

SB 222 - FWA - MML.pdf

Uploaded by: Angelica Bailey Thupari

Position: FAV



Maryland Municipal League

The Association of Maryland's Cities and Towns

TESTIMONY

March 29, 2023

Committee: House Environment & Transportation

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

Position: Support with amendments

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, the uncodified language in Section 2 creates a problem. Requiring local governments to file a feasibility plan with MDE that would sell recycling material back to the producer is unduly burdensome without sufficient rationale.

We recognize the changes made to this year's version and believe this will be a net-positive for the State and our cities and towns. With removal of Section 2, MML would respectfully request a favorable report.

FOR MORE INFORMATION CONTACT:

Theresa Kuhns
Angelica Bailey Thupari, Esq.
Bill Jorch
Justin Fiore

Chief Executive Officer
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Testimony - SB 222 Packaging Materials-Support-UUL

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: Delegate Kumar Barve, Chair and Members of the Environment
and Transportation Committee
FROM: Phil Webster, PhD, Lead Advocate on Climate Change
Unitarian Universalist Legislative Ministry of Maryland.
DATE: March 29, 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,

www.uulmmd.org info@uulmmd.org www.facebook.com/uulmmd www.Twitter.com/uulmmd

SB0222 Packaging Materials - Producer Responsibili

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0222 ENVIRONMENT - PACKAGING MATERIALS – PRODUCER RESPONSIBILITY

Bill Sponsor: Senator Augustine

Committee: Environment and Transportation

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.

SB0222-ET_MACo_SUP.pdf

Uploaded by: Dominic Butchko

Position: FAV



Senate Bill 222

Environment – Reducing Packaging Materials - Producer Responsibility

MACo Position: **SUPPORT**

To: Environment & Transportation and
Economic Matters Committee

Date: March 29, 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.

Counties do have one concern regarding the amendments adopted by the Senate. Page 33, lines 22-25 require that counties must file a feasibility plan with MDE regarding the sell back of any recovered recycled material to the manufacturer.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2024, each local government in the State shall file a feasibility plan with the Department of the Environment that prioritizes the sale of recycled packaging materials back to manufacturers that have a manufacturing facility in the State.

The logistics of sorting through who manufactured what item and making sure that plastic is somehow directed back to the manufacturer would be difficult – if not impossible – for the (mostly local governmental) entities charged with this responsibility. Recycled material is typically bulked together by plastic type, and then processed. The extra layer of sorting by manufacturer would add a high level of unnecessary complexity and pose inefficiency on these functions. Furthermore, this recycled plastic is sold on the open market at market rate. If requiring resale back to manufacturers somehow removes a county's ability to get market rate prices, this would significantly impede local government's ability to fund recycling operations. This section should be removed, as it risks the functionality of the entire EPR program.

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.

Takoma Park 2023 - SB 222 FAV - Packing Materials

Uploaded by: Jessie Carpenter

Position: FAV



CITY OF TAKOMA PARK, MARYLAND

**SB 222
Support**

House Environment and Transportation Committee

March 29, 2023

SB 222: Environment – Reducing Packaging Materials – Producer Responsibility

City Contact: David Eubanks

Acting Deputy City Manager, City of Takoma Park

DavidE@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.

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: Environment and Transportation

POSITION: **SUPPORT**

DATE: March 29, 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.

SB0222 Reducing Packaging Materials - Producer Res

Uploaded by: Laurie McGilvray

Position: FAV



Committee: Environment and Transportation
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: March 29, 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.

SB0222-EEE-FAV.pdf

Uploaded by: Nina Themelis

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

SB 222

March 29, 2023

TO: Members of the Environment and Transportation Committee and the Economic Matters Committee
FROM: Nina Themelis, Interim Director of Mayor's Office of Government Relations
RE: Senate Bill 222 – Environment – Reducing Packaging Materials – Producer Responsibility
POSITION: SUPPORT

Chairs Barve and Wilson, Vice Chairs Stein and Crosby, and Members of the Committees, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill (SB) 222.

SB 222 would require certain producers of packaging materials to individually, or as part of a producer responsibility organization, submit a certain packaging materials producer responsibility plan to the Maryland Department of the Environment (MDE) for review and approval. It would also prohibit a producer of certain packaging materials from selling, offering for sale, distributing, or importing certain packaging materials unless the producer, individually or as part of a producer responsibility organization, has an approved producer responsibility plan on file with MDE. SB 222 would require a producer responsibility organization to implement a producer responsibility plan within a certain amount of time after MDE approved the producer responsibility plan and establish a producer responsibility plan advisory council and authorizing a local government to request reimbursement from a certain producer that has an approved producer responsibility plan on file.

The City of Baltimore is supportive of SB 222. Baltimore's Less Waste, Better Baltimore (LWBB) plan includes recommendations for legislative actions that will help make progress toward the city's waste reduction goals. These recommendations include Extended Producer Responsibility (EPR) mandates passed at a state or federal level, product take-back programs passed at a state or federal level, and mandated recycled content (MRC) laws. SB 222 will play a part in meeting the recommendations put forth in the LBWW plan.

Baltimore provides single-stream recycling curbside services to residents, incurring costs of about \$ million a year. A reduction in packaging recyclables could decrease the volume of material the city collects for recycling, generating some savings on curbside collections expenses the City incurs. Under this legislation, Baltimore would be responsible for establishing a take-back program for covered materials. The City would require funds to set up and maintain such a program, as well as for any education or outreach materials required to facilitate the changes outline in the bill.

If, as a result of the passage of SB 222, small businesses are faced with higher producer costs, those small businesses could be negatively impacted. It is for this reason that the City also supports the provision that protects businesses with under \$1 million in revenue from the potential effect of the legislation. The State would need to research whether or not the fees and charges included in SB 222 would be passed down to small businesses. As a government entity, Baltimore City would be exempt from these fees. Additionally, the City could seek reimbursement for our recycling costs from the organizations covered under the provisions of the legislation.

For the above state reasons, the BCA respectfully requests a **favorable** report on SB 222.

*Annapolis – phone: 410.269.0207 • fax: 410.269.6785
Baltimore – phone: 410.396.3497 • fax: 410.396.5136
<https://mogr.baltimorecity.gov/>*

SB222_IndivisibleHoCoMD_FAV_RuthAuerbach.pdf

Uploaded by: Ruth Auerbach

Position: FAV



SB222 – Environment – Reducing Packaging Materials - Producer Responsibility

Testimony before House Environment and Transportation Committee

March 29, 2023

Position: Favorable

Dear Environment and Transportation 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 and Delegate Love in sponsoring this bill.

The United States Environmental Protection Agency reports that packaging is the single largest component of municipal solid waste, at 28.1% in 2018¹. To address our problems with managing solid waste, it is necessary that Maryland improve its handling of packaging.

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.

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

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

1 <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/guide-facts-and-figures-report-about#Products>

2023 03 27 PSI Testimony_MD SB 0222_Pkg_FNL.pdf

Uploaded by: Scott Cassel

Position: FAV



Scott Cassel
Chief Executive Officer/Founder

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King County, WA

Dawn Timm
Niagara County Solid Waste, NY

Honorary Director

Walter Willis
Solid Waste Agency of Lake County, IL

Scott Klag
Consultant, OR

March 27, 2023

Delegate Kumar P. Barve, Chair
Delegate Dana Stein, Vice-Chair
House Environment and Transportation Committee
Delegate C.T. Wilson, Chair
Delegate Brian M. Crosby, Vice-Chair
House Economic Matters Committee
Maryland General Assembly, Room 251
House Office Building
Annapolis, MD 21401

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

Dear Chair Barve, Vice-Chair Stein, Chair Wilson, Vice-Chair Crosby, and Members of the Committees:

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

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.

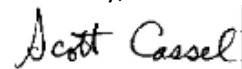
The Product Stewardship Institute is a policy advocate and consulting nonprofit that pioneered product stewardship in the United States along with a coalition of hundreds of state and local government officials. Since 2000, PSI has worked with numerous others to develop EPR policies for many of the 131 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 Environment and Transportation Committee and the Economic Matters Committee to report out SB 222 favorably from the committees.

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 TFM Support House 03272023.pdf

Uploaded by: shari wilson

Position: FAV



Bill: SB 222
Date: March 27, 2023
Position: Support

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

Dear Chairperson Barve, Vice Chair Stein and Members of the Environment and Transportation 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

MOMs 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 - MoCo_Shofar_FAV_House (GA 23).pdf

Uploaded by: Steven Shofar

Position: FAV



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

SB 222

DATE: March 29, 2023

SPONSOR: Senator Augustine, et al.

ASSIGNED TO: Environment and Transportation

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

POSITION: Support (Department of Environmental Protection)

Environment – Reducing Packaging Materials – Producer Responsibility

The Montgomery County Department of Environmental Protection strongly supports this bill. The bill would enhance recycling and diversion, improve recycling markets, and reduce waste in the State through: (1) conducting a statewide recycling needs assessment every 10 years; (2) requiring producers to develop producer responsibility plans related to increasing postconsumer recycled content in packaging; (3) reducing packaging waste overall; and (4) creating a process through which local governments may request reimbursement for portions of the cost of collecting, transporting, and processing (including removing contamination) recyclable and compostable materials. These are crucial steps in reducing the wasted resources and excess greenhouse gases associated with single use behaviors, as we hope to move towards a more sustainable economy.

The Montgomery County Department of Environmental Protection respectfully requests that the Environment and Transportation Committee give Senate Bill 222 a favorable report.

Favorable Testimony for SB222- EPR.pdf

Uploaded by: Tom Taylor

Position: FAV

Favorable Testimony for SB222

SB222 offers a good framework for modernizing and improving Maryland's waste and recycling systems. Containers and packaging are a significant part of municipal solid waste. SB222 would address this by requiring packaging producers to submit a Producer Responsibility Plan to the Maryland Department of the Environment. This is a good step toward reducing packaging and redesigning it to be reusable or recyclable.

MDE SB0222 Support.pdf

Uploaded by: Tyler Abbott

Position: FAV



**The Maryland Department of the Environment
Secretary Serena McIlwain**

Senate Bill 222

Environment - Reducing Packaging Materials - Producer Responsibility

Position: Support
Committee: Environment and Transportation
Date: March 29, 2023
From: Gabrielle Leach

The Maryland Department of the Environment (MDE) **SUPPORTS** Senate Bill 222.

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 aligns with MDE's policy of 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. 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.

MDE looks forward to the opportunity to implement a producer responsibility program in the state of Maryland. However, as seen in other smaller states, producer responsibility programs take a lot of resources to stand up and maintain. In order to effectively manage this program, MDE will need additional staff, in addition to the revenue collected under this bill, to successfully implement this bill.

For the reasons detailed above, MDE urges a **FAVORABLE** report for SB 222.

SB 0222, FAC, FCG Solid Waste and Recycling, LS23.

Uploaded by: Victoria Venable

Position: FAV



FREDERICK COUNTY GOVERNMENT

DIVISION OF SOLID WASTE & RECYCLING

Jessica Fitzwater
County Executive

Phillip S. Harris, Director

SB 222 - Environment – Reducing Packaging Materials – Producer Responsibility

DATE: March 29, 2023
COMMITTEE: House Environment and Transportation Committee
POSITION: Support
FROM: Rebecca Culler, Recycling Program Manager, Division of Solid Waste & Recycling, Frederick County Government

Thank you for your consideration of SB 222 Environment – Reducing Packaging Materials – Producer Responsibility. As the Director of the Division of Solid Waste & Recycling in Frederick County, I urge the committee to give SB 222 a FAVORABLE report.

SB 222 seeks to hold packaging material producers accountable for the disposition of their products. This will be accomplished through the establishment of a producer responsibility plan which will be developed in consultation with the producer responsibility organization. The producer responsibility organization will make assessments of statewide recycling needs.

This statewide effort would encompass the needs of Frederick County. SB 222 would establish the ability of the advisory council to authorize local government to request reimbursement from the packaging producers that have an approved plan on file. Frederick County could see a very minor impact from administrative time spent preparing data to be considered for reimbursement.

As a result, we see only upsides from the passage of SB 222.

Thank you for your consideration of SB 222. On behalf of Frederick County Government, I urge a FAVORABLE report.

Respectfully,

Rebecca Culler
Recycling Program Manager
301-600-7406

MD SB 222 EPR-AHAM Comments (00118324xB9B4F).pdf

Uploaded by: Jacob Cassady

Position: FWA



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TESTIMONY

Jacob Cassady
Director, Government Relations

On Behalf of
The Association of Home Appliance Manufacturers

Before the Maryland House
Environment and Transportation Committee

HEARING

SB 222:
Reducing Packaging Materials – Producer Responsibility

March 29, 2023

Chair Barve, Vice Chair Stein and members of the Environment and Transportation 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. AHAM would support SB 222 and other policies related to packaging recovery if it includes the principles below. AHAM requests the legislation include the following seven provisions:

Allow Producers to Participate in a Collective and/or Individual Program

Producers must have the ability to participate in an individual and/or a collective program that provides the ability to fully discharge their obligation. An individual and/or collective approach for the recovery of certain materials, such as materials that do not enter the residential or curbside packaging waste stream, should not subsidize a waste collection and recycling program that they are not part of.

Packaging that is Recycled Outside of the Residential System Should be Exempt

Large appliances are delivered to a consumer's home and, as part of the installation, the packaging material is not left in the home but taken by the installer. The installers load the packaging in the delivery truck and return those materials to be recycled through commercial

(non-residential) recycling systems. 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.¹²

Source Reduction Should Account for Previous Reductions in Packaging

Future packaging laws and regulations should not penalize companies that have proactively source reduced packaging. These proactive actions should be rewarded and considered as part of the source reduction targets.

Appliance Packaging Has Unique Needs and Requirements

Appliance packaging is used to protect the appliance and factory personnel during storage, transport and delivery. The safest and most effective materials for this use are lightweight, can withstand multiple impacts, and maintain their integrity in humid conditions. Unlike smaller, fast-moving consumer goods, packaging for heavy durable goods have different requirements and must be able to ensure the protection of workers during transportation and at distribution centers. Large appliances such as refrigerators, freezers, dishwashers, cooking ranges, washers and dryers are stacked as high as 30 feet so packaging cannot fail while products are stored in warehouse in all environmental climates.

Packaging Material Fees Must Include Full Life Cycle Effects

Packaging material fees or “eco fees” must take into account the life-cycle impact of the material. The use of packaging material that is easily and readily recycled should be incentivized as compared to lightweight, non-biodegradable materials. Alternatives to existing packaging materials or material source reduction involve tradeoffs. For example, plastic-based products will generally be lighter and less volume than fiber-based packaging. In addition, there are already inherent financial incentives for manufacturers to reduce costs and amounts of packaging,

¹ <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB582>

² <https://www.circularmaterials.ca/faq/>

especially for home appliances that have non-consumer facing packaging, because the packaging is not used for marketing purposes. It is purely an additional cost to the product to ensure the product arrives at the home without being damaged. The methodology used to set fees should be consistent with established practices to determine fair allocation of costs based on the complexity required to collect a certain material.

Impacted Packaging Producers Must Have Program Lead

Recovery programs that place responsibility for recycling and/or disposal of post-consumer packaging with producers must ensure producer's involvement is not limited to merely subsidizing the status quo of inefficient recovery and recycling programs. If producers are responsible for all of the costs to dispose/recycle in a given jurisdiction, then producers must have the authority to exercise proper oversight without being required to give preferential treatment to existing partners, collectors, or municipal programs during the program's design and implementation. Requiring responsibility without authority is a dysfunctional management structure.

States should seek a Harmonized Approach

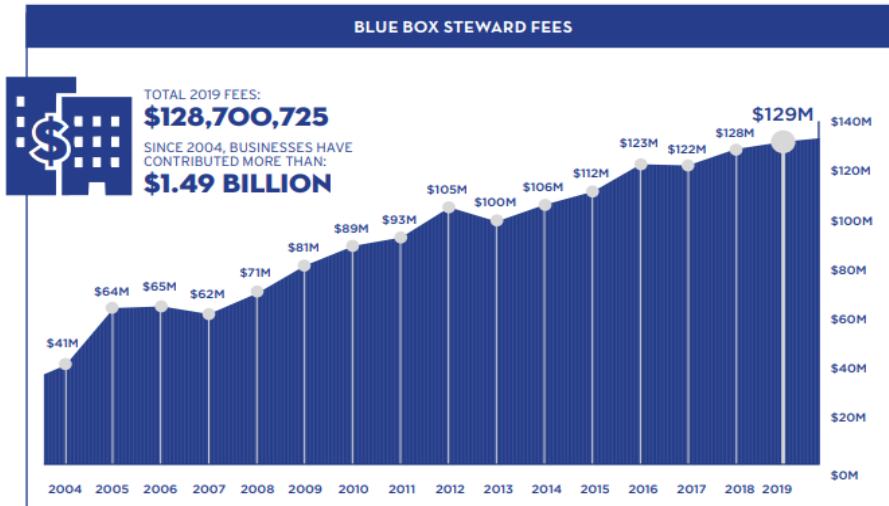
To the greatest extent possible, states should harmonize stewardship programs including definitions and the process for reporting and remitting with existing state programs. Harmonization of recycling policies will encourage economies of scale, efficiencies and convenience for consumers, while streamlining compliance.

Current EPR Programs – Fees Increase and Recovery Rates Decrease

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).³ In B.C., the program costs are 28.5 percent higher since 2014 (average annual increase of 5.2 percent).⁴

³ Stewardship Ontario. (2019). 2019 Annual Report. Stewardshpontario.ca

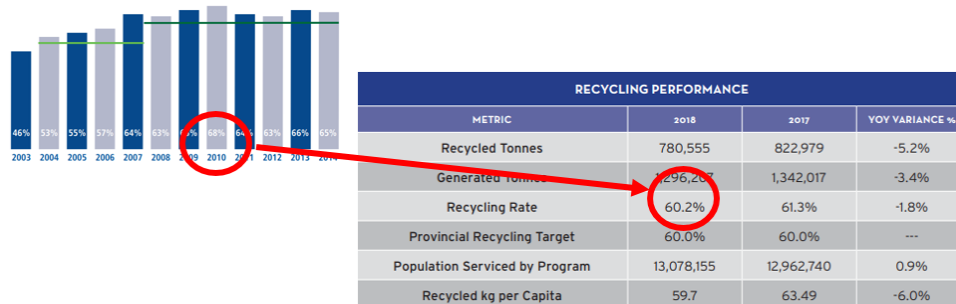
⁴ Recycle BC. (2019) Annual Report 2019. Recyclebc.ca



-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.⁵

Recycled Content for Packaging Not Feasible for All Appliances

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.

⁵ 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

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.

SB 222 - Abbott - FWA - E&T 03-29-2023.pdf

Uploaded by: John Stierhoff

Position: FWA

John R. Stierhoff
(410) 244-7833
jrstierhoff@venable.com

March 29, 2023

The Honorable Kumar P. Barve
Chair, House Environment and
Transportation Committee
251 House Office Building
6 Bladen Street
Annapolis, Maryland 21401

Re: SB 222 – Environment – Reducing Packaging Materials – Producer Responsibility
Favorable with Amendments

Dear Chair Barve:

On behalf of our client, Abbott Laboratories, I am writing to respectfully request consideration of language exempting specialized nutrition products from Senate Bill 222.

States that have included similar language as part of their Extended Producer Liability (EPR) laws include California (2022), Colorado (2022), Oregon (2021), Washington (2022), and New Jersey (2020).

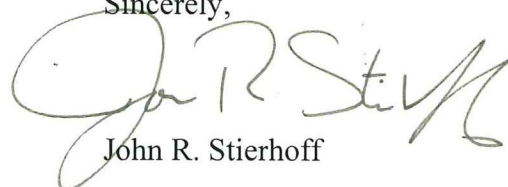
In order to better ensure the nutrition of individuals requiring specialized nutritional products, and to maintain a regimen critical to their health and survival, Abbott Laboratories proposes the following amendments:

On page 11, in line 27, strike “OR”; after line 27, insert “**3. “INFANT FORMULA” AS DEFINED IN 21 U.S.C. 321(Z), “MEDICAL FOOD” AS DEFINED IN 21 U.S.C. 360EE(B)(3), AND “FOOD FOR SPECIAL DIETARY USE” AS DEFINED IN 21 U.S.C. 350(C)(3); OR**”; and in line 28, strike “3.” And insert “**4.**”.

On page 12, in line 8, after “DEVICE” insert “**, INFANT FORMULA, MEDICAL FOOD, OR FOOD FOR SPECIAL DIETARY USE**”.

I have attached additional information with respect to EPR exemptions of specialized nutrition products. Thank you, in advance, for your consideration of these critical amendments.

Sincerely,



John R. Stierhoff

cc: Members, Environment and Transportation Committee
Members, Economic Matters Committee

Why Exempt Specialized Nutrition Products from Extended Producer Responsibility (EPR) Legislation

- Specialized nutrition products provide supplemental or sole-source nutrition for vulnerable populations
- US Food and Drug Administration (FDA) regulations delineate distinctive nutrition categories, including medical food, food for special dietary use (such as oral nutrition supplements), and infant formula
- Not exempting such products from an EPR bill could disrupt product access for vulnerable populations

Specialized Nutrition Products Help Meet Nutrition Requirements of Vulnerable Populations



SUPPORT FOR HEALTH EQUITY

Specialized nutrition products support health equity when:

- Provided free of charge through the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Purchased with Supplemental Nutrition Assistance Program (SNAP) benefits



NUTRITION FOR VULNERABLE POPULATIONS

Specialized nutrition products provide supplemental or sole-source nutrition, helping:

- Meet nutritional needs through all stages of life (infants through older adults)
- Support the nutritional needs of individuals with health conditions (such as illness, disease, injury, malnutrition)



IMPORTANT PACKAGING CONSIDERATIONS

Selection of packaging materials is an important consideration for specialized nutrition products:

- The multilayer containers used today must withstand processing and heat treatment conditions while maintaining product integrity and nutrient levels throughout product shelf life
- Further research is needed on functional and sustainable packaging options, but may be slower to develop because of the many important packaging considerations for specialized nutrition products



EXEMPTION LANGUAGE

- “*Infant formula*” as defined in 21 U.S.C. 321(z)
- “*medical food*” as defined in 21 U.S.C. 360ee(b)(3)
- “*food for special dietary use*” as defined in 21 USC 350(c)(3)

STATE EPR BILLS WITH EXEMPTIONS

Oregon SB582 (signed into law in 2021)

Colorado HB22-1355 (signed into law in 2022)

California SB54 (signed into law in 2022)

Reference: Pascall MA et al. Role and Importance of Functional Food Packaging in Specialized Products for Vulnerable Populations: Implications for Innovation and Policy Development for Sustainability. *Foods* 2022, 11, 3043. <https://doi.org/10.3390/foods11193043>

Expanded Producer Responsibility (EPR)

Oregon EPR language. Definition section under what a “covered product” does NOT include:

(O) Packaging and paper products sold or supplied in connection with: (i) Infant formula as defined in 21 U.S.C. 321(z); (ii) Medical food as defined in 21 U.S.C. 360ee(b)(3); or (iii) Fortified oral nutritional supplements used for individuals 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 commission.

Colorado EPR language. Packaging material does NOT include:

(XIV) PACKAGING MATERIAL USED TO CONTAIN A PRODUCT THAT IS REGULATED AS INFANT FORMULA, AS DEFINED IN 21 U.S.C. SEC. 321 (z), AS A MEDICAL FOOD, AS DEFINED IN 21 U.S.C. SEC. 360ee (b)(3), OR AS FORTIFIED NUTRITIONAL SUPPLEMENTS USED FOR INDIVIDUALS 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 BY THE WORLD HEALTH ORGANIZATION'S "INTERNATIONAL CLASSIFICATION OF DISEASES" (TENTH REVISION), AS AMENDED OR REVISED, OR ANY OTHER MEDICAL CONDITIONS AS DETERMINED BY THE COMMISSION BY RULE; AND

California EPR language. Covered material does NOT include:

(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.

SB222_FWA_PRA_HoCoClimateAction.org.pdf

Uploaded by: Liz Feighner

Position: FWA



HoCoClimateAction.org
Howard County, Maryland

SB222: Environment – Reducing Packaging Materials -- Producer Responsibility

Hearing Date: March 29, 2023

Bill Sponsor: Senator Augustine

Committee: Environment and Transportation

Submitting: Liz Feighner for Howard County Climate Action

Position: Favorable with Amendments

[HoCo Climate Action](#) is a [350.org](#) local chapter and a grassroots organization representing more than 1,400 subscribers. It is also a member of the [Climate Justice Wing](#) of the [Maryland Legislative Coalition](#).

HoCo Climate Action supports SB222 with amendments but has similar concerns as the Maryland Sierra Club. We agree with their recommendations for making the bill stronger to address the single-use plastic/packaging waste pollution crisis.

Howard County Climate Action

Submitted by Liz Feighner, Steering and Advocacy Committee

www.HoCoClimateAction.org

HoCoClimateAction@gmail.com

SB222_MDSierraClub_fwa_29March2023.pdf

Uploaded by: Martha Ainsworth

Position: FWA

Committee: Environment and Transportation

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

Position: Favorable with Amendments

Hearing Date: March 29, 2023

The Maryland Chapter of the Sierra Club has reviewed SB 222 as amended by the Senate and would like to share two ongoing concerns. As we have noted in previous years and in testimony on SB 222 and HB 284, we support the concept of Extended Producer Responsibility and believe it could be a useful tool to develop strategies for reduction of packaging. However, we have reservations about the lack of concrete measurable performance targets in the statute with penalties for failure to achieve them. We also encourage the committee to embrace proven strategies for reducing some types of packaging, allowing the program to focus on reducing and improving the recyclability of packaging that is difficult to recycle.

1. Lack of program performance targets in the statute

There is only one performance target in SB 222 as amended: each participating producer is required “to 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.”¹ The Senate has added a definition of “packaging material waste”: “the percentage of the total weight of packaging materials sold or distributed in the State that are not recycled, reused, or composted.”² We do not believe that this is measurable in the aggregate or for individual producers.³ Nor is there a penalty in the statute (§9-2510) for failing to meet this target.

All other performance targets in the program are proposed by the producers in their Producer Responsibility Plans, approved by MDE after the bill has been adopted.⁴ If these performance goals are not met, MDE may require a Producer Responsibility Organization (PRO) to amend the Plan and it may impose an administrative penalty.⁵ SB 222 as amended has increased the maximum administrative penalty for a PRO that does not meet its own performance goals, from \$5,000 to \$250,000.⁶ Their enforcement in the bill is at the discretion of MDE, and only applicable to the Plan targets, not the overall target expressed in the statute.

2. Adopt proven strategies for specific types of packaging, when they exist

Packaging is a heterogeneous product, including many different types of packaging materials. SB 222 covers: primary, secondary, and tertiary packaging intended for the consumer market; service packaging, including carryout bags, bulk goods bags, and takeout and home delivery food service packaging; and

¹ SB222 reprint with Senate amendments, §9-2504(C)(4), p. 19, lines 20-24.

² Ibid, §9-2501(F), p. 11, lines 1-3.

³ While the bill’s title suggests an objective of reducing packaging used, which is measurable and under producer control, the bill’s target is to reduce packaging that is wasted, after it is used by consumers, over which producers have less control.

⁴ Ibid, §9-2504(C)(3), p. 19, lines 6-19.

⁵ Ibid, §9-2504(J)(5), p. 26, lines 11-18.

⁶ Ibid, §9-2510(C), p. 33, lines 14-18.

beverage containers. Although several U.S. states have passed producer responsibility for packaging bills, they are different from each other in the degree of public oversight and coverage, and none are yet operational. There has been no opportunity to distill the “lessons learned” for these complex packaging programs.

However, there is already a highly effective producer responsibility policy for one type of packaging -- beverage containers. Beverage container deposit systems, also called “deposit/return” or “recycling refunds,” add a refundable deposit to the price of beverage containers that is refunded when the container is returned for recycling or reuse. There are decades of experience in ten U.S. states demonstrating their effectiveness at increasing recycling, reducing beverage container waste, and reducing litter. Most are run by producers, with public oversight. These programs are considered an international best-practice in recovery of containers for recycling and for reducing litter.^{7,8} They complement producer responsibility programs for other types of packaging.

Most states that have adopted or are considering producer responsibility for packaging laws exclude beverage containers, either because they already have a well-functioning deposit-return system or because they are proposing one in a separate bill, which is the preferred approach.⁹ Support for a separate deposit-return system for beverage containers would reduce SB 222’s complexity and allow it to focus on reducing difficult-to-recycle packaging, and promoting incentives to reduce and redesign packaging to be more recyclable or reusable.

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

Josh Tulkin
Chapter Director
Josh.Tulkin@MDSierra.org

⁷See 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>.

⁸ “...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.

⁹See, 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.”

SB0222 - House_FWA_NWRA_Env. - Reducing Packaging

Uploaded by: Pam Kasemeyer

Position: FWA

Maryland-Delaware Solid Waste Association
a chapter of the



**National
Waste & Recycling
Association**SM

Collect. Recycle. Innovate.

TO: The Honorable Kumar P. Barve, Chair
Members, House Environment and Transportation Committee
The Honorable Malcolm Augustine

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

DATE: March 29, 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, as amended, is intended to provide a structure for addressing Maryland’s current recycling challenges and includes many of the amendments requested by the industry, the legislation requires two additional amendments if it is to achieve its objectives and not create unintended consequences that undermine the program.

First, the Senate amendments on page 15, lines 11- 21 are critical to ensuring that local jurisdictions retain their current authority to sell their recycled materials to end markets and retain the revenues from those sales. Further, that publicly or privately owned materials recycling facilities or organic recycling facilities retain the authority to determine which entities may use the facility; and that local governments, materials recycling facilities, and organics recycling facilities retain the authority to make decisions regarding infrastructure purchases, including processing equipment. The retention of this amended language is essential to continued industry support. However, MDSWA would suggest that this language requires one further clarification related to protecting a county's authority to contract for recycling services as well as make decisions on infrastructure purchases, including processing equipment. To that end, MDSWA would request the following clarifying amendment:

On page 15, in line 20, after "ON" insert "CONTRACTING FOR RECYCLING SERVICES OR"

In addition, amendment language adopted on the floor of the Senate (see page 33, lines 22-25), which creates a requirement for each local government to file a feasibility plan with the Maryland Department of the Environment that prioritizes the sale of recycled packaging materials back to manufacturers that have a facility in the State, creates not only a tremendously onerous, if not unachievable mandate on local governments but also will serve to significantly undermine the market price that local governments will receive for their recycled packaging materials as manufactures will be able to demand a purchase price that is below market rate. Therefore, MDSWA would request the following amendment:

On page 33, delete lines 22 through 25 in their entirety; and in line 26 strike "3" and substitute "2".

MDSWA applauds the sponsor for his interest in positively addressing recycling challenges in Maryland. MDSWA also appreciates the significant work done by the Senate in amending the legislation to address many of the concerns of stakeholders. However, without the amendments outlined above, especially the deletion of the language on page 33, 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

SB0222 -- Environment - Reducing Packaging Material

Uploaded by: Brian Levine

Position: UNF



**Senate Bill 222 -- *Environment - Reducing Packaging Materials - Producer Responsibility*
House Environment and Transportation Committee**

March 29, 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 to the 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 a 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 impacted 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*

AFPA testimony MD EPR SB 222 unfav ENT 3-27-23.p

Uploaded by: Elizabeth Olds

Position: UNF



LEGISLATIVE POSITION: UNFAVORABLE

Senate Bill 222

Environment – Reducing Packaging Materials – Producer Responsibility

House Environment and Transportation Committee

March 29, 2023

The Honorable Kumar Barve, Chair, House Environment and Transportation Committee
The Honorable Dana Stein, Vice Chair, House Environment and Transportation Committee

Dear Chair Barve, Vice Chair Stein, 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. While we appreciate the amendments offered to SB 222, AF&PA must continue to respectfully oppose this bill, 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

SB 222 Opposed As Amended By Senate.pdf

Uploaded by: Ellen Valentino

Position: UNF

Comments on MD SB 222 (After Senate Amendments): An Act Concerning Environment, Reducing Packaging Materials, and Producer Responsibility

The bill pending would result in fees levied on producers of packaged goods to provide recycling funding to the counties and Baltimore City with no requirement for them to improve recycling rates or services. Additionally, the bill lacks a workable provision whereby collected material would be available to the funding producers in order to meet standards to use recycled content in their packaging.

Four states have passed EPR legislation. None have been fully implemented. The program described in this 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. **The comments below provide a high-level summary of some of the areas in which the bill diverges from best practices, making it much less likely to achieve its goals.**

Program Scope

- **Limited to “packaging materials”** – the bill only targets packaging materials, which comprise only a portion of the material recycled in local communities. Printed papers (catalogues, junk mail, magazines, newspapers) comprise a significant share of what is in curbside carts and other municipal recycling systems and should be part of this program. (9-2501)
- **Covered services are inadequately defined** – the bill needs to align definitions for services provided and those eligible for producer funding; the bill’s scope and language are unclear and inconsistent in places. One specific concern is a reference to “converting” packaging material in 9-2504(E)(1)(II)(4), which is outside the scope of typical EPR programs.
- **Producer definition remains awkward** –the bill continues to include references to “producers of packaging material” instead of simply producers, which makes this definition still problematic in places. (9-2503)

State vs. Producer Responsibilities

- **Goals:** While the PRO is required to include many goals in its plan (see below), the Department is given authority for setting them (9-2504(D)). This is not a best practice and conflicts with the plan requirements in subsection (C): instead, producers should propose goals in the plan (in many fewer categories than in the bill) and the state would then review and approve them as part of plan review.
- **Cost reimbursement:** the bill provides for excessive state intrusion into this critical area. The state can establish cost factors driving reimbursements reflecting “any socioeconomic or geographic factor.” (9-2504(E)(2)(I)(4)) This could permit the state to, for example, require a large premium on reimbursements to counties below a certain income level. Reimbursement for reasonable costs should remain the underlying principle that governs this component of the program.
- **Fee schedule public notice:** 9-2504(E)(3) requires public notice of its fee schedule, which does not make sense. The fee schedule is proposed as part of the plan, subject to Advisory Council and Department review after it has been approved by the producers that fund it. There is no need or role for public comment as fees are published annually and widely available.

Goals

- **The waste reduction goal is extreme and should not be included:** SB 222 requires producers to achieve a 25% reduction in each type of packaging material waste in five years. This would require significant increases in recycling rates for every material, where neither the current rates or the potential for increasing them are known. An arbitrary goal serves no purpose; fact-based goals (see below) should steer the program.
- **Goals should be proposed in the plan, based on the needs assessment,** and focus on a more practical list of parameters than those included in 9-2504(C)(3). These include collection rates (picked up from households and public spaces and delivered to MRFs or similar facilities), recovery rates (material sold by MRFs or similar entities to end markets), and contamination rates (the difference between the other two). The PRO should also propose minimum recycled content requirements for materials collected under the program.
- **Other goals are outside the control of a packaging PRO:** 9-2504(C)(3) also requires producers to develop goals for reuse, greenhouse gas reduction, and organics recycling. The ability of these producers to impact composting rates is negligible because so much of the organics stream is material other than packaging. Reuse and GHG impacts derive from individual producer decisions and the actions of service providers like haulers and municipalities over which the PRO has limited influence; these fall outside the range of appropriate goals to which a PRO should be held.

Program Effectiveness

- **Partial reimbursement limits effectiveness:** We already noted that the scope of the law leaves out a critical component of recycling carts – printed paper – so the costs of recycling that material would not be covered by producers. Then the bill limits reimbursement to 50% of collection costs (9-2504(E)), leaving local government responsible for at least half the cost of recycling. Limited funding means limited control, lack of improvement in the system, and failure to meet goals.
- **Lack of standards for municipal recycling:** Uniform standards coupled with adequate reimbursement will drive better performance. Standards include requiring recycling access for all households, development of a statewide recyclables list (part of the needs assessment), and requirements for parallel access (the same as disposal). If those requirements are tied to the reimbursement, then producers can affect and fund the necessary changes to meet goals. This bill lacks service standards for municipalities and emphasizes instead maintenance of the *status quo*. Following this approach will not lead to a better performing system, the PRO will not achieve its goals, and producers will function as little more than an ATM used to fund the current system.
- **Promoting circularity:** Section 2 of the bill is a nod to circularity but poses significant legal issues with interstate commerce. We recommend the plan include the following in 9-2504(C):

“Describe how the Organization will provide producers with the opportunity to purchase post-consumer recycled materials from processors at market prices if the producer is interested in obtaining recycled feedstock to achieve minimum post-consumer recycled content rates.”

MD-DE-DC Beverage Assn.
PO Box 711, Annapolis, MD 21401
Ellen Valentino, evalentino@ellenvaletino.com

What We Support

We believe that **good data precedes good policy** and 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 and easy 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.

Asurion EPR Testimony ENT.pdf

Uploaded by: Marta Harting

Position: UNF

ASURION TESTIMONY ON SB 222 (ENVIRONMENT-REDUCING PACKAGING MATERIALS – PRODUCER RESPONSIBILITY)

POSITION: OPPOSED UNLESS AMENDED

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, SB222/HB284 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 only 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 (page 11, lines 27, 31, and insert after line 31):

(3) "PACKAGING MATERIALS" DOES NOT INCLUDE:

(I) ANY PART OF A PACKAGE OR CONTAINER THAT IS SOLD OR SUPPLIED IN CONNECTION WITH:

1. 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;

2. A FEDERALLY REGULATED DRUG, MEDICAL DEVIDE, BIOLOGIC OR DIAGNOSTIC, OR DIETARY SUPPLEMENT INCLUDING ITEMS INTENDED FOR ANIMALS; **[OR]**

3. 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**

4. 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.

Just Zero and Beyond Plastics - Testimony in Oppos

Uploaded by: Peter Blair

Position: UNF



March 29, 2023

Chair Kumar P. Barve
Environment and Transportation Committee
Maryland House of Delegates
6 Bladen St.
Annapolis, MD 21401

**RE: SB 0222 – An Act Concerning Reducing Packaging Materials –
Producer Responsibility.**

Dear Chair Barve and Members of the Environment and Transportation Committee:

Thank you for the opportunity to provide input on Senate Bill 0222, An Act Concerning Reducing Packaging Materials – Producer Responsibility. This letter is submitted on behalf of Beyond Plastics and Just Zero. **Our organizations strongly oppose this bill.**

Beyond Plastics is a nationwide project that pairs the wisdom and experience of environmental policy experts with the energy and creativity of grassroots advocates to build a vibrant and effective movement to end plastic pollution.

Just Zero is a national environmental non-profit advocacy organization that works alongside communities, policy makers, organizers and others to implement just and equitable solutions to climate-damaging and toxic production, consumption, and waste disposal practices. We believe that all people deserve Zero Waste solutions with zero climate-damaging emissions and zero toxic exposures.

The details matter when establishing an effective producer responsibility for packaging law. SB 0222, as amended, continues to fall short in establishing an effective packaging reduction program due to the following major reasons.

1. The Law Gives Individual Producers Far Too Much Control.

SB 0222 would create a producer responsibility for packaging program that empowers the very companies that created Maryland's packaging waste crisis in the first place. The law would allow these companies – called "producers" – either individually, or as part of a Producer Responsibility Organization ("PRO"), to develop and submit a producer responsibility plan to the Maryland Department of the Environment (the "Department"). In these plans, the producers would set their own recyclability and recycling rates, post-consumer recycled content requirements, reuse rates, packaging reduction requirements, compost access and rates, contamination reduction rates, and greenhouse gas reduction targets. The producers



would also propose their own fee structure for packaging materials, which is intended to not only provide funding to local governments for recycling services, but also to incentivize the redesign of packaging materials. This is unacceptable.

Producer responsibility does not mean producer control. Producers should be required to meet clear, well-defined requirements as established by the legislation itself, or by the Department, through rulemaking. Without mandatory requirements, producers are free to set goals that would not result in significant packaging waste reduction.

These weak provisions would create a program that amounts to little more than voluntary commitments by consumer brands and packaging manufacturers to improve their packaging design and compensate towns and cities for the waste they create. These companies have made similar voluntary commitments in the past, all of which have led to an increase, rather than a decrease, in single-use packaging and plastic pollution.¹ By empowering these companies to set their own, ultimately unenforceable, voluntary targets, the bill would lead Maryland down a path to even more packaging waste.

Maryland would not put fossil fuel companies in charge of a transition to renewable energy. Why would the state then put for-profit companies in charge of reducing their own waste without mandatory reduction targets, adequate penalties, or strong oversight?

2. The 25% Reduction Target Is Too Low

While we appreciate that the bill focuses on reduction, rather than simply improving recycling, as drafted, the reduction requirement is both too low and employs language that will allow companies to avoid compliance.

According to the OECD, plastic waste is expected to triple by 2060.² For an EPR law to effectively reduce packaging, which makes up 40% of plastic waste, it should require a 50% reduction in packaging over 10 years.³ Cutting packaging in half within a ten-year period is on par with what Governments and Industry are already equipped and capable of according to a 2020 PEW report.⁴ It is also consistent with voluntary commitments being made by some in the packaging industry including Unilever's pledge to cut its non-recycled plastic use by 50% by 2025 and PepsiCo's pledge in

¹ Greenpeace, [Big Brands Fail Their Own Voluntary Commitment to Eliminate Plastic Pollution](#). (Nov. 1, 2022)

² OECD, [Global Plastic Waste Set to Almost Triple By 2060](#).

³ Laura Parker, [Fast Facts About Plastic Pollution](#), National Geographic. (Dec. 20, 2018).

⁴ PEW Charitable Trust, [Breaking the Plastic Wave – A Comprehensive Assessment of Pathways Towards Stopping Ocean Plastic Pollution](#). (July 23, 2020).



September 2021 to cut virgin plastic by 50% across its global food and beverage portfolio by 2030.⁵

Additionally, the bill only requires regulated producers to meet the insufficient packaging waste reduction target, *“to the maximum extent practicable.”* This qualifier is significant as it allows regulated producers to avoid strict compliance with the reduction requirement. This will both further weaken the already insufficient target, while also complicating the Department’s enforcement of the provision.

Moreover, “reduction” is not defined. Therefore, it is unclear if regulated producers will be required to reduce overall packaging or simply reduce the weight of packaging they generate in the state. If reduction is measured by weight alone, the law would allow companies to claim they are reducing packaging while simply light weighting their packaging, which will not reduce the overall amount of packaging generated and disposed of in the state.

3. Allows For a Transition to “Compostable” Packaging Without Protections to Avoid Contamination of Compost Stream.

Composting is an integral part of the development of Zero Waste programs. However, as currently included in SB 0222, the composting provisions will disrupt, not support clean compost programs.

Including “compostable packaging” in the definition of “organics recycling” is counterproductive to packaging reduction efforts and will increase contamination within the organics recycling stream. The law does not define the term “compostable packaging materials” Therefore, the law provides no clarity regarding what types of packaging materials are actually compostable. The proliferation of so-called “compostable packaging” – especially when not sufficiently defined – has significantly increased consumer confusion, as well as contamination in both the recycling and organic recycling stream.⁶

In fact, after a decade of trying to effectively manage so-called “compostable packaging”, leading compost facilities in Oregon halted the acceptance of these products given their inability to break down and the contamination they caused in their compost product which limited the marketability.⁷

⁵ Unilever, [Rethinking Plastic Packaging](#).

⁶ Phoebe Weston, [It’s Greenwashing: Most Home Compostable Plastics Don’t Work, Says Study](#), The Guardian. (Nov. 3, 2022).

⁷ See, Cole Rosengren, [Some Facilities Stop Accepting Compostable Packaging as Contamination Debate Persists](#), Waste Dive. (Mar. 8, 2019). and [A Message from Composters Serving Oregon: Why We Don’t Want Compostable Packaging and Serviceware](#).



While the law may intend to fall back on the Federal Trade Commission’s definition of “compostable,” that definition is both insufficient and not legally enforceable by regulators in the State of Maryland. The Federal Trade Commission’s Green Guides are only legally enforceable by state entities in states which codify it into law, which Maryland has not. Therefore, as currently drafted, SB 0222 allows packaging which does not even meet the weak federal criteria for industrial composting to be labeled as compostable.

Many compostable foodware items use per- and polyfluoroalkyl substances (PFAS) to create a grease- and waterproof barrier.⁸ PFAS is a toxic “forever chemical” that does not break down in the environment. Product manufacturers are not required to disclose if their foodware contains PFAS. It is therefore impossible to ascertain whether a compostable item contains these chemicals and will subsequently contaminate the resulting compost product.

4. The Bill Does Not Address Toxins in Packaging

As currently drafted, SB 0222, does not have any requirements which will phase out toxins in packaging. This is especially concerning in regard to food and beverage packaging. Detected toxins in packaging include neurotoxicants, developmental toxins, endocrine disruptors and carcinogens. If a company wishes to include these chemicals in consumer packaging, they should at least be required to disclose the chemical on the packaging and be willing to state why.

5. The Bill May Allow for False Solutions such as so-called “Advanced Recycling.”

The petrochemical industry is lobbying lawmakers across the country to pass producer responsibility for packaging laws that carve out loopholes for dangerous, climate-damaging technologies that use heat and/or solvents to break down plastics into fuels, chemicals, and toxic waste byproducts.⁹ These technologies, often referred to by the industry as “chemical recycling” or “advanced recycling,” release climate-damaging gases and dangerous toxins like lead, mercury, dioxins, benzene, and styrene.¹⁰ Worst of all, these facilities are disproportionately located in communities of color and low-income communities.¹¹

⁸ Carolyn Wilke, [Chemicals in Biodegradable Food Containers Can Leach into Compost](#), Science News. (June 4, 2019).

⁹ Kevin Budris, [Loopholes, Injustice, & the Advanced Recycling Myth](#), Just Zero, p. 22-27. (Dec. 2022).

¹⁰ Veena Singla, [Recycling Lies: Chemical Recycling of Plastic is Just Greenwashing Incineration](#), Natural Resources Defense Council. (Sept. 7, 2022).

¹¹ Budris, supra note 9, at 28–33.



By referencing an outdated definition of recycling set in statute, and not specifically prohibiting the use of incineration, gasification, pyrolysis and solvolysis and other technologies, this bill will likely allow for plastic burning aka “chemical recycling” or “advanced recycling” to count as plastics reduction or recycling.

The petrochemical industry pushes for these loopholes, and promotes so-called “advanced recycling” more broadly, to deepen our dependence on single-use plastics and single-use plastic packaging.¹² By failing to exclude these technologies from the definition of “recycling” and “post-consumer recycled content,” SB 0222 would reinforce, and help subsidize, toxic technologies meant to increase, rather than decrease, plastic packaging production and waste.¹³

6. Conclusion – The House Committee on Environment and Transportation Should Recommend That SB 0222 Ought Not to Pass.

SB 0222, as currently drafted, would be a step in the wrong direction for Maryland. A producer responsibility for packaging program can help reduce waste and improve recycling, but only if it incorporates mandatory, enforceable requirements, strong oversight by the Department, and explicit language that excludes dangerous technologies like so-called “advanced” or “chemical” recycling. This bill, however, would create a program that empowers the packaging industry that created the plastic pollution crisis in the first place, and that stands to profit from continued runaway single-use packaging production.

Maryland needs real waste reduction solutions. A strong, well-constructed, EPR for packaging program can be one of those solutions. But as written, SB 0222 will only worsen Maryland’s waste crisis. For the above stated reasons, Beyond Plastics and Just Zero strongly oppose the bill.

As national experts on effective and sound policy solutions to the packaging waste and plastic pollution crisis, we are happy to answer any questions you may have. Thank you for your consideration of this letter.

Respectfully submitted.

Judith Enck
President
Beyond Plastics

Peter Blair, Esq.
Policy Director
Just Zero

¹² *Id.* at 23-25.

¹³ *Id.* at 9-10.

Glass Packaging Institute, Testimony for SB 222, M

Uploaded by: Scott DeFife

Position: UNF



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

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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

Glass Packing Institute

Uploaded by: Scott DeFife

Position: UNF



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

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Sincerely,



Scott DeFife
President

MDEPRbill2023 (2).pdf

Uploaded by: Terri Beirne

Position: UNF



Opposition to MD SB 222/HB 284 - 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 CA wine industry is committed to sustainable wine making. Nearly 80% of CA wine is certified under the California Sustainable Winegrowing Alliance, a statewide program started by Wine Institute to encourage environmental responsibility over water, chemical and energy use; waste management; labor practices; and wine production and packaging. Specifically, we are committed to efficient, cost-effective methods of wine packaging by increased recycled content, bottle reusability, takeback and recyclable packaging, and use of non-toxic materials in packaging. However, Wine Institute cannot support SB 222/HB 284, which are problematic in their approach to an Extended Producer Responsibility (EPR) law and deviate from successful EPR laws negotiated with industry members in several other states.

EPR PROGRAMS SHOULD NOT GOVERN GLASS

EPR laws are promoted to curb the use of single-use virgin plastic. Glass has always been made from recycled content and recycling rates have been high and steady for decades, limited only by the supply of quality recyclable material, termed “cullet.” Increasing glass recycling rates is a supply side problem these bills do not address. Central or curbside single-stream recycling programs are also a hurdle to the supply of cullet. One can hear glass bottles breaking as they are dumped from bins into trucks alongside aluminum and paper by waste haulers. Ensuring that glass is delivered to sorting facilities instead of landfills when pricing for materials is not cost-effective is another concern. While glass may be a litter problem, it is innately sustainable and poses no environmental harm to ecosystems if it escapes the waste stream. These bills do nothing to increase glass recycling rates or the amount of cullet available to improve post-consumer recycled content rates in MD.

IF GLASS IS INCLUDED, IT SHOULD HAVE A SEPARATE “PRO” FROM PLASTICS

Unlike EPR bills in other states, these bills do not allow for multiple producer responsibility organizations (PROs). Because of all the differences between glass and plastic, a PRO for plastic would know little about glass production and markets. If glass must be included in the EPR law, it must be allowed to support its own PRO with autonomy to plan for and manage innovative programs that accomplish its goals. These bills merely expand the base of financial support for MD’s current collection and recycling system without granting PROs autonomy to plan and manage package production and recovery efficiently. There remains costly government oversight over existing ineffective programs, for which PROs must now help 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, PRO fees that prop up outdated and inefficient recycling systems will be passed along to Maryland consumers in the form of higher product prices.

A STATEWIDE RECYCLING ASSESSMENT SHOULD COME BEFORE AN EPR LAW

SB 222/HB 284 contain an important provision we support – a 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 contractors or staff in the MD Department of the Environment (DOE). Further, any preliminary assessment must be completed prior to passage of new laws to ensure they solve and do not create new problems.

EFFECTIVE EPR PROGRAMS ARE RUN BY INDUSTRY, WITH GOVERNMENT APPROVAL

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 and local government involvement should be limited to approving an initial PRO plan, conducting compliance audits and reviewing subsequent PRO plans in a timely manner. And fees that producer members pay a PRO should be used for the core mission, not be paid to MD DOE 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. With an EPR, producers get a vehicle to lawfully collaborate without triggering anti-trust concerns.

Regarding the wine industry, 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 MD consumers in the form of higher prices.

CONSUMERS MUST SHARE RESPONSIBILITY WITH INDUSTRY IN AN EPR PROGRAM

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 ways to meet stated goals, consumers must also assume responsibility. Consumer responsibility initiatives should be outlined in needs assessments and should potentially include:

- “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;
- Bottle deposit laws in states where they do not exist to create a stream of clean glass cullet;
- 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 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@bellamygennngroup.com.

AFPA_INFO_Amendment_SB_222

Uploaded by: Shannah Minderlein

Position: INFO



**American
Forest & Paper
Association**



Prepared for Members of the Environment and Transportation Committee

Re: SB222/HB284- Environment - Reducing Packaging Materials - Producer Responsibility

Overview of the American Forest and Paper Association:

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.¹ In Maryland, the forest products industry employs nearly 6,000 individuals in facilities that produce packaging, corrugated boxes, sales displays, tissue, and other products with an annual payroll of over \$374 million.²

Paper recycling rates in the U.S. have consistently increased in recent decades, with 68 percent of paper recovered for recycling in 2021.³ According to the EPA, more paper 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 approximately \$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 recycling capacity.⁵

Proposed Amendments:

Proposed EPR language: the language AF&PA supported during EPR discussions in Washington state this year (similar to language included in California's EPR bill that passed last year) is below. This language is in two sections:

1. Providing for a Material Neutral Off-Ramp

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>

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

Proposed Language: *A producer may be exempt from registration and participation in a PRO for a certain covered material if the producer can demonstrate to the department a recycling rate for that covered material of 60 percent for three consecutive years prior to January 1, 2030, and on and after that date demonstrates a recycling rate at or over 65 percent annually.*

2. Clarifying Scope is Limited to Residential Collection

Proposed Language: *Covered material does not include materials for which the producer demonstrates to the department that the covered material meets all of the following criteria:*

- (a) The covered material is not collected through a residential recycling collection service.*
- (b) The covered material does not undergo separation from other materials at a commingled recycling processing facility.*
- (c) The covered material is recycled at a responsible end market.*

Additional Propositions:

The American Forest and Paper Association would like for this legislation to permit multiple Producer Responsibility Organizations to better serve the unique diversity of interests of each type of producer. Multiple PRO's will hold greater accountability over each industry and will be economically beneficial.

Supportive Legislation:

The American Forest and Paper Association supports Delegate Love's HB109 entitled "Task Force on Recycling Policy and Recycling and Waste Systems in Maryland." We are glad to see that this legislation has passed the House and is making its way through the Senate. We believe that this task force is a necessary predecessor to evaluate the capabilities of Maryland's recycling and waste disposal systems.