

HB1239_Postconsumer_Recycled_Content_MLC_FAV.pdf

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR HB1239

Environment - Plastic and Glass 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 HB1239 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 wrap used for meat packaging, or dry cleaning or newspapers as well as refillable beverage containers and biodegradable trash bags.

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

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

Testimony in SUPPORT of HB1239.pdf

Uploaded by: Joseph Jankowski

Position: FAV

Testimony in SUPPORT of HB1239 – Environment –Plastic and Glass Products
Postconsumer Recycled Content Program

Dear Chairman Barve and members of the Environmental and Transportation Committee,

I support HB1239.

The Eastern Shore of Maryland is critically dependent upon well water which is subject to micro-plastic pollution from breakdown of plastic packaging which is used for nearly all the products sold in Maryland. This bill proposes actions which Maryland can take to reduce the volume of plastic entering our environment by holding the producer of the plastic responsible for its' safe disposal.

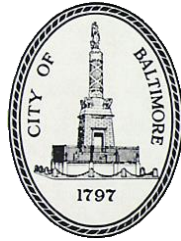
Respectfully,

Joseph Jankowski
Berlin, Maryland 21811

HB1239-ET-FAV.pdf

Uploaded by: Natasha Mehu

Position: FAV



BRANDON M. SCOTT
MAYOR

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

HB 1239

March 9, 2022

TO: Members of the House Environment & Transportation Committee

FROM: Natasha Mehu, Director, Office of Government Relations

RE: House Bill 1239 – Environment – Plastic and Glass Products – Postconsumer Recycled Content Program

POSITION: SUPPORT

Chair Barve, Vice Chair Stein, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** House Bill (HB) 1239.

HB 1239 requires plastic and glass producers to meet a minimum percentage of recycled content in their products, particularly plastic carryout bags, plastic beverage containers, rigid plastic containers, plastic trash bags, and glass containers and products. The bill requires producers to register with the administering department and pay a registration fee to be collected and kept in a fund to provide grants to the counties to implement recycling plans.

The City of Baltimore supports HB 1239, as it aligns with the strategies for waste reduction outlined in the Less Waste, Better 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 and glass 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 plastics 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 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 content targets unless strategic investments are made to address widespread national infrastructure gaps.

In summary, the City of Baltimore supports HB 1239 as well as additional efforts to manage and support the infrastructure required to supply the demand for recycled material.

For the above-stated reasons, we respectfully request a **favorable** report on HB 1239.

2022HB1239.pdf

Uploaded by: Sharon Davlin

Position: FAV

Committee: House Environment and Transportation

Hearing Date: March 9, 2022

Testimony: HB1239 Environment – Plastic & Glass Products – Post-consumer Recycled Content Program

Position: Support

Dear Chair and Members of the Committee,

As a resident of District 42/42A and a Maryland ratepayer, I write to express my strong support for HB1239. This bill would prohibit producers of plastic carryout bags, plastic beverage containers, rigid plastic containers, plastic trash bags, and glass containers and products from selling or distributing the products in Maryland unless they satisfy a minimum percentage post-consumer recycled (PCR) content requirement. The PCR content requirement targets differ across products, ranging from 10%-50%, increasing over time.

As a member of Zero Waste-CWA, Maryland League of Conservation Voters, Break Free From Plastic, and other local, national and international groups, I know that PCR legislation has been successful in Europe and in some American states, namely, New Jersey, Washington, Oregon and California. Maryland's proposed legislation benefits from their experiences.

The Maryland Recycling Act set a target of 60% waste diversion by 2020. We have not come close to meeting that goal. HB1239 would help our State meet the 60% target and establish Maryland as a regional leader in waste diversion.

I respectfully request the Committee's approval of HB1239.

Sincerely,

Sharon Davlin
District 42/42A

2022_HB1239_testimony.pdf

Uploaded by: Andrew Hinz

Position: FWA

**Testimony of Andrew Hinz for Supporting HB1239 House Environment & Transportation
March 9, 2022**

Position: FAVORABLE with Amendments

House Environment & Transportation Committee Chair and Members,

Thank you for considering my testimony.

Post-consumer recycled content requirements are an important piece of developing economically sustainable recycling markets to ensure that materials that are technologically recyclable actually get recycled, especially in light of 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. 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.

I support Sierra Club and their recommendations for amendments to the legislation and I support amending 9–2410 to no longer preempt Maryland counties and municipalities from setting stronger post-consumer recycled content requirements, but explicitly affirm their ability to do so—fore example:

This subtitle does not affect the authority of a county, municipality, or other local government to enact standards that are at least as stringent as the standards established in this subtitle.

Again, thank you.

March 7, 2022
Andrew Hinz
1427 Park Avenue
Baltimore, Maryland 21217

GCTF5122.pdf

Uploaded by: Angus Crane

Position: FWA



TESTIMONY OF THE
NORTH AMERICAN INSULATION
MANUFACTURERS ASSOCIATION (NAIMA)
ON MARYLAND HOUSE BILL 1239

My name is Angus Crane. I am executive Vice President and General Counsel for the North American Insulation Manufacturers Association (“NAIMA”). NAIMA is the trade association for manufacturers of fiber glass and mineral wool insulation. NAIMA greatly appreciates the opportunity to submit comments on this proposed legislation.

The fiber glass insulation industry is the second largest users of glass cullet in North America. U.S. manufacturers used 4.1 billion pounds of recycled glass in the production of residential, commercial, and industrial thermal and acoustical insulation in 2019 and 2020. NAIMA Canada members together used 633 million pounds of recycled glass in the production of insulation. However, to be usable, that recycled glass has to meet quality standards that allow it to be used without damaging furnaces or causing environmental permits to be exceeded. The fiber glass industry is tremendously proud of the substantial use of recycled content in the production of energy saving insulation products. These products reduce building energy use and decrease our carbon footprint. Over the long term, the fiber glass insulation industry expects to continue using substantial amounts of recycled glass.

The industry could use more glass cullet as its advantages are significant and many. The use of glass cullet reduced the energy needed to produce our fiber glass insulation products. The recycled glass is less corrosive than sand, so the more glass cullet we use, the longer our furnaces are preserved. These are significant and weight motivations to use and increase our use of glass cullet. The industry needs legislative incentives to encourage the use of glass cullet.

We are thwarted in our search for quality glass cullet by municipalities and local governments who cut glass out of the recycling stream. The fiber glass industry has no footprint in the State of Maryland, but if we did, we would be frustrated with the lack of glass recycling facilities in the State of Maryland. There are more constructive ways Maryland could be facilitating and increasing the use of glass cullet than imposing a specific recycled content mandate on fiber glass.

The State of California has a mandate of recycled content. The glass industry willingly and readily cooperated with this legislative measure, which has been in place for well over 25 years. California recognized that the glass cullet supply chain has fluctuations and is not always steady and reliable. Therefore, the state allows for the fiber glass insulation industry to rely on an annual average of recycled content. This California legislation also allows for lifting of the requirement when the glass cullet supply is not reliable.

Therefore, NAIMA urges the State of Maryland to recognize these basic facts about glass cullet supply and afford the fiber glass insulation manufacturers the same flexibility as has been given to us by the State of California – an annual average and an exemption from the mandate if the glass cullet supply chain is interrupted.

HB1239 FAVORABLE WITH AMENDMENTS.pdf

Uploaded by: Dave Arndt

Position: FWA

Testimony Supporting HB1239
House Environment & Transportation Committee
March 9, 2022

Position: FAVORABLE WITH AMENDMENTS

Dear Chair and Members of the Committee,

As a resident of Baltimore, MD, I am writing to express my strong support of HB1239 to increase the market for recycled materials in Maryland. Post-consumer recycled content requirements are an important piece of developing economically sustainable recycling markets to ensure that materials that are technologically recyclable actually get recycled, especially in light of 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.

I support the testimony of the Sierra Club and their recommendations for amendments to the legislation. I also encourage the committee to amend 9-2410 to no longer preempt Maryland counties and municipalities from setting stronger post-consumer recycled content requirements, but explicitly affirm their ability to do so. Local governments should not be barred from setting strong standards for minimum recycled content; so I suggest that this language be amended to language such as:

This subtitle does not affect the authority of a county, municipality, or other local government to enact standards that are at least as stringent as the standards established in this subtitle.

I encourage the committee to pass HB1239 to promote and create new markets for recycled materials, developing the Zero Waste future in Maryland.

Dave Arndt

Retired Chemical Engineer and Climate, Environmental and Social Justice Advocate

HB1239-ET_MACo_SWA.pdf

Uploaded by: Dominic Butchko

Position: FWA



MARYLAND
Association of
COUNTIES

House Bill 1239

Environment - Plastic and Glass Products - Postconsumer Recycled Content Program

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Environment and Transportation and
Economic Matters Committees

Date: March 9, 2022

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS** HB 1239 **WITH AMENDMENTS**. The bill would establish a minimum threshold for postconsumer recycled content in plastic and glass products.

HB 1239 sets minimum standards for postconsumer recycled content found in almost all plastic and glass products by creating the Postconsumer Recycled Content Program. Producers primarily administer the program; they are responsible for implementation, reporting, and third-party verification. In addition, the legislation sets increasingly progressive postconsumer recycled content percentages that producers must continually meet.

Counties support the ideas set out in HB 1239. It is essential that environmental action be taken by all involved parties and not just left to the State and local governments to clean up. MACo is concerned with section 9-2410, which preempts local governments from going above and beyond a floor set by the State. A county government's proximity to its community better allows it to address specific localized issues, especially when it comes to the environment. The bill should be amended to eliminate the preemption of local laws and instead set a floor for counties to exceed if appropriate for a community.

HB 1239 is a good step forward in ensuring Maryland has a healthier environment. Unfortunately, section 9-2410 weakens both the intent and effect by removing a local government's ability to go above and beyond the State's floor. Accordingly, MACo urges the Committee to provide a **FAVORABLE WITH AMENDMENTS** report for HB 1239.

HB1239 - Clean Water Action - FWA.pdf

Uploaded by: Jennifer Kunze

Position: FWA

Testimony Supporting HB1239
House Environment & Transportation Committee
March 9, 2022

Position: FAVORABLE WITH AMENDMENTS

Dear Chair and Members of the Committee,

Clean Water Action strongly supports HB1239 to increase the market for recycled materials in Maryland. Post-consumer recycled content requirements are an important piece of developing economically sustainable recycling markets to ensure that materials that are technologically recyclable actually get recycled, especially in light of 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 support the testimony of the Sierra Club and their recommendations for amendments to the legislation. We also encourage the committee to amend 9–2410 to no longer preempt Maryland counties and municipalities from setting stronger post-consumer recycled content requirements, but explicitly affirm their ability to do so. Local governments should not be barred from setting strong standards for minimum recycled content; so we suggest that this language be amended to language such as:

This subtitle does not affect the authority of a county, municipality, or other local government to enact standards that are at least as stringent as the standards established in this subtitle.

We encourage the committee to pass HB1239 to promote and create new markets for recycled materials, developing the Zero Waste future in Maryland.

Thank you,

Jennifer Kunze
Clean Water Action
jkunze@cleanwater.org

HB1239_MDSierraClub_fwa - 9March22.pdf

Uploaded by: Josh Tulkin

Position: FWA



Maryland Chapter
P.O. Box 278
Riverdale, MD 20738

Committee: Environment and Transportation

Testimony on: HB 1239 Environment – Plastic & Glass Products – Postconsumer Recycled Content Program

Position: Support with Amendments

Hearing Date: March 9, 2022

The Maryland Chapter of the Sierra Club supports HB 1239, with amendments. This bill would prohibit producers of plastic carryout bags, plastic beverage containers, rigid plastic containers, plastic trash bags, and glass containers and products from selling, offering for sale, or distributing the products in Maryland unless they satisfy a minimum percentage post-consumer recycled (PCR) content requirement. The PCR content requirement targets differ across products, ranging from 10%-50%, increasing over time.

Legislation mandating minimum PCR content raises the demand for post-consumer resins, glass, and other materials, helping to create a stable market for recycled materials. Higher PCR content conserves resources, diverting waste from landfills and incinerators. It reduces the demand for virgin materials and the greenhouse gas emissions associated with their manufacture. In addition, mandated PCR contents provide stability and viability in the marketplace for recyclers, incentives to improve the overall quality of PCR materials, and incentives to redesign products to be more recyclable.

Europe has led the way in mandating PCR content in new consumer goods. Several states, including California, New Jersey, Oregon, and Washington, have passed legislation requiring minimum PCR content across several packaging categories.¹ Their experience highlights lessons learned that are important to consider in the context of HB 1239:

- Uncertainty about baseline PCR content rates may lead to setting targets that are too low or unattainably high. Many states do not know the baseline PCR content in plastic or glass products. If the target is set too low, there is no impact on the recycling market. Bills in California and New Jersey allow state agencies to alter or update the targets based on supply, demand, changes in market conditions, recycling rates, availability of recycled resin, and recycling infrastructure capacity. *The target mandated PCR content for products in HB 1239 needs to be informed by information about baseline levels in Maryland.*
- Producers may be offered alternative ways of meeting requirements or substantial exemptions, reducing the impact of the PCR mandate. In Oregon, plastic bottles do not have to meet the PCR requirement if they achieve a statewide recycling rate of 25%; in 2019, 87% of plastic bottles in their program were redeemed, so there was no incentive to incorporate PCR content.² California's rigid-plastic packaging law exempts food containers, drugs, cosmetics, baby formula, and medical

¹ In addition, Connecticut passed a law in 2021 that requires the Commissioner of Energy and Environmental Protection to develop recycled content requirements for covered products sold in the state by December 2022.

² Paben, Jared. 2020. "California mandates recycled material in beverage bottles," *Resource Recycling*. September 1.

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.

devices; manufacturers can avoid the 15% recycled content requirement by reducing the weight of the containers by 10%.³ New Jersey exempts milk and plant-based milk, medical food, food for special dietary use, and infant formulas.⁴ *Exemptions in HB 1239 should be minimized.*

- There have to be enough postconsumer materials (plastic, glass, etc.) of sufficient quality to meet the PCR content requirement. Curbside recycling programs are not usually able to separate out plastics that are food-grade from those that are not; food-grade feedstock for new beverage and food containers may be in short supply. Glass containers in single stream programs are comingled, crushed, not sorted by color, and contaminated. Materials collected through deposit programs are much cleaner and less contaminated than materials collected through curbside programs.⁵ *Maryland does not have a beverage container deposit program that will provide high quality food-grade PCR materials; the adoption of a Maryland beverage deposit bill should be considered in tandem with PCR mandates to make their achievement feasible.*
- Financial incentives for achievement of PCR content are important for compliance. California's law has a penalty for non-achievement of the PCR recycled content for plastic beverage containers of 20 cents per pound of recycled resin short of the target amount. In New Jersey, the Department of Environmental Protection can assess a penalty on a per-pound basis for each pound of virgin material that is used where recycled material is required. *HB 1239 should include financial incentives to achieve the targets.*

The Maryland Recycling Act set a state goal of diverting 60% of all waste by 2020. As of 2019, only 45% of municipal solid waste was being diverted.⁶ 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. The Sierra Club is in discussion with the sponsor about amendments to HB 1239 to address these issues. We respectfully request a favorable report on HB 1239.

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

Marie LaPorte
Chapter Zero Waste Team
MarieLaporte@verizon.net

Josh Tulkin
Chapter Director
Josh.Tulkin@MDSierra.org

³ Paben, Jared. 2022. "Experts discuss trade-offs of recycled-content mandates," *Plastics Recycling Update* (a *Resource Recycling* publication), January 12. Other options are "to concentrate the product by 10% or show that the container is 10% lighter than comparable competitors' products." In this article, Mark Murray, executive director of Californians Against Waste, is quoted as saying "at this point [the policy] contributes zero to recycling market development, recycling funding, and producer responsibility."

⁴ Paben, Jared. 2022. "New Jersey bill passes (and other recycled-content updates)," *Resource Recycling*. January 12

⁵ Balkan, Elizabeth. 2021. "Deposit return systems are a key part of solving the plastic paradox," *Waste Dive*, March 29. Balkan quotes trade associations that 40-45% of used aluminum beverage cans and more than half of recycled glass is sourced from the 10 states with beverage container deposits. The suspension in 9 states of beverage container deposit enforcement during the covid epidemic resulted in "a significant decline in the amount of high-quality recyclables moving to processors," forcing "some recyclers to instead accept feedstock from curbside programs, which have much higher levels of contamination than the deposit stream."

⁶ Comprised of a 40.5% recycling and 4.5% source reduction credit.

MD HB 1239 Eastman Testimony .pdf

Uploaded by: Kierstin Turnock

Position: FWA

Bill Title: House Bill 1239 Environment – Plastic and Glass Products – Postconsumer Recycled Content Program

Committee: Environment and Transportation

Date: March 7, 2022

Position: Report Favorably with Amendments

Dear Chairman Barve and Honorable Members of the Committee:

On behalf of Eastman, thank you for the opportunity to provide comments on House Bill 1239 - Plastic and Glass Products – Postconsumer Recycled Content Program (HB 1239). 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 supports legislation like HB 1239 **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. I have attached a white paper we have prepared to provide some additional detail on the waste plastic issue and recycling.

As HB 1239 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 earlier this year.

Amendment 1

On page 5, in line 8 after "PRODUCT" insert "OR ANOTHER METRIC, AS DETERMINED BY THE DEPARTMENT."

Eastman commends the State of Maryland, the Environment and Transportation Committee, and the sponsor for pursuing the development of a responsible recycling policy.

Kierstin Turnock
State Government Affairs – Circular Economy
Eastman

HB1239_ENT_FWA_LessPlasticPlease.pdf

Uploaded by: Liz Feighner

Position: FWA



Howard County, Maryland

Testimony: HB 1239 Environment – Plastic & Glass Products – Postconsumer Recycled Content Program

Hearing Date: Mar 9, 2022

Bill Sponsor: Delegates Terrasa, Stein, and Ruth

Committee: Environment and Transportation, Economic Matters

Submitting: Less Plastic Please

Position: Favorable with Amendments

[Less Plastic Please](#) is a Howard County, MD grassroots organization representing more than 200 advocates and was instrumental in passing the plastic-bag-fee and plastic reduction act in our county. We support **Plastic & Glass Products – Postconsumer Recycled Content** with amendments.

This bill would prohibit producers of certain glass containers/products and plastic products, such as plastic carryout bags, plastic beverage containers, rigid plastic containers, plastic trash bags, from selling, offering for sale, or distributing the products in Maryland unless they satisfy a minimum percentage post-consumer recycled (PCR) content requirement. The PCR content requirement targets would increase over time.

A minimum PCR helps divert waste from landfills and incinerators and reduces the demand for virgin materials and the greenhouse gas emissions associated with their manufacture. Virgin plastics are made from fracked methane byproducts and are a significant cause of the climate crisis and the plastic pollution crisis. PCR also provides incentives to improve the overall quality of PCR materials, and incentives to redesign products to be more recyclable.

We respectfully request that the bill be made stronger by:

- Ensuring targets are met through a mechanism of incentives or strong penalties.
- Ensuring that high quality food-grade PCR materials are available and not in short supply which can be accomplished through beverage container deposit programs. These programs provide much cleaner and less contaminated materials to the manufacturers. A Maryland beverage deposit bill should be considered to make it easier for achieving targets and lessening the need for exemptions.
- Ensuring that Maryland counties and municipalities are NOT preempted from setting stronger PCR content requirements

We urge a favorable report with amendments.

[Less Plastic Please](#)

Submitted by Liz Feighner

lessplasticpleasehoco@gmail.com

The Maryland Recycling Network Response - HB 1239

Uploaded by: Peter Houstle

Position: FWA



March 7, 2022

To: House Environment & Transportation and Economic Matters Committees

Re: HB 1239 Environment - Plastic and Glass Products - Postconsumer Recycled Content Program

The members of the Maryland Recycling Network are involved in all aspects of recycling in Maryland. We are community and county recycling coordinators responsible for implementing and overseeing recycling programs, private sector companies that collect and process recyclables, agencies, non-profit organizations, and recycling activists. We promote the “3 R’s” of sustainable reduction, reuse and recycling of materials that are otherwise destined for disposal and the manufacturing and purchase of products made with recycled content. We achieve these goals through education programs, advocacy activities to affect public policy, technical assistance efforts, and recycling market development.

Our Legislation and Policy Committee members have direct experience operating recycling and composting programs at the county and municipal government level. They know the ins and outs of recycling in Maryland. Their experience informs our comments.

The MRN endorses HB 1239 as an important step forward in advancing recycling in Maryland. Markets are essential for the success of Maryland’s recycling programs. Last year the General Assembly took a major step forward with the passage of HB164 which created a recycling market development effort within MDE. We supported that effort and look forward to its successful implementation.

HB 1239 will aid last year’s successful legislation by requiring the use of recycled content in a number of plastic and glass packages and products. The requirements in the bill are achievable and will help to expand markets for the recyclables Marylanders put on their curbside.

We believe a standalone law, with specific targets and penalties, is essential to ensure that the producers of targeted plastic and glass packages and products take these requirements seriously and achieve them. Recycling cannot succeed without viable long-term markets. HB1239, in combination with HB164 from the last session, will help to provide the markets our curbside programs need.

We would suggest one amendment to replace Section 9-2409 Waivers with the following:

“The Department may grant a waiver pursuant to this section if the producer demonstrates, and the Department finds that:

(1) the producer cannot achieve the postconsumer recycled content requirements and remain in compliance with applicable rules and regulations adopted by the United States Food and Drug Administration, or any other State or federal law, rule, or regulation;

(2) it is not technologically feasible for the producer to achieve the postconsumer recycled content requirements;

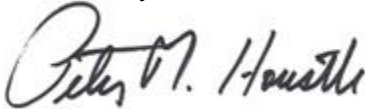
(3) the producer cannot comply with the postconsumer recycled content requirements due to inadequate availability of recycled material or a substantial disruption in the supply of recycled material; or

(4) the producer cannot comply for another reason as determined by the Department pursuant to rule, regulation, or guidance.”

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 in a time- and cost-effective manner.

Sincerely,

A handwritten signature in black ink, reading "Peter M. Houstle". The signature is written in a cursive, flowing style.

Peter M. Houstle
Executive Director

HB1239_IndivisibleHoCoMD_FWA_RichardDeutschmann.pd

Uploaded by: Richard Deutschmann

Position: FWA



HB1239 – Environment - Plastic and Glass Products - Postconsumer Recycled Content Program

Testimony before House Environment and Transportation Committee

March 9, 2022

Position: Favorable with Amendments

Dear Mr. Chair, Mr. Vice Chair, and Committee Members,

My name is Richard Deutschmann, and I represent the 750+ members of Indivisible Howard County. We are providing written testimony today to **support with amendments HB1239**, to increase recycled content of a number of consumer items. Indivisible Howard County is an active member of the Maryland Legislative Coalition (with 30,000+ members). We are grateful for the leadership of Delegate Terrasa in bringing this legislation.

HB1239 would prohibit the sale of several items including trash bags, plastic beverage containers, shopping bags, and rigid plastic food containers unless they meet minimum requirements for recycled content. This legislation is needed to help Maryland meet its goals regarding waste diversion. And the planet needs this legislation to help close the loop on recycling, while reducing throwaway waste items that are clogging our oceans and waterways with single-use plastic.

Several changes are needed to strengthen this legislation, to ensure that the goals that are set truly do increase the use of recycled content in real-time. These amendments are outlined in the Maryland Sierra Club testimony. The changes noted will ensure that producers cannot create exemptions that thwart the intent of the law, will help agencies to set realistic and achievable goals that are actually increasing the use of recycled content, and will provide producers financial incentives to stay in compliance with the regulations.

For these reasons, we are in support of this legislation, with the Sierra Club amendments to strengthen the bill, and ensure it has the outcome that is needed for our state and our planet.

We respectfully urge a favorable report on this bill with amendments.

Richard Deutschmann
Columbia, MD 21045

HB1239 SWA Trash Free MD Coalition (1).pdf

Uploaded by: shari wilson

Position: FWA



Bill: HB 1239

Date: March 9, 2022

Position: Support w/ amendments

HB 1239 - Environment - Plastic and Glass Products - Post consumer Recycled Content Program

Dear Chairperson Barve and members of the Environment and Transportation Committee:

We support HB1239 and the goal of increasing post-consumer content in plastic bags, beverage containers and other packaging. The bill establishes mandatory requirements for post-consumer content depending on the type of container or packaging and by date.

Increasing the requirement for post-consumer content in goods will strengthen the market for recycled inputs. However, if the standard for post-consumer content is too low, the desired goal of increasing demand for the recycled content will not be achieved. For this reason, it is critical to ensure that these standards are established based on current post-consumer content rates, technical and market capacity for increasing post-consumer content and continual evaluation as to whether capacity to increase recycled content has advanced.

Strengthening use of recycled content in this way instills greater consumer confidence and builds trust in recycling programs. These are critical steps as they will lead to more recycling participation and less litter. This bill would establish goals for recycled content, improve environmental outcomes and strengthen recycling progress in the State. Thank you for your leadership on these issues and we look forward to working with you.

Anacostia Riverkeeper
Trash Free Maryland

Environment Maryland

National Aquarium

Maryland PIRG

Contact: Shari Wilson (shari@trashfreemaryland.org)

MD HB 1239 PCR Coalition Letter FINAL.pdf

Uploaded by: Adam Peer

Position: UNF



March 7, 2022

Electronic Delivery

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

RE: Public Testimony Opposing House Bill 1239, relating to: creating minimum recycled content requirements for certain plastic and glass products and packaging

Dear Chair Barve and Members,

We **oppose** this legislation in its current form because we are concerned it may lead to negative environmental impacts. Instead, we urge the committee to support solutions that increase recycled content supply such as infrastructure investments. We hold that infrastructure will 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, which reduces carbon emissions, and the strength of plastics relative

to its to 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

Enhancing infrastructure is a better solution. We believe that enhancing infrastructure will better allow us to meet the recycled content demand. Minimum standards for infrastructure capacity to ensure jurisdictions are able to handle common materials and adjust to new waste streams, as well as programs to facilitate equitable access for all communities.

Please contact Josh Young at Josh_Young@AmericanChemistry.com so that we may respond to questions you may have.

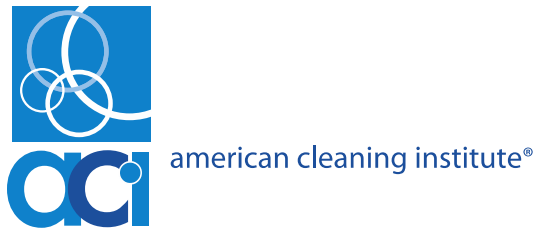
¹ Anthony L. Andrady and Mike A. Neal, “Applications and Societal Benefits of Plastics,” *Philosophical Transactions of the Royal Society B: Biological Sciences* 364, no. 1526 (July 27, 2009): 1977–84, <https://doi.org/10.1098/rstb.2008.0304>.

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>.

HB1239 - American Cleaning Institute.pdf

Uploaded by: Brennan Georgianni

Position: UNF



March 9, 2022

Delegate Kumar Barve
Chair, Environment and Transportation Committee
Maryland House of Delegates

RE: HB 1239 - Environment - Plastic and Glass Products - Postconsumer Recycled Content Program – Opposed

Thank you for the opportunity to share our perspective on HB 1239 which is being heard before your committee. The American Cleaning Institute® (ACI) is the trade association representing the \$60 billion U.S. cleaning products market. ACI members include the formulators of soaps, detergents and general cleaning products used in household, commercial, industrial and institutional settings; companies that supply ingredients and finished packaging for these products; and oleochemical producers. ACI and its members are dedicated to improving the health and quality of life through sustainable cleaning products and practices. ACI's mission is to support the sustainability of the cleaning products industry through research, education, outreach and science- based advocacy.

The optimization of ACI member company product packaging is a priority to deliver the performance of the products ACI members produce. It is for this reason that we have established guiding principles that help us ensure our products which provide hygiene and cleanliness do so in a manner that is environmentally sound, socially responsible and economically viable without compromising the ability of future generations to meet their needs. Our members have collaborated on guidelines to help direct packaging design and manufacturing. We have charted a roadmap to help us achieve 100% collection and reuse, recycling or composting of cleaning product packaging waste by 2040 which will include increased recycled content use.

ACI appreciates that the General Assembly is lending time to the issue of recycled content in packaging. Our members have goals that are in line with the intent of this legislation. However, at this time, our concerns remain that this bill will negatively impact our ability to achieve nationwide sustainability initiatives. We address those concerns here:

- **Rates go beyond what our industry has been able to commit to.** We are concerned that increases in mandated recycled content rates will occur automatically without justification from national recycling trends. Further, there is no study conducted that informs the initial proposed rates.
- **It is difficult to report state-specific data of this sort.** The nature of today's supply chains means that producers often do not have control of where a product will ultimately be sold. Compliance of this sort would need to be based on national sales data that could be prorated for New Jersey's population.

- **Third-party certification in this bill would be problematic.** There is no instruction on which entity or which standard would be sufficient for compliance.
- **Exemptions for the various covered products are inconsistent.** For instance: caps, closure and labels are exempted from recycled content provisions in plastic beverage containers but not for other rigid plastic containers.
- **Mandating PCR content in new uses may take recycled content away from other applications in which it is already being used.** This is an unintended consequence, and this legislation assumes that recycled materials are not being marketed for their best available use.

These are just some of the implications of this bill. While we understand its intent, we believe it falls short of the sustainability goals it seeks to achieve. Furthermore, we understand there are more comprehensive recycling initiatives being discussed which we are waiting to review. Our hope is that Maryland will address the entire solid waste management system instead of taking a piecemeal approach.

We would like to reiterate that ACI members support post-consumer recycled content use and are already doing so in many applications. One of our goals as an industry will depend on increased post-consumer recycled content use and less virgin material per dose. We hope the General Assembly will take more time to contemplate ACI input on this bill. ACI looks forward to being a priority stakeholder to the development of such legislation or providing necessary input regarding the performance of our products and packaging to achieve desired policy goals.

Sincerely,



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

FPI Written HB 1239_House Environment and Transpor

Uploaded by: Carol Patterson

Position: UNF



FOODSERVICE PACKAGING
INSTITUTE®

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March 7, 2022

House Environment and Transportation Committee
Room 251
House Office Building
Annapolis, Maryland 21401

Written Testimony: HB 1239 - Environment - Plastic and Glass Products - Postconsumer Recycled Content Program

Dear House Environment and Transportation Committee Members,

Thank you for the opportunity to share our feedback concerning HB 1239 - *Environment - Plastic and Glass Products - Postconsumer Recycled Content Program* (HB 1239), which we oppose unless amended. Please note our comments focus only on the targets related to rigid plastic containers for food and beverage, and in particular foodservice packaging.

Founded in 1933, the Foodservice Packaging Institute (FPI) is the leading authority on foodservice packaging in North America. FPI supports the responsible use of all foodservice packaging, while advocating for an open and fair marketplace for all materials. Our members include: raw material and machinery suppliers, manufacturers, distributors and purchasers of foodservice packaging. FPI represents approximately 90 percent of the industry.

The foodservice packaging industry is committed to reducing the impact of its products on the environment and is dedicated to increasing their recovery. FPI has several special interest groups that bring together the supply chain to develop and promote economically viable and sustainable recovery solutions for foodservice packaging. These special interest groups include the Paper Recovery Alliance, Plastic Recovery Group, Paper Cup Alliance and Foam Recycling Coalition. More information on these groups and their efforts can be found [here](#).

In principle, FPI fully supports policies and programs that result in more recycling and/or composting of foodservice packaging. However, while the intent of HB 1239 may be to increase the recycling and recovery of plastics (and glass) via post-consumer recycled content (PCR) requirements, we are concerned that the proposed approach does not reflect requirements and market realities for foodservice packaging, and sets unachievable targets.

There are a number of considerations that need to be taken into account when considering the addition of PCR resins to rigid plastic foodservice packaging, including U.S. Food & Drug Administration (FDA) requirements, supply of PCR resins, and product specifications and constraints.

According to the FDA, PCR resins for food-contact packaging must meet the same specifications as virgin plastic resin. In this regard, all food-contact packaging manufacturers have to follow strict FDA guidelines for all manufacturing processes and materials used in the making of food-contact packaging as per the [Guidance for Industry: Use of Recycled Plastics in Food Packaging \(Chemistry Considerations\)](#).

Of note, food-contact materials used in the manufacture of foodservice packaging are required to obtain a letter of no objection (LNO) from the FDA, which extends to PCR resins. The amount of PCR resin types available for food-contact applications that meet FDA requirements has historically been at lower supplies and varies between resin types. Further, an LNO for a certain resin and product does not indicate that all foodservice packaging of that resin type is approved for PCR content; the LNO is specific to a manufacturer and the defined application.

On the supply side, as various food and beverage companies make commitments to use PCR at higher rates, for an increasing number of products, the availability of material dwindles. There is currently not enough PCR resin in the marketplace to meet the voluntary demand driven by retailers. In fact, a recent study by [AMERIPEN](#) which analyzed U.S. company recycled content goals against available supply, states that *“domestic supply and reprocessing capacity for plastic resin concludes that based upon demand stated through public commitments for plastic PCR, the U.S. currently lacks the available supply and, in some cases, domestic reclamation capacity to meet those goals”*.

It is also important to note that, although PCR resins and virgin resins must adhere to the same FDA requirements, the use of PCR impacts rigid plastic foodservice packaging containers to differing extents. As PCR resins are increased, factors like rigidity can be affected. Certain packaging container shapes may be more easily manufactured using PCR resins at higher percentages, while others cannot as easily utilize the same percentage, making it difficult to uniformly assign minimum content requirements across all products and resins.

It is FPI's view that HB 1239 should be amended to exempt rigid plastic containers for food and beverage. However, should these materials continue to be included, we recommend they be considered a separate category (food-contact vs. nonfood-contact), with a five-year exemption, where PCR targets may need to be resin and product specific.

Additionally, we recommend amendments to the waiver language to allow for exceptions where compliance with the regulations set forth by the United States Food and Drug Administration prevents its inclusion, where there is lack of supply and where it is not technically feasible.

As drafted HB 1239, does not reflect the realities of the foodservice packaging industry. FPI encourages the expansion of recycling and composting infrastructure to improve the recovery of all foodservice packaging and supports the increased use of PCR, as allowed by FDA approvals, market availability and technological feasibility.

For the reasons outlined above, we are opposed to HB 1239, unless amended. FPI would be pleased to discuss these comments with you further, and we thank you for your consideration of this feedback.

Sincerely,



Carol Patterson
Vice President, Government Relations
cpatterson@fpi.org

HB1239_UNF_Valentino

Uploaded by: Ellen Valentino

Position: UNF



To: House Environment and Transportation Committee
House Economic Matters Committee

From: Ellen Valentino

Date: March 9, 2022

Re: HB 1239 Environment – Plastics and Glass 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. Page 6, lines 19-20 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. Page 6, lines 22-23 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

P.O. Box 711 • Annapolis, MD 21404

410-693-2226

MD HB 1239 2022 PCR Oppose.pdf

Uploaded by: Sam Schlaich

Position: UNF

Testimony in Opposition
of
House Bill 1239
in
House Environment and Transportation Committee
on
March 9, 2022

Dear Chair Barve and Members of the Committee,

The Flexible Packaging Association (FPA) is submitting testimony in opposition to House Bill 1239, “Environment - Plastic and Glass Products - Postconsumer Recycled Content Program” which establishes minimum post-consumer recycled (PCR) content percentage requirements for certain plastic carryout bags, plastic beverage containers, rigid plastic containers, plastic trash bags, and glass containers and products.

I am Sam Schlaich, Counsel, Government Affairs for FPA, which represents flexible packaging manufacturers and suppliers to the industry. In the U.S. Flexible packaging represents \$34.8 billion in annual sales in the U.S. and is the second largest, and fastest growing segment of the packaging industry. The industry employs approximately 80,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products.

These are products that you and I use every day – including hermetically sealed food and beverage products such as cereal, bread, frozen meals, infant formula, and juice; as well as sterile health and beauty items and pharmaceuticals, such as aspirin, shampoo, feminine hygiene products, and disinfecting wipes. Even packaging for pet food uses flexible packaging to deliver fresh and healthy meals to a variety of animals. Flexible packaging is also used for medical device packaging to ensure that the products packaged, diagnostic tests, IV solutions and sets, syringes, catheters, intubation tubes, isolation gowns, and other personal protective equipment maintain their sterility and efficacy at the time of use. Trash and medical waste receptacles use can liners to manage business, institutional, medical, and household waste. Carry-out and take-out food containers and e-commerce delivery, which are increasingly important during this national emergency, are also heavily supported by the flexible packaging industry.

The targets in HB 1239 are a great aspiration, but unlikely to be achievable, because there is simply not enough quality PCR resin available. The [latest data](#) from the Environmental Protection Agency (EPA) estimated **14.5 million tons** of plastic containers and packaging were generated in 2018, approximately 5.0 percent of material solid waste (MSW) generation.. Overall, **the amount of recycled plastic containers and packaging in 2018 was almost 2 million tons or 13.6 percent** of plastic containers and packaging generated.

Thus, FPA and its members are particularly interested in solving the plastic pollution issue and increasing recycling of solid waste from packaging, and creating a working, circular economy, but to achieve these goals, we need to invest in infrastructure and modernize Maryland's antiquated recycling system. Mandating presently unachievable PCR rates will likely result in harsher impacts on the environment and fail to accomplish the intent of HB 1239. FPA believes that a suite of options is needed to address the lack of infrastructure for non-readily recyclable packaging materials, and support of market development for recycled products along with meaningful, effective extended producer responsibility (EPR) programs are a more efficient way to build that infrastructure.

For these reasons, FPA **opposes HB 1239 and respectfully request an unfavorable report.** In advance, thank you for your consideration. If we can provide further information or answer any questions, please do not hesitate to contact me at 410-694-0800 or SSchlaich@FlexPack.org.

Respectfully,

Sam Schlaich

Sam H. Schlaich, J.D.

Counsel, Government Affairs, FPA

AMERIPEN - MD HB 1239 House ENT Hearing Testimony

Uploaded by: Dan Felton

Position: INFO



AMERIPEN
American Institute for Packaging and the Environment

Testimony
on
Maryland House Bill 1239
Postconsumer Recycled Content Program

House Environment and Transportation Committee
March 9, 2022

Chairman Barve, Vice Chair Stein 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 1239 that would establish certain minimum post-consumer recycled (PCR) content percentage requirements for certain types of packaging. While this can be a policy mechanism to potentially increase the consumption 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. We would welcome the opportunity to work with this Committee and stakeholders to address minimum PCR percentage requirements in a more feasible way than HB 1239 currently proposes.

AMERIPEN is a coalition of stakeholders dedicated to improving packaging and the environment. We are the only material neutral packaging association in the United States. Our membership represents the entire packaging supply chain, including materials suppliers, packaging producers, consumer packaged goods companies and end-of-life materials managers. We focus on science and data to define and support our public policy positions and our comments are based on this rigorous research rooted in our commitment to achieve sustainable packaging, and effective and efficient recycling policies. We have several member companies with a 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 believes the reprocessing of packaging materials reduces litter and marine debris and contributes 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 1239. 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.

Recommendations

While AMERIPEN supports increased recycled content use in packaging, we have concerns with the specific goals and mechanisms used in House Bill 1239 to mandate this and therefore make the following recommendations.

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. Oftentimes, supply of high-quality materials is also not 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-percent recycled content mandates currently proposed in HB 1239. Furthermore, we would encourage inclusion of additional language in HB 1239 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 1239 are in fact feasible before they go into effect.***

Food Contact Exemption – 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 food contact and preservation packaging be exempted from the requirements to have PCR content. If food contact and preservation packaging is not fully exempted 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 recycled content.***

Producer Definition – We are very concerned that the language “a person responsible for complying with the requirements under this subtitle” in the definition of producer lacks any clarity on who in the packaging production supply would be responsible for compliance. For the packaging covered by HB 1239, there might be several sub-component manufacturers supplying packaging elements to a brand name company. ***AMERIPEN recommends that the producer be identified as the company that uses covered packaging for a branded product and sells that product into the state.***

Waiver Process – we appreciate that HB 1239 provides the ability for a company to petition MDE for a 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. 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 the new law through our existing State Market Development Taskforce and other resources. ***We recommend the Committee explore including additional language in HB 1239 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 – We are concerned that January 1, 2026, is an extremely aggressive effective date for any far-reaching PCR content mandates such outlined in HB 1239. 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 an effective date must be five (5) years or more after the legislation is enacted 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 35-40% recycled PCR content mandate for rigid plastic packages in HB 1239, 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.

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 1239 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 1239 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 be misdirected 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 1239 considers. Per above, increased flexibility is needed in key provisions of HB 1239 to allow recycled materials to have the greatest positive environmental impact.

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 would caution however that the recycled content mandates in HB 1239, as drafted, will not necessarily achieve these stated goals and significant amendments in the bill are needed.

AMERIPEN hopes that our pragmatic suggestions in this testimony provide useful ways to amend HB 1239 to make this legislation more feasible and leads 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.

HB1239 LOI.docx.pdf

Uploaded by: Tyler Abbott

Position: INFO



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

March 9, 2022

The Honorable Kumar P. Barve, Chair
House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, MD 21401

Re: House Bill 1239 – Environment - Plastic and Glass Products - Postconsumer Recycled Content Program

Dear Chair Barve and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed HB 1239 entitled, *Environment - Plastic and Glass Products - Postconsumer Recycled Content Program*, and would like to provide the committee with some information regarding this bill.

HB 1239 would establish a postconsumer recycled content program for the following covered products distributed in Maryland: plastic bags made from film plastic; plastic beverage containers up to 2 gallons in capacity; rigid plastic and/or non-durable plastic containers; plastic trash bags; glass containers for food or beverages; fiberglass building insulation; and any other glass products identified by MDE in regulation. The bill sets minimum levels for postconsumer recycled content for covered products as well as a graduated schedule for increasing those minimum levels over time. Producers of covered products, individually or as part of a representative organization, must annually: register with MDE and pay a \$1,000 registration fee; provide a third-party certification that the product meets the postconsumer recycled content percentage requirements; and provide other specified information regarding product sales within the state. Starting March 1, 2024, a producer may not sell, offer for sale, or distribute a covered product in Maryland unless the producer has registered with MDE and paid the registration fee and, starting March 1, 2026, the covered product meets the postconsumer recycled content requirements established in the bill.

MDE is supportive of initiatives that increase the amount of recycled material used in manufacturing. Postconsumer recycled content programs are aimed at encouraging the development of a circular economy for recyclable materials by increasing the amount of materials collected and recycled, while creating new markets by requiring producers to use a certain percentage of recycled content in new products. MDE is currently working to implement Chapter 289 of 2021, which requires the Department to promote the development of markets for recycled materials and recycled products in Maryland, evaluate the availability of certain markets, and identify Maryland businesses that use recycled materials.

HB 1239 would require MDE to establish a new program at the Department responsible for promulgating any regulations necessary to implement the postconsumer recycled content program, tracking annual registrations and fees, reviewing producer third-party certifications, processing waiver requests, ensuring that products sold in Maryland meet the postconsumer recycled content requirements, and overseeing producers' compliance with the bill. If the registration fees are not enough to cover the Department's cost under this legislation, there

would be no available funds in the State Recycling Trust Fund to cover any additional costs. While MDE currently has adequate and sufficient staff and resources to conduct its mission effectively and efficiently, any additional legislatively-mandated program or regulation, such as this, could hamper our efficiency, force us to divert resources away from current core competencies and could disrupt customer service and/or diminish services.

Additionally, the registration fees provision in § 9-2403 of the bill does not clearly indicate whether each producer pays an annual fee, regardless of use of a representative organization, or whether a single fee paid by a representative organization would cover all producers it represents. This should be clarified.

HB 1239 may also raise due process concerns. Due process requires that a statute “afford individuals a reasonable opportunity to know what is prohibited or required so that they may govern their behavior accordingly” (*Condon v. State of Maryland-Univ. of Maryland*, 332 Md. 481, 499 (1993)). Section 9-2402(a)(2)(iii) of the bill provides that an importer or distributor of covered products is only considered a producer, if the party who would otherwise be considered a producer is outside the jurisdictional reach of the state. This would require an importer or distributor to conduct a legal and factual analysis of the jurisdictional status of each producer, manufacturer, trademark holder and/or trademark licensee of each of the products it imports or distributes to determine if it must register and/or otherwise comply with this bill.

Thank you for your consideration. We will continue to monitor HB 1239 during the committee’s deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", with a stylized flourish at the end.

Tyler Abbott

cc: The Honorable Jen Terrasa
Kaley Laleker, Director, Land and Materials Administration