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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

TESTIMONY OF
KERRI MALINOWSKI, SAFER CHEMICALS PROGRAM MANAGER
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SPEAKING NEITHER FOR NOR AGAINST
L.D. 1662 “AN ACT TO UPDATE MAINE’S SALES PROHIBITION ON
UPHOLSTERED FURNITURE TREATED WITH FLAME-RETARDANT
CHEMICALS”
PRESENTED BY REP. DILLINGHAM

BEFORE THE JOINT STANDING COMMITTEE ON
ENVIRONMENT AND NATURAL RESOURCES

HEARING DATE:
MAY 17, 2021

Senator Brenner, Representative Tucker, and members of the Joint Standing Committee on Environment and Natural Resources, I am Kerri Malinowski Safer Chemicals Program Manager at the Department of Environmental Protection (DEP), providing this testimony neither for nor against L.D. 1662.

This bill would harmonize Maine’s existing sales prohibition on the use of flame-retardant chemicals on residential upholstered furniture with California law, allowing for some reciprocity while maintaining the variation of Maine law that stipulates the sales prohibition includes covered items with 0.1% of a mixture that includes flame-retardant chemicals, and

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would allow the Department to determine whether rulemaking would be necessary for the purposes of implementation.

Since passage of Maine's law prohibiting the sale of residential upholstered furniture, the Department has been focused on its implementation, specifically pertaining to agency rulemaking and compliance. This has included a stakeholder process and draft rule development, as well as laboratory sampling and analysis of a commonly available residential furniture item. This work has included the collection of foam and fabric samples from a purchased piece of furniture, the development of a laboratory sampling and analysis plan, identification of a certified laboratory with the necessary analytical capabilities, extensive conversation with the laboratory to determine the most appropriate analysis methods and parameters, and regular communication about work scope and results interpretation.

It is through this work that the Department recognizes the special challenges associated with the compliance aspect of this program's implementation. Because of the expertise necessary to ensure all technical details associated with compliance are captured with each sample analysis, and the more recent strain on laboratory capacity, the Department appreciates when there is an opportunity to synchronize Maine's law with other states, particularly those that have greater market impact which provides for more efficient program administration. For instance, New Hampshire's flame-retardant sales prohibition incorporates Maine's language while also allowing for the use of California labeling to be utilized as a compliance tool. Where Maine law harmonizes with other states, we have found there is an increased awareness of legal requirements and compliance. When states have coordinated action on a single issue, we have seen entire market sectors, such as this, shift their processes to provide consumers with items that

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meet these compliance standards, which serves to streamline implementation for both the agency and the regulated community.

Thank you for the opportunity to provide these comments. I would be happy to answer any questions.