

LD 1431

http://www.mainelegislature.org/legis/bills/bills_129th/billtexts/HP104101.asp

as passed with Amendment "A" (H-237)

http://www.mainelegislature.org/legis/bills/bills_129th/billtexts/HP104102.asp

First session, 129th Maine Legislature (2019)

Note: the text below reflects the amendment by indicating deleted text with a faded font, and <i>replacement/added text by bold italics</i> .

Resolve, To Support Municipal Recycling Programs

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, many of Maine's communities are struggling to maintain or improve, or in some cases are eliminating, recycling programs, and the State has not yet achieved the 50% state recycling goal established in state law in 1989; and

Whereas, packaging, which includes plastic, steel, aluminum, glass and cardboard, constitutes approximately 30 to 40% of the materials managed by weight in waste management programs in the State; and

Whereas, Maine taxpayers currently bear 100% of the responsibility and pay an estimated \$16 million to \$17 million each year to finance the management of packaging through fragmented and increasingly expensive municipal disposal or recycling options; and

Whereas, producers of packaging have little incentive to design packaging to minimize waste, reduce toxicity or maximize recyclability, and there is no organized coordination between the producers of packaging and municipalities that are responsible for disposing of or recycling the packaging; and

Whereas, producers of packaging have taken some or all responsibility for the management of post-consumer packaging in other parts of the world, including in all European Union member states and 5 provinces in Canada, with some programs dating back 30 years, and as a result have greatly increased recycling rates and infrastructure investment, created jobs and reduced taxpayer costs; and

Whereas, development of a stewardship program for packaging must be initiated before the 90-day period expires in order for an extended producer responsibility law for packaging to be developed and submitted in time to be considered in the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Development of product stewardship law for packaging. Resolved: That the Department of Environmental Protection shall develop legislation establishing an extended producer responsibility law for packaging in the State. The proposed legislation must, to the greatest extent practicable, adhere to the product stewardship framework law established in the Maine Revised Statutes, Title 38, chapter 18 and must *include, but is not limited to*:

1. Include a *A* definition of "packaging" that covers, at a minimum, materials used to wrap or protect consumer goods, including food and personal care products, and containers and packaging used in the shipping, storage, protection and marketing of consumer products;
2. Include a *A* definition of "producer" that clearly identifies the person ultimately financially responsible;
3. Include Exemptions for small producers and for product packaging that is already covered under Maine's beverage container redemption law;
4. Allow *An allowance for* producers to voluntarily participate in the program if not required by the law;
5. Provide *Provisions* for the establishment of a nonprofit stewardship organization of producers of packaging to support the State's municipal solid waste management programs. The agreement establishing the stewardship organization must require producers to:
 - A. Cover at least 80% of the cost of recycling packaging material sold in the State that is required to be recycled *not readily recyclable*;
 - B. Provide per capita reimbursement payments to municipalities for nonrecyclable packaging to help municipalities cover the cost of packaging needing disposal; and
 - C. Invest in waste reduction and recycling education and infrastructure;
6. Require *A requirement* that the stewardship organization establish an equitable funding scheme among covered producers that encourages better packaging design in which:
 - A. Producers pay higher fees for packaging materials sold into the market that are not readily recyclable, are made of multiple materials or are toxic, in order to discourage the creation of materials needing disposal; and
 - B. Producers pay lower fees for packaging materials sold into the market that are of higher value reusable components and that contain higher percentages of recycled content to ensure that the stewardship program supports a strong recycling economy;
7. Describe *A description of* the preferred methods to be used for regular data collection and reporting and recycling rate and contamination calculations in order that:
 - A. There is transparency and accountability in assessing the success of the program;
 - B. The costs of collecting and reporting data are paid for by the stewardship organization; and
 - C. There is consistency with internationally accepted standards and there is sufficient information to evaluate the effectiveness of the program;
8. Create *Creation of* incentives for municipalities and producers to reach predetermined

performance goals based on reporting and data collection as described in subsection 7; and

- 9. Establish **Establishment of** a method by which producers can protect themselves against producers that fail to register with a program. These methods may include private right of action, requirements that online retailers of packaging be responsible for paying into a fund in support of the program if the products they sell are from producers who are not part of the stewardship program or other strategies that ensure fairness and full compliance.

Sec2. Proposed legislation. Resolved: That the Department of Environmental Protection shall submit proposed legislation pursuant to section 1 to the Joint Standing Committee on Environment and Natural Resources no later than December 16, 2019. The joint standing committee is authorized to report out a bill relating to the proposal to the Second Regular Session of the 129th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This resolve requires the Department of Environmental Protection to develop proposed legislation to establish a new product stewardship program requiring producers of packaging to assist Maine municipalities in managing and financing packaging waste disposal and recycling programs in the State. The proposed legislation is required also to incentivize producers of packaging to design packaging to be recycled or made of recycled content to strengthen the recycling markets. The resolve requires the department to submit the proposed legislation to the Joint Standing Committee on Environment and Natural Resources no later than December 16, 2019.

Amendment Summary
(amendment sponsor not identified on maine.gov)

This amendment removes from the resolve the emergency preamble and emergency clause and clarifies the scope of the new packaging stewardship program to be developed by the Department of Environmental Protection under the resolve.

Sponsorship
(only one Republican)

- Sponsored By: Representative Michael DEVIN of Newcastle D
- Cosponsored By: Senator Everett CARSON of Cumberland..... D
- Representative Jessica FAY of Raymond..... D
- Senator Robert FOLEY of York D
- Representative Lori GRAMLICH of Old Orchard Beach . D
- Representative Nicole GROHOSKI of Ellsworth..... D
- Representative Dennis KESCHL of Belgrade R
- Representative Lois RECKITT of South Portland..... D
- Representative Ralph TUCKER of Brunswick..... D

Actions

(There were no roll call votes recorded on this bill)

3/28/2019 House Committee on Environment and Natural Resources suggested and ordered printed.
The Resolve was REFERRED to the Committee on ENVIRONMENT AND NATURAL RESOURCES.
Sent for concurrence. ORDERED SENT FORTHWITH.

3/28/2019 Senate The Bill was REFERRED to the Committee on ENVIRONMENT AND NATURAL RESOURCES in concurrence

5/14/2019 House CONSENT CALENDAR - FIRST DAY
Under suspension of the rules CONSENT CALENDAR - SECOND DAY.
The Resolve was PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-237).
Sent for concurrence. ORDERED SENT FORTHWITH.

5/14/2019 Senate Report READ and ACCEPTED, in concurrence.
READ ONCE.
Committee Amendment "A" (H-237) READ and ADOPTED, in concurrence.
Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED BY Committee Amendment "A" (H-237), in concurrence.
Ordered sent down forthwith.

5/16/2019 House FINALLY PASSED.
Sent for concurrence. ORDERED SENT FORTHWITH.

5/21/2019 Senate FINALLY PASSED, in concurrence.

5/30/2019 Signed by the Governor