March 27, 2023

The Honorable Kumar Barve
Chairman
Maryland House Environment and Transportation Committee House Office Building Room 250
Annapolis, MD 21401

Re: Testimony in Opposition to Senate Bill 222

Dear Chairman Barve and Members of the Committee:

The Glass Packaging Institute (GPI) offers the following comments for SB 222, which would create an extended producer responsibility (EPR) program Maryland. **Due to numerous concerns (outlined below), GPI must oppose the legislation as currently drafted.**

GPI is the North American trade association for the glass food and beverage manufacturing companies, glass recycling processors, raw material providers and other supply chain partners within the industry. GPI and its members work closely with local and state governments throughout the country on issues surrounding sustainability, recycling, packaging manufacturing and energy use.

As I have testified to this Committee several times prior, GPI continues its work nationally and across states to improve glass recycling infrastructure and systems to achieve a 50 percent consumer glass recycling rate, and advance policies in support of that goal.

Glass Container Recycling Background
Glass is a core circular packaging material which is reusable, refillable, and endlessly recyclable. The vast majority of glass containers are for food or beverage products, and glass is the only packaging material generally recognized as safe by FDA for all food and beverage products. Public sentiment strongly rates glass as one of the most supported materials in the recycling stream, and glass has the strongest profile to aid in refillable beverage systems.

The glass container manufacturing industry has a significant stake in the effectiveness of glass recycling programs. Recycled glass is a key component of the manufacturing process. The industry purchases about 2.3 million tons of recycled glass each year and the average bottle or jar produced in the U.S. contains 1/3 recycled glass. For every 10% of recycled glass added to the batch mix, energy usage can be reduced 2-3 percent, with additional corresponding reductions in greenhouse gas emissions. When you add the benefit of what is a better than 1 to 1 offset of raw materials saved by using recycled glass to make new

containers, it is clear that using recycled glass has significant benefits to the environment of the region and should be prioritized.

Broad Concerns with Senate Bill 222

While our section-specific concerns are outlined below, GPI's broadest concern with the legislation is the absence of any ***quality*** standards, goals, or requirements in SB 222 for covered packaging materials, and the ***over-reliance on the existing system*** managed by local governments.

Quality: The issue of quality relates directly to the available markets for recyclable materials as they move through the collection, sorting, and processing to end market supply chains. Quality and contamination are key differentiators to the value and potential end-markets for recycled glass, and frankly, all other packaging collected through an EPR program. EPR programs should include a clear avenue for recyclable quality improvement through defined benchmarks.

Quality metrics within SB 222 would be completely consistent with the intent of the framework for the legislation (Page 13), where improvement of recycling systems and improvement of recycling markets are specifically called out. Elements of recyclable and packaging quality work together to improve both of those metrics and should be included in the needs assessment on pages 5 & 6, as well as in the PRO plan.

Existing-system: GPI believes that EPR programs should not merely be used to shift costs for the existing commingled system but should also improve the system. The use of commingled single-stream systems may save on collection costs when communities pay for collection, but they decrease quality, yield, and make every other step in the recycling process more costly for packaging material commodities. The key to successful EPR programs improving recycling rates and is to separate the collection streams in some manner. In particular glass, which is completely and infinitely recyclable, is harmed to a greater degree in commingled systems than other materials.

Page 15 – Section 9–2503, 2(d) – Container Deposit program

Language allowing for the ability of a beverage container deposit program to be developed by a Producer Responsibility Organization (PRO), in parallel with a broader EPR program, has been struck. To our broader concern outlined above regarding reliance on the existing system, deposit return programs are a proven way of creating a cleaner separate collection stream.

Comment – Three of the four states (California, Maine and Oregon) that have legislatively passed EPR programs and are currently undergoing the regulatory implementation process, currently have bottle deposit programs in place. The Colorado law, and other states considering EPR without existing programs also usually include an off-ramp for bottle bill programs to be developed by exempting beverage containers under deposit from EPR fees. This also recognizes the utility of local dairy refillable bottle programs, that exist in Maryland.

These existing bottle bill programs will remain in place throughout the development of the respective EPR programs, primarily because they already ensure high recovery and recycling of covered containers across packaging substrates, reduce stress on largely single stream collection and recovery programs, and decrease the amount of packaging headed to landfills. Including a potential deposit return program off-ramp path for certain packaging under S. 222 is critical in helping to ensure overall high recycling rates and future EPR program success in Maryland.

Add to this point, there is no reason why multiple PROs cannot be included in an EPR program for Maryland – options to include multiple PROs to handle the variety of covered packaging exist in statute in other states currently developing EPR regulations. An additional PRO can and should be allowed under SB 222, so a bottle deposit program can have the opportunity to be formed during the regulatory process, should Maryland choose that path. The EPR PRO, dominated by non-beverage packaging material interests, should not run a deposit program created for beverage containers.

We ask that this section be amended, and the struck language eliminating the option for a bottle bill program be placed back inside SB 222; that beverage containers under deposit be exempted from EPR fees; and the provision on pages 15 and 16 that prescribe the creation of only one PRO be amended to allow for an additional PRO should a beverage container deposit return program be created.

Page 19 – Producer Responsibility Plan, Part 4

Language requiring all producers to achieve "not less than" a 25% reduction in packaging material waste, by material type, within five years.

Comment – While GPI appreciates the inclusion of "to the maximum extent possible", this is the type of broad language attempting material "neutrality" that does not account for the varying conditions, systems and markets that underlie each different material type. **This section could result in a devastating impact** for producers who use glass bottles and jars, and for the glass container industry. Glass is only used as a primary (direct) packaging material, and as such, no producers can reduce their packaging waste for glass by reducing their secondary or tertiary packaging.

Glass is a 100% endlessly recyclable package that has reduced its bottle weight by nearly half over the past 40 years, **but an additional 25% reduction** (which will likely be measured by weight), **is simply not practical** and would result in producers switching out of glass to cans, plastics, aseptic or other competitive packaging, unless the system were dramatically improved, which does not seem likely given our other concerns. In the absence of more clear direction for the PRO, **GPI suggests that packaging material waste reductions targets for producers be across their entire portfolio, and not by material type,** or that this section be struck entirely.

Pages 23-24 Producer Fee Structure

GPI is concerned that the proposed fee structure, for which the producers would pay based on packaging they sell in the state would unfairly target glass and encourage producers

selling covered packaging in Maryland to switch out of glass to other packaging formats. The primary cost considerations for producers are a recyclable's commodity value, alongside the cost to collect, transport and process the recyclable.

"Commodity Value" is undefined in the bill. The value of glass in single-stream systems, the predominant collection program across Maryland's municipalities, is harmed from the moment the typical recycling truck hydraulic press crushes the mixed load of materials. Glass suffers to a larger degree due to how most materials recovery facilities (MRFs) process the broken glass as a "negative sort", screening the smaller fragment material into a pile of residuals, while the larger media is sorted whole or in larger segments and baled.

The glass commodity is laden with residual contamination, usually shredded paper, small plastics, and other small non-recyclables that do not belong in the bin in the first place. Often, this leads local government officials, and their contract service partners to suggest that the "glass commodity" value is negative. Without context, the glass commodity at most MRFs is going to be 30-50 percent non-glass residue (NGR), and then the glass processor (that handles the secondary sort) must haul out the contaminated materials, pay the landfill tip fee, resulting in a negative value.

The above noted, any costs assessed to brands based on a recyclable material's commodity value should be measured at the end of the recycling and processing steps, when the quality of the material ensures it is reusable for manufacturing. This change will help to eliminate what may be considered "recycled glass" in the earlier sorting processes, but ultimately ends up in landfills for disposal.

Similarly, while the section on "eco-modulation", which would provide offsetting fees for materials like glass that contain consistent levels of recycled content is appreciated, there is no defined structure around eco-modulation itself. Third party verification of recycled content levels, how high those levels would need to be, and audits connected to packaging eligible for reduced fees needs to be outlined more clearly in the legislation.

Also absent in the fee structure, is a clear direction to account for the quantity of packages covered in the EPR program. As a primary goal should be to reduce the amount of packaging in the waste and recycling streams, knowing how many units are being managed, and developing metrics to reduce packaging required to be sorted, processed and resold should receive greater prioritization.

Finally, while GPI has long supported investments in materials recovery facilities (MRFs) to improve the quality of recyclables covered, those facilities are slated to receive priority funding from the producer fee payments, with no standards tied to improved recyclable quality, metrics, output, or reduced contamination levels from investments made either before, or after the pre and post-secondary processing stages.

We encourage the Committee to consider inclusion of quality metrics, so those investments can be evaluated, and recyclable quality improved for the recycling supply chain and end markets. Related to this, there should be a more robust understanding in the bill that

contamination is both inbound from consumers, and outbound from MRFs to secondary processing markets.

Page 33 – Section 2
Language requiring local governments to file feasibility plans to prioritize the sale of recycled packaging materials back to manufacturers that have a manufacturing facility in the State.

Comment – Recycling markets for glass are typically regional in nature, and not state-specific. This is particularly true for Maryland, with its unique geography bordering four states, as well as the District of Columbia; two of which have nearby direct recycling end markets for glass.

Glass collected and processed in Maryland brings defined economic benefits and value back to the state. Stable and consistent glass container end markets and plants regularly purchase Maryland's recycled glass for use in the manufacture of new containers in New Jersey, Pennsylvania and Virginia. Glass recycling and in-state processing/cleaning in Maryland has also grown over the past two years, with member companies adding or exploring additional processing opportunities, with end-markets in neighboring states.

GPI asks that this section be amended to include manufacturing facilities in the mid-Atlantic region, recognizing the closely connected, and regional end market supply chain structure.

Thank you for your consideration of our concerns, and suggestions to improve upon SB 222. We remain committed to working constructively with the Committee and all stakeholders to improve glass recovery and recycling in Maryland.

Sincerely,

Scott DeFife
President