

February 23, 2021

To: Chair Beyer and Members of the Senate Committee on Energy and Environment
From: Paloma Sparks, Oregon Business and Industry
RE: OBI Testimony on SB 14, SB 581 and SB 582

Chair Beyer and Members of the Committee:

Thank you for the opportunity to testify on this important issue for Oregon Business & Industry members. OBI is Oregon's most comprehensive business association representing approximately 1,600 businesses that employ over 250,000 people. We represent multiple sectors and serve as the state's Retail and Manufacturing Councils. OBI's retail members are particularly concerned about these bills.

These bills propose dramatic changes to how all packaging is handled in our recycling and waste systems. While we appreciate the goals of generally reducing waste and the burdens on local governments, a change of this magnitude requires careful consideration and input from all stakeholders. OBI's retail members are particularly concerned about how these proposals can be implemented without having had a seat at the table in the development of the concepts. There are practical challenges that must be addressed. Designing a program of this level of complexity cannot reasonably be completed within the limited time frame we currently have, particularly given the challenges of the virtual meeting world we are in right now.

SB 14 and SB 582 are ambitious solutions to complex problems that involve international markets, strains on governments, product design, and customer expectations. We are sympathetic to the goals and are ready to partner with all stakeholders to find reasonable solutions. Unfortunately, these proposals were too hastily designed with key stakeholders missing from the conversation.

SB 582 would require that producers of every type of product that people use in their home and business to fund and develop entirely new systems for handling packaging. Packaging is literally every item in our homes. Nearly every item sold in the state comes in some form of packaging – from the food you eat, furniture, household items, clothing and even the soap that you use. This is true now more than ever, since so many people have had items delivered to their homes to minimize interacting with others during the COVID-19 pandemic.

The definitions and concepts in SB 582 were developed entirely without giving manufacturers and retailers a meaningful opportunity to engage in the development of the bill. While local governments, DEQ and waste haulers were negotiating the various aspects of this program, producers were not included. In fact, this hearing is our first opportunity to be a true part of the discussion, even though this concept puts the burden of funding and systems development on the shoulders of producers. Such a change in our system requires careful consideration and must give producers equal control and a voice in how to properly tackle such a significant change.

This bill also proposes a wide array of fees to be imposed on producers – broadly defined – and left entirely to the discretion of the agency. Certainly, if this concept is to move forward, there are fees that may be reasonable and justified. But this bill would allow DEQ to determine fee amounts at will and for programs not tied to actual costs of product recycling. If we are to pay for items, we expect not only for those fees to be specific to the benefit we derive from the system but also to have a say in how those fees are spent. Again, producers and producer responsibility organizations must have true leadership roles in any future system that is designed. It is unfair to simply use us as a new funding source.

We are concerned with the broad discretion this concept gives to the agency. This would allow for new materials and products to be added without the requirement of a detailed needs assessment. New materials could likely mean new fees and greater burdens on all involved in the system. The universe of items covered by this concept or a similar one should be clearly identified by the legislature and should not be so broad as encompass nearly every item sold in Oregon.

Retailers across Oregon have taken steps to work with manufacturers to reduce packaging and help customers access recycling. We invest in new programs and technology all the time. Retailers and our suppliers have expertise in how best to address the needs of the recycling system, the expectations of customers and the practical realities of packaging. We are ready and willing to share our expertise to develop a workable solution that can be designed to address the needs of the entire system. This proposal has serious flaws that must be addressed before it can be practically implemented.

The labeling concepts in SB 581 sounds simple enough in the abstract but in practice, it would be nearly impossible for retailers to implement. An Oregon labeling requirement would require putting new labels on every item that comes into our stores. Our supply chains are national and it will be quite challenging for our suppliers to change how items are manufactured to have unique labels for only one state, and a relatively small market at that. Or retailers would have to re-label every item that comes into our stores. That would have an incredible cost in terms of employee hours and could likely lead to even more waste. Finally, we have serious concerns about the private right of action in the bill. Subjecting businesses of all sizes to lawsuits over labeling will clog up our courts and lead to increases in the cost of doing business for retailers of all sizes. This could easily push small retailers to the brink when they are just beginning to recover.

Thank you for your time and attention. Oregon retailers and manufacturers urge you to vote against this concept and provide an opportunity for all stakeholders to work together on this issue.