



Via Electronic Mail

April 4, 2024

The Honorable David A. Bennett  
Chair, House Committee on Environment and Natural Resources  
Room 101, State House  
Providence, RI 02903

RE: CLF **Supports** House Bill No. 7023 – Extended Producer Responsibility for Packaging

Dear Chair Bennett:

Thank you for the opportunity to comment on House Bill No. 7023, an Act Relating to Health and Safety – Extended Producer Responsibility for Packaging. Conservation Law Foundation (“CLF”) **supports** this bill.

CLF is a member-supported nonprofit organization working to conserve natural resources, protect public health, and build healthy communities in Rhode Island and throughout New England. Through its Zero Waste Project, CLF aims to improve waste diversion and recycling programs and protect communities and our environment from plastic pollution.

H-7023 would create an extended producer responsibility for packaging program in Rhode Island that would hold consumer brands and packaging manufacturers accountable for the entire lifecycle of their waste, help compensate towns and cities for recycling programs, and help fund reuse and recycling infrastructure and education. This bill would also incentivize and require reductions in packaging waste and increased recycling rates, and it would help eliminate toxic chemicals from packaging.

**I. Packaging Waste is a Significant and Growing Problem.**

Single-use packaging is ubiquitous. A great deal of what we order online or buy at grocery stores or big box chains is packed, wrapped, or padded with packaging—much of it plastic. Most of that packaging, especially the plastic, cannot be recycled.<sup>1</sup> As a result, Rhode Island buries more than 87,000 tons of packaging waste in the Central Landfill every year—comprising more

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<sup>1</sup> John Hite, CLF, *Our Recycling System is Broken* (Oct. 28, 2019), <https://www.clf.org/blog/our-recycling-system-is-broken/>.

than 16 percent of everything that goes to the landfill.<sup>2</sup> Recycling costs have skyrocketed in large part because most of the packaging in our recycling bins cannot be recycled.<sup>3</sup> Towns and cities in Rhode Island are now facing massive bills for rejected recycling loads because of all that unrecyclable material.<sup>4</sup> And as the Central Landfill reaches the end of its life expectancy, companies that burn waste are knocking at the door and pitching their toxic and climate damaging technologies as supposed solutions.<sup>5</sup>

Packaging waste is more than just a disposal problem, it is a production problem. The plastics wrapped around our food, our clothing, and our products are derived from fossil fuels.<sup>6</sup> At every stage of their lifecycle, plastics pose risks to human health and the environment.<sup>7</sup> And as we wean ourselves off fossil fuels to power our cars and heat our homes, the fossil fuel and petrochemical industries are expanding plastics production to meet the demand for single-use plastic packaging.<sup>8</sup> If we don't take significant steps to limit plastics production, carbon emissions from the production and disposal of plastics will consume up to 13 percent of the planet's remaining carbon budget.<sup>9</sup> Rhode Island cannot address the climate crisis without also taking steps to limit single-use plastic packaging.

## **II. Producer Responsibility for Packaging Holds Polluters Accountable.**

H-7023 would hold consumer brands and packaging manufacturers accountable by making them responsible for the entire life cycle of their packaging waste.<sup>10</sup> The system created by H-7023 would start with a “needs assessment,” through which the Department of Environmental

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<sup>2</sup> See *Rhode Island Solid Waste Characterization Study*, 13 (2015), <http://www.rirrc.org/sites/default/files/2017-02/Waste%20Characterization%20Study%202015.pdf>.

<sup>3</sup> See Lauren Fernandez, CLF, *Recycling Prices Continue to Rise – But at What Cost?* (Nov. 4, 2021), <https://www.clf.org/blog/recycling-prices-rise-at-what-cost/>.

<sup>4</sup> See, e.g., Jim Hummel, *The Providence Journal*, *Costly Errors: When Rhode Islanders Don't Recycle Correctly, Cities and Towns Have to Pay Up* (Feb. 14, 2020), <https://www.providencejournal.com/story/news/2020/02/14/costly-errors-when-rhode-islanders-dont-recycle-correctly-cities-and-towns-have-to-pay-up/1698990007>.

<sup>5</sup> See Kevin Budris, CLF, *Big Corporations are Lobbying to Burn Plastic, But We're Pushing Back* (June 11, 2021), <https://www.clf.org/blog/corporations-lobby-to-burn-plastic/>.

<sup>6</sup> Lisa Anne Hamilton, *Plastic & Climate: The Hidden Costs of a Plastic Planet*, 8 (2019), <https://www.ciel.org/wp-content/uploads/2019/05/Plastic-and-Climate-FINAL-2019.pdf>.

<sup>7</sup> See David Azouly, *Plastic & Health: The Hidden Costs of a Plastic Planet*, 1 (2019), <https://www.ciel.org/wp-content/uploads/2019/05/Plastic-and-Health-The-Hidden-Costs-of-a-Plastic-Planet-February-2019.pdf>.

<sup>8</sup> Katie Brigham, *How the Fossil Fuel Industry Is Pushing Plastics on the World*, CNBC (Jan. 29, 2022), <https://www.cnbc.com/2022/01/29/how-the-fossil-fuel-industry-is-pushing-plastics-on-the-world-.html>.

<sup>9</sup> Hamilton, *supra* note 6, at 19.

<sup>10</sup> Olivia Synoracki, CLF, *Holding Producers Accountable for the Waste They Create* (Jan. 12, 2022), <https://www.clf.org/blog/holding-producers-accountable-for-waste-they-create/>.

Management (“DEM”) would identify barriers and opportunities for reducing, reusing, and recycling packaging.<sup>11</sup> DEM would also 1) issue a request for proposals for a packaging reduction organization (“PRO”) to administer a packaging reduction and recycling program (the “Program”),<sup>12</sup> and 2) set fees that consumer brands and packaging manufacturers will pay on packaging materials they sell or distribute in Rhode Island.<sup>13</sup>

The PRO would collect the packaging fees and distribute them to cover DEM’s and the PRO’s administrative expenses, fund recycling infrastructure and education, fund reuse infrastructure and education, and compensate towns and cities for their recycling expenses.<sup>14</sup> The bill would require DEM to set the fees at a rate that will incentivize reductions in packaging, adoption of reuse systems, and use of recycling packaging.<sup>15</sup> Fees would be highest for non-recyclable packaging and lower for readily-recyclable packaging—there would be no fee for reusable packaging.<sup>16</sup> DEM would also be responsible for identifying toxic substances that consumer brands may not incorporate in their packaging.<sup>17</sup>

H-7023 would further require consumer brands to reduce their total amount of packaging by 50 percent over 10 years<sup>18</sup> and ensure that 70 percent of their remaining nonreusable packaging is recyclable within 12 years of the creation of the program.<sup>19</sup> The PRO would create annual public reports on Program performance and consumer brand compliance<sup>20</sup> and DEM would have the authority to enforce the Program.<sup>21</sup> Again, all of DEM’s expenses in administering and enforcing the Program would be covered through the packaging fund administered by the PRO and financed through packaging fees.

This comprehensive approach to studying, incentivizing, and requiring reusable, recyclable, and non-toxic packaging—and requiring consumer brands and packaging manufacturers to pay fees that fund the entire program—would help significantly reduce packaging waste while holding the responsible parties accountable.

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<sup>11</sup> See House Bill No. 7023 at § 23-100-8.

<sup>12</sup> See *id.* at § 23-100-5.

<sup>13</sup> See *id.* at § 23-100-9.

<sup>14</sup> See *id.* at § 23-100-6.

<sup>15</sup> See *id.* at § 23-100-9.

<sup>16</sup> See *id.* at § 23-100-9.

<sup>17</sup> See *id.* at § 23-100-13.

<sup>18</sup> See *id.* at § 23-100-11.

<sup>19</sup> See *id.* at § 23-100-12.

<sup>20</sup> See *id.* at § 23-100-6.

<sup>21</sup> See *id.* at § 23-100-16.

### **III. Five Key Elements in House Bill No. 7023**

States across the country are exploring producer responsibility for packaging. Maine and Oregon passed the first producer responsibility for packaging laws in the U.S.<sup>22</sup> At least seven other states are considering legislation in 2024<sup>23</sup> with a wide variety of approaches to producer responsibility. H-7023 would create a capable and durable system with effective management, funding, and reduction and recycling incentives and requirements. The system's structure depends on five key elements, set out below.

#### **1. *Strong Oversight and Accountability***

DEM, rather than the consumer brands and packaging producers, would be responsible for conducting the needs assessment and selecting the PRO. DEM would set the fees and retain broad authority to promulgate rules necessary to implement the Program. And DEM and the Attorney General would have the authority to enforce the Program and seek penalties and injunctions against any consumer brand or packaging manufacturer that violated the requirements of the bill or the Program.

#### **2. *Fees That Incentivize Better Packaging and Fund Reuse and Recycling***

H-7023 requires that the packaging fees set by DEM incentivize recyclable and reusable packaging and that those fees be sufficient to fund Program operating expenses, DEM oversight, reuse and recycling infrastructure and education, and compensation to towns and cities for recycling expenses. These specific requirements would ensure that the system works as intended and that an inadequate fee structure would not hobble the Program.

#### **3. *Required Packaging Reductions and Recyclability***

The requirements that consumer brands and packaging manufacturers reduce their packaging and increase packaging recyclability over time would help address the significant impacts of single-use packaging on our climate and our environment. H-7023 would not just prop up our existing recycling system but would instead help transition Rhode Island to a more sustainable future.

#### **4. *No Loopholes for Burning Plastic***

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<sup>22</sup> See Olivia Synoracki, *CLF Update: Want to Turn the Tide on Plastics Pollution? Make Producers Pay to Pollute* (July 13, 2021), <https://www.clf.org/blog/turn-the-tide-plastics-pollutions-make-producers-pay-pollute/>; Adam Redling, *Recycling Today, Oregon Becomes Second State to Pass Packaging EPR Law* (Aug. 6, 2021), <https://www.recyclingtoday.com/article/oregon-signs-extended-producer-responsibility-law-packaging/>.

<sup>23</sup> Sustainable Packaging Coalition, *Recent EPR Proposals*, <https://epr.sustainablepackaging.org/policies>.

H-7023 excludes high-heat plastic disposal technologies like incineration, pyrolysis, gasification, and so-called “advanced recycling” from the definition of recycling. All these technologies burn, rather than recycle, plastic, and they only worsen our plastics pollution crisis.<sup>24</sup>

### **5. *Eliminating Toxics from Packaging***

The requirement in H-7023 that DEM designate toxic substances to be eliminated from packaging would help protect Rhode Islanders from the forever chemicals, carcinogens, endocrine disrupters, persistent organic pollutants, and heavy metals that can be found in plastic packaging.<sup>25</sup>

### **IV. House Bill No. 7023 Makes Sense for Rhode Island**

H-7023 presents a significant opportunity for Rhode Island to reduce packaging waste, protect our climate, improve our recycling system, ease the financial burdens of recycling for towns and cities, transition to reusable packaging, and protect Rhode Islanders from toxic additives in packaging. CLF respectfully urges passage of H-7023.

Thank you for the opportunity to submit this testimony.

Respectfully submitted,



Richard Stang  
Senior Attorney  
Conservation Law Foundation

cc: Members of the House Environment & Natural Resources Committee  
Representative David Morales  
Representative Grace Diaz  
Representative Charlene Lima  
Representative Edith H. Ajello  
Darrèll Brown, Vice President, Rhode Island, Conservation Law Foundation

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<sup>24</sup> See Budris, *supra* note 5.

<sup>25</sup> See Azouly, *supra* note 7, at 27-41.