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February 22, 2023

To: The Honorable Kumar Barve
Chair, Environment and Transportation Committee

The Honorable C.T. Wilson
Chair, Economic Matters Committee

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 31 – Environment – Products and Packaging – Labeling, Marketing, and Advertising for Recycling (SUPPORT WITH AMENDMENTS)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 31 submitted by Delegate Sara Love. The bill sets standards for environmental marketing claims and provides requirements for the labeling, marketing, and advertising of recycling products and packaging in the State. The Division proposes a clarifying amendment to ensure that, if consumers are directed to compost goods, the consumer goods are compostable. In addition, the Division proposes an additional clarifying amendment to correct what appears to be a potentially unintended prohibition on the sale of nonrecyclable packaging.

Concerns about climate change have resulted in increased marketing of products as being “environmentally friendly” or “green.” House Bill 31 would help to ensure that those claims are truthful by requiring that the claims are supported by competent and reliable evidence. The bill also provides that environmental claims that comply with the Federal Trade Commission’s Guides for the Use of Environmental Marketing Claims would be acceptable. The Division believes that limiting deceptive or misleading environmental marketing claims will help ensure that consumers who strive to be environmentally friendly can be more comfortable with the

products they purchase.

House Bill 31 would also help prevent consumers from being misled about whether products or packaging are recyclable. The environmental benefits of recycling have been well established over the years, including resource conservation, reductions in landfill space, and reductions in greenhouse gas emissions, among other things. However, over time, determining what can and cannot be recycled has become increasingly more difficult. House Bill 31 would prohibit placing the recycling symbol on packaging that cannot be readily recycled in Maryland. By establishing clear and concise regulations for labeling, marketing, and advertising of recyclable products, we help to ensure not only ease of recycling, but accuracy. This bill helps to ensure that products are clearly labeled for consumer use and disposal to prevent misleading consumers about the recyclability of products.

In addition, the bill in § 9-2503(E) creates safe harbor provisions for certain product markings or claims regarding recycling, including directing a consumer to compost or properly dispose of a consumer good through an organics recycling program. We recommend amending subsection 3 of this provision to clarify that items for which a consumer is directed to compost must actually be compostable. We further recommend an amendment to clarify that nonrecyclable packaging is not prohibited.

For these reasons, we ask that the Environment and Transportation and Economic Matters Committees return a favorable report on this bill.

cc: The Honorable Sara Love
Members, Environment and Transportation Committee
Members, Economic Matters Committee