



TESTIMONY OF
The Toy Association

SUBMITTED TO THE

Joint Standing Committee on Environment and Natural Resources

Regarding LD 1471 and LD 1541

MAY 10, 2021

www.toyassociation.org

Senator Brenner, Representative Tucker, and Members of the Committee, my name is Mindy Baker and I serve as the State Government Affairs Director for The Toy Association. The Toy Association appreciates this opportunity to provide testimony on both LD 1471 and LD 1541. The Toy Association is a not-for-profit trade association composed of over 1,000 members, both large and small. Over 95% of toy manufacturers, wholesalers, and distributors in the United States are small businesses. In the state of Maine 100% **are small businesses**. Our member's products meet and/or exceed stringent U.S. safety and environmental requirements and are sold throughout the State of Maine, the U.S., and globally.

Our members have long been leaders in toy safety and are continually seeking product and packaging materials that reduce resource usage and improve life cycle considerations, in fact many toy manufacturers have already taken significant steps to combat packaging and manufacturing waste, as well as make safer, greener, products.

In fact, many of our members have set ambitious goals in regard to product packaging waste, and are continually reevaluating their products to see how to use recycled and environmentally friendly materials in their products.

Unfortunately, we must continue to oppose LD 1541 as we have serious concerns that major portions of the bill are confusing and unworkable. We appreciate the work that has been done to address these issues in LD 1471 which has allowed us to move our position to "neither support or oppose" but do feel more time is needed for what would become the first program of it's kind in the country.

Key differences in the bills:

In LD 1471 the definition of "Responsible Party", clearly defines a three tiered hierarchy, while, LD 1541 continues to define a "Producer" to mean someone who:

"(1) Has legal ownership of the brand of a product sold, offered for sale or distributed for sale in or into the State contained, protected, delivered, presented or distributed in or using packaging material; or (2) Imports into the State for sale, offer for sale or distribution for sale in or into the State a product contained, protected, delivered, presented or distributed in or using packaging material that is branded by a person that meets the requirements of subparagraph (1) and has no physical presence in the United States."

This is further complicated in LD 1541 as in Section 5 Annual Reporting by Stewardship organization requires the stewardship organization to report to the department and make public:

- C. "The total weight of each type of packaging material sold, offered for sale or distributed for sale in or into the State by each participating producer as reported in accordance with subsection 7;*
- D. As applicable, the total weight of each type of packaging material collected and managed by each participating producer through alternative collection programs approved by the department under subsection 8;*

A manufacturer may sell their product to a distributor or retailer that distributes to multiple locations, in multiple states and therefore have no ability to determine what is actually “sold, offered for sale, etc” in the state of Maine. Furthermore, in the case of ecommerce, an online retailer, may ship two branded products from different manufacturers in one box, this definition leaves it unclear as to who is responsible for this waste. In fact, the “or” would suggest that all three are somehow responsible. Additionally, once a producer sells to a retailer, the producer does not know the actual date of sale to the consumer, further complicating the required reporting process.

The inclusion and use of the term “readily recyclable” in LD 1541 also discourages innovation in packaging, and does not align with any recognized current standard. According to the current definition, in order to be deemed “recyclable” the product must have “a consistent market for purchase” in “full bales”. Any new or innovative material that maybe able to be recycled may not yet have a market for purchase and is unlikely to generate a market without use.

Additionally, the definition for “Packaging Materials” in LD 1471 are is much more clear, referring to use of the material as opposed to LD 1541’s definition which, once again, uses commodity values as a determining factor.

The Toy Association urges you to oppose the passage of LD 1541, as the definitions in this bill are unworkable, and confusing.

While we are taking a “Neither Support or Oppose” on LD 1471 we would encourage the Committee to hold the bill for further conversation and make sure that this ambitious first-in-the-nation plan is executed in way that meets everyone’s goals and achieves the results that this committee intends.

On behalf of the members of The Toy Association and our members in Maine we thank you for consideration of these concerns. If you or the Committee has any questions with regard to our concerns on this legislation, please do not hesitate to contact Mindy Baker, for the Toy Association at mbaker@toyassociation.org or 773-441-1930.