

**Testimony
In Support of LD 1471
and
In Opposition to LD 1541**

Maine Joint Committee on Environment and Natural Resources

May 10, 2021

Thank you for the opportunity to testify in support of Maine’s LD 1471, “An Act to Establish a Stewardship Program for Packaging” and in opposition to Maine’s LD 1541, “An Act to Support and Improve Municipal Recycling Programs and Save Taxpayer Monday.” I am Alison Keane, President and CEO of the Flexible Packaging Association (FPA). FPA is the voice of U.S. manufacturers of flexible packaging and their suppliers. Flexible packaging represents over \$33 billion in annual sales and employs approximately 80,000 workers in the U.S.

Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products. These are products that you and I use every day – including hermetically sealed food and beverage products such as cereal, candy, salty snacks, yogurt, and beverages, and sterile health and beauty items and pharmaceuticals, such as aspirin, shampoo, feminine hygiene products, and shaving cream. Flexible packaging is also used for medical device packaging to ensure that the products packaged, such as absorbable sutures, human tissue, and artificial joints, maintain their sterility and efficacy at the time of use. Even packaging for pet food and treats uses flexible packaging to deliver fresh and healthy meals to a variety of animals.

FPA appreciates the opportunity to submit input on these two bills as they both purport to establish a stewardship program to support increased collection and recycling of packaging materials. Unfortunately, only LD1471 actually would provide for that. Much like last year's bill, LD 1541 does little to nothing to increase recycling or packaging and only subsidizes current recycling and solid waste disposal infrastructure in Maine. While it does this under the guise of Extended Producer Responsibility (EPR), it is really just a Department of Environmental Protection program, that will be run by a government contractor who will collect money from producers and disperse that money to current municipal solid waste programs, as prescribed by Departmental rulemaking. A true EPR program would ensure that producers actually have more than just financial responsibility; that they have the ability to control how funding is used and invested to ensure the goals of the program are met or exceeded. An EPR program should not have to "reimburse" municipal governments, particularly through a third-party consultant to the Department. If the Department was actually going to put a state-wide EPR program in place, emphasis on the "R," it is the responsibility of the producers, not the state or municipal governments, which means the ability of producers to contract freely for the management and payment of services for the recovery and recycling of their packaging in Maine.

As written, LD 1541 is merely a tax under the guise of EPR. Why do you need a stewardship organization if the Department is going to prescribe how much producers pay to the contractor, how much the contractor pays out to municipal governments, and how much the contractor will pay to others outside the current system if and only if after the Department solicits bids for such, the Department approves the payments? LD 1541 should dispense with the subterfuge and simply collect the fees directly to reimburse municipal governments based on a per capita system directly, instead of instituting the costly and bureaucratic system it

outlines. LD 1541's nod to real EPR under the alternative collection programs is overshadowed by its primary purpose – a state-wide packaging fee to pay for municipal solid waste programs. With that myopic focus, Maine misses the opportunity to look to the future and actually increase the collection, recycling, and reprocessing of packaging waste, which LD 1471 does.

LD 1471 would provide for a real EPR system, where producers, either individually or collectively, would propose a plan to the Department for approval, that would not only stabilize the current infrastructure for recycling in Maine, but would provide needed investment for access to recycling and expanded opportunities for recycling of all packaging types in the state, as well as end markets for recycled material. Under the plan, worked on with input from the entire packaging supply chain, municipal governments, waste management, and recycling companies, and community-based organizations, a real stewardship organization would propose a program that would include a needs assessment for the State and based on that assessment include statewide performance goals for each type of packaging material and the collection and distribution of producer funding to meet these goals. LD 1471 also provides for annual reports on the progress of the program and any adjustments needed for compliance with the plan and continuous program improvement.

Merely reimbursing municipal governments for what they are already doing today, including disposal, will not solve the packaging waste issue in the state and will not increase packaging recycling. LD 1471 will provide for a comprehensive EPR program that is based on a collaborative approach where everyone in the recycling system has a seat at the table to develop a workable program; incentivizes increased recycling and composting and discourages landfilling; and can adapt annually based on recycling market conditions and new infrastructure investment without the need for new rulemakings.

In my former role as Vice President of Government Affairs for the American Coatings Association, I was responsible for starting the EPR program for Paint, PaintCare, which Maine is a part of. FPA stands ready to work with Maine on a real EPR system if it is willing to do so. FPA has already completed a dialogue with the Product Stewardship Institute, of which Maine is a member, to discuss packaging EPR. LD 1541 falls far short of the joint principles that FPA and PSI released for packaging EPR, while LD 1471 adheres to these principles.

Thus, FPA supports LD 1471 and opposed LD 1541. I urge the Committee to vote favorable on LD 1541 in order to bring a better, more robust, and solutions driven EPR program to the state, one that would invest in the future of recycling infrastructure in Maine and truly increase recycling – of all packaging types.