

PRKN Comments on HB168.docx.pdf

Uploaded by: Betsy Nicholas

Position: FAV



POTOMAC
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NETWORK

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Committee: Environment and Transportation Testimony on: HB 168 Environment – Plastic Products – Postconsumer Recycled Content Program

Position: Support

Hearing Date: February 7, 2024

Potomac Riverkeeper Network strongly supports HB 168. This bill will prohibit producers of plastic beverage containers, rigid plastic food containers, and rigid plastic household cleaning and personal care products from selling, offering for sale, or distributing the products in Maryland *unless* the products are produced using a certain minimum percentage of post-consumer¹ recycled (PCR) content. The timeline for adoption and the target percentage of PCR content differ across products.

Recycled content mandates like HB 168 require a minimum percentage of recycled content in new plastic containers, creating a steady demand for recycled plastic that replaces cheaper virgin plastic and prevents the negative environmental impacts of production of virgin plastic. According to the U.S. Environmental Protection Agency (EPA) about 40% of plastic in the municipal solid waste stream is plastic packaging, and almost all of it is made from virgin plastic. Mandating recycled content for new containers conserves resources, diverting waste from landfills and incinerators. It reduces the demand for virgin materials and the greenhouse gas emissions and energy associated with their extraction and manufacture. It provides stability and viability in the marketplace for recyclers, as well as incentives to improve the overall quality of PCR materials and redesign products to be more recyclable.³ Recycled content mandates are a major policy tool for developing recycling markets in Maryland, and the objective of HB 164 “Recycling Market Development,” enacted in 2021.

Concerns about plastic pollution have led multinational corporations to set voluntary recycled content targets for 2025 as high as 50% for plastic packaging, but progress has been slow and there are no financial consequences for missing the targets (Exhibit1).⁵ HB 168 would make all producers selling or distributing the covered containers in Maryland accountable for reaching recycled content targets and create a level, competitive playing field across producers. Producers would also be responsible for financing the program’s oversight by the Maryland Department of the Environment (MDE). They would have to register annually with MDE and pay a registration fee; registration fees and penalties would be placed in a special account in the State Recycling Trust Fund that can only be used by MDE to cover the costs of planning, implementing, administering, monitoring, enforcing,



Potomac Riverkeeper Network is the trade name of Potomac Riverkeeper, Inc.
a 501(c)3 tax-exempt nonprofit organization #54-1982624 EarthShare # 87828 * CFC # 87828
Recognized as “one of the best small nonprofits” by the Catalogue for Philanthropy



and evaluating the program. The registration fee is calculated annually to cover the estimated costs for the following year and assessed on each producer in proportion to its share of the total amount of plastic sold in the state in each product category. MDE's start-up costs financed from the General Fund would be reimbursed. 1 "Post-consumer" material is generated after a product is made, sold, used, collected, and sorted. "Pre-consumer" or "postindustrial" materials are generated as a byproduct of a manufacturing process.

The success of the program in increasing recycled content in new products will depend on both demand- and supply-side policies. On the demand side for recycled content, it is important to have appropriate targets – "aggressive, but not technically infeasible." HB 168's recycled content targets increase gradually over a decade to match increased supply, from 15% to 50% recycled content for plastic beverage containers and from 15% to 40% recycled content for rigid plastic food containers by 2033. The ramp to 35% recycled content for rigid plastic household cleaners and personal care products is longer, 2035.

These targets and timelines are consistent with those in enacted legislation in the European Union and five U.S. states – California, Connecticut, Maine, New Jersey, and Washington. Achievements will be confirmed via third-party independent certification. • On the supply side, availability of recycled content can be achieved by policies that incentivize redesign of products to be more recyclable, including via packaging producer responsibility laws, and adoption of beverage container deposit-return systems ("bottle bills"). The latter, which achieve a high collection and recycling rate, provide a large volume of clean, uncontaminated, food-grade recycled plastic content that can be used in the manufacture of new beverage containers, in support of a circular economy. HB 168 has benefitted from consultations with government agencies in states that have already adopted mandatory recycled content laws and testimony on the 2023 bill.

In response to concern about the impact of anomalous market conditions or lack of supply of recycled content beyond producers' control in meeting program targets, the bill allows a reduction in administrative penalties if a producer submits a corrective action plan approved by MDE. The threshold for applicability of the law to a producer has been raised from annual sales of a minimum of 1,000 units of a covered product to minimum sales of 1 ton of covered product, to improve consistency with legislation in other states. New definitions have been added for covered products and greater clarity is provided on third-party certification.

In 2012, Maryland enacted a statewide goal of diverting 60% of all waste by 2020. However, only 42.25% of municipal solid waste was diverted in 2020. Meeting the 2020 goal or a more ambitious one will require producers to create post-consumer materials of high quality and incentives to increase postconsumer content in new products.

HB 168 is a key policy for achieving that objective for plastic packaging. It will stimulate recycling markets, reduce plastic waste and greenhouse gas emissions, and provide an incentive for product redesign for recyclability.

We respectfully request a favorable report.

Betsy Nicholas, Vice President of Programs
Potomac Riverkeeper Network

LWVMD - Support - HB 168 - Postconsumer Recycled C

Uploaded by: Casey Hunter

Position: FAV



TESTIMONY TO THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE

HB 168 - Environment - Plastic Products - Postconsumer Recycled Content Program

POSITION: Support

By: Linda T. Kohn, President

Date: February 7, 2024

Since the emergence of the environment movement in the 1970's, the League of Women Voters has advocated for policies that protect our planet and promote public health. The League believes that implementing comprehensive recycling frameworks is critical for advancing these goals and mitigating climate change.

The League of Women Voters of Maryland supports HB 168, which would increase the percentage of post-consumer recycled content required in certain plastic products sold or distributed in Maryland. **HB 168** would reduce the environmental impact of plastic product production, reduce plastic waste, and help Maryland meet its climate targets. This legislation would also promote new economic opportunities by encouraging the growth of Maryland's recycled content market.

Plastic products are made using fossil fuels - which have proven to be a leading driver of the global climate crisis. Manufacturing virgin plastic produces significant greenhouse gas emissions, and requires considerable amounts of energy. Using recycled content when manufacturing plastic products requires substantially less energy, and reduces greenhouse gas emissions by lessening virgin plastic generation. By increasing the requirements for recycled content in plastic products, **HB 168** reduces the demand for virgin plastic, and in turn reduces associated greenhouse gas emissions.

Maryland has already established targets to reduce GHG emissions and reach net zero by 2045, and **HB 168** will help the state achieve these goals.

The League of Women Voters of Maryland **strongly urges a favorable report on HB 168.**

HB0168_Postconsumer_Recycled_Content_Program_MLC_F

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR HB0168
Environment - Plastic Products - Postconsumer Recycled Content Program

Bill Sponsor: Delegate Terrasa

Committee: Environment and Transportation

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in strong support of HB0168 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 recycling policy is a mess. Some counties have dual stream recycling and some have single stream. The amount of plastic that is thrown into landfills is disturbing, since most of it is not recyclable. How can we allow so many producers to make plastics that they know can't be recycled?

This bill would attempt to rein in the free-for-all with plastics by requiring that certain plastic containers must meet an established minimum postconsumer recycled content percentage. Those percentages increase over time. Some products are exempted, such as containers for infant formula, refillable beverage containers and biodegradable trash bags. The cost of the program would be covered by a registration fee paid by the producers of plastics.

We need this legislation. Plastic production is out of control and our landfills are getting stuffed with plastic that is not biodegradable.

We strongly support this bill and recommend a **FAVORABLE** report in committee.

HB168_IndivisibleHoCoMD_FAV_CrystalKonny.pdf

Uploaded by: Crystal Konny

Position: FAV



HB168 –Environment – Plastic Products – Postconsumer Recycled Content Program

Testimony before House Environment & Transportation Committee February 7, 2024

Position: Favorable

Chair Korman, Vice Chair Boyce, and members of the committee, my name is Crystal Konny, and I represent the 750+ members of Indivisible Howard County. Indivisible Howard County is an active member of the Maryland Legislative Coalition (with 30,000+ members). We are providing written testimony today in **support of HB168**, Environment – Plastic Products – Postconsumer Recycled Content Program. We appreciate the leadership of Delegate Terrasa for sponsoring this important legislation.

The bill requires producers selling plastic containers in Maryland to increase postconsumer recycled (PCR) content of a variety of plastic containers to certain percentages by particular dates. Producers would be required to register with the Maryland Department of the Environment, pay an annual registration fee calculated to fully fund the cost of administering the program, and report the PCR content of their container brands every year. Third-party certification of the PCR content would be required and there would be penalties for falling short of the target. The program would be evaluated five years after it is launched.

Of all the plastic beverage containers sold in Maryland in 2019, fewer than a quarter were actually recycled and made into new products, despite what the vast majority of consumers want or believe is happening when they drop their plastic into recycling bins. The rest is incinerated or transferred to landfills.

Producers prefer using new plastic because it is cheaper, but their cost does not take into account the external cost to the environment. This bill reduces the amount of new plastic used, which in turn will reduce greenhouse gas emissions and divert waste from landfills and incinerators. It will generate demand for recycled plastic which will stimulate the recycled plastic market and create new jobs.

Ultimately, bills like this will force businesses to consider the environmental damage of their plastic usage practices and force them to innovate and develop cost-effective alternatives to virgin plastic. The bill is a step towards reducing the harm plastic does to our environment.

For all of these reasons, we urge you to pass the Postconsumer Recycled Content Program bill.

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

Crystal Konny
Columbia, MD 21044

Arundel Rivers Testimony FAV HB168 Postconsumer re

Uploaded by: Elle Bassett

Position: FAV



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Testimony in SUPPORT of House Bill 168 – Environment – Plastic Products – Postconsumer Recycled Content Program

Environment and Transportation Committee
February 7, 2024

Dear Chair Korman and members of the Committee,

Thank you for the opportunity to submit testimony in **SUPPORT OF HB168**, on behalf of Arundel Rivers Federation. Arundel Rivers is a non-profit organization dedicated to the protection, preservation, and restoration of the South, West and Rhode Rivers with over 3,500 supporters. Our mission is to work with local communities to achieve clean, fishable, and swimmable waterways for present and future generations.

House Bill 168 will establish a minimum postconsumer recycled content percentage requirement for plastic beverage containers and certain food packaging containers incrementally between 2026 and 2035. This is a necessary step in bringing our state closer to addressing the growing plastic waste problem. According to the EPA, plastics are a rapidly growing segment of municipal solid waste. Particularly, plastic containers and packaging accounted for over 14.5 million tons in 2018. Unfortunately, the Association of Plastic Recyclers measured that only about 8.7% of plastic is being recycled.¹

Arundel Rivers frequently hosts volunteer clean-up efforts around our local waterways and communities and we are supportive of any effort that will result in less plastic and microplastic from entering our local environment. Requiring the use of recycled content in these containers will instill a greater sense of trust and education within the public about the importance of recycling.

HB168 is a critical step towards a more sustainable, cleaner, and healthier future for Maryland and we respectfully request a **FAVORABLE REPORT on HB168**.

Sincerely,

A handwritten signature in black ink that reads "Elle Bassett".

Elle Bassett
South, West and Rhode Riverkeeper
Arundel Rivers Federation

¹ Environmental Protection Agency. Plastics: Material – Specific Data. <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/plastics-material-specific-data>

HB168 - Clean Water Action - FAV.pdf

Uploaded by: Emily Ranson

Position: FAV



HB168: Environment - Plastic Products - Postconsumer Recycled Content Program
House Environment and Transportation Committee
February 7, 2024

Position: Favorable

Dear Chairman Korman and Members of the Committee,

Post-consumer recycled content requirements are an important piece of developing economically sustainable recycling markets to ensure that materials that are technologically recyclable get recycled, especially considering the changing recycling markets in the past several years.

Setting minimum standards for post-consumer content in various product sectors creates a market for recycled materials that makes recycling operations more economically viable and expands the opportunities for local facilities to find markets for their products. This has a wide variety of external benefits that support the need for state action.

For example, producing new plastic from recycled material uses only two-thirds of the energy required to manufacture it from raw materials. One ton of recycled plastic saves 5,774 Kwh of energy, 16.3 barrels of oil, 98 million BTU's of energy, and 30 cubic yards of landfill space. A ton of PET plastic containers made with recycled plastic conserves about 7,200 kilowatt hours. Manufacturing one ton of office and computer paper with recycled paper stock can save between 3,000 and 4,000 kilowatt hours over the same ton of paper made with virgin wood products. Requiring that products contain a minimum content of recycled materials is an effective way to ensure that more materials are recycled, and fewer virgin materials must be drilled or harvested from the environment, saving energy and the environment.

We encourage the committee to pass HB168 to promote and create new markets for recycled materials, developing the Zero Waste future in Maryland.

Thank you,

Emily Ranson
Chesapeake Director
Clean Water Action
eranson@cleanwater.org

Sponsor Written Testimony, HB168.pdf

Uploaded by: Jen Terrasa

Position: FAV

JEN TERRASA
Legislative District 13
Howard County

Environment and Transportation
Committee

House Chair

Joint Committee on Children,
Youth, and Families



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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 5, 2024

To: The Honorable Marc Korman
Chair, Environment and Transportation Committee

From: Delegate Jen Terrasa
District 13, Howard County

Re: Sponsor Testimony in Support of HB168, Environment - Plastic Products -
Postconsumer Recycled Content Program

Dear Chairman Korman, Vice Chair Boyce, and Members of the Environment and Transportation Committee,

Thank you for the opportunity to present HB168. This is a reintroduction of a bill from last year (HB342), which was not voted on by the Committee. We have updated this legislation during the Interim to address issues raised in 2023.

The Purpose of HB168

The goals of HB168 are to reduce the demand for virgin plastic; reduce greenhouse gas emissions; divert waste from landfills and incinerators; and to save energy by increasing the amount of recycled content in plastic containers. The focus of the legislation is plastic containers because plastic is the only recycled material that is more expensive than virgin material, so it has a limited market.

As you know, plastic is made from fossil fuels, and it generates greenhouse gas emissions at every stage of a product's life cycle, from extraction of fossil fuels to plastic production, and disposal. Substituting recycled PET for a percentage of virgin PET in plastic products would reduce the amount of fossil fuels needed and could lower the energy requirements and the resulting pollution by as much as 75%.

What HB168 Does:

The bill applies to producers of plastic beverage containers, rigid plastic food containers, rigid plastic household cleaning products, and plastic personal care

products. It requires those products that are sold, offered for sale, or distributed in the State to:

1. Meet minimum post-consumer recycled content requirements for affected products,
2. Register with the Maryland Department of the Environment (individually or as part of a representative organization) and
3. Pay annual registration fees to MDE to cover program costs.

Targets for recycled content are:

Beverage containers	2026: 15%	2029: 25%	2033: 50%
Rigid plastic food containers	2027: 15%	2030: 30%	2033: 40%
Rigid plastic household cleaning products & personal care products	2027: 25%	2031: 30%	2035: 35%

These goals are in line with other states and the European Union that have enacted plastic PCR content legislation. MDE may grant a reduction in the administrative penalties for missing a target due to anomalous market conditions and disruption in supply, or lack of recycled plastics.

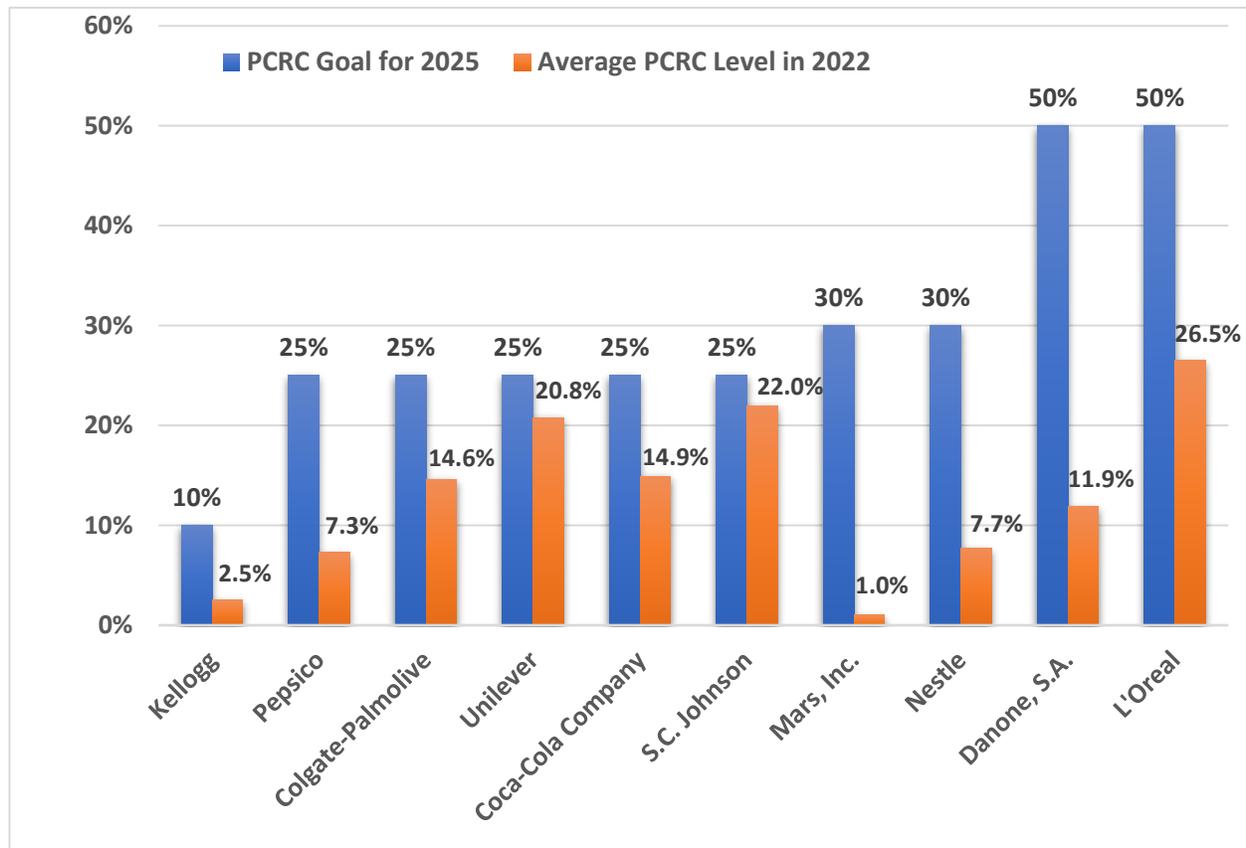
The program is self-financing with a dedicated fund. Implementation costs are estimated every year for the next year and paid for by the producers in their annual registration fee. The registration fee for each producer depends on the amount of plastic used within or imported into the state for each product category. The money goes into a dedicated account within the Recycling Fund to be used only for this program.

The bill has enhanced oversight by the Department. MDE may conduct audits and investigate for compliance, enter into contracts for services to implement the program, post the list of registered producers and covered brands online annually, and adopt regulations. Plus, MDE will conduct an evaluation of the implementation and effectiveness of the program after five years with recommendations for improvement. Existing and new enforcement and penalty provisions will apply. If the minimum percentage is not met, producers will face a penalty of 20 cents per pound of recycled content short of the target.

How HB168 Helps Recycling Markets

This bill helps further the goals of legislation passed in previous Sessions of the General Assembly. In 2021, HB164, sponsored by then Vice Chair Dana Stein, was enacted to promote the development of markets for recycled materials and products in the State. HB168 will provide stability and viability in the marketplace for recyclers by mandating recycled content. HB168 will also stimulate recycling businesses and create jobs.

While multinational corporations have advertised lofty sustainability goals and have pledged to reach recycled content targets by as much as 50% in 2025, they are far from reaching those global goals. Furthermore, there are no consequences for missing the mark. By requiring PCR content in HB168, Maryland will help these corporations achieve their stated goals:



Conclusion

HB168 will help reduce GHG emissions and fossil fuel extraction by replacing virgin plastic with recycled content. It will create incentives for producers to redesign their products to be more recyclable, and it will stimulate local markets for plastic recycling.

I respectfully urge a favorable report.

HB168_Postconsumer Recycled Content Program_Enviro

Uploaded by: Laurie McGilvray

Position: FAV



Committee: Environment and Transportation
Testimony on: HB168 – Environment – Plastic Products – Post consumer Recycled Content Program
Organization: Maryland Legislative Coalition Climate Justice Wing
Submitting: Laurie McGilvray, Co-Chair
Position: Favorable
Hearing Date: February 7, 2024

Dear Chair and Committee Members:

Thank you for allowing our testimony today in support of HB168. The Maryland Legislative Coalition (MLC) Climate Justice Wing, a statewide coalition of nearly 30 grassroots and professional organizations, urges you to vote favorably on HB168.

Packaging is 28% of Maryland’s waste and 40% is plastic. Nearly 3 billion PET and more than 176 million HDPE plastic beverage containers were sold in Maryland in 2019 and fewer than a quarter were actually recycled and made into new products. Increasing the requirement for post-consumer recycled content will reduce new plastic container production and strengthen the market for recycled content. Substituting new PET with recycled PET would reduce the amount of fossil fuels needed and could lower the energy requirements and resulting pollution as much as 75%. Maryland should follow the lead of other states like New Jersey, California, Connecticut, and Washington in requiring more post-consumer recycled content in plastic containers.

HB168 will accomplish this by establishing the Post-consumer Recycled Content Program (Program) in the Maryland Department of the Environment’s (MDE) Office of Recycling. Producers selling plastic containers in Maryland will be required to increase post-consumer recycled content for plastic beverage containers to 50% by 2033; for rigid plastic containers to store or package food to 40% by 2033; and for rigid plastic containers for personal care and household cleaners to 35% by 2035. The bill also requires producers of containers sold, offered for sale, or distributed in the State to register with MDE, pay an annual fee to cover Program costs, and report the post-consumer recycled content of their container brands annually. Third-party certification of post-consumer recycled content by an independent certifying body would be required and penalties for missing the target. The Program must be evaluated after five years.

The MLC Climate Justice Wing strongly supports HB156 and urges a **FAVORABLE** report in Committee.

350MoCo
Adat Shalom Climate Action
Cedar Lane Unitarian Universalist Church Environmental Justice Ministry
Chesapeake Earth Holders
Climate Parents of Prince George's
Climate Reality Project
ClimateXChange – Rebuild Maryland Coalition
Coming Clean Network, Union of Concerned Scientists
DoTheMostGood Montgomery County
Echotopia
Elders Climate Action
Fix Maryland Rail
Glen Echo Heights Mobilization
Greenbelt Climate Action Network
HoCoClimateAction
IndivisibleHoCoMD
Maryland Legislative Coalition
Mobilize Frederick
Montgomery County Faith Alliance for Climate Solutions
Montgomery Countryside Alliance
Mountain Maryland Movement
Nuclear Information & Resource Service
Progressive Maryland
Safe & Healthy Playing Fields
Takoma Park Mobilization Environment Committee
The Climate Mobilization MoCo Chapter
Unitarian Universalist Legislative Ministry of Maryland
WISE

hb168, plastic content standards, E&T 2-2-2024.pdf

Uploaded by: Lee Hudson

Position: FAV



Delaware-Maryland Synod
Evangelical Lutheran Church in America
God's work. Our hands.

Testimony prepared for the
Environment and Transportation Committee
on
House Bill 168
February 7, 2024
Position: **Favorable**

Mr. Chairman and members of the Committee, thank you for the opportunity to testify for wise stewardship of the gifts of the natural world, and cognizance of the public good of public health and safety I am Lee Hudson, assistant to the bishop for public policy in the Delaware-Maryland Synod, Evangelical Lutheran Church in America. We are a faith community with three judicatories in every part of Maryland.

Our community advocates for public policies that protect and preserve the given, created goodness. We support efforts to restrict polluting and degrading the commons known as the environment.

Our support for **House Bill 168** is based on an understanding that it can prevent trashing of the natural world by reducing blight in landscapes, watersheds, and public spaces with what is among the most ubiquitous consumer products on the planet: plastics. It is essentially trash waiting to be discarded.

There are other options. **House Bill 168** requires material content of plastics to be manufactured for compatibility with recycling standards, repurposing what is now an end-product that's land-filled.

We believe that to be a good goal, with a public good of cleaner, safer environments. We ask your favorable report.

Lee Hudson

HB0168_ENT_FAV_PCRC_HoCoClimateAction.org.pdf

Uploaded by: Liz Feighner

Position: FAV



HoCoClimateAction.org
Howard County, Maryland

**Testimony on HB0168 - Environment – Plastic Products –
Postconsumer Recycled Content Program**

Hearing Date: Feb. 7, 2024

Bill Sponsor: Delegates Terrasa, Hill, Lehman, Palakovich Carr, Ruth, Solomon, and Wu

Committee: Environment and Transportation

Submitting: Liz Feighner for Howard County Climate Action

Position: Favorable

[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](#).

Howard County Climate Action supports HB0168 and the goal of increasing post-consumer content in these items: plastic beverage containers, rigid plastic containers used to package or store food, and plastic containers used for household cleaning products or personal care.

The interconnected climate and plastic pollution crises are one of our top concerns. HoCo Climate Action worked with several organizations in Howard County to advocate for reducing single-use plastics through two successful bills, [Plastic Bag Fee](#) and [Plastic Reduction Law](#). We also hosted a [webinar on the Story of Plastics in 2020](#). As we highlighted during the discussion, plastic pollution is an environmental justice and public health crisis: Fracking, plastics production, litter, and disposal in landfills and by incineration harm communities of color disproportionately. We believe that social justice, racial justice and environmental justice are all part of a single, globally connected Movement for Justice.

Plastic is made from fossil fuels. It generates greenhouse gas pollution throughout its life cycle, from extraction of fossil fuels, to plastic production, to disposal. By increasing recycled content in plastic containers, we reduce the amount of new plastic used, reduce greenhouse gas pollution, divert waste from landfills and incinerators, and save energy. Substituting new PET with recycled PET would reduce the amount of fossil fuels needed and could lower the energy requirements and resulting pollution by as much as 75%, according to the [National Association for PET Container Resources \(NAPCOR\)](#).

Plastic production continues to grow. In addition to the doubling of production over the past two decades, forecasts see production tripling by 2050. Today, packaging is 28% of our waste, and 40% of that is plastic.

Strengthening use of recycled content instills greater consumer confidence and builds trust in recycling programs. These are critical to encouraging recycling participation and reducing litter. This bill would establish goals for recycled content, improve environmental outcomes and

strengthen recycling progress in Maryland, echoing approaches in states such as New Jersey, California, Connecticut, and Washington..

HB0168 will reduce production of new plastic and its environmental damage. As companies use more recycled content, less new plastic will be created, reducing the demand for fracked gas and the pollution and greenhouse gas emissions associated with it. The tragic train derailment in Palestine, OH carrying toxic chemicals used to make plastics, is a reminder of threats we face because of our reliance on plastic.

We urge a favorable report for HB0168.

Howard County Climate Action

Submitted by Liz Feighner, Steering and Advocacy Committee

www.HoCoClimateAction.org

HoCoClimateAction@gmail.com

HB0168_PCRCP_ENT_LPP.org_FAV.pdf

Uploaded by: Liz Feighner

Position: FAV



Testimony on: HB0168 – Environment – Environment - Plastic Products - Postconsumer Recycled Content Program
Bill Sponsor: Delegates Terrasa, Hill, Lehman, Palakovich Carr, Ruth, Solomon, and Wu
Committee: Environment and Transportation
Organization: Less Plastic Please
Submitting: Liz Feighner
Position: Favorable
Hearing Date: February 7, 2024

[Less Plastic Please](#) is a Howard County based grassroots organization representing more than 200 subscribers. We are also a partner of the [Zero Waste Team](#) of [Howard County Sierra Club](#) and a [Beyond Plastics](#) Affiliate

Less Plastic Please supports HB168 and the goal of increasing post-consumer content in these items: plastic beverage containers, rigid plastic containers used to package or store food, and plastic containers used for household cleaning products or personal care.

Reducing the production of plastics and creating a zero-waste economy is one of our top concerns. Less Plastic Please spearheaded campaigns with several organizations in Howard County to advocate for reducing single-use plastics through two successful bills, [Plastic Bag Fee](#) and [Plastic Reduction Law](#). We also hosted a [webinar on the Story of Plastics in 2020](#). As we highlighted during the discussion, plastic pollution is an environmental justice and public health crisis: Fracking, plastics production, litter, and disposal in landfills and by incineration harm communities of color disproportionately. We believe that social justice, racial justice and environmental justice are all part of a single, globally connected Movement for Justice.

HB168 establishes the Post-consumer Recycled Content Program in the Maryland Department of the Environment's (MDE) Office of Recycling. The goal of the Program is to increase post-consumer content in plastic containers, specifically, beverage containers, rigid containers used to package or store food, and household cleaning product or personal care product containers. The bill requires a producer of these containers sold, offered for sale, or distributed in the State to meet minimum post-consumer recycled content requirements; register with MDE; and pay an annual fee to cover Program costs.

Plastic production continues to grow. In addition to the doubling of production over the past two decades, forecasts see production tripling by 2050. Nearly 3 billion PET and more than 176 million

HDPE plastic beverage containers were sold in Maryland in 2019 and fewer than a quarter were actually recycled and made into new products. Increasing the requirement for post-consumer content will reduce new plastic container production and strengthen the market for recycled content. Substituting new PET with recycled PET would reduce the amount of fossil fuels needed and could lower the energy requirements and the resulting pollution by as much as 75%. Maryland should follow the lead of other states like New Jersey, California, Connecticut, and Washington in requiring more post-consumer recycled content in plastic containers.

HB168 will reduce production of new plastic and its environmental damage. As companies use more recycled content, less new plastic will be created, reducing the demand for fracked gas and the pollution and greenhouse gas emissions associated with it. The tragic train derailment in Palestine, OH carrying toxic chemicals used to make plastics is a reminder of threats we face because of our reliance on virgin plastic.

We urge a favorable report for HB168.

Submitted by Liz Feighner

[Less Plastic Please](#)

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National Aquarium HB 168 - Favorable.pdf

Uploaded by: Maggie Ostdahl

Position: FAV



NATIONAL AQUARIUM[®]

Date: February 5, 2024

Bill: HB 168 Environment – Plastic products – Postconsumer recycled content program

Position: Support

Dear Chair Korman and Members of the Committee:

The National Aquarium respectfully requests your support for **House Bill 168: Environment – Plastic Products – Postconsumer Recycled Content Program**, which would establish standards for minimum post-consumer content of recycled material in certain plastic containers.

Stopping plastic pollution is one of the National Aquarium's three strategic conservation goals. The plastic pollution crisis has been well-documented as global plastic production has outpaced any other manufactured material, with a substantial portion of plastics manufactured used for packaging; and more than half of all plastic ever made now accumulating in landfills or in the environment¹. Plastic packaging makes up about 28% of our waste stream, and the U.S. is one of the world's top generators of new plastic production and plastic waste.² In addition to the impacts that plastic pollution has on wildlife and human health, annual greenhouse gas emissions at every stage of the plastic lifecycle contribute to climate change. If plastic production and use grow as projected, by 2030 the related emissions would be equivalent to nearly three hundred new coal-fired power plants.³

Addressing the many harmful impacts of the plastic pollution crisis requires comprehensive systemic change. Maryland must enact additional policies that encourage behavior change; clean up existing pollution; invest in education and outreach; and support reduced production of and demand for plastic. Multiple studies have demonstrated that when compared to their virgin content counterparts, materials made with post-consumer recycled content have lower environmental impacts including reduced total energy demand, less smog formation, and less toxicity to people and wildlife.

A requirement for post-consumer recycled content in plastic containers will improve market demand for recycled material and contribute to reduced demand for harmful new plastic production. **We urge the Committee to issue a favorable report on HB 168.**

Contact:

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Maggie Ostdahl
Sr. Conservation Policy Manager
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¹ Geyer, R. et al. 2017. Production, use, and fate of all plastics ever made. Science Advances (3):7.
<https://www.science.org/doi/10.1126/sciadv.1700782>

² National Academies of Sciences, Engineering, and Medicine 2021. Reckoning with the U.S. Role in Global Ocean Plastic Waste. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26132>.

³ Center for International Environmental Law 2019. Plastic & Climate: The Hidden Costs of a Plastic Planet.
www.ciel.org/plasticandclimate

HB168_MDSierraClub_fav 7Feb2024.pdf

Uploaded by: Martha Ainsworth

Position: FAV



Committee: Environment and Transportation

Testimony on: HB 168 Environment – Plastic Products – Postconsumer Recycled Content Program

Position: Support

Hearing Date: February 7, 2024

The Maryland Chapter of the Sierra Club strongly supports HB 168. It would prohibit producers of plastic beverage containers, rigid plastic food containers, and rigid plastic household cleaning and personal care products from selling, offering for sale, or distributing the products in Maryland unless the products are produced using a certain minimum percentage of post-consumer¹ recycled (PCR) content. The timeline for adoption and the target percentage of PCR content differ across products.

Recycled content mandates like HB 168 require a minimum percentage of recycled content in new plastic containers, creating a steady demand for recycled plastic that replaces cheaper virgin plastic and prevents the negative environmental impacts of production of virgin plastic. According to the U.S. Environmental Protection Agency (EPA) about 40% of plastic in the municipal solid waste stream is plastic packaging, and almost all of it is made from virgin plastic.² Mandating recycled content for new containers conserves resources, diverting waste from landfills and incinerators. It reduces the demand for virgin materials and the greenhouse gas emissions and energy associated with their extraction and manufacture. It provides stability and viability in the marketplace for recyclers, as well as incentives to improve the overall quality of PCR materials and redesign products to be more recyclable.³ Recycled content mandates are a major policy tool for developing recycling markets in Maryland, and the objective of HB 164 “Recycling Market Development,” enacted in 2021.⁴

Concerns about plastic pollution have led multinational corporations to set voluntary recycled content targets for 2025 as high as 50% for plastic packaging, but progress has been slow and there are no financial consequences for missing the targets (Exhibit1).⁵ HB 168 would make all producers selling or distributing the covered containers in Maryland accountable for reaching recycled content targets and create a level, competitive playing field across producers. Producers would also be responsible for financing the program’s oversight by the Maryland Department of the Environment (MDE). They would have to register annually with MDE and pay a registration fee; registration fees and penalties would be placed in a special account in the State Recycling Trust Fund that can only be used by MDE to cover the costs of planning, implementing, administering, monitoring, enforcing, and evaluating the program. The registration fee is calculated annually to cover the estimated costs for the following year and assessed on each producer in proportion to its share of the total amount of plastic sold in the state in each product category. MDE’s start-up costs financed from the General Fund would be reimbursed.

¹ “Post-consumer” material is generated after a product is made, sold, used, collected, and sorted. “Pre-consumer” or “post-industrial” materials are generated as a byproduct of a manufacturing process.

² U.S.EPA. 2020. *Advancing Sustainable Materials Management: 2018 Facts and Figures Report*.

³ Balkan, Elizabeth. 2021. *Policy Guidelines for Recycled Content Mandates*. Reloop. September; Resource Recycling Systems (RRS). 2022. *Recommendations for Recycled Content: Requirements for Plastic Goods and Packaging*. Commissioned by the Ocean Conservancy.

⁴ https://mgaleg.maryland.gov/2021RS/chapters_noln/Ch_289_hb0164T.pdf

⁵ Ellen MacArthur Foundation. *Global Commitment Signatory Reports*, 2023.

The success of the program in increasing recycled content in new products will depend on both demand- and supply-side policies.

- On the demand side for recycled content, it is important to have appropriate targets – “aggressive, but not technically infeasible.”⁶ HB 168’s recycled content targets increase gradually over a decade to match increased supply, from 15% to 50% recycled content for plastic beverage containers and from 15% to 40% recycled content for rigid plastic food containers by 2033. The ramp to 35% recycled content for rigid plastic household cleaners and personal care products is longer, 2035. These targets and timelines are consistent with those in enacted legislation in the European Union and five U.S. states – California, Connecticut, Maine, New Jersey, and Washington (Exhibit 2). Achievements will be confirmed via third-party independent certification.
- On the supply side, availability of recycled content can be achieved by policies that incentivize redesign of products to be more recyclable, including via packaging producer responsibility laws, and adoption of beverage container deposit-return systems (“bottle bills”). The latter, which achieve a high collection and recycling rate, provide a large volume of clean, uncontaminated, food-grade recycled plastic content that can be used in the manufacture of new beverage containers, in support of a circular economy.⁷

HB 168 has benefitted from consultations with government agencies in states that have already adopted mandatory recycled content laws and testimony on the 2023 bill.⁸ In response to concern about the impact of anomalous market conditions or lack of supply of recycled content beyond producers’ control in meeting program targets, the bill allows a reduction in administrative penalties if a producer submits a corrective action plan approved by MDE.⁹ The threshold for applicability of the law to a producer has been raised from annual sales of a minimum of 1,000 units of a covered product to minimum sales of 1 ton of covered product, to improve consistency with legislation in other states. New definitions have been added for covered products and greater clarity is provided on third-party certification.

In 2012, Maryland enacted a statewide goal of diverting 60% of all waste by 2020.¹⁰ However, only 42.25% of municipal solid waste was diverted in 2020.¹¹ Meeting the 2020 goal or a more ambitious one will require producers to create post-consumer materials of high quality and incentives to increase post-consumer content in new products. HB 168 is a key policy for achieving that objective for plastic packaging. It will stimulate recycling markets, reduce plastic waste and greenhouse gas emissions, and provide an incentive for product redesign for recyclability. We respectfully request a favorable report.

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

Josh Tulkin
Chapter Director
Josh.Tulkin@MDSierra.org

Attachments:

- Exhibit 1: Global corporate plastic packaging PCR content 2025 commitments and 2022 actual levels
- Exhibit 2: Timeline for plastic PCR content in five US states, the EU, and HB 168

⁶ Balkan, *Op.Cit.* RRS,*Op.Cit.*

⁷*Ibid.*

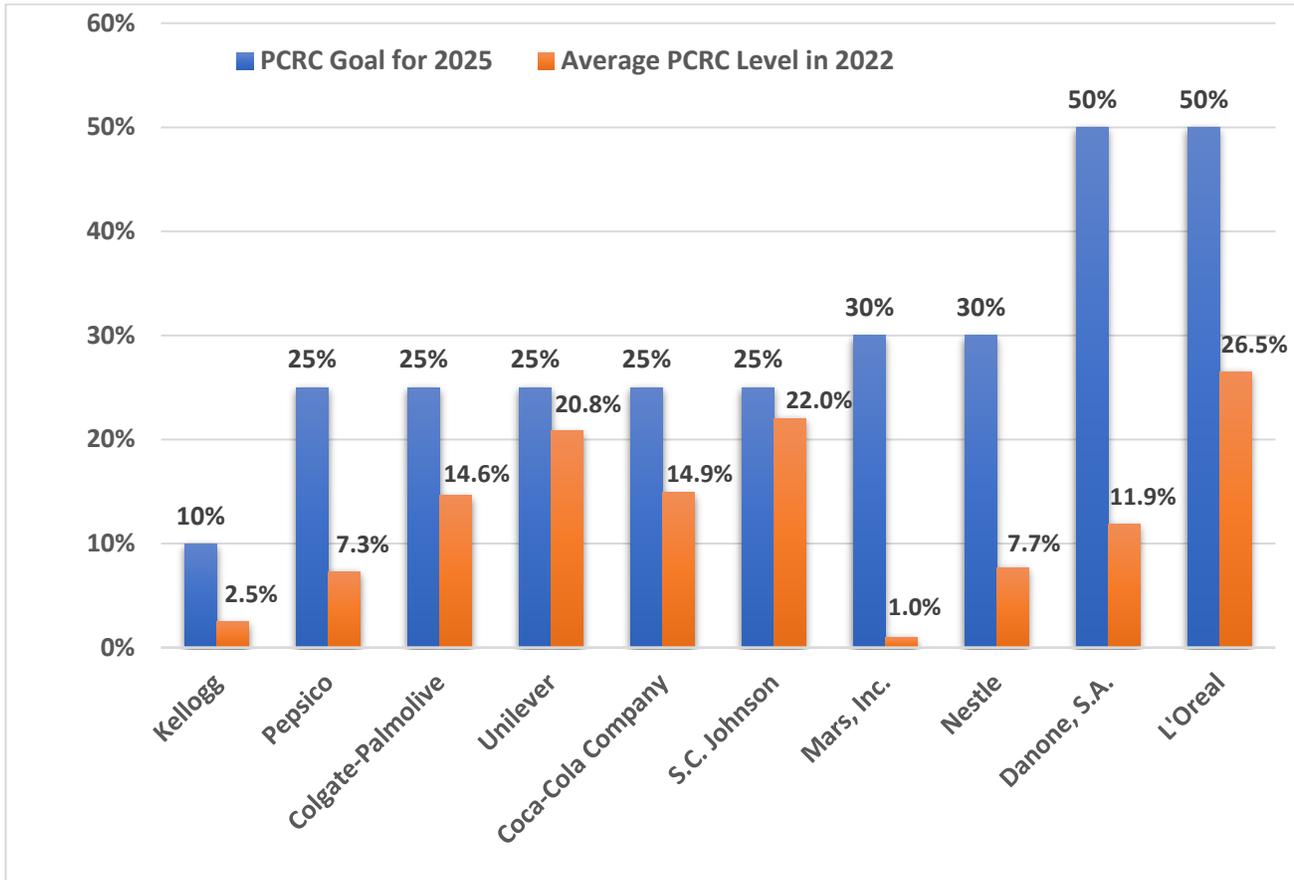
⁸ New Jersey Department of Environmental Protection and Washington State Department of Ecology.

⁹ This is the approach adopted in California and Washington state, an alternative to waivers.

¹⁰ House Bill 929, “Environment – Recycling Rate and Waste Diversion – Statewide Goals,” sponsored by Dels. Stein, Frush, and Niemann.

¹¹ Comprised of a 38.22% recycling rate and a 4.03% source reduction credit. MDE Land and Materials Administration. 2021. *Maryland Solid Waste Management and Diversion Report 2021* (CY 2020 data).

Exhibit 1. Global Corporate Plastic Packaging Postconsumer Recycled Content Commitments for 2025 and Achievements as of 2022



Founded in 1892, the Sierra Club is America's oldest and largest grassroots environmental organization. The Maryland Chapter has over 70,000 members and supporters, and the Sierra Club nationwide has over 800,000 members and nearly four million supporters.

Exhibit 2. Timeline for plastic PCR content in five US states, the European Union, and Maryland’s HB 168

Plastic product	Jurisdiction						
	California ^a AB793 Enacted 9/24/2020 Effective 1/1/2022	Connecticut HB6664 Passed 6/7/2023 Effective 6/9/2023	Maine LD1467 Passed 5/7/2022 Effective 8/8/2022	New Jersey, S2515 Enacted 1/18/2022 Effective 1/18/2022	Washington state SB5022 Enacted 5/17/2021 Effective 1/2/2023	European Union ^b Adopted 6/2019	Maryland HB168 Proposed
Plastic beverage containers	2022: 15% 2025: 25% 2030: 50%	2027: 25% 2032: 30%	2026: 25% 2031: 30%	2024: 15% 2027: 20% (5% increase every 3 years) 2045: 50%	2023: 15% 2026: 25% 2031: 50%	2025: 25% 2030: 30%	2026: 15% 2029: 25% 2033: 50%
Rigid plastic food containers				“Rigid plastic containers” ^c			2027: 15% 2030: 30% 2033: 40%
Rigid plastic HH cleaning products & personal care products				2024: 10% 2027: 20% 2030: 30% 2033: 40% 2036: 50%	2025: 15% 2028: 25% 2031: 50%		2027: 25% 2031: 30% 2035: 35%

Note: (1) This table presents PCR content targets for plastic containers the US states that match the container types proposed in HB 168. Some of the bills cover additional plastic products not in the Maryland bill or recycled content for products made of other materials. (2) RRS, *Op.Cit* .presents a 2019/2020 baseline level of recycled content in the U.S. and Canada as 11% for PET bottles and 17% for HDPE bottles. (PET=polyethylene terephthalate (#1 resin); HDPE=high density polyethylene (#2 resin)). These numbers apply to all bottles of those resins, including beverage bottles and bottles of other products.

- a. California has passed bills for PCR content on other plastic products in the past. The plastic beverage container targets are in their most recent bill, which covered all plastic beverage containers in the California Redemption Value program (their beverage container deposit law)
- b. For PET beverage bottles only.
- c. The New Jersey bill has target PCR percentages for all rigid plastic containers, not according to what they contain.

HB0168-ET-FAV.pdf

Uploaded by: Nina Themelis

Position: FAV



BRANDON M. SCOTT
MAYOR

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

HB0168

February 7, 2024

TO: Members of the Environment & Transportation and Economic Matters Committees
FROM: Nina Themelis, Director of Mayor's Office of Government Relations
RE: House Bill 168 – Environment – Plastic Products – Postconsumer Recycled Content Program
POSITION: SUPPORT

Chairs Korman and Wilson, Vice Chairs Boyce and Crosby, and Members of the Committees, please be advised that the Baltimore City Administration (BCA) **supports** House Bill (HB) 168.

HB 168 prohibits certain producers of certain plastic products from selling, offering for sale, or distributing the products of any person in the State, unless certain circumstances are met; requiring certain producers of certain plastic products to, individually or as part of a representative organization, register to pay a certain fee annually to the Department of the Environment; establish certain minimum postconsumer recycled content percentage requirements for certain plastic beverage containers and rigid plastic containers; authorizes the Department to offer a waiver under certain circumstances, etc.

HB 168 aligns with Baltimore City's strategies for waste reduction outlined in the Less Waste, Batter Baltimore (LWBB) operational plan. LWBB includes recommendations for mandated recycle content laws as well as product takeback programs, extended producer responsibility mandates, and disposal bans or surcharge fees, to list a few. Baltimore City recognizes that the requirement in this bill for recycled content in plastic products is part of a larger need to change the legislative landscape around waste management in Maryland.

This bill will achieve the greatest benefit when combined with improvements in infrastructure and support staff levels for recycling collections and processing, in order to manage the increase in demand for recycled materials.

The Recycling Partnership has projected an increase in demand for post-consumer recycled content (PCR) in plastic packaging. A Recycling Partnership analysis, focusing on the prominent resin polyethylene terephthalate (PET), shows that there is an annual gap of more than 1 billion pounds between the current U.S. supply and projected 2025 demand for recycled polyethylene terephthalate (RPET) for use in bottles. As a result, companies with significant dependence on U.S. RPET supply are destined to face challenges in meeting their recycled contact targets unless strategic investments are made to address widespread national infrastructure gaps.

For the above stated reasons, the BCA respectfully request a **favorable** report on HB 168.

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

HB168_UULM-MD_FAV

Uploaded by: Phil Webster

Position: FAV



Unitarian Universalist Legislative Ministry of Maryland

Testimony in Support of HB 168 - Plastic Products - Post Consumer Recycled Content Program

TO: Chair Marc Korman and the members of the Environment and Transportation Committee and Chair C.T. Wilson and members of the Economic Matters Committee

FROM: Phil Webster, PhD, Lead Advocate on Climate Change
Unitarian Universalist Legislative Ministry of Maryland.

DATE: February 7 2024

The Unitarian Universalist Legislative Ministry of Maryland (UULM-MD) strongly supports increasing the amount of post consumer content in recycled products and urges approval and rapid implementation of **HB 168 - Plastic Products – Post Consumer Recycled Content Program..**

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; because the manufacture of plastics is disproportionately located IN their communities. Consequently, these communities suffer from higher rates of cancer and other debilitating health issues. Waste facilities are often located in marginalized communities, this bill would reduce the amount of plastic in the waste stream. 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*. Increasing the amount of plastics that are recycled will reduce the manufacture of plastics. Creating new plastic is a large and growing use of fossil fuels, increasing Greenhouse Gasses, which leads 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 increasing recycling post consumer plastics thereby reducing unhealthy, polluting and carbon emitting fossil fuels in the manufacture of plastics. This bill would move Maryland toward a waste free economy.

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

HB168Plastic PCR requirements Sign on 02052024 (1)

Uploaded by: shari wilson

Position: FAV



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OUR ZERO WASTE FUTURE

HB 168 Environment – Plastic Products – Postconsumer Recycled Content Program

Date: February 05, 2024

Position: Support

Dear Chair Korman, Vice-Chair Boyce and members of the Environment and Transportation Committee:

We enthusiastically support the goal of increasing post-consumer content in the three types of items: plastic beverage containers up to 2 gallons in size, rigid plastic containers used to package or store food and plastic containers used for household cleaning products or personal care. HB 168 sets post-consumer content requirements for each of the three items ranging from 15% to 50% by dates ranging from 2026 through 2033.

Plastic production continues to grow. In addition to doubling of production over the past two decades, projections forecast production to triple by 2050. Packaging is 28% of our waste and 40% of that is plastic.¹²

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

Increasing the requirement for post-consumer content in goods will strengthen the market for recycled content. This bill is consistent with approaches in other states such as New Jersey, California, Oregon and Washington.

This bill also dovetails nicely with the effort enacted through legislation last year, and now underway, to assess and develop Maryland's approach for implementing extended producer responsibility for packaging – a program which would reduce the volume and increase the recyclability of packaging materials. That approach would typically include the types of containers covered by this bill

Strengthening use of recycled content instills greater consumer confidence, builds trust in recycling programs and creates demand for recycled plastic – all critical steps toward reducing trash and litter. We greatly appreciate the leadership of Delegate Terrasa on these issues.

Contact: Shari Willson, Interim Executive Director (shari@trashfreemaryland.org)

Anacostia Riverkeeper

Chesapeake Bay Foundation

Go Green OC

Little Falls Watershed Association

Maryland Ornithological Society

National Aquarium

Plastic Free Queen Anne's County

Rock Creek Conservancy

Safe Skies Maryland

Trash Free Maryland

Our Zero Waste Future

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>

MRN2024HB168.pdf

Uploaded by: Chaz Miller

Position: FWA



February 5, 2024

To: Maryland House Environment and Transportation and Economic Matters Committee
Re: HB168 Environment - Plastic Products - Postconsumer Recycled Content Program

The Maryland Recycling Network promotes sustainable reduction, reuse and recycling (the 3 "R's"), to ensure that the use of virgin materials is minimized, materials otherwise destined for disposal are reused or recycled and strong demand exists for buying products made with recycled material content. We achieve these goals through education programs, advocacy activities to affect public policy, technical assistance efforts, and the development of markets to purchase recycled materials and manufacture products with recycled content.

Our members are county and municipal government recycling managers, private sector recyclers, non-profit recyclers and citizens who support recycling. We have direct experience operating recycling and composting programs at the county and municipal government level. We know the ins and outs of recycling in Maryland. Our experience informs our comments.

HB168: Postconsumer Recycled Content for Plastic Products

We support HB168, with suggested changes.

Thirty-three years ago, Maryland became one of the first states to enact recycled content legislation for newspapers. Eventually 14 states enacted these laws. Combined with technological advancements making recycled newsprint as good as virgin, the use of recycled content newsprint soared in America. Now, Maryland has the chance to become one of the first states to enact recycled content requirements for plastic products.

We thank the sponsors of this bill for introducing this legislation. Recycled content bills can help expand the market for our curbside recyclables. They send a message to package and product manufacturers to support our recycling programs by using those raw materials in their products.

At the same time, experience with recycled content requirements in this country and elsewhere show they are not perfect. In particular, while they can expand markets, they do not guarantee consistently strong prices for recyclables. Recycling markets are subject to the impact of national and international economic trends. We saw that in the 90's as prices for old newspapers fluctuated in spite of the minimum content laws. However, these laws have the potential to create a better base for prices.

The goals established in HB168 are challenging. Unfortunately, we question if some of the goals are achievable. Nothing can be recycled infinitely. All recyclables suffer product loss during collection, materials recovery facility processing and during the recycling manufacturing process. This varies by material and process, but we don't know of any package in which, for instance, 2000 bottles can be made from 2000 bottles.

In addition, recycled content materials are bought by end users who may have a different use than the previous use. Markets for PET bottles, for instance, have traditionally been dominated by fiber companies who use those bottles to make carpet or clothing or other fiber products. In fact, those fiber companies invented PET recycling and nurtured it over the last three and a half decades. Only in the last three years have bottles exceeded fiber as the biggest user of recycled PET. We believe that legislative goals must recognize the existence of competing markets and the reality that those markets may be able to outbid packaging markets.

Maryland Recycling Network
c/o Mariner Management • PO Box 1640 • Columbia, MD 21044
Phone: (443) 741-8740 • www.MarylandRecyclingNetwork.org

We understand that some of the goals are based on laws already passed in other states. However, some of those states adopted aggressive goals that will be hard to meet. Given the realities of material loss as noted above, we suggest the authors consider changing the dates for achieving recycled content goals. For instance, fifteen percent recycled content for plastic beverage containers could be achieved by national companies by 2025 or 27. Smaller regional or local companies will be harder pressed to meet that goal.

We also suggest that requirements for Household Cleaning Products and Personal Care Products be reconsidered. While three states have set goals for those packages, they are unlikely to be met. Most of those packages use a dye HDPE resin, called “colored HDPE”. As the Ocean Conservancy study, Recommendations for Recycled Content Requirements for Plastic Goods and Packages, noted, “High volumes of colored packaging (e.g., colored HDPE and PP) create a recycled resin that is grey or black, limiting the applications to those that can tolerate black. Currently, few packaging applications fit that description” (page 33). Instead, those packages are recycled into durable products such as pipe, lumber, lawn and garden equipment, etc.

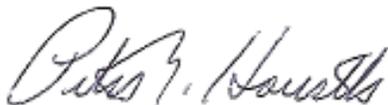
Finally, the waiver provision, 9-2608, should be slightly expanded to include the conditions found in New Jersey’s minimum recycled content law. These include FDA regulatory requirements, technological feasibility and inadequate supply. Those requirements are similar to those in 9-2610(B)(4)(III)(1-4), the corrective action plan for failure to meet the minimum recycled content percentage.

The Ocean Conservancy’s report stated that “Some laws allow for waivers or exemptions where a manufacturer demonstrates that it is not technically feasible for them to achieve the requirements, or there is not sufficient supply of recycled materials available to meet the requirements based on robust justification” (page 20) and “Waivers should be available when supply is inadequate to fulfill requirements or other technical issues arise. However, a supply-based waiver must require robust justification and exploration of barriers between existing and potential supply” (page 39). Producers have no control over supply and the state of the economy. New Jersey followed that path in crafting its recycling content law.

Nonetheless, we congratulate the sponsors of this bill on bringing forth this legislation. We look forward to working with the sponsors to improve this bill. We have no doubt it can expand markets for recyclables. Maryland has another chance to be a leader, just as it was for newspaper recycled content. We look forward to working with the author as this bill moves forward.

The Maryland Recycling Network stands ready to serve as a sounding board and resource for legislators and others interested in pursuing our mission. Please do not hesitate to contact me via email phoustle@marylandrecyclingnetwork.org, phone 301-725-2508 or mail - MRN, PO Box 1640, Columbia MD 21044 if you have any questions or would like additional information regarding the above.

We look forward to working with you to continue the strides we have all made to improve Maryland’s recycling programs and thank you for your consideration.



Peter Houstle
Executive Director

Assn Plastic Recyclers support_MD PCR bill HB168.p

Uploaded by: Kate Bailey

Position: FWA

February 7, 2024

Dear Chair Korman and members of the Environment and Transportation Committee,

On behalf of the [Association of Plastics Recyclers \(APR\)](#), I am submitting comments as **favorable with amendments for HB168 - Environment – Plastic Products – Postconsumer Recycled Content Program.**

The APR is a U.S.-based, international non-profit association and the only North American organization focused exclusively on improving the recycling of plastics. APR members are the entirety of the plastics recycling industry from design to collection to recovery to remanufacturing. Plastics recycling is what APR does every day. APR understands the challenges facing the industry and the solutions needed to scale recycling effectively as a key solution to reduce plastic pollution and move toward a more sustainable, circular economy.

THIS BILL WILL CREATE STRONGER MARKET DEMAND TO HELP EXPAND PLASTICS RECYCLING

The APR was the first plastics-related organization to publicly support mandatory recycled content legislation in 2006, and the APR continues to champion these policies. Using post-consumer resin (PCR) content in plastic packaging is [one of the most effective ways to reduce the environmental impact of the packaging](#). This bill will also help build and stabilize end markets for recycled plastics. This stronger market demand helps recyclers to invest in the needed infrastructure to grow plastics recycling. This, in turn, can support the expansion and stability of community recycling programs.

While recycling generates substantial environmental benefits, it is first and foremost a business and recyclers compete to sell recycled content as a replacement to virgin plastic. It is challenging for recyclers to invest more toward improving and expanding plastics recycling with the current volatility in recycling markets and the low costs of virgin plastic production. The economics must shift in favor of recycled plastics, and away from virgin plastics, in order for meaningful change toward the circularity of plastics. The APR is actively supporting PCR bills in states as a top policy priority to

improve plastics recycling in order to reduce plastic pollution, reduce greenhouse gas emissions, and create green jobs.

BOTH DEMAND AND SUPPLY POLICIES ARE NEEDED TO IMPROVE PLASTICS RECYCLING

The proposed PCR bill addresses the need for stronger market demand for recycled plastics. Complementary policies are also needed to increase the supply of recycled plastics collected from households and businesses. Maryland took a strong step toward increasing the collection and supply of recyclable plastics with the passage of SB222 in 2023, which created a Needs Assessment study that will build toward an Extended Producer Responsibility (EPR) program for Packaging. There are also now four states with EPR for packaging, covering 15% of the US population, to help increase the supply of recycled plastics, and the APR strongly encourages Maryland to adopt EPR for packaging in the 2025 session. The EPR program and this PCR policy are excellent companions to address both the supply and demand solutions needed to improve plastics recycling; it's a both-and, not either-or.

SUGGESTED REVISIONS TO STRENGTH THE PROPOSED BILL

The APR would like to offer these suggestions to refine the policy to align with current market conditions and best practices in similar US state policies. APR staff are available at your convenience for questions and more information.

1. Revise the PCR rates for rigid food containers.

The APR supports ambitious and achievable targets to increase PCR. However, there are additional complexities to adding PCR to food-contact packaging, and more time will be needed to reach the proposed rates. The APR would recommend revising the proposed rates in line with other policies. For example:

- The European Union is [finalizing regulations for recycled content rates](#) for food-contact packaging. The current proposed targets are 10% by 2030.
- Similarly proposed PCR regulations in Washington state proposed for 10% PCR in thermoform containers by 2031, a similar goal to the EU.
- Washington state passed PCR targets in household care products based on [15% \(2025\), 25% \(2028\) and 50% by 2031.](#)

The following chart illustrates how the EU is differentiating between food-grade and non-food-grade packaging, as well as between types of plastics, because of the complexities in adding PCR to different polymer applications.

Table 2 – Proposed targets for recycled content recovered from post-consumer plastic waste, per unit of packaging (minimum percentage)

Type of packaging	From 1 January 2030	From 1 January 2040
Contact sensitive packaging made from PET	30 %	50 %
Contact sensitive packaging made from plastic materials other than PET (except single-use plastic beverage bottles)	10 %	50 %
Single-use plastic beverage bottles	30 %	65 %
Other packaging	35 %	65 %

2. Set more specific targets by polymer type and a plan to revise over time.

As noted in the draft EU regulations above, the use of PCR varies by the type of plastic as well as the application. The use of rPET in beverage containers is the most mature, followed by the use of HDPE in personal care products. Each plastic resin has its own challenges with both packaging design and available supply of recycled plastics. Setting more specific rates will help drive innovation in all packaging formats. For example, this bill could propose separate rates for PP and PET food containers, or the bill could give authority to the state agency to set specific targets based on further stakeholder input. In addition, given the dynamic nature of packaging design and recycling programs, it is recommended to reconsider setting PCR content goals past 2035. There could be a revision process at this time by the agency of applicable targets and setting of revised goals through rulemaking.

3. Expand the scope to non-food-contact packaging and durable goods to achieve greater environmental and economic impacts.

Requiring recycled content in a wider range of plastic products beyond just food packaging will provide greater environmental benefits and support a more robust recycling system. The APR supports expanded categories including durable goods as listed below. It is critical to support a diversity of end markets for recycled plastics for the economic viability and long-term stability of plastics recycling. There is also robust

opportunity to expand the use of recycled plastics into durable products that do not face the more stringent requirements for food-contact recycled plastics.

Durable products represent a large opportunity to replace virgin plastic with recycled plastics. In addition, durable products can use larger amounts of PCR and have more tolerance for mixed color and non-food grade recycled plastics. Durable goods suitable for more PCR include pallets, composite railroad ties and decking, storage containers, crates, drainage pipe, carpet, and many other applications. Here are several examples of how durable goods have been incorporated into other PCR programs:

- Oregon requires [10% PCR in roll carts](#), i.e. trash and recycling carts.
- [New Jersey requires recycled content in rigid plastic containers](#), which includes products such as 5-gallon buckets used for construction, paint, or other materials. The NJ rates are, on average, at least 10% recycled content starting 2024, increasing by 10% every three years thereafter, to 50% by 2036.
- [Federal procurement guidelines](#) promote PCR in a wide range of construction, transportation, household, and other goods.

PCR rates for durable goods can be set by material categories, [i.e. 80% for non-pressure pipes as done by the Federal guidelines](#), or by a more basic overall rates and dates approach with reasonable exemptions for products unable to comply for other regulated factors. The APR would be happy to discuss this opportunity further with the bill sponsors and stakeholders.

MOVING FORWARD

Thank you for your leadership to improve plastics recycling. APR staff are available at your convenience to discuss these comments and share further technical, regulatory, and policy information upon request. Please contact Kate Bailey, Chief Policy Officer, at katebailey@plasticsrecycling.org.

Sincerely,

A handwritten signature in black ink that reads "Kate Bailey".

Kate Bailey
Chief Policy Officer
Association of Plastic Recyclers (APR)

MD HB 168 Eastman Testimony_February 2024.pdf

Uploaded by: Kierstin Turnock

Position: FWA

Bill Title: House Bill 168 Environment – Plastic Products – Postconsumer Recycled Content Program

Committee: Environment and Transportation

Date: February 5, 2024

Position: Report Favorably with Amendments

Dear Chairman Korman and Honorable Members of the Committee:

On behalf of Eastman, thank you for the opportunity to provide comments on House Bill 168 - Plastic Products – Postconsumer Recycled Content Program (HB 168). As attention increases on the waste crisis, it is vital that a representative government, advocates, and private industry collaboratively develop solutions to reduce where it makes sense, reuse when possible, and recycle the rest. As a private industry stakeholder and materials supplier and recycler, Eastman is supportive of legislation like HB 168 **when it provides flexibility for the department to approve alternative methods of calculating recycled content.**

Founded in 1920, Eastman is a global specialty materials company that produces a broad range of products found in items people use every day. As a globally inclusive and diverse company, Eastman employs approximately 14,500 people worldwide and serves customers in more than 100 countries. In Maryland, Eastman operates a manufacturing facility in Chestertown where we produce materials used in building and construction, medical applications, and consumer goods.

The current pattern of consumption and disposal of plastics is not sustainable. Approximately 300 million tons of plastic are produced each year globally. At the end of use, 40 percent goes to landfills, 25 percent is incinerated, and 19 percent is disposed in unmanaged dumps or otherwise makes its way into the environment. Only 12 percent is recycled.

During **material-to-material** molecular recycling processes, waste plastics are broken down into their molecular building blocks, becoming indistinguishable from molecules made from virgin fossil feedstocks. That is great news for material quality, but it makes it impossible to trace the exact molecules to the end products so that brands can easily make recycled content claims. Brands, therefore, need an accounting method for recycled content that they (and their customers) can trust to accurately track recycled content through complex manufacturing processes. Mass balance is the solution.

Mass balance is a vetted and standardized system used across a variety of industries to calculate how materials flow through complex manufacturing processes. It ensures that the amount of recycled content allocated to a product is balanced with the amount of recycled materials fed into the manufacturing process. Third-party organizations such as the International Sustainability and

Carbon Certification (ISCC) and UL Environment certify the accuracy of recycled content claims based on mass balance.

Mass balance is a well-established accounting method in several industries. For instance, many agricultural industries such as coffee, cocoa, and cotton use mass balance to account for sustainably sourced and/or third-party certified content in end products. Mass balance is also used to provide origin certification to renewable energy, which is then mixed with conventional energy in our electrical grids. Electrons generated by solar energy look and act just like those generated by coal, so renewable energy certificates (RECs) are an accounting system to ensure no one takes more credit than they've earned for being green. This is an example of mass balance at work.

Eastman deploys two advanced recycling technologies, which recycle a broad array of plastics, keeping them from being incinerated, landfilled, or ending up in our environment. Further, Eastman's recycling technologies have a preferred greenhouse gas and overall sustainability footprint compared to traditionally manufactured plastic.

As HB 168 is considered in committee, Eastman respectfully asks that the following amendment be included to give the department the ability to approve other methods of calculating recycled content beyond a material balance approach. This amendment was adopted in New Jersey when they enacted similar legislation in 2022.

Amendment 1

On Page 5, in line 21 after "PRODUCT" insert "OR ANOTHER METRIC, AS DETERMINED BY THE DEPARTMENT."

Eastman commends the state of Maryland and the Environment and Transportation Committee for pursuing the development of responsible recycling policy.

Kierstin Turnock
State Government Affairs – Circular Economy
Eastman

2024_0207 MD H 168 PCR - opposed.pdf

Uploaded by: Adam Peer

Position: UNF

February 7, 2024

Electronic Delivery

Honorable Marc A. Korman, Chair, and
Member, Committee on the Environment and Transportation
House of Delegates,
State of Maryland
House Office Building, Room 251
Annapolis, Maryland 21401

In re: H. 168, relating to: plastics post-consumer recycled content requirements; testimony in opposition

Dear Chair Members,

On behalf of the members of the Plastics Division of the American Chemistry Council (ACC), thank you for this opportunity to provide comments to H. 168, relating to: plastics post-consumer recycled (PCR) content.

ACC **opposes** this legislation in its current form because we are concerned it may lead to negative environmental impacts. Many of the objectives of the bill would be achieved through the work already started by the extended producer responsibility (EPR) advisory council created by S. 222.

ACC urges the committee to allow the council to complete its work. The council is charged with making a recommendation on effectively establishing and implementing EPR law in the state. Key to this recommendation will be the council's work analyzing the current solid waste and recycling streams, infrastructure, markets, and potential market development. This council is required to submit this assessment before July 30, 2024. ACC believes that the council's work will help contribute to well-crafted EPR that will better help transition Maryland to a circular economy.

We fully support the pursuit of a more circular economy. A circular economy prioritizes resource conservation and efficiency, design innovations that enable longer product lifespans, and reuse, recycling and recovery technologies that allow us to capture the greatest value from materials that have traditionally been discarded.

Recycled content is a critical part of a circular economy. To meet the demand for additional recycled content for plastic will require an additional 13 billion pounds according to the Independent Commodity Intelligence Service (ICIS). This is significantly more than the amount of plastic currently collected. To bridge this gap, significantly more infrastructure is required.

Statutory minimum requirements could lead to greater environmental impacts. We fully support increasing recycling and greater use of recycled content. However, without infrastructure, statutory mandates could lead to deselection – even with waivers. Deselection could lead to greater environmental impacts, not less. For example, the light

weight of plastics reduces transportation costs compared to heavier materials, which reduces carbon emissions, and the strength of plastics relative to its weight allows for minimum material usage in packaging design.¹ Alternative materials, often have higher environmental costs, which is why improving recycling infrastructure is a better solution.²

Again, thank you for this opportunity to provide this information to the committee. If you have any questions or if I may be of further service, please feel free to contact Josh Young, ACC's Senior Director, Mid-Atlantic Region at 202-249-6223 or

Josh.Young@AmericanChemistry.com

Sincerely,



Adam S. Peer, Senior Director
American Chemistry Council

¹ Anthony L. Andrady and Mike A. Neal, "Applications and Societal Benefits of Plastics," *Philosophical Transactions of the Royal Society B: Biological Sciences* 364, no. 1526 (July 27, 2009): 1977–84, <https://doi.org/10.1098/rstb.2008.0304>.

² Richard Lord, "Plastics and Sustainability: A Valuation of Environmental Benefits, Costs, and Opportunities for Continuous Improvement" (American Chemistry Council, July 2016), <https://perma.cc/6PX6-MPUW>; Jinghan Di et al., "United States Plastics: Large Flows, Short Lifetimes, and Negligible Recycling," *Resources, Conservation and Recycling* 167 (April 2021): 105440, <https://doi.org/10.1016/j.resconrec.2021.105440>.

HB_168_UNF_LateTestimony_GregCosta

Uploaded by: Greg Costa

Position: UNF



**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.

Consumer Brands Association
1001 19th Street North, 7th Floor
Arlington, VA 22209

Powering every day.



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.

Greg Costa
Senior Director, State Affairs
Consumer Brands Association
gcosta@consumerbrandsassociation.org

HB168 - Testimony - American Cleaning Institute.pd

Uploaded by: Jamie Logan

Position: UNF



american cleaning institute®

Wednesday, February 7, 2024

Chairman Marc Korman
Environment and Transportation Committee
Maryland State House of Delegates

Re: Testimony from the American Cleaning Institute on HB 168 – Unfavorable

Thank you for the opportunity to provide testimony on HB 168 which is being heard before your committee. The American Cleaning Institute (ACI) – the trade association representing the entire supply chain for the detergent and cleaning product industry – remains committed to eliminating plastic waste from cleaning products by 2040. A major contributing factor to this goal is the utilization and inclusion of post-consumer recycled content in the packaging of our members' products. While our industry is supportive of shifting the market away from the continued use of virgin resins, we stress the importance of proper packaging for the safe and effective use of our members' products.

We appreciate that the Legislature has considered a number of proposals to address packaging waste in Maryland in recent sessions. We were happy to be noted as favorable with amendments on HB 284 from last session, which established an extended producer responsibility (EPR) needs assessment. This assessment, and related EPR proposals, will lead to more comprehensive programs to address packaging waste.

Therefore, we do not believe that HB 168 is necessary or is the policy solution that is needed at the moment. There is already extremely high demand for recycled content which is directing this material to its highest and best use. Establishing rates and dates for recycled content in packaging should be backed by scientific data supporting these values and be backed by investments to improve the supply of recycled content – data that will be gathered in the on-going needs assessment. For those reasons, ACI is opposed to this bill.

We would like to reiterate that ACI members support efforts to reduce packaging waste. We hope the Legislature will take more time to contemplate ACI input on this bill. ACI looks forward to providing necessary input regarding the performance of our products and packaging to achieve desired policy goals.

Sincerely,

Brennan Georgianni
Senior Director, State Government Affairs
BGeorgianni@cleaninginstitute.org

HB168_RestaurantAssoc_Thompson_UNFAVORABLE.pdf

Uploaded by: Melvin Thompson

Position: UNF



February 7, 2024

House Bill 168 – Environment - Plastic Products - Postconsumer Recycled Content Program

Position: OPPOSE

Dear Environment and Transportation Committee:

The Restaurant Association of Maryland opposes House Bill 168.

Despite some revised language in this year's bill, our members remain concerned that the recycled content requirements proposed by this legislation may affect the future availability of suitable rigid plastic food containers to meet our industry's needs. When Maryland's ban on polystyrene foam became effective, many of our restaurants struggled to find appropriate alternatives. We believe passage of this legislation could make it even more challenging to find cost-effective foodservice containers that achieve our performance requirements.

The availability of food containers with specified recycled content is also subject to marketplace realities. Food and Drug Administration (FDA) guidelines for food-contact packaging materials also cover post-consumer recycled content (PCR). We have learned from manufacturer representatives that the supply of PCR resin types that meet FDA requirements for food-contact applications has typically been low and varies between resin types. Also, the use of PCR can affect the rigidity of foodservice packaging containers.

In 2023, the General Assembly passed legislation (SB 222) that requires the Maryland Department of Environment to hire a consultant to conduct a statewide recycling needs assessment and report the results by July 30, 2024. This new law also establishes an advisory council to provide advice and make recommendations for implementing a producer responsibility program for packaging materials (report due by December 1, 2024). We believe it would be prudent for the General Assembly to wait until after the recycling needs assessment report becomes available and producer responsibility program advisory council recommendations before giving serious consideration to any other recycling-related policy.

For these reasons, we oppose this legislation and request an unfavorable report.

Sincerely,

A handwritten signature in black ink that reads "Melvin R. Thompson" with a long horizontal flourish extending to the right.

Melvin R. Thompson
Senior Vice President
Government Affairs and Public Policy

HB168_AMERIPEN_UNF

Uploaded by: Rob Keith

Position: UNF



The power of packaging in balance.™

AMERIPEN
American Institute for Packaging and the Environment

Testimony
Not in Favor of
Maryland House Bill 168
Plastic Products – Postconsumer Recycled Content Program

House Environment and Transportation Committee
February 7, 2024

Chairman Korman, Vice Chair Boyce and Members of the House Environment and Transportation Committee.

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to submit written testimony on House Bill 168 (Terrasa) to establish certain minimum post-consumer recycled (PCR) content percentage requirements for certain types of plastic packaging. While this can be a policy mechanism to potentially increase the use of recyclable materials by creating new end markets, we believe enshrining specific percentages in statute as a legal mandate can cause significant unintended consequences if not done properly. While we appreciate the intent of HB 168, we are not in favor of it in its current form. We would welcome the opportunity to work with this Committee and stakeholders to address minimum PCR content requirements in a more feasible way than HB 168 currently proposes.

AMERIPEN is a trade association dedicated to improving packaging and the environment. We are the only material-inclusive packaging industry trade association in the United States representing the entire packaging supply chain. This includes materials suppliers, packaging manufacturers, consumer packaged goods companies, and end-of-life materials managers. Our membership also includes a robust array of industry, material, and product-specific trade associations who are essential to the AMERIPEN fabric. We focus on science and data to support our public policy positions, and our advocacy and policy engagement is based on rigorous research rooted in our commitment to achieve sustainable packaging policies. We have several member companies with an established presence in Maryland, and many more who import packaging materials and products into the state. The packaging industry supports more than 15,000 jobs and accounts for nearly \$4.8 billion in total economic output in Maryland.

The packaging industry understands the value in recycling and knows that the reprocessing of packaging materials reduces litter and marine debris, contributing to the vitality of the American manufacturing sector. As such, AMERIPEN members have made aggressive commitments toward using recycled content in their packaging, including the types covered by HB 168. They are investing across their supply chains in technologies designed to increase the quality of materials collected and processed as well as the avenues for re-use and end markets. We recognize that the health of a recycling system is dependent upon robust end markets, and we believe there is a need for both pull and push mechanisms to encourage the reuse of materials – particularly within the context of global economic market shifts.

While AMERIPEN supports increased recycled content use in packaging, we have concerns with the specific goals and mechanisms used in HB 168 to mandate this and therefore make the following recommendations we believe will help make the bill more feasible.

Recycled Content Mandates – As discussed further below, recycled content mandates can have significant and at times unintended consequences on material markets and can merely shift recycled material use from one product type to another, ignoring the best environmental use for the material. As referenced in the section of HB 168 concerning potential reduction of penalties, sufficient supply of high-quality materials often may not be available to meet mandatory targets. If recycled content mandates are to be implemented in Maryland, uniformity with existing laws in other states like California, New Jersey, Oregon, and Washington State is critical. ***AMERIPEN therefore encourages the committee to consider the recycled***

content goals for plastic packaging established in those states rather than simply accept the 25-40 or 50-percent recycled content mandates currently proposed in HB 168. Furthermore, we would encourage inclusion of additional language in HB 168 to require the Maryland Department of Environment (MDE) to undertake a market assessment of available PCR content to determine if the scaling mandates proposed in HB 168 are in fact feasible before they go into effect.

Food Contact – Food contact packaging must meet strict U.S. Food and Drug Administration (FDA) requirements for quality and sanitization, and manufacturers must achieve compliance for all types of products and containers, depending on various factors such as food acidity, fat content and moisture levels. In many applications it is nearly impossible to use post-consumer recycled content materials and meet these FDA requirements. Furthermore, the FDA’s ability to review and approve “letters of no objection” (LNOs) from manufacturers desiring to use post-consumer recycled content materials for food-grade packaging applications has historically been hindered by limited staff dedicated to this process. ***AMERIPEN therefore recommends that the specific requirements for rigid plastic container food contact packaging be removed from House Bill 168. If food contact and preservation packaging is not fully removed from the bill, then language should be included to give exemptions – not waivers – when products are unable to get an LNO from the FDA for food contact and preservation packaging and language should be included to implement proper on-ramps for such that recognize actual availability of PCR content.***

Producer Definition – We are concerned that the language “a person responsible for complying with the requirements under this subtitle” in the definition of producer lacks clarity on who in the packaging production supply chain would be responsible for compliance. However, the language regarding hierarchy in section 9-2602 seems to clearly establish that the producer be identified as the company that uses covered packaging for a branded product and sells that product into the state. ***AMERIPEN recommends combining these two sections to clarify who will be identified as a producer and will therefore be responsible for compliance.***

Waiver Process – we appreciate that HB 168 provides the ability for a company to petition MDE for a temporary waiver from the PCR content requirements. However, there are many reasons why the use of PCR content might not be feasible, and those reasons could equally impact all companies in a packaging sector. ***AMERIPEN therefore recommends that “not generally applicable to other producers in similar circumstances” be struck from the waiver language to allow MDE to more broadly approve waivers based on hardships impacting more than just one company.***

Recycling Market Development and Funding – Considering the complex interplay of systems involved in recycling, we believe that Maryland also needs to support policies to increase the efficient collection, flow, and quality of materials back into the marketplace. House Bill 164 enacted in 2021 (Chapter 289) that requires MDE’s Office of Recycling to complete certain tasks to promote the development of recycling markets in Maryland is a big step in the right direction, including the examination of existing funding mechanisms for recycling market development and determination whether additional funding mechanisms are necessary to expand recycling markets in the state. This could significantly help advance the use of PCR content in Maryland. AMERIPEN fully supports the intent of 2021 Chapter 289 and has in fact been in touch with MDE staff about how we might be able to help support their implementation of this law. ***We recommend the Committee explore including additional language in HB 168 to complement and expand***

the recycling market development work MDE is undertaking, including funding for and investments into new and emerging recycling technologies to support capture and use of additional PCR content

Effective Date – When we submitted written testimony in 2022 and 2023 on similar legislation (HB 1239 and HB 342, respectively), we expressed serious concerns on the timing and percentages of recycled content mandated for some covered packaging. We have similar concerns for HB 168, further exacerbated now by some even more aggressive “rates and dates” in the bill for some covered packaging – particularly in later years. We are concerned that January 1, 2027 (the same date used in HB 342 in 2023), just over two years from the proposed effective date of the act of October 1, 2024, is extremely aggressive for any far-reaching PCR content mandates such as outlined in HB 168. Packaging supply-chains are particularly complex, and ensuring that products can be compliant, depending on the content percentages, will take time and product re-design. AMERIPEN therefore suggests that compliance dates should not occur until five (5) years or more after the act’s effective date for supply chains and demand to respond accordingly.

Unintended Consequences for Recycled Content Markets

As referenced above, recycled content mandates may be effective in directing materials towards end uses, but in doing so, they may distort existing market forces by often merely shifting material to specific uses rather than increasing market supply and availability. Depending on where mandates are implemented, they may or may not provide positive environmental value overall. This would specifically be the case with the 30-40% PCR content mandate for rigid plastic packages in HB 168, where there would likely not be enough rigid resin PCR content supply to meet the mandatory target. Therefore, the desired environmental benefit may not be achieved, and the penalties for noncompliance would be significant. While HB 168 contains new provisions for the reduction of such penalties for producers found to be out of compliance and submitting a Corrective Action Plan, we would recommend that the department consider the possibility of reducing fees to zero for the producer if the recognized reality is that compliance may not be feasible given the current market and within the timelines laid out in the bill.

Recycling is comprised of a series of interconnected systems: collection, sortation, processing and end-markets. Inconsistent collection and sortation decrease the value of processed materials, which limits end market demand and use. AMERIPEN members have made aggressive goals of increasing PCR content use across packaging types and materials, however, HB 168 would supersede those goals with a legal mandate and with timelines the market cannot meet. The purpose of the recycling system is to support manufacturing through resource efficiency. We create jobs from the recycling process by manufacturing products that rely on recycled materials as a feedstock. We reduce the use of virgin materials by re-processing existing materials and, in doing so, strive to mitigate negative environmental impacts. A study by More Recycling on End Market Demand for Recycled Plastic noted that collection of plastics, particularly that of polyethylene (PE) resins, had a higher collection rate than demand. Digging further into this, the study identified the end markets most capable of absorbing recycled material were not directing those materials back into packaging, but rather into alternative manufactured products such as building materials.

HB 168 assumes that recycled materials should be put back into consumer package materials yet demand for the materials might be best suited for other efficient market solutions rather than misdirection towards packaging. Every product has a different threshold to justify the changes in manufacturing that may be required to incorporate increased post-consumer recycled content. These considerations must be

evaluated to explore cost and efficiency trade-offs when mandating recycled content, such as HB 168 considers. Per above, increased flexibility is needed in key provisions of HB 168 to allow recycled materials to have the greatest positive environmental impact.

In conclusion, AMERIPEN recognizes 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 caution, however, that the recycled content mandates in HB 168, as drafted, will not necessarily achieve these stated goals and significant amendments in the bill are needed to make it more feasible. We therefore encourage the Committee not to pass HB 168 as currently written. AMERIPEN hopes that our suggestions for potential amendments in this testimony provide useful ways to amend HB 168 to make this legislation more feasible and to lead to increased recycling, recycled content use, and optimal environmental performance in Maryland. We look forward to continuing a dialog with the Committee on this important topic.

MD-DE-DC Bev. Assn. HB 168 Oppose.pdf

Uploaded by: Tiffany Harvey

Position: UNF



To: House Environment and Transportation Committee
House Economic Matters Committee

From: Tiffany Harvey, Esq.
Jenna Sublett
Cornerstone Government Affairs

Date: February 7, 2024

Re: HB 168 Environment – Plastics Products – Postconsumer Recycled Content Program
Oppose

The MD-DE-DC Beverage Association is the trade association representing the local soft drink industry. Increasing the recycled content in its packages is a top priority for the beverage industry. The good news from the soft drink beverage industry is that we are well underway to meeting the provisions of the legislation and making our beverage containers 100% recyclable.

In light of the current events and supply chain issues, we must also consider the realities of the marketplace, and it is important to note that these realities can slow these efforts, especially when trying to achieve standards for an individual state.

Should the Committee choose to move forward there are provisions of the legislation that are concerning and would need change.

1. Concerns over the Definitions: Plastic beverage containers would be subject to both the plastic beverage container content requirements and the rigid category.
2. The calculation of recycled content is limited to covered products sold in the state. This should be a national or, at a minimum, regional calculation. If not changed – this would result in local beverage manufacturers and other local producers having to procure materials and produce containers only for the Maryland market.
3. The bill requires proof of third-party certification. It is unclear as to the standards for providing certification.

Thank you. Additionally, please visit our website at www.everybottleback.com to read in full our commitments and partnerships around our containers and packaging as a whole.

MARYLAND • DELAWARE • DISTRICT OF COLUMBIA BEVERAGE ASSOCIATION

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