

**Testimony  
In Opposition to  
Maine Legislative Draft 2104  
An Act to Support and Increase the Recycling of Packaging**

**Joint Committee on Environment and Natural Resources**

**February 26, 2020**

Thank you for the opportunity to testify in opposition to Maine's LD 2104, "An Act to Support and Increase the Recycling of Packaging." I am Alison Keane, President and CEO of the Flexible Packaging Association (FPA), and as I cannot be there in person today, Andy Hackman, Principle Lobbyist, Serlin Haley, and FPA state lobbyist will testify on my behalf.

FPA is the voice of U.S. manufacturers of flexible packaging and their suppliers. Flexible packaging represents over \$31 billion in annual sales in the U.S. and is the second largest, and fastest growing segment of the packaging industry. The industry employs approximately 80,000 workers in the United States. 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 LD 2104, and if as its title represents, it would result in the increase of recycling of packaging, we would be able to support, however, as drafted, the bill does little to nothing to increase recycling and only subsidizes current recycling infrastructure in Maine under the guise of Extended Producer Responsibility (EPR) and in lieu of a more appropriate tax increase. A true EPR program would ensure that producers actually have more than just financial responsibility, that they actually have the ability to own and operate the system. 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 extended producer responsibility program in place, 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, the LD is merely a tax under the guise of EPR, and if reimbursement to municipal governments for continuing the status quo is really all the state wants, LD 2104 should just collect the fees and reimburse municipal governments based on a per capita system directly instead of instituting the costly and bureaucratic system it outlines. LD 2104’s nod to real EPR under the alternative collection programs is overshadowed by its primary purpose – a state-wide fee to pay for municipal recycling programs. With that myopic focus, Maine misses the opportunity to look to the future and actually increase the recycling of packaging waste.

Perhaps most importantly, LD 2104 picks winners and losers without regard to the well documented unintended environmental and health consequences. It is unclear what “readily recyclable” will be, as it has yet to be defined, and will be solely up to the discretion of the

Department, but it is clear from the rates, and the 200% increase in fees for non-readily recyclable packaging, that LD 2104 is again, only looking to subsidize current recycling, and not increase it. LD 2104's attempt to impose different rates for current end-of-life outcomes for current packaging will have the opposite effect of its goal of encouraging more packaging recycling, and will instead not only stifle innovation but most likely result in negative impacts to the environment, including increases in greenhouse gas emissions. In fact, replacing multi-material packaging and plastics in packaging and consumer products with alternative materials simply based on recyclability alone could raise environmental costs nearly fourfold, according to the Alliance to End Plastic Waste. I am sure you are aware of the study by the Natural Resources Defense Council that showed up to 40% of food in the U.S. is wasted. Not only is this a health issue; wasted food is the single largest source of greenhouse gas emissions from solid waste in the U.S. Packaging, particularly flexible packaging, reduces this waste by preserving the shelf-life of food and not only uses less water and energy to manufacture as readily recyclable packaging types, it uses less gas for transport, reduces greenhouse gas emissions in the manufacturing and shipping, and sends less waste to the landfill than all other packaging types, even taking into consideration current recycling rates in the U.S.

FPA understands the importance of reducing and recycling solid waste to minimize litter and optimize landfill space and truly achieve a circular economy. Flexible packaging manufacturers are responding to key issues and industry pressures affecting their customers, as well as the demands of consumers and retailers. Safety and product protection; prevention of food waste and contamination; freshness and extended shelf-life; consumer convenience; ease of transportation, storage, and use; and source reduction and sustainability are all issues manufacturers are designing for. LD 2104 does not recognize any of these issues and only focuses narrowly on end-of-life management.

True EPR packaging legislation, particularly the first of its kind in the U.S., should not make this mistake. Instead, it must provide real evidence of solving the lack of solid waste management and recycling infrastructure in Maine, let alone litter and marine debris. It should promote policies and programs that look at the entire life cycle of packaging and give credit to packaging with a lower environmental footprint (regardless of end-of-life management options). If producers are to be financially responsible, they must be able to set the fee rates for different types of packaging based on the true costs of recovery and management, and not be tied to the LD's arbitrary fee system, setting fees based on only recyclability and non-recyclability. Merely reimbursing municipal governments for what they are already doing today will not solve the packaging waste issue in the state and will not increase packaging recycling.

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 begun a dialogue with the Product Stewardship Institute, of which Maine is a member, to discuss packaging EPR. The current bill falls short of the principles and model provisions that have been discussed in the dialogue, so I urge you not to enact this piece of legislation, but instead work to bring a better, more robust, and solutions driven piece of legislation that would invest in the future of recycling infrastructure in Maine and truly increase recycling – of all packaging types.