



February 2, 2022

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

Re: House Bill 307 – Environment - Packaging Materials - Producer Responsibility

Dear Chair Barve and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed HB 307, entitled *Environment - Packaging Materials - Producer Responsibility*, which would establish a producer responsibility program for packaging materials distributed in Maryland. MDE would like to provide additional information regarding this bill.

HB 307 would establish the Producer Responsibility Plan Advisory Council to provide advice to MDE, and producer responsibility organizations on drafting, amending, and implementing producer responsibility plans. MDE would be required to conduct a 10-year statewide recycling needs assessment in consultation with producer responsibility organizations, the advisory council, local government entities, and regional solid waste organizations. A report on the results of the assessment must be submitted on or before October 1, 2023, and every 10 years thereafter. MDE must coordinate with producer responsibility organizations to establish performance goals, based upon the results of the assessment, for each packaging material type that must be incorporated into producer responsibility plans. In order to obtain the information and expertise in socio-economic analysis that is needed to conduct the recycling needs assessment, MDE would hire a contractor to perform the assessment.

On or before April 1, 2024, each producer of packaging materials, individually or as part of a producer responsibility organization, would be required to develop and submit a 5-year producer responsibility plan to MDE for review and approval. Within 120 days of receiving a proposed producer responsibility plan, MDE would need to either approve, approve with conditions, or reject the plan. Within 6 months of a producer responsibility plan being approved, a producer responsibility organization must implement the approved plan. Beginning October 1, 2024, a producer may not sell, offer for sale, distribute, or import for sale or distribute packaging materials for use in the state unless the producer and the brand of packaging material is covered under an approved plan. By October 1 of each year, beginning in 2026, each producer responsibility organization would be required to submit to MDE an annual report on their progress towards meeting the requirements of the producer responsibility plan, including the performance goals, for the immediate preceding year. While HB 307 would authorize MDE to impose civil penalties on violators through a court action, the bill does not provide the Department with the flexibility to take administrative enforcement actions.

MDE is supportive of initiatives that will fund and improve local recycling systems and engage producers in the sustainable management of their products. Extended producer responsibility legislation, such as this bill, aligns with MDE policy and is 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. Several states have introduced legislation over the past few years to establish extended producer responsibility programs. In fact, both Maine and Oregon passed legislation in 2021 that required producers of packaging to implement producer responsibility programs and to achieve performance goals aimed at reducing, reusing, and recycling these products. (Note, Oregon's law also covers paper and food serviceware).

HB 307 would require the establishment of a new program at MDE. The current implementation timeline established in the bill may not provide the Department sufficient time to perform the initial duties needed to establish the producer responsible program, such as conducting the statewide recycling needs assessment, hiring new staff, adopting the required regulations, and working with the advisory council and producer responsibility organizations to develop approvable producer responsibility plans. MDE is working with the bill's sponsor and proponents to address these timeline issues.

Thank you for your consideration. We will continue to monitor HB 307 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 long horizontal line extending to the left.

Tyler Abbott

cc: Kaley Laleker, Director, Land and Materials Administration