

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 additional labeling that may or may not be applicable in other jurisdictions. Additionally, it may be in conflict with established voluntary labels such as the How to Recycle Label. For many smaller consumer technology products shipped in rigid plastic packaging subject to mandated display of the chasing arrow symbol in other jurisdictions, there may not be sufficient space on the packaging to add additional labeling.

It is also worth noting that the labeling requirements target both packaging and products. Many of CTA's members encourage consumers to recycle their electronics and actively support nationwide collection and recycling programs. This includes supporting the Oregon E-Cycles program as mentioned previously. Companies may use a chasing arrows symbol on their consumer electronic devices or provide additional information on their recycling programs (including via a chasing arrows symbol) to consumers via the packaging or user manuals. Because electronics are not accepted for "on-route collection" members may be subject to an additional labeling mandate established by Rule that is not in line with their current effective methods of communicating the importance of electronics recycling.

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.

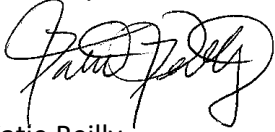
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We raise these points to highlight that labeling of products and packaging is a complex issue. CTA highly encourages removal of this requirement and instead DEQ should convene a stakeholder discussion that brings impacted producers to the table to resolve these valid concerns.

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,

A handwritten signature in black ink, appearing to read 'Katie Reilly', written in a cursive style.

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cc: Senator Michael Dembrow
Senator Art Robinson
Senator Kathleen Taylor