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Committee: Environment and Transportation
Testimony on: HB1442 “Expanded Polystyrene Food Service Products – Definition”
Position: Oppose
Hearing Date: March 4, 2020

The Maryland Sierra Club opposes HB1442. The bill would amend the definition of “expanded polystyrene food service product” to exclude expanded polystyrene (EPS) egg cartons “that are shipped: 1. Into the state for packaging; or 2. within the state.” This bill, at least in part, is attempting to create an exception that already exists to last session’s ban on single-use foam food packaging. In addition, however, it would create a new, larger, and unwarranted exception to the EPS food packaging ban. Accordingly, this legislation is both unnecessary and ill-founded, and for these reasons we urge an unfavorable report by this Committee.

Pursuant to the law enacted last year by the General Assembly regarding EPS food service products, these products (after July 1 of this year) generally may not be sold in Maryland, and food service businesses and schools may not sell or provide food or beverages in them. Envir. Art. sec. 9-2203. Egg cartons are specifically included in the statutory definition of an “expanded polystyrene food service product.” However, the law excepts “[f]ood or beverages that have been packaged in expanded polystyrene containers before receipt by a food service business.” Envir. Art. Sec. 9-2201(c)(3)(i). Accordingly, the law allows egg producers to continue to use EPS packaging for eggs they ship to stores for sale, so long as the producers obtain the EPS packaging from out of state since EPS packaging (including EPS egg cartons) may not be sold within Maryland.

It is our understanding that the main purpose of this bill is to ensure that certain egg producers in Maryland are able to use EPS egg cartons they obtain from outside the state. But, as was just explained, there is nothing in last year’s law which prohibits that. Accordingly, no change to the existing law is necessary to accommodate this business practice.

The bill, however, apparently goes further than last year’s law by excepting EPS egg cartons that are shipped within the state and originate within the state from the definition of an EPS food service product. In other words, it appears that the bill would now allow the sale of EPS egg cartons in Maryland, something last year’s bill prohibits.

We strongly oppose this broadened exemption for EPS egg cartons. The limited exemption applicable to EPS egg cartons included in last year’s bill was the product of careful drafting, the weighing of different interests, and extended discussions. There is no reason to reopen the issue this year, especially since the bill apparently was mostly prompted by a faulty reading of last year’s law.

For these reasons, we urge an unfavorable report on this bill.

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Founded in 1892, the Sierra Club is America’s oldest and largest grassroots environmental organization. The Maryland Chapter has over 70,000 members and supporters, and the Sierra Club nationwide has approximately 800,000 members.