

Maine Law Heralds Wave of "Extended Producer Responsibility" Mandates for Product Packaging

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Signaling a notable advance in "extended producer responsibility" (EPR) policies, on July 13, Maine became the first U.S. state to require companies to pay fees related to the type and quantity of packaging for products sold in the state, in order to fund state recycling programs. The new law (LD 1541) is the first EPR law to be enacted among many similar provisions under consideration by different states. If similar laws are adopted in additional jurisdictions, the prevailing model for funding recycling in the United States will shift from a municipal-funded model to a business-funded model.

Under the new law, "producer" companies will be required to file annual reports on their product packaging with the state, the information from which will be used as the basis for assessing annual fees. The program will be operated by a "packaging stewardship organization" that will be formed by the Maine Department of Environmental Protection (DEP), with reporting and fee obligations coming into effect one year after the organization is established. Fees will be based on the net weight of each type of packaging the company reports, and a fee schedule developed by DEP based on collection and processing costs per ton. The collected fees will help fund local government recycling and waste management costs.

"Producers" subject to the law include companies that own a brand sold or distributed within Maine, or, if the brand-owner does not have a presence in the state, the company that imports the product into Maine.

The law covers packaging material "used for the containment, protection, delivery, presentation or distribution of a product, including a product sold over the Internet, at the time that the product leaves a point of sale with or is received by the consumer of the product." There are exceptions for packaging material intended to be used for long-term storage or protection, beverage containers, and certain paint containers, as well as for producers of small amounts of packaging waste.

The clear goal of the program, like other EPR initiatives, is to incentivize companies to reduce the quantity of packaging materials, establish "take back" programs, and move to more "sustainable" product design and packaging options.

Maine is at the forefront of the "EPR for packaging" movement, with at least half a dozen other states considering similar legislation, most notably in Oregon (where the state legislature has passed a bill that awaits the governor's signature), California, Hawaii, Maryland, Massachusetts and New York.

A copy of the Maine law is available [here](#).