



**Testimony of Consumer Brands Association
MD HB 168, “Environment-Plastic Products-Postconsumer Recycled Content
Program”
Maryland House Committee on Environment and Transportation**

February 7, 2024

Thank you for the opportunity to submit testimony on HB 168 regarding creation of a “Postconsumer Recycled Content Program” in the State of Maryland. Consumer Brands Association must respectfully oppose this legislation although we enthusiastically support the objective of increasing recycled content. The consumer packaged goods (CPG) industry is committed to packaging sustainability. Through research, development, innovation and packaging design, CPG companies are leading the way in reducing waste-to-landfill volume and improving the environmental footprint of packaging. In fact, all the 25-largest CPG companies have made voluntary public commitments to recyclable or compostable packaging, or to using increased recycled content by 2030, some as early as 2025. From shampoo bottles made from ocean plastic to toothpaste tubes made from paperboard, this sector is dedicated to innovative solutions that minimize packaging waste.

The Consumer Brands Association (Consumer Brands) represents the world’s leading CPG companies. The industry plays a unique role as the single-largest U.S. manufacturing employment sector, delivering products vital to the wellbeing of people’s lives every day. From household and personal care items to food and beverage products, the CPG industry plays a vital role in powering Maryland’s economy, contributing over \$26 billion to the state’s GDP, and supporting more than 260,000 jobs.

Despite the efforts of industry, government, and NGOs to improve packaging and packaging expectations--especially around recyclability--recycling rates in Maryland, and indeed throughout the U.S., hover at about 34 percent. The broken recycling system in the U.S. presents an opportunity to create a system with lasting positive impact on the marketplace. That domestic market is critical to driving up recycling rates, a goal the CPG industry shares with all levels of government, NGOs, and consumers, since recycling is necessary to create a reliable, cost-effective supply of recycled content that can be put back into packaging.

However, Consumer Brands is concerned with the strict recycled content requirements laid out in the bill and believes it is important to establish a process that recognizes material marketplace constraints and industry goals. Considering the current state of our nation’s recycling system, ensuring the proper segregation of recycled material will remain an issue of concern until the recycling system is modernized.

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Importantly, setting date-specific, recycled content mandates for food contact material, without regard to established federal testing protocols and evaluation procedures for the specific food contact applications and their intended use, conflicts with the mission of protecting human health, an objective which is no doubt shared by the Maryland Department of the Environment and various other local, state and federal agencies. The U.S. Food & Drug Administration has long highlighted recommendations and chemical safety issues for manufacturers of recycled plastic. Notably, the possibility that chemical contaminants in plastic materials intended for recycling, which may remain in recycled material and could migrate into our food. As such, the FDA takes into consideration a description of the recycling process, materials sources, and existing controls to ensure that plastic is not contaminated before or during the recycling process.

Given these constraints, Consumer Brands believes that HB 168I, although well intentioned, is too aggressive in its scope as the nation's recycling infrastructure struggles to keep pace with material demands. For the sake of preserving public health, and to allow industry to work in concert with oversight agencies as all levels of government, we strongly encourage you to exempt plastic food and beverage containers from this legislation.

Food is packaged and contained differently from inedible items to ensure food safety. There are barriers to ensure the food remains fresh, and to prevent contaminants from getting into the food. Packaging also protects the food from damage or exposure to elements. Some food packages must be tested for years to ensure proper performance and prevention of microbial contamination. There is significant concern about potential contamination of post consumer recycled material. These materials may have been exposed to waste, chemicals, pests, and various non-food grade materials prior to being converted into other products.

Additionally, many shelf-stable beverages, such as non-refrigerated fruit and vegetable juices, are heated prior to being filled in containers in order to kill pathogens. This hot fill process uses very high temperature to sterilize both the product and its container during the food packaging process. Using a high percentage of post consumer recycled content plastic in a bottle weakens the strength of the bottle, and it loses some of its rigidity. It is critical that the container utilized be able to withstand the hot filled temperature to prevent deformation and loss of the hermetic seal of the container, which could result in leakage and contamination. Unfortunately, this legislation does not take into account the special challenges of the hot fill process.

It is also notable that similar legislation already on the books in New Jersey has been troubled by a lack of supply of PCR material and regulatory guidance. In the two years since enactment of PCR legislation in New Jersey, the state DEP continues to provide regulatory guidance through a "Frequently Asked Questions (FAQ) document. Industry continues to work cooperatively with the dedicated and professional staff of the NJDEP to identify flaws and fix unreasonable expectations in the law. We would suggest that this experience may be instructive to other states. Packaging changes take years, and manufacturers require sufficient time to make progress toward compliance, which would include extensive testing of any new packaging. Food-contact and beverage packaging is especially challenging. We believe at a minimum that the waiver process provided for in HB 168 be for an open-ended period and that the language in the bill be

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changed from a “may grant” to a “shall grant” provision, provided that the conditions for waiver application in section 9-206 of the bill are met by the applicant.

We recognize the need to drive the growth of end markets for the reuse of packaging materials, as this plays a significant role in reducing the environmental burden of materials by increasing resource efficiency. We would caution, however, that the system created in HB 168 has remaining flaws that could significantly hinder progress and economic growth in Maryland and we believe that additional time and consideration are still needed. Therefore, we request that the committee not approve this legislation and that instead, a study of market conditions and results of similar mandates in other states be conducted to determine the need for this legislation and the timing of such an aggressive course. Thank you for the opportunity to comment on HB 168 and I am available for any questions or to provide any information the committee might find helpful.

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