

Office of Policy and Legal Analysis

Date: May 12, 2021

To: Joint Standing Committee on Environment and Natural Resources

From: Dan Tartakoff, Legislative Analyst

Re: LD 1467, An Act To Promote a Circular Economy through Increased Post-consumer Recycled Plastic Content in Plastic Beverage Containers (Doudera)

Summary of bill

This bill provides that, beginning January 1, 2026, a manufacturer of beverages in plastic beverage containers may not sell, offer for sale or distribute for sale in the State a plastic beverage container unless the total number of plastic beverage containers sold, offered for sale or distributed for sale in the State by that manufacturer contains, on average and in the aggregate, at least 25% post-consumer recycled plastic. That post-consumer recycled plastic requirement increases to 30% post-consumer recycled plastic beginning January 1, 2031.

The bill also requires the DEP to administer and enforce these provisions and authorizes the department to assess administrative penalties against a noncompliant manufacturer based on the weight, in pounds, of plastic beverage containers sold by that manufacturer that are not in compliance.

List of legislators/entities that submitted written testimony and/or spoke at the hearing

Proponents – Representative Doudera, Conservation Law Foundation, Department of Environmental Protection, Maine Beverage Association, Natural Resources Council of Maine, Poland Spring, Reloop, Sierra Club Maine, TOMRA.

Opponents – Wine Institute.

Neither for nor against – Maine Grocers and Food Producers Association.

Notes, issues and proposed amendments

1. *DEP suggestion regarding administration* – unclear to DEP whether revenue generated through annual reporting fees and waiver requests will offset anticipated administrative costs of the new program. Suggests using existing enforcement authorities and mechanisms currently in place for other programs instead of the new, complex and resource-intensive administrative mechanisms proposed in the bill.
2. *Wine Institute, proposed amendment* – proposes excluding 187 ml wine bottles from requirements of the bill or, alternatively, exempt wine manufacturers shipping less than 200,000 kilograms of PET plastic containers into Maine in the previous year.
3. *JUD review may be required* – note that the bill proposes in new 1612(4)(D) a new public records exception. Pursuant to Title 1, section 434, if a majority of the committee supports a version of the proposal that contains a new public records exception, the proposal must be submitted to the JUD Committee for review.

4. *Technical notes (analyst)*

- Unclear whether the term “manufacturer” used in the definition of “beverage container” in 3102(2) (bottle bill law) refers to that term as defined in new 1612(1)(D) or in 3102(13), which are pretty different. Solution – bring substance of “beverage container” definition in 3102(2) into 1612(1)(B). Same issue and same solution for “nonrefillable,” cross-referencing 3102(14).
- Is there a need to define “post-industrial plastic” or “pre-consumer plastic” as used in new 1612(1)(H) (definition of “post-consumer recycled plastic”)?

Fiscal information

Not yet available from OFPR.