

February 25, 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 582-1 - 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 582-1 \(SB582-1\)](#), which establishes a producer responsibility program for packaging in Oregon as well as prohibits the sale of products that make deceptive or misleading claims about recyclability. CTA supports the intent behind the bill of addressing the challenges in Oregon's recycling system and 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.

Industry experience with producer responsibility

We recognize the importance of recycling and for over a decade our members have financially supported collection and recycling of consumer electronics in Oregon under the Oregon E-Cycles program¹. Oregon isn't alone – our members have implemented and complied with state-level producer responsibility laws in 24 other jurisdictions. Our industry has almost two decades of experience in state level producer responsibility programs. However, CTA does not assume that a producer responsibility program for packaging in Oregon alone is the right solution.

The patchwork of state level electronics producer responsibility laws, each one varying in scope, has proven costly and inefficient across jurisdictions as the electronics industry has spent well over \$1 billion complying with these various state laws. CTA strongly cautions against a state-by-state approach

¹ [Oregon E-Cycles Program](#)

especially for packaging which is a much larger, more complex waste stream with a larger number of responsible producers. As of today, Oregon would be moving forward on its own if SB582-1 were to pass.

It is also worth noting that producer responsibility programs do not equate to a no cost recycling system for consumers. Where manufacturers can, consumers end up paying for the system through the cost of the products they purchase plus premium markup as products move through distribution and retail channels.

Producer role in producer responsibility

Under the producer responsibility program proposed in SB582-1, producers will be responsible for the costs of operating an incredibly complex system. Unfortunately, producers were not part of the stakeholder process that led to the creation of SB582-1. Producers have been left to respond to an already drafted piece of legislation rather than being brought to the table to help craft it. No fiscal impact statement has been provided and CTA's members have no way of estimating their potential costs under the proposed structure.

Many national organizations are discussing the role of producers in helping to solve the challenges within the collection and recycling system. Those discussions have taken place over several years bringing together a multitude of representatives for consumable and durable goods; material associations; and the waste and recycling community. At CTA, we have worked with members to develop a set of packaging policy principles to guide our participation in these discussions. The first principle is that industry must be at the table and an active stakeholder in discussion surrounding producer responsibility and packaging mandates. Unfortunately, that has not happened in Oregon.

Several years ago, I served on Connecticut's Task Force to Study Methods for Reducing Consumer Packaging that Generates Solid Waste.² After a year of stakeholder meetings, expert testimony, and public comments, the Task Force ultimately did not recommend product stewardship as a means of reducing consumer packaging that generates solid waste. There was a comment made during one of the stakeholder meetings that has stuck with me. It was a comment by Joachim Quoden, Managing Director of the Extended Producer Responsibility Alliance (Expra) in Europe, during his presentation to the Task Force. Mr. Quoden stated that all stakeholders in the value chain must agree on the program to avoid undermining of the product stewardship system. The necessary stakeholders have not yet reached such agreement in Oregon nor were the necessary stakeholders convened prior to the introduction of the legislation. It would be premature to push forth with SB582-1.

Challenges with SB582

CTA has several specific areas of concern regarding SB582-1.

- **Packaging Definition:** CTA does not support the inclusion of tertiary packaging that does not reach and is not managed through the residential recycling system in Oregon which is the focus of SB582-1. Tertiary packaging refers to material such as shrink wrap and pallets that are used for

² The Final Report of the Connecticut Task Force to Study Methods for Reducing Consumer Packaging that Generates Solid Waste can be found under the "Final Report" section of the "Meetings" portion of the Connecticut General Assembly website at https://www.cga.ct.gov/env/taskforce.asp?TF=20170216_Task%20Force%20to%20Study%20Methods%20for%20Reducing%20Consumer%20Packaging%20that%20Generates%20Solid%20Waste. Additional meeting documents including presentations, written comments and meeting notes can also be found under the "Meetings" portion.

the distribution of products throughout the chain of commerce. This type of material is appropriately managed within the distribution chain or at the retail level; it never reaches the consumer or the consumer solid waste stream. As such, it should not be captured under the producer responsibility program proposed in SB582-1 which is focused on residential recycling programs.

- **Producer Definition:** CTA is unclear on what entity is the target of the definition of producer in SB582-1. The definition is not clear on whether it is targeting the manufacturer of the product contained in packaging or the manufacturer of the packaging. This definition is critical to understanding who is ultimately responsible for supporting the producer responsibility program in Oregon.
- **Costs:** The producer responsibility program proposed in SB582-1 is extremely comprehensive and involves a multitude of studies the costs of which will be paid by industry with no cost estimate provided and no parameters to ensure costs are reasonable. It also includes a minimum \$10M from producers for litter and marine debris clean-up. We have not seen any data linking litter and marine debris with consumer technology packaging. As such, our industry has concerns of bearing the costs of a \$10M+ program for which we don't contribute to the problem it intends to solve. We have seen estimates that the overall program could add an additional \$100M over the current cost of operating the collection and recycling system in Oregon. These costs would be borne by industry which hasn't had a seat at the table in crafting this producer responsibility program. A thorough fiscal impact of this legislation should be completed before moving forward.

Labeling requirements

While we support the underlying goal of reducing consumer confusion, CTA strongly opposes the labeling mandates on products and packaging proposed in Section 36. While we appreciate that DEQ has attempted to address the very real concern that 39 jurisdictions – including Oregon³ – require the actual chasing arrows symbol for certain types of plastic packaging sold in that jurisdiction, the solution is to mandate an additional Oregon specific label. The details of that Oregon specific label will be established by Rule but not effective until two years after the rule is adopted. Meanwhile, the prohibition on sale of products with “deceptive or misleading claims” goes into effect in 2023. This disconnect creates a compliance nightmare for our members who are required to comply with the laws in those other jurisdictions.

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. Adding an Oregon specific label to packaging because our members need to keep the chasing arrows symbol for compliance in 39 jurisdictions will only increase consumer confusion in Oregon and throughout the U.S. / North American distribution market.

Even larger challenges with the labeling requirement remain to be addressed. The labeling requirements target both packaging and products. The labeling mandates would go into effect January 1, 2023, which is less than two years away. For consumer technology products, the lead time for products and thus

³ 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.

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 program, CTA members might assume they could label electronics accepted through that program with a recycling symbol to encourage proper end-of-life management. However, electronics accepted under the Oregon E-Cycles program are not accepted for “on-route collection”. As such, our members would be subject to the labeling mandate established by Rule and effective two years later for electronic devices that have a robust collection infrastructure throughout Oregon. Without sufficient lead time, 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 as well as throughout the U.S.

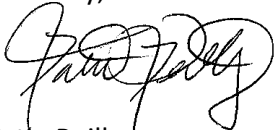
Second, the list of what is accepted on the uniformed statewide collection list as suitable for on-route collection may change over time. Companies will have no choice but to remove any and all recycling labels/symbols from packaging material given the lead times necessary for packaging development. There is no type of sell through provision meaning our members may be forced to cease using packaging they’ve already secured to avoid non-compliance in Oregon ultimately creating additional waste. 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.

CTA highly encourages removal of this requirement and instead DEQ convening a discussion that brings producers to the table to resolve these valid concerns. It is a complex issue that needs to be discussed in conjunction with consumer education efforts to yield results that reduce consumer confusion but are also feasible for industry to implement.

Conclusion: CTA appreciates the opportunity to provide comments on SB582-1 and asks the Senate Committee on Energy and Environment to oppose for the reasons outlined above. This proposal was put forth without consulting producers, the ultimate stakeholder impacted by this proposal. We welcome further dialogue with DEQ and other stakeholders and to be a part of the process for defining the role of producers in a shared responsibility system for packaging in Oregon.

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

Sincerely,



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cc: Senator Michael Dembrow
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