

February 23, 2021

Chair Lee Beyer
Vice Chair Lynn Findley
Senate Committee on Energy and Environment
Oregon State Legislature
900 Court St. NE
Salem, OR 97301
Submitted via email

Re: CTA Comments on Senate Bill 581 - Oppose

Dear Chair Beyer, Vice-Chair Findley and Members of the Committee:

The Consumer Technology Association™ (CTA) respectfully submits these comments to express our concerns and opposition regarding [Senate Bill 581 \(SB581\)](#) which prohibits the sale of products that make deceptive or misleading claims about recyclability. CTA supports the intent behind the bill of reducing consumer confusion but respectfully opposes for several reasons outlined below.

CTA is the trade association representing the U.S. consumer technology industry. Our members are the world's leading innovators – from startups to global brands – helping to support more than 18 million American jobs. CTA's members have long been recognized for their commitment and leadership in innovation and sustainability, often taking measures to exceed regulatory requirements on environmental design, energy efficiency, and product and packaging stewardship. We recognize the importance of reducing consumer confusion as it relates to the recycling of products and packaging material in Oregon but SB581 is not the path to achieve that goal.

Accepted list of products. SB581 prohibits a claim of recyclability unless the product “is accepted for collection by a majority of recycling collection services in this state”. It is unclear how, when and by whom “majority” will be defined. It is also unclear if the state will be publishing a list of products accepted for collection and how frequently that list may be updated. Lastly, it remains unclear what encompasses “product” and whether that is intended to include products such as consumer electronic devices.

The consequence of the absence of these details is confusion for producers and, as a result, their consumers. The law would go into effect January 1, 2023, which is less than two years away. For consumer technology products, the lead time for product and thus packaging development is at least two years. Companies are already making decisions as to what products and associated packaging will enter the market in 2023. We raise this for two reasons.

First, given the robust collection infrastructure that exists for consumer electronic devices under the Oregon E-Cycles program¹, CTA members might assume they could label electronics accepted through that program with a recycling symbol. However, it is unclear from language whether the robust infrastructure established under the Oregon E-Cycles program would meet the definition of a “collection service” and whether a CTA member could place a recycling symbol on their consumer electronic device. Or if CTA members would be forced to use the labeling standard developed by the Environmental Quality Commission as outlined in Section (3). Without sufficient lead time and clarification on several components of the bill, CTA’s members will be forced to remove any indication that a consumer electronic device can be recycled even though our members financially support a robust collection and recycling infrastructure throughout the state under the Oregon E-Cycles program.

Second, if the list of what is accepted by a “majority of recycling collection services” is updated frequently, companies will have no choice but to remove any and all recycling labels/symbols from packaging material given the lead times necessary for packaging development. Material types that may be widely accepted will include no indication of such out of an abundance of caution which may result in consumers not recycling material types that are widely accepted for recycling in the state.

Unclear impact on other jurisdiction requirements. There are at least 39² other states that require the use of the of the plastic resin identification code for plastic products/packaging including for rigid plastic containers utilized by many consumer technology companies. In many instances, the laws are explicit that the resin identification code be displayed within a triangle of arrows. Examples include:

- Arkansas³: For rigid plastic containers, the container must be:
 - “...labeled with a code indicating the plastic resin...The code shall consist of a number placed within a triangle of arrows and letters placed below the triangle of arrows. The triangle shall be equilateral, formed by three (3) arrows, with the apex of each point of the triangle at the midpoint of each arrow rounded with a short radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three (3) arrows curved at their midpoints, shall depict a clockwise path around the code number.”
- Massachusetts⁴: For rigid plastic containers, the container must be:
 - “labeled with a code indicating the plastic resin...Such code shall consist of a number placed within a triangle of arrows and letters placed below the triangle of arrows. The triangle shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number.”

¹ [Oregon E-Cycles Program](#)

² Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington and Wisconsin.

³ [A.C.A. § 8-9-302](#)

⁴ [M.G.L. ch.94 § 323A](#)

- Washington⁵: For rigid plastic containers, the container must be:
 - "...labeled with a code identifying the appropriate resin type used to produce the structure of the container. The code shall consist of a number placed within three triangulated arrows and letters placed below the triangle of arrows. The triangulated arrows shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer (arrowhead) of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number."

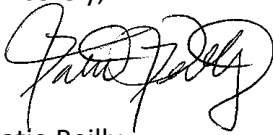
The above are just three examples where the "chasing arrows symbol" is explicitly required for certain types of packaging material in the U.S. According to SB581, companies may need to remove that symbol if the product is not accepted "by a majority of recycling collection services" in Oregon. The potential for conflicting requirements among U.S. jurisdictions is significant.

CTA's members distribute their products – and thus the accompanying packaging – into a U.S. / North American market. Our member companies do not make products or the associated packaging material specific to any state or region of the U.S. Unfortunately, SB 581 creates the potential for an Oregon specific mandate that does not align with other jurisdictions. CTA is unclear at this time how our members would comply with these competing requirements and still make available to Oregon consumers electronic devices packaged in, for example, rigid plastic containers.

Conclusion: CTA appreciates the opportunity to provide comments on SB581 and asks the Senate Committee on Energy and Environment to oppose for the reasons outlined above. While we understand the intent, the unintended consequences of this bill are significant and need addressed. CTA welcomes further discussion with the Committee and other stakeholders on how to achieve the ultimate goal of reducing consumer confusion without creating an Oregon specific mandate that conflicts with other jurisdictions.

Please do not hesitate to contact me with any questions or requests for additional information.

Sincerely,



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cc: Senator Michael Dembrow
Senator Art Robinson
Senator Kathleen Taylor

⁵ [RCW 70A.220.020](#)