



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

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Senator Tepler, Representative Doudera, and members of the Joint Standing Committee on Environment and Natural Resources, my name is Vanessa Berry. I am the Sustainable Maine Program Manager for the Natural Resources Council of Maine (NRCM). I appreciate this opportunity to testify in opposition to LD 1423.

LD 1423 would create a wide range of changes to Maine's Product Stewardship Program for Packaging, including, but not limited to:

- Blanket exemptions for federally regulated products, such as cosmetics, supplements, hazardous materials, infant formulas, and more;
- Off-ramps that would exempt additional producers from financial responsibility if a material is recycled at a rate of 65% or higher;
- Amendments to the definitions of post-consumer recycled content, toxicity, producer, responsible end market, and residential recycling facility;
- Shifting decision-making processes away from Department-run public rulemaking and replacing them with major substantive rulemaking and/or private processes facilitated by the Stewardship Organization; and
- Delays to implementation and reimbursements for Maine communities for the management of packaging waste.

**Why Maine Passed EPR for Packaging**

In 2021, Maine became the first state in the country to pass an Extended Producer Responsibility (EPR) law for product packaging. Conversations about the importance of such a policy began in 2018, when China enacted their "National Sword" policy that banned the import of recycled materials due to high levels of contamination. This disruption to the global recycling market eliminated many of our recycling options overseas and made it much more expensive for municipalities to recycle their post-consumer materials. Many towns made the difficult decision of suspending or canceling their programs. But, with landfill options also becoming scarce and increasingly expensive, Maine communities needed a more sustainable solution for managing the explosion in packaging waste brought into the state, and EPR for Packaging became a clear solution to these problems. Such programs were adopted and are succeeding in jurisdictions around the world, and the time had come for Maine to adopt a similar "polluter pays" policy for packaging waste.

This law passed after more than two years of collaborative stakeholder engagement and research into the effectiveness of EPR laws in other jurisdictions. After the bill was signed into law, the

Department of Environmental Protection (DEP) began a comprehensive assessment of public comments to create rules that matched the intent of the legislation, crafted with feedback from environmental advocates, municipalities, producer groups, material managers, recyclers, EPR experts, and many others. For two and a half years, many groups and individuals, including NRCM, have focused on the successful implementation of this law. Participating municipalities are scheduled to start reporting next spring and receive their first reimbursements in October of 2027. This is why NRCM is disappointed to see a proposal like LD 1423, which would make major changes to the law here at the eleventh hour.

### **How the Law Works**

The primary goal of the law is to shift the financial burden of managing packaging waste back to the producers who are responsible for making the packaging and who have control over packaging design. This assignment of financial responsibility for packaging waste will be implemented through a third-party Stewardship Organization (SO) that will collect fees from producers and redistribute the funds back to municipalities based on the amount of packaging they recycle. Packaging will be sorted into two categories: “readily recyclable” and “non-readily recyclable,” and producers who create readily recyclable packaging will pay less for their materials than those who do not.

A bonus of Maine’s EPR law is the ability to implement eco-modulated fees over time, which are additional fees designed to encourage or discourage certain environmentally responsible practices in packaging design. With these fees in place, producers should be motivated to alter their packaging to use more post-consumer recycled content, eliminate the use of added toxics, provide accurate disposal labeling, and reduce littering of their packaging material. Other jurisdictions that have implemented EPR laws have seen changes to packaging that make materials easier to recycle, and some have seen investments in reusable and refillable packaging that result in less overall waste. Here in Maine, although financial incentives are built into the law, no producer will be forced to alter their packaging.

Many producers have asked for exemptions throughout the rulemaking process, and there are pathways to obtain such exemptions from some or all of the financial obligations within the EPR program, but exemptions are currently at the discretion of the DEP and producers must submit a formal request with a strong rationale for the exemption. This is happening now, with 11 requests currently being considered. The exemptions proposed in LD 1423 are simply an attempt by producers to circumvent the current process and receive a free ride, paid for by Maine taxpayers and municipalities.

### **Program Strengths and Transparency**

Maine’s EPR for Packaging program stands out from other state models because it was crafted with a strong focus on transparency, accountability, and public oversight. The law ensures that decisions about program design, fee structure, and performance standards will be made through the Department’s public rulemaking process. This is a major strength, allowing continued stakeholder input, adaptation, and refinement based on real-world data and evolving industry practices.

In contrast, LD 1423 proposes to shift several key decision-making powers away from the DEP and into the hands of the Stewardship Organization – a private entity that, while central to the program's operations, should not be the sole authority on critical policy decisions. Allowing the SO to take over roles that belong to a public agency would compromise the public interest and enable decisions to be made behind closed doors without adequate public scrutiny.

Advocates for LD 1423 claim that Maine's program is "out of step" with other states. But that's not a weakness; it's a strength. Maine led the nation with a thoughtful, balanced law that prioritized community needs and environmental outcomes. While other states may have compromised more heavily to get industry on board, Maine held the line on accountability and fairness. We would urge the supporters of LD 1423 to instead be urging changes in other states so that those laws and programs are more like Maine's.

### **Timing Matters: Why Now Is Not the Moment for Changes**

This program has not yet been implemented. The law was passed in 2021, and since then, DEP and stakeholders have dedicated extensive time and effort to develop a fair and effective system. Municipal reporting begins in 2026, and reimbursements are slated for 2027. The program has not even had a chance to be tested in practice.

Maine law already includes a scheduled review and report-back to this Committee in 2028. That review was deliberately built into the law to give time for implementation, data collection, and lessons learned – so the Legislature can evaluate whether changes may be necessary based on facts, not fear or speculation.

Making major legislative changes now, before the first reimbursement is even issued, would send the wrong message to stakeholders who have invested significant time and energy in good faith. It would undermine the rulemaking process and delay the support that municipalities have been counting on for years.

### **Conclusion**

LD 1423 is an industry-backed attempt to weaken a strong law before it even has a chance to deliver the benefits it was designed to provide. NRCM urges the Committee to stay the course and allow Maine's EPR for Packaging law to move forward as intended. The DEP's rulemaking authority will provide an opportunity to address valid concerns, and the built-in legislative review in 2028 will be the right time to evaluate the program's performance and consider changes, if needed.

Maine's towns and cities cannot afford more delays. They need real, sustained support to manage the growing cost and complexity of packaging waste. For these reasons, NRCM strongly urges the Committee to vote Ought Not to Pass on LD 1423. Thank you for your time and for your commitment to Maine's environment and communities. I would be happy to answer any questions you may have or provide additional materials during the work session.

## History of Support for EPR for Packaging in Maine

2019

- The first piece of legislation that enabled the development of Maine's EPR for Packaging law was a resolve filed at the end of 2018. LD 1431, a Resolve, To Support Municipal Recycling Programs, which received support from a wide range of interests, passed the Legislature with unanimous support, and was signed by the Governor in May 2019. It required the Maine Department of Environmental Protection (DEP) to present statutory language to the Committee on Environment and Natural Resources (ENR) that would establish a stewardship program for packaging.
- The Maine DEP also recommended that the Legislature consider legislation for a stewardship program for packaging in the 2019 Annual Product Stewardship Report to the Legislature.

2020

- Maine DEP presented the statutory language to the ENR Committee in January 2020, which they reported out as a bill, LD 2104, An Act to Support and Increase the Recycling of Packaging. The bill had a public hearing that lasted more than 8 hours and received 181 pieces of testimony, 73% of which was favorable. That bill ultimately passed the Committee, but the pandemic led to an abrupt adjournment of the Legislature, which never met again to work on any of the pending legislation.

2021

- Representative Nicole Grohoski and lead co-sponsor Senator Rick Bennett refiled the EPR for Packaging bill, LD 1541, An Act to Support and Improve Municipal Recycling Programs and Save Taxpayer Money. Plastic manufacturers and producers of packaging also filed a competing bill, LD 1471, that would have been largely ineffective.
- LD 1541 received a lengthy, virtual, combined public hearing and was ultimately passed by the Legislature.

There were 70 testimonies in support of LD1541 from a wide diversity of stakeholders including large and small local business owners; municipal staff, local elected officials, and local recycling committee volunteers; solid waste professionals and transfer station managers; state lawmakers; nonprofit and religious institutions; taxpayers; middle and high school students; undergraduate and graduate school students; and University of Maine faculty. By contrast, there were only 15 testimonies in support of the industry bill, LD 1471. Not a single Maine taxpayer, municipality, solid waste professional, nonprofit, or business owner supported LD 1471. Fourteen of 15 testimonies came from out-of-state industry lobbyists for big corporations. Only one testimony came from a Maine lobbying group. There was a total of 41 testimonies in opposition to LD 1471, including NRCM's.

## **Establishing Widespread Support of EPR for Packaging in Maine**

- 31 Maine municipalities representing more than 346,000 people passed municipal resolutions in support of an EPR for Packaging law, see the resolutions adopted by those towns and cities below.
- See the names and inspiring comments of the 2,253 people that signed NRCM's petition urging lawmakers to enact an EPR for Packaging law in Maine.
- And Maine's EPR for Packaging bills (LD 2104 and LD 1541) were a top priority for Maine's Environmental Priorities Coalition, which is a partnership of 36 environmental, conservation, and public health organizations representing members who work to protect the good health, good jobs, and high quality of life that our environment provides.
- Local businesses and municipal leaders wrote compelling op-eds for statewide newspapers.
  - Op-ed by local transfer station manager
  - Op-ed by waste manager in Northern rural Maine
  - Local business owner op-ed

## **Businesses that Supported EPR for Packaging Bill**

Agri-Cycle, Daniel Bell

Allagash Brewing Company, Rob Tod

Bees, Birds, & Bugs, Bethe Hagens

Business Systems Management Inc., Melanie Hodgdon

Coastal Cafe and Bakery, Celine & Patrick Kelley

Craignair Inn by the Sea & Causeway Restaurant, Greg & Lauren Soutiea

Dental Lace LLC, Jodi Breau

Gardiner Food Co-op, Kendall Holmes

Go Go Refill, Laura Marston

JAK Designs, Jennifer Armstrong

Little Dog Coffee Shop, Mason Palmatier

Maine Beer Company, Daniel Kleban

Patagonia, Dana Wilfahrt

Toad&Co, Giuliana Orsky

Vagabond Coffee Truck, Ethan Whited

We Compost It, Tyler Gleason

We Fill Good, Marla Baldassare

Wholistic Nutrition & Chiropractic Center, Roger Nadeau, DC

## **Maine Towns that Passed Recycling Reform Resolutions**

Bangor

Bar Harbor

Bethel

Blue Hill

Brunswick

Camden

Cape Elizabeth

Deer Isle

Ellsworth

Falmouth

**Freeport**

Harpswell

Kennebunkport

Kingfield

Lewiston

Limerick

Lubec

Manchester

North Yarmouth

Orono

Pittsfield

Poland

**Portland**

Scarborough

South Portland

Topsham

Tremont

Trenton

Waterville

Whitefield

Windham