

## Bertocci, Elena

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**From:** Bertocci, Elena  
**Sent:** Thursday, September 16, 2021 12:40 PM  
**To:** Greg Dugal  
**Cc:** Beneski, Brian  
**Subject:** RE: EPR Packaging Law

Hi, Greg,

Under the current definition, if PFG Northcenter were the only company importing the products of a foreign brand owner into Maine, it *could* be considered the producer, even though the product has someone else's brand name on it. However, we've identified that as an ambiguous point and plan to clarify during rulemaking. Right now, there are two entities that could be the producer in such cases. The prioritization of responsibility is a bit less important when there is a retailer sales ban because, if no one steps forward, the product can't be sold in Maine and it doesn't matter that it isn't registered/paid for. With the retailer sales ban, the ability to choose who registers (the ambiguity) can sometimes be helpful. Without the sales ban, there needs to be a clear prioritization of responsibility. If you or others at Hospitality Maine have thoughts on who should be required to register in such cases, please bring that information to the rulemaking.

Sorry I can't be more helpful at this point.

Sincerely, Elena

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**From:** Greg Dugal <Greg@HospitalityMaine.com>  
**Sent:** Thursday, September 16, 2021 11:16 AM  
**To:** Bertocci, Elena <Elena.Bertocci@maine.gov>  
**Subject:** EPR Packaging Law

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Question, from the final language of the bill is a distributor like PFG Northcenter required to pay the packaging fee or just the importer or brand if the producer does not? It doesn't look like they are if it were something that wasn't branded with a FPG label? Thanks for any help you can provide.

O. "Producer" means a person that: (1) Has legal ownership of the brand of a product sold, offered for sale or distributed for sale in or into the State contained, protected, delivered, presented or distributed in or using packaging material; or (2) Is the sole entity that imports into the State for sale, offer for sale or distribution for sale in or into the State a product contained, protected, delivered, presented or distributed in or using packaging material that is branded by a person that meets the requirements of subparagraph (1) and has no physical presence in the United States. "Producer" includes a low-volume producer and a franchisor of a franchise located in the State, but does not include the franchisee operating that franchise. "Producer" does not include a nonprofit organization exempt from taxation under the United States Internal Revenue Code of 1986, Section 501(c)(3).

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