



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM  
COMMISSIONER

**TESTIMONY OF**  
**PAULA CLARK, DIRECTOR**  
**DIVISION OF MATERIALS MANAGEMENT**  
**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**SPEAKING NEITHER FOR NOR AGAINST L.D. 1541**

**AN ACT TO SUPPORT AND IMPROVE MUNICIPAL RECYCLING PROGRAMS AND  
SAVE TAXPAYER MONEY**

**SPONSORED BY REPRESENTATIVE GROHOSKI**

**BEFORE THE JOINT STANDING COMMITTEE  
ON  
ENVIRONMENT NATURAL RESOURCES**

**DATE OF HEARING:**

**MAY 10, 2021**

Senator Brenner, Representative Tucker and members of the Committee, I am Paula Clark of the Department of Environmental Protection speaking neither for nor against L.D. 1541. This bill would establish an extended producer responsibility (EPR) program for the management of packaging materials which are estimated to be 30-40% by weight of the waste managed in Maine. This bill is similar to one that was developed by the Department in response to Resolves 2019 Chapter 42 (Resolve, To Support Municipal Recycling Programs) and considered by the ENR Committee last year (L.D.

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
(207) 764-0477 FAX: (207) 760-3143

2104). That bill was not addressed by the full Legislature due to the early adjournment in March 2020.

There are certain differences between L.D. 1541 and last year's L.D. 2104 about which the Department has concerns and result in our withholding of full support for this bill. In part, those differences include provisions related to: the timing and sequencing of Department rulemaking and selection of a stewardship organization; the scope and nature (routine technical vs. major substantive) of Department rulemaking to develop implementation details; exemptions associated with the definitions of "packaging material" and "producer"; expenditures for recycling infrastructure and education; and, information and reporting required of the stewardship organization. The Department is preparing a suggested amendment for the Committee's consideration at work session that addresses these and other issues in more detail.

The goals of L.D. 1541 are essentially the same as those of last year's bill: to encourage better design of packaging material in order to decrease waste and toxicity, and increase recyclability; to invest in waste reduction and recycling infrastructure and education; and, to provide financial support to municipalities for costs associated with handling and recycling of packaging materials. Maine law establishes that municipalities are responsible for providing disposal services for "domestic and commercial solid waste generated within the municipality" (38 M.R.S. § 1305), and the financial burden of those services obviously increases with the amount of solid waste generated.

In general terms, under this proposed EPR program for packaging, a stewardship organization selected and overseen by the Department would manage a fund paid into by producers of packaging. Annual producer payments would be based upon the amount and types of packaging material sold or distributed for sale in Maine, and other factors such as whether the packaging is "readily recyclable". Revenues into the fund would be used to: reimburse municipalities for their costs of managing packaging material, invest in recycling infrastructure and education, and fund operational costs of the program. The bill provides for the State to select and oversee a stewardship

organization, and multiple aspects of program details would be more fully developed and addressed in Department rulemaking.

It is important to point out that there are significant differences between the stewardship program proposed in L.D.1541 and other existing Maine stewardship programs that address single products (e.g. electronic waste, mercury lamps), and also certain packaging EPR programs in other jurisdictions. Whereas these other programs are largely producer established and controlled with some state oversight, the scope, complexity, and number/diversity of participants in the bill's proposed packaging EPR system make it appropriate for the State to take on an expanded role, while still providing multiple opportunities for producer participation and input to the system. The operation of the proposed program would have significant and wide-ranging statewide solid waste management policy implications and would involve and directly affect a broad range of public and private entities (including many Maine municipalities and businesses). The proposed model ensures, in part, that decision-making and functions that are regulatory in nature are reserved to the State, and that the State is properly and fully involved in matters affecting State policy.

We look forward to continued work with the Committee and stakeholders on this important issue. Thank you for the opportunity to provide the Department's testimony today. I would be happy to answer any questions you may have.