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## TESTIMONY

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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.<sup>12</sup>*

### **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,

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

<sup>2</sup> <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.

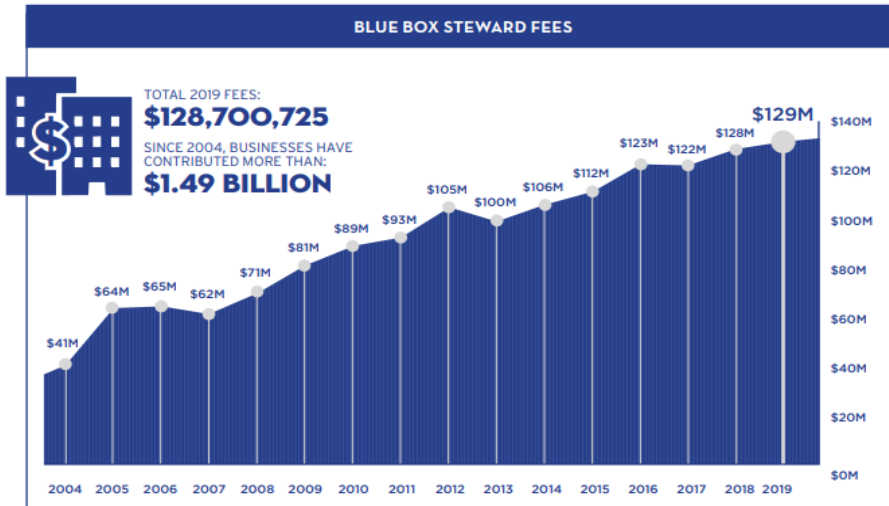
### **Current EPR Programs – Fees Increase and Recovery Rates Decrease**

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

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<sup>3</sup> Stewardship Ontario. (2019). 2019 Annual Report. Stewardshpontario.ca

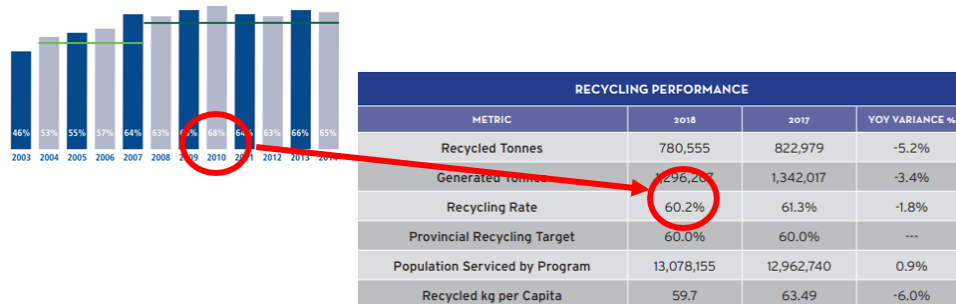
<sup>4</sup> Recycle BC. (2019) Annual Report 2019. Recyclebc.ca



-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.<sup>5</sup>

### 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.

<sup>5</sup> 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](mailto:jcassady@aham.org).