



June 7, 2019

The Honorable Janet Mills  
Governor, State of Maine  
1 State House Station  
Augusta, ME 04333

**RE: LD 1433 – Ban of sale of any food packaging containing phthalates: request for veto**

Dear Governor Mills:

On behalf of the Flexible Vinyl Alliance (FVA), we are writing to request your veto of L.D. 1433 (H.P. 1043), *An Act to Protect the Environment and Public Health by Further Reducing Toxic Chemicals in Packaging*.

We are most concerned about the section of the bill that, if signed into law, would ban the sale of any food packaging that includes phthalates that have been “intentionally introduced in any amount greater than an incidental presence” from 2020 onward.

Our rationale for this veto request was arrived at based on the fact that regulation of phthalates in food packaging has been under active review *at the federal level* by the U.S. Food & Drug Administration (FDA) since March of 2016. The FDA review is being conducted in a timely and thorough manner based on sound scientific principles, with a decision now pending. On May 20, 2019 the FVA received a letter from the FDA Office of Food Additive Safety stating that its scientific review of the FVA’s food additive petition (FAP No. 8B4820<sup>1</sup>) has progressed to a point that FDA is drafting a final response to be published in the Federal Register. FAP No. 8B4820 requests the FDA to remove existing food contact regulatory clearances (i.e., 21 CFR. §§ 170 et seq.) for twenty-six phthalates on the basis that those clearances are abandoned because the relevant phthalates are no longer used in food packaging applications.

Furthermore, when a state bans a product FDA regulates at the federal level, the single market for the nation’s food supply that Congress and FDA have, quite explicitly, intended to create is thwarted. State prohibitions for food and food packaging materials engender consumer confusion and erode public confidence in FDA and in the safety of the nation’s food supply. The lack of a single federal framework for regulating food and food packaging materials also increases food waste.

For these reasons, we believe that the state of Maine would better serve its citizens and business-base by waiting for the FDA to act, as they are the federal arbiter of food contact safety. By acting prematurely on LD 1433 the state also risks a potentially lengthy and legally-charged federal pre-emption suit, rendering the entirety of LD 1433 moot.

Thank you for your consideration of our viewpoint, and our concerns with this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin D. Ott', written over a light gray rectangular background.

Kevin D. Ott  
Executive Director, FVA  
1400 Crystal Drive  
Arlington, VA 22202

---

<sup>1</sup> See 83 Fed. Reg. 56750 (Nov. 14, 2018).