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AMERIPEN
American Institute for Packaging and the Environment

Testimony
on
Maryland Senate Bill 292
Packaging Producer Responsibility

Senate Finance Committee
February 17, 2022

Madame Chair Kelley, Vice Chair Feldman and Members of the Senate Finance Committee.

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to offer testimony on Senate Bill 292 that would establish a packaging producer responsibility program in Maryland. We are pleased with the progress that has been made on this bill with the sponsor, Senator Malcolm Augustine, and other stakeholders on this important issue. We support many of the concepts in it and are therefore taking the position of support with amendments in hope that some minor concerns will still be addressed.

AMERIPEN is a coalition of stakeholders dedicated to improving packaging and the environment. We are the only material neutral packaging association in the United States. Our membership represents the entire packaging supply chain, including materials suppliers, packaging producers, consumer packaged goods companies and end-of-life materials managers. We focus on science and data to define and support our public policy positions and our comments are based on this rigorous research rooted in our commitment to achieve sustainable packaging, and effective and efficient recycling policies. We have several member companies with a presence in Maryland, and many more who import packaging materials and products into the state. The packaging industry supports more than 15,000 jobs and accounts for nearly \$4.8 billion in total economic output in Maryland.

Packaging plays a vital role in Maryland, ensuring the quality of consumer goods as they are manufactured, shipped, stored and consumed, protecting the health and safety of Marylanders who consume, use and handle those products. Packaging has value and none of it belongs in landfills, roadsides or waterways. We need to recover it to be recycled and reused, and no one knows better how to do that than the AMERIPEN members who design, supply, produce, distribute, collect and process it. They are driving innovation, designing for better environmental performance to boost recycling and evolve the recycling infrastructure.

AMERIPEN supports policy solutions, including packaging producer responsibility, that are:

- **Results Based:** Designed to achieve the recycling and recovery results needed to create a circular economy.
- **Effective and Efficient:** Focused on best practices and solutions that spur positive behaviors, increase packaging recovery, recapture material values and limit administrative costs.
- **Equitable and Fair:** Focused on all material types and funded by shared cost allocations that are scaled to make the system work and perceived as fair among all contributors and stakeholders.

We support Senate Bill 292 with amendments because we believe it reflects the above principles and creates a collaborative approach between all packaging value chain stakeholders to help design and run modernized recovery and processing solutions that will drive results. We look forward to continuing to collaborate with Senator Augustine, Delegate Brooke Lierman who is sponsoring companion legislation (House Bill 307), and other stakeholders to continue to advance this important policy in Maryland. Following below are some outstanding concerns with proposed solutions we believe will help with that.

Maintenance of Producer Funds – Section 9–1707(IV) in the bill appears to suggest that fees collected by the producer responsibility organization (PRO) from producers will be maintained within the existing Maryland State Recycling Trust Fund. That is inconsistent with existing packaging producer responsibility programs where producer funds are maintained by the PRO on behalf of the producers paying into the program. We understand that the approach of having producer funds maintained within the existing Maryland State Recycling Trust Fund may have been taken to assist with streamlining municipal reimbursements – particularly if multiple PROs are established. Producer fees must be maintained by the PROs, and municipal reimbursements from multiple PROs can easily be coordinated, including perhaps via a single coordinating organization. AMERIPEN is prepared to offer specific amendatory language to address this issue.

Local Government Reimbursement – Section 9-2406 in the bill includes language that allows a local government to request reimbursement from a PRO for *“costs associated with recycling services for businesses, schools, public places, residential housing, including multifamily housing, and any other entity.”* This is very broad and goes well beyond AMERIPEN’s position that packaging producer responsibility programs should ideally apply to residential recycling only and should not impact commercial recycling systems. AMERIPEN is prepared to offer specific amendatory language to address this issue, including an approach to study multifamily housing recycling, for example, before requiring a PRO to potentially reimburse for such.

Compostable Materials and Composting – aligned with Senate Bill 292, AMERIPEN supports inclusion of compostable packaging and composting in packaging producer responsibility programs. This includes increased appropriate infrastructure to handle compostable packaging and additional consumer education to increase participation in composting programs while reducing contamination. However, industry concerns exist about striking the right balance for establishing proportional fees for compostable products to support composting infrastructure and for recyclable products to support recycling infrastructure. We believe these concerns merit further consideration, can be solved for, and we would be pleased to collaborate with other interested stakeholders to explore amendatory language to address them.

Needs Assessment – Section 9-1702.2(B) in the bill requires the Office of Recycling within the Maryland Department of Environment to conduct a statewide recycling needs assessment once every ten years, with reporting on the first assessment due October 1, 2023. AMERIPEN fully supports these needs assessments to identify specific packaging recovery and recycling system needs before PRO funding allocations are determined and made. However, we encourage consideration of an amendment to this section of the bill to allow the Department to hire a third party to carry out the needs assessment. The Office of Recycling would not incur any additional expense for this approach, since the same section of the bill requires the PRO to pay a fee to the Office to cover the costs associated with conducting the needs assessments. Additionally, we would welcome the opportunity to be involved in additional discussion about the proper cadence for future needs assessments after the initial one is done. It may make sense to do it more frequently than once every ten years, also recognizing that this will mean a more frequent expense incurred by the PRO.

In conclusion, AMERIPEN supports policy solutions, including packaging producer responsibility, that are results based, effective and efficient, and equitable and fair. We believe Senate Bill 292 satisfies those principles and therefore encourage this Committee to pass the bill with amendments so we and other stakeholders can together continue the dialog on how to increase packaging recovery and recycling in Maryland in a shared, meaningful and responsible way.