



February 20, 2023

Maryland House Environment and Transportation Committee
Room 251
House Office Building
Annapolis, Maryland 21401

Dear Chair Barve and Vice Chair Stein,

Thank you for your work to consider packaging and recycling legislation in Maryland. We are writing to you today as the Sustainable Food Policy Alliance (SFPA), which is comprised of member companies Danone North America, Mars Incorporated, Nestlé USA and Unilever United States. All four member companies have each made extensive investments and commitments to make consumer product packaging more sustainable and expedite the transition to a circular economy. In July 2020, we released a set of [Packaging and Recycling Policy Priorities](#) that outline several policy solutions essential to transforming our nation's current waste management and recycling systems and followed up with a set of [Extended Producer Responsibility \(EPR\) Policy Priorities](#) in January 2022. To advance these policies, we have engaged in support of transformative packaging and recycling legislation around the country in recent years.

In addition, SFPA member companies have set ambitious goals to integrate postconsumer recycled content (PCR) into our packaging. Our [PCR policy priorities](#) reflect our support for PCR requirements that complement broader efforts to modernize and improve U.S. recycling infrastructure and ultimately improve the quality of PCR, especially for use in food packaging.

With these principles in mind, we have some concerns about MD H 342 as drafted. When considering PCR legislation, special consideration must be given to packaging that has food contact as it is required to comply with food safety regulations issued by the Food and Drug Administration (FDA) that could conflict with PCR requirements. In its current form, MD H 342 does not account for this complexity.

We would like to see the bill amended to include exemptions from the PCR requirements. For example, we recommend the following language from New Jersey's Recycled Content Law¹: "(1) the manufacturer cannot achieve the postconsumer recycled content requirements and remain in compliance with applicable rules and regulations adopted by the United States Food and Drug Administration, or any other State or federal law, rule, or regulation; (2) it is not technologically feasible for the manufacturer to achieve the postconsumer recycled content requirements; (3) the manufacturer cannot comply with the postconsumer recycled content requirements due to inadequate availability of recycled material or a substantial disruption in the supply of recycled material; or (4) the manufacturer cannot comply for another reason as determined by the department pursuant to rule, regulation, or guidance."

¹ <https://www.nj.gov/dep/dshw/recycled-content/#:~:text=This%20Act%20establishes%20postconsumer%20recycled,of%20polystyrene%20loose%20fill%20packaging.&text=On%20January%2018th%2C%202022%2C%20Governor,391>



As a general principle, we believe PCR requirements are best paired with EPR programs and have submitted testimony in support of Maryland's pending EPR bills MD S 222 and MD H 284.

SFPA is available to serve as a resource as you consider this important legislation. We look forward to working with you to continue to progress toward a more circular economy in Maryland.

Sincerely,

Sustainable Food Policy Alliance