



**Testimony:** Senate Bill 901,

**Committee:** Senate Energy, Environment and Education Committee

**Date:** February 18, 2025

**Position:** Oppose Unless Amended

I am Petra Smeltzer, Senior Director of the Air-Conditioning, Heating, and Refrigeration Institute (AHRI). I appreciate the opportunity to submit this written testimony on behalf of AHRI, the national trade association representing the HVACR and water heating industry.

AHRI represents more than 330 manufacturers of air conditioning, heating, water heating, and commercial refrigeration (HVACR) equipment. It is an internationally recognized advocate for the HVACR industry and certifies the performance of many of the products manufactured by its members. In North America, the annual economic activity resulting from the HVACR industry is more than \$211 billion. In the United States alone, AHRI member companies, along with distributors, contractors, and technicians employ more than 700,000 people. In Maryland, the HVACR industry supports more than 8,100 jobs and contributes more than \$2.6 billion in economic activity.

AHRI asserts that this bill should be amended in several key ways: (1) address exemptions for health, safety, storage, and transport of products; (2) include additional provisions to recognize alternative compliance pathways for producers whose packaging is not collected curbside; (3) amend to harmonize covered materials and administrative requirements with those other states with EPR laws to ease compliance burden and the cost on consumers; (4) add *de minimis* and low-volume producer exemptions based on packaging weight; (5) consider design timelines for products when implementing restrictions; and (6) revise the definition of “producer” to better distribute costs across the supply chain for implementing this program.

AHRI members package their products with efficiency and care in mind, using the minimum amount of packaging necessary to store and transport their products. This approach reduces damage during transit and protects components from damage due to debris and environmental elements. This efficient packaging leaves limited opportunity for companies to further reduce packaging material and weight. Additionally, the packaging for AHRI member products is often collected by contractors and installers, rather than through municipal curbside recycling and waste programs.

While AHRI shares the sustainability goals of packaging recycling and reuse, AHRI believes the EPR program created under this bill would impose significant costs and burdens on manufacturers. For the reasons detailed below, AHRI respectfully opposes the legislation unless it is amended to address certain concerns listed below.

### **Legislation Lacks Critical Exemptions Related to Health, Safety, Storage, and Transport**

AHRI is concerned about the bill's lack of exemptions for materials that are critical to health, safety, storage, and transport. AHRI represents companies dedicated to manufacturing and installing highly effective and efficient heating, cooling, and commercial refrigeration systems produced for the health, safety, comfort, and productivity of the residents of New York. It is very important that this equipment be stored safely and that health and safety risks to equipment movers or handlers be mitigated.

A producer's ability to comply with the legislation's requirements will depend upon the availability of materials necessary for compliance. AHRI requests that these packaging materials be exempted or that a pathway towards exemption be included in the bill.

- AHRI urges policymakers to exempt those packaging materials that are necessary for the safe handling and storage of products. Worker safety is a primary consideration for AHRI, and, without such exemptions, S 1464 would force manufacturers to limit or alter existing packaging materials used to safely transport and store products and potentially harm workers.
  - Packaging that is not consumer-facing, including tertiary and transport packaging, is critical to the safe transport and storage of the highly sophisticated equipment manufactured by AHRI member companies.
  - AHRI supports inclusion of the exemption for packaging used to transport goods regulated under the 2012 Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (HAZCOM) (29 C.F.R. 1910.1200). Some AHRI member equipment is pre-charged with refrigerants, including some refrigerants that are mildly flammable and whose safe transport is regulated under this provision.
- AHRI also urges policymakers to exempt *de minimis* and integral packaging components.

### **Bill Should Recognize Existing Recycling Efforts and Include Alternative Compliance Pathways**

AHRI believes any EPR proposal should consider and recognize those producers that are already effectively recovering or recycling products. Many of our manufacturers are involved in other innovative sustainability and/or environmental stewardship programs throughout the manufacturing process. These include programs to get packaging and plastic materials into the recycling processes that may otherwise enter the waste stream. As previously stated, contractors who install HVACR and water heating systems usually dispose of the packaging material themselves, rather than leaving it curbside.

EPR regulations should include an alternate compliance pathway for producers that can demonstrate they have programs or practices in place that achieve the policy objectives to reduce plastic and packaging waste and fund municipal waste and recycling programs. This should include packaging collected by contractors or other entities at the point of installation instead of those that are processed by municipal curbside recycling and waste collection programs. AHRI also supports allowing manufacturers to make “good faith” estimates of how much of their covered packaging is disposed of by installers and contractors and not handled via curbside pickup by municipal waste services.

### **Bill Should Harmonize Administrative and Reporting Requirements with Existing EPR Laws**

AHRI supports reducing the compliance burden by harmonizing the administrative and reporting requirements of S 1464 with EPR laws that already exist in California, Colorado, Oregon, and Maine. AHRI also supports states that adopt EPR laws to use the same list of covered materials to avoid an unwieldy and complex reporting structure that varies by state. A harmonized approach streamlines processes and reporting categories and structures and eases the administrative burden of this legislation on manufacturers. Additionally, it reduces their EPR compliance costs which translates to lower consumer cost.

### **Targeting Manufacturers as Primary “Producers” Limits the Effectiveness of EPR Program**

As currently drafted the definition of “producer” would require manufacturers to bear the entire cost of recycling, composting, and reuse of product packaging. Our industry can play an important role in expanding sustainable recycling and reuse programs across the country, but if manufacturers are required to bear the entire cost of the program, it will significantly impact consumer cost. AHRI believes that the financial and management responsibilities of an EPR program should be shared across the distribution chain and not be borne solely by manufacturers.

The producer definition also creates significant practical implementation challenges around how the packaging fee is structured. Although a manufacturer’s branding may be stamped on the product, HVACR and water heating equipment transfers hands multiple times throughout the distribution chain. Product packaging can be added or removed by distributors, contractors, and third-party retailers, over which the manufacturer has no control. A fee structure based on the amount of packaging and plastics sold into New York, as currently considered under S 1464, would require manufacturers to provide data and pay fees based on packaging decisions that fall outside the scope of their authority.

### **The Design Process and Critical Timing Consideration**

HVACR and water heating manufacturers typically operate within a five-year design cycle. Thus, decisions about product and packaging design are made well in advance of bringing a product to market. AHRI urges policymakers to ensure that material bans and/or recycled/post-

consumer recycled content requirements are imposed no sooner than five years from the effective date of the legislation.

### **Support for Low Volume and *De Minimis* Packaging Exemptions**

AHRI supports language that exempts low volume producers from the scope of the legislation if the producer ships less than one ton of packaging into the state annually. AHRI requests these exemptions remain in the final draft of this legislation.

Additionally, AHRI supports a simplified reporting category for small producers shipping between one ton and twenty tons of packaging into the state annually. This approach aims to reduce compliance costs, which in turn reduces costs for consumers.

AHRI also supports exempting a *de minimis* weight of packaging from the scope of this legislation to reduce the compliance burden for manufacturers by not requiring precise measurements on smaller packaging items. AHRI members use critical but very small protective packaging, and some of the low volume producers do not currently have recyclable alternatives. AHRI suggests that if a *de minimis* percent of the packaging weight is non-recyclable, that the overall product packaging is still considered to be recyclable.

### **Conclusion**

While AHRI supports recycling and reusing packaging materials and appreciates the positive intent of this bill to create more sustainability, we oppose S 901 unless it is amended to account for the implementation challenges identified in this letter.

AHRI also supports waiting for the results of a statewide needs assessments to gain a clearer understanding of the scope and cost of recycling reform legislation. AHRI further believes that additional time and engagement with stakeholders is necessary to implement meaningful recycling reforms.

Additionally, AHRI supports free market solutions to encourage and increase recycling, reuse, and sustainability. We would be happy to speak with you at any time regarding the information contained in this letter and welcome the opportunity to collaborate on revisions to the legislation.

Should you have any questions or require additional information, please feel free to contact me.

Sincerely,

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