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AMERIPEN
American Institute for Packaging and the Environment

Testimony
Favorable with Amendments
Maryland Senate Bill 901
Producer Responsibility for Packaging Materials

Senate Education, Energy, and the Environment Committee
February 18, 2025

Chair Feldman, Vice Chair Kagan and Members of the Senate Education, Energy, and the Environment Committee.

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to offer testimony on Senate Bill 901 that would establish a packaging extended producer responsibility (EPR) program in Maryland. This legislation represents significant hard work and development that stems from efforts surrounding Senate Bill 222 in 2023 and we appreciate the hard work of Senator Augustine, and other stakeholders on this important issue.

Overall, SB 901 AMERIPEN is supportive of the general approach to EPR in SB 901, but believe that it should be updated to reflect policy advancements that were made in 2024 with the passage of Minnesota’s packaging EPR law, that represents the most current thinking and stakeholder consensus on packaging EPR. As such, we would recommend amendments, per the discussion below, on key issues to address some of those key learnings.

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.

Overall, we support the approach in Senate Bill 901 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 and create a more circular economy for packaging. However, we look forward to continuing to collaborate with Senator Augustine, Senator

Love, and other stakeholders to continue to advance this important policy in Maryland and set an excellent example for other states to replicate. Below are some additional issues for consideration, from the Minnesota EPR law, that should be addressed as the bill moves forward, to create greater consistency with other state EPR laws and improve on the good work that has gone into SB 901.

Key Learnings & Issues

Definition of Producer – Since consideration of SB 222 there have been significant lessons learned about designating what entity is considered the “producer” and stipulating the entity that is responsible for compliance and fees under the law. The definition of “producer” from the Minnesota law represents the most advanced thinking on the topic and addresses several scenarios where previous “producer” definitions, like the one in SB 901, were not considered yet. As a result, **AMERIPEN requests that the bill reflect the definition of “producer” from the Minnesota law.**

Funding Formula – Another key element from the Minnesota law is the shared producer responsibility funding formula, that provides greater clarity and predictable funding for recycling activities. This shared producer responsibility principle is captured in SB 901; however, could be more explicitly addressed via the formula used in the Minnesota law. This funding formula and related funding provisions, phases-in funding from producers to recycling service providers starting at 50% of the total net costs of recycling, then 75% and finally at least 90% in the third year under an approved producer responsibility organization (PRO) approved plan. This stepwise approach is fair, reasonable, and the funding formula provides a predictable revenue stream for recycling service providers and municipalities. This Minnesota approach also provides that recycling service providers can continue to charge customers for relevant costs which are not covered by PRO funding. This protects existing recycling contracts and relationships and ensures that the recycling system is not completely reorganized under an EPR law. **AMERIPEN urges the adoption of the Minnesota shared funding formula and its requisite provisions in SB 901.**

Service Provider Registration – The Minnesota law also provides for an independent service provider registration and data sharing process with the agency that has oversight of the law, in this case the Maryland Department of Environment (MDE). This process provides necessary information to provide funding to service providers, collect data that is needed by the PRO, and preserve confidential business information of recycling service providers. This process, in addition to the funding formula provision, was a key issue that bridged the gap with key stakeholders - as the Minnesota law was developed over a 2-year period.

Timeframes – In the Minnesota law, 3-years is provided between the passage of the law and the beginning of an operational EPR program. SB 901 starts several program elements, in June and July of 2025 and requires a PRO plan in April 2027. **AMERIPEN recommends that full registration of the PRO not occur until 2026, and the program elements not be required until 2028, with funding obligations beginning no sooner than 2029.** This approach would be consistent with Minnesota and other states that have struggled with overly aggressive timeframes that have ultimately needed to be pushed back.

AMERIPEN wants to recognize that Senator Augustine, Senator Love and in years past, Comptroller Lierman have done a commendable job over the years in working toward a pragmatic solution for EPR in Maryland, in the current text of the legislation. While no bill is perfect, we would encourage a continued dialogue

with all stakeholders to work together toward solutions on SB 901 that update and improve the language, per the issues discussed above. We are committed to a continued dialogue on this issue this session, and encourage others to work in good faith toward solutions on this legislation, that move the ball forward and improve recycling in the State.

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 901 is a good starting place and could be improved with amendments suggested above to align with the Minnesota law. We therefore encourage this Committee to pass the bill with amendments to align with the Minnesota law and to ultimately increase packaging recovery and recycling in Maryland in a shared and responsible way.