

**SB292\_PGCEX\_FAV.pdf**

Uploaded by: Angela Alsobrooks

Position: FAV



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

**BILL:** Senate Bill 292 – Environment - Packaging Materials  
- Producer Responsibility

**SPONSOR:** Senator Augustine

**HEARING DATE:** February 17, 2022

**COMMITTEE:** Finance

**CONTACT:** Intergovernmental Affairs Office, 301-780-8411

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**POSITION:** SUPPORT

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The Office of the Prince George's County Executive **SUPPORTS Senate Bill 292 – Environment - Packaging Materials - Producer Responsibility** that will encourage manufacturers to make more sustainable packaging choices and contribute to the skyrocketing costs – currently borne by taxpayers alone – of collecting, recycling and disposing of that packaging. In addition, it will spur the development of a waste diversion industry in Maryland and assess current and future waste infrastructure needs across the State.

Extended producer responsibility (EPR) is a valuable tool to maximize the circularity of packaging materials while reducing the amount of waste being generated. It engages private enterprises to become active participants in the promotion of reduce, reuse, and recycle practices. Prince George's County led the state in recycling and waste diversion for well over a decade and is home to the largest municipal composting facility on the east coast. This Bill will augment the County's current efforts to decrease the amount of waste being landfilled and leverage limited taxpayer funds to continue to innovate, providing the best and most sustainable services to residents. Recycling must be a shared responsibility between manufacturers and the public so that municipal waste becomes socially and financially manageable.

EPR for packaging shifts costs of recycling from taxpayers and local governments to producers of packaging and requires producers to make smarter packaging choices. Over the course of the pandemic, the amount of waste collected from residents has increased dramatically. Items for home use are packaged in smaller sizes than for commercial users (for example, compare a home roll of toilet paper to the industrial variety) and with the demand for home-delivery increasing, there are more shipping boxes and protective layers of packaging than ever. The increased waste has strained

our collection, diversion, and landfill system, and the pandemic has limited our outreach to residents regarding how to reduce their consumption, reuse, or donate items, and most sustainably dispose of their waste. As we emerge from the pandemic, the burden of these increased costs and the need to re-focus on community education is limiting our ability to provide new and better services to our residents. Experts in solid waste do not expect residential waste to return to pre-pandemic levels without the implementation of significant policy change, and the cost of dealing with this waste is unsustainable for local governments without an increase in revenues. With the manufacturers contributing their fair share, and committing to utilizing more sustainable materials, we will be able to reduce the burden on residents and taxpayers to fund this essential service.

This Bill can also stimulate the development of new waste diversion industries within the State, creating more reliable markets for recycled content while Maryland residents benefit from new investments, industries, and jobs. Despite the County's investment in advanced recycling technology including an Optical Sorter, that allows us to bundle highly consistent pallets of specific plastics, we are unable to find reliable markets for Polyvinyl Chloride (#3 plastic), Low-Density Polyethylene (#4 plastic) and Polystyrene (#6 plastic). As a result, we have been at times forced to landfill these items as "residue". The lack of a local market for Low-Density Polyethylene means the County cannot responsibly invest in the technology necessary to accept plastic bags and film plastic, because the period to offset that investment is too long, and the risk of those items slowing down processing or damaging our existing machinery is too great. Residents must take those items to a private entity for collection, or send them to the landfill. This bill has the potential to spur creative entrepreneurial solutions that will benefit the Maryland economy and the planet- bringing jobs, investment and a reliable local market for recyclable materials.

For the reasons stated above, the Office of the Prince George's County Executive **SUPPORTS SB 292** and asks for a **FAVORABLE** report.

# **Testimony-SB 292 Packaging Materials-Support-UULMM**

Uploaded by: Ashley Egan

Position: FAV



# Unitarian Universalist Legislative Ministry of Maryland

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## Testimony in Support of SB 292 - Environment - Packaging Materials - Producer Responsibility

TO: Chair Dolores Kelley and the members of the Finance Committee  
FROM: Phil Webster, PhD, Lead Advocate on Climate Change  
Unitarian Universalist Legislative Ministry of Maryland.  
DATE: February 17, 2021

The Unitarian Universalist Legislative Ministry of Maryland (UULM-MD) strongly supports the Extended Producer Responsibility Act and urges approval and rapid implementation.

The UULM-MD is a faith-based advocacy organization based on the Principles of Unitarian Universalism. Two Principles are particularly relevant. The Second Principle, *Justice, equity and compassion in human relations* and the Seventh Principle, *Respect for the interdependent web of all existence of which we are a part*.

We believe in *justice, equity and compassion in human relations*. We know that Global Climate change impacts marginalized communities first and worse. The manufacture of plastics is disproportionately located in frontline and fence-line communities. And, these communities suffer from higher rates of cancer and other debilitating health issues. How can there be justice and equity if one part of society is reaping in the benefits, while another is paying all of the costs?

We believe that we should all have *Respect for the interdependent web of all existence of which we are a part*. We also know that the manufacture of plastics is a large and growing use of fossil fuels, increasing Greenhouse Gasses leading to increasing global temperatures, increased frequency and intensity of severe weather and sea level rise. Maryland is particularly susceptible to loss of coastal line due to sea level rise and agricultural land due to salt intrusion, so being proactive is in our best interest.

We strongly support reducing the use of unhealthy, polluting and carbon emitting fossil fuels in the manufacture of packaging materials. This bill incentivizes producers to use less plastics and increase their recyclability.

Please keep us on the right and moral path towards a livable climate and a sustainable world. We owe it to our children.

*Phil Webster, PhD*

Lead Advocate on Climate Change UULM-MD

**UULM-MD c/o UU Church of Annapolis 333 Dubois Road Annapolis, MD 21401 410-266-8044,**

[www.uulmmd.org](http://www.uulmmd.org) [info@uulmmd.org](mailto:info@uulmmd.org) [www.facebook.com/uulmmd](https://www.facebook.com/uulmmd) [www.twitter.com/uulmmd](https://www.twitter.com/uulmmd)

**SB0292\_EPR\_MLC\_FAV.pdf**

Uploaded by: Cecilia Plante

Position: FAV



## TESTIMONY FOR SB0292 ENVIRONMENT - PACKAGING MATERIALS – PRODUCER RESPONSIBILITY

**Bill Sponsor:** Senator Augustine

**Committee:** Finance

**Organization Submitting:** Maryland Legislative Coalition

**Person Submitting:** Cecilia Plante, co-chair

**Position:** FAVORABLE

I am submitting this testimony in favor of SB0292 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

Our Coalition members support the reduction, recycling, and/or composting of as much packaging waste as possible. We feel that waste materials (particularly plastics, but also including paper and cardboard packaging) are becoming a bigger and more expensive problem for the state. We believe that consumer education is important in changing this dynamic. At the same time, we would like to change the behavior of manufacturers, distributors, and sellers to ensure that their products are packaged in recyclable or compostable materials, instead of plastics or other materials that our recycling systems can't handle.

We think this bill will not only be a giant step forward in managing waste materials, but it also sets the groundwork for changing the behaviors of the manufacturers, distributors and sellers. It makes them responsible for ensuring that their packaging is recyclable or compostable and makes them come up with a disposal plan. It has them individually (or in combination in what is described as a stewardship organization) create the plan and have it approved. It also creates an Office of Recycling and tasks that office with conducting a statewide recycling needs assessment.

The bill also has teeth, which we feel is an important addition. There are fines for not following the plan and there are fees that would have to be paid to local governments to collect, transport and process the packaging. The reporting requirements imposed would ensure that each individual organization (or the stewardship organization) is following the plan.

Finally, this new process would not hurt small businesses, who are already struggling. It would target large businesses, who make more than \$1 million in gross revenues or produce more than 1 ton of packaging materials, and it exempts businesses that are part of a franchise.

We believe this will be game-changing in terms of getting manufacturers and sellers to re-think the kinds of packaging they make and sell, which in turn, will help us all become better at reducing waste.

We support this bill and recommend a **FAVORABLE** report in committee.

# **SB292\_CharlesCountyGov\_FAV**

Uploaded by: Danielle Mitchell, Esq.

Position: FAV





# Charles County Government

## CHARLES COUNTY COMMISSIONERS

Reuben B. Collins, II, Esq., *President*  
Bobby Rucci, *Vice President*  
Gilbert O. Bowling, III  
Thomasina O. Coates, M.S.  
Amanda M. Stewart, M.Ed.

Mark Belton  
*County Administrator*

February 23, 2022

Bill: HB 307/SB 292 – Environment - Packaging Materials - Producer Responsibility  
Committee: House – Environment and Transportation; Economic Matters; Senate – Finance  
Position: FAVORABLE

Dear Madam Chair Kelley, Messrs. Barve, Wilson, and Committee Members:

The County Commissioners of Charles County are in support of HB 307/ SB 292, Packaging Materials – Extended Responsibility, which outlines a framework for an Extended Producer Responsibility (EPR) model that would place responsibility on packaging producers for end-of-life management.

As a result of the loss of global recycling markets, Charles County's cost to process single-stream recycling increased dramatically over the last few years. In 2017, Charles County earned approximately \$30,000 for collected single-stream recyclables. However, in 2019, it cost Charles County \$700,000 to process single-stream recyclables. Curbside collection of recycling cost per home has increased from \$1.74 to \$3.65 per house in Charles County in that same time period. Nonetheless, we remain committed to providing the needed resources to foster environmental sustainability in our community, and just recently extended our curbside recycling program into Nanjemoy, Maryland.

The Maryland Recycling Act (MRA) guidelines estimate a 19.9% contamination rate of single-stream recyclables, which mainly consist of packaging for household products. The contamination rate for some jurisdictions may be higher based on hard to recycle items and confusing labels and recycling identification symbols. The proposed legislation seeks to address these problems at their source. It will help Charles County, and other Maryland jurisdictions, by shifting some of the cost burden of recycling programs from resident taxpayers to packaging producers. This bill encourages producers to make packaging that is more easily recyclable and more environmentally friendly.

We encourage a favorable committee report on HB 307/ SB 292. Our current model is not sustainable. We must do what is needed to provide new resources to struggling recycling networks throughout Maryland. By making packaging producers more responsible for their role in adding to the waste stream, jurisdictions around the State can reduce unnecessary waste and streamline recycling efforts.

Sincerely,

County Commissioners of Charles County  
Reuben B. Collins, II, Esq., President

cc: Charles County Delegation

**SB0292-FIN\_MACo\_SUP.pdf**

Uploaded by: Dominic Butchko

Position: FAV



## **Senate Bill 292**

### *Environment - Packaging Materials - Producer Responsibility*

MACo Position: **SUPPORT**

To: Finance Committee

Date: February 17, 2022

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS** SB 292. This bill would reasonably require packaging producers to take more responsibility for the role they play in adding to the waste stream by providing new resources to struggling recycling networks.

Currently, all costs associated with recycling and waste management are left to local governments, and in effect, taxpayers. Due largely to declining markets for recycled commodities, county recycling networks have experienced significant hardships and have been forced to draw taxpayer subsidies to continue their operations.

SB 292 outlines a framework for an Extended Producer Responsibility (EPR) model that would place responsibility on packaging producers for end-of-life management. Industry members would form one or more producer responsibility organizations that would collect payments from producers based on the recyclability of product packaging. Local governments would be eligible to apply for and receive reimbursements for the work they are already doing, including labor costs, collecting, transporting, and processing covered materials. Counties would then be able to invest any new funds back into their networks to help ease the burden on taxpayers. SB 292 would also encourage producers to make packaging that is more easily recyclable and more environmentally friendly.

SB 292 would provide needed financial support to struggling local government recycling networks by holding producers responsible for their products. Accordingly, MACo requests a **FAVORABLE** report on SB 292.

**SB292\_FAV\_MDPIRG\_ENVMD\_Packaging.pdf**

Uploaded by: Emily Scarr

Position: FAV



**SB292 - Environment – Packaging, Containers, and Paper Products – Producer Responsibility**  
**Environment and Transportation & Economic Matters Committees**  
**February 17, 2022**  
**Position: Favorable**

**Environment Maryland and Maryland PIRG are pleased to support SB292 to improve recycling programs in Maryland, reduce waste, and save taxpayer money.**

It is no secret that we have a waste problem in this state and country - **in fact, the U.S. throws out enough plastic approximately every 11 hours to fill the Ravens stadium, and that amount is increasing.**

Municipalities across the state and country are struggling to support recycling programs while facing an ever increasing stream of hard to recycle waste from the products we buy. Our recycling rates are low, people have lost faith in the recycling system, and recycling markets for our plastic waste are less and less reliable, all because producers continue to make wasteful, often non-recyclable products with no responsibility for management. HB307 can help address these problems by requiring that producers support infrastructure to manage packaging waste, while incentivising them to make more recyclable products.

**Our report "Break the Waste Cycle" details how producer responsibility has proven to be an effective approach to reducing waste and improving recycling.** Such laws already exist in jurisdictions around the world, and they are working well to manage packaging and provide safe disposal for polluting and hazardous items. From Maine to Oregon, states are beginning to take action, and Maryland should join them.

Consumers are frustrated by the lack of sustainable options on the shelf, and the ease in which they should be able to recycle. At the same time, companies that produce wasteful single-use plastic products, beverage containers, and other waste that litters our communities, fills our landfills, and is burned in our incinerators have avoided paying up for decades. A big reason why packaging pollution is on the rise is because producers are absolved of all responsibility for where their products end up, and whether their products are labeled correctly. That leaves you and me with confusion and limited choices, meanwhile footing the bill for managing the waste. This law begins to change that by requiring producers to bear some of the costs of our recycling system.

**To be clear: recycling can't solve our waste problem by itself.** That's why we support a strong producer responsibility law that encourages not only more recyclable packaging, but less packaging, period. With that said, we must also aggressively enact measures to reduce waste and move away from packaging that causes harm to the planet and public health in its production and disposal. Maryland has already been a leader on that front by passing the nation's first ban on foam food packaging; but there is certainly more we can do.

To achieve the reduction in packaging we want to see, it will be critical that the Maryland Department of the Environment and your Committees watchdog implementation, and ensure that a program actually rewards reusable and truly recyclable—not hypothetically recyclable—products.

*Maryland PIRG is a state based, small donor funded public interest advocacy organization with grassroots members across the state. For fifty years we've stood up to powerful interests whenever they threaten our health and safety, our financial security, or our right to fully participate in our democratic society.*

*Environment Maryland is a citizen-based environmental advocacy organization. We work to protect clean air, clean water, and open space.*

Del. Lierman has put TREMENDOUS effort into this bill over the interim and we thank her for working so closely with environmental advocates and industry to reach a workable bill. As we move forward to pass a bill in 2022, we must maintain proper guardrails to ensure effective enforcement of this bill and independent oversight of industry. For example, no money from this program or state dollars should be used to subsidize the conversion of plastic waste to fossil fuels and feedstocks, so-called “advanced-recycling” or incineration of waste.

Ultimately, Environment Maryland and Maryland PIRG would like to see more emphasis put on waste reduction, especially for single-use packaging and priority single-use products. We all know the saying, “reduce, reuse, recycle,” but too often we forget: It's reduce first, then reuse, and when all else fails: recycle.

I know that we share the goal of solving our waste problem and turning back the tide on packaging pollution. Producer responsibility is a critical tool in achieving a zero waste future. **We respectfully urge a favorable report.**

# Mayor Day SB 292 FAV Testimony.pdf

Uploaded by: Jacob Day

Position: FAV



City of  
**Salisbury**  
Jacob R. Day, Mayor

17 February 2022

**Committee:** Finance

**Testimony on:** SB 292 – Packaging Materials – Producer Responsibility

**Position:** Favorable

**RE: Support For SB 292 – Environment - Packaging Materials - Producer Responsibility**

Dear Members of the Finance Committee,

As you consider the merits of **SB 292**, I ask that you **support** this vital legislation and vote to give **SB 292** a **Favorable** Committee report.

The City of Salisbury supports SB 292, which will create an Extended Producer Responsibility for Packaging. This bill is important because it protects our environment and compels producers of packaging materials to act in the best interests of Maryland residents and local governments by requiring them to submit a packaging material responsibility plan to the Maryland Department of the Environment.

SB 292 will:

- Make better use of taxpayers' dollars, save local governments money, and increase profits from recycling
- Improve recycling infrastructure and strengthen recycling markets
- Reduce packaging waste

As the Capital of the Eastern Shore, residents of our city have first-hand experience in contending with the effects of climate change. Whether faced with soil erosion in our tidal areas or the heavy flooding that has become synonymous with major storms, although we remain versatile, we must take meaningful action as we respond to environmental hazards, including that of unrecycled waste that threatens the health of our Eastern Shore and its pristine waterways. Here in Salisbury, we continue to promote recycling and sustainable practices through the transformative work of our Green Team, whose members work to develop projects and policies that foster an atmosphere of social and environmental responsibility across Salisbury and the Lower Eastern Shore.

This legislation, if enacted, would foster a culture of accountability amongst the producers of packaging materials as each would be required to submit a plan to the MDE. By encouraging producers to act responsibly while bolstering recycling programs across Maryland, this bill will help us to take meaningful action as we seek to turn the tides of climate change while reducing waste and protecting our environment.

I ask for your **support** of this critical climate action legislation.

Respectfully,

Jacob R. Day  
Mayor



**BaltimoreCounty\_FAV\_SB0292.pdf**

Uploaded by: Joshua Greenberg

Position: FAV



JOHN A. OLSZEWSKI, JR.  
*County Executive*

JOEL N. BELLER  
*Acting Director of Government Affairs*

JOSHUA M. GREENBERG  
*Associate Director of Government Affairs*

MIA R. GOGEL  
*Associate Director of Government Affairs*

**BILL NO.:** Senate Bill 292

**TITLE:** Environment - Packaging Materials - Producer Responsibility

**SPONSOR:** Senator Augustine

**COMMITTEE:** Finance

**POSITION:** **SUPPORT**

**DATE:** February 17, 2022

Baltimore County **SUPPORTS** Senate Bill 292 – Environment - Packaging Materials - Producer Responsibility. This legislation would establish a system that places the logistical and financial responsibility of recycling packaging material on the producers of the materials.

Managing waste is an essential service of government that impacts the daily lives of all Maryland residents. The rapidly increasing population in Baltimore County, along with the growing sustainability related mindfulness residents, has created an abundance of recyclable material to be managed and processed by County government. When producers package goods in materials double the size of the product or send orders in multiple boxes, it is local authorities that take on the economic burden of processing the resulting abundance of materials.

Senate Bill 292 will aid local authorities by setting up a system to shift the responsibility of waste management onto the producers of packaging materials. This system will require that large multistore companies have an approved produce responsibility plan in order to sell or distribute packing material in the state. This plan requires that industries make efforts to reduce the waste created by packaging and sets up a system for local governments to be reimbursed for the recycling of such materials. This legislation aligns with Baltimore County's concerted effort to innovate and sustainably manage the growing burden of solid waste.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 292. For more information, please contact Joel Beller, Acting Director of Government Affairs at [jbeller@baltimorecountymd.gov](mailto:jbeller@baltimorecountymd.gov).

**MD SB 292\_Eastman Testimony.pdf**

Uploaded by: Kierstin Turnock

Position: FAV

**Bill Title: Senate Bill 292 Environment – Packaging Materials – Producer Responsibility****Committee: Environment and Transportation****Date: February 17, 2022****Position: Report Favorably****Dear Chairwoman Kelley and Honorable Members of the Committee:**

On behalf of Eastman, thank you for the opportunity to provide comments on Senate Bill 292 Environment – Packaging Materials – Producer Responsibility (SB 292). As attention increases on the waste crisis, it is vital that a representative government, advocates, and private industry collaboratively develop solutions to reduce where it makes sense, reuse when possible, and recycle the rest. As a private industry stakeholder and materials supplier and recycler, Eastman supports legislation like SB 292 that was developed with input from a variety of stakeholders. **Material-neutral extended producer responsibility policies like SB 292 will play a critical role in addressing the waste crisis by expanding collection and transportation, developing recycling markets, and most importantly, keeping waste out of our environment.**

Founded in 1920, Eastman is a global specialty materials company that produces a broad range of products found in items people use every day. As a globally inclusive and diverse company, Eastman employs approximately 14,500 people worldwide and serves customers in more than 100 countries. In Maryland, Eastman operates a manufacturing facility in Chestertown where we produce materials used in building and construction, medical applications, and consumer goods.

The current pattern of consumption and disposal of plastics is not sustainable. Approximately 300 million tons of plastic are produced each year globally. At the end of use, 40 percent goes to landfills, 25 percent is incinerated, and 19 percent is disposed in unmanaged dumps or otherwise makes its way into the environment<sup>1</sup>. Per the US Environmental Protection Agency, only 9 percent is recycled in the United States.

The infrastructure needed to activate a truly circular plastics economy is missing. **A combination of incentives, mandates, and infrastructure investment, like those outlined in SB 292, can help expand the types and volume of materials collected, resulting in a stable, continuous supply of waste plastic feedstock.**

While traditional or mechanical recycling is necessary, the infrastructure and capability to process a range of plastics inhibits it from being the singular recycling solution to address the scale of the global waste plastic crisis. **By expanding recycling infrastructure and developing markets for hard to recycle plastics that are better suited for advanced recyclers, Maryland can truly close the loop on plastics production.**

In 2019, Eastman began commercial-scale molecular recycling, a form of material-to-material chemical recycling, for a broad set of waste plastics that would otherwise be landfilled, incinerated, or worse, end up in the environment. We see this as a key early step to address the challenges with today's limited recycling options. Eastman Advanced Circular Recycling technologies are designed to process waste plastics where traditional mechanical recycling methods cannot—including polyesters, polypropylene, polyethylene, and polystyrene—

derived from a variety of sources, including single-use plastics, textiles, and carpet. These platforms, which utilize both gasification and methanolysis technologies provide a true circular solution of endless recycling for materials, allowing them to be reused repeatedly, without sacrificing quality and performance.

Eastman performed an LCA on both of its advanced recycling technologies. These studies were critically reviewed by CE Delft and verified to conform with the leading international LCA methodology standards (ISO 1040 and 14044). **These LCAs confirm that by using waste plastic as a raw material to replace fossil fuels, Eastman's carbon renewal technology (reforming) can reduce greenhouse gas emissions in the production of a component (syngas) of new material by 20%–50%. Similarly, Eastman's polyester renewal technology (methanolysis) can reduce the greenhouse gas emissions for polyester intermediates production by 20%–30%.** Used alongside traditional or mechanical recycling to process waste otherwise destined for a landfill, incinerator, or the environment, Eastman's advanced material-to-material recycling technologies will contribute many more products to a circular life cycle.

A circular plastics economy is necessary to address a challenge as great as the global waste crisis. In other words, rather than proceeding on the linear pattern of creating, using and disposing of resources, we should establish a system that harnesses and unlocks the potentially infinite value of materials by keeping them in production – lifecycle after lifecycle – while simultaneously reducing greenhouse gas emissions by reducing dependence on fossil feedstocks. **When properly implemented, EPR schemes like the one proposed in SB 292, can help enable this circular economy.**

Eastman commends the state of Maryland and the Environment and Transportation Committee for pursuing the development of responsible recycling policy.

Kierstin Turnock  
State Government Affairs – Circular Economy  
Eastman

SOURCE: 1) [www.mckinsey.com/industries/chemicals/our-insights/how-plastics-waste-recycling-could-transform-the-chemical-industry](http://www.mckinsey.com/industries/chemicals/our-insights/how-plastics-waste-recycling-could-transform-the-chemical-industry)

# **Producer Responsibility Testimony - Senate.pdf**

Uploaded by: Leanna Powell

Position: FAV



February 16, 2022

**Environment - Packaging Materials - Producer Responsibility (SB 292)**  
**Position: FAVORABLE**

Dear Chairperson Kelley and Members of the Finance Committee:

Blue Water Baltimore is a nonprofit organization with a mission to restore the quality of Baltimore's rivers, streams, and Harbor to foster a healthy environment and thriving communities. **I am here today in support of Environment - Packaging Materials - Producer Responsibility (SB 292).**

Single-use plastics cause major pollution problems throughout our watershed. They litter our neighborhoods, depress property values, clog storm drains and exacerbate flooding, and get into our waterways where they choke plant life and animals. Our Waterkeeper team sees plastic pollution every time they patrol our waterways. Since 2019, our organization alone has removed more than 17 tons of trash from our parks and neighborhoods, most of it consumer packaging.

We cannot continue to burden our communities with the full responsibility for our economy's over-reliance on single-use plastic. This bill begins to hold corporate interests accountable for their industry's damage, and it is imperative that we continue to fight for local control and oversight of its implementation. As a watchdog organization, we know very well that industry self-regulation will never produce good results for our neighbors.

By limiting the amount of single-use plastic items being distributed across our state, SB 292 is an example of an "upstream" approach to pollution that will help build toward a zero waste future. We urge a favorable report on this bill.

Sincerely,

A handwritten signature in black ink that reads "Leanna Powell". The signature is fluid and cursive, with the first letters of "Leanna" and "Powell" being capitalized and prominent.

Leanna Powell  
Director of Development and Communications

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<sup>1</sup> Duncan J.J. Kessler. (2019). [Plastic Straw Bans Can Run Afoul of the Americans with Disabilities Act](#). American University Law Review.



Middle Branch Park, Baltimore, MD. Photo Credit: Cody Matteson, Blue Water Baltimore.



Powder Mill Run, Baltimore, MD. Photo Credit: Alice Volpitta, Blue Water Baltimore.





Gwynns Run, Baltimore, MD. Photo Credit: Blue Water Baltimore.

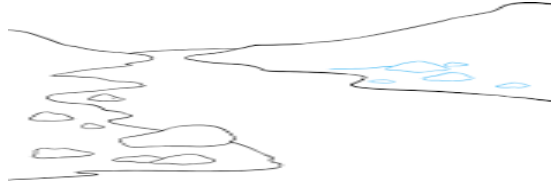


Ferry Bar Park, Baltimore, MD. Photo Credit: Blue Water Baltimore.

**GEHM testimony.292support.pdf**

Uploaded by: Lisa Hemmer

Position: FAV



## **GLEN ECHO HEIGHTS MOBILIZATION**

**Committee:** Finance

**Testimony on:** SB292 - “Environment - Packaging Materials - Producer Responsibility”

**Organization:** Glen Echo Heights Mobilization

**Submitted By:** Lisa Hemmer, Member

**Position:** Favorable

**Hearing Date:** February 16, 2022

Glen Echo Heights Mobilization – a community organization in Montgomery County with 50 members or more -- submits testimony in support of SB292, a bill that would establish requirements for state recycling assessments and impose producer responsibility for planning and reducing producer packaging.

### **SB292 would:**

- Create an Office of Recycling
- Require statewide and county assessments and plans to address extensive components of recycling needs
- Define and assess fee requirements for Producer Responsibility Organizations (PROs), and require PROs to develop 5-year Producer Responsibility Plans
- Address and define components of packaging materials that create consumer waste
- Modernize waste and recycling systems, facilitating improvement of reuse, composting, and recycling rates, as well as recycling markets
- Promote reduction of waste
- In coordination with PROs, establish goals for reduction of non-recyclable packaging
- Impose penalties for PRO violations of their Producer Responsibility Plans
- Authorize financial assistance for the transport of recyclables.

### **We support this legislation for the following reasons:**

- Food waste in landfills produces methane, a greenhouse gas that is 86 times more potent than carbon dioxide in its first 20 years of release to the atmosphere.
- Compost is a valuable soil amendment that enhances soil fertility, soil water-holding capacity, soil organic matter, and soil structure.
- The future for Maryland residents is composting, recycling and reduction of packaging waste
- This bill would acknowledge science.

**Conclusion.** This bill ensures Maryland’s commitments toward environmental sustainability. We urge a favorable report by this Committee.

# **Sb 292 Sponsor Written Testimony.pdf**

Uploaded by: Malcolm Augustine

Position: FAV



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Testimony in Support of SB 292**  
Extended Producer Responsibility for Packaging

**What this bill does**

This bill provides a mechanism for the Maryland Department of the Environment to implement Extended Producer Responsibility (EPR) for Packaging. MDE will oversee an EPR for packaging system that shifts the costs of recycling from taxpayers and local governments to producers of packaging and incents producers to make smarter packaging choices.

The bill creates the outline for a system in which producers will reimburse local governments for existing recycling services/operations AND fund infrastructure investments to improve recycling. The bill also incentivizes producers to meet environmental goals for reducing packaging, using post-consumer recycled content in packaging, and improving recyclability.

This EPR system will:

- Reduce packaging waste
- Increase demand for post-consumer recycled material - strengthening recycling markets.
- Improve recycling infrastructure
- Make better use of taxpayer dollars - saving local governments money

**How the EPR system works**

First, MDE will undertake a needs assessment in partnership with local governments to assess the state of recycling and composting infrastructure and processes in the state. After this assessment, producers that make packaging choices for products sold in Maryland create a Producer Responsibility Organization (PRO). Each PRO creates a plan that must be approved by MDE. The plan must detail performance goals for reducing packaging, using post-consumer recycled content in packaging, increasing the recyclability of packaging, and improving recycling rates. The plan must also detail how the PRO will reimburse local governments for recycling services and fund the modernization of recycling infrastructure. An Advisory Council composed of diverse stakeholders—including local government, collectors, processors, PROs, environmental advocates, and residents—provides input on the plans and to MDE.

**Why this bill matters**

Maryland taxpayers currently bear the sole burden of paying to manage and dispose of waste, including packaging, through local governments. However, local governments and taxpayers have no say in decisions made by producers about packaging type.

Packaging decisions made by producers can have a dramatic impact on local government budgets. In late 2020, the [Director of Montgomery County's Department of Environmental Protection highlighted](#) the economic and environmental implications of a simple packaging material decision through the example of two nearly identical cups. Montgomery County lacks the infrastructure to recycle #6 plastic (polystyrene) cups. A #6 cup costs the county \$135 per ton

to remove from the recycling stream and incinerate. On the other hand, a nearly identical #1 plastic (polyethylene terephthalate) cup can easily be recycled and sold for a profit of \$375 per ton. However, producers currently have no incentive to choose #1 plastic over #6 plastic and taxpayers are left footing the bill. This bill can help remedy that problem.

EPR for packaging exists in countries around the world and in many Canadian provinces. EPR for packaging was recently passed in China and India. Nations with well-established EPR for packaging programs have higher recycling rates (70-80% in Europe vs. 50% in U.S.) and lower rates of contamination in the recycling stream (8% in British Columbia vs. 25% in the U.S.). [The European Union receives \\$5.5 billion annually from the packaging industry to fund its recycling systems.](#)

EPR for packaging is gaining momentum in the U.S. with **bipartisan support**. Maine and Oregon passed legislation in 2021, and several other states are currently considering EPR for packaging with bipartisan support (CA, CO, CT, HI, IL, IN, MA, NY, VT, WA). Maryland taxpayers should not be left behind footing recycling bills that their counterparts in other states are not.

### **Why you should vote for this bill**

Amidst the collapse of international recycling markets, the rise of e-commerce, and growing concern over climate change, Maryland's local governments are struggling to manage residential waste. In 2020, The Maryland General Assembly's Workgroup on Waste Reduction and Recycling surveyed all counties on recycling and waste in the summer of 2020. Several themes emerged from Maryland counties' responses: (1) Packaging waste is increasing due to over packaging and the rise of e-commerce and landfills are nearing capacity with little room to expand. *Therefore, reducing waste and increasing recyclability and compostability of packaging is critical.* (2) Variable recycling markets are upending local government budgets. For example, in 2010, Baltimore City made \$598,325 in revenue from its recycling program; in 2019, the City's recycling system bore a loss of \$1,636,136. Similarly, Charles County made \$30,000 in revenue through recycling in 2015 and faced a loss of \$700,000 in 2019. The cost of running Frederick County's recycling program doubled in just three years, with a cost increase of 99% from 2017 to 2020. *Many Maryland counties specifically requested the development of markets for recycled materials, funding for recycling programs, and/or EPR programs.*

This bill will support local governments, make better use of taxpayer dollars, bring needed infrastructure investments to our recycling systems, and help the environment. **I urge you to vote favorably on SB 292.**

# Extended Producer Responsibility (EPR) for Packaging Materials HB307/SB292



## The Problem

- ◆ Maryland taxpayers pay to manage and dispose of waste, including packaging. **Local governments and taxpayers have no say in decisions made by producers about packaging type.**
- ◆ Packaging waste is increasing due to over-packaging. Yet, Maryland's recycling infrastructure is outdated, fragmented, and insufficient.
- ◆ The market value of recycled content has plummeted since China's National Sword policy in 2018.

Baltimore City: \$598,325 in **revenue** in 2010 → \$1,636,136 **loss** in 2019  
Charles County: \$30,000 in **revenue** in 2015 → \$700,000 **loss** in 2019  
Frederick County: cost increased by 99% from 2017 to 2020

### Example: Packaging choices impact local gov't budgets.

Montgomery County lacks the infrastructure to recycle #6 plastic cups. Therefore, #6 cups **cost** the county \$135 per ton to remove from the recycling stream and incinerate. On the other hand, **nearly identical** #1 plastic cups can easily be recycled and **sold for a profit** of \$375/ton. However, producers have no incentive to choose #1 over #6 cups.

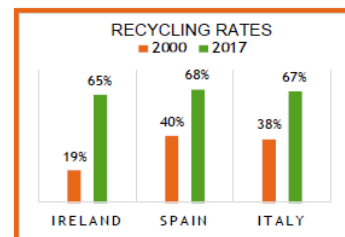
## The Solution: EPR for Packaging

EPR for packaging **shifts costs of recycling from taxpayers and local governments to producers of packaging and requires producers to make smarter packaging choices.**

- ◆ Provides reimbursement for recycling operations and funding to modernize recycling infrastructure to meet local governments' needs.
- ◆ Sets environmental goals for reducing packaging, using postconsumer recycled content in packaging, and improving recyclability and recycling rates of packaging.
- ◆ Creates more reliable markets for recycled content to increase profits for local governments.

## Evidence for EPR

- ◆ EPR for packaging exists in countries around the world and many Canadian provinces.
- ◆ Nations with well-established EPR for packaging programs have higher recycling rates (70-80% in Europe vs. 50% in U.S.) and lower rates of contamination in the recycling stream (8% in British Columbia vs. 25% in the U.S.).
- ◆ Europe receives \$5.5 billion annually from packaging industry to fund recycling.
- ◆ EPR for packaging is taking off in the U.S. with bipartisan support:
  - ◆ Legislation was passed by Maine and Oregon in 2021 and is being considered at the federal level and in at least 11 other states (CA, CO, CT, HI, IL, IN, MA, MD, NY, VT, WA).
- ◆ In a 2020 statewide survey, many Maryland counties specifically requested the development of markets for recycled materials, funding for recycling programs, and/or EPR programs.



# Extended Producer Responsibility (EPR) for Packaging Materials

HB307/SB292



## How It Works



- ◆ **Maryland Department of the Environment (MDE)** conducts a needs assessment in partnership with local governments on recycling infrastructure and processes in the state.
- ◆ Producers that make packaging choices (e.g., Amazon, Walmart, Unilever, Procter & Gamble) create a **Producer Responsibility Organization (PRO)**. Each PRO creates a **Producer Responsibility Plan** approved by MDE. The plan must detail:
  1. Performance goals for reducing packaging, using postconsumer recycled content in packaging, and improving recyclability and recycling rates of packaging
  2. How the PRO will fund the modernization of recycling infrastructure and reimburse local governments for recycling operations
- ◆ An **Advisory Council** comprised of stakeholders (e.g., local gov't, collectors, processors, PROs, environmental advocates, residents) provides input on the plan.

## Why It Matters

This bill will:

- ✓ Make better use of taxpayer dollars, save local governments money, and increase profits from recycling
- ✓ Improve recycling infrastructure and strengthen recycling markets
- ✓ Reduce packaging waste





**SB 292 - EPR\_Support\_CE Ball\_Final.pdf**

Uploaded by: Meghan Lynch

Position: FAV



## HOWARD COUNTY OFFICE OF COUNTY EXECUTIVE

3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2013 Voice/Relay

Calvin Ball  
Howard County Executive  
cball@howardcountymd.gov

www.howardcountymd.gov  
FAX 410-313-3051

February 17, 2022

Senator Delores Kelley, Chair  
Finance Committee  
Miller Senate Office Building, 3 East  
Annapolis, Maryland 21401

Re: **TESTIMONY OF SUPPORT**: SB 292: Environment – Packaging Materials – Producer Responsibility

Dear Chair Kelley, Vice Chair Feldman, and Members of the Committee,

As you know, the collection and disposal of solid waste has been a core function for most local governments for several generations. Overtime, the various methods of waste disposal grew in both expense and in negative impact on the environment. Early on, Howard County led the way in recycling efforts and adopted single-stream recycling where residents put all recycled material unsorted in a single bin. Through a private contractor, the collected material was sorted and sold, when possible, in the open market for raw recycled material.

In fiscal year 2011, Howard County received \$1.3 million from our contract with the private recycling facility. In FY20 that same contract cost our County \$1.1 million. While we expect an increase in FY22, this does not factor in the roughly \$4 million it costs for curbside collection. In addition to the high cost of curbside collection and disposal of solid waste, this issue presents a significant financial and environmental challenge to our County and surrounding jurisdictions.

The collapse of the recycled material market was a wake-up call to governments, consumers, and environmentalists. The volatility in the recycling market showed us that local governments are caught in a position where we have the responsibility to manage waste financially and environmentally, but no authority or ability to impact the markets in the right direction.

This bill would help break that harmful cycle by developing appropriate incentives for those who can create a market for the material collected – the manufacturers. With the establishment of an Extended Producer Responsibility (EPR) program, our local recycling initiatives will be more likely to enter into a stable marketplace as more demand is developed for the material. The EPR program is not a new concept, Japan, South Korea and the European Union have adopted this measure.

Here in Howard County, we look to shape policies that will fundamentally support our conservation efforts. We have cultivated the largest solar agreement in the state, created a robust green infrastructure network and implemented the strongest Forest Conservation policy in Maryland. It's critical that we continue to find innovative ways to fight for environmental sustainability. This bill represents precisely that model in the field of waste management.

I would like to express my appreciation for environmental leadership shown by this committee. I appreciate your consideration and urge a favorable report on Senate Bill 292.

All the Best,

Calvin Ball  
Howard County Executive

**SB0292-FIN-FAV.pdf**

Uploaded by: Natasha Mehu

Position: FAV



**BRANDON M. SCOTT**  
MAYOR

*Office of Government Relations  
88 State Circle  
Annapolis, Maryland 21401*

**SB 292**

February 17, 2022

**TO:** Members of the Senate Finance Committee

**FROM:** Natasha Mehu, Director, Office of Government Relations

**RE:** SENATE BILL 292 – Environment – Packaging Materials – Producer Responsibility

**POSITION: SUPPORT**

Chair Kelley, Vice Chair Feldman and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill (SB) 292.

SB 292 would require certain producers of packaging materials to individually or as part of a producer responsibility organization submit a certain packaging materials producer responsibility plan to the Maryland Department of the Environment for review and approval on or before a certain date and in accordance with certain requirements; prohibiting, on or after a certain date, a producer of certain packaging materials from selling, offering for sale, distributing, or importing certain packaging materials unless the producer, individually or as part of a producer responsibility organization, has an approved producer responsibility plan on file with the Department; requiring a producer responsibility organization to implement a producer responsibility plan within a certain amount of time after the Department approves the producer responsibility plan; establishing a producer responsibility plan advisory council and authorizing a local government to request reimbursement from a certain producer that has an approved producer responsibility plan on file.

The City of Baltimore is supportive of SB 292. Baltimore's Less Waste, Better Baltimore (LWBB) plan includes recommendations for legislative actions that will help make progress toward the city's waste reduction goals. These recommendations include Extended Producer Responsibility (EPR) mandates passed at a state or federal level, product take-back programs passed at a state or federal level, and mandated recycled content (MRC) laws. SB 292 will play a part in meeting the recommendations put forth in the LBWW plan.

Baltimore provides single-stream recycling curbside services to residents, incurring costs of about \$1 million a year. A reduction in packaging recyclables could decrease the volume of material the city collects for recycling, generating some savings on the curbside collections expenses the City incurs. Under this legislation, Baltimore would be responsible for establishing a take-back program for covered materials. The City would require funds to set up and maintain such a program, as well as for any education or outreach materials required to facilitate the changes outlined in the bill.

If, as a result of the passage of SB 292, small businesses are faced with higher producer costs, those small businesses could be negatively impacted. It is for this reason that the City also supports the provision that protects businesses with under \$1 million in revenue from the potential effects of the legislation. The State would need to research whether or not the fees and charges included in SB 292 would be passed down to small businesses. As a government entity, Baltimore City would be exempt from these fees. Additionally, the City could seek reimbursement for our recycling costs from the organizations covered under the provisions of the legislation.

For the above reasons, the BCA respectfully requests a **favorable** report on SB 292.

**Anne Arundel County\_FAV\_SB292.pdf**

Uploaded by: Peter Baron

Position: FAV



February 17, 2022

**Senate Bill 292**

**Packaging Materials – Producer Responsibility**

**Senate Finance Committee**

**Position: FAVORABLE**

The Anne Arundel County Administration supports Senate Bill 292, and urges the Committee to vote favorably for this legislation.

Packaging, especially packaging comprised of thin-film plastics, continues to threaten local ecosystems and the Chesapeake Bay, and continues to cost Anne Arundel County taxpayers millions of dollars each year. We have all seen the piles of plastic bags, plastic bottles, and other plastic packaging waste piled up on the sides of our roads or sticking out of the mud of our riverbanks. For years scientists have warned us that these plastics may have long-term consequences to our ecosystems. Then in August of 2021, researchers from Pennsylvania State University and the Virginia Institute of Marine Sciences confirmed what had long been feared: 94 percent of microplastic pollution entering the Chesapeake Bay from its rivers remains within the system and is not flushed out to the ocean.<sup>1</sup> The plastics break down into smaller and smaller pieces to become embedded in the Bay's sediments, enter the Bay's food chain and mingle with sand on the Bay's shorelines where it will remain for generations to come.

Anne Arundel County spends approximately \$10 M each year on single-stream recycling efforts. While we are proud that our collection system diverts more than one-quarter of household waste annually, the service is imperfect and costly. Oftentimes, unrecyclable, thin-film plastic packaging is impossible to separate from other high-quality recyclables. The thin-film plastic gets caught in the recycling center's machinery, and contaminates larger loads of recyclables. Anne Arundel County must then pay a penalty, and the profitable recyclables must instead be buried in a landfill.

This bill gives Maryland an opportunity to significantly reduce plastic and other packaging waste. It ensures that the burden of reducing this waste is no longer solely shouldered by consumers and local governments, but also by the industry. It sets reasonable expectations for the industry to develop plans to responsibly reduce, reuse, recycle, and dispose of this harmful waste, and provides local governments

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<sup>1</sup> Lopez, A.G. et al. August, 2021. Estuaries as Filters for Riverine Microplastics: Simulations in a Large, Coastal-Plain Estuary. Published in *Frontiers in Marine Science*: Volume 8. Available at: <https://www.frontiersin.org/articles/10.3389/fmars.2021.715924/full>.

a means to reduce waste transport, disposal, and recycling costs. It is time to lower the burden on local taxpayers and give Marylanders a chance to enjoy a plastic-free environment.

For these reasons, Anne Arundel County requests a **FAVORABLE** report on SB 292.



# **SB 292 - National Aquarium- FAV- Senate.pdf**

Uploaded by: Ryan Fredriksson

Position: FAV



Date: February 17, 2022

Bill: SB 292 - Environment – Packaging Materials – Producer Responsibility

Position: Support

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Dear Chair Kelley and Members of the Committee:

The National Aquarium respectfully requests your support for **Senate Bill 292 - Environment – Packaging Materials – Producer Responsibility**, which would advance Extended Producer Responsibility (EPR) for packaging materials – increasing efficiency of waste management, reducing taxpayer costs of addressing a rising tide of plastic waste, and incentivizing increased recycling as part of framework to reduce waste throughout the state.

Stopping plastic pollution is one of the National Aquarium’s three strategic conservation goals. The plastic pollution crisis has been well-documented as global plastic production has outpaced any other manufactured material, with a substantial portion of plastics manufactured used for packaging<sup>1</sup>. Globally, more than 8 million metric tons of plastic enters aquatic ecosystems each year – the equivalent of more than a dump truck full of plastic emitted to the ocean every minute. Plastic breaks down into smaller pieces, particles which endanger wildlife and contaminate the global food web. The burden and costs of mismanaged waste that becomes plastic pollution are varied, complex, and borne primarily by municipalities and taxpayers. The U.S. spends at least \$11 billion to clean up trashed ‘leaked’ into the environment<sup>2</sup>.

In short, our current waste management system is unsustainable and requires comprehensive systemic change. It is past time to stop plastic pollution at its source; change behaviors; clean up existing pollution; and provide education and outreach. Establishing EPR for packaging materials is one key part of a comprehensive solution. This bill would result in a better understanding of current recycling needs across the state and incentivize packaging producers to meet shared performance standards for recyclability, postconsumer recycled content, and waste reduction. EPR for packaging materials will support improved economic efficiency by ensuring packaging producers share responsibility for and materially contribute to the rising costs of managing waste created by the products they put on the market.

EPR policies are not new; the approach exists for other products from batteries to mattresses. EPR for packaging has been implemented in Canada and most European countries; EPR for packaging laws were recently enacted in Oregon and Maine, with legislation currently being proposed in multiple other states including New York, California, and Washington. Many relevant businesses are already subject to EPR packaging policies in other countries where they operate. By establishing EPR for packaging, Maryland has an opportunity to create a framework that reduces the harmful impacts plastic pollution has on our wildlife, ecosystems and human health, while improving producer accountability for waste management and reducing the burden placed on taxpayers.

**We urge the Committee to issue a favorable report on SB292.**

Contact:

**Ryan Fredriksson**

Vice President, Government Affairs

410-385-8276

[rfredriksson@aqua.org](mailto:rfredriksson@aqua.org)

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<sup>1</sup> Geyer, R. et al. 2017. Production, use, and fate of all plastics ever made. *Science Advances* (3):7. DOI: 10.1126/sciadv.1700782

<sup>2</sup> The National Academies of Sciences, Engineering, and Medicine. 2021. *Reckoning with the U.S. Role in Global Ocean Plastic Waste*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26132>.

# **Testimony MD SB 292 2022 EPR.pdf**

Uploaded by: Sam Schlaich

Position: FAV

Testimony in SUPPORT  
of  
Senate Bill 292  
in  
Maryland Senate Finance Committee  
on  
February 2, 2022

Dear Chair Kelley and Members of the Committee,

The Flexible Packaging Association (FPA) is pleased to support SB 292, which would establish an extended producer responsibility (EPR) program for packaging material, modernizing and improving waste and recycling systems in the State.

I am Sam Schlaich, Counsel, Government Affairs for FPA, which represents flexible packaging manufacturers and suppliers to the industry. In the U.S. Flexible packaging represents \$34.8 billion in annual sales in the U.S. and is the second largest, and fastest growing segment of the packaging industry. The industry employs approximately 80,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products.

These are products that you and I use every day – including hermetically sealed food and beverage products such as cereal, bread, frozen meals, infant formula, and juice; as well as sterile health and beauty items and pharmaceuticals, such as aspirin, shampoo, feminine hygiene products, and disinfecting wipes. Even packaging for pet food uses flexible packaging to deliver fresh and healthy meals to a variety of animals. Flexible packaging is also used for medical device packaging to ensure that the products packaged, diagnostic tests, IV solutions and sets, syringes, catheters, intubation tubes, isolation gowns, and other personal protective equipment maintain their sterility and efficacy at the time of use. Trash and medical waste receptacles use can liners to manage business, institutional, medical, and household waste. Carry-out and take-out food containers and e-commerce delivery, which are increasingly important during this national emergency, are also heavily supported by the flexible packaging industry.

Thus, FPA and its members are particularly interested in solving the plastic pollution issue and increasing recycling of solid waste from packaging, and creating a working, circular economy. We believe that SB 292 will help do just that. The flexible packaging industry is in a unique situation as it is one of the most

environmentally sustainable packaging types from a water and energy consumption, product-to-package ratio, transportation efficiency, food waste, and greenhouse gas emissions reduction standpoint, but circularity options are limited. There is no single solution that can be applied to all communities when it comes to the best way to collect, sort, and process flexible packaging waste. Viability is influenced by existing equipment and infrastructure; material collection methods and rates; volume and mix; and demand for the recovered material. Single material flexible packaging, which is approximately half of the flexible packaging waste generated, can be mechanically recycled through store drop-off programs, however, end-markets are scarce. The other half can be used to generate new feedstock, whether through pyrolysis, gasification, or fuel blending, but again, if there are no end markets for the product, these efforts will be stranded.

FPA believes that a suite of options is needed to address the lack of infrastructure for non-readily recyclable packaging materials, and promotion and support of market development for recycled products is an important lever to build that infrastructure. We also believe that EPR can be used to promote this needed shift in recycling in the U.S. In fact, FPA worked with the Product Stewardship Institute (PSI) and have jointly drafted a set of principles to guide EPR for flexible packaging (<https://www.flexpack.org/end-of-packaging-life>). This dialogue looked at the problems and opportunities for EPR to address the needs of the flexible packaging industry to reach full circularity for over a year. It is with this background that FPA provides this testimony in support of SB 292.

We were pleased to work with Delegate Lierman and other stakeholders on the cross-file, HB 307, and believe SB 292 will support a truly meaningful EPR program for packaging. Furthermore, we believe it will provide the necessary elements for the enhancement of current collection, investment in new infrastructure, and development of advanced recycling systems, that will allow for collection and recycling to a broader array of today's packaging materials, including flexible packaging; and quality sorting and markets for currently difficult-to-recycle materials.

For these reasons, FPA **supports SB 292 and respectfully request a favorable report.** In advance, thank you for your consideration. If we can provide further information or answer any questions, please do not hesitate to contact me at 410-694-0800 or [SSchlaich@FlexPack.org](mailto:SSchlaich@FlexPack.org).

Respectfully,

*Sam Schlaich*

Sam H. Schlaich, J.D.

Government Affairs Counsel, FPA

**2022.02.16 PSI Support MD SB292 Packaging.pdf**

Uploaded by: Scott Cassel

Position: FAV



Scott Cassel  
Chief Executive Officer/Founder

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OR Dept. of Environmental Quality

Jennifer Heaton-Jones  
Housatonic Resources Recovery  
Authority, CT

Jennifer Holliday  
Chittenden Solid Waste District, VT

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Conservation

Dawn Timm  
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Patrick Riley  
OK Dept. of Environmental Quality

Mia Roethlein  
VT Dept. of Natural Resources

**Honorary Directors**

Sego Jackson  
Seattle Public Utilities, WA

Walter Willis  
Solid Waste Agency of Lake County, IL

February 16, 2022

Senator Delores G. Kelley, Chair  
Senator Brian J. Feldman, Vice-Chair  
Senate Finance Committee  
3 East -- Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: Support for SB 292, Environment - Packaging Materials - Producer Responsibility.**

Dear Chair Kelley, Vice-Chair Feldman, and Members of the Committee:

Thank you for the opportunity to submit testimony in support of SB 292, which will create a packaging stewardship program for Maryland with sustainable funding from producers.

SB 292 will create a producer responsibility program for packaging throughout Maryland that will save municipalities and their residents millions of dollars in recycling and materials management costs. Based on two decades of rigorous research and practice, the Product Stewardship Institute (PSI) believes that SB 292 is critical to establishing a circular economy for Maryland that will modernize the recycling system and increase access to reuse, recycling, and composting across the state.

The bill contains all of the necessary elements of successful stewardship programs, including a producer responsibility organization (PRO), a stewardship plan, material fees that incentivize environmental performance, transparency and annual reporting, and performance targets. It also includes a multi-stakeholder advisory council to ensure meaningful input into the program from Maryland recyclers, local governments, environmental groups, and other organizations. SB 292 gives municipalities the opportunity to participate in the packaging stewardship program by requesting reimbursement from the PRO for their recycling costs, including up to 50% of collection costs and the full cost of transporting and processing packaging materials. The bill also covers the cost of state oversight and enforcement of the program and exempts small businesses from the obligation to participate and pay fees.

Under the current system, there is little incentive for producers to choose sustainable packaging because they are not held accountable for the impacts of the materials they use. To drive real transformation, producers must be responsible for both the upstream design and downstream management of

packaging materials. Producers that benefit from the sale of packaged goods are in the best position to make design choices regarding the materials they choose, including which consumer goods can be sold in reusable packaging, whether packaging materials should be recyclable or compostable, and the amount of post-consumer recycled content that is feasible in a given format.

PSI is a national nonprofit working to reduce the health and environmental impacts of consumer products from design and production through end-of-life. We work closely with 47 state agency members, hundreds of local government members, and more than 100 partners from companies, organizations, universities, and international governments. PSI created the model for packaging EPR that is central to SB 292 based on decades of research and partnerships with EPR practitioners around the world. Our model has also shaped the EPR policy at the center of the federal Break Free from Plastic Pollution Act, as well as bills in Washington, Colorado, New York, Massachusetts, Vermont, and other states around the country.

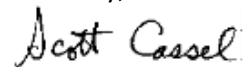
The need for a new recycling approach has never been clearer. With staffing and budget disruptions caused by the continuing COVID-19 pandemic and volatile commodity prices due to uncertainty in global markets, local governments are struggling to maintain recycling programs. Municipalities in Maryland have faced increases in residential trash and recycling volumes since the start of the pandemic and continue to grapple with high rates of contamination due to consumer confusion over complex packaging and inconsistent local recycling program guidelines. Many municipalities have been forced to dispose of recyclable material, suspend curbside service, or even stop recycling programs altogether.

This bill will provide sustainable funding from producers to relieve municipalities of the financial burdens they currently face in operating recycling programs and require clear, consistent consumer education on the proper end-of-life management of consumer packaging to reduce confusion and contamination. SB 292 will create jobs, reduce waste and greenhouse gas emissions, and significantly invest in the transition to a circular economy throughout the state.

We respectfully urge the Finance Committee to report out SB 292 favorably from the committee.

If you have any questions, please feel free to contact me at (617) 236-4822, or [Scott@ProductStewardship.US](mailto:Scott@ProductStewardship.US).

Sincerely,



Scott Cassel  
Chief Executive Officer/Founder

Cc: Senator Augustine



# **SB292 Support Packaging Producer Responsibility Tr**

Uploaded by: shari wilson

Position: FAV



**CHESAPEAKE BAY  
FOUNDATION**

*Saving a National Treasure*



**Bill:** SB 292

**Date:** February 17, 2022

**Position:** Support

**SB 292 - Environment - Packaging Materials - Producer Responsibility  
Support**

Dear Chairperson Kelly and Members of the Finance Committee:

We enthusiastically support SB 292. This bill sets up an incentivized system to reduce packaging, increase recycled content in packaging and increase the recyclability of packaging, all of which will ultimately reduce litter across the state.

Packaging comprises approximately 28% of the nation's waste stream. Setting up producer responsibility for packaging will reduce the amount of packaging littering our communities and waterways. It will also create incentives to increase the recycled content and recyclability of that packaging – another step toward reducing litter.

This bill gives us the opportunity to reduce the volume of packaging, involve the expertise of manufacturers of packaging as to how best to do that, and financially support the counties for some of their costs related to recycling packaging. Currently, counties bear the full financial cost of collection, sorting and resale of packaging. This bill begins to transfer some of that responsibility to producers, who control the content and design of their products.

Maryland has producer responsibility programs in place for a handful of products now – batteries and electronics for example. Producer responsibility programs for packaging have long been in place in Canada and Europe. Maine and Oregon adopted packaging programs last year and a number of states are, like you, considering it this year. Industry trade editorials now often refer to producer responsibility as an idea whose time has come.

Marylanders take great pride in our recycling efforts. Reducing packaging and increasing its recyclability will improve the system for managing packaging in a way that is market driven. We respectfully urge your favorable consideration.

*Anacostia Riverkeeper*

*Chesapeake Bay Foundation*

*Maryland Legislative Coalition*

*Surfrider Foundation*

*Trash Free Maryland*

*WISE*

Contact: Shari Wilson, Trash Free Maryland ([shari@trashfreemaryland.org](mailto:shari@trashfreemaryland.org))

**BDC - 2022 - SB 292 - EPR.pdf**

Uploaded by: Aaron Greenfield

Position: FWA

**To: Finance Committee**  
**From: Bioenergy Devco**  
**Subject: Senate Bill 292, Environment - Packaging Materials - Producer  
Responsibility**  
**Date: February 17, 2022**

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Bioenergy Devco supports with amendments on Senate Bill 292, Environment - Packaging Materials - Producer Responsibility.

This testimony is offered on behalf of Bioenergy Development Company (BDC), the foremost providers of anaerobic digester solutions and is a pioneer in this sector. The core expertise of our company lies in planning, producing and constructing the plants. For over 20 years and more than 250 biogas plants, our qualified team of engineers, biologists, chemists, agronomists, designers and marketing experts has significant experience in the design, construction and operation of anaerobic digester power plants and thus offers expertise in service, consultation and biological support.

This bill requires the Department of Environment to conduct a statewide recycling needs assessment every 10 years. Further, by April 1, 2024, producers of packaging materials to individually or as part of a producer responsibility organization submit a producer responsibility plan to the Department for approval. The bill also prohibits, on or after October 1, 2024, a producer of packaging materials from selling or distributing the packaging materials unless the producer has an approved producer responsibility plan.

Extended Producer Responsibility (EPR) is an important measure for managing and reducing the amount of consumer waste. The notion behind EPR is make product manufacturers and distributors responsible for their products and packaging at the end of life. This responsibility is intended to provide incentives for industry to prevent waste at the source, promote more circular design and establish public-private partnerships to help address waste program challenges.

Bioenergy Devco fully supports the intent of the legislation. In 2019, the General Assembly passed House Bill 510 which defines “organics recycling” as processes in which organic material are collected, separated or processed and returned to the marketplace in the form of raw materials or products. Composting and anaerobic digestion are included in this definition. As indicated in the attachment, we request that the bill strike “compost” and “composting” where indicated in favor of a broader term, “organics recycling” as defined in Section 9-1701(n)(1) of the Environment Article. This will ensure that broader range of recycling methods are covered under the law and that the benefits of each of these recycling methods is increased through improved communication and coordination with producers.



For these reasons, Bioenergy Devco respectfully requests a favorable report with amendments on Senate Bill 292.

For additional information, please contact Aaron J. Greenfield at 410.446.1992

**CRI Comments MD HB 307\_1.25.22 final.pdf**

Uploaded by: Allison Goldsmith

Position: FWA



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4361 Keystone Ave. • Culver City, CA 90232  
Telephone (310) 559-7451 • Fax (888) 839-3857  
[www.container-recycling.org](http://www.container-recycling.org)  
[www.bottlebill.org](http://www.bottlebill.org)

February 1, 2022

Environment & Transportation Committee  
Delegate Kumar Barve, Chairman; Delegate Dana Stein, Vice Chair  
House Office Building, Room 251  
6 Bladen St., Annapolis, MD 21401

Dear Chair Barve, Vice-Chair Stein, and Members of the Committee,

We are writing in support of House Bill 307, “An act concerning Environment – Packaging Materials – Producer Responsibility,” **on the condition that certain amendments are made, as outlined here.**

**Among other things, this bill would require:**

- All producers that sell packaged products in Maryland to form one or more **producer responsibility organizations** (PRO(s)) that must work together to generate a producer responsibility plan (Plan) specifying how they will achieve packaging waste reduction goals.
- The formation of an **advisory council** made up of multiple stakeholders to advise the PRO(s).
- The Maryland Department of the Environment (MDE) to conduct a comprehensive **Recycling Needs Assessment** every 10 years, to be funded by the PRO(s).
- A **fee structure** to be established for producers to pay into the PRO(s) based on the types and quantities of packaging, from primary to tertiary, that they sell in the state.
- The use of **eco-modulated fees** that are lower for materials with well-established recycling markets, and higher for hard-to-recycle materials, thereby encouraging environmentally-preferable design choices.
- The PRO(s) to **coordinate with the MDE and local governments** “to ensure that recycling services for residents in the state are provided in a seamless manner.”
- The PRO(s) to **reimburse local governments** for up to 50% of the cost of recycling collection, as well as portions of processing and transport.

**We applaud this bill for:**

- Taking decisive steps to partially transfer the financial and operational responsibility for end-of-life packaging management **from taxpayers to packaging producers.**
- Establishing a **performance goal of 25% packaging waste reduction** within 5 years of adoption of the first Plan.
- Requiring the PRO(s), with the approval of the MDE using information collected in the Needs Assessment, to **set additional goals** for
  - **increasing** packaging recycling rates
  - **increasing** the use of recycled content in packaging
  - **reducing** greenhouse gas emissions associated with packaging production, and
  - **reducing** contamination levels in recyclables collected
- Requiring regular **reporting and auditing** to ensure that information is being collected accurately and that progress toward achieving goals is on track.
- Requiring beverage container sales & recycling data to be **reported by material in units & tons.**



## CRI supports this bill conditionally, if amended in two ways:

### 1. Deposit-refund system for containers

Our primary concern is that a deposit-refund system, while **allowed** by the bill as one potential mechanism for achieving more, and better quality, recycling, **is not required**: either initially, or as a second-tier system that will kick in if the goals in the Plan are not realized within a 5-year timeframe.

We say this because one important feature of the bill—the **achievement of recycled content goals in consumer packaging—cannot be realized solely with an infrastructure based on mixed-stream collection**. It cannot be realized even if existing residential curbside collection programs are extended to multi-family dwellings, schools, businesses, and other venues, as outlined in the bill.

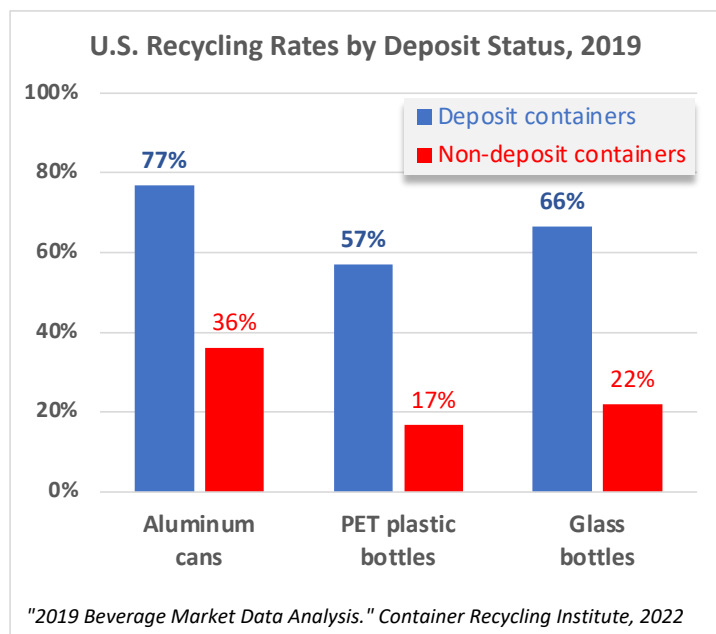
The problem is not the number or type of venues where collection occurs; the problem is **the type of collection itself**. Mixed-stream recycling produces inherently contaminated material, and despite the best mechanical and manual processes employed at materials recovery facilities (MRFs), simply cannot produce material that is segregated or clean enough to be used as a feedstock in manufacturing food-grade packaging (bottles, jars, tubs, and other packages that contain food or beverages).

This is especially true for plastics. There are many types of plastic products on the market today, including non-food products such as laundry detergent jugs and shampoo bottles, and many of these plastic packages contain colorants, plasticizers, and other chemical additives that render these recovered containers unsuitable for use in manufacturing food and beverage packaging.

Another problem is what the industry calls “consumer abuse.” For example, someone uses a clean, food-grade plastic bottle to temporarily store motor oil, and then places the now-permanently contaminated container in the curbside bin. Other examples abound.

It is cost-prohibitive to separate out contaminated or toxics-laden containers at a MRF to a standard that is high enough for risk-averse food and beverage packaging producers to be comfortable with.<sup>1</sup> Therefore, many of these manufacturers simply do not buy containers generated at MRFs. Instead, they source secondary material feedstocks **from deposit programs that are inherently designed to keep food-grade material separate**.

For more than 50 years, deposit laws, or “bottle bills,” have achieved recycling rates up to three times higher than those of bottles and cans without deposits. As the figure shows, more than three quarters (77%) of aluminum cans with a deposit were recycled nationwide in 2019, in contrast to 36% of cans lacking a deposit. The differences for bottles are more pronounced: 57% vs. 17% for non-deposit PET plastic, and 66% vs. 22% for non-deposit glass.



## What deposits can achieve in Maryland:

Increasing beverage sales nationwide has led to burgeoning bottle and can waste. **Based on national statistics, CRI estimates that 77% of the 5.6 billion beverage containers sold in Maryland in 2019 were wasted:** littered, landfilled, or incinerated.<sup>2</sup> That level of consumption and wasting represents a significant burden on taxpayers: whether through municipally-run recycling programs or municipally-contracted trash pick-up and disposal.

If Maryland were to implement a deposit system with a minimum 10¢ deposit on all common beverages and packages,<sup>3</sup> CRI estimates that the state would recycle **3.2 billion additional containers annually—or more than 200,000 tons of metal, glass, plastic, and paper**—over and above the recycling currently taking place. By reducing the need to make new containers from virgin materials, this additional recycling would eliminate almost 200,000 tons of greenhouse gas emissions: **an amount equivalent to taking 43,000 cars off the road for a year.**<sup>4</sup>

We are optimistic that there are strong markets for potential deposit containers generated in Maryland because there is already a shortage of used, food-grade plastic containers in North America. In addition, multiple global beverage brands have made public commitments to increase their use of recycled materials, as the below table shows.

Selected plastics reduction commitments by global brands		
Company	Timeframe	Commitment or target
Coca-Cola	by 2030	Equivalent of 100% of containers collected and recycled
Coca-Cola	by 2030	Average 50% recycled content in bottles
Danone	by 2025	100% of packaging reusable, recyclable or compostable
McDonald's	by 2025	100% of guest packaging from renewable, recycled or certified sources
Kraft Heinz	by 2025	100% of packaging recyclable, reusable or compostable
Nestlé	by 2025	100% of packaging recyclable or reusable

*Reprinted from CRI's Winter 2018 newsletter*

*© Container Recycling Institute, 2018*

These lofty goals can only be met through the increased availability of high-quality beverage bottles and cans for use as feedstock in new containers. Deposit programs consistently generate such high-quality bottles and cans. For example, deposit-grade PET bottles had an average value of 15¢ per pound in 2020, **twice the value of non-deposit, curbside PET** (7.3¢ per pound).<sup>5</sup>

Deposits on beverage containers are now available to over 400 million people worldwide. With the announcement of 10 new deposit laws in 2019 and 2020 (including New Zealand, Singapore, Slovakia, and Belarus), **640 million people** will have access to deposit programs by 2023. This trend is projected to continue as more nations realize that deposits are a vital part of the solution to the problem of bottle and can waste.

For these reasons, we urge the Committee to amend the bill to either **initially require** a deposit program for beverage containers, or to set **meaningful and binding** recycling goals, that if unmet after the specified five years, will automatically kick off a requirement for a deposit system to be instituted.

## 2. Raise the packaging waste reduction goals and make them binding

As currently written, the bill requires the PRO(s) to submit new Plans to the MDE if the 25% packaging waste reduction goals are not met within five years of approval of the first Plan.

While a 25% reduction goal may be ambitious for some types of packaging waste, such as foil pouches or plastic thermoform containers, **25% is not ambitious enough** for PET and HDPE plastic containers, nor for glass bottles or aluminum cans: all of which have both abysmal recycling rates in non-deposit states nationwide, **and** established markets—provided the material collected is clean and uncontaminated.

It is also **an environmental imperative to be more ambitious** about reducing packaging waste through the development and enforcement of achievable recycling content standards that will **displace virgin production**:

- **The climate crisis** demands that steps be taken in industries across the board to reduce greenhouse gas emissions. As we pointed out above, Maryland could reduce greenhouse gas emissions by 200,000 tons annually just by recycling 85% of beverage containers sold statewide.
- **Ocean debris** has become an internationally-recognized problem. As a coastal state with a huge marine estuary of vital ecological importance, the Chesapeake Bay, Maryland has a special responsibility to reduce all forms of plastic waste that may end up as marine litter.

Of course, goals alone are not enough. Provisions to make the performance goals **binding**—with **penalties** and/or **regulatory remedies** for non-achievement (such as a kick-in provision for deposits) are needed to ensure that these goals will be met.

In sum, CRI supports the measures identified in HB 307, **if amended** to require that deposits be a feature of the PRO(s) Plan, and that packaging reduction goals are more ambitious and made binding.

Please contact me with any questions you may have.

Sincerely,



Susan Collins  
President, Container Recycling Institute

**About the Container Recycling Institute:** CRI is a nonprofit organization and a leading authority on the economic and environmental impacts of beverage containers and other consumer-product packaging.

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<sup>1</sup> "Assessing the State of Food Grade Recycled Resin in Canada & the United States." STINA, for Environment and Climate Change Canada, 2021.

<sup>2</sup> "2019 Beverage Market Data Analysis," Container Recycling Institute, 2022.

<sup>3</sup> This is based on an 85% redemption rate for bottles and cans (close to what is achieved in Michigan and Oregon, the U.S. states with 10¢ deposits), a 59% redemption rate for gable-top and aseptic cartons (achieved in British Columbia), and 26% on foil pouches (also based on BC).

<sup>4</sup> "2019 Beverage Market Data Analysis," Container Recycling Institute, 2022.

<sup>5</sup> Annual average commodity price for 2020 sourced from RecyclingMarkets.net. Measured in the southwest region: the only US region for which deposit *and* non-deposit PET grades are tracked.

**SB 292\_FWA\_MML.pdf**

Uploaded by: Angelica Bailey

Position: FWA



Maryland Municipal League  
*The Association of Maryland's Cities and Towns*

TESTIMONY

February 17, 2022

**Committee:** Senate Finance

**Bill:** \_\_\_\_\_ SB 292 – Environment – Packaging Materials – Producer Responsibility

**Position:** Support with Amendment

**Reason for Position:**

The goal of this bill is to modernize and improve waste and recycling in Maryland. It shifts the responsibility for packaging materials to the producer, increasing the likelihood that environmentally damaging materials are responsibly disposed of. This bill also includes a fee structure to help local governments with the collection and disposal of these products. These are valuable and necessary measures to further our collective response to climate change.

However, the Maryland Municipal League has several concerns. This bill includes a process by which local governments may request reimbursement from a producer responsibility organization for costs associated with collecting, transporting, and processing packaging materials. This is a model the League supports, but the bill as drafted does not provide the clarity necessary to understand the impact of the legislation on our operations, to include the potential for new practices and the process for securing reimbursements.

For example, “local governments” is undefined in this bill, Subtitle 17, and even Title 9. Without clarification, it’s unclear whether this reimbursement process would be available to municipalities. Furthermore, several municipalities own and operate their own waste processing plants, while others rely on county or even out-of-state processing centers. It is unclear whether those municipalities that collect packaging materials but do not process and dispose of it themselves would still qualify for reimbursement. Assuming the intent of the bill is to include municipalities, how the reimbursement amounts are decided and disbursed is unclear.

We are confident that further discussion and collaboration can resolve these outstanding questions. We believe this will be a net-positive for the State and our cities and towns, and MML looks forward to continuing to work with the Sponsors and this Committee. With clarifying amendments, MML would respectfully request a favorable report.

1212 West Street, Annapolis, Maryland 21401

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**FOR MORE INFORMATION CONTACT:**

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# **AMERIPEN - MD SB 292 Senate Finance Hearing Testim**

Uploaded by: Dan Felton

Position: FWA



The power of packaging in balance.™

**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.

**AHI Statement MD SB 292.pdf**

Uploaded by: Ginny Siller

Position: FWA

Written Statement of

Mr. Ron Phillips, on behalf of the Animal Health Institute

On SB 292, Environment – Packaging, Containers and Paper Products – Producer Responsibility

Senate Committee on Finance

February 17, 2022

AHI is the U.S. trade association for research-based manufacturers of animal health products – the medicines that keep pets and livestock healthy.

Extended Producer Responsibility (EPR) for packaging and paper products is gaining attention in the U.S. and the conversation around sustainability is growing. Sustainability is one factor among many that animal health companies must consider in the packaging equation. Medical products for animals are required to be sterile or enclosed in packaging with tamper-resistant seals to protect public health. The animal health industry is committed to improved sustainability in all facets of the supply chain, and to maintaining product safety and stability while increasing the sustainability of packaging.

Our products are licensed by three different federal agencies, each with their own unique packaging standards and requirements.

1. Drugs approved by the Food and Drug Administration under the Food, Drug and Cosmetic Act. Sponsors must specify for the agency the materials of construction and packaging used for each product and provide data showing those factors will maintain stability of the product over its shelf life. Consequently, each product has its own unique approved packaging. Changes to product packaging take months of development followed by FDA review and approval.
2. Vaccines and biologics are approved by the US Department of Agriculture under the Virus, Serum, Toxins Act. Manufacturers are required to ensure packaging maintains the integrity of the vaccine, so temperature is a major consideration. Packaging must also accommodate detailed USDA labeling requirements.
3. Flea and tick prevention products are approved by the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act. FIFRA §25(c)(3) authorizes EPA to establish standards with respect to the package, container, or wrapping in which a pesticide or device is enclosed to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated under FIFRA. Additionally, §25(c)(3) requires EPA's CRP standards to be consistent with those established under the Poison Prevention Packaging Act of 1970.

AHI appreciates the Committee's recognition of the importance of animal medicines in protecting both animal and human health and supports the Committee's amended language.

*For purposes of this chapter/section, the following products shall not be considered covered products:*

- (1) *Drugs, medical devices, biologics, or diagnostics approved or authorized by the Food and Drug Administration or United States Department of Agriculture for use in animals;*
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**SB292\_CleanWaterAction\_FWA (EPR).pdf**

Uploaded by: Jennifer Kunze

Position: FWA

## **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,

**Clean Water Action**

Jennifer Kunze, Maryland Coordinator

**Locust Point Community Garden**

Dave Arndt, Director

**Environmental Justice Ministry, Cedar Lane Unitarian Universalist Church**

Nanci Wilkinson, Team Lead

**Beaverdam Creek Watershed Watch Group**

Tom Taylor, Co-Chair

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Dick Williams, Steering Committee/Treasurer

**Montgomery County-Faith Alliance for Climate Solutions**

Kathryn Gargurevich, Science Educator

**Cedar Lane Environmental Justice Ministry**

Lee McNair, Co-leader

**Echotopia LLC**

Diane Wittner, Principal

**MIC Climate Justice Wing**

Diana Younts, Co-chair

**Blue Water Baltimore**

Taylor Smith-Hams, Advocacy & Outreach Senior Manager

Andrew Hinz

Deborah A. Cohn

**SB 292\_MDSierraClub\_fwa - 17Feb2022.pdf**

Uploaded by: Josh Tulkin

Position: FWA



Maryland Chapter  
P.O. Box 278  
Riverdale, MD 20738

**Committee:** Finance

**Testimony on:** SB 292 “Environment – Packaging Materials -- Producer Responsibility”

**Position:** Support with Amendments

**Hearing Date:** February 17, 2022

The Sierra Club embraces the principle of producer responsibility, in which the designer or producer of a product takes responsibility for minimizing the product’s environmental and social impacts across all stages of the product’s life cycle. Producer responsibility needs to focus upstream, on waste reduction, redesign, reuse, and use of recycled content products. Producers should be fiscally responsible, but not necessarily physically responsible, for implementing the program, subject to public oversight and accountability.<sup>1</sup> SB 292 creates a producer responsibility program for packaging in which producers are *both* financially and physically responsible for implementation, underscoring the need for strong public oversight to ensure that targets are met and funds generated are used appropriately. The Maryland Chapter of the Sierra Club supports SB 292 with amendments to strengthen accountability and oversight that we explain below.

#### **What the bill would do**

The intent of SB 292 is to provide a framework for modernizing and improving Maryland’s waste and recycling systems and to require producers to reimburse local governments for costs associated with transporting, collecting, and processing packaging materials. SB 292 aims to improve reuse, composting, recycling, and recycling markets; reduce waste; and increase recycling rates. Packaging producers, individually or as part of a Producer Responsibility Organization (PRO), would submit a Producer Responsibility Plan to the Maryland Department of the Environment (MDE). The Plan must identify the producers and the brands of packaging covered; propose performance goals for each material type; describe the financing to implement the Plan; and indicate how the goals will be met, including reimbursement of local governments for collecting, transporting, and processing packaging materials. After approval, the Plan is implemented by the producers or PRO.

Oversight of the program would be provided by MDE, which is charged with reviewing and approving the Producer Responsibility Plan and annual reports. MDE would also be responsible for conducting a statewide recycling needs assessment every 10 years. The bill creates a Producer Responsibility Plan Advisory Council, responsible for advising the PRO at its request on the drafting or amending of a Plan; reviewing the Plan and annual reports submitted by the PRO; making recommendations to MDE regarding Plan approval; and making recommendations to MDE and the PRO on implementation of the Plan. The producers participating in Maryland’s program would include multinational corporations that are already participating in packaging programs elsewhere in the world.<sup>2</sup>

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<sup>1</sup>[Sierra Club Zero Waste Policy](#) (2019).

<sup>2</sup> Small producers of containers and packaging would be exempt from SB 292.

### **Packaging is a large and diverse group of products**

Containers and packaging are a substantial share of municipal solid waste generated in the United States - 28.1% in 2018.<sup>3</sup> Over all container and packaging materials, 53.9% by weight was recycled. However, recycling rates vary, from a high of 81% for paper and cardboard packaging to a low of 14% for plastic. Multi-layer plastic packaging, multi-resin pouches, and aseptic cartons for beverages and soups are not currently designed to be recyclable. Plastic film is generally not accepted for single stream recycling; it fouls equipment, becomes contaminated, and lacks a market. Plastic packaging also escapes into the environment as litter. Seven of the top ten plastic items collected in beach cleanups in the US are plastic packaging or containers.<sup>4</sup> Producer responsibility programs have the potential to create incentives to reduce packaging and redesign it to be reusable or recyclable. However, they are not a magic bullet, just one of several tools in the toolbox to reduce waste.

There is no experience with producer responsibility programs for packaging in the U.S. There are over 118 programs for producer responsibility in 33 states for a range of individual products, most of them difficult to recycle. However, only two states (Maine and Oregon) have enacted producer responsibility programs for packaging, and in neither state is the program operational.<sup>5</sup> Maryland won't have the opportunity to learn lessons from these programs. Producer responsibility programs for packaging are complex; the details of the legislation are important.

### **Improvements in the bill since 2021**

This bill has improved substantially since last year, with the addition of the Advisory Council and a Recycling Needs Assessment every 10 years, more reporting indicators in the annual plans, and a requirement for "eco-modulated" fees on packaging products according to their recyclability and other environmental features. Paper, which is easy to recycle, has been appropriately removed from the bill. We also appreciate that the Producer Responsibility Plan can be updated on a regular basis or if MDE requires it.

The Sierra Club continues to oppose inclusion of beverage containers in the bill because a separate beverage container deposit program with a 10-cent deposit would be able to recover 90% of the containers, a level of recycling that is unmatched by any conventional recycling program, while producing source-separated, high quality feedstock to meet postconsumer content requirements legislated across the country, and greatly reducing litter.

### **Recommended amendments to strengthen oversight and accountability for results**

We respectfully request consideration of the following amendments to provide greater transparency, accountability, and public oversight of a program largely managed by producers and PROs. The proposed language is appended to this testimony.

#1: Additional performance targets articulated in the bill and meaningful financial incentives for achieving them. Last year's bill had three performance targets articulated in the legislation, but this year there is only one: a reduction in packaging of each material type by at least 25% during the first 5-year Plan. There is no penalty for missing the target, just a requirement to update the Plan. *All the other*

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<sup>3</sup>U.S. Environmental Protection Agency. The other waste categories are durable goods (19.5%), non-durable goods (17.3%), and other wastes (including yard waste, food, organics, and miscellaneous non-organics, 35.1%). [https://www.epa.gov/sites/default/files/2021-01/documents/2018\\_ff\\_fact\\_sheet\\_dec\\_2020\\_fnl\\_508.pdf](https://www.epa.gov/sites/default/files/2021-01/documents/2018_ff_fact_sheet_dec_2020_fnl_508.pdf), p. 9.

<sup>4</sup> Food wrappers, bottle caps, plastic beverage bottles, plastic bags, lids, takeout containers (plastic and foam). 5Gyres *et al.* 2017. *Better Alternatives Now: BAN 2.0*.

<sup>5</sup> Producer responsibility programs are common in Canada, the European Union, Russia, and Brazil (to name a few). Northeast Recycling Council (NERC) and Northeast Waste Management Officials' Association (NEWMOA). 2020. "White Paper: Extended Producer Responsibility (EPR) for Packaging and Paper Products." April.

*performance targets are proposed by the PRO after the bill is passed. We propose two additional targets to be written into the bill, and penalties for not meeting the targets:*

- A penalty of 20¢ per pound of material short of the 25% packaging reduction target in the bill
- A 90% beverage container recycling rate by the end of the first 5-year Plan. The penalty for missing the target is 10¢ per container short of the 90% target.<sup>6</sup>
- A minimum 25% postconsumer plastic recycled content in plastic beverage containers by 2030. The penalty for missing the target is 20¢ for each pound of postconsumer resin short of the target amount.<sup>7</sup>

#2: Verification of achievement of performance goals by an independent entity reporting to MDE, the cost of which is reimbursed by the PRO to MDE through the State Recycling Trust Fund.

#3: Processing of materials by chemical recycling shall not count against any recycling targets

#4: Removal of representatives of the PRO from the Advisory Council, to remove a conflict of interest.<sup>8</sup>

In summary, the Sierra Club supports producer responsibility for packaging with strong public oversight and safeguards to ensure the achievement of targets. SB 292 sets up an ambitious program to reduce waste and recycle more. With the above amendments, we respectfully request a favorable report on SB 292.

Martha Ainsworth, Chair  
Chapter Zero Waste Team  
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Josh Tulkin  
Chapter Director  
[Josh.Tulkin@MDSierra.org](mailto:Josh.Tulkin@MDSierra.org)

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<sup>6</sup>Maryland already has a baseline recycling rate for beverage containers (22%) calculated by the Container Recycling Institute for 2018. It is not necessary to await the Needs Assessment to establish the baseline. If beverage containers are not removed from the bill, the PRO should have to show it can achieve a recycling rate at least as high as the best alternative program. The beverage companies are advertising that they can get “every bottle back.”

<sup>7</sup> The 25% post-consumer content requirement in plastic beverage containers by 2030 should not be a burden; recently passed legislation in California (AB 793) requires meeting the 25% target by 2025 and 50% by 2030. The penalty of 20¢ per pound of resin is the rate assessed for that bill.

<sup>8</sup> The purpose of the Advisory Council is to review and comment on the PRO’s Plan and annual reports; members of the PRO should not be assessing their own Plan.

## Proposed Amendments

**I. Two additional targets to appear in the bill and penalties for failure to meet each of the three targets.** Insert on p. 13, after line 19:

(4) (II) MANUFACTURERS THAT DO NOT ACHIEVE THIS TARGET WILL BE ASSESSED A PENALTY OF 20 CENTS PER POUND FOR EACH POUND OF MATERIAL SHORT OF THE TARGET AMOUNT.

(5) (I) REQUIRE MANUFACTURERS OF BEVERAGE CONTAINERS TO ACHIEVE A RECYCLING RATE OF 90% WITHIN 5 YEARS AFTER THE DATE ON WHICH THE FIRST VERSION OF THE PLAN IS APPROVED.

(II) MANUFACTURERS THAT DO NOT MEET THE MINIMUM BEVERAGE CONTAINER RECYCLING TARGET WILL BE ASSESSED AN ANNUAL PENALTY OF 10 CENTS PER BEVERAGE CONTAINER SHORT OF THE 90% TARGET.

(6) (1) REQUIRE MANUFACTURERS OF PLASTIC BEVERAGE CONTAINERS TO ATTAIN A MINIMUM 25% POSTCONSUMER PLASTIC RECYCLED CONTENT BY 2030.<sup>9</sup>

(II) MANUFACTURERS THAT DO NOT ACHIEVE THIS TARGET WILL BE ASSESSED A PENALTY OF 20 CENTS FOR EACH POUND OF POSTCONSUMER RESIN SHORT OF THE TARGET AMOUNT.<sup>10</sup>

p. 15, line 20: "...ESTABLISH ADDITIONAL PERFORMANCE GOALS FOR EACH PACKAGING MATERIAL TYPE USING A BASELINE YEAR..."

**II. Remove representatives of the PRO from membership on the Advisory Council; their inclusion is a conflict of interest.** P. 20, lines 16-17:

~~(H) A REPRESENTATIVE FROM EACH PRODUCER RESPONSIBILITY ORGANIZATION;~~

**III. Independent verification of achievement of performance goals, and chemical recycling cannot be used to meet recycling objectives.** p.24, insert between lines 10 & 11:

(C) ACHIEVEMENT OF PERFORMANCE TARGETS SHALL BE VERIFIED BY AN INDEPENDENT ENTITY REPORTING TO THE DEPARTMENT. THE COSTS OF VERIFICATION SHALL BE REIMBURSED TO THE DEPARTMENT FROM THE PRODUCER RESPONSIBILITY ORGANIZATION.

(D) PROCESSING OF MATERIALS BY CHEMICAL RECYCLING SHALL NOT COUNT AGAINST ANY RECYCLING TARGETS.

[Re-number line 11 (E) and line 15 (F)]

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<sup>9</sup> The 25% post-consumer content requirement in plastic beverage containers by 2030 should not be a burden; recently passed legislation in California (AB 793) requires meeting the 25% target by 2025 and 50% by 2030.

<sup>10</sup> This is the penalty set in the California statute for falling short of the postconsumer content targets

# **PhRMA - SB 292 - Proposed Amendments.pdf**

Uploaded by: Josh White

Position: FWA



**Proposed Amendments to Maryland SB 292  
(Deletions in black/strikethrough; new language in Red/Underline)**

**~~(D) (2) 4 PRESCRIPTION AND PHARMACEUTICAL PACKAGING~~**

(D) (3) "Packaging materials" does not include any part of a package or container, or paper products, that are sold or supplied in connection with drugs or medical devices (as defined in 21 U.S.C. §§ 321(g)(1) and 321(h)(1)).

(E)(2) "Producer" does not include: (1) A local government; or (II) A nonprofit charitable organization; or (III) And entity that manufacturers drugs or devices as defined in 21 U.S.C §§ 321(g)(1) and 321(h)(1).

**Rationale:**

The packaging of prescription drugs and devices is regulated by the U.S. Food and Drug Administration (FDA) and must comply with specific requirements, e.g., testing, etc. Drug manufacturers do not have the flexibility under federal law to adapt packaging to the requirements of SB 292.

**SB292\_FIN\_EPR\_FWA\_HoCoCA.pdf**

Uploaded by: Liz Feighner

Position: FWA



**HoCoClimateAction.org**  
Howard County, Maryland

**Testimony in SUPPORT of – SB292, *Extended Producer Responsibility***

**Hearing Date: February 18, 2022**

**Bill Sponsor: Sen. Augustine**

**Committee: Finance**

**Submitting: Howard County Climate Action**

**Position: Favorable With Amendments**

HoCo Climate Action -- a 350.org local chapter and a grassroots organization representing more than 1,450 subscribers, and a member of the Howard County Climate Collaboration -- supports Extended Producer Responsibility with amendments.

Important amendments are needed to address potential concerns with a Producer Responsibility Organization. Extended Producer Responsibility is an 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. It's absolutely necessary that producers, who are best positioned to understand the options for packaging and their associated environmental and financial costs for disposal, have a strong incentive to make socially responsible choices.

However, we must be sure this bill will actually achieve its intended purpose. We propose the following changes to make the bill stronger:

- More explicit goals should be stated in the legislation. Without stating precise targets in the legislation, we risk the possibility that the producer responsibility plans will not include strong enough goals.
- This bill should provide stronger enforcement mechanisms for producers who fail to achieve the goals in their producer responsibility plan.
- The legislation is unclear about what constitutes a single violation that incurs penalties. This ambiguity may lead to a very weak interpretation that has penalties which are much too small for the size of the corporations being regulated.
- The position of local governments should be strengthened in this bill. Producers should have limited time to reimburse local governments. After the time limit, late fees should be imposed.
- Members of producer responsibility organizations should not be voting members on the advisory board as it would be a conflict of interest – advisory position only.
- This legislation should ensure that there is sufficient public oversight.
- This legislation should prohibit non-profit producer responsibility organizations from using funds generated by this program for litigation.

We encourage a FAVORABLE report for this essential legislation.

HoCo Climate Action

[HoCoClimateAction@gmail.com](mailto:HoCoClimateAction@gmail.com) -

Submitted by Liz Feighner, Steering and Advocacy Committee, Columbia MD

[www.HoCoClimateAction.org](http://www.HoCoClimateAction.org)

# **SB292\_Consumer.Brands.Association\_fwa.pdf**

Uploaded by: Michael Gruber

Position: FWA



CONSUMER  
BRANDS  
ASSOCIATION

**Maryland Senate Committee on Finance**

SB292 Environment – Packaging Material – Producer Responsibility

Thursday, February 17, 2022

**Statement of Michael Gruber**

Vice President, Public Policy

Consumer Brands Association

Thank you for the opportunity to submit testimony on SB292, which would establish an extended producer responsibility (EPR) program in the state of Maryland. The Consumer Brands Association is in favor of the bill with amendments as it reflects the consumer packaged goods (CPG) industry's principles for advocacy in support of investment in the development and enhancement of recycling systems and improvements in capabilities that will build a more circular economy to the benefit of Maryland's consumers and environment.

The Consumer Brands Association (Consumer Brands) represents the world's leading CPG companies. The industry plays a unique role as the single-largest U.S. manufacturing employment sector, delivering products vital to the wellbeing of people's lives every day. From household and personal care items to food and beverage products, the CPG industry plays a vital role in powering Maryland's economy, contributing \$26.4 billion to the state's GDP, and supporting more than 262,000 jobs.

The CPG industry is focused on identifying policy and market solutions to the waste and recycling crisis. Industry companies are taking a wide range of actions to innovate and redesign packaging reducing the environmental impact of plastic packaging through greater recyclability and reuse. Our industry's commitment is more impactful when shared across the entire value chain and considered in legislative efforts, like Maryland's.

Our support for SB292 is rooted in what we view as clear principles of success:

**Fix the recycling system.**

Improve the underlying recycling system to deliver strong environmental outcomes, not simply layer additional funds on to an existing, broken system.

**Establish solution-focused Producer Responsibility Organization.**

Allow for an industry funded and run producer responsibility organization (PRO) to assess fees on packaging and determine where/how those funds are spent and manage the system, if applicable.

**Fund only recycling.**

Dedicate new funds raised for recycling improvements solely to recycling, not to government general funds or unnecessary administrative costs.

**Develop data-driven policy.**

Development of an EPR program must be based on accurate data and science, including a needs assessment with clear financial and performance targets over a specified period.

**Account for materials.**

Apply to and account for a range of material types in the waste stream.

**Source variety of funding.**

Include more than one source of funding, which should be additive and target specific challenges in the recycling value chain. No single funding source should replace or supplant other funding sources.

**Promote uniformity.**

Standardize recycling programs across a state, region or nationally.

**Bring everyone to the table.**

Develop a system with measured input from a wide array of stakeholders, including state, local and federal government, packaging suppliers, the consumer goods industry and the waste and recycling industry.

**Recommendations for Strengthening SB292**

We applaud the steps proposed in this legislation to create new strategies to improve the reduction, reuse, recovery and recyclability of packaging. The CPG industry has made packaging sustainability a top priority. With unprecedented commitments to improving the design of packaging — from source reduction to fully recyclable or compostable design, to using recycled content — the CPG industry is leading the way.

As you advance SB292, we respectfully request that you consider the following recommendations to further strengthen the bill.

**Conduct needs assessments:** As drafted, Section 9-1702.2(B) authorizes statewide recycling needs assessments to occur every ten years. Making durable, data-based policies require inputs that allow the PRO to distribute funds where they can improve recycling systems most in need of improvement. Consumer Brands is concerned that a decennial review is too infrequent and would not adequately support the requirements under 9-2404(13)(C) that the PRO must establish recycling rate goals for each material type at 5, 10, and 15 year intervals. Consumer Brands would support an amendment permitting the PRO to charge additional fees to producers for supplementary needs assessments.

**Authorize administration of producer funds:** Section 9-1707(IV) provides that fees collected by the PRO would be transferred to and maintained by the Maryland State Recycling Trust Fund. The PRO should serve as the solution-provider and not simply a pass-through financing entity for the state. As such, Consumer Brands strongly recommends that the bill be amended to authorize the PRO to collect and administer funds paid by producers.

**Set PRO plans with producers:** Section 9-2404(A) sets forth key elements of the PRO, including setting plans and performance goals for packaging material type based on data from the state needs assessment. However, under 9-2404(B)(3), the bill establishes a contradictory requirement that runs counter to the preceding section by

requiring a 25 percent floor in the reduction in packaging material “waste” to “the maximum extent practicable”. Accordingly, we recommend that Section 9-2404(B)(4) be removed to allow producers to determine what goals are achievable, establish baselines for a variety of producers and factor longstanding waste reduction activities.

**Study reimbursement impact:** Section 9-2406, provides that local governments can request reimbursement from the PRO for “costs associated with recycling services for businesses, schools, public places, residential housing, including multifamily housing, and any other entity.” Consumer Brands is concerned that this broad provision would interfere with commercial recyclers and deviates from the focus on residential recycling. We suggest providing for a study to assess the potential impact of such a proposal on improving the state’s recycling system, focusing resources, and strengthening materials markets.

**Consider compostable materials requirements:** Consumer Brands supports composting as a component of emerging materials management initiatives and assessments necessary to determine its feasibility in Maryland and other states. However, we are concerned that the potential funding requirements for composting must be carefully weighed against the immediate recycling infrastructure improvements necessary to stabilize material markets and meet consumer expectations for functioning recycling systems.

As part of shared responsibility in improving end-of-product life systems, Consumer Brands is dedicated to supporting well-designed EPR programs that are intended to improve municipal recycling and other important components of the post-consumer materials management mechanisms.

Thank you for your attention and for this opportunity to comment. If there are any questions or if we can further assist you, please feel free to reach out to me at any time.

Michael Gruber  
Vice President, Public Policy  
Consumer Brands Association  
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**SB 292\_Can Manufacturers Institute\_FWA.pdf**

Uploaded by: Michael Smaha

Position: FWA



**Michael J. Smaha**  
Vice President, Government Relations  
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Email: msmaha@cancentral.com

February 15, 2022

The Honorable Delores G. Kelley  
Maryland State Senate Finance Committee  
3 East Miller Senate Building  
Annapolis, MD 21401

**RE: Informational comments on SB 292, an act concerning producer responsibility and packaging materials**

Dear Chair Kelley, Vice Chair Feldman and Committee Members:

The Can Manufacturers Institute (CMI) submits the following comments on Senator Augustine's Senate Bill 292, which would establish an extended producer responsibility (EPR) program for packaging materials. **CMI urges both Senator Augustine and Delegate Lierman to amend their respective bills (HB 307, SB 292) to include a container deposit for all beverage types and beverage containers produced or imported into Maryland.**

CMI supports beverage container deposit programs. These programs complement producer responsibility organization (PRO) funded residential and commercial recycling programs and are proven to be an effective way to collect and recycle more packaging for beverages, often consumed while away from home. While Section 9-2403 (C) of both bills allow the PRO to establish a deposit return system for beverage containers, maintaining the optionality of a deposit program sets up Maryland to fail in maximizing the number of beverage containers kept out of landfills or discarded as litter.

**The Metal Can Industry in Maryland**

CMI is the trade association representing U.S. metal can makers and their suppliers. The industry employs more than 28,000 people with facilities in 33 states. CMI members are proud to make the most sustainable package for beverage and food products. CMI has two members with operations in Maryland: Independent Can Company, which employs almost 350 workers almost all of whom are Maryland residents, at its can plants in Belcamp and Rosedale, and Crown Holdings, Inc., which employs 50 women and men at its Belcamp plant. These three plants support almost 1,200 other Maryland jobs and collectively contribute almost \$29 million in state taxes.

**Deposits Are Critical to Maryland Achieving Recycling Success**

If Maryland were to become the 11<sup>th</sup> state in the United States with a deposit program, the benefits would be substantial. According to estimates from the Container Recycling Institute (CRI), **77 percent of bottles and cans consumed in Maryland are lost to landfills, litter or incineration.**<sup>1</sup> CRI estimates that **an additional 3.2 billion more containers would be**

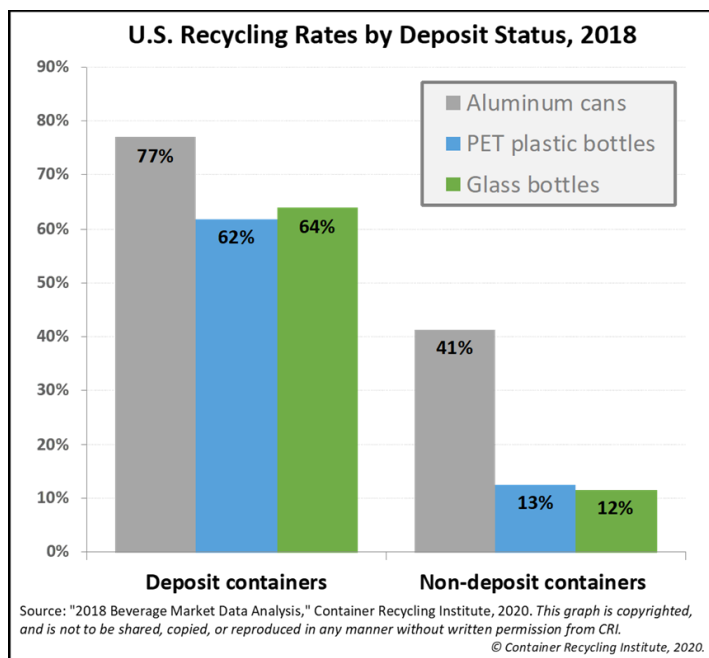
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<sup>1</sup> "2019 Beverage Market Data Analysis," Container Recycling Institute, 2022.

**recycled annually** in Maryland if a deposit program was instituted.<sup>2</sup> This program would also be a win for the Chesapeake Bay, a major economic engine for Maryland's economy. The bay would benefit from fewer containers washing into it and reduced impact from carbon dioxide as more bottles and cans could be manufactured with post-consumer content, versus virgin can sheet, plastic PET plastic or glass.

### The Aluminum Can Industry's Actions To Increase Recycling Rates

This past November, CMI announced a goal of increasing the U.S. aluminum beverage can recycling rate from the current industry-leading 45 percent to 70 percent by 2030. CMI and the Aluminum Association, the association that represents aluminum sheet supplied to make beverage cans, support deposit programs because they are vital sources of used beverage cans, which make them critical to achieve the industry's recycling rate targets. A 2019 analysis by environmental research firm Circular Matters showed that while the deposit states consume about a quarter of all beverage cans, they generate more than a third of all cans recycled. According to the CRI, 40 percent of recycled cans come from just the 10 deposit states. Further, while recycling rates for aluminum cans are about 41 percent in non-deposit states, they average 77 percent in states with such programs. The cans that aluminum suppliers receive from deposit states tend to be far cleaner and of higher quality, making recycling easier and more economical.



### Key Elements of Well-designed Deposit Programs

Should Senator Augustine and Delegate Lierman amend their bills as requested and add a deposit for beverage container component to Maryland's EPR for packaging program, CMI developed principles that should be considered for a well-designed program. Consider the ["Principles for a Modern, Well-Designed Deposit System"](#) released by CMI along with advocacy organization U.S. Public Interest Research Group and the international circular economy non-profit Reloop. These principles are critical components that should be included when designing

<sup>2</sup> "CRI comments on House Bill 307," Container Recycling Institute, 2022.

a beverage container deposit program, including if one is established in Maryland. These components are:

- **Easy and convenient redemption to encourage consumer participation.** Maryland businesses have a role to play in making redemption for consumers as easy as possible. Most retailers who sell beverages must be required to provide redemption options for consumers. Redemption at retail allows consumers to redeem their containers as part of everyday activities and drives foot traffic to local stores. The burden on retailers is minimized as they can satisfy the obligations of the bill simply by making space available for the PRO, who manages the program, to install, service and operate a redemption option inside or outside of stores. The retailers involved in the redemption program can also work with the PRO to provide store credit as a refund option, so consumers spend money in their stores.
- **Operate the program through a private PRO financed by beverage distributors and importers.** While the day-to-day operations of the program should be left to the private sector, Maryland Department of the Environment (MDE) should provide government oversight to ensure redemption targets are met and violations of the law are enforced. The PRO should work with MDE to set realistic recycling rate targets and dates based on container material type and end market realities.
- **Unredeemed deposits must remain with the PRO to improve recycling.** The PRO must be required to prioritize use of unredeemed deposits for investment in consumer convenience and program efficiency. The PRO should have the option to allocate some of the funds towards community recycling programs.
- **All container types and all beverage categories must be included in the program, with only minimal exemptions allowed.** This ensures a level playing field and higher recycling rates for all beverage containers. The full range of beverage categories must be included and new categories added with ease when they come onto the market.
- **All material types must “pay their own way.”** The beverage companies should be charged a fee based on material type and the cost to collect, store and process that container. This prevents higher valued materials from subsidizing the program costs of lesser valuable materials.
- **Vary the deposit rate based on container size.** This helps avoid market-distorting incentives for consumers to choose larger containers over smaller ones. Larger container types are also made of more material and the added deposit helps incentivize return of these containers that provide greater amounts of recyclable material.
- **Use clear labeling anywhere easily seen on the container.** The PRO can decide on requiring a barcode or universal product code to allow for automated identification and to reduce fraud. The PRO could consider new tracking and tracing technology to reduce fraud and increase ease in getting material back to the producer for reuse into new containers.

When designing a container deposit program, the MDE should have foresight to leave open the possibility for Maryland to join other Mid-Atlantic states and/or the District of Columbia in a regional program. A regional approach could be managed by a single entity or a group of PROs.

Uniform standards around beverage categories and material types included, deposit values and redemption methods are necessary, so consumers can purchase beverages in one jurisdiction and redeem it in another. This would diminish the opportunity for commit fraud in the system. Uniformity around dates and goals that acknowledge current end market realities at a regional level will also be required.

### **More Recycling Jobs for Maryland**

Investment in recycling infrastructure, whether it is through the collection, transportation, processing and recycling of beverage containers creates local jobs that cannot be outsourced. Data from the Environmental Protection Agency shows that in 2020 the recycling sector generated \$5.5 billion in tax revenue and created some 686,000 jobs.<sup>3</sup> According to analysis from the consultancy Reloop, deposit systems directly create more jobs than typical recycling programs. This is because more labor is required at the collection and processing states, as the number of recovered materials increases. Reloop estimates that in a national deposit system, more than 155,000 additional jobs would be created of which 51,700 of those jobs directly handle the increased amounts of materials. Maryland's population size, combined with its workforce who commute into the state, will result in many of these new jobs being created locally, thanks to the increased amount of material recovered from landfill or left as litter.

Maryland becoming the 11<sup>th</sup> state with a deposit program will increase the number of jobs in the recycling industry, increase the value of the material collected, reduce greenhouse gas emissions and reduce litter cleanup costs for government. The benefits will also go well beyond metal cans, but to other packaging materials as well. **CMI hopes Senator Augustine and Delegate Lierman amend their bills to require a deposit program for beverage containers, one which runs in parallel to EPR that funds collection programs for residential and commercial settings.**

Please do not hesitate to contact me if I can answer any questions or provide additional information.

Sincerely,

A handwritten signature in black ink that reads "Michael Smaha". The signature is written in a cursive, slightly slanted style.

Michael Smaha  
Vice President, Government Relations  
Can Manufacturers Institute

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<sup>3</sup>"Recycling Basics." <https://www.epa.gov/recycle/recycling-basics#JobCreation>

**SB292\_FWA\_ILSR-Seldman.pdf**

Uploaded by: Neil Seldman

Position: FWA

SB292– Favorable With Amendments  
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## **SB292-Extended Producer Responsibility**

Senate Finance Committee

February 17, 2022

### **Position: Favorable with Amendments**

Dear Members of the Maryland Senate Finance Committee,

Thank you for this hearing. For the record my name is Neil Seldman and I am a solid waste and recycling analyst for the Institute for Local Self-Reliance, based in Washington, DC. I am here to urge that the committee does not move SB0321 forward without necessary amendments. I have been an analyst of waste and recycling issues in the state of Maryland for many years and have worked for grassroots organizations and city/county agencies in Montgomery County, Frederick County, Carroll County, and Baltimore City.

The Bill needs improvement.

+ It fails to consider the consequences of giving extraordinary power to the companies that produce the waste, especially the petroleum/plastic industry. In CA and WA this type of bill failed for this reason. Legislators feared turning over public power to private global corporations. CA, TX, and federal bills deal with the crises of plastic and global warming by taxing plastic.

+ Bottle bills are better kept separate from EPR bills because EPR programs undermine bottle bills, as demonstrated in British Columbia, Canada. In that example, the Producer Responsibility Organization (PRO) makes more money from recycling even though bottle bills deliver cleaner materials. An independent bottle bill must have mandated refillables requirements: 10% by 2025; 25% by 2030; 50% by 2035.

+ The Bill lacks transparency and accountability.

+ There are no 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.

The bill should be reconsidered. As you work on a new version of the bill I urge you to talk to Mary Lou Van Deventer, Urban Ore, Inc, British Columbia Bottle Depot and Recycling Association; Kristine Kubat, Recycle Hawaii, aide to HI State Sen. Laura Ocasio; Ruth Abbe, Zero Waste USA, Consultant; Martha Ainsworth, MD Sierra Club; Maggie Clarke, Manhattan, NYC Solid Waste Advisory Board. These experts have over 125 years of direct experience in waste and recycling management.

This group defines "wasting and recycling experts".

Ask them:

- Why are they opposed to PRO?
- Why are they opposed to putting bottle bills under the authority of PRO/EPR?
- Do they have suggestions for a better EPR bill?
- What would they do if the EPR bill failed? Is there an infrastructure investment plan?

Thank you for your time.

Neil Seldman



**SB292\_IndivisibleHoCoMD\_FWA\_RuthAuerbach.pdf**

Uploaded by: Ruth Auerbach

Position: FWA



## **SB292 – Environment - Packaging Materials - Producer Responsibility**

### **Testimony before Senate Finance Committee**

**February, 17 2022**

**Position: Favorable with amendments**

Dear Finance Committee Members,

My name is Ruth Auerbach, and I represent the 750+ members of Indivisible Howard County. We are providing written testimony today to ***support with amendments SB292***, for extended producer responsibility for packaging materials. Indivisible Howard County is an active member of the Maryland Legislative Coalition (with 30,000+ members). We are grateful for the leadership of Sen. Augustine for sponsoring this critical legislation.

An Extended Producer Responsibility bill for packaging is desperately needed to realign incentives and achieve reductions in waste and increase reuse, recycling, and composting of packaging. In our current system, the cost of managing waste is hoisted on governments, while packaging waste damages the environment and public health. Consumers are responsible for understanding the packaging of their products along with the associated costs, handling, disposal, and damage both short- and long-term, and acting on this understanding. Meanwhile, producers have little incentive to limit the costs and harms of the packaging they use once the packaging is with the consumer. **It's absolutely necessary that producers, who are best positioned to understand the options for packaging and their associated environmental and financial costs for disposal, have a strong incentive to make socially responsible choices.**

However, we must be sure this bill will actually achieve its intended purpose. We propose the following changes:

1. More explicit goals should be stated in the legislation. Without stating precise targets in the legislation, we risk the possibility that the producer responsibility plans will not include strong enough goals. The only goal explicitly stated in HB307 is "REDUCE ALL PACKAGING MATERIAL WASTE TO THE MAXIMUM EXTENT PRACTICABLE, AND BY NOT LESS THAN 25% FOR EACH PACKAGING MATERIAL TYPE, WITHIN 5 YEARS AFTER THE DATE ON WHICH THE FIRST VERSION OF THE PLAN IS APPROVED." There are no explicit goals for recycling in this bill. Recycling of beverage containers should have a precise target. States with a 10 cent deposit fee on beverage containers are getting a recycling rate of 90%. Further, producers are advertising on television that they can get every bottle back. Current studies have shown that only 22% of beverage containers are being recycled in Maryland. We suggest including a goal of 90% of beverage containers recycled within 5 years of the first plan. We also recommend including the following goals for all single-use packaging
  - a) to have at least 75% postconsumer content by October 1, 2027; and
  - b) be readily recyclable or compostable by October 1, 2030

2. The bill should make clear that the goals of the producer responsibility plans described in 9–2404 (B)(3) must meet or exceed the goals established by the department in 9–2404(C). Further, the department should be able to approve with conditions or reject a plan if the goals in the plan do not meet the minimum established by the department in 9-2404(C).
3. This bill should provide stronger enforcement mechanisms for producers who fail to achieve the goals in their producer responsibility plan. This bill allows the department to require amendment of a producer responsibility plan if the producers fail to make sufficient progress on the goals in the plan. How will the department manage a producer responsibility organization that repeatedly fails to meet the goals in each of its subsequent amended plans? Some substantial enforcement mechanism needs to be included in the bill.
4. The legislation is unclear about what constitutes a single violation that incurs penalties. This ambiguity may lead to a very weak interpretation that has penalties which are much too small for the size of the corporations being regulated. Is the sale of each individual item without an approved producer responsibility plan a single penalty, or might a single penalty be millions of dollars of sales at one or more locations over one or more years without a producer responsibility plan? Whether the penalties stated in this legislation are effective depends on how violation is defined. We recommend defining “violation” and including penalties that are substantial enough to affect the activity of the producers.
5. The position of local governments should be strengthened in this bill. Producers should have limited time to reimburse local governments. After the time limit, late fees should be imposed. Further, local governments should be eligible for reimbursement for the administrative costs associated with seeking reimbursement from the producer responsibility organizations. Such a requirement would create an incentive to make the process of applying for reimbursement simple and efficient.
6. Members of producer responsibility organizations should not be voting members on the advisory board. A primary role of the advisory board is to review and make recommendations on the producer responsibility plans. Members of producer responsibility organizations that serve on this board will have a conflict of interest.
7. This legislation should ensure that there is sufficient public oversight. While the bill states that the producers will cover the costs of review, oversight, and enforcement of producer responsibility plans, the legislation should state that these funds must cover the costs of outside independent auditors and additional department staff to handle the additional responsibilities of the department.
8. 9–2404 (A)(1)(II)1.A. should read “RECYCLING SERVICES FOR RESIDENTS **AND VISITORS** IN THE STATE ARE PROVIDED IN A SEAMLESS MANNER; AND“ In particular, locations that may have out-of-state visitors, such as hotels, airports, and tourist attractions should also have seamless recycling services.
9. This legislation should prohibit non-profit producer responsibility organizations from using funds generated by this program for litigation.

Thank you for your consideration of this important legislation.

**We respectfully urge a favorable report on this bill with amendments.**

Ruth Auerbach  
Columbia, MD 21046

# **Maryland Alcohol Manufacturers - SB292 - Written O**

Uploaded by: Brad Rifkin

Position: UNF



## MARYLAND ASSOCIATION OF ALCOHOL MANUFACTURERS

### SB292

#### **POSITION:** OPPOSE

Maryland's alcohol manufacturers consist of over 200 local breweries, distilleries and wineries, existing in every corner of Maryland. **We write today in opposition to HB307/SB292.**

**While the intent of the bill is laudable, the bill will have a significant financial impact on a large portion of our member manufacturing businesses – members that are already leaders in sustainable business practices.** In fact, most of our members have a focus on value-add agriculture and work hard to source product (or grow their own product) locally. Whether it's utilizing spent grain as feed for livestock, adopting compostable containers, limiting the use of pesticides on crops, each of our alcohol manufacturing associations strive to be better stewards of our environment.

However, COVID-19 has harmed our members in ways nobody could have anticipated with forced closures, reduced on-premise capacity, increased operational costs (due to the need for additional cleanings, sanitation, air filters) and increased capital costs (due to the need for these businesses to shift their business models and focus more on off-premise sales channels). Therefore, any legislation that imposes new (and potentially significant) fees to industry already facing an uncertain economic outlook is problematic – to say the least. **To that direct point, we do propose a carve out that we believe is measured (and still captures the macro producers in the industry).**

**Lastly, the reason all three associations cannot take a “favorable with amendments” position at this current time is because we do not yet know of the unintended consequences the implementation of this bill would have for our limited vendors, our supply chain challenges (well documented for the industry) and the general difficulty reducing packaging for our products.**

For those reasons, we respectfully oppose HB307/SB292.

**SB 292 - amendment G&F.pdf**

Uploaded by: Brad Rifkin

Position: UNF

BY: Maryland's Breweries, Distillers and Wineries

AMENDMENT TO SENATE BILL 292  
(First Reading File Bill)

AMENDMENT NO. 1

On page 9, after line 18 insert: "(II) ANY PERSON LICENSED UNDER TITLE 2 OF THE ALCOHOLIC BEVERAGE ARTICLE THAT GENERATED LESS THAN \$10,000,000 IN GROSS REVENUE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR;"

**SB292\_AmericanCleaningInstitute\_unfav.pdf**

Uploaded by: Brennan Georgianni

Position: UNF



February 17, 2022

Senator Delores Kelley  
Chair, Finance Committee  
Maryland State Senate

RE: SB 292 - Environment – Packaging Materials – Producer Responsibility

Thank you for the opportunity to share our perspective on Senate Bill 292 which is being heard before your committee. The American Cleaning Institute® (ACI) is the trade association representing the \$60 billion U.S. cleaning products market. ACI members include the formulators of soaps, detergents and general cleaning products used in household, commercial, industrial and institutional settings; companies that supply ingredients and finished packaging for these products; and oleochemical producers. ACI and its members are dedicated to improving the health and quality of life through sustainable cleaning products and practices. ACI's mission is to support the sustainability of the cleaning products industry through research, education, outreach and science-based advocacy.

The optimization of ACI member company product packaging is a priority to deliver the performance of the products ACI members produce. It is for this reason that we have established guiding principles that help us ensure our products which provide hygiene and cleanliness do so in a manner that is environmentally sound, socially responsible and economically viable without compromising the ability of future generations to meet their needs. Our members have collaborated on guidelines to help direct packaging design and manufacturing. We have also charted a roadmap to help us achieve 100% collection and reuse, recycling or composting of cleaning product packaging waste by 2040.

ACI appreciates that the General Assembly is lending time to the issue of packaging recycling in the state. Maryland has an opportunity to be a leader in environmental stewardship policy. Likewise, we recognize that industry has a role to play in ensuring a sustainable future. The proposed bill would place greater responsibility on consumer goods companies to finance the recovery of their packaging. ACI continues to deliberate what a producer responsibility organization should look like to garner the greatest results.

Today, many ACI members are actively participating in and funding initiatives to prevent plastic waste from entering the environment. Here are some of those projects.

- Several ACI members have partnered with [Plastic Bank](#), an award-winning social enterprise that aims to help prevent plastic reaching our oceans by monetizing waste while improving lives.
- [Loop](#) is a global circular shopping platform designed to eliminate the idea of waste by transforming the products and packaging of everyday items from single use to durable, multi-use designs.
- Alongside their recyclability commitments, our members are working to be more transparent about how people can recycle their products. The [How2Recycle](#) label is transforming this by providing clear on-package labels to help all of us understand what we should be placing in the recycle bin.
- The [Alliance to End Plastic Waste](#) aims to find solutions by bringing together people and organizations from across the value chain.
- The Ellen MacArthur Foundation's [Global Commitment for a New Plastic Economy](#) aims to eliminate problematic or unnecessary plastic packaging and ensure 100 percent of plastic packaging can be easily and safely reused, recycled or composted by 2025.

At this time ACI cannot support this legislation in its entirety, but sees a greater opportunity for the desired policy goal execution and incentives for product manufacturer packaging innovation through continued conversations between legislators and product manufacturers.

We hope the General Assembly will take more time to contemplate ACI input on this policy. ACI looks forward to being a priority stakeholder to the development of such legislation, or providing necessary input regarding the performance of our products and packaging to achieve desired policy goals.

Sincerely,

A handwritten signature in black ink, appearing to read "Brennan Georgianni". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brennan Georgianni  
Director, State Government Affairs  
[BGeorgianni@cleaninginstitute.org](mailto:BGeorgianni@cleaninginstitute.org)

# **SB0292 -- Environment - Packaging Materials - Prod**

Uploaded by: Brian Levine

Position: UNF



**Senate Bill 292 -- *Environment - Packaging Materials - Producer Responsibility***  
**Senate Finance Committee**  
**February 17, 2022**  
**Oppose**

The Montgomery County Chamber of Commerce (MCCC), the voice of business in Metro Maryland, opposes Senate Bill 292 -- *Environment - Packaging Materials - Producer Responsibility*.

MCCC does not object in concept that the business community has the responsibility to create more sustainable and ecologically friendly practices. However, Senate Bill 292 is simply too onerous and confusing for many Maryland small businesses at time where many industries continue to struggle to survive a pandemic economy.

MCCC is concerned about the amount of paperwork that is required by Senate Bill 292, which creates a significant burden on time for businesses. The penalties required in the bill are also overly punitive. The bill also contains no specific delineation on how much financial impact there will be on producers, creating a massive risk for Maryland businesses.

MCCC is also concerned about the business definitions in the bill, which would capture too many small companies who can simply not afford to comply with the bill as written and would face the prospect of going out of business. This business definition threshold needs to be much higher to ensure that Maryland's small businesses can survive.

In particular, small businesses such as wineries, distillers, and breweries may be unable to stay in businesses if this bill passes. During the pandemic, these entities have been forced to rethink their business model to survive. That has largely meant that these types of businesses have sold more products as take out, thereby using more packaged materials than they did pre-pandemic. This bill may penalize these small businesses that have adapted during the pandemic in the face of a difficult economy for their industry.

**For these reasons, the Montgomery County Chamber of Commerce opposes Senate Bill 292 and respectfully requests an unfavorable report.**

*The Montgomery County Chamber of Commerce, on behalf of our nearly 500 members, advocates for growth in business opportunities, strategic investment in infrastructure, and balanced tax reform to advance Metro Maryland as a regional, national, and global location for business success. Established in 1959, MCCC is an independent non-profit membership organization and a proud Montgomery County Green Certified Business.*

Brian Levine / Vice President of Government Affairs  
Montgomery County Chamber of Commerce  
51 Monroe Street / Suite 1800  
Rockville, Maryland 20850  
301-738-0015 / [www.mcccmd.com](http://www.mcccmd.com)

# **MRN Response - SB 292 - Packaging Materials - Prod**

Uploaded by: Chaz Miller

Position: UNF



**February 16, 2022**

**To: Maryland Senate Finance Committee**

**Re: SB 292 Environment – Packaging Materials – Producer Responsibility**

The members of the Maryland Recycling Network are involved in all aspects of recycling in Maryland. We are community and county recycling coordinators responsible for implementing and overseeing recycling programs, private sector companies that collect and process recyclables, agencies, non-profit organizations, and recycling activists. We promote the “3 R’s” of sustainable reduction, reuse and recycling of materials that are otherwise destined for disposal and the manufacturing and purchase of products made with recycled content. We achieve these goals through education programs, advocacy activities to affect public policy, technical assistance efforts, and recycling market development.

Our Legislation and Policy Committee members have direct experience operating recycling and composting programs at the county and municipal government level. They know the ins and outs of recycling in Maryland. Their experience informs our comments.

#### Recycling in Maryland

According to the most recent data from the Maryland Department of the Environment (MDE), Maryland had a 40.5 percent recycling rate in 2019. While this rate is higher than most states, we can do better. Clearly recycling is stronger in some counties and municipalities than others.

Maryland has a good, but far from perfect, recycling processing infrastructure. Three counties – Baltimore, Montgomery and Prince George’s – own their Materials Recovery Facility (MRF – this is the facility that processes collected recyclables into raw materials for end markets). Baltimore County operates its facility and sells the recyclables to end markets. Montgomery County and Prince George’s County contract with MES for those two services. All benefit from the currently very strong markets for curbside recyclables. According to the Northeast Recycling Council, the average value of a ton of recyclables from a MRF at the end of December was \$162 a ton. This is well over double its value from a year ago. While prices softened a little in the winter, I expect strong recycling markets for some time.

In addition, two Maryland MRFs are owned and operated by the private sector. One is in Hagerstown and the other in Elkridge. A not-for-profit MRF operates in Kent County. Private sector scrap dealers also process municipal recyclables in some parts of Maryland.

Due to insufficient nearby processing capacity or nearby MRFs that do not accept out-of-county recyclables, some counties send some or all of their recyclables to MRFs in Delaware, Pennsylvania and Virginia. When its new MRF is up and running, Montgomery County will no longer ship some of its commingled recyclables to Pennsylvania for processing.

MRN and SB 292

The Maryland Recycling Network has consistently supported EPR proposals. One of our priorities for this legislative session is to see the paint EPR bill pass both houses. We have also formed a task force to modernize Maryland’s electronic products EPR law. Unfortunately, we see fundamental flaws in SB292 as written and cannot support it at this time. Our Board voted unanimously in taking this position.

**Our key areas of concern include:**

The Needs Assessment (Section 9-1702.2) is absolutely necessary. Essentially it is a statewide solid waste management plan covering waste composition, current recycling and compostable packaging tonnages, the existing collection and processing infrastructure for those materials throughout Maryland, and other issues connected to the operation of these services. Conducting this assessment will be costly.

- Does MDE have the existing staffing and financial resources to undertake the Needs Assessment?
- MDE will need a fiscal appropriation to do this study. The MRN agrees the producer group should pay for the study. However, the assessment is required to be released on October 1, 2023, yet the producer group is not required to submit its plan until April 2024 and is not likely to have sufficient financial resources until after it is able to collect producer fees.

Local government reimbursement: Numerous provisions of Section 9-2404 refer to reimbursing local governments for costs associated with transporting, collecting, processing and recycling packaging materials. This clearly implies 100 percent cost reimbursement.

- Section 9-2404 (D)(1)(I) provides the method for reimbursement for direct investments for improving infrastructure for reuse, composting and recycling. This provision has no apparent limits on costs that can be reimbursed. Yet, who determines what improvements can be made and specifies the equipment? For instance, if a county wants to buy new equipment for its MRF, does the county or the producer group have the final say on what is bought?
- Section 9-2404(D)(1)(II)1 limits reimbursement for collection to only 50 percent of the cost. Why?
- Sections 9-2404(D)(1)(ii)2, 3 and 4 do not provide cost reimbursement percentages for transporting, processing and recycling costs. The last item, “recycling” costs, is not defined.
- Some municipalities operate collection and transportation regardless of whether or not the county provides this service. The bill needs to clarify if those municipalities will be directly reimbursed.
- Section 9-2404(D)(2)(III) gives the basis for determining the local government reimbursement rate. (III) is “the commodity value of recycled packaging”. This raises the question of who keeps the revenue from the sale of the recyclables. Is the MRF being paid a fee by the local government for processing and the local government gets back its share of the revenue? If a local government owns its MRF, does it keep the revenue?
- The questions we raise are crucial to the ability of a county or municipality to plan its recycling program. The bill, as written, is silent on their resolution.

Who chooses which processing facility a county or local government can use: Section 9-2404(D)(2)(II), cited above, also gives the distance to the nearest “recycling or composting facility” as a reimbursement factor.

- Is a “recycling facility” a MRF?
- What if the nearest composting facility does not accept compostable packaging?

Several Maryland counties transport their recyclables to MRFs in Delaware, Pennsylvania or Virginia.

- Will they be reimbursed for the full mileage to these facilities or limited to reimbursement to the closest? In several cases they cannot use the nearest facility because it is a county-owned facility only open to recyclables collected in that county.

Program uniformity: outreach, education and communication: Section 9-2404(B)(10)(III)(1) calls for consistent statewide recycling and composting instructions, taking into account differences among local laws and processing capabilities, while (IV)(2) calls for coordinated outreach across programs to avoid confusion for consumers. The majority of Maryland’s recyclables are collected in “single stream” programs. Montgomery County uses the “dual stream” collection system as do some other communities. Several of the Eastern Shore counties have drop-off centers but they do not always take the same recyclables as do larger, curbside collection programs.

- These two provisions seem to conflict. How can education be consistent when different collection options are used in Maryland?
- Is the intent to eliminate either single or dual stream?

Compostable packaging (Section 9-1702.2(1)(III) and others): The bill only funds composting of this packaging. Anaerobic digestion is an existing option in Maryland that some counties are likely to use as the processing technology for their mixed food and compostable packaging waste. Are anaerobic digestion processing costs for the compostable packaging portion of food waste not covered?

Beverage container deposits: Section 9-2403(C) appears to allow the creation of a separate deposit-return system for container containers and other packages without legislative guidance or approval. Given the impact of beverage container deposits on the existing processing infrastructure and revenues for counties, this should be a subject of separate legislation.

Covered packaging: Section 9-2401(D)(1) & (2) defines packaging materials as essentially any primary, secondary or tertiary package sold or distributed in Maryland that is “intended for the consumer market”.

- This language appears to include much of the corrugated boxes used to ship boxes of products to warehouses and retail stores. Normally these boxes are sold to scrap dealers who then process and sell them. This system has worked very well for decades. Is the bill intended to cover these packages?

Section 9-2401(D)(2)(I-III) Packages subject to regulation by the FDA such as those for certain medical products and by the CPSA such as tamperproof containers are not exempt from this law.

- This could cause regulatory, public health and safety conflicts.

Antitrust exemption: Section 9-2408 provides the producer group with a complete waiver of state antitrust and restraint of trade law.

- Maryland is likely to have more than a thousand producers subject to this proposal based on the experience in Canada (British Columbia with its population of 5,000,000 has 1,200 producers, Quebec with its population of 8 million has more than 3,000). Few of the producers will be actively involved in its operations. The smaller the company, the less likely it will have the time or resources to be involved.



- The producer group will be comprised of the companies that form it. Yet given the large number of potential members, it is likely that only a small number will be involved in managing the organization and participating in meetings. Why should the producers group get an exemption from antitrust law and allow some members to see data and have discussions that is not available to all members? Ontario did not include this exemption in its new law because of competitive problems under its old law.
- The blanket antitrust exemption poses a problem due to the unusual diversity of companies, retailers and product types covered by EPR for packaging.

Advisory Council: Section 9-2405 creates a “Producer Responsibility Plan Advisory Council”.

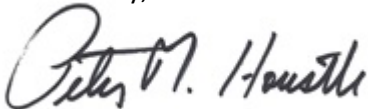
- The Council can provide advice on the draft plan or amendments, receive, and review the final plans and annual reports and make recommendations to MDE. We hope the Advisory Council and its recommendations will be taken seriously by the producer group and MDE and not just be another hoop to jump through.

We understand the desire to keep the bill simple and short. But the questions and concerns raised above are crucially important to local governments and recycling service providers. We do not believe legislation should cover every facet of a packaging EPR law. However, we believe the best EPR packaging law for Maryland will provide guidance for these key issues now instead of waiting for MDE and a producer group to solve them with no legislative guidance. The questions we have raised need answers. Maryland county and municipal governments and the Maryland recycling industry have too much at stake.

The Maryland Recycling Network thanks Senator Augustine for his interest in improving recycling in Maryland. SB292 offers a starting point in that direction. We look forward to working with the sponsor, along with local governments at both the county and municipal level, recycling companies, producers and all parties involved in recycling in Maryland, in creating a more inclusive and comprehensive approach.

As always, the Maryland Recycling Network stands ready to serve as a sounding board and resource for legislators and others interested in pursuing our mission. Please do not hesitate to contact me via email [phoustle@marylandrecyclingnetwork.org](mailto:phoustle@marylandrecyclingnetwork.org), phone 301-725-2508 or mail - MRN, PO Box 1640, Columbia MD 21044 if you have any questions or would like additional information regarding the above.

Sincerely,



Peter M. Houstle  
Executive Director

**SB292 PGAMA(1).pdf**

Uploaded by: Jay Goldscher

Position: UNF



## **SB292 Environment – Environment – Packaging Materials – Producer Responsibility**

The Printing & Graphics Association Mid-Atlantic respectfully opposes SB292. The printing & graphics industry in Maryland encompasses roughly 16,000 employees across 500 companies and is among the largest manufacturing sectors in the state. We believe that this legislation would increase the cost of paper-based packaging materials.

According to the most recent available data provided by the EPA, the paper industry is far and away the leader in recycling rates and landfill avoidance. As a percentage of generation, 68% of paper or paperboard products are ultimately recycled, with just 26% ending up in a landfill. Compare that to the 9% recycling rate for plastics, with 76% ending up in a landfill. When you look at paper container and packaging specifically, these rates are even better. 80% are recycled, with just a 15% landfill rate. Additionally, corrugated cardboard, which would arguably be the most widely used product covered under this legislation, is already recycled at rates in the range of 90%.

The printing and graphics industry is struggling with extraordinary challenges in securing paper for projects as well as absorbing significant increases in cost which, in many cases, they are unable to pass along due to contractual obligations or competitive issues. These paper allocation and higher cost issues will continue into 2023 at best. To add additional costs and new regulations on packaging materials now, places a burden on the industry that, in the best of times, faces numerous challenges. This legislation attempts to address an issue that the printing and graphic industry wholeheartedly embraces and has taken numerous initiatives over the years to responsibly recycle and dispose of paper and paper products.

Due to the inequity of recycling and recovery rates between the paper industry compared to other recyclable materials, as well as cost challenges already faced by our members, this legislation would create an additional burden on our industry, which is already more than pulling its weight.

Jay Goldscher  
President and CEO  
PGAMA  
[jay@pgama.com](mailto:jay@pgama.com)

Tyler Bennett  
Compass Government Relations Partners  
[tbennett@compassadvocacy.com](mailto:tbennett@compassadvocacy.com)

**AFPA testimony MD EPR SB 292 final 2-11-22.pdf**

Uploaded by: Lorenzo Bellamy

Position: UNF



**LEGISLATIVE POSITION: UNFAVORABLE**

**Senate Bill 292**

**Environment – Packaging Materials – Producer Responsibility**

**Finance Committee**

**February 17, 2022**

The Honorable Delores Kelley, Chair, Senate Finance Committee

The Honorable Brian Feldman, Vice Chair, Senate Finance Committee

Dear Chair Kelley, Vice Chair Feldman, and Members of the Committee:

The American Forest & Paper Association<sup>1</sup> (AF&PA) appreciates the opportunity to share our perspective on Senate Bill 292 on behalf of our members and their employees who are an integral part of the circular economy. In Maryland the forest products industry employs nearly 6,000 individuals in facilities that produce packaging, sales displays, corrugated boxes and other products with an annual payroll of over \$374 million.<sup>2</sup>

AF&PA must respectfully oppose SB 292, which would require producers to create or participate in a product stewardship organization in order to sell or distribute products for use in Maryland. The paper industry has a demonstrated, measurable record of success in making paper and paper-based packaging more circular and sustainable through market-based approaches. Extended producer responsibility (EPR) policies are typically applied as a solution for hazardous, hard-to-handle materials with low recycling rates, such as batteries, paint, mattresses, or electronics. For a highly recycled material like paper, with widely accessible collection programs and robust and resilient end markets, EPR could disrupt efficient and successful paper recycling streams in an attempt to improve the least effective streams. We respectfully ask policymakers to focus on improving recycling for materials with low recovery rates, instead of creating mandates and fees for paper producers that could direct capital away from investing in recycling infrastructure.

**The Paper Industry Is Already a Responsible Producer**

Paper recycling rates in the U.S. have consistently increased in recent decades, with nearly 66 percent of paper recovered for recycling in 2020.<sup>3</sup> The paper industry recycles about 50 million tons of recovered paper every year — totaling more than 1 billion tons over the past 20 years. According to the EPA, more paper by weight is recovered for recycling from municipal waste streams than plastic, glass, steel, and

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<sup>1</sup> The American Forest & Paper Association (AF&PA) serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. The forest products industry is circular by nature. AF&PA member companies make essential products from renewable and recycle resources, generate renewable bioenergy and are committed to continuous improvement through the industry's sustainability initiative — [Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future](#). The forest products industry accounts for approximately four percent of the total U.S. manufacturing GDP, manufactures nearly \$300 billion in products annually and employs approximately 950,000 people. The industry meets a payroll of approximately \$60 billion annually and is among the top 10 manufacturing sector employers in 45 states.

<sup>2</sup> Data sources: U.S. government, AF&PA, and RISI. Figures are the most recent available as of December 2020.

<sup>3</sup> <https://www.afandpa.org/news/2021/resilient-us-paper-industry-maintains-high-recycling-rate-2020>

aluminum combined.<sup>4</sup> The 2019 Maryland Solid Waste Management and Diversion Report affirms this, stating that “compostables and paper materials constituted the largest portion of materials recycled.”<sup>5</sup> The paper industry has planned or announced around \$5 billion in manufacturing infrastructure investments by the end of 2023 to continue the best use of recycled fiber in our products, resulting in an over 8 million ton increase in available capacity.<sup>6</sup>

This success has been driven by the paper industry’s commitment to providing renewable, sustainable, and highly recycled products for consumers. Recycling is integrated into our business to an extent that makes us unique among material manufacturing industries – our members own 114 materials recovery facilities and 80 percent of paper mills use some amount of recycled fiber. Any EPR system must fully and fairly credit the early, voluntary action our industry has taken advancing the recycling rate of our products, and strictly prohibit use of fees generated by one material to subsidize development of recycling infrastructure for competing materials.

In fact, our industry’s recycling rates are so successful that some products are approaching the maximum achievable recycling rate possible. The recycling rate for containerboard (corrugated cardboard) in 2020, for example, was 88.8 percent. The three-year average recycling rate for the material that would be most impacted by EPR, old corrugated containers (OCC), is already 92.3 percent.<sup>7</sup> In addition, 95.1 percent of Marylanders have access to residential curbside recycling.<sup>8</sup> The state already has a well-developed and accessible paper and paperboard recycling system, thus negating the need for an EPR program.

### **EPR Policies Introduce Uncertainty in Fee Structure and Disrupt Flow of Material**

EPR policies must be carefully designed to avoid creating fees or mandates that could disrupt efficient and successful paper recycling streams and that direct private sector funds away from investment in recycling infrastructure. SB 292 requires funding to be given to local governments to pay for their collection of readily recyclable materials, but this is a cost-shifting mechanism common in other EPR programs that does not create added value or end markets for recyclable materials. The paper industry already contributes to economically sustainable recycling programs by purchasing and utilizing material sourced from residential collection programs in manufacturing new products.

Recycling programs in the U.S. are operated by local governments, which have more freedom to tailor recycling programs to the needs of local communities. The record of highly centralized, command-and-control EPR programs in Canada and Europe offers no real proof of advantages over the market-based approaches and locally-operated programs prevalent in the U.S. In fact, a 2021 research paper performed by York University in Ontario concluded there is no evidence to indicate that the steward-operated EPR program in Canada will result in cost containment or increased recycling performance.<sup>9</sup>

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<sup>4</sup> [https://www.epa.gov/sites/default/files/2021-01/documents/2018\\_ff\\_fact\\_sheet\\_dec\\_2020\\_fnl\\_508.pdf](https://www.epa.gov/sites/default/files/2021-01/documents/2018_ff_fact_sheet_dec_2020_fnl_508.pdf)

<sup>5</sup> <https://mde.maryland.gov/programs/LAND/AnalyticsReports/MSWMDR-%202019.pdf>

<sup>6</sup> The Recycling Partnership; Northeast Recycling Council. Last updated: December 2021

<sup>7</sup> <https://www.afandpa.org/news/2021/resilient-us-paper-industry-maintains-high-recycling-rate-2020>

<sup>8</sup> <https://www.afandpa.org/priorities/recycling/what-were-doing>

<sup>9</sup> Review of Recycle BC Program Performance, Dr. Calvin Lakhan, York University

### **Focus On Solutions for Products with Low Recycling Rates**

We think the bill should take a more solution-oriented approach focused on problematic materials in the commingled residential collection stream. The definition of “packaging material” and “producer” in the bill should be narrowed to exclude material that does not flow through residential collection. OCC, in particular, tends to be collected in its highest volumes through source-separated commercial collection. This type of collection generates cleaner material at a much lower cost than commingled residential collection. Paper recycling has enjoyed decades of success because of the industry’s investments, consumer education, the wide availability of recycling programs, and the efforts of millions of Americans who recycle at home, work, and school every day. The paper products industry is proud to be part of the recycling solution by providing renewable, sustainable, and highly recycled products for consumers.

We respectfully ask policymakers to focus on improving recycling for materials with low recovery rates that contaminate the recycling stream. Legislation such as the Recycling Markets Development bill that passed in 2021 can serve to support increased recycling rates for low-performing materials without new burdens on other industries. AF&PA continues to support promoting increased participation in community recycling programs and other best practices, in addition to focusing on hard-to-recycle materials where there may not yet be a well-developed collection infrastructure or good recovery results.

We encourage the Committees to avoid measures that might penalize paper and paper-based packaging and their existing successful recycling programs. We look forward to continuing our work with the State of Maryland. Please feel free to contact Elizabeth Olds, Manager, Government Affairs at [Elizabeth.Olds@afandpa.org](mailto:Elizabeth.Olds@afandpa.org) for further information.

**WestRock Letter Oppose SB292 EPR 2-7-2022.pdf**

Uploaded by: Matthew Wells

Position: UNF





February 7, 2022

**WestRock Opposition to SB 292: Environment – Packaging Materials – Producer Responsibility**

Dear Chair Kelly, Vice Chair Feldman, and Members of the Senate Finance Committee,

On behalf of WestRock, I am writing in opposition to SB292, which would subject paper packaging to an ineffective and costly Extended Producer Responsibility (EPR) program.

WestRock is a Fortune 200 manufacturer of sustainable, fiber-based packaging products with 50,000 employees and more than 300 facilities. We also operate one of North America's largest recycling networks, managing roughly 7.5 million tons of fiber each year. In Maryland, we employ nearly 190 men and women in family-wage jobs across 3 facilities and invest over \$200 million annually through salary, taxes, energy, supplier costs. WestRock's Curtis Bay Container facility, which I manage, manufactures 100% recyclable paper packaging using primarily recycled fiber.

Paper recycling in the United States is a success story thanks to the many billions of dollars in industry infrastructure investments which led to paper recovery rates of 66.2% and as high as 92% for old-corrugated containers – otherwise known as cardboard.

While EPR may be an appropriate program for certain hard-to-recycle materials with limited end market demand, it is not appropriate for paper products. EPR mandates for paper could disrupt healthy markets for recovered fiber and make them less efficient and more costly. This will prevent recovered fiber from going to its highest value end use, raise the cost of production for new paper products, and narrow available choices for consumers.

Our business relies on a robust recycling ecosystem to support our paper mills and box plants – SB292 fails to deliver on the promise of enhancing paper recycling. Applying EPR to paper would be a punitive tax on the sustainable paper products that we make and sell in Maryland. EPR is an expensive and ineffective solution to a problem that does not exist for paper.

Sincerely,

A handwritten signature in black ink, appearing to read "TJ Billiard", is written over a faint, larger signature.

TJ Billiard  
WestRock – Curtis Bay MD  
Business Unit General Manager – Philadelphia BU

**PCRAM - amd - sb 292.pdf**

Uploaded by: Matthew Bohle

Position: UNF

BY: Premium Cigar Retailers Association of Maryland

AMENDMENT TO SB 292

(First Reading File Bill)

AMENDMENT NO. 1

On page 9, line 25 strike "AND" and insert "OR"

On page 9, after line 25, include "(IV) IS A LICENSED TOBACCONIST; AND"

# **SB 292 - Oppose - PCRAM.pdf**

Uploaded by: Matthew Bohle

Position: UNF



**Aphelion Cigar Lounge** 410-721-1700  
2510 Conway Road, Ste. 106, Gambrills 21054

**Broadleaf Tobacco** 410-315-8118  
487 Ritchie Highway, #101, Severna Park 21146

**Burnt Leaf** 443-272-7206  
487 Ritchie Highway, #101, Severna Park 21146

**Cross Street Tobacco** 410-752-9220  
1103 Light Street, Baltimore 21230

**Dan's Cigar Lounge** 410-780-5959  
8300-B Pulaski Highway, Rosedale 21237

**Davidus Cigars**, 301-865-1000  
2134 Generals Highway, Annapolis 21401

1300 Bank Street, Baltimore 21231  
1716 Liberty Road, Eldersburg 21784  
9180 Baltimore National Pike, Elicott City 21042 529  
West South Street, Frederick 21701  
25 Olney Sandy-Spring Road, Ashton 20861  
10810 Reisterstown Road, Owings Mills 21117  
11632 Rockville Pike, Rockville 20852  
15922 Shady Grove Road, Gaithersburg 20832 8925  
Fingerboard Road, Urbana 21704  
23 East Main Street, Westminster 21157 25  
Allegheny Avenue, Towson 21204

**Easton Cigar & Smokeshop** 410-770-5084  
6 Glenwood Ave, Easton 21601

**Etch-Art Awards** 410-202-6616  
931 Mount Hermon Road, Salisbury 21804

**Fire & Smoke Cigar Parlor** 443-970-6634  
6827 Loch Raven Blvd., Towson 21286

**Leonardtown Cigar** 240-309-4108  
40955 Merchants Lane #14, Leonardtown 20650

**Main Street Cigar Company** 410-734-4494  
2217 E. Churchville Road, Bel Air 21015

**Mount Vernon Tobacco** 410-728-5669  
221 W. Read Street, Baltimore 21201

**Mt. Washington Cigar Co.** 410-377-4711  
5909 Falls Road, Baltimore 21209

**Oakleigh Beach Tobacco** 410-388-8080  
702 Wise Avenue, Dundalk 21222

**Office Cigar Lounge at QG** 410-685-7428  
31 S Calvert St, Ste 300, Baltimore 21202

**Quartermasters Cigars** 410-898-2134  
880 Northeast St, Frederick 21701

**Senor Cigars** 410-524-2069  
11805 Coastal Highway, Ocean City 21842  
3314 Coastal Highway, Ocean City 21842

**Signature Cigars** 301-424-8833  
1331 Rockville Pike, Rockville 20852  
4919 Cordell Avenue, Bethesda 20814

**Spartan Cigar Lounge** 443-350-9808  
128 East Pulaski Highway, Elkton 21921

**The Book Center** 301-722-8345  
15 North Centre Street, Cumberland 21502

**The Humidour Cigar Shoppe** 410-666-3212  
2 Sherwood Road, Cockeysville 21030

**TinderBox #398** 301-374-9100  
2754 Crain Highway, Waldorf 20601

**Titan Cigar** 410-721-2944  
2634 Chapel Lake Drive, Gambrills 21056

**Tobacco Leaf** 410-799-2094  
7351 Assateague Drive, Jessup 20794

**W. Curtis Draper Tobacconist** 301-907-7990  
4916 Del Ray Avenue, Bethesda 20814

February 2, 2022

## Opposition for HB 307/SB 292

Chair and members of the Committee,

The Premium Cigar Retailers Association of Maryland represents over 35 adult only brick and mortar premium cigar specialty stores in the State. Members of the PCRAM have appeared before your committee on several matters this legislative term and we thank you for the opportunity to testify again.

We write today in opposition to HB 307/SB 292.

While reducing excess waste is goal that we share, this is not the time to place additional costs and uncertainty on Maryland's small businesses. COVID-19 forced so many businesses to shut down, reduce capacity and put an enormous strain on so many Marylanders. It has been a real challenge for so many of our members to keep the lights on.

Providing incentives for innovation and other methods of reducing waste is a more prudent approach than saddling these small businesses with more paperwork, fees, and overhead costs.

Additionally, there should be an exemption for damp items, such as premium cigars, as there is no other practical way to transport these items. These items need to be wrapped so that they do not lose their moisture during transportation or else the premium cigar will quickly become stale and will result in wasted product.

For these reasons we respectfully ask for an unfavorable report on HB 307/SB 292.

Sincerely

Matthew Bohle and Obie Chinemere of RWL – 410-269-5066

**SB0292\_UNF\_NWRA\_Env. - Packaging Materials - Produ**

Uploaded by: Pam Kasemeyer

Position: UNF

**Maryland-Delaware Solid Waste Association**

a chapter of the

**National  
Waste & Recycling  
Association<sup>SM</sup>**

Collect. Recycle. Innovate.

TO: The Honorable Delores G. Kelley, Chair  
Members, Senate Finance Committee  
The Honorable Malcolm Augustine

FROM: Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman

DATE: February 17, 2022

RE: **OPPOSE UNLESS AMENDED** – Senate Bill 292 – *Environment – Packaging Materials – Producer Responsibility*

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The Maryland Delaware Solid Waste Association (MDSWA), a chapter of the National Waste and Recycling Association, is a trade association representing the private solid waste industry in the State of Maryland. Its membership includes hauling and collection companies, processing and recycling facilities, transfer stations, and disposal facilities. MDSWA and its members **oppose unless amended** Senate Bill 292.

Senate Bill 292 proposes to create a framework for what is commonly referred to as “Extended Producer Responsibility” or EPR to address the growing challenges associated with recycling. MDSWA continues to believe that the most effective approach to addressing current recycling challenges is to focus on initiatives to increase demand for recyclable materials through a focus on market development. That position is based on the fact that post-consumer content is an essential component to increased demand. However, market development has not been considered sufficient by many stakeholders and there is a growing interest in EPR. To that end, attached is the National Waste and Recycling Association’s policy position on EPR.

While the industry believes that EPR, appropriately structured, has the potential to positively impact current recycling challenges, the framework of an EPR program is critical to its success and, if not properly created and implemented, can result in upending existing recycling systems by creating duplicative and unnecessary programs that have failed to take into consideration current collection, processing and management infrastructure, and the flow of revenues and expenses. To that end, while Senate Bill 292 is clearly intended to provide a structure for addressing Maryland’s current recycling challenges, the legislation, as drafted, requires

additional clarification and amendment if it is to achieve its objectives and not create unintended consequences that undermine the program.

With respect to the proposed needs assessment, the timeframe for completing the needs assessment should be extended and sufficient resources identified to enable the Department of the Environment (MDE) to hire an outside consultant to conduct the assessment. Conducting an accurate and thorough needs assessment is extremely important as it is the basis for the performance goals, establishing infrastructure needs, and other critical elements of a successful program. MDSWA believes the proposed timeframe is insufficient for conducting a comprehensive needs assessment and that MDE does not have the sufficient staff nor resources for conducting the assessment without additional funding and the authority to hire a third party to do the assessment.

MDSWA strongly believes that references to composting should be removed from the legislation. Composting requires different infrastructure and considerations. Adding composting to an EPR program at this juncture adds unnecessary complications to an already complicated system. Similarly, MDSWA requests deletion of 9- 2403 (C) that references a deposit return system. MDSWA strongly opposes bottle deposit programs and believes the reference to a deposit return system creates uncertainty and confusion.

MDSWA also believes that this legislation should only apply to residential recycling and should not include the commercial recycling system. The structural and operational issues related to commercial sector recycling vs residential recycling are significant and Maryland will be more successful in establishing an effective EPR system if it focuses solely on residential. To that end, MDSWA would urge deletion of “businesses, schools, public places” and “and any other entity.” from Section 9-2406 on page 19.

Finally, and most important, there is significant variability across the State relative to how waste and recyclables are collected and managed. That variability will have a significant impact on the structure and effectiveness of an EPR program. Virtually every jurisdiction in the State approaches collection of both waste and recyclables in a different manner. Some jurisdictions provide collection to their residents through public employees, such as Baltimore City. Some jurisdictions contract with private haulers for collection. Some jurisdictions do not provide any collection and residents, or homeowners associations privately contract for collection and/or manage their disposal of waste and recyclables themselves.

The variability in collection and processing frameworks across jurisdictions must be accounted for in the development of an EPR program. It is just one example of a component of the recycling continuum that is not sufficiently reflected in the legislation. While the legislation creates an Advisory Committee with which the Producer Responsibility Organization (PRO) is to consult, there is no requirement for the PRO to consider input from the Advisory Committee. To that end, MDSWA requests the bill be amended to require the PRO to consult with the Advisory Committee prior to submission of a program plan and to all updates and revisions of an approved plan. The Advisory Committee should be required to provide written comments and recommendations to the PRO and the PRO should be required to consider and respond to the Advisory Committee’s input in writing. Further, the PRO should be required to include the



recommendations from and responses to the Advisory Committee in the materials submitted to the Department for plan approval. Without such requirements there is no assurance that the consultation process with the Advisory Council will ensure the essential input of the relevant stakeholders, thereby undermining the successful implantation of an effective EPR program. The requested amendment language is attached.

MDSWA applauds the sponsor for her interest in positively addressing recycling challenges in Maryland and for her tireless effort to address the issues and concerns of many stakeholders over the interim. To that end, MDSWA looks forward to working with the sponsor and other stakeholders to address the issues raised by the industry as well as other stakeholders in order to craft an EPR program that will have the potential to achieve the intended objectives of this legislation. However, without the amendments outlined above and other required amendments that have been raised by interested stakeholders, MDSWA will not be able to support the legislation.

**For more information call:**

Pamela Metz Kasemeyer

J. Steven Wise

Danna L. Kauffman

410-244-7000

## Extended Producer Responsibility

### INTRODUCTION

Challenges with recycling have resulted in increased efforts to pass legislation at both the federal and state level advocating for extended producer responsibility (EPR). While well intentioned, many of these bills fail to address the root of the problems and also overlook existing recycling programs and their achievements.

### DISCUSSION

Americans want accessible and effective recycling. They want sustainable products that support the circular economy. However, recycling is struggling. There are five major issues facing recycling right now:

- insufficient demand for some recyclables
- low prices for the combined recycling stream
- consumer behavior challenges
- public concern over plastic in the environment
- inexpensive virgin resources

*The last twenty-five years of legislative history on recycling has been focused primarily on creating supply – without consideration of adequate end markets.* Given that, our recycling system has been set up to continuously generate material even when demand falls and prices drop. Any legislation that proposes to address recycling issues need to first focus on correcting this problem by incentivizing the demand for recyclables, rather than continuing to focus only on adding supply.

*Demand is key!*

Until 2018, China's growing economy provided demand for recyclables from across the globe, including a significant portion of America's recyclables. This material was not dumped on China; rather Chinese companies paid to acquire these materials as feedstock to produce the products and packages that they sold to the U.S. and other countries. However, when the Chinese government banned some of the materials, demand for mixed paper and mixed plastics fell and the prices for these commodities plummeted accordingly. As their quality requirements and import licenses for cardboard have constricted, this market option has declined as an option for recyclables.

Recyclables can continue to be collected and sorted – however, every seller needs a buyer. Without end markets, material will not be recycled. Recycling legislation can create demand by requiring *packaging to have post-consumer recycled content*. This

will spur demand for more material, increasing the value of recyclables, strengthen the domestic recycling market, and help offset the cost of recycling.

### *Low prices*

Historically, the commodity value from municipal recycling programs offset much of the cost of processing the material for sale; and in some case, municipalities saw a net benefit from the sale of recyclable commodities. However, when the markets for recyclables declines prices drop - sometimes to negative levels. Because paper is 60% of the curbside recycling stream, the price of paper has a high impact on all recycling programs. Increased demand for paper, as well as plastic and other materials, will stabilize prices making recycling sustainable in municipalities struggling with increased costs and unable to find markets for their materials.

### *Consumer behavior*

Reducing contamination will improve recycling. This can be done by harmonizing recycling lists, reducing confusion, providing feedback to consumers through education and cart tagging, and providing clear and accurate labeling on packaging and recycled materials. Materials need to be truly recyclable. The myth that recycling is free of charge needs to be combated and consumers must understand that there is a true cost for recycling that is not mitigated by commodity values alone.

### *Public pressure associated with plastic waste in the environment*

Ocean plastics are predominantly from developing countries with inadequate infrastructure. Most National Waste & Recycling Association (NWRA) members sell residential plastics domestically and many no longer export plastic recyclables. The Alliance to End Plastic Waste estimates that more than 90% of ocean debris originating from rivers come from just ten rivers - eight in Asia and two in Africa. Ideally, municipal plastic recyclables should only be exported to developed countries to reduce the potential of mismanagement of exported material.

## **NWRA POSITION**

In order to address the challenges outlined above, NWRA prefers efforts focused on increasing demand for recyclable materials to allow market forces to incentivize recycling. Increased use of post-consumer content is an essential component to increased demand. In circumstances where these efforts are not sufficient to increase demand, EPR may be considered. When EPR has been proposed, NWRA supports the following:

1. Recycling legislation should seek to support and invigorate existing recycling systems by strengthening them rather than upending them with duplicative and unnecessary programs. Such legislation should focus on investment in infrastructure and incentives to create new markets for recycled materials.

2. Recycling legislation should consider how to improve end market demand focused on inclusion of incentives for use of post-consumer materials. This extends beyond processing and mills and includes the products and goods we purchase and use every day. Minimum content requirements should be established based on material type.
3. Federal, state, and local governments should incorporate post-consumer materials in their purchase requirements where appropriate.
4. State and local governments should retain control over their recycling programs. Local stakeholders understand the needs and complexities of their communities and are the most adept at finding solutions.
5. Producers should assume responsibility for their packaging by considering the end-of-life when designing packaging. Packaging should be designed to promote recycling and sustainable outcomes.
6. The cost of EPR should be borne by the product manufacturers/brands.
7. The preferred model for EPR should be as a Stewardship Responsibility Organization (SRO) system that is inclusive of the recycling supply chain. The non-profit SRO should be made up of equal representation state government, local government, recycling collectors, recycling processors and producers/brands. This is critical to ensure consideration of the entire value chain. The SRO should distribute funds to local governments to support recycling programs.
8. State legislation should place responsibility on the SRO to improve recycling by harmonizing lists, encouraging investments in end markets for materials, coordinating education and enforcement, supporting the improvement of existing collection and processing infrastructure, and supporting litter cleanup.

*Updated July 2020*

Requested Amendments:

1. On page 10, after line 30, add:

(IV) THE ADVISORY COUNCIL SHALL PREPARE WRITTEN RECOMMENDATIONS REGARDING EACH PLAN AND TO ALL UPDATES AND REVISIONS TO APPROVED PLANS PRIOR TO THEIR SUBMISSION TO THE DEPARTMENT.

(V) A PRODUCEER OR PRODUCER RESPONSIBILITY ORGANIZATION SHALL CONSIDER AND RESPOND TO THE ADVISORY COMMITTEE'S RECOMMENDATIONS IN WRITING.

(VI) RECOMMENDATIONS FROM AND RESPONSES TO THE ADVISORY COMMITTEE SHALL BE PROVIDED TO THE DEPARTMENT AT THE TIME OF PLAN SUBMISSION AND WITH ALL UPDATES AND REVISIONS OF APPROVED PLANS.

2. On page 13, in line 14, strike "AND" and add

(13) DESCRIBE HOW THE WRITTEN RECOMMENDATIONS FROM THE ADVISORY COUNCIL WERE CONSIDERED AND ADDRESSED IN THE DEVELOPMENT OF THE PLAN"; AND; and in line 15, strike (13) and substitute (14).

# **SB 292 Comments.pdf**

Uploaded by: Ellen Valentino

Position: INFO



## **Comments on SB 292 Environment – Packing Materials – Producer Responsibility From the MD-DE-DC Beverage Association**

### **Who We Are and Our Commitment to Recycling Our Packaging**

Maryland-DC-Delaware Beverage Association represents local beverage manufacturers and distributors. Our industry provides good jobs to nearly 2,800 Maryland residents and we have a wide footprint in Maryland with facilities located throughout the state. We are proud of the products we make, our commitment to local communities, and our commitment to the environment. We strongly believe our beverage packaging and bottles demonstrate this commitment.

The beverage industry plays an important role in the circular recycling economy. Our packaging is specifically designed and optimized for recycling. In particular, we make PET bottles and aluminum cans that are 100% recyclable, those containers have a high commodity value, and, when collected and recycled, can become new bottles and cans. The industry has invested in local and regional recycling infrastructure for more than 40 years.

The companies have also made commitments to collect and recycle packaging waste, to incorporate more recycled content into our PET bottles, and to reduce the amount of new plastic in our bottles. At a national and local level, we are working to get every bottle back to meet these ambitious goals and support a circular economy for our beverage containers.

The industry's Every Bottle Back program, announced in late 2019, asserted beverage companies' commitment to reduce new plastic use and increase collection of their valuable bottles. The program, launched by The Coca-Cola Company, Keurig Dr Pepper, and PepsiCo, represents collaboration among competitors. Collectively, they support the circular plastics economy by reinforcing to consumers the value of 100 percent recyclable plastic bottles and caps while taking steps to ensure they don't end up as waste in oceans, rivers or landfills. This program is executed in conjunction with two of the country's most prominent environmental nonprofits and the leading investment firm focused on the development of the circular economy. The World Wildlife Fund (WWF) provides strategic scientific advice to help measure the industry's progress in reducing its plastic footprint and The Recycling Partnership and Closed Loop Partners assist with deploying our investments in community recycling infrastructure for the initiative. More information can be found at <https://www.innovationnaturally.org/plastic/>.

### **Core Principals of an EPR Program**

While we share the goal of improving recycling rates and collection systems, we cannot support SB 292 because the bill strays too far from our core principles.

MARYLAND • DELAWARE • DISTRICT OF COLUMBIA BEVERAGE ASSOCIATION

P.O. Box 711 • Annapolis, MD 21404

410-693-2226

The overarching core principles are to:

- Generate strong environmental outcomes in an efficient, transparent and accountable manner
- Provide convenient service to consumers
- Create a financially sustainable model that is fully funded and managed by producers
- Offer producers access to recovered material for closed loop recycling

The shortfalls of SB 292:

- **A partially funded system (50% of collection costs) will not produce the kind of change and improvement necessary** to reverse stagnant recycling rates and produce sufficient high-quality material to fuel a circular economy. Ontario's long-struggling model of partial funding hampered needed reforms and produced disappointing results. Only now, finally, Ontario is moving to full funding of net costs of recycling, consistent with other high-performing EPR systems around the globe.
- **The system's governance structure places too much authority with the state** in assessing system needs, setting targets, and granting a free hand to expanding the scope of what producers must fund. This approach treats producers as an ATM, rather than an integrated and invested partner committed to finding the most effective and efficient solutions.
- **The scope of the bill is both overly broad and incomplete.** It excludes printed papers, which account for a significant share of recycling carts and so will provide an incomplete solution. The bill reaches into areas beyond its proper scope to litter and composting programs, which should not be part of the system. Packaging is only a partial contributor to those two material streams, and it is not appropriate or fair for packaging to shoulder the burden for funding litter and composting programs. Reuse is outside the scope and requires further study before compelling producer investment in an ill-defined reuse infrastructure.
- **A single producer organization** should be encouraged rather than competing, patchwork entities. Further, the roles of the producer organization and Advisory Council should be better defined to create more clarity in operations.
- **The goals of the legislation are not well defined.** The required goal categories appear to be optional (a list separated by "or"), but the language suggests all must be in the plan. The bill also contains a poorly defined source reduction goal that could penalize companies like ours that have already made great strides in that area. A better approach would be a more manageable list of recycled content and recovery rates, informed by the needs assessment and proposed by the producer organization in consultation with the advisory committee.

## Conclusion

We are committed to working with you and stakeholders as discussions move forward on recycling and environmental stewardship of packaging, whether it be this year, during the interim, or with the next Administration. Unfortunately, as written, SB 292 is not something we can support.



# **SB292 - Environment - Packaging Materials - Produc**

Uploaded by: Jane Redicker

Position: INFO



**OUR MISSION:**

Working to enhance the economic prosperity of greater Silver Spring through robust promotion of our member businesses and unrelenting advocacy on their behalf.

**SB292 – Environment - Packaging Materials - Producer Responsibility  
Finance Committee  
February 17, 2022  
INFORMATION & AMENDMENT**

On behalf of the Greater Silver Spring Chamber of Commerce, representing some 400 member organizations, including small businesses with fewer than ten employees, several nonprofits, restaurants, and a number of breweries and wineries in the greater Silver Spring area of Montgomery County, I write to express our concerns about to SB292 – Environment - Packaging Materials - Producer Responsibility. **We oppose the bill as written, but offer an amendment below.**

We oppose this legislation, as written, for the following reasons:

- First, the timing of this proposal demonstrates a complete disregard for what these businesses have been through during the past two years. Our restaurants, breweries, and wineries have been required by law to resort to mostly carry out and delivery operations as a result of the pandemic. They are still reeling from a situation that has devastated their businesses. This proposal ignores the sacrifices these business owners have made in order to just stay in business during the pandemic. When faced with the financial cost of complying with everything in this bill, many will likely decide that staying in business is not worth it.
- The amount of paperwork required by the legislation is especially burdensome for local restaurants that do carry-out and delivery, and for breweries, and wineries that package their own product. Already the amount of paperwork and reporting required of these small businesses is overwhelming. The additional requirements in this legislation will greatly hinder the ability of these businesses to sell their products and stay in business.
- The bill provides no details on the fee structure. Just how much will the producers be charged? Leaving this decision up to an “advisory council” puts our members in an impossible financial position. Prior to even considering such a measure, legislators should conduct and consider the financial impact on small producers.
- Speaking of small producers. The definition for “small businesses” is not based in reality. As written, the bill will put small manufactures out of business. The thresholds need to be much, much higher. As proposed, this legislation will only harm small businesses, including family-owned wineries, distilleries, and breweries, especially now, as they have been selling more of their product as “packaged products,” as a result of the pandemic.
- **Therefore, we suggest amending the bill, as we understand has been suggested, to exempt small breweries and wineries that have sales under \$10 million per year – better yet, set the threshold at \$15 million per year. In addition, these annual sales calculations should include only that product that is sold in the packaging that is described in the bill. It should not include product that is sold on site poured into glasses that will be sanitized and reused and product that is sold in kegs that will also be recycled.**

Instead of proposing a program that further burdens our already-struggling business community, why not consider a program that provides incentives to those businesses that reduce waste and encourage recycling? How about carrot instead of a stick approach? Most business owners today understand and appreciate the importance of protecting our environment. Most want to do the right thing. With incentives, instead of burdensome paperwork and penalties, they will be able to do so and stay in business serving our community and contributing, once again, to the State’s economy.

Jane Redicker  
President & CEO, Greater Silver Spring Chamber of Commerce  
8601 Georgia Avenue #203, Silver Spring, MD 20910  
Office: (301) 565-3777  
Mobile: (301) 466-8997  
[www.gsscc.org](http://www.gsscc.org)

# **SB0292\_MDR Recycling Network FollowUp**

Uploaded by: Peter Houstle

Position: INFO



**February 24, 2022**

**To: Maryland Senate Finance Committee**

**Re: Follow-up to February 17 Hearing re SB 292 Environment – Packaging Materials – Producer Responsibility**

The Maryland Recycling Network is an association of county and municipal government recycling managers, private sector recyclers, non-profit recyclers and citizens who support recycling. We have direct experience operating recycling and composting programs at the county and municipal government level.

We wish to ensure our position on SB292 regarding extended producer responsibility (EPR) is fully understood. As we noted in both our written and oral comments, we have a long history of supporting EPR for a variety of products. As we also noted, we are not opposed to EPR for packaging and are very willing to work with the author of the bill to ensure it achieves the desired results. However, we believe that SB292 as currently written lacks the necessary clarity and detail to fulfill its purposes and if passed as is would fall far short of its stated goals.

EPR's biggest strength is its ability to help fund local recycling programs. Yet the bill is short on details of how this will be achieved. In this letter, we will briefly spell out the unintended pitfalls in this legislation.

We will start with the costs that are to be covered. These are collection, transportation and recycling (see section 9-24-4(B)(12)). The bill limits reimbursement to 50 percent of the cost of collecting recyclables (see 9-2404(D)(1)(II)1). Collection is the highest cost of a curbside recycling program. Collecting recyclables is labor intensive and recycling trucks are expensive. We do not understand why reimbursement for this key cost is limited to 50 percent. Nor are we sure who decides how "costs" are defined. Is this key element defined by the producer group, by each local government as they see fit, or by MDE? If, for instance, a local government needs to purchase a new collection truck, can the producer group tell it what to buy or place a limit on how much it will pay?

The other costs of transportation and "recycling" (an undefined term but likely to cover processing the collected recyclables into end products for manufacturers) do not have required cost payment percentages (see 9-2404(D)(1)(II)2-4). This could imply, due to the lack of a percentage requirement, that up to 100 percent of those costs are covered. It could also mean the producer group can pay whatever it wants.

It has been suggested the latter option is correct and the producer group will negotiate with local governments as to what costs it will cover. As we noted in our oral testimony, producer groups will want to have predictable costs. Based on experience in Canada and other countries, they are not likely to negotiate with 23 counties, the City of Baltimore and those municipalities who operate their own curbside collection programs much less to renegotiate them on a recurring basis.

Section 9-2404(D)(1)(2) establishes criteria for the reimbursement rate under the above paragraph of the subsection as the population size of a local jurisdiction, the distance to the nearest recycling or composting facility, the commodity value of recycled packaging materials and any socioeconomic or geographic factor as determined by the Department. What does population size mean and result in? It could mean differential rates based on population density, taking into account the higher cost of collection in rural areas, or it could mean something entirely different.

We don't understand the reason for basing transportation cost on the distance to the nearest recycling or composting facility. Six Maryland facilities focus on processing curbside recyclables into products for end markets. Three are county-owned, two are privately-owned and one is a non-profit. Two process "dual stream" recyclables and four process "single stream" recyclables. Two of the three county-owned facilities are limited to recyclables generated within those counties. As a result, several Maryland counties are forced to ship their recyclables out-of-state for processing. It makes no sense to limit a county to the cost to ship to the nearest recycling or composting facility if that facility will not take its recyclables or if a lower processing fee is available further away.

One option that is not in this bill is used in Canada and elsewhere. That is a reimbursement, based on a "reasonable rate", determined either by MDE or the producer group, for those costs. It may or may not cover all of them. Local governments have the option to take the reasonable rate or to operate their programs on their own.

As for the commodity value of the recyclables, does that mean that local governments will be reimbursed for the value of their recyclables and that the three county-owned facilities will retain the revenue from their end markets? For that matter, who approves new processing equipment at those county-owned facilities, the county or the producer group?

Finally, subscription routes, in which individual households contract with a private company to collect their waste and recyclables, are common in rural and exurban Maryland. They are also unique to the United States. The bill should address how this collection method will be addressed.

We believe these important issues must be addressed before further action is taken on this legislation. Too many public officials have testified at Senate and House hearings with high

expectations of having all of their recycling costs covered by an EPR law. As written, this bill will not meet that goal.

We raised our concerns regarding SB292 in our written testimony. Attached to this letter is our written testimony which raises several other issues. In our oral testimony, we noted that EPR for packaging is unique. Like EPR for other products, it is simple in concept. However, the diversity of packaging types, materials, manufacturers and retailers, make EPR for packaging complicated in execution.

We want to work with the Committees and sponsors to create a bill that will provide funding for recycling and composting programs. We believe Maryland must approach this with our eyes wide open. We must take EPR's complexity into account when fashioning this legislation. We cannot afford to fail in this endeavor.

As always, the Maryland Recycling Network stands ready to serve as a sounding board and resource for legislators and others interested in pursuing our mission. Please do not hesitate to contact me via email [phoustle@marylandrecyclingnetwork.org](mailto:phoustle@marylandrecyclingnetwork.org), phone 301-725-2508 or mail - MRN, PO Box 1640, Columbia MD 21044 if you have any questions or would like additional information regarding the above.

Sincerely,



Peter M. Houstle  
Executive Director



**February 16, 2022**

**To: Maryland Senate Finance Committee**

**Re: SB 292 Environment – Packaging Materials – Producer Responsibility**

The members of the Maryland Recycling Network are involved in all aspects of recycling in Maryland. We are community and county recycling coordinators responsible for implementing and overseeing recycling programs, private sector companies that collect and process recyclables, agencies, non-profit organizations, and recycling activists. We promote the “3 R’s” of sustainable reduction, reuse and recycling of materials that are otherwise destined for disposal and the manufacturing and purchase of products made with recycled content. We achieve these goals through education programs, advocacy activities to affect public policy, technical assistance efforts, and recycling market development.

Our Legislation and Policy Committee members have direct experience operating recycling and composting programs at the county and municipal government level. They know the ins and outs of recycling in Maryland. Their experience informs our comments.

#### Recycling in Maryland

According to the most recent data from the Maryland Department of the Environment (MDE), Maryland had a 40.5 percent recycling rate in 2019. While this rate is higher than most states, we can do better. Clearly recycling is stronger in some counties and municipalities than others.

Maryland has a good, but far from perfect, recycling processing infrastructure. Three counties – Baltimore, Montgomery and Prince George’s – own their MRF. Baltimore County operates its facility and sells the recyclables to end markets. Montgomery County and Prince George’s County contract with MES for those two services. All benefit from the currently very strong markets for curbside recyclables. According to the Northeast Recycling Council, the average value of a ton of recyclables from a MRF at the end of September was \$176 a ton. This is almost triple its value from a year ago. While prices softened a little in the winter, I expect strong recycling markets for some time.

In addition, two Maryland MRFs are owned and operated by the private sector. One is in Hagerstown and the other in Elkridge. A not-for-profit MRF operates in Kent County. Private sector scrap dealers also process municipal recyclables in some parts of Maryland.

Due to insufficient nearby processing capacity or nearby MRFs that do not accept out-of-county recyclables, some counties send some or all of their recyclables to MRFs in Delaware, Pennsylvania and Virginia. When its new MRF is up and running, Montgomery County will no longer ship some of its commingled recyclables to Pennsylvania for processing.

MRN and SB 292

The Maryland Recycling Network has consistently supported EPR proposals. One of our priorities for this legislative session is to see the paint EPR bill pass both houses. We have also formed a task force to modernize Maryland’s electronic products EPR law. Unfortunately, we see fundamental flaws in SB292 as written and cannot support it at this time.

**Our key areas of concern include:**

The Needs Assessment (Section 9-1702.2) is absolutely necessary. Essentially it is a statewide solid waste management plan covering waste composition, current recycling and compostable packaging tonnages, the existing collection and processing infrastructure for those materials throughout Maryland, and other issues connected to the operation of these services. Conducting this assessment will be costly.

- Does MDE have the existing staffing and financial resources to undertake the Needs Assessment?
- MDE will need a fiscal appropriation to do this study. The MRN agrees the producer group should pay for the study. However, the assessment is required to be released on October 1, 2023, yet the producer group is not required to be formed until April 2024 and is not likely to have sufficient financial resources until after it is able to collect producer fees.

Local government reimbursement: Numerous provisions of Section 9-2404 refer to reimbursing local governments for costs associated with transporting, collecting, processing and recycling packaging materials. This clearly implies 100 percent cost reimbursement.

- Section 9-2404 (D)(1)(I) provides the method for reimbursement for direct investments for improving infrastructure for reuse, composting and recycling. This provision has no apparent limits on costs that can be reimbursed. Yet, who determines what improvements can be made and specifies the equipment? For instance, if a county wants to buy new equipment for its MRF, does the county or the producer group have the final say on what is bought?
- Section 9-2404(D)(1)(II)1 limits reimbursement for collection to only 50 percent of the cost. Why?
- Sections 9-2404(D)(1)(ii)2, 3 and 4 do not provide cost reimbursement percentages for transporting, processing and recycling costs. The last item, “recycling” costs, is not defined.
- Some municipalities operate collection and transportation regardless of whether or not the county provides this service. The bill needs to clarify if those municipalities will be reimbursed.
- Section 9-2404(D)(2)(III) gives the basis for determining the local government reimbursement rate. (III) is “the commodity value of recycled packaging”. This raises the question of who keeps the revenue from the sale of the recyclables. Is the MRF being paid a fee by the local government for processing and the local government gets back its share of the revenue? If a local government owns its MRF, does it keep the revenue?

Who chooses which processing facility a county or local government can use: Section 9-2404(D)(2)(II), cited above, also gives the distance to the nearest “recycling or composting facility” as a reimbursement factor.

- Is a “recycling facility” a MRF? What if the nearest composting facility does not accept compostable packaging?

Several Maryland counties transport their recyclables to MRFs in Delaware, Pennsylvania or Virginia.



- Will they be reimbursed for the full mileage to these facilities or limited to reimbursement to the closest? In several cases they cannot use the nearest facility because it is a county-owned facility only open to recyclables collected in that county.

Program uniformity: outreach, education and communication: Section 9-2404(B)(10)(III)(1) calls for consistent statewide recycling and composting instructions, taking into account differences among local laws and processing capabilities, while (IV)(2) calls for coordinated outreach across programs to avoid confusion for consumers. The majority of Maryland’s recyclables are collected in “single stream” programs. Montgomery County uses the “dual stream” collection system as do some other communities. Several of the Eastern Shore counties have drop-off centers but they do not always take the same recyclables as do larger, curbside collection programs.

- These two provisions seem to conflict. How can education be consistent when different collection options are used in Maryland?
- Is the intent to eliminate either single or dual stream?

Compostable packaging (Section 9-1702.2(1)(III) and others): The bill only funds composting of this packaging. Anaerobic digestion is an existing option in Maryland that some counties are likely to use as the processing technology for their mixed food and compostable packaging waste. Are anaerobic digestion processing costs for the compostable packaging portion of food waste not covered?

Beverage container deposits: Section 9-2403(C) appears to allow the creation of a separate deposit-return system for container containers and other packages without legislative guidance or approval. Given the impact of beverage container deposits on the existing processing infrastructure and revenues for counties, this should be a subject of separate legislation.

Covered packaging: Section 9-2401(D)(1) & (2) defines packaging materials as essentially any primary, secondary or tertiary package sold or distributed in Maryland that is “intended for the consumer market”.

- This language appears to include much of the corrugated boxes used to ship boxes of products to warehouses and retail stores. Normally these boxes are sold to scrap dealers who then process and sell them. This system has worked very well for decades. Is the bill intended to cover these packages?

Section 9-2401(D)(2)(I-III) Packages subject to regulation by the FDA such as those for certain medical products and by the CPSA such as tamperproof containers are not exempt from this law.

- This could cause regulatory, public health and safety conflicts.

Antitrust exemption: Section 9-2408 provides the producer group with a complete waiver of state antitrust and restraint of trade law.

- Maryland is likely to have more than a thousand producers subject to this proposal based on the experience in Canada (British Columbia with its population of 5,000,000 has 1,200 producers, Quebec with its population of 8 million has more than 3,000). Few of the producers will be actively involved in its operations. The smaller the company, the less likely it will have the time or resources to be involved.
- The producer group will be comprised of the companies that form it. Why should they get an exception to antitrust law and see data and have discussions the other, non-board member

companies, will not be able to participate in? Ontario did not include this exemption in its new law because of competitive problems under the old law.

- The blanket antitrust exemption poses a problem due to the unusual diversity of companies, retailers and product types covered by EPR for packaging.

Advisory Council: Section 9-2405 creates a “Producer Responsibility Plan Advisory Council”.

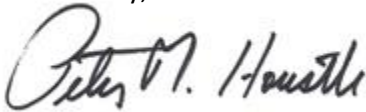
- The Council can provide advice on the draft plan or amendments, receive, and review the final plans and annual reports and make recommendations to MDE. We hope the Advisory Council and its recommendations will be taken seriously by the producer group and MDE and not just be another hoop to jump through.

We understand the desire to keep the bill simple and short. But the questions and concerns raised above are crucially important to local governments and recycling service providers. We do not believe legislation should cover every facet of a packaging EPR law. However, we believe the best EPR packaging law for Maryland will provide guidance for these key issues now instead of waiting for MDE and a producer group to solve them with no legislative guidance. The questions we have raised need answers. Maryland county and municipal governments and the Maryland recycling industry have too much at stake.

The Maryland Recycling Network thanks Delegate Lierman for her interest in improving recycling in Maryland. SB292 offers a starting point in that direction. We look forward to working with SB292’s sponsor and co-sponsors, along with local governments at both the county and municipal level, recycling companies, producers and all parties involved in recycling in Maryland, in creating a more inclusive and comprehensive approach.

As always, the Maryland Recycling Network stands ready to serve as a sounding board and resource for legislators and others interested in pursuing our mission. Please do not hesitate to contact me via email [phoustle@marylandrecyclingnetwork.org](mailto:phoustle@marylandrecyclingnetwork.org), phone 301-725-2508 or mail - MRN, PO Box 1640, Columbia MD 21044 if you have any questions or would like additional information regarding the above.

Sincerely,



Peter M. Houstle  
Executive Director

**SB0292 LOI.pdf**

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Position: INFO



February 17, 2022

The Honorable Delores Kelley, Chair  
Finance Committee  
Miller Senate Office Building, Suite 3E  
Annapolis, Maryland 21401

**Re: Senate Bill 292 – Environment - Packaging Materials - Producer Responsibility**

Dear Chair Kelley and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed SB 292, entitled *Environment - Packaging Materials - Producer Responsibility*, and would like to provide additional information regarding this bill.

SB 292 would establish the Producer Responsibility Plan Advisory Council to provide advice to MDE, and producer responsibility organizations on drafting, amending, and implementing producer responsibility plans. MDE would be required to conduct a 10-year statewide recycling needs assessment in consultation with producer responsibility organizations, the advisory council, local government entities, and regional solid waste organizations. A report on the results of the assessment must be submitted on or before October 1, 2023, and every 10 years thereafter. MDE must coordinate with producer responsibility organizations to establish performance goals, based upon the results of the assessment, for each packaging material type that must be incorporated into producer responsibility plans.

On or before April 1, 2024, each producer of packaging materials, individually or as part of a producer responsibility organization, would be required to develop and submit a 5-year producer responsibility plan to MDE for review and approval. Within 120 days of receiving a proposed producer responsibility plan, MDE would need to either approve, approve with conditions, or reject the plan. Within 6 months of a producer responsibility plan being approved, a producer responsibility organization must implement the approved plan. Beginning October 1, 2024, a producer may not sell, offer for sale, distribute, or import for sale or distribute packaging materials for use in the state unless the producer and the brand of packaging material is covered under an approved plan. By October 1 of each year, beginning in 2026, each producer responsibility organization would be required to submit to MDE an annual report on their progress towards meeting the requirements of the producer responsibility plan, including the performance goals, for the immediate preceding year. While SB 292 would authorize MDE to impose civil penalties on violators through a court action, the bill does not provide the Department with the flexibility to take administrative enforcement actions.

MDE is supportive of initiatives that will fund and improve local recycling systems and engage producers in the sustainable management of their products. Extended producer responsibility legislation, such as this bill, aligns with MDE policy and is aimed at encouraging the development of

a circular economy for recyclable materials by increasing the amount of materials collected and recycled, while creating new markets by requiring producers to use a certain percentage of recycled content in new products. Several states have introduced legislation over the past few years to establish extended producer responsibility programs. In fact, both Maine and Oregon passed legislation in 2021 that required producers of packaging to implement producer responsibility programs and to achieve performance goals aimed at reducing, reusing, and recycling these products. (Note, Oregon's law also covers paper and food serviceware).

SB 292 would require the establishment of a new program at MDE. The current implementation timeline established in the bill may not provide the Department sufficient time to perform the initial duties needed to establish the producer responsible program, such as conducting the statewide recycling needs assessment, hiring new staff, adopting the required regulations, and working with the advisory council and producer responsibility organizations to develop approvable producer responsibility plans. MDE is working with the bill's sponsor and proponents to address these timeline issues.

Thank you for your consideration. We will continue to monitor SB 292 during the committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or [tyler.abbott@maryland.gov](mailto:tyler.abbott@maryland.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", written over a horizontal line.

Tyler Abbott

cc: The Honorable Malcolm Augustine  
Kaley Laleker, Director, Land and Materials Administration