



Maine Grocers &
Food Producers
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Wednesday, April 17, 2019

IN OPPOSITION - LD 1433 'An Act To Protect the Environment and Public Health by
Further Reducing Toxic Chemicals in Packaging'

Dear Senator Carson, Chair, Representative Tucker, Chair, and Members of the Environment and Natural Resources Committee,

My name is Christine Cummings and I am the Executive Director of the Maine Grocers & Food Producers Association. As many of you know, the Maine Grocers & Food Producers Association is a business trade association representing Maine's food community; main street businesses including independently owned and operated grocery stores and supermarkets, food and beverage producers and processors, manufacturers, wholesalers, distributors, and supportive service companies.

Product safety and consumer confidence is a top priority for our members. We support fair, reasonable, science based balanced legislation that protects the health and wealth of all Maine people. "Information collected by the Centers for Disease Control and Prevention during the last 10 years indicates that, despite the fact that phthalates are used in many products, exposure is extremely low – significantly lower than any levels of concern set by regulatory agencies."¹

We are testifying in opposition to this proposal because it would yield federal oversight of acceptable packaging currently governed by the U.S. Food & Drug Administration to the Maine Department of Environmental Protection. The US FDA oversees for the regulation of direct and indirect-additives use in food contact packaging materials and is based on extensive testing for each specific material and should be done at the federal level.

Some additional history on action at the national level, in 2016, a non-governmental organization, Environmental Defense Fund (EDF), requested that the FDA review two petitions submitted to the Administration to review the use of ortho-phthalates in contact with food. In addition, an industry group, the Flexible Vinyl Alliance, requested that the FDA revoke 26 ortho-phthalates from their uses as indirect food additives as it has been reported that only four ortho-phthalates "remain relevant in food contact applications: (di(2-ethylhexyl) phthalate (DEHP, CAS 117-81-7), diisononyl phthalate (DINP, CAS 28553-12-0), dicyclohexyl phthalate (DCHP, CAS 84-61-7), and diisodecyl phthalate (DIDP, CAS 26761-40-0)." In response, in November 2018, the Department of Health and Human Services (HHS) of the US FDA notified of a proposed rule to amend several sections in the Code of Federal regulations (CFR) based on the request of the Flexible Vinyl Alliance. We are awaiting a response at a national level and feel industry packaging regulations should be addressed at the federal level for consistency in manufacturer, distributor and producer expectations and compliance.

Federally approved food packaging is designed to maintain the integrity of the food to ensure that products are safe requiring extensive research. There are a variety of types of FDA approved containers utilized and food producers are urging their packaging suppliers to find superior alternatives. The industry is creating the natural demand to move towards alternatives as soon as they are vetted, available and in some instances a cost-effective solution. The American Chemistry Council notes, "A few of the most commonly used alternatives have been tested; however, a number of new products are currently being introduced into the market. As with any plasticizer, either a phthalate or an alternative, it is important to ensure there is sufficient health and safety as well as performance data to evaluate its suitability for a particular use."

¹ American Chemistry Council, Phthalates FAQs

We recognize that manufacturers with less than \$1 billion in annual national sales are exempt, however, our members are concerned that this will ultimately impact them directly. This will put our small, Maine processors at a disadvantage to their large, national counterparts who are forced to use alternatives and have the means to absorb the costs of doing so.

This proposal undoubtedly will disrupt the flow of goods and increase the costs of food products being imported into Maine, making Maine an outlier in the patchwork of state packaging regulations. Food safety is paramount to Maine food processors and Maine grocers. Because of the complexities, sound scientific testing and research is required to make these determinations, we express concerns that the department by rule may designate a chemical of concern in food package or a packing component of a food package. We all look forward to advancements in science that lead to alternative packaging materials that are approved by the US FDA.

The likelihood of increased product costs will occur and our Maine residents, the customers, will inevitably incur the costs of banning phthalates and PFA's, especially as grocers and producers balance also finding polystyrene alternatives. We express an overall concern for any mandate that may cause an imbalance for our producers to comply while still offering safe, quality, reasonably priced products.

Thank you for the opportunity to provide testimony.



Christine Cummings
Executive Director