

Office of Policy and Legal Analysis

Date: May 24, 2021

To: Joint Standing Committee on Environment and Natural Resources

From: Dan Tartakoff, Legislative Analyst

Re: LD 1471, An Act To Establish a Stewardship Program for Packaging (Dill)
LD 1541, An Act To Support and Improve Municipal Recycling Programs and Save Taxpayer Money (Grohoski)

Summary of bill – LD 1471

This bill facilitates the establishment of one or more stewardship programs in the State for packaging material to be operated by a stewardship organization approved by the DEP. Under such a program, the plan for which must be approved by the DEP and annually updated following a DEP review, participating responsible parties that sell, offer for sale or distribute for sale in or into the State certain products contained, protected, delivered, presented or distributed in or using packaging material are required to pay fees related to the packaging material associated with those products.

Responsible party payments received by a stewardship organization are used to offset operational recycling costs incurred by entities meeting certain eligibility requirements, which may include municipalities, refuse disposal districts and regional waste management associations in the State. Responsible party payments are also used to fund grants to entities meeting certain eligibility requirements, which may include municipalities, refuse disposal districts, regional waste management associations and private entities in the State, to support improvements in recycling infrastructure.

Summary of bill – LD 1541

This bill establishes a stewardship program in the State for packaging material, to be operated by a stewardship organization contracted by the DEP following a competitive bidding process. Under the program, producers of products contained, protected, delivered, presented or distributed in or using packaging material pay into a fund based on the amount by weight of packaging material associated with the products they sell, offer for sale or distribute for sale in or into the State. Producers can wholly or partially offset this payment obligation by implementing independent programs to recycle packaging of the same material type for which they have a payment obligation and can further reduce their payment obligation by reducing the amount of packaging associated with the products they sell, offer for sale or distribute for sale in or into the State or by meeting other program incentives.

Producer payments received by the stewardship organization are used to reimburse eligible municipalities for certain recycling and waste management costs. To be eligible for such reimbursements, a municipality must share with the stewardship organization certain data regarding its recycling and waste management costs and must provide for the collection and recycling of packaging material generated in the municipality that is determined to be readily recyclable. In addition to the payment of municipal reimbursements, the stewardship organization is authorized to use producer payments to cover the operational costs for the program, to pay department fees and to make investments in education and infrastructure aimed at reducing packaging waste and improving recycling outcomes in the State.

List of proponents, opponents and NFNA – LD 1471

Proponents – Senator Dill, Amcor, American Chemistry Council, American Packaging Corporation, AMERIPEN, Charter Next Generation, Consumer Brands Association, Flexible Packaging Association, Foodservice Packaging Institute, Novolex, Plastic Packaging Technologies LLC, Scotts Miracle-Gro, Sun Chemical, Wild Blueberry Commission of Maine.

Opponents – Air-Conditioning Heating and Refrigeration Institute, American Cleaning Institute, American Forest and Paper Association, Association of Home Appliance Manufacturers, Caignair Inn by the Sea, Dental Lace Inc., Department of Environmental Protection, Environment Maine, Environmental Priorities Coalition, Glass Packaging Institute, International Paper, Maine Energy Marketers Association, Maine Forest Products Council, Maine Municipal Association, Maine People Before Politics, Natural Resources Council of Maine, Northeast Dairy Foods Association, Pemberton’s Gourmet Foods, Product Management Alliance, Reny’s, Surfrider Foundation, TOMRA, UPSTREAM, Volk Packaging Corporation, additional members of the public.

Neither for nor against – Animal Health Institute, Casella, Consumer Healthcare Products Association, Consumer Technology Association, Institute of Scrap Recycling Industries, Maine Grocers and Food Producers Association, Maine Resource Recovery Association, National Waste and Recycling Association-Northern New England Chapter, Plastics Industry Association, Retail Association of Maine, Toy Association, Wine Institute.

List of proponents, opponents and NFNA – LD 1541

Proponents – Representative Grohoski, Senator Maxmin, Representative Crafts, Representative Kessler, Representative Zeigler, 350 Downeast, 350 Maine, Allagash Brewing Company, Aroostook Waste Solutions, Town of Bar Harbor, Town of Blue Hill, Committee for a Plastic-free Peninsula, Conservation Law Foundation, Caignair Inn by the Sea, Defend Our Health, Dental Lace Inc., Don’t Waste ME, ecomaine, Environment Maine, Environmental Priorities Coalition, Town of Falmouth, Go-Go Refill, Town of Long Island, Maine Municipal Association, Maine Public Health Association, Maine Unitarian Universalist State Advocacy Network, Town of Montville, Natural Resources Council of Maine, Town of Orono, Patagonia Freeport, City of Portland, Sims Municipal Recycling, City of South Portland, Surfrider Foundation, Toad & Co, TOMRA, We Compost It!, additional members of the public.

Opponents – Air-Conditioning Heating and Refrigeration Institute, Amcor, American Cleaning Institute, American Forest and Paper Association, American Packaging Corporation, AMERIPEN, Association of Home Appliance Manufacturers, Charter Next Generation, Consumer Healthcare Products Association, Consumer Technology Association, Flexible Packaging Association, Foodservice Packaging Institute, HospitalityMaine, International Paper, Maine Forest Products Council, Maine Grocers and Food Producers Association, Maine Jobs Council, Manufacturers Association of Maine, Northeast Dairy Foods Association, Pemberton’s Gourmet Foods, Plastic Packaging Technologies LLC, Plastics Industry Association, ProAmpac Holdings, Product Management Alliance, Reny’s, Retail Association of Maine, Scotts Miracle-Gro, Sun Chemical, Toy Association, Volk Packaging Corporation, Wild Blueberry Commission of Maine, Wine Institute, additional members of the public.

Neither for nor against – Casella, Department of Environmental Protection, Digimarc Corporation, Institute of Scrap Recycling Industries, Maine Municipal Association, Maine Resource Recovery Association, additional meAmbers of the public.

Specific proposals for amendments or other changes to 1471 or 1541 provided in written and/or oral testimony

1. Include in 1471 the same \$2M exclusion for small producers (Senator Dill; similar proposal described by others)
2. Amend alternative collection program provisions in 1541 to exclude chemical conversion as an allowed waste management process; incorporate from 1471 into 1541 provisions regarding wage and safety improvement plans for individuals working at or under municipal recycling and composting sites or programs (Surfrider Foundation)
3. Amend 1471 to disallow producer funding for ongoing operational local government costs; remove provisions regarding composting funding; do not include recycling rate goals as program performance goals. Amend 1541 to include a needs assessment, include shared responsibility for municipalities, remove reference to litter reduction (Consumer Technology Association)
4. Amend either bill to exclude all wine containers managed under the bottle bill from the proposed EPR program or to include all wine containers in the EPR program and exclude them from the bottle bill (Wine Institute)
5. Increase small producer exclusion in 1541 from \$2M to \$2.5M or \$3M; carry over the bills to allow for more discussion/consideration (HospitalityMaine)
6. Amend either bill to include an emergency waiver provision and a waiver provision for anomalous market conditions causing a disruption in the supply of readily recyclable packaging types (Maine Grocers and Food Producers Association)
7. Exempt from either bill material used in packaging of products regulated by the FDA as a drug, medical device or dietary supplement (Consumer Healthcare Products Association)
8. Make any rulemaking for these programs major substantive rather than routine technical, clarify the time frame for implementation, require program to align with other state programs if trigger requirement is met such as adoption by 2 or more other New England States (Retail Association of Maine)
9. Incorporate recycling industry standard definitions (provided in testimony) and specifications for identifying what is recyclable material into either bill (Institute of Scrap Recycling Industries)
10. Exempt from bills material used for containment, etc. of animal biologics and other materials regulated by USDA under the Virus, Serum, Toxin Act (Animal Health Institute)
11. Include in either bill language allowing digital watermarking innovation be considered as a tool under the EPR program (Digimarc Corporation)

Fiscal information

Not yet available from OFPR.