



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

February 2, 2022

TO: The Honorable Kumar P. Barve
Chair, Environment and Transportation Committee

FROM: Marc Elrich
County Executive

RE: House Bill 307 – *Packaging Materials – Producer Responsibilities* – Support
with amendment

I am writing to express my strong support for House Bill 307 – *Packaging Materials - Producer Responsibilities* with amendments that clarify several components of the bill. The bill would enhance recycling and diversion, improve recycling markets, and reduce waste in the State through: (1) conducting a statewide recycling needs assessment every ten years; (2) requiring producers to develop producer responsibility plans related to increasing postconsumer recycled content in packaging; (3) reducing packaging waste overall; and (4) creating a process through which local governments may request reimbursement for portions of the cost of collecting, transporting, and processing (including removing contamination) recyclable and compostable materials. These are crucial steps in reducing the wasted resources and excess greenhouse gases associated with single use behaviors, as we hope to move towards a more circular economy.

House Bill 307 focuses on materials that are most burdensome to Montgomery County; those that are expensive to recycle, common contaminants, or end up as litter in our community. The County collects approximately 100,000 tons of recyclable material per year, including yard waste, commingled materials (e.g., glass, plastic, aluminum), and paper. This tonnage is steadily increasing each year. The processing costs of these materials (excluding collection costs) exceed revenue from post-processed recycling commodities by \$5 million. The County's recycling program is a fee for service system under which ratepayers (i.e., residents and businesses) pay the difference between the cost of operating the system and the revenues collected from the sale of the post-processed recycling commodities. One of the more expensive waste products to recycle is mixed-color broken glass, for which the County pays \$15 per ton to be recycled.

For litter and contamination, House Bill 307 addresses two of the worst materials for Montgomery County: plastic bottles and plastic bags. Studies conducted by the Metropolitan Washington Council of Governments for Montgomery County show that these are the two greatest contributors to the County's litter stream, making up more than one third of all litter. In addition, plastic bags inappropriately placed by residents in recycling bins are a main source of contamination of other recyclables at the County's Material Recover Facility and often cause a breakdown of equipment because they clog sorting machinery.

House Bill 307 helps to create market shifts in packaging materials by requiring greater recycled content and driving markets towards more environmental sustainability. This bill also helps to begin a shift in the cost burden for the recycling of packaging materials from the ratepayer to the producer. The bill proposes a framework for local governments to request reimbursement for up to 50% of the cost of collecting packaging materials, transporting recyclable or compostable packaging materials to a recycling or composting facility, processing packaging materials, and recycling packaging materials. This is an important shift in the end stages of single use materials from being ratepayer subsidized to being the responsibility of the producer.

I want to specifically note my appreciation for the language in Section 9-2403(B) of the bill (page 10, lines 1-3) that expressly provides that the bill does not preempt the authority of the State or any local jurisdiction to regulate the sale or use of any packaging material. This language is necessary and preserves our ability to develop specific requirements for Montgomery County when appropriate.

I strongly support the intent of House Bill 307 to improve recycling markets and shift the cost burden of single use packaging from ratepayers to producers but believe that important components of the program proposed in the bill need to be clarified by amendments before the bill is enacted or addressed by the Maryland Department of Environment (MDE) in consultation with counties as it develops regulations to implement the bill. Recycling systems in the State are complex and as various as our counties are themselves. House Bill 307 provides a strong framework for extended producer responsibilities but lacks clarity on how to deal with many complexities of our systems in the following areas:

- Section 9-1702.2 (B)(4) (page 4, lines 28-29) addresses the Statewide recycling needs assessment of local government requirements related to multi-family recycling. I recommend that this assessment of local government requirements relate to businesses as well. The commercial sector historically generates significant tonnages of recyclable materials that counties manage.
- Section 9-2403 (C) (page 8, lines 4-7) expressly provides that the bill does not prohibit a Producer Responsibility Organization from establishing a deposit-return system. Depending on the type of a deposit-return system there are potentially significant impacts to existing recycling programs of local jurisdictions. Setup of bottle-return systems must be inclusive of counties and other entities that manage existing recycling systems in the development of a such a program.

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- Section 9-2404 (A)(1)(II)B (page 10, lines 21-22) and (B)(10)(III) and (IV) (line 18 on page 12 through line 2 on page 13) should be amended to require that education and outreach be coordinated with counties to ensure education is consistent with educational materials provided by the counties.
- Section 9-2404 (B)(12) (page 13, lines 6 through 14) requires Producer Responsibility Organizations to describe the process for a local government to request reimbursement for costs associated with transporting, collecting, and processing packaging materials. The bill or its implementing regulations must clearly define how a local government would be able to collect reimbursements for multiple brands of packaging materials and how those reimbursements would be parsed out.
- The bill places numerous responsibilities with specific deadlines on MDE and a voluntary Producer Responsibility Plan Advisory Council. Successful implementation of House Bill 307 will require significant staff resources for MDE and the Advisory Council. I encourage the Committee to ensure these staffing needs are addressed.

I respectfully request that the Environment and Transportation Committee vote favorable on the bill with amendments that address the issues discussed above so that that we can move forward in improving our recycling system and becoming less dependent on ratepayer subsidized recycling of single use materials.

cc: Members of the Environment and Transportation Committee