Maine people 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 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.

Now that **six other states** have passed EPR for packaging and none have copied Maine’s approach to the management and decision making of the program, it is imperative that Maine provide some level

of consistency with other states. LD 1423 seeks to create some level of consistency and address the flaws in the current program that have created the following issues:

1. **Fees, Budgeting and Performance Goals** – AMERIPEN is very concerned that the prescriptive producer fees and performance goals which have been set by DEP in regulation that are extremely high and out of sync with other states. All other states allow the Producer Responsibility Organization (PRO) or Stewardship Organization (SO) under Maine's law, to propose producer fees and propose or recommend amendments to performance goals via a plan that undergoes extensive review and input from stakeholders, advisory council and the respective departments. This approach allows both flexibility and creates true Ecomodulation of fees to incentivize better materials usage for product applications.

The system adopted under the current program in Maine, has a simple bifurcated 2-step approach to determining fees, either a packaging material is **#1 Readily Recyclable** or **#2 Not Readily Recyclable**. This approach lumps all materials into two rudimentary buckets. This is in contrast to all other EPR states, where some like Oregon specifically have 61-different material classes and different fees for each class (see attachment). Such an approach will overly penalize materials that are nearly readily recyclable and will result unintended consequences as producers move the lightest material in a designation (see attachment). Based-upon rudimentary extrapolation from Oregon, those fees could be over \$2.00 per pound of packaging for non-readily recyclable material types.

There must be greater flexibility in setting the formula for producer fees and performance goals that currently would multiply 2x, 3x, 4x and 5x if goals are not met. LD 1423 provides greater flexibility to the Stewardship Organization and the Department to set a budget and adopt appropriate producer fees and also greater flexibility in performance targets. Without such flexibility, the current program will grossly over-collect fees and drive a migration to materials that are the lightest and never reflect progression toward recyclability.

2. **Scope of Management of Recyclables** - The definition of “manage” is critical to how the law funds recycling. Unfortunately, the approach in the current program is too expansive and buries education and litter clean-up costs in a prescriptive funding formula. This approach is also inconsistent with the statute – which calls for education and infrastructure investments to be funded in a separate section of law, and for which the Department did provide a separate funding mechanism for infrastructure investments. Embedding recycling education and litter clean-up costs in the “manage” definition continues to create a fragmented style of recycling across the state with different education efforts in each municipality and differing litter efforts in each municipality, as well. Instead, these activities should be managed, similar to the approach to investments in infrastructure, with the SO performing statewide education and litter clean-up efforts, with oversight from the Department.

LD 1423 seeks alignment with other states, and is consistent with the intent and structure of the law, so that only direct recycling costs should be included in the definition of “manage” under the program and education efforts should be managed separately, statewide via an SO's efforts.

3. **Definition of Consumer** – The definition of “consumer” is a critical element that was left undefined in LD 1541, in 2021. This element provides the scope of where funding will be provided into the recycling system in Maine. The current regulatory definition of “consumer” includes any entity that receives a good in packaging. This ranges from a residence, to a commercial storefront, to a massive industrial complex. Many of these commercial entities already pay for recycling services and that volume of material should not be subject to double fees or double taxation for the same material. The premise of LD 1541 was to fund municipal residential recycling, therefore the scope of “consumer” should be those residential consumers, as included in LD 1423.
4. **Alignment of Definitions and Reporting** – Additionally, critical structural definitions in the program like “producer”, “responsible end markets”, “residential recycling collection service” and “commingled recycling processing facility” are key concepts that must be aligned with other states. These create common operating foundations with other state laws and consistent application of approaches to programs. In particular, the definition of “producer” in LD 1423 defines more clearly and consistently with other states – what entity is ultimately responsible for the packaging material and must pay fees to the Stewardship Organization. These basic terms are necessary to be aligned, especially now that there will be 7 total states implementing EPR program for packaging.

In conclusion, AMERIPEN supports policy solutions, including packaging producer responsibility, that are results based, effective and efficient, and equitable and fair. We believe LD 1423 is a reasonable approach to aligning key elements of Maine’s EPR law with the 6-other states that have passed EPR programs. LD 1423 is a reasonable compromise for improving recycling in the state and attempting to align with other states. We therefore encourage this Committee **vote Ought to Pass on LD 1423.**