

SB292 - Extended Producer Responsibility

Senate Finance Committee

February 17, 2022

Position: Favorable with Amendments

Dear Chair Kelley and Members of the Committee,

The undersigned organizations support SB292 but with necessary amendments to address potential concerns with a Producer Responsibility Organization and other concerns. Extended Producer Responsibility (EPR) is a potentially effective solution to our current unsustainable waste stream - assigning the responsibility for recycling and waste management where it belongs, on the producer creating the pollution problem. EPR is an important **polluter pays** principle. However, we are concerned that in its current form, SB292 creates a **polluter controls** policy. It creates a Producer Responsibility Organization (PRO), which would have the force of law in Maryland without the ability of citizens to have access to decision making at the local level: where the impact of the legislation will be felt the most.

Instead of creating a PRO, the legislature could consider taxing the packaging industry, with proceeds going to state and local government: forming a permanent source of revenue for local governments that will ease the burden of managing waste and recyclables produced by the packaging industry. Or, if a PRO is to be used, the control of it should be manifested in small and mid-sized businesses in Maryland, not national and international conglomerates.

Comparisons with EPR programs in other states highlight the need to change the PRO model that SB292 contemplates.

- CA and WA chose not to pursue EPR legislation with this type of PRO. Legislators feared turning over public power to private global corporations.
- In Hawaii, the legislature is considering an EPR bill by State Senator Laura Ocasio, that will sunset the tax surcharge after proper Zero Waste infrastructure is implemented.
- There is an EPR bill recommended by grass roots organizations and businesses in Oregon to have a PRO controlled by small and mid sized businesses. not national and international Fortune 500 companies.
- CA, TX, and federal bills deal with the crises of plastic and global warming by taxing plastic.
- Some states are also considering a municipal reimbursement EPR bill that has a PRO but the money raised by the PRO is sent to government agency(s) for distribution. This is the policy approved by the National Recycling Coalition, Sierra Club and the Global Anti Incineration Alliance (GAIA).

These approaches should be considered.

A few more concerns with this legislation include:

- It can be preferable to keep bottle bills separate from EPR proposals, because EPR programs and bottle bills can have goals that undermine each other. For example, in British Columbia, Canada, the Producer Responsibility Organization (PRO) makes more money from methods other than bottle deposits, even though bottle deposits are preferable in that they result in cleaner materials for recycling. An independent bottle bill must have mandated refillables requirements: for example, 10% by 2025; 25% by 2030; 50% by 2035.
- The bill lacks important measures for transparency and accountability, and there are no direct requirements for producers to reduce packaging or to redesign it to be more reusable, more recyclable, and less toxic.
- There are no specific targets on reuse, recycling, and recycled content in the legislation, nor penalties for not reaching set goals.
- Investment funds must have quality control requirements to make sure investments are compatible with Zero Waste priorities.

We encourage you to consider the American Recycling Infrastructure Plan prepared by the National Recycling Coalition, Zero Waste USA, and the Institute for Local Self-Reliance should be considered as resources for creating EPR programs and for considering necessary amendments to SB292.

Thank you,

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