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SPEAKING IN OPPOSITION TO L.D. 1208
AN ACT TO AMEND THE STATE’S ELECTRONIC WASTE LAW
SPONSORED BY SEN. STEWART

BEFORE THE JOINT STANDING COMMITTEE
ON
ENVIRONMENT AND NATURAL RESOURCES

DATE OF HEARING:

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Senator Brenner, Representative Tucker, and members of the Committee, I am Brian Beneski of the Bureau of Remediation and Waste Management, Division of Materials Management at the Department of Environmental Protection, speaking in opposition to L.D. 1208.

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In 2004, Maine enacted the country's first law establishing extended producer responsibility for electronics.¹ Since the program's inception in 2006, more than 100 million pounds of televisions, printers, game consoles, and other electronic devices with screens have been recycled through the program. In part, the findings and purpose section of the Electronic Waste Law (38 M.R.S. § 1610) states that: its "purpose is to establish an electronics recycling system that is convenient and minimizes cost to the consumer", the intent of the Legislature is that "costs associated with consolidation, handling and recycling be internalized by the manufacturers of electronic products and components before the point of purchase", and "a system of shared responsibility for the collection and recycling of covered electronic devices among manufacturers, consolidators, municipalities and other parties is the most effective and equitable means of achieving the purposes of this section". It sets up a system whereby manufacturers pay much of the cost of recycling these items, thereby ensuring an affordable and environmentally sound outlet for this waste stream.

LD 1208 makes fundamental changes to this successful program. It would likely lead to higher costs to Maine municipalities and residents, less convenient recycling opportunities (particularly in more rural parts of the state), and outcomes that are less environmentally sound.

The changes proposed in this bill would shift the cost of electronic waste (e-waste) consolidation from manufacturers to municipalities and consumers. The current electronic waste law places responsibility for the cost of consolidation with the manufacturers. This bill appears to change that by requiring collection sites, which would be the responsibility of the municipality, to sort, package, and consolidate the electronics. Additionally, municipalities would be required to guarantee 18,000 pounds of devices or pay a fee of up to \$600 per pickup.

¹ California passed a law in 2003 that charges a fee on televisions when they are sold and uses that money to reimburse electronics recyclers, but there is no producer responsibility aspect to that program. Including CA, the country has 26 laws that facilitate the recycling of electronics.

This bill may require a municipal collection infrastructure that does not currently exist. 18,000 pounds of electronics is the equivalent of one to two tractor trailer loads of material. Very few transfer stations can consolidate that much on site, and transfer stations vary in terms of their ability to accommodate 40-foot trailers. The bill provides opportunity for a town to participate in the program without a collection site through one-day collection events. However, collection events would be subject to similar requirements as collection sites, with all devices required to be sorted and packaged onto pallets by the municipality, and the up to \$600 fee applying to events collecting less than 18,000 pounds. Since most towns in Maine do not have staff trained for this work, this collection and consolidation would likely have to be contracted out and paid for by the municipality. Consolidators currently working in the Maine system are hesitant to service collection events citing inefficiencies that result from having no ability to determine how much material to expect at a collection event, and liability concerns. Given the bill's proposed requirements, municipalities might choose not to participate and would need to fund recycling of electronics on their own. If they do participate, their costs could increase substantially. Municipalities paid for recycling electronics prior to 2006 and often did so by charging residents at drop-off. Drop-off fees led to illegal dumping of electronics, which in part provided the impetus for passing this law in the first place.

This bill fundamentally changes the administration of the program from the current format in which consolidators are approved by the Department and then work with municipalities directly, to a system in which a manufacturer directed clearinghouse manages the recycling of electronics that municipalities collect and consolidate. The clearinghouse would submit a plan on behalf of as few as 2 manufacturers, provided they have a combined 50% market share, that would set rules of participation, including fees for all participating manufacturers. Participating manufacturers would be held to different standards than non-participating manufacturers as they could discharge their entire obligation through a private collection program instead of providing for statewide

collection as is required of others. This may lead to further limiting e-waste collection in rural areas which are more difficult to service.

This bill places responsibility for recycler selection with manufacturers, which may not provide the most environmentally sound outcome for this material. The antitrust provision in this bill, along with the clearinghouse's likely position as the primary entity through which Maine's electronics could be recycled, will allow the clearinghouse to set prices. Impacts on the profit margins of recycling businesses due to set pricing for covered materials, could lead to additional costs being placed on municipalities and residents, materials not being recycled, or recyclers going out of business and leaving behind stockpiles of e-waste with no viable market.

Manufacturers and consolidators have identified a number of issues in discussions with the department that we all agree should be addressed to improve e-waste program operation. The department has already completed a first draft of proposed amendments to the current e-waste rules and intended to proceed with rulemaking this year. The department believes that the existing structure and the flexibility provided by the current statute, and the rulemaking process, will result in an improved system that provides incentives for collection and efficiency and is well suited to Maine's geography and infrastructural reality.

In conclusion, we oppose restructuring the State's successful e-waste program as proposed by LD 1208 due to anticipated negative cost, operational, and recycling rate impacts, and expect to make appropriate program improvements through rulemaking during the coming year. Thank you for the opportunity to testify today; I would be happy to answer any questions.