



Maryland Chapter
P.O. Box 278
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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.

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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.

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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.