

SB 222 PRKN_WKC testimony.pdf

Uploaded by: Alexander Villazon

Position: FAV



Bill: SB 222

Date: February 9, 2023

Position: Support

SB 222 - Environment - Reducing Packaging Materials - Producer Responsibility Support

Dear Chairperson Feldman, Vice Chair Kagan and Members of the Education, Energy and Environment Committee:

We are writing in strong support of SB222 on behalf of Waterkeepers Chesapeake, a coalition of seventeen Waterkeepers, Riverkeepers, and Coastkeepers working to make the waters of the Chesapeake and Coastal Bays swimmable and fishable. Plastic pollution is an obvious problem in the Chesapeake Bay watershed. Recently, scientists at the Virginia Institute of Marine Science and the Pennsylvania State University determined that the vast majority of microplastic pollution (upwards of 94%) that makes its way into the rivers of the Chesapeake Bay stays in and along the waters.¹

Potomac Riverkeeper Network (PRKN) volunteers have collected and diverted 13,420 pounds of trash from the Potomac River and its tributaries since 2021. Unfortunately, the problem never seems to be abated; no matter how many times volunteers clean up an area, the trash always returns.

Nationwide polling shows that 8 in 10 American voters are in favor of policies reducing single-use plastic and unnecessary packaging.² There is growing awareness and concern among Maryland residents about the prevalence of microplastics in drinking water and their impacts on human health. Maryland taxpayers and cities/counties bear the burden of paying for disposal and recycling of materials and struggle to maintain their programs. This bill begins to address some of these problems.

SB222 is a start at reducing the impact of packaging on the municipal solid waste stream. We all learn about the "Three Rs: Reduce, Reuse, Recycle." Those principles are meant to go in order of priority, but for the past five decades, this has not been the case. This bill begins to reset those priorities, emphasizing reduction.

A statewide recycling needs assessment is proposed to occur every 10 years. The bill establishes a framework in which producers set up incentive systems to reward the packaging lowest in volume and highest in recyclability, and sets a 25% reduction target for covered packaging materials within 5 years of the needs assessment. Importantly, the Bill includes public oversight and transparency for that process.

PRKN and WKC and the members we represent are in favor of reducing packaging waste that ends up backed

¹ See: <https://chesapeakebaymagazine.com/study-94-of-plastics-stay-in-the-bay/>

² See:

<https://usa.oceana.org/press-releases/8-in-10-american-voters-support-national-action-to-reduce-single-use-plastic/>

up in Maryland Material Recovery Facilities in the best case scenario, and clogs our streams and ends up deposited in the Chesapeake Bay in the worst.

Alex Villazon, Climate & Justice Legal Fellow
Waterkeepers Chesapeake
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Betsy Nicholas, VP of Programs
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Testimony-SB222 Packaging Materials-Support-UULMMD

Uploaded by: Ashley Egan

Position: FAV



Unitarian Universalist Legislative Ministry of Maryland

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Testimony in Support of SB 222 - Environment – Reducing Packaging Materials – Producer Responsibility

TO: Chair Brian Feldman and the members of the Education, Energy,
and the Environment Committee
FROM: Phil Webster, PhD, Lead Advocate on Climate Change
Unitarian Universalist Legislative Ministry of Maryland.
DATE: February 9, 2023

The Unitarian Universalist Legislative Ministry of Maryland (UULM-MD) strongly supports reducing packaging materials and urges approval and rapid implementation of **SB 222 - Environment – Reducing Packaging Materials – Producer Responsibility**.

The UULM-MD is a faith-based advocacy organization based on the Principles of Unitarian Universalism. Two Principles are particularly relevant. The Second Principle, *Justice, equity and compassion in human relations* and the Seventh Principle, *Respect for the interdependent web of all existence of which we are a part*.

We believe in *justice, equity and compassion in human relations*. We know that Global Climate change impacts marginalized communities first and worse. The manufacture of plastics is disproportionately located in frontline and fence-line communities. And, these communities suffer from higher rates of cancer and other debilitating health issues. How can there be justice and equity if one part of society is reaping in the benefits, while another is paying all of the costs?

We believe that we should all have *Respect for the interdependent web of all existence of which we are a part*. We also know that the manufacture of plastics is a large and growing use of fossil fuels, increasing Greenhouse Gasses leading to increasing global temperatures, increased frequency and intensity of severe weather and sea level rise. Maryland is particularly susceptible to loss of coastal line due to sea level rise and agricultural land due to salt intrusion, so being proactive is in our best interest.

We strongly support reducing the use of unhealthy, polluting and carbon emitting fossil fuels in the manufacture of packaging materials. This bill incentivizes producers to use less plastics and increase their recyclability.

Please keep us on the right and moral path towards a livable climate and a sustainable world. We owe it to our children.

Phil Webster, PhD

Lead Advocate on Climate Change UULM-MD

UULM-MD c/o UU Church of Annapolis 333 Dubois Road Annapolis, MD 21401 410-266-8044,

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SB0222 Packaging Materials - Producer Responsibili

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0222 ENVIRONMENT - PACKAGING MATERIALS – PRODUCER RESPONSIBILITY

Bill Sponsor: Senator Augustine

Committee: Education, Energy, and the Environment

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0222 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

Our Coalition members support the reduction, recycling, and/or composting of as much packaging waste as possible. We feel that waste materials (particularly plastics, but also including paper and cardboard packaging) are becoming a bigger and more expensive problem for the state. We believe that consumer education is important in changing this dynamic. At the same time, we would like to change the behavior of manufacturers, distributors, and sellers to ensure that their products are packaged in recyclable or compostable materials, instead of plastics or other materials that our recycling systems can't handle.

We think this bill will not only be a giant step forward in managing waste materials, but it also sets the groundwork for changing the behaviors of the manufacturers, distributors and sellers. It makes them responsible for ensuring that their packaging is recyclable or compostable and makes them come up with a disposal plan. It has them individually (or in combination in what is described as a stewardship organization) create the plan and have it approved. It also creates an Office of Recycling and tasks that office with conducting a statewide recycling needs assessment.

The bill also has teeth, which we feel is an important addition. There are fines for not following the plan and there are fees that would have to be paid to local governments to collect, transport and process the packaging. The reporting requirements imposed would ensure that each individual organization (or the stewardship organization) is following the plan.

Finally, this new process would not hurt small businesses, who are already struggling. It would target large businesses, who make more than \$1 million in gross revenues or produce more than 1 ton of packaging materials, and it exempts businesses that are part of a franchise.

We believe this will be game-changing in terms of getting manufacturers and sellers to re-think the kinds of packaging they make and sell, which in turn, will help us all become better at reducing waste.

We support this bill and recommend a **FAVORABLE** report in committee.

Takoma Park 2023 - SB 222 FAV - Packing Materials

Uploaded by: City Councilmember Jason Small

Position: FAV



CITY OF TAKOMA PARK, MARYLAND

**SB 222
Support**

Senate Education, Energy, and the Environment Committee

February 9, 2023

SB 222: Environment – Reducing Packaging Materials – Producer Responsibility

City Contact: Jamal Fox

City Manager, City of Takoma Park

Jamal.Fox@takomaparkmd.gov

The City of Takoma Park supports and urges favorable consideration of this bill, which would require producers to create responsibility plans for their packaging materials, direct investment towards the state's recycling infrastructure, and allow local governments to be reimbursed for costs they assume to dispose of producers' packaging waste. This will help make producers accountable for using wasteful packaging materials, shift costs currently incurred by local governments and taxpayers to the producers responsible for them, and build the state's capacity to recycle different materials.

Local governments and counties are currently forced to take on costs of processing increasing amounts of producers' packaging waste. Many lack the infrastructure to recycle certain types of waste, adding further costs. And producers have no incentive to use packaging materials that can be easily recycled, reducing revenue for municipalities. China's National Sword policy has compounded these problems, decreasing the market value of recycled content. The overall effect is to increase environmentally-harmful, unrecyclable waste and put a huge strain on municipalities' resources, draining money from necessary services benefitting all taxpayers towards processing unrecyclable packaging materials municipalities have no control over.

The Extended Producer Responsibility policy set by SB 222 would shift the imbalance of responsibility for wasteful packaging materials from taxpayers and local governments to producers. Producers would be accountable to their responsibility plans, with measurable-goals for using postconsumer recycled content and modernizing recycling infrastructure throughout the state. The Maryland Department of Energy's needs assessment and a broadly-representative Advisory Council would make sure goals are attainable and aligned with communities' needs. These goals would encourage producers to use more recyclable, environmentally-friendly materials and drive investment in recycling infrastructure, increasing the state's ability to recycle different types of materials rather than assume the cost of processing them. Local governments and taxpayers would be reimbursed for costs they currently take-on on companies' behalf, freeing up resources for other investments.

Extended Producer Responsibility policies have years of evidence supporting their effectiveness at increasing recycling and reducing public waste-processing costs. Countries with Extended Producer Responsibility policies in Europe have recycling rates 20-30% higher than the US's rate of 50%, and Europe's packaging industry provides \$5.5 billion to help increase recycling throughout the continent. Maine and Oregon passed Extended Producer Responsibility legislation in 2021, and 11 other states are considering legislation.

Environmental stewardship is a core value of Takoma Park, yet currently the City remains powerless to make producers use more environmentally-friendly materials and must take-on the costs of environmentally-harmful decisions made by producers. As a community with many small retail businesses, we would appreciate clarification on the size and types of small retail businesses that might be affected by this bill. Overall however, this bill would help increase recycling throughout the state, incentivize producers to use more recyclable materials, and shift the costs of processing wasteful materials from the public to the producers that use them.

For these reasons, the City of Takoma Park supports SB 222, and urges a favorable vote.

AMERIPEN - Maryland SB 222 Senate EEE Committee He

Uploaded by: Dan Felton

Position: FAV



The power of packaging in balance.™

AMERIPEN
American Institute for Packaging and the Environment

Testimony
in Support of
Maryland Senate Bill 222
Producer Responsibility for Packaging Materials

Senate Education, Energy, and the Environment Committee
February 9, 2023

Chair Feldman, Vice Chair Kagan and Members of the Senate Education, Energy, and the Environment Committee.

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to offer testimony in support of Senate Bill 222 that would establish a packaging producer responsibility program in Maryland. We are pleased with the progress that has been made on this bill with the sponsor, Senator Malcolm Augustine, and other stakeholders on this important issue. It strikes the right balance between state oversight and flexibility for the packaging producers who will fund and run the program and reflects reasonable compromises from all sides. With our support we raise two issues further below for consideration as this legislation moves forward.

AMERIPEN is a coalition of stakeholders dedicated to improving packaging and the environment. We are the only material neutral packaging association in the United States. Our membership represents the entire packaging supply chain, including materials suppliers, packaging producers, consumer packaged goods companies and end-of-life materials managers. We focus on science and data to define and support our public policy positions and our comments are based on this rigorous research rooted in our commitment to achieve sustainable packaging, and effective and efficient recycling policies. We have several member companies with a presence in Maryland, and many more who import packaging materials and products into the state. The packaging industry supports more than 15,000 jobs and accounts for nearly \$4.8 billion in total economic output in Maryland.

Packaging plays a vital role in Maryland, ensuring the quality of consumer goods as they are manufactured, shipped, stored and consumed, protecting the health and safety of Marylanders who consume, use and handle those products. Packaging has value and none of it belongs in landfills, roadsides or waterways. We need to recover it to be recycled and reused, and no one knows better how to do that than the AMERIPEN members who design, supply, produce, distribute, collect and process it. They are driving innovation, designing for better environmental performance to boost recycling and evolve the recycling infrastructure.

AMERIPEN supports policy solutions, including packaging producer responsibility, that are:

- **Results Based:** Designed to achieve the recycling and recovery results needed to create a circular economy.
- **Effective and Efficient:** Focused on best practices and solutions that spur positive behaviors, increase packaging recovery, recapture material values and limit administrative costs.
- **Equitable and Fair:** Focused on all material types and funded by shared cost allocations that are scaled to make the system work and perceived as fair among all contributors and stakeholders.

We support Senate Bill 222 because we believe it reflects the above principles and creates a collaborative approach between all packaging value chain stakeholders to help design, run and participate in modernized recovery and processing solutions that will drive results and create a more circular economy for packaging. We look forward to continuing to collaborate with Senator Augustine, Delegate Sara Love who is sponsoring companion legislation (House Bill 284), and other stakeholders to continue to advance this important policy in Maryland and set an excellent example for other states to replicate. Below are two issues for consideration that could be addressed as the bill moves forward.

Compostable Materials and Composting – aligned with Senate Bill 222, AMERIPEN supports inclusion of composting and compostable packaging in packaging producer responsibility programs. This includes increased appropriate infrastructure to handle compostable packaging and additional consumer education to increase participation in composting programs that take packaging while reducing contamination. However, there is interest in striking the right balance for establishing proportional fees for compostable packaging to support infrastructure for packaging composting and for recyclable packaging to support infrastructure for recycling packaging. We believe this issue merits further consideration, can be solved, and we would be pleased to collaborate with other interested stakeholders to explore amendatory language to address it.

Needs Assessment – Section 9-1702.2(B) in the bill requires the Office of Recycling within the Maryland Department of Environment to conduct a statewide recycling needs assessment once every ten years, with reporting on the first assessment due April 1, 2025. AMERIPEN fully supports these needs assessments to identify specific packaging recovery, recycling and composting system needs before PRO funding allocations are determined and made. However, we encourage consideration of an amendment to this section of the bill to allow the Department to hire a third party to carry out the needs assessment. The Office of Recycling would not incur any additional expense for this approach, since the same section of the bill requires the PRO to pay a fee to the Office to cover the costs associated with conducting the needs assessments. Additionally, we would welcome the opportunity to be involved in additional discussion about the proper cadence for future needs assessments after the initial one is done. It may make sense to do it more frequently than once every ten years, also recognizing that this will mean a more frequent expense incurred by the PRO.

AMERIPEN also wants to recognize that Senator Augustine, Delegate Love and Comptroller Lierman have done a very commendable job in working toward a pragmatic solution for packaging producer responsibility in Maryland and this is reflected in the current text of the legislation. No bill is perfect, and so we will encourage and support a continued dialogue with all stakeholders to work together toward practicable solutions this session that will move the ball forward to improve packaging recovery and recycling in Maryland.

In conclusion, AMERIPEN supports policy solutions, including packaging producer responsibility, that are results based, effective and efficient, and equitable and fair. We believe Senate Bill 222 satisfies those principles and is a balanced approach that reflects reasonable compromises from all sides. We therefore encourage this Committee to pass the bill so we and other stakeholders can together continue the dialog to find solutions on legitimate issues so together we can increase packaging recovery and recycling in Maryland in a shared, meaningful, and responsible way.

SB0222-EEE_MACo_SUP.pdf

Uploaded by: Dominic Butchko

Position: FAV



Senate Bill 222

Environment – Reducing Packaging Materials - Producer Responsibility

MACo Position: **SUPPORT**

To: Education, Energy, and the Environment
Committee

Date: February 9, 2023

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS** SB 222. This bill would reasonably require packaging producers to take more responsibility for the role they play in adding to the waste stream by providing new resources to struggling recycling networks.

Currently, all costs associated with recycling and waste management are left to local governments, and in effect, taxpayers. Due largely to declining markets for recycled commodities, county recycling networks have experienced significant hardships and have been forced to draw taxpayer subsidies to continue their operations.

SB 222 outlines a framework for an Extended Producer Responsibility (EPR) model that would place responsibility on packaging producers for end-of-life management. Industry members would form one or more producer responsibility organizations that would collect payments from producers based on the recyclability of product packaging. Local governments would be eligible to apply for and receive reimbursements for the work they are already doing, including labor costs, collecting, transporting, and processing covered materials. Counties would then be able to invest any new funds back into their networks to help ease the burden on taxpayers. SB 222 would also encourage producers to make packaging that is more easily recyclable and more environmentally friendly.

SB 222 would provide needed financial support to struggling local government recycling networks by holding producers responsible for their products. Accordingly, MACo requests a **FAVORABLE** report on SB 222.

SB222_FAV_MDPIRG_ENVMD_Packaging.pdf

Uploaded by: Emily Scarr

Position: FAV



**SB222 - Environment – Reducing
Packaging Materials - Producer
Responsibility
Education, Energy, and the Environment
February 9, 2023
Position: Favorable**

Maryland PIRG is a state based, small donor funded public interest advocacy organization with grassroots members across the state. We work to find common ground around common sense solutions that will help ensure a healthier, safer, more secure future

Environment Maryland is a citizen-based environmental advocacy organization. We work to protect clean air, clean water, and open space.

Maryland PIRG and Environment Maryland are pleased to support SB222 to improve recycling programs in Maryland, reduce waste, and save taxpayer money.

It is no secret that we have a waste problem in this state and country - **in fact, the U.S. throws out enough plastic approximately every 11 hours to fill the Ravens stadium, and that amount is increasing.**

Since January 1, Environment Maryland has been knocking on doors to talk to Marylanders about plastic waste, having 3,000 conversations and collecting letters of support.

Municipalities across the state and country are struggling to support recycling programs while facing an ever increasing stream of hard to recycle waste from the products we buy. Our recycling rates are low, people have lost faith in the recycling system, and recycling markets for our plastic waste are less and less reliable, all because producers continue to make wasteful, often non-recyclable products with no responsibility for management. This bill can help address these problems by requiring that producers support infrastructure to manage packaging waste, while incentivising them to make more recyclable products.

Our report "Break the Waste Cycle" details how producer responsibility has proven to be an effective approach to reducing waste and improving recycling. Such laws already exist in jurisdictions around the world, and they are working well to manage packaging and provide safe disposal for polluting and hazardous items. From Maine to Oregon, states are beginning to take action, and Maryland should join them.

Consumers are frustrated by the lack of sustainable options on the shelf, and the ease in which they should be able to recycle. At the same time, companies that produce wasteful single-use plastic products, beverage containers, and other waste that litters our

communities, fills our landfills, and is burned in our incinerators have avoided paying to manage this waste for decades. A big reason why packaging pollution is on the rise is because producers are absolved of all responsibility for where their products end up, and whether their products are labeled correctly. That leaves you and me with confusion and limited choices, meanwhile footing the bill for managing the waste. This law begins to change that by requiring producers to bear some of the costs of our recycling system.

To be clear: recycling can't solve our waste problem by itself. That's why we support a strong producer responsibility law that encourages not only more recyclable packaging, but less packaging, period. We must also aggressively enact measures to reduce waste and move away from packaging that causes harm to the planet and public health in its production and disposal. Maryland has already been a leader on that front by passing the nation's first ban on foam food packaging; but there is certainly more we can do.

To achieve the reduction in packaging we want to see, it will be critical that the Maryland Department of the Environment and your Committees watchdog implementation, and ensure that a program actually rewards reusable and truly recyclable—not hypothetically recyclable—products.

As we move forward to pass a bill, we must maintain proper guardrails to ensure effective enforcement of this bill and independent oversight of industry. For example, no money from this program or state dollars should be used to subsidize the chemical conversion of plastic waste, so-called “advanced-recycling,” or incineration of waste.

Ultimately, Environment Maryland and Maryland PIRG would like to see more emphasis put on waste reduction, especially for single-use packaging and priority single-use products. We all know the saying, “reduce, reuse, recycle,” but too often we forget: It's reduce first, then reuse, and when all else fails: recycle.

I know that we share the goal of solving our waste problem and turning back the tide on packaging pollution. Producer responsibility is a critical tool in achieving a zero waste future.

We respectfully urge a favorable report.

SB222- EPR.pdf

Uploaded by: jesse iliff

Position: FAV

Committee: Senate Education, Energy, and the Environment Committee

Legislation: SB 222

Position: SUPPORT

Date: February 9, 2023

Dear Chairman Feldman and Members of the Committee:

The Severn River Association (SRA) requests a favorable report for SB 222, which would require producers of packaging materials to take responsibility for the materials those producers place into the stream of commerce and which subsequently enter our actual streams, rivers, and the Chesapeake Bay.

Introduction

Senate Bill 222 will implement a legal framework to incentivize packaging manufacturers and sellers to reduce the amount of materials used in packaging, and financially support the recycling and disposal of that packaging that continues to enter the stream of commerce. Currently, “[c]ontainers and packaging make up a major portion of municipal solid waste (MSW), amounting to 82.2 million tons of generation in 2018 (28.1 percent of total generation)” nationwide.¹ Much of this waste is plastic, and much of this plastic is not recyclable by any means, persists in the environment for centuries, or is incinerated and causes harmful air emissions.

The primary aims of SB222 are to reduce overall waste generated from packaging, modernize and improve waste management and recycling systems, improve recycling markets, increase recycling and composting rates, and reimburse local governments for the costs of disposing of packaging waste, thus lessening the burden on taxpayers. Severn River Association supports any and all efforts to reduce packaging waste (and especially plastic waste) as this sort of pollution negatively affects the Severn River just like all other waterbodies on our planet. Accordingly, we support SB 222 and urge a favorable report.

SB222 Provisions

Planning

The bill sets out a comprehensive strategy to improve waste management in Maryland. The strategy begins by collecting information about the needs and current processes for waste management in the State. The Department of Environment’s Office of Recycling (the “Office”) will conduct a statewide

¹ [Containers and Packaging: Product-Specific Data | US EPA](https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/containers-and-packaging-product-specific) <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/containers-and-packaging-product-specific>

recycling needs assessment that identifies areas of opportunity and improvement for recycling. The Office will also require producers of packaging waste to submit annual reports describing the private sector's efforts to reduce packaging waste. These annual reports are called producer responsibility plans and will require, among other things, statements of goals for recyclable content, reuse of materials goals, reductions of packaging goals, and a variety of data points which the Office can use to further refine the waste and recycling management systems in place in the State.

Stakeholder Involvement

The bill also ensures that the producer responsibility plans and the Office's own recycling needs assessment be crafted with the input of a diverse array of stakeholders in the State's waste management processes. These stakeholders include representatives from local governments, materials collectors, recycling processors, retail and small businesses, material-generating trade groups, environmental nonprofit personnel, representatives of producer responsibility organizations, and members of the public. In addition, the bill carves out exemptions from its requirements for small businesses, restaurants, and businesses generating revenue under \$5,000,000 or 1 metric ton of packaging material in the prior year.

Conclusion

Senate Bill 222 is a common-sense measure to save on the costs of waste disposal, both economically and environmentally, and it implements a system whose time is past due, where those who create the mess of litter and waste along our rivers and streams bear their commensurate share of the cost for cleaning it up. The Severn River Association urges a favorable report.

Respectfully submitted,



Jesse L. Iliff
Executive Director
Severn River Association
jesse@severnriver.org

0222.pdf

Uploaded by: John Ford

Position: FAV

TESTIMONY IN SUPPORT OF SENATE BILL 0222:

Environment - Reducing Packaging Materials - Producer Responsibility

TO: Members of the Senate Education, Energy, and the Environment Committee.

FROM: **John Preston Ford**

DATE: February 8, 2023

I support SENATE BILL 0222 extending producer responsibility.

Like many states, Maryland needs to move forward in establishing extended producer responsibility for packaging materials. We need creative new ways to tackle waste and pollution and negative externalities, and my values and Unitarian Universalist faith demand that the burdens of those efforts fall on the companies responsible, not purely the consumer and local governments.

For these reasons and more, I urge a favorable report on SENATE BILL 0222.

John Ford
3301 Fleet St.
Baltimore, MD 21224

BaltimoreCounty_FAV_SB0222.pdf

Uploaded by: Joshua Greenberg

Position: FAV



JOHN A. OLSZEWSKI, JR.
County Executive

JENNIFER AIOSA
Director of Government Affairs

AMANDA KONTZ CARR
Legislative Officer

JOSHUA M. GREENBERG
Associate Director of Government Affairs

BILL NO.: SB 222

TITLE: Environment - Reducing Packaging Materials - Producer Responsibility

SPONSOR: Senator Augustine

COMMITTEE: Education, Energy, and the Environment

POSITION: **SUPPORT**

DATE: February 9, 2023

Baltimore County **SUPPORTS** Senate Bill 222 – Environment - Reducing Packaging Materials - Producer Responsibility. This legislation would establish a system that places the logistical and financial responsibility of recycling packaging material on the producers of the materials.

Managing waste is an essential service of government that impacts the daily lives of all Maryland residents. More residents than ever are being mindful of where they discard plastics, resulting in an abundance of recyclable material to be managed and processed by County government. When producers package goods in materials double the size of the product or send orders in multiple boxes, it is local authorities that take on the economic burden of processing the resulting abundance of materials.

Senate Bill 222 will aid local authorities by setting up a system to shift the responsibility of waste management onto the producers of packaging materials. This system will require that large multistore companies have an approved produce responsibility plan in order to sell or distribute packing material in the state. This plan requires that industries make efforts to reduce the waste created by packaging and sets up a system for local governments to be reimbursed for the recycling of such materials. This legislation aligns with Baltimore County's concerted effort to innovate and sustainably manage the growing burden of solid waste.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 222. For more information, please contact Jenn Aiosa, Director of Government Affairs at jaiosa@baltimorecountymd.gov.

FAV - SB222 - Environment – Reducing Packaging Mat

Uploaded by: Justin Hayes

Position: FAV

Testimony in Support of SB222
Environment – Reducing Packaging Materials – Producer Responsibility
Education, Energy, and the Environment – February 9, 2023

Committee Members: I am happy to offer my support for SB222. I am using this opportunity to provide testimony on this legislation as a former lead sponsor while a member of the House of Delegates and am now proud to see Senators Augustine, Elfreth, and Hettleman champion this issue. I appreciate the opportunity to continue the effort to move this specific legislation forward and bring additional attention to this issue.

The Goal: Save taxpayers money, support local governments, and reduce waste. Extended Producer Responsibility (EPR) shifts the costs of recycling from taxpayers and local governments to the producers of packaging and requires producers to make smarter, more environmentally conscious packaging choices.

The Problem: Maryland taxpayers currently bear the sole burden of paying to manage and dispose of waste, including packaging, primarily (though not exclusively) through local governments. These local governments and taxpayers have no say in decisions made by producers about packaging type, however, and yet must manage (landfill, incinerate, recycle, compost, etc.) the packaging that comes to them, often at a great cost..

Packaging decisions made by producers have a dramatic impact on local government budgets. The past Director of Montgomery County’s Department of Environmental Protection highlighted the economic implications of a simple packaging material decision through the example of two nearly identical cups. Montgomery County lacks the infrastructure to recycle #6 plastic (polystyrene) cups. A #6 cup costs the county \$135 per ton to remove from the recycling stream and incinerate. On the other hand, a nearly identical #1 plastic (polyethylene terephthalate) cup can easily be recycled and sold for a profit of \$375 per ton. Because the cost of that decision is born solely by the taxpayer and local government, right now producers have no incentive to choose #1 plastic over #6 plastic and taxpayers are left footing the bill. This bill can help remedy that problem.

To further underscore the issue, variable recycling markets are upending local government budgets. For example, in 2010, Baltimore City made \$598,325 in revenue from its recycling program; in 2019, the City’s recycling system bore a loss of \$1,636,136. Similarly, Charles County made \$30,000 in revenue through recycling in 2015 and faced a loss of \$700,000 in 2019. The cost of running Frederick County’s recycling program doubled in just three years, with a cost increase of 99% from 2017 to 2020.

The Solution: Bringing EPR for packaging to Maryland will shift the costs of disposing packaging materials from Marylanders and local governments to the corporations producing the excessive and often harmful materials that are costly for local governments and taxpayers to manage.



This legislation presents a comprehensive solution that provides reimbursement for recycling operations and funding to modernize recycling infrastructure to meet local governments' needs; sets environmental goals for reducing packaging, using postconsumer recycled content in packaging, and improving recyclability and recycling rates of packaging; and creates more reliable markets for recycled content to increase profits for local governments.

EPR for packaging is gaining momentum in the U.S. with bipartisan support. Maryland taxpayers should not be left behind footing recycling bills that their counterparts in other states are not.

This bill will support local governments, make better use of taxpayer dollars, bring needed infrastructure investments to our recycling systems, and help the environment. **I urge a favorable report on SB222.**

A handwritten signature in black ink, appearing to read "Brooke E. Lierman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brooke E. Lierman
Comptroller of Maryland

SB0222 Reducing Packaging Materials - Producer Res

Uploaded by: Laurie McGilvray

Position: FAV



Committee: Education, Health, and the Environment
Testimony on: SB0222 - Environment - Reducing Packaging Materials -
Producer Responsibility
Organization: Maryland Legislative Coalition Climate Justice Wing
Submitting: Laurie McGilvray, Co-Chair
Position: Favorable
Hearing Date: February 9, 2022

Dear Chair and Committee Members:

Thank you for allowing our testimony today in support of SB222. The Maryland Legislative Coalition (MLC) Climate Justice Wing, a statewide coalition of over 50 grassroots and professional organizations, urges you to vote favorably on SB222.

SB222 requires the Department of the Environment (MDE) to conduct a statewide recycling needs assessment every 10 years, and requires that by April 1, 2026, producers of packaging materials submit a producer responsibility plan to MDE for approval, otherwise they are prohibited from selling or distributing the packaging.

SB222 aims to improve the reduction, reuse, composting, and recycling of packaging materials, as well as improve recycling markets. The bill also addresses the cost to local governments associated with transporting, collecting, and processing packaging materials by requiring producers to reimburse local governments for those costs.

Containers and packaging constitute a substantial share of the municipal solid waste generated in the U.S. (28.1% in 2018). Recycling rates vary from a high of 81% for paper and cardboard packaging to a low of 14% for plastic. Some plastic packaging is not currently designed to be recyclable. Plastic film, for example, is a big problem as it fouls recycling equipment, contaminates recycled materials, and lacks a recycled materials market.

SB222 appropriately incentivizes producers of packaging materials to take responsibility for the waste they generate, including by reducing packaging overall, recycling or reusing it after it is used, and compensating local governments for the cost of handling packaging waste.

We support the approach in SB 222, which sets up an ambitious program to reduce waste and recycle more, while also holding packaging producers responsible for they generate. For these reasons, we support SB222 and recommend a **FAVORABLE** report in committee.

SB222 - National Aquarium- Reducing packaging mate

Uploaded by: Maggie Ostdahl

Position: FAV



Date: February 9, 2023

Bill: SB 222 - Environment – Reducing Packaging Materials – Producer Responsibility

Position: Support

Dear Chair Feldman and Members of the Committee:

The National Aquarium respectfully requests your support for **Senate Bill 222 - Environment – Reducing Packaging Materials – Producer Responsibility**, which would establish a framework of Extended Producer Responsibility (EPR) for packaging materials, a significant portion of which are made from single-use plastic.

Stopping plastic pollution is one of the National Aquarium's three strategic conservation goals. The plastic pollution crisis has been well-documented as global plastic production has outpaced any other manufactured material, with a substantial portion of plastics manufactured used for packaging¹. Plastic packaging makes up about 28% of our waste stream, and the U.S. is one of the world's top generators of new plastic production and plastic waste.²

Municipalities in Maryland, like others around the nation and the world, are unable to keep up with the sheer volume of plastic waste. More than half of all plastic ever made is accumulating in landfills or in the environment³. Globally, more than 8 million metric tons of plastic enters aquatic ecosystems each year – the equivalent of more than a dump truck full of plastic emitted to the ocean every minute. Plastic breaks down into smaller pieces and endangers wildlife, contaminates the global food web and transports toxins harmful to human health. The burden and costs of mismanaged waste that becomes plastic pollution are varied, complex, and borne primarily by municipalities and taxpayers. The U.S. spends at least \$11 billion to clean up trashed 'leaked' into the environment⁴.

In short, our current waste management practices are unsustainable and require comprehensive systemic change. It is past time for Maryland to enact additional policies that support reduced production of and demand for plastic; encourage behavior change; clean up existing pollution; and provide for education and outreach. Establishing EPR for packaging materials is one key part of a comprehensive approach. This bill would result in a better understanding of current recycling needs across the state and incentivize producers to establish and meet shared performance standards for recyclability, postconsumer recycled content, and waste reduction. In particular, we applaud that the bill contains a waste reduction goal and administrative penalties for noncompliance – although they are relatively modest in magnitude, these provisions are critical for accountability and to make effective progress toward reducing waste.

Establishing EPR for packaging materials will aid improved economic efficiency by ensuring packaging producers share responsibility for and materially contribute to the rising costs of managing waste created by the products they put on the market. With this legislation, Maryland has an opportunity to improve producer accountability for waste management and reduce the burden placed on taxpayers, while contributing to necessary systemic change towards reducing plastic pollution and its harmful impacts on our wildlife, ecosystems and human health. **We urge the Committee to issue a favorable report on SB222.**

Contact:

Ryan Fredriksson

Vice President, Government Affairs

410-385-8276

rfredriksson@aquarium.org

¹ Geyer, R. et al. 2017. Production, use, and fate of all plastics ever made. *Science Advances* (3):7. DOI: 10.1126/sciadv.1700782

² National Academies of Sciences, Engineering, and Medicine 2021. *Reckoning with the U.S. Role in Global Ocean Plastic Waste*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26132>.

³ Geyer, R. et al. 2017.

⁴ The National Academies of Sciences, Engineering, and Medicine. 2021. *Reckoning with the U.S. Role in Global Ocean Plastic Waste*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26132>.

2023 02 08 PSI Testimony_MD SB 0222_Pkg_FNL.pdf

Uploaded by: Scott Cassel

Position: FAV



Scott Cassel
Chief Executive Officer/Founder

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Scott Klag
Consultant, OR

February 8, 2023

Senator Brian J. Feldman, Chair
Senator Cheryl C. Kagan, Vice-Chair
Senate Education, Energy, and the Environment Committee
Maryland General Assembly
2 West - Miller Senate Office Building
Annapolis, MD 21401

**RE: Support for SB 222, Reducing Packaging Materials – Producer
Responsibility**

Dear Chair Feldman, Vice-Chair Kagan, and Members of the Committee:

Thank you for the opportunity to submit testimony in support of **SB 222**.

For the past 50 years, local governments in Maryland have assumed primary responsibility for the financial and management burden of handling the millions of tons of waste generated in the state each year. They face decisions about how to budget for increasing and fluctuating prices based on international markets for recycled materials. They rely on waste disposal capacity that cannot be guaranteed in the long-term. And they cannot control the types of materials used by consumer brands for packaging, which becomes a local government responsibility to manage, no matter how unrecyclable that material might be.

A policy solution exists for Maryland to change this scenario – it's called extended producer responsibility (EPR) – and it holds brand owners responsible for financing and, to varying degrees, managing their post-consumer packaging. Four states – Maine, Oregon, Colorado, and California – have already enacted packaging EPR laws and about a dozen others, like Maryland, are considering such bills this year. These laws have been successfully operating for over 35 years across Europe and over 15 years in Canada. They have increased recycling rates in those countries and provinces and provided sustainable financing. Maryland communities will save tens of millions of dollars each year by switching to a packaging EPR system.

SB 222 contains all the necessary elements of successful EPR programs, including a producer responsibility organization, a stewardship plan, material fees that incentivize environmental performance, transparency and annual reporting, and performance targets. It also includes a multi-stakeholder advisory council to ensure meaningful input into the program from Maryland recyclers, local governments, environmental groups, and other entities. SB 222 also gives

municipalities the opportunity to participate in the packaging stewardship program by requesting reimbursement from the PRO for their recycling costs, including up to 50% of collection costs and the full cost of transporting and processing packaging materials. The bill also covers the cost of state oversight and enforcement of the program and exempts small businesses from the obligation to participate and pay fees.

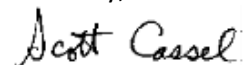
The Product Stewardship Institute is a policy advocate and consulting nonprofit that pioneered product stewardship in the United States along with a coalition of hundreds of state and local government officials. Since 2000, PSI has worked with numerous others to develop EPR policies for many of the 131 EPR laws enacted for 16 industry sectors. PSI created the model for packaging EPR that is central to SB 222 based on decades of research and partnerships with EPR practitioners around the world. Our model has also been applied directly or indirectly in the four U.S. packaging EPR laws and the dozen bills being heard in legislatures around the country.

This bill will provide sustainable funding from producers to relieve municipalities of the financial burdens they currently face in operating recycling programs and require clear, consistent consumer education on the proper end-of-life management of consumer packaging that will reduce confusion and contamination. SB 222 will create jobs, reduce waste and greenhouse gas emissions, and significantly invest in the transition to a circular economy throughout the state.

I respectfully urge the Education, Energy, and Environment Committee to report out SB 222 favorably from the committee.

If you have any questions, please feel free to contact me at (617) 236-4822, or Scott@ProductStewardship.US.

Sincerely,



Scott Cassel
Chief Executive Officer/Founder

SB222_SLynch_fav.docx.pdf

Uploaded by: Sean Lynch

Position: FAV



Position: Supporting SB 222: Environment - Reducing Packaging Materials - Producer Responsibility Bill

Submitted to: Senate Education, Energy, and the Environment Committee (EEE)

Submitted by: MOM's Organic Market

February 9, 2023

Dear Chairperson Feldman, Vice Chair Kagan and Members of the EEE Committee:

MOM's Organic Market is proud to say that ten of our twenty-two stores are located in Maryland, serving thousands of Marylanders daily. Our customers demonstrate their concern for the environment by using the many options we provide to reduce plastic and other packaging. We strongly support SB 222 Environment - Reducing Packaging Materials - Producer Responsibility Bill and respectfully ask for your favorable vote.

Currently, Maryland residents foot the bill to pay for handling and processing of the waste stream, twenty-eight percent (28%) of which is packaging, and an estimated forty percent (40%) of this is plastic. This is a burden that should not be on the taxpayer and government. The Producer Responsibility Bill will shift the commitment to the packaging manufacturers and make them responsible for it at each stage of the packages' lifecycle. Without this, too much ends up as waste, and much of it ultimately ends up in our environment, polluting waterways and creating biological hazards as it breaks down into smaller components. A benefit to the bill is that revenues created by the oversight go to counties to support recycling.

Maryland must take this opportunity to protect its residents and our environment from this hazard. The first crucial step is for this EEE Committee to pass SB 222.

MOM's Purpose is *to protect and restore the environment*. Since 2005, we have banned plastic bags and encouraged reusable bags in our stores. Our customers embrace this and reuse bags to the tune of 3.3 million single-use bags avoided in 2022 alone. In 2010, with our Plastic Surgery campaign, we also banned plastic bottled water, began to use compostable produce bags, and switched to compostable cups and utensils in all our stores. But this only addresses a small portion of the challenge of packaging. Without government regulation, there is no incentive for manufacturers to take responsibility for the waste caused by packaging. SB 222 will begin to address this.

In addition to advocating for packaging and waste reduction, we consider it our responsibility to educate our customers about these environmental issues. This is an issue the public has become well aware of because they see it every day in their streets, streams, and at home. Individual action alone will not address this issue of wasted packaging, which contributes to

climate change, and manufacturers won't act without laws and regulations to hold them accountable.

We respectfully request a favorable report from you on SB 222.

SB222 TFM Support Sign-on final m 20823.pdf

Uploaded by: shari wilson

Position: FAV



Bill: SB 222

Date: February 9, 2023

Position: Support

SB 222 - Environment - Reducing Packaging Materials - Producer Responsibility Support

Dear Chairperson Feldman, Vice Chair Kagan and Members of the Education, Energy and the Environment Committee:

We enthusiastically support SB 222. Packaging makes up 28% of our waste stream. Of that, 40% is plastic, much of which is used for minutes and lasts for centuries. Currently, taxpayers pay for all of the handling, processing and disposal of the resulting waste and recycling streams.

This bill adopts a modern approach to **reduce** packaging, the very important first of the “Three Rs: Reduce, Reuse, Recycle.” The bill creates the framework to set up a program to shift recycling costs from taxpayers to producers, who actually design the packaging. The framework includes a process for producers to set up incentive systems to reward the packaging lowest in volume and highest in recyclability. As the designers of packaging, producers are best positioned to make these decisions. The Bill includes public oversight and transparency for that process.

The revenue generated by the incentive system is used to reimburse counties for 50% of their costs for recycling packaging. Currently, counties pay the full financial cost of collection, sorting and resale of packaging. Significantly, the Bill also funds new recycling infrastructure.

Maryland has producer responsibility programs in place for products now – tires and electronics for example. Producer responsibility programs for packaging have long been in place in Canada and Europe. Colorado, Maine, Oregon and California have adopted this approach and a number of states are, like you, considering it this year. Industry trade editorials now often refer to producer responsibility as an idea whose time has come.

Marylanders take great pride in our recycling efforts and are fed up with trash. Reducing packaging and increasing its recyclability will improve the system for managing packaging in a way that is market driven. We respectfully urge your favorable consideration. ¹²

Contact: Shari Wilson, Trash Free Maryland (shari@trashfreemaryland.org)

- | | |
|---|-------------------------------------|
| Anacostia Riverkeeper | Severn River Association |
| Chesapeake Bay Foundation | The National Aquarium |
| Environment Maryland | Trash Free Maryland |
| Little Falls Watershed Alliance | Waterfront Partnership of Baltimore |
| Maryland Public Interest Research Group | |
| Mom's Organic Markets | |
| Mr. Trash Wheel | |
| Rock Creek Conservancy | |

¹ Containers and packaging make up a major portion of municipal solid waste (MSW), amounting to 82.2 million tons of generation in 2018 (28.1 percent of total generation). Packaging is the product used to wrap or protect goods, including food, beverages, medications and cosmetic products.<https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/containers-and-packaging-product-specific>

² Global plastic waste generation more than doubled from 2000 to 2019 to 353 million tonnes. Nearly two-thirds of plastic waste comes from plastics with lifetimes of under five years, with 40% coming from packaging, 12% from consumer goods and 11% from clothing and textiles.
<https://www.oecd.org/environment/plastic-pollution-is-growing-relentlessly-as-waste-management-and-recycling-fall-short.htm>

SB 222 - FWA - MML.pdf

Uploaded by: Angelica Bailey

Position: FWA



Maryland Municipal League

The Association of Maryland's Cities and Towns

TESTIMONY

February 9, 2023

Committee: Senate Education, Energy, and the Environment

Bill: _____ SB 222 – Environment – Reducing Packaging Materials – Producer Responsibility

Position: Support with amendment

Reason for Position:

The goal of this bill is to modernize and improve waste and recycling in Maryland. It shifts the responsibility for packaging materials to the producer, increasing the likelihood that environmentally damaging materials are responsibly disposed of. This bill also includes a fee structure to help local governments with the collection and disposal of these products, and ensures that a Producer's Responsibility Plan describes the process by which municipalities can request reimbursement for costs associated with collecting, transporting, and processing packaging materials. These are valuable and necessary measures to further our collective response to climate change.

However, how the reimbursement *amounts* are decided and disbursed is unclear. It is also unclear whether municipalities that collect packaging materials but do not process and dispose of it themselves would still qualify for reimbursement. The logistical relationship between state, county, and municipal waste collection is detailed and complicated. Several municipalities own and operate their own waste processing plants, while others rely on county or even out-of-state processing centers.

We recognize the changes made to this year's version, and we are confident that further discussion and collaboration can resolve these outstanding questions. We believe this will be a net-positive for the State and our cities and towns, and MML looks forward to working with the Sponsor and this Committee. With adoption of clarifying amendments, MML would respectfully request a favorable report.

FOR MORE INFORMATION CONTACT:

Theresa Kuhns

Angelica Bailey Thupari, Esq.

Bill Jorch

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Chief Executive Officer

Director, Advocacy & Public Affairs

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MD SB022 Testimony 2.1.pdf

Uploaded by: Anthony Tusino

Position: FWA

World Wildlife Fund

1250 24th Street, NW | Washington, DC 20037 | 202 293 4800 | 202 293 9211 fax

worldwildlife.org



Senator Brian Feldman, Chair
Senator Cheryl Kagan, Vice Chair
Senate Education, Energy and the Environment Committee
Maryland General Assembly
Miller Senate Office Building, 2 West Wing
Annapolis, MD 21401

**RE: Support with Amendment for SB022 – Environment –
Reducing Packaging Materials – Producer Responsibility**

Dear Chair Feldman, Vice-Chair Kagan and Members of the Committee:

Thank you for the opportunity to comment on SB0222, an act to establish Extended Producer Responsibility in the State of Maryland. For more than 60 years, World Wildlife Fund (WWF) has worked to help people and nature thrive. We express our support for this legislation and offer some proposals herein on how it might be strengthened as you work to advance it.

As the world's leading conservation organization, WWF works in 100 countries and at every level, collaborating with people around the world to develop and deliver innovative solutions that protect communities, wildlife, and the places in which they live. WWF works to help local communities conserve the natural resources they depend upon; transform markets and policies toward sustainability; and protect and restore species and their habitats. Our efforts ensure that the value of nature is reflected in decision-making from a local to a global scale.

WWF connects cutting-edge conservation science with the collective power of our partners in the field, more than 1.3 million supporters in the United States and 5 million globally, and our partnerships with communities, companies, and governments.

Today, human activities put more pressure on nature than ever before, but it's also humans who have the power to change this trajectory. Together, we can address the greatest threats to life on this planet and protect the natural resources that sustain and inspire us.

At WWF, we believe in a future where plastic no longer enters nature. Plastic can be a valuable material – it protects our food, our homes and even our bodies, as we have seen during the COVID-19 pandemic. However, plastic is often misused and mismanaged, leading to high rates of landfilling and leakage into nature. Extended Producer Responsibility (EPR) has the potential to reimagine the way we produce and use packaging, especially plastic packaging and products, so that we continue to use, reuse, and recycle our materials to their fullest potential.

Maryland has a proud history of protecting our environment, and Extended Producer Responsibility could continue that tradition.

Together with American Beverage Association, we have produced principles for EPR that create positive environmental and business outcomes. Often, these outcomes seem oppositional, but EPR has the potential to tie business practices with better environmental outcomes, thereby giving the producers of plastic and packaging a stake in the performance of the system. As our waste management and recycling system stands, there is little incentive to do better. We can change that with EPR.

In our [Joint Principles for Reducing Materials Footprint and Achieving Circularity](#), we outline a few key considerations. First, fees collected under EPR frameworks must only be used to advance or invest in the recycling and collection infrastructure. We believe that fees collected -- based on the net-cost of recycling materials introduced to the market plus an ecomodulated fee for disrupting materials or formats – need to stay within the recycling system. We cannot expect to create a collection and recycling system that incentivizes the collection and reuse of materials if it is not adequately and fully funded. **To best ensure that collected fees are used for these purposes, the Producer Responsibility Organization (PRO) should hold and disburse these funds, with strong regulatory and public oversight of their collection and disbursal.**

WWF appreciates the inclusion of a needs assessment in the legislation. It is important that producers, consumers, municipalities, and oversight officials know the complexities of recycling in Maryland. **A comprehensive needs assessment will enable the creation of an adaptable plan and create a baseline for measuring progress throughout the State.**

Similarly, we appreciate the legislation outlining the need for goals on use of post-consumer recycled content, recycling rates, reuse rates, and greenhouse gas emissions. **We hope the needs assessments can inform time-bound targets for each of these important goals.**

WWF appreciates the inclusion of a 25% reduction in packaging waste target. While the details of the target are somewhat vague, we hope it can inspire action to remove problematic and unnecessary materials from our products and packages. The target should be evaluated by PROs and the Advisory Council based on weight of packaging introduced to the market and should not include waste-to-energy as a waste-mitigation tactic. **Any progress made toward the 25% reduction should be evaluated by using the PRO's total weight of virgin packaging introduced to the market when the PRO is formed, as the denominator. This would incentivize both outright reduction of materials that are problematic or unnecessary, but also allow for the greater use of recycled content in packaging.** Often, packaging companies use light-weighting to reduce use of materials, often at the expense of a product's recyclability. Focusing strictly on weight-based reduction calculation can skew desired outcomes, where less material is used overall but less materials are recyclable.

WWF also appreciates the ability for a PRO to establish a deposit return system within the State. **Deposit Return Systems have been proven to advance recycling rates, and we hope that unredeemed deposits will be used solely for the purpose of advancing recycling and redemption infrastructure.**

The inclusion of an Advisory Council in the State's review of plans put forward by PROs is incredibly crucial to the success of the system. **Public oversight and accountability are integral to the success of any plan.**

Finally, we appreciate the work of this Committee and the House Environment and Transportation Committee to evaluate the entire suite of solutions needed to address plastic pollution, including environmental justice, mandated use of post-consumer recycled content and the phase-out of problematic and unnecessary materials. For more information on World

Wildlife Fund's positioning on policies to advance a circular economy, please [see our policy guidance](#).

Thank you again for the opportunity to provide this testimony. WWF looks forward to working with you and other members of the Maryland General Assembly to develop the principles in SB0222 and its companion HB0284 on their way to being enacted into law.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony Tusino', with a stylized flourish at the end.

Anthony Tusino
Senior Program Officer, Plastic Policy
World Wildlife Fund

MRNSB222Comments.pdf

Uploaded by: Chaz Miller

Position: FWA



February 8, 2023

To: Maryland Senate Education, Energy, and the Environment Committee
Re: SB0222 Environment – Reducing Packaging Materials – Producer Responsibility

The Maryland Recycling Network promotes sustainable reduction, reuse and recycling (the 3 "R's") of materials otherwise destined for disposal and the purchase of products made with recycled material content. We achieve these goals through education programs, advocacy activities to affect public policy, technical assistance efforts, and the development of markets to purchase recycled materials and manufacture products with recycled content.

Our members are county and municipal government recycling managers, private sector recyclers, non-profit recyclers and citizens who support recycling. We have direct experience operating recycling and composting programs at the county and municipal government level. We know the ins and outs of recycling in Maryland. Our experience informs our comments.

MRN and SB222

The Maryland Recycling Network has consistently supported EPR proposals whether they apply to electronics products, paint, batteries, or other hard to recycle materials. One of our priorities for this legislative session is to see the paint EPR bill pass both houses. We have worked with legislators and other experts to craft draft language to modernize Maryland's electronic products EPR law.

We support EPR for packaging. We support funding local government recycling programs to the greatest extent possible, the concept motivating SB222. Local governments, whether counties or municipalities, need a sustainable source of funding for the packaging collected in curbside and drop-off programs throughout our state. SB222 can help to meet this need.

We support SB222 but recommend doing a needs assessment before any legislative action is taken on EPR for packaging. If the legislature chooses to move forward before a needs assessment is conducted, we are proposing amendments and clarification of several sections.

Our key areas of concern include:

The **Needs Assessment** (Section 9-1702.2) is absolutely necessary. Essentially it is a description of the existing statewide recycling infrastructure covering waste composition, current recycling and compostable packaging tonnages, how recyclables are collected throughout Maryland and where they are taken for processing, including the existing collection and processing infrastructure for those materials throughout Maryland, costs of operating and using those facilities, and other issues connected to the operation of these services. Much, but not all, of this data exists in MDE's annual report on the state of recycling in Maryland.

Recommendation: First conduct the Needs Assessment as part of the Task Force on Recycling Policy and Recycling and Waste Systems in Maryland envisioned in HB109. Then use that data to draft EPR for packaging legislation. This approach will provide thorough knowledge of the existing state of recycling in Maryland along with an understanding of additional needed infrastructure and funding requirements. This

knowledge enhances the legislature's ability to craft legislation that will succeed in funding local government recycling programs.

If the legislature chooses to move forward, however, we offer the follow comments and recommendations for amendments:

Definitions:

Maryland code defines “**recycling**”, “**organics recycling**” “**recycling services**” and “**organics recycling facilities**” and “**recycling facility**” (see Maryland Code, Envir. 9-1701 and 9-1713). “Recycling services” include collection and processing, however, “recycling facility” is defined as “a facility that provides recycling services” except that a recycling drop-off collection point for residential recyclable materials is excluded from the definition (see 9-1713). When this legislation refers to a “recycling facility” we believe it intends to refer to a “Material Recycling Facility (MRF)” which separates and processes those recyclables for end markets. This is a crucial distinction in the funding formula for transporting recyclables to a recycling facility.

Recommendation: Define “Materials Recycling Facility” as “a processing facility designed to separate and process collected recyclables for sale to end markets” and use that term in place of “recycling facility”.

Definition of “**packaging materials**” 9-2501(E) The bill is unclear about whether or not it applies only to packaging generated at residences, including multi-family housing, or also to packages generated at businesses. Local governments primarily focus on residentially-generated recyclables including those generated in multi-family housing and in public spaces although many manage small amounts of commercially-generated recyclables. Many businesses sell their recyclables and enjoy the revenue from recycling.

Recommendation: Insert language into the definition of packaging materials that clarifies these are only packaging materials generated for recycling or disposal at residences, multi-family housing and in public spaces or that are managed under a local government's recycling program. We also urge adding language that nothing in this bill prevents businesses from selling their recyclables to end markets.

Deposit-return system for beverage containers: 9-2503(D) authorizes the separate creation of a deposit-return system. This is a unique and occasionally controversial subset of recycling with profound consequences on the revenues available to MRFs and collection programs. Deposit-return legislation should be the subject of separate legislative debate.

Recommendation: Delete this section. If the legislature believes beverage container deposits are needed in Maryland, it should specifically authorize their creation, create financial protection for existing local government collection programs and MRFs, and establish the legal requirements for these programs.

Local government reimbursement: several parts of this bill delineate how local governments are to be reimbursed for their collection, transportation and processing costs. This, of course, is the heart of EPR for packaging. The provisions are 9-2504(B)(12) lines 5-8, page 16, (D)(1)(II), lines 7-17, page 17, (D)(2)(I) lines 12-25, page 18 and (E) lines 12 – 24, page 19.

- (B)(12) tells local governments to request reimbursement for “costs associated with transporting collection, and processing packaging materials...”
- (D)(1)(II) 1 – 3 however, limits collection costs to up to 50% while placing no limits on transporting or processing. In addition, (D)(1)(II) 4 refers to cost reimbursement for “recycling packaging materials that are diverted to be recycled or composted in the state”. The meaning of this latter provision is unclear and implies that local governments that send their recyclables to be processed at a MRF located in another state will not be reimbursed.

- (D)(2)(I)(1-4) says the reimbursement rate is based on population size, the distance to the nearest recycling or organics recycling facility, the commodity value of recycled packaging materials and any socioeconomic or geographic factors as determined by the Department.
- (E) has to do with infrastructure funding giving preference to existing infrastructure.

These four provisions raise concerns and recommendations for new language or clarification:

- Collection cost reimbursement is limited to 50 percent of a “reasonable rate”, which may or may not be half of the local governments’ actual costs. We understand a producer group’s desire not to pay for excessively expensive collection (or processing) equipment, we also understand a local government’s desire to operate its program with the best available, most technologically advanced equipment.
Recommendation: Collection is the highest cost for a curbside recycling program. The reimbursement rate should be higher than 50 percent.
- Transportation reimbursement is limited to the “nearest” recycling or organics recycling facility. Given the very loose definition of “recycling facility” this could mean the nearest scrap yard instead of the nearest MRF designed to process residential recyclables. For many municipalities, such as those in northern Prince George’s County, the nearest MRF will be in a different county than their home county’s MRF. Under this provision they would not be fully reimbursed. In addition, at least one Maryland county sends its recyclables to a MRF in Delaware, another currently sends some of its recyclables to a MRF in Pennsylvania, and others may use MRFs located in Virginia. As noted below, the three publicly-owned MRFs limit the use of their facility to in-county material (with one exception). This means that counties located east or south of those facilities will not be fully reimbursed for transportation costs.
Recommendation: The term “nearest recycling facility” should be replaced by “the materials recycling facility of their choice”.
- Three Maryland counties own and operate a MRF. In order to preserve this public asset and to control contamination through their education and enforcement efforts, two counties do not accept recyclables generated outside of their county and the third county only under contract with another local government. Those local governments along with the private sector MRF owners should retain the power to determine who can use their facility. SB222, as written, does not appear to bar them from limiting the use of their MRF.
Recommendation: This should be clarified in the bill.
- The publicly and privately owned and operated MRFs in Maryland are highly experienced in selling the recyclables they process into raw materials. D(2)(I)(3), includes the commodity value of recycled materials included in assessing the reimbursement rate. This language implies that the publicly and privately-owned MRFs keep the revenue either for distribution to local governments or for their own use.
Recommendation: Insert language making it clear that publicly and privately-owned MRFs keep the revenue from sale of processed recyclables for distribution to contracted local governments or for their own use.
- (D)(1)(II) 4 refers to cost reimbursement for “recycling packaging materials that are diverted to be recycled or composted in the state”. The meaning of this provision is unclear.
Recommendation: If it is intended to bar use of out-of-state recycling or organics recycling facilities, it should be stricken given the current and likely future reliance of Maryland local governments on out-of-state facilities.
- Recommendation: Amend the bill to clarify that local governments and private sector MRF operators retain control over their decisions on recycling infrastructure purchases, including processing equipment.

- Recommendation: Amend the bill to clarify that the producer group does not have the authority to build a MRF for itself or a contractor.

Subscription service

Not all local governments collect or contract for collection of recyclables. "Subscription service" occurs when a resident directly contracts with the recycling and waste collector of their choice. This collection service option is common in rural, exurban and parts of suburban Maryland. It does not involve local government taxes or fees. Subscription service is common throughout the United States but is not found in other countries. The four states with existing EPR for packaging laws, are grappling with how to manage these programs as they put their programs together. They do not yet have a working answer.

Recommendation: The bill should be amended to recognize the reality of subscription service and offer a solution for providing this service.

Advisory Council:

9-2505 authorizes the creation of a "Producer Responsibility Plan Advisory Council". The purpose of this Council is "to provide advice to the Department and producer responsibility organizations for drafting, amending, and implementing producer responsibility plans". Members include a good array of organizations directly involved in managing Maryland's recycling programs including local governments, recycling and compostables collectors, and recycling and organics processors.

The Advisory Council also includes representatives of the consumer goods sector. These will also be members of the producer responsibility group and will be asked for advice on a plan they are drafting or have approved. Retail and small businesses may also be members of the producer group and will be in the same position unless those small businesses are exempted from the EPR system due to their size. Material-oriented trade groups are likely to also have members in the same position. It doesn't make sense to ask for advice from those who are drafting or have approved the plan.

In addition, the Council only has the power to advise and make recommendations to the Department. It does not have the power of consent. The producer organization only has to respond to any Council comments.

Recommendation: Amend this section to eliminate the consumer goods sector from membership on the Advisory Council; restrict retail and small businesses representation to companies that are exempted from membership in the producer group; restrict material trade groups to those without members in the producer group. All of these groups can attend Advisory Council meetings and participate in public comment. Recommendation: Amend this section to require the Advisory Council's consent to plans before they are formally sent to the Department.

Antitrust exemption:

Section 9-2508 provides the producer group with a complete waiver of state antitrust and restraint of trade law. This blanket exemption poses a problem due to the high number of producers covered by EPR. Based on the experience in Canadian provinces, Maryland is likely to have more than a thousand producers subject to this proposal. Only a small number will be able to participate in the producer group's executive committee or workgroups. As a result, the practical impact of the exemption will allow that limited number of companies to have access to information that is normally prohibited by antitrust law and is only available to them not to all of the group members.

Recommendation: Strike this section.

The Maryland Recycling Network supports EPR. We want EPR for packaging to succeed in Maryland. We also want to be sure it will succeed. We believe a Needs Assessment will provide the information the Legislature needs to write legislation that will work in reality and not just in theory. If the legislature

chooses to proceed with EPR legislation before the results of that Needs Assessment are available, we suggest amendments and clarifications of SB222.

We offer these comments in the hope that Maryland's EPR program can be a trailblazer. The questions and concerns we are raising above are crucially important to local governments and recycling service providers. The best EPR packaging law for Maryland will provide guidance for these key issues now instead of waiting for MDE and a producer group to solve them without legislative guidance. Maryland local governments and the Maryland recycling industry have too much at stake.

The Maryland Recycling Network stands ready to serve as a sounding board and resource for legislators and others interested in pursuing our mission. Please do not hesitate to contact me via email phoustle@marylandrecyclingnetwork.org, phone 301-725-2508 or mail - MRN, PO Box 1640, Columbia MD 21044 if you have any questions or would like additional information regarding the above.

We look forward to working with you to continue the strides we have all made to improve Maryland's recycling programs in a time- and cost-effective manner.

Sincerely,

A handwritten signature in black ink that reads "Peter M. Houstle". The signature is written in a cursive, flowing style.

Peter M. Houstle
Executive Director

TESTIMONY FOR SB0222.pdf

Uploaded by: Dave Arndt

Position: FWA

TESTIMONY FOR SB0222

ENVIRONMENT - PACKAGING MATERIALS – PRODUCER RESPONSIBILITY

Bill Sponsor: Senator Augustine

Committee: Education, Energy, and the Environment

Dave Arndt of Baltimore MD supports SB0222 with amendments

I support the reduction, recycling, and/or composting of as much packaging waste as possible. I feel that waste materials (particularly plastics, but also including paper and cardboard packaging) are becoming a bigger and more expensive problem for the state. I believe that consumer education is important in changing this dynamic. At the same time, we would like to change the behavior of manufacturers, distributors, and sellers to ensure that their products are packaged in recyclable or compostable materials, instead of plastics or other materials that our recycling systems can't handle.

I think this bill will not only be a giant step forward in managing waste materials, but it also sets the groundwork for changing the behaviors of the manufacturers, distributors and sellers. It makes them responsible for ensuring that their packaging is recyclable or compostable and makes them come up with a disposal plan. It has them individually (or in combination in what is described as a stewardship organization) create the plan and have it approved. Where I would like to amend this bill is in the approval process. There needs to be rigorous oversight of the plans, approval by MDE, with veto authority, penalties for not developing an approved plan and a 6-month window for delivery and approval of the plan.

The bill also needs bigger penalties that are based on the weight of material in noncompliance. Current penalties are a joke to large business which will not drive them to compliance. Without substantial penalties, the bill becomes just a greenwashing vehicle for large companies.

I believe this can be game-changing in terms of getting manufacturers and sellers to re-think the kinds of packaging they make and sell, which in turn, will help us all become better at reducing waste.

I support this bill with my amendments.

SB 222 MD-DE-DC Beverage Fav with amendment.pdf

Uploaded by: Ellen Valentino

Position: FWA



Comments on SB 222 Environment - Reducing Packaging Materials – Producer Responsibility

Who We Are * Challenges with SB 222 * What We Support

Who We Are

Maryland-DC-Delaware Beverage Association represents local beverage manufacturers and distributors. Our industry provides good jobs to nearly 2,800 Maryland residents and we have a wide footprint in Maryland with facilities located throughout the state. We are proud of the products we make, our commitment to local communities, and our commitment to the environment. We strongly believe our beverage packaging and bottles demonstrate this commitment.

The beverage industry plays an important role in the circular recycling economy. Our packaging is specifically designed and optimized for recycling. We make PET bottles and aluminum cans that are 100% recyclable. Those containers have a high commodity value, and, when collected and recycled, can become new bottles and cans. The industry has invested in local and regional recycling infrastructure for more than 40 years.

Our companies have also made commitments to collect and recycle packaging waste, to incorporate more recycled content into our PET bottles, and to reduce the amount of new plastic in our bottles. At a national and local level, we are working to get every bottle back to meet these ambitious goals and support a circular economy for our beverage containers.

The industry's Every Bottle Back program, announced in late 2019, asserted beverage companies' commitment to reduce new plastic use and increase collection of their valuable bottles. The program, launched by The Coca-Cola Company, Keurig Dr Pepper, and PepsiCo, and supported by Maryland's local bottlers, represents collaboration among competitors. Collectively, they support the circular plastics economy by reinforcing to consumers the value of 100 percent recyclable plastic bottles and caps while taking steps to ensure they don't end up as waste in oceans, rivers or landfills.

Why We Can Not Support SB 222, as written

The program described in the legislation would be unlike other extended producer responsibility (EPR) programs around the world and does not align with best practices for EPR developed by the beverage industry and other organizations.

MARYLAND • DELAWARE • DISTRICT OF COLUMBIA BEVERAGE ASSOCIATION

P.O. Box 711 • Annapolis, MD 21404

410-693-2226



Printed on Recycled Paper



In order for us to support, an EPR system must:

1. **Have strong environmental outcomes.** This means any EPR system we support must include all packaging and printed paper.
2. **Be convenient for consumers.** Consumers must be able to properly and consistently recycle for the system to be effective.
3. **Be financially sustainable.** Proper roles for government and producers are critical to achieve financial sustainability and system efficiency. Government should provide oversight, setting the scope of the system and approving its design. The producer responsibility organization, or PRO, funds and runs the system, ensuring that all fees are used exclusively for running the system.
4. **Provide producers first access to their materials.** The producers funding the system should have first access to their recovered materials.
5. **Support environmental justice objectives in recycling systems,** addressing issues such as inadequate access to recycling and disproportionate siting of facilities in underserved communities.

What We Support

We believe that **good data precedes good policy.** That is the first best step to determining how Maryland develops an EPR system or other recycling policies that will have measurable outcomes and make recycling equitable for all Marylanders regardless of where they live.

We support a study that will provide important data and information around the current county and municipal infrastructure, full cycle costs, the current processing of recyclables, and commodities being recycled. This is the first best step to bring good comprehensive EPR to Maryland.

Thank you.

Ellen Valentino

EVP, MD-DE-DC Beverage Assn.

evaeltino@ellenvaletino.com

1410-693-2226

MARYLAND BEVERAGE INDUSTRY

Our beverages are made in Maryland.

2,766 jobs are provided by the beverage industry across the state. With a direct economic impact of **\$1.9 billion**, Maryland's beverage industry provides **\$224.2 million in wages and benefits**. Maryland's beverage industry and their employees also generously contribute **millions** to charitable causes across the state.



- Baltimore City - Manufacturing Facility
- Silver Spring - Manufacturing Facility
- Annapolis
- Capitol Heights
- Cumberland
- Hagerstown
- Hanover
- LaPlata
- Salisbury



- Havre de Grace



- Allegany
- Baltimore County
- Charles
- Fredrick
- Howard County
- Prince George's - Manufacturing Facility
- Washington



- Glen Burnie
- Landover



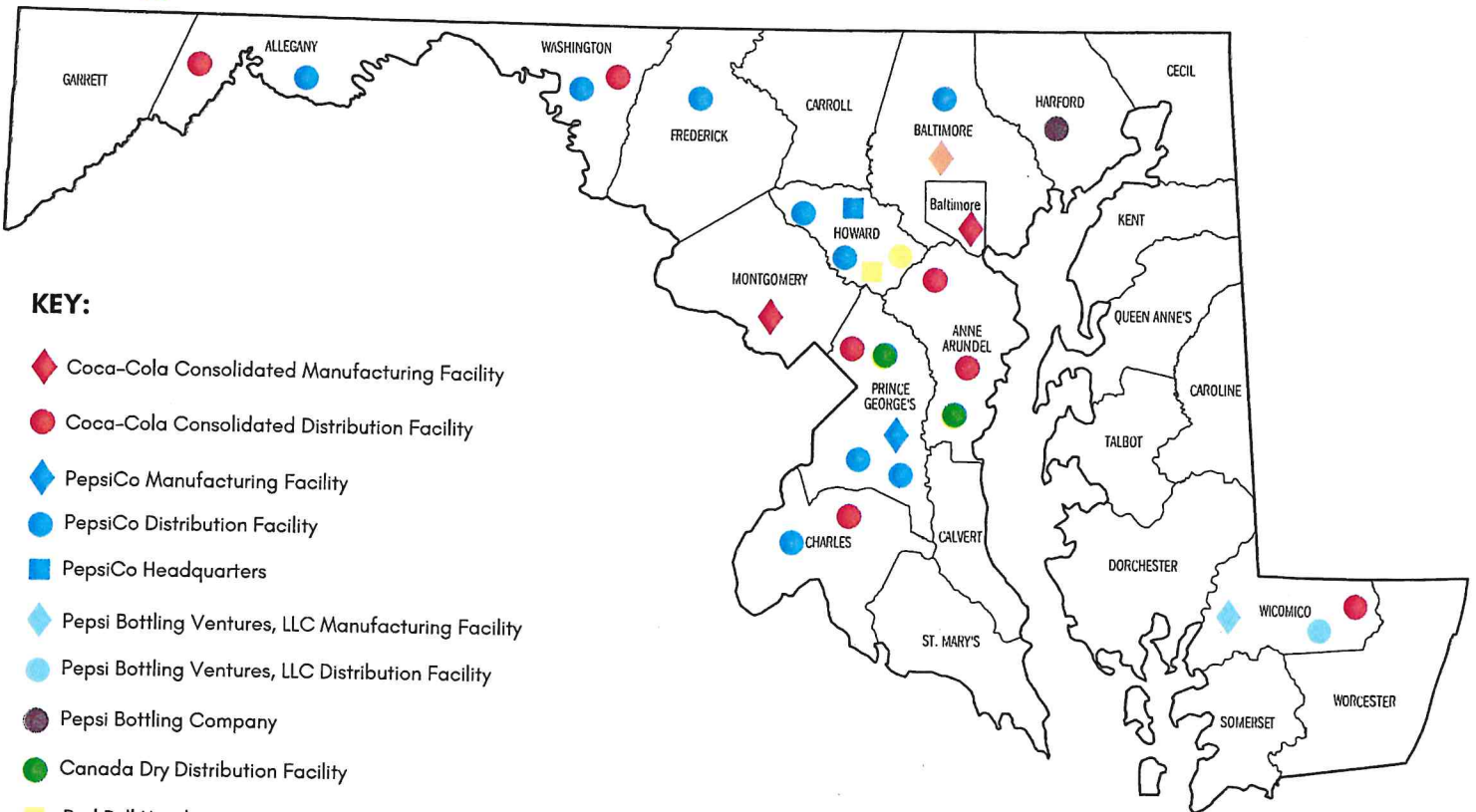
- Salisbury - Manufacturing Facility
- Salisbury - Distribution Facility



- Howard County (Columbia)
- Howard County (Marriottsville)



- Baltimore County - Manufacturing Facility



KEY:

- ◆ Coca-Cola Consolidated Manufacturing Facility
- Coca-Cola Consolidated Distribution Facility
- ◆ PepsiCo Manufacturing Facility
- PepsiCo Distribution Facility
- PepsiCo Headquarters
- ◆ Pepsi Bottling Ventures, LLC Manufacturing Facility
- Pepsi Bottling Ventures, LLC Distribution Facility
- Pepsi Bottling Company
- Canada Dry Distribution Facility
- Red Bull Headquarters
- Redbull Distribution Facility
- ◆ Niagra Manufacturing Facility



Contact: Ellen Valentino | valentinoe@ellenvalentino.com | 410.695.2226

Website: <https://md-de-dcbeverageassociation.org/>

Facebook: [eBeverageAssoc](#)

Twitter: [eBeverageAssoc](#)

LinkedIn: [eMaryland-Delaware-DC Beverage Association](#)

SFPA Letter on MD February 2023.pdf

Uploaded by: Kristin Howell

Position: FWA



February 8, 2023

Maryland Senate Education, Energy, and the Environment Committee
2 West
Miller Senate Office Building
Annapolis, Maryland 21401

Dear Chair Feldman and Vice Chair Kagan:

Thank you for your work to consider packaging and recycling legislation in Maryland. The Sustainable Food Policy Alliance (SFPA), which is comprised of member companies Danone North America, Mars Incorporated, Nestlé USA and Unilever United States, have each made extensive investments and commitments to make consumer product packaging more sustainable and expedite the transition to a circular economy. In July 2020, we released a set of [Packaging and Recycling Policy Priorities](#) that outline several policy solutions essential to transforming our nation's current waste management and recycling systems and followed up with a set of [Extended Producer Responsibility \(EPR\) Policy Priorities](#) in January 2022.

These priorities aim to shift away from the status quo and move toward a waste and recycling future where companies like ours can set and meet ambitious goals to integrate post-consumer recycled (PCR) content into our packaging, consumers are educated to better navigate their local recycling systems, and we can all be better stewards of the environment. Within our own companies, we are investing in improving recycling systems around the world, innovating our packaging design, and collaborating with suppliers, local communities, and retail customers to advance forward-looking solutions that help our consumers make a difference and impact the planet. We know it is essential for stakeholders to come together to make end-to-end system changes that will truly transform our waste management system into a circular economy.

SFPA is supportive of Extended Producer Responsibility (EPR) programs. All four companies participate in EPR programs globally and we have worked to set up and support EPR programs and policies in the United States. We were excited to see SB 222 introduced, which includes significant policy elements that we support. We offer our commentary below:

We support the following provisions in the bill:

- We support a Producer Responsibility Organization (PRO) for governance of the EPR program and the PRO has responsibility for setting fees, collecting funds, and determining recycling rates and deadlines after a needs assessment has been completed.
- We support the inclusion of eco-modulation in the bill, which allows fees to account for relative costs of recycling different materials in addition to environmental factors.
- We support the inclusion of an Advisory Committee to advise the PRO on plans, funding and performance goals and include broad stakeholder representation inclusive of local governments, recyclers, collectors, and the PRO participating in the program.

- While this bill does not include a Deposit Return System (DRS), we appreciate that an EPR program would allow for a complementary DRS program at a later date.
- We appreciate the shared responsibility provisions that allow some shared costs between the PRO and state and/or municipalities, which is in line with our [EPR policy priorities](#).

We would like clarity and offer some constructive commentary on the following provisions:

- While we support having a robust PRO structure, we believe the program will be most effective if it begins with one single PRO and allows for the possibility of multiple PROs after a few years, similar to the model in Colorado. The current proposal allows for multiple PROs to start.
- We agree that a needs assessment is essential to determining which infrastructure improvements are needed to improve Maryland's recycling system. Since the PRO will invest in the activities deemed necessary by the needs assessment to achieve legislative goals, we recommend that the PRO have a strong role, along with the state and the advisory council, in how it is conducted.
- We appreciate the needs assessment will include an analysis of infrastructure for composting and reuse but prefer that both be integrated and rewarded under eco-modulation provisions at this stage.
- The bill includes a state recycling trust fund, sourcing PRO fees to fund it. The language states that some of these funds may be transferred to the General Fund, which we do not support. We believe that the funds collected should only be used to support improved recycling infrastructure in Maryland.
- We would like clarity on the provision related to packaging material waste reduction over five years. For example, as written it is unclear if packaging material waste reduction is only reduced material usage, a shift to reusable packaging, or increased recycling and increased recycled content. We recommend an approach that explores reduction by all means, and is completed following the needs assessment or allows for an earlier baseline (e.g. 2013) for producers who have already made source reduction efforts. We also recommend that the mandate apply in aggregate across the entire PRO membership rather than per producer following the needs assessment since some portfolios lend themselves to source reduction more than others.
- The legislation includes a greenhouse gas reduction goal. We recommend removing so as to not dilute from the focus on recovery and recycling.
- The legislation does not include a definition of "recycling." Our position is that any definition of recycling must allow for innovative technologies that help materials or waste to be collected, separated, or processed and returned to the economic mainstream in the form of raw materials

or products. We agree that “recycling” does not include energy recovery or energy generation resulting from combustion or incineration processes.

- In addition, while not specified in the bill, we hope that the PRO will include an on-ramp for post-consumer recycled (PCR) content that aligns with other states and recognizes the critical need to preserve food safety.
- We note that the bill does not provide a clear exemption for medical food and/or infant formula, which require specific packaging for food safety and consumer delivery. We recommend amending the language of “covered material” to harmonize with the currently enacted laws in California, Colorado and Oregon. For example, we have excerpted the California language here:

“covered material” does not include any of the following:

(A) Packaging used for any of the following products:

(i) Medical products and products defined as devices or prescription drugs, as specified in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 321(g), 321(h), and 353(b)(1)).

(ii) Drugs that are used for animal medicines, including, but not limited to, parasiticide products for animals.

(iii) Products intended for animals that are regulated as animal drugs, biologics, parasiticides, medical devices, or diagnostics used to treat, or administered to, animals under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), the federal Virus-Serum-Toxin Act (21 U.S.C. Sec. 151 et seq.), or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(iv) Infant formula, as defined in Section 321(z) of Title 21 of the United States Code.

(v) Medical food, as defined in Section 360ee(b)(3) of Title 21 of the United States Code.

(vi) Fortified oral nutritional supplements used for persons who require supplemental or sole source nutrition to meet nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, malnutrition, or failure to thrive, as those terms are defined as by the International Classification of Diseases, Tenth Revision, or other medical conditions as determined by the department.

We are committed to continuing to work with you and other stakeholders to refine this bill as it goes through the legislative process, and we are confident that we can all work together to revise the bill into something we can enthusiastically support. SFPA is eager to be a resource for you and your colleagues moving forward. Once again, we appreciate your leadership on this topic as well as the opportunity give feedback on this important legislation, and we look forward to working with you to continue to progress toward a more circular economy in Maryland.

Sincerely,

Sustainable Food Policy Alliance

SB 222 FWA Asurion - EEE 02-09-2023.pdf

Uploaded by: Marta Harting

Position: FWA

ASURION

TESTIMONY ON SB 222/HB284 (ENVIRONMENT – REDUCING PACKAGING MATERIALS – PRODUCER RESPONSIBILITY)

POSITION: FAVORABLE WITH AMENDMENT

Asurion provides tech protection plans (insurance and service contracts) for smartphones, tablets, consumer electronics and other tech products in Maryland and throughout the country. When a consumer loses or damages a covered device and makes a claim under the consumer’s insurance policy or service contract with Asurion, Asurion fulfills the claim by shipping a replacement device to the consumer. Asurion is regulated under the Insurance Article for its insurance policies and under the Commercial Law Article for its service contracts. In addition to its tech protection plans, Asurion has 700+ repair outlets (including locations in Maryland) where consumers can go to have their device repaired or recycled. Asurion is proud of the impact it is having on reducing e-waste by delivering device repair and recycling at scale, as well as the reductions in packaging waste that it has achieved on a voluntary basis.

While this may not be the Sponsors’ intent, as introduced, SB 222/HB 284 appears to apply to packaging materials used in the fulfillment of insurance claims because the term “packaging materials” includes packaging not just of products sold or offered for sale in the state, but also products that are distributed in the State. When a consumer has a covered claim, Asurion ships a replacement device to the consumer in fulfillment of the claim. It is not selling the device to the consumer; it is fulfilling an insurance or service contract claim. Consumers pay a fixed amount of premium to Asurion up front to purchase the insurance or service contract, so claim fulfillment represents an expense against the fixed premium collected. Asurion respectfully submits that this bill should not apply to packaging associated with the fulfillment of an insurance claim or a claim under a service contract, and requests the following amendment to the bill on page 8:

(3) “PACKAGING MATERIALS” DOES NOT INCLUDE ANY PART OF A PACKAGE OR CONTAINER THAT IS SOLD OR SUPPLIED IN CONNECTION WITH:

(I) A PESTICIDE PRODUCT REGULATED BY THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT UNDER 7 U.S.C. 136 ET SEQ. OR ANY OTHER APPLICABLE FEDERAL LAW, RULE OR REGULATION;

(II) A FEDERALLY REGULATED DRUG, MEDICAL DEVICE, BIOLOGIC OR DIAGNOSTIC, INCLUDING ITEMS INTENDED FOR ANIMALS; [OR]

(III) A MEDICAL PRODUCT THAT IS REQUIRED TO BE STERILE OR ENCLOSED IN PACKAGING WITH TAMPER-RESISTANT SEALS TO PROTECT PUBLIC HEALTH, INCLUDING MEDICAL PRODUCTS INTENDED FOR ANIMALS[.]; OR

(IV) THE FULFILLMENT OF A CLAIM UNDER AN INSURANCE POLICY OR CERTIFICATE ISSUED UNDER AN INSURANCE POLICY REGULATED UNDER THE INSURANCE ARTICLE OR UNDER A SERVICE CONTRACT REGULATED UNDER THE MARYLAND SERVICE CONTRACT AND CONSUMER PRODUCTS GUARANTY ACT, SUBTITLE 4 OF TITLE 14 OF THE COMMERCIAL LAW ARTICLE.

For additional information, contact Marta Harting at mdharting@venable.com.

SB222_MDSierraClub_fwa 9February2023.pdf

Uploaded by: Martha Ainsworth

Position: FWA

Committee: Education, Energy, and Environment

Testimony on: SB 222 “Environment – Reducing Packaging Materials -- Producer Responsibility”

Position: Support with Amendments

Hearing Date: February 9, 2023

The objective of SB 222 is to provide a framework for modernizing and improving Maryland’s waste and recycling systems, including: improving reuse, composting, recycling, and recycling markets; reducing waste; and increasing recycling rates. The framework also incorporates reimbursement of local governments by producers for the costs of transporting, collecting, and processing packaging materials. The Maryland Chapter of the Sierra Club supports SB 222 for advancing these objectives and proposes amendments to strengthen its effectiveness and the accountability for achieving the desired results.

Producer responsibility and packaging

The Sierra Club embraces the principle of producer responsibility, in which the producer or brand owner of a product takes responsibility for minimizing the product’s environmental and social impacts across all stages of the product’s life cycle. Producer responsibility should focus upstream – on waste reduction, redesign, reuse, and use of recycled content for new products. Producers should be financially responsible, but not necessarily physically responsible, for implementing the program, subject to public oversight and accountability.¹ SB 222 would create a producer responsibility program for packaging in which producers are *both* financially and physically responsible for implementation, underscoring the need for strong public oversight to ensure that targets are met, and funds generated are used appropriately.

Containers and packaging are a substantial share of municipal solid waste generated in the United States – 28.1% by weight in 2018.² Only about 54% of all container and packaging materials by weight were recycled, but recycling rates vary by material, from a high of 81% for paper and cardboard packaging to a low of only 14% for plastic. Multi-layer plastic packaging, multi-resin pouches, and aseptic cartons for beverages and soups are not designed to be recyclable. Plastic film is generally not accepted for single stream recycling; it fouls equipment, becomes contaminated, and lacks a market. Plastic packaging also escapes into the environment as litter. Seven of the top ten plastic items collected in beach cleanups in the U.S. are plastic packaging or containers.³ Producer responsibility programs have the potential to create incentives to reduce packaging and redesign it to be reusable or recyclable. They are one of several tools to reduce packaging waste, including beverage container deposit/return programs, minimum post-consumer recycled content requirements, and bans or restrictions on single-use plastics.

Producer responsibility programs for packaging are common in Canada and Europe.⁴ In the U.S., there are over 118 producer responsibility programs in 33 states for a range of other individual products that facilitate the lifecycle management of these difficult-to-recycle items like electronics, paint, or batteries.

¹[Sierra Club Zero Waste Policy](#) (2019).

²U.S. Environmental Protection Agency. https://www.epa.gov/sites/default/files/2021-01/documents/2018_ff_fact_sheet_dec_2020_fnl_508.pdf, p. 9.

³ Food wrappers, bottle caps, plastic beverage bottles, plastic bags, lids, takeout containers (plastic and foam). 5Gyres *et al.* 2017. *Better Alternatives Now: BAN 2.0*.

⁴ Northeast Recycling Council (NERC) and Northeast Waste Management Officials’ Association (NEWMOA). 2020. “White Paper: Extended Producer Responsibility (EPR) for Packaging and Paper Products.” April.

However, there is limited experience with producer responsibility for packaging programs in the U.S., apart from the ten states with beverage container deposit programs.⁵ Only four U.S. states (California, Colorado, Maine, and Oregon) have enacted producer responsibility programs for other types of packaging, and those states' programs are not yet operational. Three of them have separate longstanding and successful beverage containers deposit programs.

What the bill would do

Under SB 222, packaging producers, individually or as part of a Producer Responsibility Organization (PRO), would submit a Producer Responsibility Plan to the Maryland Department of the Environment (MDE). The Plan must: identify the producers and the brands of packaging covered; propose performance goals for each material type; describe the financing to implement the Plan; and indicate how the goals will be met, including reimbursement of local governments for collecting, transporting, and processing packaging materials. After approval by MDE, the Plan would be implemented by the producers or PRO.

Oversight of the program would be provided by MDE, which would be charged with reviewing and approving the Producer Responsibility Plans and annual reports. MDE would also be responsible for conducting a statewide recycling needs assessment every 10 years, financed by producers. The bill creates a Producer Responsibility Plan Advisory Council, responsible for: advising the PRO at its request on the drafting or amendment of a Plan; reviewing the Plan and annual reports submitted by the PRO; making recommendations to MDE regarding Plan approval; and making recommendations to MDE and the PRO on implementation of the Plan. The producers participating in Maryland's program would include multinational corporations that are already participating in packaging programs elsewhere in the world.⁶

Since last session, the bill has been improved such that PRO representatives, who were previously voting members on the Advisory Council that advises on the approval of PRO plans, are now non-voting members, removing a conflict of interest. Third-party certification of performance targets is required for results cited in the annual reports. In addition, a modest administrative penalty for the PRO of not more than \$5,000 has been introduced for failure of producers to achieve certain targets in the producer responsibility plan.

Recommended amendments to improve effectiveness and accountability for results

We respectfully request amendments in two sections to improve the effectiveness and accountability of this program largely managed by producers and PROs.

(1) Set at least one measurable and enforceable target on reducing packaging in the statute, with meaningful financial incentives for achieving it. While the statute requires producer responsibility plans to set goals, the only specific target set in SB 222 is to "Require each participating producer to reduce all packaging material waste to the maximum extent practicable, and not by less than 25% for each packaging material type, within 5 years after the date on which the first version of the plan is approved."⁷

This is potentially a strong target, but "packaging material waste" is not defined in the bill, and the target needs to be measurable. Further, there are no penalties in the bill for failure to achieve this

⁵ California, Connecticut, Hawaii, Iowa, Maine, Massachusetts, Michigan, New York, Oregon, Vermont.

⁶ Small producers of containers and packaging are exempted from SB 222.

⁷§9-2504, page 14, lines 22-25.

target.⁸ All other targets are left for the PROs to propose in their plans later, after the bill is passed, subject to MDE approval.

Recommendation:

- (a) Define “packaging material waste” and how it will be measured; and
- (b) Impose a penalty for each producer of 20¢ per pound of material short of the 25% target.

(2) Incorporate a beverage container recycling target in the bill or remove beverage containers as a covered product in favor of a separate modern beverage container deposit law. Deposit/return systems are considered an international best-practice in recovery of containers for recycling and for reducing litter.⁹ As written, SB 222 provides little or no incentive for the public or businesses to divert empty beverage containers from the waste stream or to reduce litter, nor would it provide recycled material of sufficient quantity or quality to be used for new food-grade packaging. Based on decades of experience in the U.S. and around the world, a beverage container deposit program with a 10-cent deposit:

- Could recover 90% of beverage containers sold in Maryland, a level of recycling that is unmatched by any conventional recycling program without a deposit incentive that SB 222 would finance;
- Would produce a large volume of source-separated, high-quality recycled material to meet postconsumer content requirements legislated across the country, especially for food-grade recycled content, which cannot be achieved by mixed materials collection;¹⁰ and
- Would greatly reduce beverage container litter, a source of plastic pollution in our waterways and the Chesapeake Bay.¹¹ In the absence of a deposit that incentivizes customers to return used beverage containers for recycling, SB 222 would have little impact on litter and plastic pollution.

Recommendation:

- (a) Incorporate an additional target in SB 222 of a 90% beverage container recycling rate by the end of the first 5-year Plan, with a penalty of 10¢ per container short of the 90% target.¹²
- (b) Remove aluminum, plastic, and glass beverage containers from SB 222 and pass a separate beverage container deposit bill, as recommended by leaders in the recycling and zero waste

⁸ A modest administrative penalty of \$5,000 for the PRO (not for individual producers) has been added to §9-2510 for failure to meet performance goals embedded in the producer responsibility plans (p. 27, lines 23-27), but there are no penalties for failing to achieve the overarching target mentioned in the bill.

⁹ See the literature review in the Sierra Club’s Guidance on Beverage Containers (2021):

<https://www.sierraclub.org/sites/default/files/Sierra-Club-Beverage-Container-Guidance.pdf>.

¹⁰ Balkan, Elizabeth. 2021. “Deposit return systems are a key part of solving the plastic paradox,” *Waste Dive*, March 29. <https://www.wastedive.com/news/deposit-return-systems-solution-plastic-reloop/597277/>

¹¹ “...there is little evidence that any other program, in and of itself, is nearly as effective as deposit programs at reducing litter rates.” University of Maryland, Environmental Finance Center (EFC). 2011. “2011 Impact Analysis of a Beverage Container Deposit Program in Maryland.” December 15. p.4. Also see Reloop/CRI, *Fact Sheet: Deposit Return Systems Reduce Litter*, January 2021.

¹²The PRO should have to show it can achieve a recycling rate at least as high as the best alternative program. Maryland already has a baseline recycling rate for beverage containers sold in Maryland (23%) calculated by the Container Recycling Institute for 2019. It is not necessary to await the Needs Assessment to establish the baseline.

community.¹³ A beverage container deposit bill has been submitted this session.¹⁴

In summary, the Sierra Club supports producer responsibility for packaging with strong public oversight, meaningful and enforceable targets, and financial incentives to ensure the targets are achieved. SB222 sets up an ambitious program to reduce waste and recycle more. We respectfully request a favorable report on HB 222 and consideration of the above amendments.

Martha Ainsworth
Chair, Chapter Zero Waste Team
Martha.Ainsworth@MDSierra.org

Josh Tulkin
Chapter Director
Josh.Tulkin@MDSierra.org

¹³See, for example, Beyond Plastics and Just Zero, “[Ten Requirements for Effective Packaging Reduction Policies](#),” (January 2023), #4: “Include a modernized Beverage Deposit Law, a.k.a Bottle Bill: ...deposit return laws are the best example of EPR and the most effective way to handle beverage containers.” Also see the [2022 testimony by the Container Recycling Institute on HB 307/SB 292](#), which documents why the packaging bill will not be able to meet its objectives without inclusion of a beverage container deposit program, and the Sierra Club’s Guidance on Beverage Containers (<https://www.sierraclub.org/sites/default/files/Sierra-Club-Beverage-Container-Guidance.pdf>) pp 8-9..

¹⁴ “Maryland Beverage Container Recycling Refund and Litter Reduction Act,” sponsored by Del. Terrasa. A second bill, HB342, “Plastics Postconsumer Recycled Content Program,” would set recycled content requirements for plastic beverage containers, food containers, and packaging of personal care and household cleaning products, all of which are packaging covered by SB 222.

PCRAM - amd - SB 222.pdf

Uploaded by: Matthew Bohle

Position: FWA

BY: Premium Cigar Retailers Association of Maryland

AMENDMENT TO SB 222

(First Reading File Bill)

AMENDMENT NO. 1

On page 11, line 25 strike "AND" and insert "OR"

On page 11, after line 25, insert "(VI) IS A LICENSED TOBACCONIST."

SB222-HB 284FWA PCRAM.pdf

Uploaded by: Matthew Bohle

Position: FWA



Aphelion Cigar Lounge 410-721-1700
2510 Conway Road, Ste. 106, Gambrills 21054

Broadleaf Tobacco 410-315-8118
487 Ritchie Highway, #101, Severna Park 21146

Burnt Leaf 443-272-7206
487 Ritchie Highway, #101, Severna Park 21146

Cross Street Tobacco 410-752-9220
1103 Light Street, Baltimore 21230

Dan's Cigar Lounge 410-780-5959
8300-B Pulaski Highway, Rosedale 21237

Davidus Cigars. 301-865-1000
2134 Generals Highway, Annapolis 21401
1300 Bank Street, Baltimore 21231
1716 Liberty Road, Eldersburg 21784
9180 Baltimore National Pike, Ellicott City 21042 529
West South Street, Frederick 21701
25 Olney Sandy-Spring Road, Ashton 20861
10810 Reisterstown Road, Owings Mills 21117
11632 Rockville Pike, Rockville 20852
15922 Shady Grove Road, Gaithersburg 20832 8925
Fingerboard Road, Urbana 21704
23 East Main Street, Westminster 21157 25
Allegheny Avenue, Towson 21204

Easton Cigar & Smokeshop 410-770-5084
6 Glenwood Ave, Easton 21601

Etch-Art Awards 410-202-6616
931 Mount Hermon Road, Salisbury 21804

Fire & Smoke Cigar Parlor 443-970-6634
6827 Loch Raven Blvd., Towson 21286

Leonardtown Cigar 240-309-4108
40955 Merchants Lane #14, Leonardtown 20650

Main Street Cigar Company 410-734-4494
2217 E. Churchville Road, Bel Air 21015

Mount Vernon Tobacco 410-728-5669
221 W. Read Street, Baltimore 21201

Mt. Washington Cigar Co. 410-377-4711
5909 Falls Road, Baltimore 21209

Oakleigh Beach Tobacco 410-388-8080
702 Wise Avenue, Dundalk 21222

Office Cigar Lounge at QG 410-685-7428
31 S Calvert St, Ste 300, Baltimore 21202

Quartermasters Cigars 410-898-2134
880 Northeast St, Frederick 21701

Senor Cigars 410-524-2069
11805 Coastal Highway, Ocean City 21842
3314 Coastal Highway, Ocean City 21842

Signature Cigars 301-424-8833
1331 Rockville Pike, Rockville 20852
4919 Cordell Avenue, Bethesda 20814

Spartan Cigar Lounge 443-350-9808
128 East Pulaski Highway, Elkton 21921

The Book Center 301-722-8345
15 North Centre Street, Cumberland 21502

The Humidour Cigar Shoppe 410-666-3212
2 Sherwood Road, Cockeysville 21030

TinderBox #398 301-374-9100
2754 Crain Highway, Waldorf 20601

Titan Cigar 410-721-2944
2634 Chapel Lake Drive, Gambrills 21056

Tobacco Leaf 410-799-2094
7351 Assateague Drive, Jessup 20794

W. Curtis Draper Tobacconist 301-907-7990
4916 Del Ray Avenue, Bethesda 20814

February 9, 2022

Favorable with Amendment for SB 222/HB 284

Chair and members of the Committee,

The Premium Cigar Retailers Association of Maryland represents over 35 adult only brick and mortar premium cigar specialty stores in the State. We appreciate the opportunity to testify on this matter.

We write today as **Favorable with amendment** to SB 222/HB 284.

Reducing excess waste is goal that we share. However, in order for our damp products to be maintained in a humid manner, which prevents the product from being spoiled, we request an exemption for damp items, such as premium cigars, as there is no other practical way to transport these items.

These items need to be wrapped so that they do not lose their moisture during transportation or else the premium cigar will quickly become stale and will result in wasted product.

Adopting this amendment is critical for our mom-and-pop retail businesses to be able to exist in Maryland.

For these reasons we respectfully ask that the included amendment be adopted.

Sincerely

Matthew Bohle and Obie Chinemere of RWL – 410-269-5066

SB222_MAPGA_fwa (2023).pdf

Uploaded by: Mike O'Halloran

Position: FWA



TO: Senate Education, Energy, and the Environment Committee

FROM: Mid Atlantic Propane Gas Association

DATE: February 9, 2023

RE: **SENATE BILL 222 – Favorable with Amendments** – Environment – Reducing Packaging Materials
– Producer Responsibility

On behalf of propane marketers in Maryland, the Mid Atlantic Propane Gas Association (MAPGA), is requesting an amendment to SB222 – legislation establishing an extended producer responsibility program for certain materials. MAPGA is concerned their members' products would fall under the definition of "packaging materials."

The requested amendment would expressly exempt propane cylinders. These products can be refilled many times and older cylinders can be reconditioned to extend their lifespan. As such, these products likely do not fall into the same category as single-use/shorter lifespan products.

If propane cylinders are not explicitly or passively exempted, SB222 may ensnare these products during the agency rulemaking process. As covered products, manufacturers and producers (can include retail marketers) of LP cylinders would be subject to the applicable regulatory and compliance costs.

Below are some examples of how other states with EPR programs have approached this issue:

Oregon [EPR law](#): Specifically excludes coverage for refillable (e.g., 20/30 pounders) propane cylinders. Per the bill, a covered product does not include: "Liquified petroleum gas containers that are designed to be refilled."

California [EPR law](#): While regulations still need to be finalized, it seems likely that propane cylinders will be exempt from coverage. Per the bill, a covered material does not include: "Packaging used to **contain hazardous or flammable products** regulated by the 2012 federal Occupational Safety and Health Administration Hazard Communications Standard."

Colorado [EPR law](#): While regulations still need to be finalized, it seems that refillable propane cylinders (e.g., 20/30 pounders) will be exempt from coverage. Per the bill, covered packaging material is defined as: "Any material, regardless of recyclability, **that is intended for single or short-term use** and is used for the containment, protection, handling, or delivery of products to the consumer at the point of sale, including through an internet transaction."

For these reasons, **MAPGA is requesting an amendment to exempt propane cylinders.**

SB0222_FWA_NWRA_Env. - Reducing Packaging Material

Uploaded by: Pam Kasemeyer

Position: FWA

Maryland-Delaware Solid Waste Association
a chapter of the



TO: The Honorable Brian J. Feldman, Chair
Members, Senate Education, Energy, and the Environment Committee
The Honorable Malcolm Augustine

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Andrew G. Vetter
410-244-7000

DATE: February 9, 2023

RE: **SUPPORT ONLY IF AMENDED** – Senate Bill 222 – *Environment – Reducing Packaging Materials – Producer Responsibility*

The Maryland Delaware Solid Waste Association (MDSWA), a chapter of the National Waste and Recycling Association, is a trade association representing the private solid waste industry in the State of Maryland. Its membership includes hauling and collection companies, processing and recycling facilities, transfer stations, and disposal facilities. MDSWA and its members **support only if amended** Senate Bill 222.

Senate Bill 222 proposes to create a framework for what is commonly referred to as “Extended Producer Responsibility” or EPR to address the growing challenges associated with recycling. That is, volatile recycling commodity prices leading to increasing costs to maintain recycling services. MDSWA continues to believe that the most effective approach to addressing current recycling challenges is to focus on initiatives to increase demand for recyclable materials through a focus on market development. We further believe post-consumer minimum recycled content requirements are an essential component to increased demand. However, market development has not been considered sufficient and instead, there is a growing interest in EPR. EPR shifts responsibility for managing recycling to brands, which does not take into account the needs of other stakeholders involved in recycling. Any process that considers management of recycling should consider the needs of each of the stakeholders. To that end, attached is the National Waste and Recycling Association’s policy position on EPR.

While the industry believes that EPR, appropriately structured, has the potential to positively impact current recycling challenges, the framework of an EPR program is critical to its success and, if not properly created and implemented, can result in upending existing recycling systems by creating duplicative and unnecessary programs that have failed to take into consideration current collection, processing and management infrastructure, and the flow of revenues and expenses. To that end, while Senate Bill 222 is intended to provide a structure for addressing Maryland’s current recycling challenges, the legislation, as drafted, requires additional clarification and amendment if it is to achieve its objectives and not create unintended consequences that undermine the program.

First and foremost, the proposed needs assessment is essential to structuring an effective EPR framework that will achieve the intended objectives and succeed in funding local government recycling programs. MDSWA believes the needs assessment should be conducted in conjunction with/or a part of the establishment of the “Task Force on Recycling Policy and Recycling and Waste Systems in Maryland” reflected in House Bill 109. This approach will provide comprehensive information on the existing state of recycling in Maryland as well as the additional infrastructure and funding requirements necessary to achieve the objectives of an effective EPR program.

MDSWA strongly believes that references to organics and organics recycling throughout the legislation is too broad and outside the intended objectives of this legislation. Presumably, the objective to include compostable packaging in the program is the objective of inclusion of organics in the legislation. MDSWA urges the bill be amended to use the phrase “compostable packaging” as opposed to “organics.” The industry is also strongly opposed to the authorization for a Producer Responsibility Organization (PRO) to establish a bottle deposit program or deposit-return program for other packaging materials. Such programs negatively impact the current collection and processing framework and should not be authorized within this legislation. If there is an interest in considering the establishment of such programs, it should only be done through separate legislation where the unique implications of such programs can be considered. Because bottle deposit programs divert some of the most valuable material away from curbside recycling programs, they will likely increase the cost of recycling for municipalities.

MDSWA also believes that this legislation should only apply to residential recycling and should not include the commercial recycling system. The structural and operational issues related to commercial sector recycling vs residential recycling differ significantly and Maryland will be more successful in establishing an effective EPR system if it focuses solely on residential.

Senate Bill 222 does not clearly define how funding will flow to invest in infrastructure. There are a number of provisions relative to funding that do not take into account the complexity of the collection and processing of recyclables. There are no provisions clarifying how money will flow to invest in infrastructure other than the PRO develops the method. There is significant variability across the State relative to how waste and recyclables are collected and managed. That variability will have a significant impact on the structure and effectiveness of an EPR program. Virtually, every jurisdiction in the State approaches collection of both waste and recyclables in a different manner. Some jurisdictions provide collection to their residents through public employees, such as Baltimore City. Some jurisdictions contract with private haulers for collection. Some jurisdictions do not provide any collection and residents, or homeowners associations, privately contract for collection and/or manage their disposal of waste and recyclables themselves. The variability in collection and processing frameworks across jurisdictions must be accounted for in the development of an EPR program. It is just one example of a component of the recycling continuum that is not sufficiently reflected in the legislation. Furthermore, the bill appears to focus on residential recycling, but the language is not sufficiently clear. Local governments primarily focus on residentially-generated recyclables, including those generated in multi-family housing and in public spaces, although, many manage small amounts of commercially-generated recyclables. The bill will require an amendment to make that clarification.

Further examples of the lack of clarity and failure to understand the complexity of the recycling infrastructure and service provision, are the provisions that limit transportation to the nearest recycling facility. This provision fails to recognize that, in many instances, the closest facility is out-of-state and/or in another jurisdiction that does not accept out-of-County materials. Similarly, there are no provisions for the reimbursement of private haulers and recyclers that may manage some or all of the collection and processing of a local jurisdiction’s waste and recyclables. Additionally, critical to an effective funding framework is the authority for both publicly and privately owned and operated material recycling facilities to market the materials they process to maximize revenues. The legislation should be amended to provide this authority along with a provision that a PRO does not have the authority to build a materials recycling facility for itself or a contractor.

Finally, while the legislation creates an Advisory Council with which the PRO may consult, there is not a binding requirement for following the Advisory Council recommendations. Further, the Advisory Council includes members that are also members of a PRO which is a conflict of interest. The Advisory Council membership should be amended to limit membership to remove this conflict.

MDSWA applauds the sponsor for his interest in positively addressing recycling challenges in Maryland. To that end, MDSWA looks forward to working with the sponsor and other stakeholders to address the issues raised by the industry as well as other stakeholders in order to craft an EPR program that will have the potential to achieve the intended objectives of this legislation. However, without the amendments outlined above and other required amendments that have been raised by interested stakeholders, MDSWA cannot support the legislation.

Extended Producer Responsibility

INTRODUCTION

Challenges with recycling have resulted in increased efforts to pass legislation at both the federal and state level advocating for extended producer responsibility (EPR). While well intentioned, many of these bills fail to address the root of the problems and also overlook existing recycling programs and their achievements.

DISCUSSION

Americans want accessible and effective recycling. They want sustainable products that support the circular economy. However, recycling is struggling. There are five major issues facing recycling right now:

- insufficient demand for some recyclables
- low prices for the combined recycling stream
- consumer behavior challenges
- public concern over plastic in the environment
- inexpensive virgin resources

The last twenty-five years of legislative history on recycling has been focused primarily on creating supply – without consideration of adequate end markets. Given that, our recycling system has been set up to continuously generate material even when demand falls and prices drop. Any legislation that proposes to address recycling issues need to first focus on correcting this problem by incentivizing the demand for recyclables, rather than continuing to focus only on adding supply.

Demand is key!

Until 2018, China's growing economy provided demand for recyclables from across the globe, including a significant portion of America's recyclables. This material was not dumped on China; rather Chinese companies paid to acquire these materials as feedstock to produce the products and packages that they sold to the U.S. and other countries. However, when the Chinese government banned some of the materials, demand for mixed paper and mixed plastics fell and the prices for these commodities plummeted accordingly. As their quality requirements and import licenses for cardboard have constricted, this market option has declined as an option for recyclables.

Recyclables can continue to be collected and sorted – however, every seller needs a buyer. Without end markets, material will not be recycled. Recycling legislation can create demand by requiring *packaging to have post-consumer recycled content*. This

will spur demand for more material, increasing the value of recyclables, strengthen the domestic recycling market, and help offset the cost of recycling.

Low prices

Historically, the commodity value from municipal recycling programs offset much of the cost of processing the material for sale; and in some case, municipalities saw a net benefit from the sale of recyclable commodities. However, when the markets for recyclables declines prices drop - sometimes to negative levels. Because paper is 60% of the curbside recycling stream, the price of paper has a high impact on all recycling programs. Increased demand for paper, as well as plastic and other materials, will stabilize prices making recycling sustainable in municipalities struggling with increased costs and unable to find markets for their materials.

Consumer behavior

Reducing contamination will improve recycling. This can be done by harmonizing recycling lists, reducing confusion, providing feedback to consumers through education and cart tagging, and providing clear and accurate labeling on packaging and recycled materials. Materials need to be truly recyclable. The myth that recycling is free of charge needs to be combated and consumers must understand that there is a true cost for recycling that is not mitigated by commodity values alone.

Public pressure associated with plastic waste in the environment

Ocean plastics are predominantly from developing countries with inadequate infrastructure. Most National Waste & Recycling Association (NWRA) members sell residential plastics domestically and many no longer export plastic recyclables. The Alliance to End Plastic Waste estimates that more than 90% of ocean debris originating from rivers come from just ten rivers - eight in Asia and two in Africa. Ideally, municipal plastic recyclables should only be exported to developed countries to reduce the potential of mismanagement of exported material.

NWRA POSITION

In order to address the challenges outlined above, NWRA prefers efforts focused on increasing demand for recyclable materials to allow market forces to incentivize recycling. Increased use of post-consumer content is an essential component to increased demand. In circumstances where these efforts are not sufficient to increase demand, EPR may be considered. When EPR has been proposed, NWRA supports the following:

1. Recycling legislation should seek to support and invigorate existing recycling systems by strengthening them rather than upending them with duplicative and unnecessary programs. Such legislation should focus on investment in infrastructure and incentives to create new markets for recycled materials.

2. Recycling legislation should consider how to improve end market demand focused on inclusion of incentives for use of post-consumer materials. This extends beyond processing and mills and includes the products and goods we purchase and use every day. Minimum content requirements should be established based on material type.
3. Federal, state, and local governments should incorporate post-consumer materials in their purchase requirements where appropriate.
4. State and local governments should retain control over their recycling programs. Local stakeholders understand the needs and complexities of their communities and are the most adept at finding solutions.
5. Producers should assume responsibility for their packaging by considering the end-of-life when designing packaging. Packaging should be designed to promote recycling and sustainable outcomes.
6. The cost of EPR should be borne by the product manufacturers/brands.
7. The preferred model for EPR should be as a Stewardship Responsibility Organization (SRO) system that is inclusive of the recycling supply chain. The non-profit SRO should be made up of equal representation state government, local government, recycling collectors, recycling processors and producers/brands. This is critical to ensure consideration of the entire value chain. The SRO should distribute funds to local governments to support recycling programs.
8. State legislation should place responsibility on the SRO to improve recycling by harmonizing lists, encouraging investments in end markets for materials, coordinating education and enforcement, supporting the improvement of existing collection and processing infrastructure, and supporting litter cleanup.

Updated July 2020

SB222_IndivisibleHoCoMD_FWA_RuthAuerbach.pdf

Uploaded by: Ruth Auerbach

Position: FWA



SB222 – Environment – Reducing Packaging Materials - Producer Responsibility

Testimony before Senate Education, Energy, and the Environment Committee

February 9, 2023

Position: Favorable with amendments

Dear Education, Energy, and the Environment Committee Members,

My name is Ruth Auerbach, and I represent the 750+ members of Indivisible Howard County. We are providing written testimony today to **support with amendments SB222**, for extended producer responsibility for packaging materials. Indivisible Howard County is an active member of the Maryland Legislative Coalition (with 30,000+ members). We are grateful for the leadership of Senator Augustine in sponsoring this bill.

An Extended Producer Responsibility bill for packaging is desperately needed to create incentives for better packaging choices by producers, who are best positioned to understand the options and the associated environmental, health, and financial costs of disposal. Producers must make socially responsible choices and not rely upon local governments and consumers to deal with the costs and consequences of the packaging.

However, to achieve the bill's intended purpose, we propose the following two changes:

1. More clear and explicit goals should be stated in the legislation. The only goal explicitly stated is 9-2504 (B)(4) "...REDUCE ALL PACKAGING MATERIAL WASTE TO THE MAXIMUM EXTENT PRACTICABLE, AND BY NOT LESS THAN 25% FOR EACH PACKAGING MATERIAL TYPE, WITHIN 5 YEARS AFTER THE DATE ON WHICH THE FIRST VERSION OF THE PLAN IS APPROVED." One problem is that the term "packaging material waste" is not defined in the bill. We are concerned that waste may not be measurable. We recommend replacing this term with "single-use packaging materials". We also recommend adding the following goals for these packaging types:
 - Beverage containers – States with a 10 cent deposit fee on beverage containers are getting a recycling rate of 90%. Additionally, in light of the Beverage Container Recycling Refund and Litter Reduction Act that has been introduced by Del. Terrasa, we suggest either
 - a) including a goal of recycling 90% of beverage containers within 5 years with an administrative fine of 10 cents per container short of the target, or
 - b) removing beverage containers in favor of supporting the bill by Del. Terrasa.
 - Single-use packaging – We recommend for single-use packaging
 - a) to have at least 75% postconsumer content by October 1, 2028; and
 - b) be readily recyclable or compostable by October 1, 2031
2. Section 9-2510 does not state what constitutes a violation. Is the sale of each individual item without an approved producer responsibility plan a single penalty, or might a single penalty be millions of dollars of sales at multiple locations over multiple years? We recommend defining "violation" and including penalties that are substantial enough to affect the activity of the producers.

Thank you for your consideration of this important legislation. **We respectfully urge a favorable report on this bill with amendments.**

Ruth Auerbach, Ph.D.
9455 Clocktower Lane
Columbia, MD 21046

MD - SB 222 - EPR - FWA 2.8.2023.pdf

Uploaded by: Sam Schlaich

Position: FWA

Testimony Favorable with Amendment
of
Senate Bill 222
in
Senate Education, Energy, and Environment Committee
on
February 9, 2023

Dear Chairman Feldman and Members of the Committee,

The Flexible Packaging Association (FPA) is pleased to support Senate Bill 222, which would establish an extended producer responsibility (EPR) program for packaging material, modernizing and improving waste and recycling systems in the State.

I am Sam Schlaich, Counsel, Government Affairs for FPA, which represents flexible packaging manufacturers and suppliers to the industry. In the U.S. Flexible packaging represents \$39 billion in annual sales in the U.S. and is the second largest, and fastest growing segment of the packaging industry. The industry employs approximately 78,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products.

These are products that you and I use every day – including hermetically sealed food and beverage products such as cereal, bread, frozen meals, infant formula, and juice; as well as sterile health and beauty items and pharmaceuticals, such as aspirin, shampoo, feminine hygiene products, and disinfecting wipes. Even packaging for pet food uses flexible packaging to deliver fresh and healthy meals to a variety of animals. Flexible packaging is also used for medical device packaging to ensure that the products packaged, diagnostic tests, IV solutions and sets, syringes, catheters, intubation tubes, isolation gowns, and other personal protective equipment maintain their sterility and efficacy at the time of use. Trash and medical waste receptacles use can liners to manage business, institutional, medical, and household waste. E-commerce delivery, which has become increasingly important in the wake of the COVID-19 Pandemic, are also heavily supported by the flexible packaging industry.

Thus, FPA and its members are particularly interested in solving the plastic pollution issue and increasing recycling of solid waste from packaging, and creating a working, circular economy. We believe that SB 222 will help do just that. The flexible packaging industry is in a unique situation as it is one of the most environmentally sustainable packaging types from a water and energy consumption,

product-to-package ratio, transportation efficiency, food waste, and greenhouse gas emissions reduction standpoint, but circularity options are limited. There is no single solution that can be applied to all communities when it comes to the best way to collect, sort, and process flexible packaging waste. Viability is influenced by existing equipment and infrastructure; material collection methods and rates; volume and mix; and demand for the recovered material. Single material flexible packaging, which is approximately half of the flexible packaging waste generated, can be mechanically recycled through store drop-off programs, however, end-markets are scarce. The other half can be used to generate new feedstock, whether through pyrolysis, gasification, or fuel blending, but again, if there are no end markets for the product, these efforts will be stranded.

FPA believes that a suite of options is needed to address the lack of infrastructure for non-readily recyclable packaging materials, and promotion and support of market development for recycled products is an important lever to build that infrastructure. We also believe that EPR can be used to promote this needed shift in recycling in the U.S. In fact, FPA worked with the Product Stewardship Institute (PSI) and jointly drafted a set of principles to guide EPR for flexible packaging (<https://www.flexpack.org/end-of-packaging-life>). This dialogue looked at the problems and opportunities for EPR to address the needs of the flexible packaging industry to reach full circularity for over a year. It is with this background that FPA provides this testimony in support of SB 222.

We were pleased to work with the bill sponsor and other stakeholders on previous iterations of this bill and believe this version will support a truly meaningful EPR program for packaging. Furthermore, we believe it will provide the necessary elements for the enhancement of current collection, investment in new infrastructure, and development of advanced recycling systems, that will allow for collection and recycling to a broader array of today's packaging materials, including flexible packaging; and quality sorting and markets for currently difficult-to-recycle materials.

For these reasons, FPA **supports SB 222 and respectfully request a favorable report following some minor amendments.** In advance, thank you for your consideration. If we can provide further information or answer any questions, please do not hesitate to contact me at 410-694-0800 or SSchlauch@FlexPack.org.

Respectfully,

Sam Schlaich

Sam H. Schlaich, J.D.

Government Affairs Counsel, FPA

SB 222 - MoCo_Shofar_SWA (GA 23).pdf

Uploaded by: Steven Shofar

Position: FWA



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

SB 222

DATE: February 9, 2023

SPONSOR: Senator Augustine, *et al.*

ASSIGNED TO: Education, Energy, and the Environment

CONTACT PERSON: Steven Shofar (steven.shofar@montgomerycountymd.gov)

POSITION: Support with Amendments (Department of Environmental Protection)

Environment – Reducing Packaging Materials – Producer Responsibility

SB0222 -- Environment - Reducing Packaging Material

Uploaded by: Brian Levine

Position: UNF



Senate Bill 222 -- *Environment - Reducing Packaging Materials - Producer Responsibility*
Senate Education, Energy, and the Environment Committee
February 9, 2023
Oppose

The Montgomery County Chamber of Commerce (MCCC), the voice of business in Metro Maryland, opposes Senate Bill 222 -- *Environment - Reducing Packaging Materials - Producer Responsibility*

MCCC does not object in concept that the business community has the responsibility to create more sustainable and ecologically friendly practices. However, Senate Bill 222 is simply too onerous and confusing for many Maryland small businesses at time where many industries continue to struggle to survive a pandemic economy.

The Montgomery Chamber is concerned about the amount of paperwork that is required by Senate Bill 222, which creates a significant burden on time for small businesses. The penalties required in the bill are also overly punitive. The bill also contains no specific delineation on how much financial impact there will be on producers, creating a massive risk for Maryland businesses.

MCCC is also concerned about the business definitions in the bill, which would capture too many small companies who can simply not afford to comply with the bill as written and would face the prospect of going out of business. This business definition threshold needs to be much higher to ensure that Maryland's small businesses can survive.

Small businesses such as wineries, distillers, and breweries may be adversely impact if this bill passes. During the pandemic, some of these entities were forced to reimagine their business model to survive. That has largely meant that these types of businesses have sold more products as take out, thereby using more packaged materials than they did pre-pandemic. This bill may penalize these small businesses that have adapted during the pandemic in the face of a difficult economy for their industry.

For these reasons, the Montgomery County Chamber of Commerce opposes Senate Bill 222 and respectfully requests an unfavorable report.

The Montgomery County Chamber of Commerce, on behalf of our nearly 500 members, advocates for growth in business opportunities, strategic investment in infrastructure, and balanced tax reform to advance Metro Maryland as a regional, national, and global location for business success. Established in 1959, MCCC is an independent non-profit membership organization and a proud Montgomery County Green Certified Business.

*Brian Levine | Vice President of Government Affairs
Montgomery County Chamber of Commerce
51 Monroe Street | Suite 1800
Rockville, Maryland 20850
301-738-0015 | www.mcccmd.com*

CHPA Oppose - SB 222 MD.pdf

Uploaded by: Carlos Gutierrez

Position: UNF



CONSUMER
HEALTHCARE
PRODUCTS
ASSOCIATION

Taking healthcare personally.

February 8, 2023

Senator Brian J. Feldman, Chair
Senator Cheryl C. Kagan, Vice Chair
Maryland Education, Energy, and the Environment Committee
2 West
Miller Senate Office Building
Annapolis, MD, 21401

Re: SB 222 Related to Reducing Packaging Materials - Oppose

Dear Chairman Feldman,

On behalf of the Consumer Healthcare Products Association (CHPA), the Washington, D.C. based national trade organization representing the leading manufacturers of over-the-counter (OTC) medicines, dietary supplements, and consumer medical devices, I'm writing to express opposition to SB 222 as it is currently drafted. This legislation seeks to implement a producer responsibility program for the packaging of consumer products. While the bill appropriately exempts Food and Drug Administration (FDA) regulated drugs and medical devices, it falls short of extending that same exception to dietary supplements. For that reason, we are forced to register in opposition.

FDA Regulates Consumer Healthcare Product Packaging

Manufacturers of consumer healthcare products take very seriously the types of packaging used to transport, store, and safely deliver OTC products to consumers seeking to address minor health ailments. A very complex, and highly regulated federal framework for OTC consumer healthcare packaging has been in place for decades and serves to ensure safety, efficacy, and stability of products for consumers. State action on packaging for these products likely conflicts with federal laws and regulations already in place, and could compromise safety and stability of the products themselves.

FDA regulates drug product packaging under Good Manufacturing Practices regulations (GMPs) (21 C.F.R. Part 211, Subpart G), including material examination and usage criteria (§211.122), packaging and labeling operations (§ 211.130), tamper-evident packaging (§ 211.132), and expiration dating (§ 211.137).

Certain drugs are also regulated by the Consumer Product Safety Commission (CPSC) under the Poison Prevention Packaging Act (PPPA), which requires child-resistant packaging. Manufacturers are required to test and certify compliance with the PPPA and, in fact, are deemed misbranded under the Food, Drug, and Cosmetic Act (21 U.S.C. § 352(p)) when the packaging does not comply with PPPA and labeling regulations. In addition, the Food and Drug Administration (FDA) has offered industry guidance stating specifically that recycled plastic should not be used for primary drug or dietary supplements packaging.

Amendment Recommendation

SB 222 aptly exempts federally regulated drugs, medical devices, biologics, and diagnostic products. If fails, however, to also include dietary supplements in the exemption for federally

regulated product packaging. To resolve this issue, we respectfully request expanding the existing exemption language by making the following change in red below:

(3) "PACKAGING MATERIALS" DOES NOT INCLUDE ANY PART OF A PACKAGE OR CONTAINER THAT IS SOLD OR SUPPLIED IN CONNECTION WITH:
(I) A PESTICIDE PRODUCT REGULATED BY THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT UNDER 7 U.S.C. § 136 ET SEQ. OR ANY OTHER APPLICABLE FEDERAL LAW, RULE, OR REGULATION;
(II) A FEDERALLY REGULATED DRUG, MEDICAL DEVICE, **DIETARY SUPPLEMENT**, BIOLOGIC, OR DIAGNOSTIC, INCLUDING ITEMS INTENDED FOR ANIMALS; OR
(III) A MEDICAL PRODUCT THAT IS REQUIRED TO BE STERILE OR ENCLOSED IN PACKAGING WITH TAMPER-RESISTANT SEALS TO PROTECT PUBLIC HEALTH, INCLUDING MEDICAL PRODUCTS INTENDED FOR ANIMALS.

Conclusion

CHPA and its members are committed to the health and welfare of consumers and the global environment. We applaud Senator Augustine for taking on this important issue, but unfortunately we cannot support the legislation in its current form. We look forward to continued dialogue with his office and this committee in hopes we can come to an equitable resolution.

Respectfully submitted,



Carlos I. Gutiérrez
Vice President, State & Local Government Affairs
Consumer Healthcare Products Association
Washington, D.C.
cgutierrez@chpa.org | 202-429-3521

cc: Members of the Education, Energy, and the Environment Committee
The Honorable Senator Malcolm Augustine

CHPA Oppose - SB 222 MD.pdf

Uploaded by: Davion Percy

Position: UNF



CONSUMER
HEALTHCARE
PRODUCTS
ASSOCIATION

Taking healthcare personally.

February 8, 2023

Senator Brian J. Feldman, Chair
Senator Cheryl C. Kagan, Vice Chair
Maryland Education, Energy, and the Environment Committee
2 West
Miller Senate Office Building
Annapolis, MD, 21401

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On behalf of the Consumer Healthcare Products Association (CHPA), the Washington, D.C. based national trade organization representing the leading manufacturers of over-the-counter (OTC) medicines, dietary supplements, and consumer medical devices, I'm writing to express opposition to SB 222 as it is currently drafted. This legislation seeks to implement a producer responsibility program for the packaging of consumer products. While the bill appropriately exempts Food and Drug Administration (FDA) regulated drugs and medical devices, it falls short of extending that same exception to dietary supplements. For that reason, we are forced to register in opposition.

FDA Regulates Consumer Healthcare Product Packaging

Manufacturers of consumer healthcare products take very seriously the types of packaging used to transport, store, and safely deliver OTC products to consumers seeking to address minor health ailments. A very complex, and highly regulated federal framework for OTC consumer healthcare packaging has been in place for decades and serves to ensure safety, efficacy, and stability of products for consumers. State action on packaging for these products likely conflicts with federal laws and regulations already in place, and could compromise safety and stability of the products themselves.

FDA regulates drug product packaging under Good Manufacturing Practices regulations (GMPs) (21 C.F.R. Part 211, Subpart G), including material examination and usage criteria (§211.122), packaging and labeling operations (§ 211.130), tamper-evident packaging (§ 211.132), and expiration dating (§ 211.137).

Certain drugs are also regulated by the Consumer Product Safety Commission (CPSC) under the Poison Prevention Packaging Act (PPPA), which requires child-resistant packaging. Manufacturers are required to test and certify compliance with the PPPA and, in fact, are deemed misbranded under the Food, Drug, and Cosmetic Act (21 U.S.C. § 352(p)) when the packaging does not comply with PPPA and labeling regulations. In addition, the Food and Drug Administration (FDA) has offered industry guidance stating specifically that recycled plastic should not be used for primary drug or dietary supplements packaging.

Amendment Recommendation

SB 222 aptly exempts federally regulated drugs, medical devices, biologics, and diagnostic products. If fails, however, to also include dietary supplements in the exemption for federally

regulated product packaging. To resolve this issue, we respectfully request expanding the existing exemption language by making the following change in red below:

(3) "PACKAGING MATERIALS" DOES NOT INCLUDE ANY PART OF A PACKAGE OR CONTAINER THAT IS SOLD OR SUPPLIED IN CONNECTION WITH:
(I) A PESTICIDE PRODUCT REGULATED BY THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT UNDER 7 U.S.C. § 136 ET SEQ. OR ANY OTHER APPLICABLE FEDERAL LAW, RULE, OR REGULATION;
(II) A FEDERALLY REGULATED DRUG, MEDICAL DEVICE, **DIETARY SUPPLEMENT**, BIOLOGIC, OR DIAGNOSTIC, INCLUDING ITEMS INTENDED FOR ANIMALS; OR
(III) A MEDICAL PRODUCT THAT IS REQUIRED TO BE STERILE OR ENCLOSED IN PACKAGING WITH TAMPER-RESISTANT SEALS TO PROTECT PUBLIC HEALTH, INCLUDING MEDICAL PRODUCTS INTENDED FOR ANIMALS.

Conclusion

CHPA and its members are committed to the health and welfare of consumers and the global environment. We applaud Senator Augustine for taking on this important issue, but unfortunately we cannot support the legislation in its current form. We look forward to continued dialogue with his office and this committee in hopes we can come to an equitable resolution.

Respectfully submitted,



Carlos I. Gutiérrez
Vice President, State & Local Government Affairs
Consumer Healthcare Products Association
Washington, D.C.
cgutierrez@chpa.org | 202-429-3521

cc: Members of the Education, Energy, and the Environment Committee
The Honorable Senator Malcolm Augustine

AFPA testimony MD EPR SB 222 unfav final 2-8-23.

Uploaded by: Elizabeth Olds

Position: UNF



LEGISLATIVE POSITION: UNFAVORABLE

Senate Bill 222

Environment – Reducing Packaging Materials – Producer Responsibility

Senate Education, Energy, and the Environment Committee

February 9, 2023

The Honorable Brian Feldman, Chair, Senate Education, Energy, and the Environment Committee
The Honorable Cheryl Kagan, Vice Chair, Senate Education, Energy, and the Environment Committee

Dear Chair Feldman, Vice Chair Kagan, and Members of the Committee:

The American Forest & Paper Association (AF&PA)¹ appreciates the opportunity to share our perspective on SB 222 on behalf of our members and their employees who are an integral part of the circular economy. AF&PA must respectfully oppose SB 222, which would require producers to create or participate in a product stewardship organization in order to sell or distribute products for use in Maryland. In Maryland, the forest products industry employs nearly 6,000 individuals in facilities that produce packaging, sales displays, tissue, corrugated boxes, and other products with an annual payroll of over \$374 million.²

We respectfully ask policymakers to focus on improving recycling for materials with low recovery rates, instead of creating mandates and fees for paper producers that could direct capital away from investing in recycling infrastructure. The paper industry has a demonstrated, measurable record of success in making paper and paper-based packaging more circular and sustainable through market-based approaches. Extended producer responsibility (EPR) policies are typically applied as a solution for hazardous, hard-to-handle materials with low recycling rates, such as batteries, paint, mattresses, or electronics. For a highly recycled material like paper, with widely accessible collection programs and robust and resilient end markets, EPR could disrupt efficient and successful paper recycling streams in an attempt to improve the least effective streams. Moreover, mandating fees on packaging producers could increase consumer costs, unfairly burdening people with low and fixed incomes.

The Paper Industry is a Responsible Producer

Paper recycling rates in the U.S. have consistently increased in recent decades, with 68 percent of paper recovered for recycling in 2021.³ The paper industry recycles about 50 million tons of recovered paper every year — totaling more than 1 billion tons over the past 20 years. According to the EPA, more paper

¹ The American Forest & Paper Association (AF&PA) serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. The forest products industry is circular by nature. AF&PA member companies make essential products from renewable and recycle resources, generate renewable bioenergy and are committed to continuous improvement through the industry's sustainability initiative — [Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future](#). The forest products industry accounts for approximately four percent of the total U.S. manufacturing GDP, manufactures nearly \$300 billion in products annually and employs approximately 950,000 people. The industry meets a payroll of approximately \$60 billion annually and is among the top 10 manufacturing sector employers in 45 states.

² Data sources: U.S. government, AF&PA, and RISI. Figures are the most recent available as of December 2020.

³ <https://www.afandpa.org/priorities/recycling>

by weight is recovered for recycling from municipal waste streams than plastic, glass, steel, and aluminum combined.⁴ The paper industry has planned or announced around \$5 billion in manufacturing infrastructure investments by the end of 2024 to continue the best use of recycled fiber in our products, resulting in an over 8 million ton increase in available capacity.⁵

This success has been driven by the paper industry's commitment to providing renewable, sustainable, and highly recycled products for consumers. Recycling is integrated into our business to an extent that makes us unique among material manufacturing industries – our members own 114 materials recovery facilities and 80 percent of paper mills use some amount of recycled fiber. Any EPR system must fully and fairly credit the early, voluntary action our industry has taken to advance the recycling rate of our products, and strictly prohibit the use of fees generated by one material to subsidize development of recycling infrastructure for competing materials with lower recycling rates.

In fact, our industry's recycling rates are so successful that some products are approaching the maximum achievable recycling rate. The three-year average recycling rate for the material that would be most impacted by EPR, old corrugated containers (OCC), is already 90.5 percent.⁶ In addition, 95.1 percent of Marylanders have access to residential curbside recycling.⁷ The state already has a well-developed and accessible paper and paperboard recycling system, thus negating the need for an EPR program.

EPR Policies Introduce Uncertainty in Fee Structure and Disrupt Flow of Material

EPR policies must be carefully designed to avoid creating fees or mandates which could disrupt efficient and successful paper recycling streams, and direct private sector funds away from investment in recycling infrastructure. SB 222 requires funding to be given to local governments to pay for their collection of readily recyclable materials, but this is a cost-shifting mechanism common in other EPR programs that does not create added value or end markets for recyclable materials. The paper industry already contributes to economically sustainable recycling programs by purchasing and utilizing material sourced from residential collection programs in manufacturing new products.

This bill requires the stewardship organization to set product performance goals. There needs to be clear justification for the numbers and consideration of individual products and the voluntary action already underway. Recovered fiber markets are complex, efficient, and dynamic and are not served by regulations or prescriptive approaches to specify the use of recycled fibers or dictate what type of recovered fiber is used in products. Moreover, the preference for “post-consumer content” in packaging could be contrary to sustainability goals. Rather than drive increased paper recycling, recycled content minimums in paper products could: make markets for recovered fiber less efficient; prevent recovered fiber from going to highest value end use; raise the cost of production for new paper products; and narrow available choices for consumers.

Market forces and voluntary efforts have achieved strong gains in paper recycling and are expected to continue to do so in the future. Putting pressure on producers to arbitrarily change content in certain paper products interrupts the market-based utilization of recovered fiber, prevents recovered fiber from

⁴ https://www.epa.gov/sites/default/files/2021-01/documents/2018_ff_fact_sheet_dec_2020_fnl_508.pdf

⁵ The Recycling Partnership; Northeast Recycling Council. Last updated: December 2021

⁶ <https://www.afandpa.org/news/2021/resilient-us-paper-industry-maintains-high-recycling-rate-2020>

⁷ <https://www.afandpa.org/priorities/recycling/what-were-doing>

flowing to its highest value end-use, is counterproductive both economically and environmentally, and is inconsistent with the precepts of sustainability.

Recycling programs in the U.S. are operated by local governments, which have more freedom to tailor recycling programs to the needs of local communities. The record of highly centralized, command-and-control EPR programs in Canada and Europe offers no real proof of advantages over the market-based approaches and locally-operated programs prevalent in the U.S. In fact, a 2021 research paper performed by York University in Ontario concluded there is no evidence to indicate the steward-operated EPR program in Canada will result in cost containment or increased recycling performance.⁸

In addition, we believe the lack of individual producers serving as voting members on the current Advisory Council is problematic. As the entities who are ultimately responsible for both creating and complying with the producer responsibility plan, paper-based packaging producers have a wealth of knowledge and expertise that should be drawn upon at the Advisory Council level.

Focus On Solutions for Products with Low Recycling Rates

Policymakers should take a more solution-oriented approach focused on problematic materials in the commingled residential collection stream. Paper recycling has enjoyed decades of success because of the industry's investments, consumer education, the wide availability of recycling programs, and the efforts of millions of Americans who recycle at home, work, and school every day. The paper products industry is proud to be part of the recycling solution by providing renewable, sustainable, and highly recycled products for consumers.

We respectfully ask policymakers to focus on improving recycling for materials with low recovery rates that contaminate the recycling stream. Legislation such as HB 217, the Task Force on Recycling Policy and Recycling and Waste Systems bill introduced last session, can serve to support increased recycling rates for low-performing materials without adding new burdens on industries which are already part of the solution. AF&PA continues to support promoting increased participation in community recycling programs and other best practices, in addition to focusing on hard-to-recycle materials where there may not yet be a well-developed collection infrastructure or good recovery results.

We encourage the Committee to avoid measures that might penalize paper and paper-based packaging and their existing successful recycling programs. We look forward to continuing our work with the State of Maryland, and you or your staff may contact Elizabeth Olds, AF&PA Manager, Government Affairs at Elizabeth.Olds@afandpa.org for further information.

Sincerely,



Eric J. Steiner
Vice President, Government Affairs
American Forest & Paper Association

⁸ Review of Recycle BC Program Performance, Dr. Calvin Lakhan, York University

MD SB 222 EPR-AHAM Comments (00117346xB9B4F).pdf

Uploaded by: Jacob Cassady

Position: UNF



1111 19th Street NW > Suite 402 > Washington, DC 20036
t 202.872.5955 f 202.872.9354 www.aham.org

TESTIMONY

Jacob Cassady
Director, Government Relations

On Behalf of
The Association of Home Appliance Manufacturers

Before the Maryland Senate
Education, Energy and the Environment Committee

HEARING

SB 222:
Reducing Packaging Materials – Producer Responsibility

February 9, 2023

Chair Feldman, Vice-Chair Kagan and members of the Education, Energy and the Environment Committee, SB 222 would establish a system of addressing packaging waste and recycling in Maryland and for the reasons outlined below, the Association of Home Appliance Manufacturers (AHAM) is strongly opposed but willing and committed to work with you on proven solutions that are effective.

AHAM represents more than 150 member companies that manufacture 90% of the major, portable and floor care appliances shipped for sale in the U.S. Home appliances are the heart of the home, and AHAM members provide safe, innovative, sustainable and efficient products that enhance consumers' lives.

The home appliance industry is a significant segment of the economy, measured by the contributions of home appliance manufacturers, wholesalers, and retailers to the U.S. economy. In all, the industry drives nearly \$200 billion in economic output throughout the U.S. and manufactures products with a factory shipment value of more than \$50 billion.

In Maryland, the home appliance industry is a significant and critical segment of the economy. The total economic impact of the home appliance industry to Maryland is \$1.2 billion, more than 3,540 direct jobs and 4,390 indirect jobs, \$194.1 million in state tax revenue and more than \$426.6 million in wages.

SB 222 would require a stewardship organization to implement and manage a packaging stewardship program for the recovery of all packaging materials, which will penalize all packaging materials and consumer goods while not addressing the environmental and social impact of plastic packaging. Assigning costs to all packaging material does not solve the primary problem of plastic waste and provides a disincentive to transition to non-plastic packaging.

The home appliance industry takes its responsibility to provide solutions to help reduce waste seriously. Manufacturers continue to evaluate and research more sustainable alternatives for product packaging. The industry regularly collaborates with environmental advocates and policymakers to achieve goals like greater appliance efficiency. Current all-material packaging EPR programs essentially just fund the status quo, expensive and complex. AHAM supports solutions that are simple, effective and efficient.

Approach Would Negatively Impact the Recycling System in Maryland

Maryland would not be the first state to explore a packaging stewardship program. The state of Connecticut established a Task Force to Study Methods for Reducing Consumer Packaging that Generates Solid Waste in 2016. The Task Force released its recommendations in February 2018 after a year of stakeholder meetings, expert testimony, and public comments. The final recommendations did not recommend product stewardship as a means of reducing consumer packaging that generates solid waste with concerns over the creation of a recycling monopoly through a product stewardship organization, pushing Connecticut recycling firms out of business and forcing higher costs on the collection and recycling system as a whole.

EPR is Not a Proven Solution to Waste Management Challenges

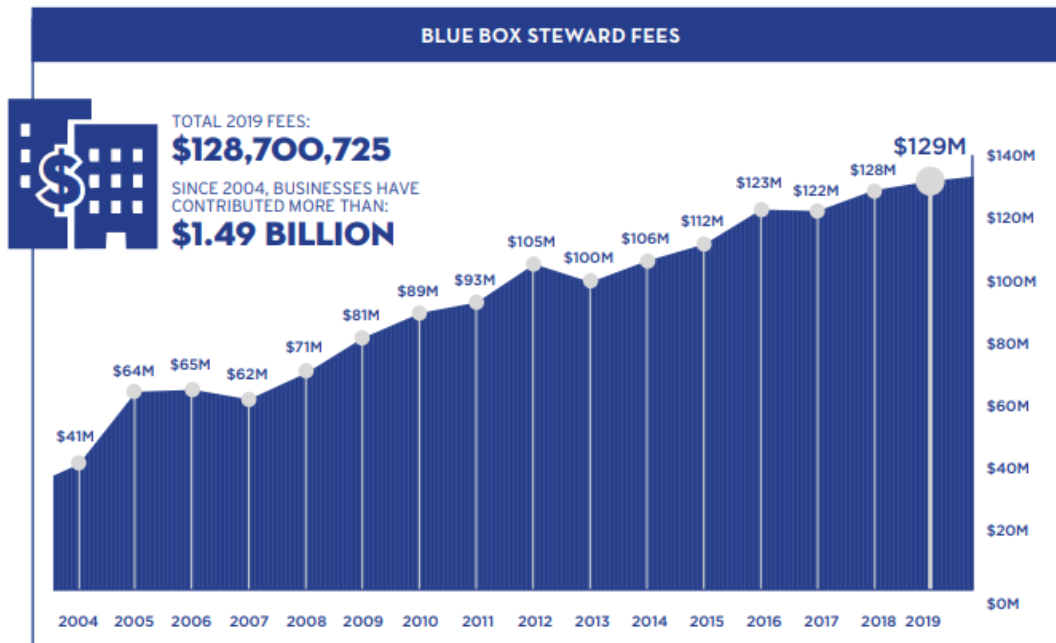
AHAM understands that the intent of this legislation is to manage packaging in the state. While this bill's result would likely reduce costs to municipalities, it would increase costs for its residents and create little to no changes in how municipalities deal with recycling and waste. In practice, where these programs have been adopted in other countries, the municipalities or other solid waste and recycling entities continue to charge the public the same amount for their services as they did prior to implementation of an EPR program and the public pays more for products. Therefore, there is no actual "shift" in financial responsibility to the producer. Instead, absent any offsetting reductions in their municipal solid waste and recycling fees, consumers are caught in the middle and wind up paying more. To make matters worse, the ever-increasing costs from EPR programs actually create a disincentive for achieving greater energy savings and other potential benefits. The cost increase from EPR could deter consumers from purchasing new appliances, which are more energy and water efficient, and more sustainable.

In addition, EPR attempts to insert a product manufacturer into the recycling stream, but the manufacturer has limited ability to influence consumer behavior regarding recycling or to change municipal waste policies that can drive greater recycling. In reality, EPR often results in hidden new costs to consumers that are by and large used to pay for the operation of a stewardship organization, substantial manufacturer compliance and reporting costs, and the government agency that is providing oversight.

In Canada, "EPR" packaging programs exist in various provinces, with manufacturers having to comply with each program that varies in scope. This is very costly to both manufacturers and to residents and has shown to be ineffective in improving recycling rates or achieving any of the recycling targets that are set. Ontario and British Columbia (B.C.) have two of the more recognized programs. In Ontario, program costs have increased on average 8% per year and have tripled since its inception (see below).¹ In B.C., the program costs are 28.5 percent higher since 2014 (average annual increase of 5.2 percent).²

¹ Stewardship Ontario. (2019). 2019 Annual Report. Stewardshpontario.ca

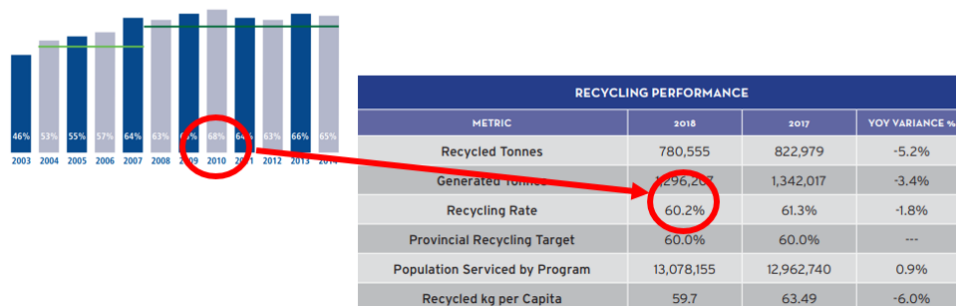
² Recycle BC. (2019) Annual Report 2019. Recyclebc.ca



-Stewardship Ontario 2020 Report

While the program costs skyrocket, the recovery rate is worse. In Ontario’s program materials recovery rate decreased from 68 percent to 60 percent (see below) and B.C’s has decreased by 2.4 percent. And to be clear, this is not even “recycling rate,” but “recovery rate,” which measures the reported amount of materials into the system compared to the amount collected.

Recovery Rate **decreased** from 68% in 2010 to 60.2% in 2018



Recycle BC and Stewardship Ontario are the only package recycling programs approved by each province’s Government, and as a result all obligated parties must adhere to their strict rules and regulations. This includes local processors and recyclers of materials, which if these programs choose not to do business with them, they will be out of business.³

³ Note, Stewardship Ontario is currently winding down its program to restart under a new Ontario Authority, which aims to shift program costs completely to obligated parties

Packaging Recycled Outside of the Residential System Should be Exempt

Typically, when a new appliance is delivered and installed, the company delivering the appliance removes the packaging and takes it away for recycling. Through the business-to-business channel, materials are recycled and discarded accordingly, without placing a burden on municipal waste and recycling systems. The inclusion of Institutional, Commercial and Industrial (IC&I) would create significant unfairness and cross-subsidization between manufacturers. It also would create significant additional complexity and cannot be tracked by manufacturers on a unit level basis. For example, stretch wrap applied to a pallet of small appliances may be applied by a third party at a distribution center or after the manufacturing process, and service parts shipped to a service provider may sometimes be packaged individually and sometimes with multiple parts. The variability of packaging related to IC&I and service parts would add major complexity to manufacturer compliance requirements, ultimately raising costs for Maryland consumers. In addition, material collected in business-to-business transactions have less contamination, which makes recycling easier. Placing this material in the more contaminated “blue box” recycling stream is lowering the recyclability of this material.

Producers who can provide records to validate packaging recovery outside of residential systems should have those materials exempted. Existing law in Oregon exempts packaging if a producer can demonstrate that their packaging is recovered as a function of the distribution chain and is recycled at a responsible end market.

Oregon Law (SB582) states the following:

A producer may demonstrate to the department that a material is exempt from the requirements for a covered product if the material:

(A) Is collected through a recycling collection service not provided under the opportunity to recycle;

(B) Does not undergo separation from other materials at a commingled recycling processing facility; and

(C) Is recycled at a responsible end market.

The revised Ontario regulation allows for two deductions and home delivered appliances are one of them. This is a common deduction in Canada.

Allowable deductions are those Blue Box materials that are:

Collected from an eligible source at the time a related product was installed or delivered. For example, packaging that is supplied with a new appliance and is removed from the household by a technician installing the new appliance.⁴⁵

Appliance Packaging Has Unique Needs and Requirements

The legislation would require recycled content for plastic packaging, which includes expanded polystyrene (EPS). EPS is used around the edge of large appliances to protect it and workers during storage, transport and delivery. EPS is the preferred material for this use since it is lightweight, withstands multiple impacts and maintains its integrity in humid conditions.

⁴ <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB582>

⁵ <https://www.circularmaterials.ca/faq/>

Worker safety during transportation and at distribution centers must be considered especially when dealing with large appliances such as refrigerators, freezers, dishwashers, cooking ranges, washers and dryers. Once assembled, major appliances are often packaged, stored and moved in very large warehouses or distribution centers. These facilities often have limited climate control and can experience extreme temperature and humidity changes. Low temperatures can cause packaging materials to become brittle while humidity and heat can affect the packaging's structural integrity and limit the effectiveness of adhesives or the strength of products that are made from fiber.

For safety purposes, it is vital to maintain the structural strength of packaging materials, particularly with respect to major appliances that are housed in stacks that are three or four appliances high. Furthermore, these appliances are often moved around by clamp truck and the packaging must withstand the force of the clamps in order to be moved efficiently. Other paper alternatives such as cardboard, molded pulp or honeycomb can only handle a single impact and loses its integrity in hot and humid environments.

Producers May Not Have Data on Where Products Are Ultimately Sold and Used

Producers of products that are sold through national and even US-Canada distribution chains do not have control or information pertaining to how products move through various distribution and retail networks. For example, an appliance manufacturer that ships products to a distribution center likely is unable to determine the location of final product sale and use. In such situations, a producer would only be able to report on products shipped to a distribution center, which could be regionally based inside or outside of Maryland. This also would be a major disincentive for maintaining and locating new distribution facilities in Maryland and could lead to sales data that does not accurately reflect what is sold to Maryland consumers.

Conclusion

AHAM appreciates the opportunity to provide comments on SB 222. Manufacturers of consumer products need flexibility in choosing appropriate materials for packaging their products to avoid situations that cause product breakage and damage during transport (which ultimately increases the lifecycle impact of the product) as well as to deter theft of smaller, high value electronics from retail establishments. An EPR program would increase costs for the industry thereby limiting the available resources for companies to invest in innovative and sustainable packaging solutions. The current system for appliances and appliance packaging works, and it should be allowed to continue on its successful path. For future reference, my contact information is (202) 202.872.5955 x327 or via electronic mail at jcassady@aham.org.

MDEPRbill2023.pdf

Uploaded by: Terri Beirne

Position: UNF



Opposition to MD SB222/HB284 - Producer Responsibility Act

Wine Institute is a public policy association representing more than 1,000 California wineries. Responsible for 80% of domestic wine production, the California wine industry is committed to sustainability. Nearly 80% of California wine is certified under a statewide sustainability program encouraging packaging with recycled content, reusability, takeback or recyclable packaging, and non-toxic materials. We support greater recovery of wine packaging and are committed to efficient, cost-effective methods for handling wine packaging, but Wine Institute cannot support SB222/HB284, which are problematic in their approach.

These bills shift the cost of Maryland's collection and recycling system for wine containers and other packaging materials to a mandatory producer responsibility organization (PRO) without granting the PRO autonomy to run recycling programs efficiently. There is costly government oversight and involvement, for which the PRO must foot the bill. Further, the bills provide no shared responsibility for consumers to become good stewards of packaging, which is crucial to a healthy recycling system. In the end, a hefty government price tag for modernizing an outdated and inefficient recycling system will be passed along to Maryland consumers in the form of higher prices and potentially less selection.

SB222/HB284 contain an important provision we support – a new requirement for a statewide recycling needs assessment. However, unlike current law and that proposed under this legislation, such an assessment must occur more frequently than every 10 years, and include the insight and expertise of industry members, not merely staff in the Office of Recycling. Further, any preliminary assessment must be completed prior to passage of new laws to ensure they solve and do not create new problems.

1) Effective EPR programs are industry-run with government oversight, not involvement

It is most efficient for a PRO to have autonomy to decide all issues relating to the recovery and recycling of the materials they utilize. State involvement should be limited to approving an initial PRO plan, conducting compliance audits and reviewing subsequent PRO plans every five years.

Further, the fees that producer members pay a PRO should be used for the core mission of recycling covered products; they should not be paid to the Office of Recycling to conduct assessments. Driven by rising costs and supply chain limitations, producers are already assessing their packaging and striving to increase recycling rates and post-consumer recycled content. What producers need is a vehicle to lawfully collaborate on such efforts without triggering anti-trust concerns. Government involvement triggers fees and unnecessary oversight.

Domestic wineries have been battered by COVID-19 tasting room restrictions and shutdowns, unprecedented wildfires and trade tariffs. Losses to the US wine industry due in 2020 are estimated at \$1.4 billion with an additional \$3.7 billion in lost future sales. Wineries are in no position to absorb

additional layers of fees, reimbursements and penalties proposed in these bills. Such increases in the cost of doing business as proposed under this legislation would necessarily be passed on to Maryland consumers in the form of higher prices.

2) Effective EPR programs share responsibility between producers and consumers

Shared responsibility between producers and consumers is a common feature of successful EPR programs outside the US. While producers pay membership fees to support a PRO to conduct assessments and propose goals, consumers must also assume some responsibility. Consumer responsibility initiatives should be outlined in preliminary statewide needs assessments and can take various forms, such as:

- “Pay as you throw” waste policies that charge consumers for garbage collection and hauling by weight, incentivizing consumers to recycle as much as possible to reduce their garbage bill;
- Charging “tipping fees” so it is not cheaper to landfill than to recycle. If tipping fees increase or there are penalties to waste companies that landfill recyclables, waste companies will raise rates, also incentivizing consumers to recycle as much material as possible;
- Paying a non-refundable “eco fee” or “container recycling fee” at the time of purchase; and
- Eliminating single stream recycling, which requires additional consumer labor to separate materials into various bins to keep other recyclable material from contaminating glass, for example.

For more information, please contact Wine Institute Eastern Counsel Terri Cofer Beirne at theirne@wineinstitute.org or the Wine Institute lobbyist in Maryland, Lorenzo Bellamy at lorenzo@bellamygenngroup.com.

SB 222_RestaurantAssoc_Thompson_INFO.pdf

Uploaded by: Melvin Thompson

Position: INFO



February 9, 2023

Senate Bill 222 – Environment – Reducing Packaging Materials - Producer Responsibility

Dear Education, Energy, and the Environment Committee:

The Restaurant Association of Maryland sincerely appreciates that the bill sponsor has been working with us to address our questions and concerns regarding Senate Bill 222. We especially appreciate that this legislation would not apply to a restaurant establishment with more than \$5,000,000 in gross revenue during the immediately preceding calendar year, is headquartered in the State, and primarily sells to members of the public food that is generally intended to be consumed immediately and without the need for further preparation.

We opposed this legislation as introduced last year because of numerous concerns. With respect to this year's Senate Bill 222, we continue to have conversations with the bill sponsor regarding the scope of the restaurant exemption language for various operational scenarios (e.g., restaurants based elsewhere but operating as a separate Maryland LLC, restaurant franchisees, franchisors, etc.). We have also shared other questions and concerns with the bill sponsor regarding branded vs. non-branded food service packaging materials, our industry's challenges with meeting the 25% packaging material waste reduction requirement specified in the bill, and clarification about some other vague language in the legislation.

We hope to continue working with the bill sponsor on potential amendments to address our remaining concerns.

Sincerely,

A handwritten signature in black ink that reads "Melvin R. Thompson". The signature is written in a cursive style and is followed by a long horizontal flourish.

Melvin R. Thompson
Senior Vice President
Government Affairs and Public Policy

SB222_INF_MRA.pdf

Uploaded by: Sarah Price

Position: INFO

MARYLAND RETAILERS ASSOCIATION

The Voice of Retailing in Maryland



SB222 Environment - Reducing Packaging Materials - Producer Responsibility **Senate Education, Energy, and Environment Committee** **February 9, 2023**

Position: Informational

Background: SB222 would establish a packaging producer responsibility program in Maryland.

Comments: The Maryland Retailers Association (MRA) is not unsupportive of a statewide approach to address issues with our waste stream and the effects of climate change. We strongly support a comprehensive, informed, and fact-based approach to correct problems with the waste stream and recycling infrastructure in Maryland. To that end, MRA has testified favorably on a variety of bills in recent years that proposed studies and task forces to review recycling and waste policies and systems in the state.

MRA believes that a truly comprehensive, wholistic approach is necessary to adequately address concerns about waste, contaminated recycling streams, and the effects of climate change. Bans on individual products, restrictions on the use of certain materials or labels at certain times, as-yet unstudied programs, and a lack of preemption will result in a patchwork of overlapping policies, conflicting standards and requirements, and interstate commerce issues. Increased recyclability and waste diversion goals must be accompanied by robust infrastructure to process every facet of the waste stream.

SB222 includes requirements to conduct regular statewide recycling needs assessments after the extended producer responsibility program has already been mandated. Regular studies will positively impact the effectiveness of the program over time; however, these assessments should begin before a policy is crafted, not after. Constructing a packing responsibility policy without a full understanding of the needs and capabilities of the State's infrastructure runs the risk of implementing an inadequate program that falls short of statewide needs and conflicts with existing State and local approaches, not to mention goals that have already been set independently by industry stakeholders. MRA would support the legislature in conducting an initial needs assessment and then returning to carefully craft a comprehensive, collaborative, and data-driven statewide policy package plan with stakeholders.

Thank you for your consideration.

MDE_LOI_SB0222.pdf

Uploaded by: Tyler Abbott

Position: INFO



February 09, 2023

The Honorable Brian J. Feldman, Chair
Education, Energy, and the Environment Committee
Miller Senate Office Building, 2 West
Annapolis, Maryland 21401

Re: Senate Bill 222 - Environment - Reducing Packaging Materials - Producer Responsibility

Dear Chair Feldman and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed Senate Bill 222, which would establish a producer responsibility program for packaging materials distributed in Maryland. MDE would like to provide additional information regarding this bill.

Senate Bill 222 require MDE to do the following:

- Conduct a 10-year statewide recycling needs assessment in consultation with producer responsibility organizations, the advisory council, local government entities, and regional solid waste organizations. A report on the results of the assessment must be submitted on or before April 1, 2025 and every 10 years thereafter.
- Coordinate with producer responsibility organizations to establish performance goals, based upon the results of the assessment, for each packaging material type that must be incorporated into producer responsibility plans.

Beginning July 1, 2024, and each year thereafter, producer responsibility organizations will be required to file a registration form with MDE. On or before April 1, 2026, each producer of packaging materials, individually or as part of a producer responsibility organization, would be required to develop and submit a producer responsibility plan to MDE for review and approval. Within 120 days of receiving a proposed producer responsibility plan, MDE would need to either approve, approve with conditions, or reject the plan. Within 6 months of a producer responsibility plan being approved, a producer responsibility organization must implement the approved plan. On or after a date established in regulations, a producer may not sell, offer for sale, distribute, or import for sale or distribute packaging materials for use in the state unless the producer and the brand of packaging material is covered under an approved plan. By March 1 each year, beginning in 2027, each producer responsibility organization would be required to submit to MDE an annual report on their progress towards meeting the requirements of the producer responsibility plan, including the performance goals, for the immediate preceding year.

MDE is supportive of initiatives that will fund and improve local recycling systems and engage producers in the sustainable management of their products. Extended producer responsibility legislation, such as this bill, aligns with MDE policy and is aimed at encouraging the development of

a circular economy for recyclable materials by increasing the amount of materials collected and recycled, while creating new markets by requiring producers to use a certain percentage of recycled content in new products. Several states have introduced legislation over the past few years to establish extended producer responsibility programs. In fact, both Maine and Oregon passed legislation in 2021 that required producers of packaging to implement producer responsibility programs and to achieve performance goals aimed at reducing, reusing, and recycling these products.

Amendment: MDE would like to request being added as an Ex-Officio member of the Producer Responsibility Advisory Council to ensure we have a seat at the table during these discussions.

Thank you for your consideration. We will continue to monitor Senate Bill 222 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-453-3235 or by e-mail at gabrielle.leach@maryland.gov.

Sincerely,



Gabrielle Leach
Deputy Director, Legislative and Intergovernmental Relations

Cc:

The Honorable Malcolm Augustine
Tyler Abbott, Director, Land and Material Administration

