

May 20, 2021



Senator Stacy Brenner, Chair
Representative Ralph Tucker, Chair
Joint Standing Committee on Environment and Natural Resources
100 State House Station
August, Maine 04333

RE: There is no evidence that EPR for packaging programs have an impact on the price of consumer goods. Based on real-world data, LD 1541 could save Maine’s municipal taxpayers at least \$16 million a year,¹ and is likely to increase Maine’s recycling rate by close to 30% within 8-10 years.²

Dear Senator Brenner, Representative Tucker, and members of the Environment and Natural Resources Committee:

During the public hearing on LD 1541, “An Act to Support and Improve Municipal Recycling Programs and Save Taxpayer Money,” several opponents to the bill referenced a recent study from a professor at York University in Toronto. This study falsely concludes that if New York were to adopt an extended producer responsibility (EPR) program for packaging, the price of consumer packaged goods in New York would increase from 4.01% - 6.35%.

After thoroughly reviewing the study, we have found that it is significantly flawed. The study does not reflect any real-world evidence of how EPR for packaging systems work, contains virtually no citations, is not peer-reviewed, and includes several misleading and false statements. We strongly believe this study is not accurate and should not be considered when making determinations about the benefits and impacts LD 1541 will have in Maine. Here’s why:

- **Author ignores real-world examples of EPR for packaging programs.** The study’s so-called “results” of projected overall per-capita costs are wildly inflated, unsubstantiated, and unreflective of any EPR program in the real world. There is no evidence of increased prices for packaged consumer goods.
- **The EPR program being evaluated is not the same as the one proposed in LD 1541.** One example is that the study includes newspaper, magazines, phonebooks, and other paper making up more than 30% of the material; those materials are not part of the program proposed in LD 1541 and would distort any cost impact analysis.
- **Conclusions drawn from unrealistic assumptions with no credible citations.** The author makes only one citation—to himself, despite the fact that EPR for packaging programs have been in place in scores of jurisdictions around the world, in some cases operating for decades.

¹ Source: [Maine Department of Environmental Protection’s 2019 Annual Product Stewardship Report](#)

² Source: Statistics Canada: Reported as part of an expert technical briefing to this Committee on January 22nd, 2020, Resa Dimino, Senior Consultant at Resource Recycling Solutions.

And here is a closer look at why “[Modeling Impact on Consumer Packaged Goods Pricing Resulting from the Adoption of Extended Producer Responsibility in New York State](#)” by Calvin Lakhan concludes with misleading results:

I. The Alleged Price Increase is a Result of Modeling. It is Not Reflective of Any Real-world Price Increases from EPR for Packaging Systems.

It is important to understand that the York University study is based on only speculative modeling with minimal documentation that can be evaluated. It does not reflect any actual price increases that have occurred as a result of the implementation of EPR for packaging systems.

While LD 1541 may be the first EPR for packaging system in the United States, EPR for packaging programs are the most common form of EPR policy around the world. Estimates indicate that more than one billion people live in jurisdictions where companies pay some or all of the cost of packaging collection and recycling. There are now well over 47 EPR for packaging programs worldwide. EPR for packaging was first implemented in Germany in 1991. Thus, we have more than 30 years of data to evaluate the impact EPR for packaging has on the price of consumer goods. In the years that EPR for packaging has been implemented, there is no evidence that prices have increased by 4-6% in any jurisdiction.

II. The York University Study Assumes —without Justification — that Producers Will Pass All Costs Directly on to Consumers.

The conclusion that the average price of consumer goods would increase by 4-6% is based on several assumptions that are both unrealistic and unjustified. The assumptions made throughout the modeling are not reflective of how EPR for packaging systems actually operate and therefore cannot be used to illustrate the impact these programs would have on consumer goods.

Despite acknowledging that “there is no clear indication [on] how producers in New York State will choose to respond to the added costs associated with EPR legislation,” the study assumed “that increased costs will be passed on to consumers.” There is no evidence to suggest that this is how producers will respond. Instead, evidence from jurisdictions that have long operated EPR programs shows that fees are internalized by producers as part of the cost of doing business.

Evidence from Canada indicates that producers do not pass the costs on to consumers. Under British Columbia’s EPR program, the operating costs of Recycle BC (the stewardship organization) increased from \$300 USD per ton in 2016 to \$414 per ton in 2019. This increase in operating costs, largely due to market changes related to China’s National Sword Policy, significantly increased the cost borne by producers. The impact of rising program costs on consumers was minimal, and there was no evidence to suggest that producers passed these costs directly to consumers.³ In fact, despite this increase, consumer impact has been less than one cent per household item, and consumers in B.C. have not changed their purchasing behavior

³ [Cassel, Harris, & Dulk, et al, Extended Producer Responsibility for Packaging and Paper Products: Policies, Practices, and Performance, Product Stewardship Institute, p. 34. \(Sept. 2020\).](#)

since the implementation of EPR.⁴ Thus, there is no evidence that producers have passed their costs to consumers.

It is unsurprising that increased costs were not passed on to consumers in British Columbia. The assumption that producers will pass along costs to consumers ignores how EPR for packaging systems work. Well-designed EPR systems, like LD 1541, not only increase recovery and recycling of packaging material, but also provide incentives for specific environmental objectives. The per-ton-pricing provides a direct incentive for producers to reduce the amount of packaging they use. Additionally, eco-modulated fees add financial incentives for producers that incorporate post-consumer recycled content in packaging, reduce toxicity of packaging, and switch to packaging materials that are readily recyclable. Experience from other jurisdictions illustrates that producers are much more likely to try to reduce their burden by meeting these environmental targets, rather than passing increased costs on to consumers.

Additionally, the blanket assumption that all producers will pass along all costs to consumers ignores that producers are not homogeneous and that different companies will respond to the increased costs in different ways. Evidence from other jurisdictions shows that a relatively small pool of large producers will bear the most significant costs. These multinational companies will be insulated from the cost increases. In Quebec, more than 3,400 companies fund their EPR program, which costs between \$200 - \$400 million annually. These same companies collectively generate more than \$110 billion in sales revenue annual. What's more, of the 3,400 companies, the largest 150 are responsible for 80% of the costs of running the EPR system.⁵

III. The Modeling Performed by the Author Lacks Transparency and Clear Sources of Data.

Another significant flaw with the York University study is the lack of transparency and clear sources of data. As an input-output model, the validity of the conclusions depends on clear, accurate, and reliable data sources. The inputs in this study failed in all of these metrics.

First and foremost, the study has not been peer reviewed. In fact, the author has not had any peer-reviewed papers published since 2017. Moreover, there is no indication of the funding source for the research.

The study also makes several assumptions that are not justified or supported by citations. The entire study only contains one citation, which is a self-citation to previous research. No additional information is provided. Below is a sample of assumptions and statements made without any support or justification:

- *Producers will pass on all costs to consumers rather than internalize them.* As explained above, this is extremely unlikely.
- *There will be a 15% reduction in taxes.* There is no citation for this and no justification for how the percentage was calculated.

⁴ *Id.*

⁵ Eco-Enterprises Quebec (2021), For Companies, <https://www.eeq.ca/en/for-companies/#sectors>.

- *The administrative cost for running the EPR program will be 5% of the total net system cost annually.* Again, there is no citation and no justification provided for how this percentage was reached.
- *Asserts that low-income individuals and families eat more packaged foods and therefore will be more heavily impacted by increased costs.* Again, there is no citation.


Additionally, the data that is used is highly controversial and unrepresentative. For instance, to determine the composition of the types of packaged goods being generated and recycled in New York, the study relied on only nine samples. Nine samples are not statistically significant (which the author acknowledges) and cannot be used to extrapolate the household waste profile of a state with a population of roughly 20 million people. Furthermore, all other data on packaging amounts and costs of managing the packaging were provided by the Consumer Brands Association, which is known to oppose EPR legislation. The data from Consumer Brands Association is extrapolated from Ontario, which is arguably the worst performing program in Canada and is currently being modernized.

The study also factors in costs that are not realistic, which significantly contributed to the overall estimate for the cost of running the entire EPR program in New York. For instance, the study factors in the cost of recycling materials that are not readily recyclable. This includes plastic laminates — which the study assumes will be priced at \$2212.52 per ton to recycle — as well as polystyrene, carton, paper laminates, and flexible packaging (pouches). These costs drove up the entire estimated system cost and thus greatly inflated the costs of packaged goods, since the study assumes these costs will be passed on to consumers. Worse yet, these costs would not even be factored into New York's system. Under New York S1185B, the producers are only responsible for reimbursing municipalities for packaging that is readily recyclable. The packaging used to inflate the overall cost of the system would not be covered under the proposed EPR system.

IV. Conclusion

To best understand the impact adoption of an EPR for packaging system may have on consumer goods in Maine, we should look at the real-world impacts seen in other jurisdictions. Furthermore, while modeling may be a helpful tool, it is only valid if the data being used to model potential impacts is clear, accurate, and transparent. The York University study fails to meet any of these metrics and cannot and should not be used to draw assumptions about how LD 1541 may impact prices of packaged goods in Maine. The bottom line is this: no credible evidence has been provided that LD 1541 would have any measurable impact on the price of packaged goods in Maine if LD 1541 becomes law.

Very truly yours,



Sarah Nichols, Sustainable Maine Director,
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Peter Blair, Staff Attorney,
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