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TESTIMONY BEFORE THE JOINT COMMITTEE ON AGRICULTURE,
CONSERVATION AND FORESTRY

LD 1933

"An Act to Promote Bulk Retail Purchasing "

January 30, 2020

Senator Herbig, Representative Daughtry, and members of the Committee on Innovation, Development, Economic Advancement and Business, my name is Nancy McBrady. I am the Director of Bureau of Agriculture, Food and Rural Resources in the Department of Agriculture, Conservation and Forestry (DACF), speaking in support of LD 1933, "An Act to Promote Bulk Retail Purchasing."

DACF is responsible for ensuring a safe food supply, including that appropriate steps are adhered to in licensed facilities such as retail establishments to ensure a sanitary environment and to prevent contamination. In particular, our Quality Assurance and Regulations Division enforces the Maine Food Code which requires that foods are packaged, processed, prepared and stored in a sanitary and safe manner.

The Department recognizes that the world of food packaging results in a great deal of waste and that many consumers would prefer to utilize more environmentally conscious packaging. More often than not food packaging is made from plastic or other non-recyclable materials. The Department supports the desire to reduce waste and to utilize packaging that can be reused. We also, however, balance that with our responsibility to prevent contamination and food borne illness.

LD 1933 is a concept bill that proposes to allow retail establishments to permit customers to supply their own containers for the purchase of certain food items. In speaking with the bill's sponsor, Representative Morales, we understand that she would like to put forward a Resolve that directs the Department to create guidance that assists retailers in understanding when customers may reuse containers, where appropriate.

Currently the Maine Food Code, which incorporates sections of the Federal Model Food Code, allows take-home containers for foods to be refilled so long as they are not filled with potentially hazardous foods and have been appropriately cleaned. See Section 3-304.17.

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Further, beverage containers may be reused provided they are appropriately cleaned. See id. and Section 4-603.17.

What this means is the following:

- Utilizing reusable containers for Potentially Hazardous Foods are not allowed. Those include foods that are temperature controlled (meat, poultry, seafood, deli meats, salad bars) and temperature controlled ready to eat foods (cooked and presented at a consistent temperature, like soups and hot bars). This category of potentially hazardous foods is the most likely to present opportunities for contamination.
- However, the Department will support retailers allowing customer's use of personally supplied refillable containers for certain products such as dry goods (rice, spices, cereals), produce (fruits and vegetables), and baked goods.

We believe the foundation is in place for the Department to build upon these above-listed points to create guidance for retailers that promotes the use of reusable containers by customers in appropriate situations, thereby reducing waste and meeting customer demand. In addition, this guidance would advise retail establishments to educate their staff and customers that reusable containers may cause an increase in the purchase price of the product due to the weight of that container (tare weight). Stores will have to determine if they can train staff to accurately subtract the tare cost or simply have customers bear the price increase.

Thank you for your time. I would be happy to answer questions now and to provide more detailed information during the work session.