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AMERIPEN
American Institute for Packaging and the Environment

Opposition to
Oregon Senate Bill 544-1 (Sollman)
Plastic Single Use Food Service Ware and Packaging Source Reduction

Senate Energy & Environment Committee
February 16, 2023

Chair Sollman, Vice Chair Findley and Members of the Senate Energy and Environment Committee.

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to provide written testimony on Senate Bill 544-1 that seeks to establish a source reduction program for plastic single use food service ware and packaging. While AMERIPEN has developed principles to aid the recycling system and we support source reduction goals managed by producers, we have serious concerns with SB 544-1 moving forward while the Oregon Plastic Pollution and Recycling Modernization Act (RMA) enacted in 2021 (Senate Bill 582, Beyer) is still being implemented and won't be fully operational until 2025.

AMERIPEN is a coalition of stakeholders dedicated to improving packaging and the environment. We are the only material neutral packaging association in the United States. Our membership represents the entire packaging supply chain, including materials suppliers, packaging producers, consumer packaged goods companies and end-of-life materials managers. We focus on science and data to define and support our public policy positions and our comments are based on this rigorous research rooted in our commitment to achieve sustainable packaging and efficient recycling policies. We have several member companies with a physical presence in Oregon, and many more who import packaging materials and products into the state. The packaging industry in Oregon supports 18,352 jobs and accounts for more than \$5.45 billion in total economic output.

Packaging plays a vital role in Oregon, ensuring the quality of consumer goods as they are manufactured, shipped, stored, and consumed. Packaging has value and none of it belongs in landfills, roadsides or waterways. We need to recover it to be recycled and reused, and no one knows better how to do that than the AMERIPEN members who design, supply, produce, distribute, collect, and process it. They are driving innovation, designing for better environmental performance to boost recycling, modernize the recycling infrastructure and divert waste from landfills.

AMERIPEN supports policy solutions, including packaging producer responsibility, that are:

- **Results Based:** Designed to achieve the recycling and recovery results needed to create a circular economy.
- **Effective and Efficient:** Focused on best practices and solutions that spur positive behaviors, increase packaging recovery, recapture material values and limit administrative costs.
- **Equitable and Fair:** Focused on all material types and funded by shared cost allocations that are scaled to make the system work and perceived as fair among all contributors and stakeholders.

SB 544-1 does not meet these principles and AMERIPEN is therefore opposed to it as drafted. We understand and support the desire to reduce packaging when practicable, but strongly believe that

the specifics of that should be determined by the packaging producers, with strong governmental oversight. This is how the RMA was constructed and enacted in 2021 and is now being implemented.

We believe that the RMA already creates a path forward for packaging source reduction and that SB 544-1 is therefore not merited or needed. Specifically, producers are already incentivized within the RMA to use different or less packaging through eco-modulation, whereby they might pay lower producer fees if they take various actions for their packaging, including:

- Reducing the environmental and human health impacts of their packaging
- Using post-consumer content in their packaging
- Improving the product-to-package ratio for their packaging
- Choosing different or eliminate types of material for their packaging
- Showing life cycle environmental impacts of their packaging
- Increasing the recycling rate of their packaging

SB 544-1 also lacks any recognition of the historical packaging optimization and reduction producers have made over many years and instead would place new mandates upon them as they are still working towards the goals and plastic recycling rates currently in statute under the RMA.

The addition of the “plastic component” definition in SB544-1 is problematic, particularly with the word “*partially*” included in the definition:

‘Plastic component’ means plastic single-use food service ware or plastic single-use packaging, or a severable component of single-use food service ware or single-use packaging made partially or entirely of plastic.

It will be extremely difficult, if not impossible, to measure what a partial component of plastic packaging might be.

We also have concerns with proposed amendments in SB 544-1 relating to the Producer Responsibility Organization (PRO) in that it appears a PRO, in addition to individual producers, would be required to meet the source reduction requirements in the bill. Which is it?

Additionally, the baseline date in SB 544-1 clearly conflicts with dates in the RMA, in that a PRO would have to pull data from 2023, on behalf of producers, when the RMA doesn’t require producers to be signed up with a PRO until 2025.

Finally, the language in SB 544-1 that grants the Oregon Environmental Quality Commission blanket authority to prohibit or limit the use of plastic single-use packaging if they determine that the packaging is unnecessary for the delivery of a product or food item is a complete nonstarter

for AMERIPEN and completely undermines the intent of the RMA. Nobody, including the Oregon Environmental Quality Commission, knows better why packaging is necessary for the delivery of a product or food item than those in the packaging industry who design, supply, produce, distribute, collect and process that packaging.

The inherent and obvious conflicts in SB 544-1 with the RMA show that the best place to address the reduction of packaging is through the PRO program plans rather than mandating them through a separate piece of legislation. Furthermore, to the best of our knowledge the source reduction rate goals proposed in SB 544-1 are not based on any data or proper study of the current recycling system or markets in Oregon. We believe an analysis of real-world markets and the current recycling system is critical before such source reduction goals are put into law.

AMERIPEN recognizes and supports the need to recycle and reduce packaging through a shared responsibility program, but we strongly believe that the Oregon Plastic Pollution and Recycling Modernization Act (RMA) must be fully implemented and tested before additional mandates on packaging pass the Legislature. We therefore strongly encourage this Committee to not advance SB 544-1.