



## **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](mailto:theirne@wineinstitute.org) or the Wine Institute lobbyist in Maryland, Lorenzo Bellamy at [lorenzo@bellamygennngroup.com](mailto:lorenzo@bellamygennngroup.com).