



CONSUMER
HEALTHCARE
PRODUCTS
ASSOCIATION

Taking healthcare personally.

February 1, 2022

The Honorable Delegate Kumar Barve
Chair, House Environment and Transportation Committee
Room 251
House Office Building
Annapolis, Maryland 21401

RE: OPPOSE – HB 307 (Packaging Stewardship Program and Fund)

Dear Chairman Barve:

On behalf of the Consumer Healthcare Products Association (CHPA), the national trade association representing the leading manufacturers of over-the-counter (OTC) medicines, dietary supplements, and consumer medical devices, I'd like to express opposition to HB 307. While we share a desire to increase recycling and reduce waste in landfills, we cannot support a state program that potentially conflicts with existing federally mandated packaging requirements meant to ensure consumer safety, medicinal efficacy, and product stability. We also hesitate to support legislation that will add to already historic inflationary pressures that threaten the affordability of personal healthcare for millions of Maryland residents.

Consumer Healthcare Product Packaging Focuses on Safety

Manufacturers of consumer healthcare products take very seriously the types of packaging used to transport, store, and safely deliver consumer healthcare products to consumers seeking self-care options. As the first-line of defense for Maryland residents looking to address minor health ailments, consumer healthcare product packaging must withstand the rigors of volatile temperature changes during transport, lengthy durations on the store shelf, and illicit tampering of the product itself before it is consumed. A very complex and highly regulated federal framework for OTC consumer healthcare packaging has been in place for decades and serves to provide safety, efficacy, and stability of products for consumers. State action on packaging for these products' likely conflicts with federal laws and regulations already in place and could compromise the end safety, affordability, and stability of the product themselves.

Consumer Healthcare Products Should Be Exempt from State Packaging Stewardship Programs

Packaging of consumer healthcare products differs from other consumer products in that it is often dictated by federal rules and regulations. The federal government has created packaging protocols to ensure among other things that medications are protected from adulteration, that they communicate vital information on labels and packaging, and that the product is stored to withstand temperature changes during transportation, shipping, and storage. Protections like the Poison Prevention Packaging Act (PPPA), enacted in 1970, was established to ensure safeguards for consumers including packaging, and the Consumer Product Safety Commission has the authority to require certain types of packaging for many OTC drugs.

Similarly, the Food and Drug Administration (FDA) requires all ingested OTC drugs to include tamper-evident packaging to help protect consumers. Tamper-evident packaging most frequently involves plastic packaging features which are removed after the consumer brings the product home. Manufacturers are required to strictly follow federal packaging regulations for OTC



CONSUMER
HEALTHCARE
PRODUCTS
ASSOCIATION

Taking healthcare personally.

products. Any attempt by the state of Maryland to limit packaging could cause conflict between state and federal law, and manufactures of consumer healthcare products, therefore, should not be penalized for using packaging that satisfies existing federal requirements for safety and stability.

To avoid this conflict, CHPA recommends exempting FDA approved consumer healthcare products from the requirements of HB 307. This exemption can be accomplished by including the language pasted below:

“Any material that is used in the packaging of a product that is regulated as a drug, medical device or dietary supplement by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et seq., sec. 3.2(e) of 21 U.S. Code of Federal Regulations or the Dietary Supplement Health and Education Act is exempt.”

Consumer Healthcare Products Play a Critical Role in American Healthcare

Millions of Marylanders rely on consumer healthcare products as an easily accessible, affordable, and effective first line of defense against common ailments and illnesses. The COVID-19 pandemic has illustrated the importance of these products in limiting needless visits to doctors’ offices and boosting immune health for American families. Today, Maryland residents are facing historically high inflation rates not seen in nearly four decades. The costs associated with this proposed program will exacerbate already existing inflationary pressures and hurt Maryland residents’ ability to access these products affordably.

Conclusion

Thank you for the opportunity to comment on this legislation. We respectfully request your careful consideration to our concerns as this bill will have a profound impact on the affordability of consumer healthcare products for residents of Maryland for years to come. Please feel free to contact me directly with any questions or concerns.

Respectfully submitted,

Carlos I. Gutiérrez
Vice President, State & Local Government Affairs
Consumer Healthcare Products Association
Washington, D.C.
202.429.3521
cgutierrez@chpa.org

Cc: Members of the House Environment and Transportation Committee