

SB0901_Packaging_Materials-Producer_Responsibility

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0222 ENVIRONMENT - PACKAGING MATERIALS – PRODUCER RESPONSIBILITY

Bill Sponsor: Senator Augustine

Committee: Education, Energy, and the Environment

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0222 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 delineates the requirements for a statewide recycling needs assessment and creates a process for having producers apply to have a producer responsibility plan and getting it approved.

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.

SB 901- Extended Producer Responsibility - Support

Uploaded by: Phil Webster

Position: FAV



Unitarian Universalist Legislative Ministry of Maryland

Testimony in Support of SB 901 - Environment - Packaging Materials - Producer Responsibility Plans

TO: Chair Feldman and the members of the Education, Energy, and the Environment Committee
FROM: Phil Webster, PhD, Lead Advocate on Climate Change
Unitarian Universalist Legislative Ministry of Maryland.
DATE: February 18, 2025

The Unitarian Universalist Legislative Ministry of Maryland (UULM-MD) strongly supports increasing the amount of post consumer content in recycled products and urges approval and rapid implementation of **SB 901-Environment-Packaging Materials-Producer Responsibility- Plans**.

The UULM-MD is a faith-based advocacy organization based on Unitarian Universalist Values, including justice, equity, and interdependence. Working to mitigate, adapt to, and build resilience for climate change is central to our beliefs.

We believe in *justice and equity*. We know that Global Climate Change impacts marginalized communities first and worse; because the manufacture of plastics is disproportionately located IN their communities. Consequently, these communities suffer from higher rates of cancer and other debilitating health issues. Waste facilities are often located in marginalized communities, this bill would reduce the amount of plastic in the waste stream.

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*. Increasing the amount of plastics that are recycled will reduce the manufacture of plastics. Creating new plastic is a large and growing use of fossil fuels, increasing Greenhouse Gasses, which leads to increasing global temperatures, increased frequency and intensity of severe weather, and sea level rise. Being proactive is in our best interest. Maryland is particularly susceptible to loss of coastal line due to sea level rise as well as agricultural land due to salt intrusion.

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

www.uulmmd.org info@uulmmd.org www.facebook.com/uulmmd www.Twitter.com/uulmmd

We strongly support increasing recycling post consumer plastics thereby reducing unhealthy, polluting and carbon emitting fossil fuels in the manufacture of plastics. This bill would move Maryland toward a waste free economy.

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

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2025.02.14_PSI_Support_MD_SB901.pdf

Uploaded by: Scott Cassel

Position: FAV



Scott Cassel
Chief Executive Officer/Founder

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February 14, 2025

Senator Brian J. Feldman, Chair
Senator Cheryl C. Kagan, Vice-Chair
Senate Education, Energy, and the Environment Committee
West Miller Senate Building, Room 2
11 Bladen Street
Annapolis, MD 21401

RE: Support for SB 901, An Act Concerning Packaging Materials – Producer Responsibility Plans.

Dear Chair Feldman, Vice Chair Kagan, and Committee members:

Thank you for the opportunity to submit testimony in support of **SB 901**, which would establish a packaging extended producer responsibility program in Maryland.

For decades, local governments in Maryland have assumed the primary responsibility for the financial and managerial burden of handling the millions of tons of packaging waste generated in the state each year. They face decisions about how to budget for increasing and fluctuating prices based on international markets for recycled materials. Currently, they cannot control the types of materials used by consumer brands for their packaging, which becomes a local government responsibility to manage, no matter how unrecyclable that material might be.

SB 901 will provide crucial funding from producers to **relieve municipalities of the financial burdens** they currently face in operating recycling programs. This funding will **create local jobs and stimulate local industries** such as recycling facilities and material processors. SB 901 will **create transparency of recycling processes and costs**, reduce waste and greenhouse gas emissions, **and provide significant infrastructure and market development investments** to further Maryland's transition to a circular economy.

Maryland has already laid the groundwork for implementing a successful packaging EPR program. In 2023, the Maryland Legislature passed SB 222, the Statewide Recycling Needs Assessment and Producer Responsibility for Packaging Materials Act, which required a third-party consultant to conduct a statewide needs assessment for packaging recycling in Maryland. The results of the needs assessment, which will be shared in a report within weeks, will inform the development of a packaging EPR program by providing crucial

information about existing infrastructure and needed improvements, material volumes and flows, collection and processing costs, and other aspects of a statewide recycling system. In addition to the needs assessment, Maryland SB 222 established the State Producer Responsibility Advisory Council, a group representing key stakeholders in a statewide recycling program. The Advisory Council is equipped to provide input into the development of the program, including performance goals for recovery, reuse, and recycling; investments into reuse, recycling, and composting infrastructure; and education and outreach.

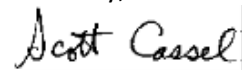
SB 901 establishes clear roles and responsibilities for program participants related to stewardship plans, reporting requirements, public outreach and education, and enforcement. The bill also contains other best practices for packaging EPR policies, including an eco-modulated fee structure that incentivizes the transition to more sustainable packaging, a comprehensive needs assessment every 10 years, and material-specific program goals to be informed by the initial and subsequent needs assessments.

Packaging EPR has been successfully implemented throughout Europe and in Asia for over 35 years, and in eight Canadian provinces for over 15 years. Five states – Colorado, Oregon, California, Maine, and Minnesota – have enacted EPR for packaging laws, and a dozen other states have introduced bills in the past two years. Maryland has already implemented EPR laws for mercuric oxide and rechargeable batteries, automobile switches, electronics, and paint. Adding packaging EPR would further benefit the State.

The Product Stewardship Institute (PSI) is a national policy expert and consulting nonprofit that pioneered product stewardship in the United States along with a coalition of hundreds of state and local government officials, including those in Maryland. Since 2000, PSI's policy models have helped to develop producer responsibility policies for many of the 141 EPR laws enacted for 20 industry sectors, including Maryland's EPR laws.

I respectfully urge you to **support SB 901** for the financial and environmental health of Maryland's communities and economy. If you have any questions, please feel free to contact me at (617) 513-3954, or Scott@ProductStewardship.US.

Sincerely,



Scott Cassel
Chief Executive Officer/Founder

Packaging Materials - Producer Responsibility Plan

Uploaded by: Tom Taylor

Position: FAV

February 14, 2025

Testimony in Support of SB901, Environment - Packaging Materials - Producer Responsibility Plans

Position: Favorable

Dear Chair Feldman and Members of the Education, Energy, and the Environment Committee,

As a community volunteer actively engaged in environmental sustainability efforts and a member of the Zero Waste Team in my community, I am urging support for this producer responsibility legislation.

The bill would require certain producers of packaging materials, individually or as part of a producer responsibility organization, to submit a packaging materials producer responsibility plan to the Department of the Environment for review and approval on or before April 1, 2027, and every five years thereafter.

Packaging is adding an increasing amount of material to our overburdened waste system and needs to be reduced. The plans called for in this legislation will be a step toward reaching that goal. Producers play an essential role in reducing waste, and producer responsibility plans will incentivize waste reduction efforts and good stewardship of packaging materials.

I urge a favorable vote on SB901.

Sincerely,

Tom Taylor
11-G Laurel Hill Road
Greenbelt, MD 20770
301-513-9524

2025-MML-SB901-Favorable.pdf

Uploaded by: Tyler Brice

Position: FAV



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

TESTIMONY

February 18, 2025

Committee: Senate – Education, Energy, and Environment

Bill: SB901 - Environment - Packaging Materials - Producer Responsibility Plans

Position: *Favorable*

Reason for Position:

On behalf of the Maryland Municipal League (MML), representing 161 local governments across the state, we respectfully submit this testimony in **support** of Senate Bill 901. This bill presents a significant opportunity for municipalities by addressing the growing costs and challenges associated with packaging waste and recycling programs. We believe this legislation will provide vital financial relief to local governments and promote a more sustainable and efficient waste management system.

Senate Bill 901 requires producers of packaging materials to submit responsibility plans that outline how they will manage the lifecycle of their products, including their recycling and disposal. This provision is a key benefit for municipalities as it ensures that producers, who create the packaging waste, will contribute financially to the costs associated with recycling. Local governments will be reimbursed for the expenses incurred in collecting, transporting, and processing these materials, which helps alleviate the financial burden on municipal budgets. As local governments are often constrained by tight budgets and limited resources, the financial relief provided by SB 901 will allow municipalities to focus more on other critical services and initiatives. The bill not only reduces the fiscal strain of waste management but also promotes environmental sustainability by holding producers accountable for the packaging waste they generate. The bill includes a provision for a statewide recycling needs assessment, which will help local governments identify areas for improvement in their recycling programs and better align resources with community needs. This long-term support ensures that municipalities will be equipped to enhance their recycling efforts and adapt to future challenges.

The Maryland Municipal League strongly **supports** Senate Bill 901 as it fosters collaboration between municipalities and producers, strengthens local waste management systems, and provides crucial financial support to local governments in managing packaging waste. This bill is a step toward a more sustainable and equitable system that benefits both communities and the environment. For more information, please contact Tyler Alexis Brice, Manager of Advocacy and Public Affairs, at tylerb@mdmunicipal.org or 254-652-8110.

Thank you for your consideration.

The Maryland Municipal League uses its collective voice to advocate, empower and protect the interests of our 160 local governments members and elevates local leadership, delivers impactful solutions for our communities, and builds an inclusive culture for the 2 million Marylanders we serve.

Maryland SB 901 EPR 2025 written testimony_BPI.pdf

Uploaded by: Alex Truelove

Position: FWA

February 14, 2025

Dear Chair Feldman and members of the committee,

We, the Biodegradable Products Institute (BPI), support SB 901 with amendments. BPI is North America's leading organization representing certified compostable materials, products, and packaging, with over 600 member companies worldwide and tens of thousands of certified products. BPI is the foremost association for the circular bioeconomy who convenes the compostable product value chain, and facilitates inclusive discourse to create consensus on actionable, science-backed standards, claims, and policy. Our certification program has verified tens of thousands of items using ASTM standards as a baseline, with additional requirements to prohibit PFAS, promote clear labeling, and sensible eligibility criteria, all to help to keep organic waste out of landfills.

BPI has supported EPR legislation across the country and supports this bill contingent on our proposed changes to ensure the program is robust and fair. Our requests below mirror similar legislation across the country. Should they be incorporated, we'd be happy to fully support this effort. We request the following:

1. Align fee modulation for certified compostable packaging materials with recyclable packaging. Other statewide EPR programs appropriately treat compostable and recyclable packaging with equal favor to incentivize producers to seek packaging materials that have more responsible end markets. In addition, discounted fees for compostable packaging materials can help increase the likelihood of compostables being used to divert food and other organic waste to compost facilities, replacing conventional products that contaminate organic streams.

2. An eco-modulation of fees, including Establishing:

A. A higher fee for packaging materials with Low recyclability or recycled content; and

B. A discounted fee for packaging materials with high recyclability or recycled content; and

C. A discounted fee for compostable packaging materials

2. Amend the definition of “organics recycling”. Successful organics recycling needs compostable packaging materials to be processed in conjunction with food and other organic materials. Many anaerobic digestion facilities cannot process compostable packaging (or any packaging), screening them for landfilling and defeating the purpose of using compostable materials in the first place. To truly organically “recycle” compostable packaging materials, anaerobic digestion *must* prove their ability to process compostable packaging materials and aerobically compost the digestate.

(1) “organics recycling” means **the processing of compostable covered materials alongside food and other organic waste, including composting and**

anaerobic digestion followed by aerobically composting the resulting digestate. Organics recycling does not include facilities that separate or screen out packaging materials for landfill disposal. ~~any process in which organic materials or compostable packaging materials are collected separated, or processed into and returned to the marketplace in the form of raw materials or products.~~

3. Include a definition of “Compostable packaging materials”. “Compostable packaging materials” has already been defined in Maryland’s 2017 labeling law HB 1349. We recommend including the definition here, along with a confirmation that it must be certified by an independent third-party certifier.

- (1) for a plastic product labeled as compostable, the plastic product shall meet:
- (i) 1. The astm d6400 standard specification; or
2. The astm d6868 standard specification; and
 - (ii) any applicable labeling guidelines in the federal guides for the use of environmental marketing claims, and
 - (iii) must be reviewed and verified by an independent third-party certifier

4. Provide clarification on inclusion of needs assessment language in the bill. Because Maryland is already conducting a needs assessment per the passage of SB 222 in 2023, we are asking for clarification on why new needs assessment language is included in this draft.

5. Remove contingencies to establishing goals for compost. The benefits of compost are well-studied and well known. Because of this, other statewide EPR laws have recognized that compostable products provide a packaging solution for non-reusable and non-recyclable packaging formats associated with food and organic waste *and* can help divert more organic materials to compost.

- (v) compost access or compost rate goals, ~~if applicable and technologically and environmentally feasible;~~

Finally, we thank you for including both compostable materials collectors and organics recycling processors on the advisory council. We commend Maryland for recognizing that collectors and processors play different roles in the composting system and can provide unique insights throughout the development and implementation of the EPR program.

Please reach out with any questions,

Alex Truelove
Legislation & Advocacy Manager
Biodegradable Products Institute
alexander@bpiworld.org

AMERIPEN - MD SB 901 Senate Education Energy Envir

Uploaded by: Andrew Hackman

Position: FWA



The power of packaging in balance.™

**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.

MRN25SB901EPRWritten.pdf

Uploaded by: Chaz Miller

Position: FWA



February 18, 2025

To: Maryland Senate Education, Energy and the Environment Committee
Re: SB 901 EPR for Packaging

Maryland Recycling Network members are 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 know the ins and outs of recycling in Maryland. Our experience informs our comments.

We support SB 901 with amendments

SB 901 establishes a Packaging Extended Producer Responsibility program. In 2023, we supported SB 222, the legislation on which this bill is based (specifically the Third Reader as it passed the Senate). Most of the amendments we suggested were accepted. Our amendments concerned both technical fixes so that the bill reflected how waste and recycling are managed in Maryland to more substantive amendments. They were based on a desire to ensure that local governments remain in charge of their programs and the public and private sector Material Recovery Facility (MRF) operators remain in charge of their facility. SB 901 contains those provisions.

We are puzzled by the purpose of Section 2 at the end of the bill. It calls for each local government in the state to file a feasibility plan with MDE prioritizing the sale of recycled packaging materials back to manufacturers with a manufacturing facility in the state. Not only is this an unfunded mandate for Maryland's local governments, we are not sure what it will accomplish nor who the potential manufacturers are. We suggest it be deleted.

We appreciate Sen. Augustine's dedication to increasing recycling and in EPR for a variety of products. We look forward to working with him as the bill is amended.

The Maryland Recycling Network is a resource for legislators and others interested in pursuing our mission. Please do not hesitate to contact us via email 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 our comments.

Sincerely,

Chaz Miller
Chair, MRN Legislative Committee

MD Public Hearing SB 901 - Feb 18 2025.pdf

Uploaded by: David Lefebvre

Position: FWA

Public Hearing – February 18, 2025 – Senate Education, Energy and the Environment Committee

Testimony Submitted by Dave Lefebvre, Circular Action Alliance

SB 901 – An Act Concerning Environment – Packaging Materials – Producer Responsibility Plans

Remarks

Thank you for the opportunity to present testimony regarding Senate Bill 901, An Act Concerning Environment – Packaging Materials – Producer Responsibility Plans.

I am here today representing the Circular Action Alliance, a nonprofit U.S. Producer Responsibility Organization (PRO) dedicated to implementing effective Extended Producer Responsibility (EPR) laws for paper and packaging. We are the selected PRO representative on the Maryland Advisory Council and want to thank you for bringing forward this legislation and affording us this opportunity to speak.

To date, CAA is the only organization approved to implement U.S. EPR laws for paper and packaging. Drawing from our experience in Oregon, Colorado and California, we've identified three primary concerns with the proposed approach in this legislation that, if addressed, will help ensure the success of your law and an impactful transition to packaging and paper EPR.

1. The legislation needs to clearly define the hierarchy of who is the responsible producer and avoid any potential ambiguity or conflict. We would recommend aligning with the more specific producer definition used in Minnesota with some minor alterations to align with the difference in covered materials.
2. The scope of covered materials also needs to be defined clearly as it pertains to who supplies the materials and to whom. For example, it should focus on packaging materials supplied to residential consumers and that can be managed through residential recycling systems.
3. Finally, it is important to limit the PRO's responsibilities to areas it has a practical ability to influence. Maryland has drawn from California for its source reduction targets. These targets are untested and will be difficult for the PRO to influence, let alone achieve and measure.

CAA has been engaged in every step of Maryland's EPR packaging process. We look forward to working with all of you to ensure the successful implementation of EPR in Maryland.

Thank you for your consideration. I am available to take questions at any time.

SB0901-EEE_MACo_SWA.pdf

Uploaded by: Dominic Butchko

Position: FWA



Senate Bill 901

Environment – Packaging Materials – Producer Responsibility Plans

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Education, Energy, and the Environment
Committee

Date: February 18, 2025

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS SB 901 WITH AMENDMENTS**. This bill creates a framework to establish more robust recycling infrastructure for packaging materials in Maryland.

One of the most heavily produced items in the world is packaging materials. The world's consumer-focused economy relies on the purchasing of goods, and those goods need to be protected from the factory to their final destination in our homes. However, this protection comes at a cost, and can generate a large amount of materials. SB 901 seeks to reduce waste and make communities healthier by establishing a producer-driven entity focused on either creating or supporting existing packing material recycling infrastructure. Importantly, counties that function as both collectors and recyclers will be eligible to receive reimbursement for both services, extending the capacity of local programs and providing more flexibility to local tax dollars.

Counties thank both the advocates and the sponsors for proposing a plan that both strengthens Maryland's recycling and retains local autonomy. Counties do have some concerns with unintended consequences of the legislation as drafted, and offer an amendment to help smooth implementation locally:

Amendment #1

On page 29, strike lines 22-25 in their entirety.

Counties would not be able to implement this detailed planning requirement both in the form as drafted and in the timeline prescribed. Some counties estimate that this type of an analysis would likely create an unfunded mandate of several hundred thousand to over a million dollars depending on the jurisdiction and the scope of their recycling infrastructure. Additionally, counties track recycling inputs by the underlying raw materials, not the initial intended use of the product. The envisioned program does not require this full analysis.

SB 901 marks an important step in fortifying Maryland's recycling infrastructure. For this reason, MACo urges the Committee to give SB 901 a **FAVORABLE WITH AMENDMENTS** report.

Testimony on SB 901 2025.pdf

Uploaded by: Jenna Sublett

Position: FWA



The Honorable Brian Feldman
Chairman, Senate Education, Energy and the Environment Committee
2 West Miller Senate Office Building Annapolis, Maryland 21401

February 18, 2025

Re: Favorable with Amendments Senate Bill 901- Environment – Packaging Materials – Producer Responsibility Plans

Dear Chairman Feldman and Members of the Committee,

On behalf of the members of the MD-DE-DC Beverage Association we are writing to ask for a favorable committee report on SB 901 amended to address the points raised below.

Our Association membership is in support of the establishment of a sustainable Extended Producer Responsibility program. We are an active participant in the EPR Advisory Council and hope to be a partner as this program is stood up in Maryland.

We believe that there are core principles inherent in a good EPR Program.

Core Principles:

- **Strong environmental outcomes.** This means any EPR system we support must include all packaging and printed paper.
- **Consumer Convenience.** Consumers must be able to properly and consistently recycle for the system to be effective.
- **Financially sustainable.** Proper roles for government and producers are critical to achieve financial sustainability and system efficiency. Government should provide oversight, setting the scope of the system and approving its design. The producer responsibility organization, or PRO, funds and runs the system, ensuring that all fees are used exclusively for running the system.
- **Access to Recovered Materials.** The producers funding the system should have first access to their recovered materials.

In 2024 Minnesota passed an extended produced responsibility law. [Minnesota's EPR law](#) covers packaging and packaging components, food packaging and paper products sold, offered for sale, distributed, or used to ship a product within or into their state. The anticipated benefits include more recycled and compostable packaging, improved curbside recycling, reduced costs, expanded infrastructure jobs and better education on recycling. A program like that in Maryland would net similar benefits.

For the convenience of this honorable committee and the bill sponsors, our testimony also includes our key issues of importance that we believe will aide in the long-term success of Maryland's EPR program.



Sincerely,

Tiffany Harvey

On behalf of the MD-DE-DC Beverage Association

Program Scope

- **Scope needs to be expanded from “packaging materials” to “packaging and printed paper” (or “packaging and paper products”)** – The bill only targets packaging materials, which comprise only a portion of the material recycled in local communities. Printed paper/ paper products (catalogues, junk mail, magazines, newspapers) comprise a significant share of what is in curbside carts and other municipal recycling systems and should be part of this program. Exempting printed paper only means that other producers or municipalities/taxpayers will have to pay the costs for those materials in the system.
 - **Minnesota’s scope covers packaging and paper products**
- **Covered services are inadequately defined** – the bill needs to align definitions for services provided and those eligible for producer funding; the bill’s scope and language are unclear and inconsistent in places. One specific concern is a reference to “converting” packaging material, which is outside the scope of typical EPR programs.
 - **Minnesota’s covered services (for covered materials): collection for recycling and composting, transportation; sorting and processing (MRFs); managing residuals, administration and outreach programs; costs of reuse or refill systems**

State vs. Producer Responsibilities

- **Goals:** While the PRO is required to include many goals in its plan, the Department is given authority for setting them. This is not a best practice and conflicts with the plan requirements.
 - **Minnesota does not have targets set in statute.**
- **Cost reimbursement:** The bill provides for excessive state intrusion into this critical area. The state can establish cost factors driving reimbursements reflecting “any socioeconomic or geographic factor.” Reimbursement for reasonable costs should remain the underlying principle that governs this component of the program.
 - **Minnesota does not provide a heavy hand to the state with regard to reimbursements. PRO proposes municipal reimbursement levels or directly contracts for services.**

Goals

- **The waste reduction goal is extreme and should not be included.**



- **Goals should be proposed in the PRO plan, based on the needs assessment**, and focus on a more practical list of parameters than those included. These include collection rates (picked up from households and public spaces and delivered to MRFs or similar facilities), recovery rates (material sold by MRFs or similar entities to end markets), and contamination rates (the difference between the other two). The PRO should also propose minimum recycled content requirements for materials collected under the program.
 - **Minnesota does not have targets set in statute. We recommend goals/targets to be set by the PRO and based on the needs assessment with approval or in consultation with MDE. Targets for: recycling; composting; reuse/return; waste reduction (similar to source reduction); recycled content (as applicable). PRO proposes material-specific targets**
- **Other goals are outside the control of a packaging PRO:** Language requires producers to develop goals for reuse, greenhouse gas reduction, and organics recycling. The ability of these producers to impact composting rates is negligible because so much of the organics stream is material other than packaging. Reuse and GHG impacts derive from individual producer decisions and the actions of service providers like haulers and municipalities over which the PRO has limited influence; these fall outside the range of appropriate goals to which a PRO should be held.
 - **Minnesota includes reuse and compost in goals to be set after the needs assessment.**

Program Effectiveness

- **Partial reimbursement limits effectiveness:** The bill limits reimbursement to 50% of collection costs, leaving local government responsible for at least half the cost of recycling. Limited funding means limited control, lack of improvement in the system, and failure to meet goals.
 - **Minnesota will reimburse at fifty percent for year one, seventy-five percent for year two and “at least ninety percent” thereafter.**
- **Lack of standards for municipal recycling:** Standards should include requiring recycling access for all households, development of a statewide recyclables list (part of the needs assessment), and requirements for parallel access (the same as disposal). If those requirements are tied to the reimbursement, then producers can effect and fund the necessary changes to meet goals. This bill lacks service standards for municipalities and emphasizes instead maintenance of the *status quo*. Following this approach will not lead to a better performing system, the PRO will not achieve its goals, and producers will function as little more than an ATM used to fund the current system.
 - **Minnesota will expand collection to all residential locations (as well as government buildings, schools and “small” nonprofits) and includes the recyclables materials list**



- **Promoting circularity:** Section 2 of the bill is a nod to circularity, but poses significant legal issues with interstate commerce. We recommend the plan include the following:
“Describe how the Organization will provide producers with the opportunity to purchase post-consumer recycled materials from processors at market prices if the producer is interested in obtaining recycled feedstock to achieve minimum post-consumer recycled content rates.”
 - **In Minnesota, the PRO proposes in its plan the process for producers to purchase materials at market prices**

MDE SB901 SWA (1).pdf

Uploaded by: Jeremy D. Baker

Position: FWA



The Maryland Department of the Environment

Secretary Serena McIlwain

SB 901

Packaging Materials - Producer Responsibility Plans

Position: Support with Amendments
Committee: Education, Energy, and the Environment
Date: February 18, 2025
From: Leslie Gray, Government Relations Officer

The Maryland Department of the Environment (MDE) **SUPPORTS SB 901 WITH AMENDMENTS.**

Bill Summary

Senate Bill 901 would establish a Packaging Extended Producer Responsibility (EPR) Program in Maryland. The program would require certain producers of packaging materials, individually or as part of a producer responsibility organization (PRO), to submit a certain packaging materials producer responsibility plan to MDE for review and approval. The PRO would also collect fees from producers, which would be used to cover their administrative costs, certain recycling activity costs, MDE's cost to administer the program, and the costs to prepare a needs assessment.

Position Rationale

EPR programs are essential in strengthening public-private partnerships and involving producers in waste management solutions. SB 901 represents a significant investment in Maryland's recycling infrastructure that is projected to increase the packaging recycling rate from 35% to 50%, capture \$202 million in material value (a \$53 million increase), reduce over 1 million metric tons of CO₂ emissions, and create 2,075 new jobs—all without impacting state capital or operational budgets.

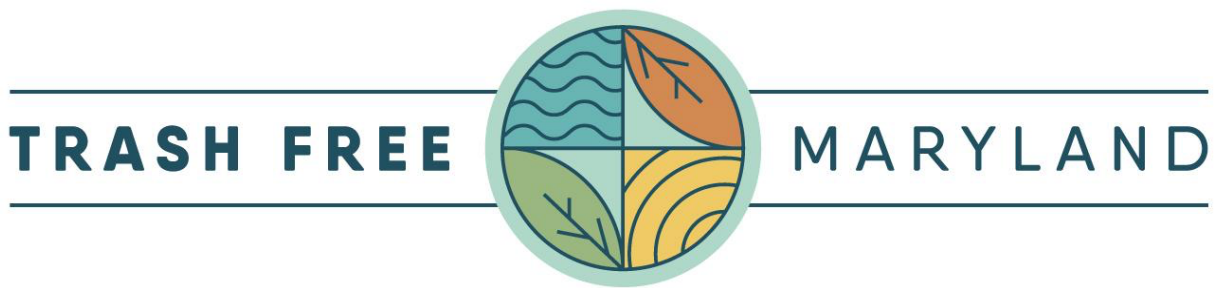
Maryland faces a landfill crisis, with only 22-35 years of permitted capacity that is not fully built and is very localized. To ensure Maryland creates a more effective EPR program, MDE plans to work with the bill's sponsors to propose amendments that address program funding and scope, and provide regulatory clarity.

For the reasons detailed above MDE asks for a **FAVORABLE WITH AMENDMENTS** report for SB 901.

SB901_FWA_Trash Free Maryland_021825.pdf

Uploaded by: Kelly Doordan

Position: FWA



Bill: SB901 - Environment - Packaging Materials - Producer Responsibility Plans

Date: February 18, 2025

Position: Favorable With Amendment

Dear Chair Feldman, Vice-Chair Kagan, and Members of the Education, Energy, and Environment Committee:

We enthusiastically support the goal of modernizing our recycling system and establishing a system of extended producer responsibility (“EPR”) for packaging which creates incentives for producers to reduce overall volume of packaging and to increase the percentage of packaging that can be recycled and sent to responsible end markets.

Packaging makes up 28% of our waste stream. Of that, 40% is plastic, much of which is used for minutes and lasts for years. In the US, only about 5-6% of plastic is recycled. Currently, taxpayers pay for all of the handling, processing, disposal, and litter cleanup from packaging collected in the waste and recycling streams or mismanaged and leaked to the environment as litter.

This bill adopts a modern approach and creates a framework for a program to shift financial responsibility from local governments and the public sector upstream to the packaging producers. The framework includes a process for producers to set up incentive systems to reward packaging reduction, high recyclability, and with targets for recycled content and contamination that will help create and maintain value for recovered materials. As the designers of packaging, producers are well positioned to make certain decisions about how to improve their packaging; however, public oversight, transparency, and accountability for that process are essential. Importantly, this bill includes a 25% packaging reduction goal in statute that is a critical piece of ensuring source reduction incentives are strong and enforceable.

When the public sector is responsible for waste management but it is the private sector that is responsible for the design and introduction of products into the marketplace, there is little alignment of incentives to do better, and taxpayers have been funding the difference. EPR presents an opportunity to align incentives for better performance of the entire system. Five U.S. states have adopted extended producer responsibility for packaging, and bills are under consideration in additional states. We don't want Marylanders to be left behind.

We do suggest the following amendments for consideration:

- The bill can specify that if a beverage container deposit return system should be adopted in the future, it will be harmonized with this act, including specifying that materials covered in a deposit return system are exempt from this act and public outreach and education – an important part of both programs -- is harmonized between the two programs.
- Since the statewide recycling needs assessment is pending, we suggest this bill not limit the Department to solely relying on the pending needs assessment to set the baseline year for establishing performance goals for each packaging material type since some information may not be

available for all performance goals without further assessment, and establishing a reliable baseline for performance for which there is also strong and transparent public oversight is an important part of the bill.

For these reasons, we respectfully urge a favorable report and consideration of these amendments on SB901, and we commend Senator Augustine for his continuing leadership on this issue.

Contact:

Kelly Doordan, Executive Director, Trash Free Maryland
kelly@trashfreemaryland.org

SB 901 - National Aquarium - Support with amendmen

Uploaded by: Maggie Ostdahl

Position: FWA

Date: February 18, 2025

Bill: SB 901 - Environment – Packaging Materials – Producer Responsibility Plans

Position: Support with amendments

Dear Chair Feldman and Members of the Committee:

Establishing Extended Producer Responsibility (EPR) for packaging materials, a significant portion of which are made from single-use plastic, would require producers to share responsibility for and materially contribute to the rising costs of managing waste and pollution created by the products they put on the market. The National Aquarium supports establishing an EPR for packaging framework through legislation that includes a packaging reduction goal and other clear and enforceable performance standards and accountability measures.

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 packaging¹. Plastic packaging makes up about 28% of our waste stream, and the U.S. is one of the world's top generators of new plastic production and plastic waste.² The U.S. spends at least \$11 billion to clean up trash 'leaked' into the environment³. Local governments in Maryland, like others around the nation and the world, are unable to keep up with the sheer volume of plastic waste. More than half of all plastic ever made is accumulating in landfills or in the environment⁴. Plastic breaks down into smaller pieces and endangers wildlife, contaminates the global food web and transports toxins harmful to human health. The burden and costs of mismanaged waste that becomes plastic pollution are varied, complex, and borne primarily by municipalities and taxpayers.

In short, our current waste management practices are unsustainable and require comprehensive systemic change. It is past time for Maryland to enact additional policies that support reduced production of and demand for plastic; encourage behavior change; clean up existing pollution; and provide for education and outreach. One key part of a comprehensive approach to address plastic pollution is a strong framework of EPR for packaging materials that complement other measures including minimum recycled content standards, a beverage container deposit return program, and additional policies that prioritize source reduction and reuse.

While this bill represents a step in the right direction, the National Aquarium wishes to see amendments that ensure the strongest possible EPR for packaging framework for our state. We applaud the provision that each participating producer must reduce packaging waste by 25%, although it is unclear how the Department of the Environment will enforce the requirement. Additionally, the bill tasks the Producer Responsibility Organization (PRO) with setting performance goals by packaging material but does not pair that with sufficient oversight or enforcement if goals are not met. If the state entrusts the PRO with this critical responsibility, there needs to be clear actions the Department must take if goals are not met to ensure accountability. Finally, the bill should clearly establish a process for determining what materials are considered recyclable or compostable.

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

² 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>.

³ 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>.

⁴ Geyer, R. et al. 2017.

We are committed to continuing to work toward strong legislation that enables Maryland to improve producer accountability for waste management that reduces the burden placed on taxpayers along with the harmful impacts of plastic pollution on our wildlife, ecosystems and human health. **We urge the Committee to address these concerns prior to advancing this important legislation.**

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SB901_MDSierraClub_fwa_18Feb2025.pdf

Uploaded by: Martha Ainsworth

Position: FWA



Committee: Education, Energy, and the Environment

Testimony on: SB 901 “Environment – Packaging Materials -- Producer Responsibility Plans”

Position: Favorable with Amendments

Hearing Date: February 18, 2025

SB901 is an important piece of legislation that intends to improve Maryland’s recycling and waste management. It provides a framework for: (1) “modernizing and improving waste and recycling systems in the State” and (2) “reimbursing local governments for costs associated with transporting, collecting, and processing packaging materials.” Both objectives are achieved by making producers of packaging responsible for financing and implementing the program, with oversight from the Maryland Department of the Environment (MDE).

The Maryland Chapter of the Sierra Club supports SB901 with amendments to strengthen the framework for producer responsibility for packaging beyond recycling, by focusing on minimizing the environmental impact of packaging and invoking both upstream and downstream policies. This will enhance the program’s effectiveness and impact over the long run. We also urge the Committee to enact both a beverage container deposit-return program to reduce litter, and the producer responsibility for packaging program to reduce packaging, support redesign to make packaging more recyclable, and promote use of recycled content and reusable packaging. These two programs complement each other, and both make producers responsible for the environmental impacts of their packaging over the life cycle of the product. Importantly, SB901 does not currently include in its framework the possibility of a beverage container deposit-return system, which has been demonstrated to be the most effective way to address beverage container litter and recycling in other states and nations. While such a system could in principle emerge from the broader framework that would be established by SB901, it would take years, and it would be more effective for the General Assembly to establish that program by statute directly while also initiating producer responsibility for other forms of packaging as envisioned by SB901.

The burden and environmental impact of packaging waste

Containers and packaging are a substantial share of municipal solid waste generated in the United States—28.1% by weight in 2018.¹ Only about 54% of all container and packaging materials by weight were recycled, but recycling rates vary by material, from a high of 81% for paper and cardboard packaging to a low of only 14% for plastic. Multi-layer plastic packaging, multi-resin pouches, and aseptic cartons for beverages and soups are not designed to be recyclable. Plastic film is generally not accepted for single stream recycling; it fouls equipment, becomes contaminated, and lacks a market.

Used beverage containers, particularly plastic bottles, are a major component of litter on the land and in waterways. Only about a quarter of the 5.5 billion beverage containers sold annually in the State are captured for recycling; the rest are left in the environment (landfills, litter) or incinerated.² Plastic packaging escapes into the environment, where it breaks down into ever smaller particles, ingested by wildlife and people. Seven of the top ten plastic items collected in beach cleanups in the U.S. are plastic

¹U.S. Environmental Protection Agency. https://www.epa.gov/sites/default/files/2021-01/documents/2018_ff_fact_sheet_dec_2020_fnl_508.pdf, p. 9.

² Container Recycling Institute, Culver City, CA.

packaging or containers.³ The genesis of the efforts for producer responsibility for packaging in Maryland was largely based on concerns about the impact of plastic packaging on the environment.⁴

Producer responsibility for packaging

The Sierra Club embraces the principle of producer responsibility, in which the producer or brand owner 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 programs have the potential to create incentives to reduce packaging and redesign it to be reusable or recyclable. They are one of several tools to reduce packaging waste, including beverage container deposit-return programs, minimum post-consumer recycled content requirements, and bans or restrictions on single-use plastics. In these programs, producers are generally financially responsible, but not necessarily physically responsible, for implementing the program, subject to public oversight and accountability.⁵

Producer responsibility programs for packaging are common in Canada and Europe.⁶ However, there is limited experience with producer responsibility for packaging programs in the U.S., apart from the ten states with beverage container deposit programs.⁷ Only five U.S. states (California, Colorado, Maine, Minnesota, and Oregon) have enacted producer responsibility programs for other types of packaging, and none of those states' programs are yet operational. Three of the five states (California, Maine, and Oregon) already have separate longstanding and successful beverage container deposit-return programs.

What the bill would do

SB901 would create a framework for a producer responsibility program for packaging that focuses primarily on recycling and waste reduction. In the framework created by SB901, producers are both financially and physically responsible for implementation, underscoring the need for strong public oversight to ensure that targets are met, and that funds generated are used appropriately.

Under SB901, packaging producers, individually or as part of a Producer Responsibility Organization (PRO), would submit a Producer Responsibility Plan to 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 by MDE, the Plan would be implemented by the producers or PRO.

Oversight of the program would be provided by MDE, which would be charged with reviewing and approving the Producer Responsibility Plans and annual reports. MDE would also be responsible for conducting a statewide recycling needs assessment every 10 years, financed by producers. The bill creates a Producer Responsibility Advisory Council, responsible for: advising the PRO at its request on the drafting or amendment 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.

SB901 has been strengthened since it was last introduced two years ago. "Packaging material waste" is now defined. PRO representatives, who were previously voting members on the Advisory Council, are

³ 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*.

⁴HB209, Plastics and Packaging Reduction Act (2020 Maryland General Assembly Session)

⁵[Sierra Club Zero Waste Policy](#) (2019).

⁶ Northeast Recycling Council (NERC) and Northeast Waste Management Officials' Association (NEWMOA). 2020. "White Paper: Extended Producer Responsibility (EPR) for Packaging and Paper Products." April.

⁷ California, Connecticut, Hawaii, Iowa, Maine, Massachusetts, Michigan, New York, Oregon, Vermont.

now non-voting members, removing a conflict of interest. Third-party certification of performance targets is required for results cited in the annual reports.

Still, the primary focus of SB901 remains on recycling, and it is being introduced without the benefit of the results of the Recycling Needs Assessment required by legislation (SB222) enacted in 2023, which will be delivered this month, or the input of that effort's Advisory Council, which also has not benefitted from the results of the Needs Assessment. The framework in SB901 would be strengthened by encompassing objectives and definitions that can guide a successful program for the long term, to address upstream results and environmental impacts more generally. Target-setting is generally left to the producers, subject to approval by MDE. The bill continues to incorporate beverage containers in the program, despite the existence of a highly impactful, well-tested program to handle them.

Proposed amendments

As noted, SB901 is an important bill, and we look forward to sharing feedback with the sponsor on a number of issues. In particular, we would propose two amendments.

Amendment #1: Update the legislative intent of the bill to include producer responsibility for minimizing the environmental impact of packaging and on pursuing both upstream and downstream packaging policies over the long term.

We propose to adjust the legislative intent of the framework to include minimizing the environmental and human health impacts of packaging and to link them to a list of upstream and downstream policies to achieve that objective (including but not limited to modernizing and improving waste and recycling systems in the State). We define three terms embedded in the objectives and policies: "environmental impact," "recycle" or "recycling," and "responsible end markets." The definitions are based on programs approved in other states.

Amendment #2: Exclude deposit beverage containers from the definition of beverage containers in the event that a beverage container deposit system is adopted, so that they belong to only one program at a time, and ensure harmonization across the two programs.

Beverage container deposit-return systems and producer responsibility for packaging programs are complementary, and both should be supported.

- The beverage container deposit program is a proven, highly effective policy for reducing litter, can be put into operation in a relatively short period of time (2-3 years), and will triple the recycling rate of most beverage containers, which are easy to recycle. With a 10-cent deposit, it will divert 3.6 billion beverage containers annually from Maryland's litter and the waste stream to recycling.
- The producer responsibility for packaging program is considerably more complex, mainly aimed at products that are difficult to recycle, and holds the promise of reducing unnecessary packaging and packaging waste and incentivizing producers to redesign packaging to be recyclable or reusable. There is much less experience with these programs, and they require longer lead time (5-8 years).⁸ They are expected to have a much smaller impact on litter.

Passage of a deposit system before or together with the packaging program will jump start the increase in recycling and reduction in litter, while reducing the complexity and challenges of the rest of the packaging program that deals with so many different types of packaging. The second amendment excludes beverage containers covered by a deposit system from the definition of beverage container and adds a new section to the bill mandating that if both programs are approved, they must be harmonized.

⁸ Eunomia. *The 50 States of Recycling* 2024.

The language is pulled from the recently approved Minnesota packaging bill. A deposit bill has been introduced this session in Maryland.⁹

With these two amendments, we respectfully request a favorable report on SB901, and look forward to providing additional feedback to the sponsor.

Martha Ainsworth
Chair, Chapter Zero Waste Team
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Josh Tulkin
Chapter Director
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Attachment: Proposed Amendments

⁹ Maryland Beverage Container Recycling Refund and Litter Reduction Program (HB232, SB346)

Proposed Amendments

Amendment 1: Objectives and definitions

Replace §9-2502 with the following:

(1) It is the intent of the General Assembly that this subtitle provide a framework for:

- (I) Minimizing the environmental and human health impacts of packaging;
- (II) Conserving resources;
- (III) Stimulating responsible end markets for packaging materials; and
- (IV) Shifting the cost of managing packaging waste from consumers to producers.

(2) Within the framework, these objectives will be achieved by:

- (I) Reducing plastic packaging sold in the state
- (II) Redesigning packaging to be recyclable, compostable, or reusable
- (III) Reducing packaging waste
- (IV) Reducing the toxicity of packaging
- (V) Increasing recycled content of packaging
- (VI) Modernizing and improving waste and recycling systems in the state
- (VII) Improving access to and the efficiency of recycling, composting, and reuse infrastructure, with special emphasis on underserved communities
- (VIII) Improving the labeling of packaging with respect to recyclability, compostability, and disposal
- (IX) Making producers financially responsible for investing in the needed infrastructure and reimbursing local governments for costs associated with transporting, collecting, and processing packaging materials

Insert on Page 9, insert after lines 1:

(D) "Environmental impact" means the impact of a covered material on human health and the environment, from extraction and processing of the raw materials composing the material through manufacturing, distribution, use, recovery for reuse, recycling, or composting and final disposal.¹⁰

Insert on page 12, after line 2:

(M) (1) "Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise ultimately be disposed of, and returning them to, or maintaining them with, the economic mainstream in the form of recovered material for new, reused, or reconstituted products, that meet the quality standards necessary to be used in the marketplace.

(2) "Recycle " or "recycling" does not include:

- (i) Landfilling
- (ii) Combustion
- (iii) Incineration
- (iv) Energy generation
- (v) Fuel production; or
- (vi) Other forms of disposal including placement within the footprint of a landfill.

¹⁰ The definition of "environmental impact" is from the Minnesota law.

(3) To be considered recycled, covered material shall be sent to a responsible end market.¹¹
(N) (1) "Responsible end market" means a materials market in which the recycling and recovery of materials or the disposal of contaminants is conducted in a way that:

- (i) benefits the environment; and
- (ii) minimizes risks to public health and worker health and safety.

(2) The Department may adopt regulations to identify responsible end markets and to establish criteria regarding benefits to the environment and minimizing risks to public health and worker health and safety.¹²

Amendment 2: Beverage Containers

Page, line 1:

- (3) THE VOLUME OF WHICH IS NOT MORE THAN 5 LITERS; AND
- (4) IS NOT COVERED BY A BEVERAGE CONTAINER DEPOSIT PROGRAM.

Page 28, insert after line 9, a new section and renumber subsequent sections:

9-2508¹³

IF A BEVERAGE CONTAINER DEPOSIT-RETURN SYSTEM IS ENACTED, THE TWO PROGRAMS MUST BE HARMONIZED IN A MANNER THAT ENSURES THAT:

- (1) MATERIALS COVERED IN THE DEPOSIT-RETURN SYSTEM ARE EXEMPT FROM THIS PROGRAM OR RELATED FINANCIAL OBLIGATIONS ARE REDUCED;
- (2) COLOCATION OF DROP-OFF COLLECTION SITES IS MAXIMIZED; AND
- (3) EDUCATION AND OUTREACH ARE COORDINATED BETWEEN THE TWO PROGRAMS.

~~9-2508~~ 9-2509

~~9-2509~~ 9-2510

~~9-2510~~ 9-2511

¹¹ The definition of "recycle" or "recycling" is from the California law, with the addition of "within the footprint of a landfill."

¹² The definition of "responsible end market" is from the California law and nearly identical to Oregon's law.

¹³ The language of this section is from the Minnesota bill.

Just Zero - FWA Testimony on SB 901.pdf

Uploaded by: Peter Blair

Position: FWA



February 18, 2025

Chair Feldman
Education, Energy, and Environment Committee
Maryland State Senate
2 West Miller
Senate Office Building
Annapolis, Maryland 21401

**RE: Testimony on SB 901 – Extended Producer Responsibility for Packaging.
Position – Favorable With Amendments.**

Dear Chair Feldman, Vice Chair Kagan, and Members of the Maryland Education, Energy, and Environment Committee:

Thank you for the opportunity to provide a testimony on SB 901. Just Zero supports the development of a comprehensive Extended Producer Responsibility for packaging program in Maryland. However, we have significant concerns with SB 901 as written. Therefore, we are urging the committee to make strategic amendments to the bill.

Just Zero is a national environmental non-profit advocacy organization that works alongside communities, policy makers, scientists, educators, organizers, and others to implement just and equitable solutions to climate-damaging and toxic production, consumption, and waste disposal practices. We believe that all people deserve Zero Waste solutions with zero climate-damaging emissions and zero toxic exposures.

SB 901 would establish an EPR for packaging program. Currently, five states have adopted this type of policy – California, Colorado, Maine, Minnesota, and Oregon. Just Zero has worked with stakeholders in all these jurisdictions to enact and implement these important programs. When properly designed and implemented, EPR for packaging programs reduce packaging waste, increase recycling rates, and incentivize companies to redesign their products and packaging to be less toxic, and more sustainable. Moreover, as a form of producer responsibility, these programs accomplish this without imposing costs on consumers, local governments, or the state. Rather, the companies whose products generate this waste in the first place provide the funding to administer the program.

EPR for packaging programs can be transformative. However, the details are extremely important. As currently drafted, S.901 has several flaws that will impact the bill's ability to effectively address Maryland's plastic pollution and packaging waste crisis. Therefore, we urge you to make the following changes to the bill:

- (1) Add a definition of "recycling" and "responsible end markets" to ensure that so-called "chemical" or "advanced" recycling are excluded from the program. These are dangerous,

ineffective, and toxic ways of dealing with plastic waste that do not result in recycling. These technologies have no place in an EPR for packaging program.

- (2) Add language requiring the Maryland Department of the Environment (“Department”) to determine which packaging material types are considered recyclable and compostable in Maryland.
- (3) Revise the performance standards to make them (a) strictly enforceable, and (b) better aligned with the requirements in the five existing EPR for packaging programs in the U.S.
- (4) Amend the fee structure to better reflect Maine and Minnesota’s programs. This will result in a fee structure that is clearer. It will also add important eco-modulation factors to incentivize producers to redesign products and packaging to be more environmentally friendly.
- (5) Remove “traditional beverage containers” from the definition of “packaging material.” Aluminum cans, plastic bottles, and glass bottles are better managed under a Bottle Bill. An EPR for packaging program should only cover “non-traditional beverage containers” such as cartons, pouches, and aseptic containers which are not recyclable. To effectuate this, the committee should make this amendment and also support the adoption of SB 346/HB 232.

Several of the amendments we are proposing will align Maryland’s program with the five existing U.S. programs. To support our testimony, we have included **Attachment A**. Attachment A summarizes the key components of all five EPR for packaging programs in the U.S.

I. Overview of the Need for a Strong EPR for Packaging Program.

The way we think about and manage waste in this country is flawed, inherently unsustainable, and deeply unjust. Unfortunately, this isn’t surprising given that the companies that design, package, and market fast moving consumer goods are completely detached from the end-of-life management of these materials. Instead, residents, towns, and counties are stuck paying to collect and manage a waste stream they have little-to-no control over. Even worse, because these companies have no responsibility for the waste associated with their products and packaging, they are increasingly overpackaging products and using unrecyclable materials like plastic. This imposes a significant burden on New Jersey and its residents.

Approximately 40% of all plastic produced each year is used for packaging.¹ Virtually none of this material is recyclable. In 2021, only 5% of all plastic waste generated by U.S. households was recycled.² This is unlikely to change, even with producer funded recycling systems, because most of this plastic isn’t technically or economically capable of being recycled. In fact, a recent report from Greenpeace which surveyed 370 material recovery facilities in the United States found that only PET #1 and HDPE #2 currently meet federal guidelines for recyclability.³

¹ Laura Parker, [Fast Facts About Plastic Pollution](#), National Geographic. (Dec. 20, 2018).

² Greenpeace, [Circular Claims Fall Flat Again](#), p. 3. (Oct. 24, 2022).

³ *Id.*

Therefore, all other forms of plastic do not even meet our weak federal requirements for recyclability, which primarily just focus on access to services.⁴

Plastic recycling is, and will continue to be, extremely limited. Unlike glass and aluminum, plastic can only be recycled a certain number of times before it becomes too degraded to be turned into new products.⁵ At some point, even the small amount of plastic that is actually recyclable will need to be burned or buried.

A strong EPR for Packaging Program can fix Maryland’s broken and disjointed approach to managing packaging waste by creating a more efficient, fair, and sustainable system funded by the companies responsible for all this waste in the first place. Under these programs, companies that market, sell, and distribute products using single-use packaging are required to fund and develop programs and infrastructure necessary to increase, the collection, recycling, and reuse of packaging waste.

This type of program will drastically reduce the cost cities and towns across Maryland are paying to collect, haul, and manage all this single-use packaging waste. Additionally, modern EPR for packaging programs often include reduction and recycling requirements which force companies to significantly cut down on the single-use packaging waste associated with their products while also increasing the recyclability of the packaging that remains. These requirements are necessary to hold companies accountable to do more than simply pay to fund recycling.

II. The Committee Should Make Target Amendment to SB 901 to Ensure the Program Will Sufficiently Address Maryland’s Plastic Pollution and Packaging Waste Crisis.

A. Add Definitions Which Exclude So-Called “Chemical” or “Advanced” Recycling.

To ensure that packaging materials are responsibly managed, Maryland’s program must exclude so-called “advanced” or chemical” recycling.

Advanced recycling – sometimes called chemical recycling or molecular recycling – refers to an array of technologies that use heat and/or solvents to break down plastics into monomers (the building blocks of plastic), hydrocarbons, fuels, chemicals, and waste byproducts. These technologies include gasification, pyrolysis, depolymerization, solvolysis, methanolysis, and hydrolysis.⁶

⁴ See, 16 C.F.R. §260.12 The Federal Trade Commission’s Guides for the Use of Environmental Marketing Claim, commonly known as the “Green Guides” states that a company can only make unqualified claims about the recyclability of a product or packaging if recycling facilities that can manage the product or packaging are available to at least 60% of consumers. Importantly, the federal requirements do not look into whether the materials sent to these recycling facilities are actually used to make new consumer products.

⁵ Matt Simon, [Plastic Recycling is Far Worse Than We Thought](#), Mother Jones (May 29, 2023).

⁶ Andrew Rollinson & Jumoke Oladejo, Chemical Recycling: Status, Sustainability, and Environmental Impacts, Global Alliance for Incinerator Alternatives 7–12 (2020).

According to proponents like the American Chemistry Council, these processes create materials which are used to manufacture new plastic products.⁷ The reality of advanced recycling, however, dramatically contrasts with these statements. In practice, advanced recycling means generating pollution, and burning plastic derived fuels and toxic chemicals.⁸ The process results in plastics being boiled down into gases, chemicals, tars, oils, and toxic waste byproducts, which are subsequently burned.⁹ Little to no new plastics are manufactured.¹⁰ In fact, all of the advanced recycling facilities operating at a commercial scale in the U.S. are using pyrolysis to create and burn plastic derived fuel.¹¹ Converting plastic into fuels is not considered recycling by national and international standards.¹²

While proponents argue that *some* of the plastic processed at advanced recycling facilities is used to manufacture new plastic products, this is extremely misleading. A report from the Department of Energy found that plastic processed through advanced recycling technologies – specifically pyrolysis and gasification – were rarely used manufacture new plastic products.¹³ In fact, only 1 – 14% of the plastic processed at advanced recycling facilities were retained and used to manufacture new plastics.¹⁴ A recent in-dept analysis from ProPublica found that the maximum amount of feedstock produced through pyrolysis that can be used to manufacture new plastic products is 20%.¹⁵ This means if a pyrolysis operator started with 100 pounds of plastic waste, it can expect to end up with 15-20 pounds of reusable plastic.¹⁶ Importantly, this 20% is only achievable under ideal conditions. In general, the process yield significantly lower outputs due to contamination in post-consumer plastics.¹⁷

In addition to resulting in virtually no recycling, the Department of Energy report also found that these technologies had significant economic and environmental impacts.¹⁸ The study found that the environmental and economic impacts of pyrolysis and gasification are 10 to 100 times worse than using virgin plastics.¹⁹ Additionally, the fuel derived from plastic pyrolysis is extremely toxic. Reports from the U.S. Environmental Protection Agency have found that production of these fuels can emit air pollution that is so toxic, 1 out of 4 people exposed to it over a lifetime could develop cancer.²⁰

⁷ American Chemistry Council, [What is Advanced Recycling](#).

⁸ NRDC, [Recycling Lies: “Chemical Recycling” of Plastics Is Just Greenwashing Incineration](#) (2022).

⁹ Dr. Veena Singla, [Recycling Lies: Chemical Recycling of Plastic is Just Greenwashing Incineration](#), Natural Resources Defense Council, p. 2. (2022).

¹⁰ *Id.* at 3.

¹¹ *Id.*

¹² See [EPA’s 1997 Measuring Recycling: A Guide for State and Local Governments](#) and European Union, [Directive of the European Parliament on Waste and Repealing Certain Directives](#), Pub. L. No. Article 3(17).

¹³ Taylor Uekert, et al, [Technical, Economic, and Environmental Comparison of Closed-Loop Recycling Technologies for Common Plastics](#), Department of Energy, ACS Sustainable Chem. Eng. 2023, 11, 3, 965–978.

¹⁴ *Id.*

¹⁵ Lisa Song, [Selling a Mirage: The Delusion of “Advanced Plastic Recycling](#), ProPublica. (June 20, 2024).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Taylor Uekert, et al, [Technical, Economic, and Environmental Comparison of Closed-Loop Recycling Technologies for Common Plastics](#), Department of Energy, ACS Sustainable Chem. Eng. 2023, 11, 3, 965–978.

¹⁹ *Id.*

²⁰ Sharon Lerner, [This “Climate-Friendly” Fuel Comes With an Astronomical Cancer Risk](#), ProPublica. (Feb. 23, 2023).

To prevent companies from utilizing this deceptive, polluting, and dangerous form of solid waste management as part of the EPR for Packaging Program, we strongly urge you to amend the definition of recycling and environmentally sound management practices to explicitly exclude so-called chemical recycling process.

- "Environmentally sound management practices" means policies or procedures for the collection, storage, transportation, reuse, and recycling or disposal of discarded packaging products, which policies or procedures are established by the department and implemented by a producer or a group of producers to: ensure compliance with all applicable federal, State, and local laws, rules, regulations, and ordinances; protect human health and the environment; and address matters including, but not limited to, adequate recordkeeping and accurate tracking and documentation of the collection, transportation, reuse, and recycling or disposal of discarded packaging products within the State. "Environmentally sound management practices" do not include processes that are inconsistent with applicable laws and conventions or fail to adequately safeguard the environment and human health.
- "Recycling" means to separate, dismantle or process the materials, components or commodities contained in discards for the purpose of preparing the materials, components, or commodities for use or reuse in new products or components. "Recycling" does not include: (a) energy recovery or energy generation by any means, including but not limited to, combustion, incineration, pyrolysis, gasification, solvolysis, or waste-to-fuel; (b) any chemical conversion process; or (c) landfill disposal.

B. Add A Process Empowering the Department to Determine Which Packaging Material Types are Considered Recyclable and Compostable.

Currently, SB 901 does not include language establishing a process for periodically reviewing and determining what packaging material types are recyclable or compostable in Maryland. This is a significant oversight that the committee must address.

Determining what packaging material types are recyclable and compostable in Maryland is critical to operating a successful EPR for packaging program. Without a this process you cannot develop a producer fee structure that encourages producers to utilize recyclable and compostable packaging, a metric for measuring compliance with the recyclability and compostability goals, a producer plan that will ensure investments in collection, processing, and end-markets that increase recycling and composting rates, and standardize recycling and composting instructions across the state.

Every EPR for packaging program in the U.S. establishes a process for determining – and periodically updating – a list of the packaging material types that are recyclable or compostable. Moreover, given the importance of this determination, four of the five existing programs empower the state environmental agency, not the Producer Responsibility Organization to make this determination. Table 1 in Attachment A explains how each of the existing programs handles the determination process.

C. The Committee Should Expand and Strengthen Performance Goals.

Performance goals are one of the most important components in an EPR for packaging program. These goals measure whether the program is operating successfully. Therefore, it is important to ensure the goals are both strong and enforceable. As currently drafted, SB 901 fails on both accounts.

SB 901 requires the Producer Responsibility Organization – through the Producer Responsibility Plan process – to establish performance goals for each packaging material type.²¹ At a minimum, these performance goals must include: (1) post-consumer recycled content goals, (2) recyclability and recycling rate goals, (3) packaging reduction goals, (4) compost access or compost rate goals, (5) contamination reduction goals, (6) greenhouse gas reduction goals, and (7) any other goals that reduce packaging material waste and are justified in the plan.²²

We believe that performance goals should be either set in statute or developed by the Department through rulemaking. This will better align Maryland’s program with the five existing U.S. programs. California and Oregon both set clear performance goals in statute. Maine and Minnesota empower the state environmental agencies to set performance standards through rulemaking.

Regardless of how the performance goals are set, SB 901 must include stronger penalties if the goals are not met. Without sufficient enforcement, the goals are nothing more than aspirational guideposts. Given the scope and severity of the plastic and packaging waste crisis, failure to meet the goals must result in mandatory penalties. These penalties should result in increased producer fees as well as corrective action to get the program back on track. We recommend ensuring that any monetary penalties be earmarked for system improvements that will specifically address the goals that we’re unmet.

The following tables in Attachment A will provide key information regarding how each of the existing EPR for packaging programs in the U.S. address performance standards.

- Table 2: Provides an overview of the performance standards the Maine Department of Environmental Protection and the Minnesota Pollution Control Agency is required to develop through rulemaking.
- Table 3: Provides an overview of the performance standards the Maine Department of Environmental Protection developed through rulemaking. Maine finalized these rules in December 2024.
- Table 4: Provides an overview of how each program addresses waste reduction.
- Table 5: Provides an overview of the recycling goals for each program.

D. The Committee Should Revise the Fee Structure to be Clearer and Better Incentivize Product Redesign.

Currently, the bill requires the Producer Responsibility Organization to develop a producer fee structure. This structure will be used to determine the fees each participating producer must

²¹ SB 901, §9-2505(c)(3).

²² *Id.*

contribute. Under the bill, the fee structure must be variable based on the costs associated with transporting, collecting, and processing packaging materials.²³ Additionally, the fees must be eco-modulated to incentivize recyclability and recycled content.²⁴ While we support the intention behind the fee structure, we believe that the goals would be better achieved with clearer language.

We recommend adopting a fee structure similar to Maine and Minnesota.²⁵ This would require the fee structure:

- (1) Vary based on the total amount of covered materials each producer introduces into the state the prior calendar year on a per unit basis, such as per ton, per item, or other united of measurement;
- (2) Reflect the program costs for each covered material type including the costs associated with transporting, collecting, and processing the material type;
- (3) Reflect whether the material type is recyclable and/or compostable; and
- (4) Be eco-modulated to:
 - a. Eliminate intentionally added toxic substances in covered materials;
 - b. Reduce the amount of packaging per individual covered material that is necessary to efficiently deliver a product without damage or spoilage without reducing its ability to be recycled or composted;
 - c. Increase the amount of covered materials managed in reuse systems;
 - d. Increase the proportion of postconsumer recycled content in covered materials;
 - e. Enhance the recyclability or compostability of covered materials;
 - f. Discourage using materials and design attributes whose environmental impacts and human health impacts can be reduced.

This structure sets clear parameters on how recyclability and compostability influence the fee structure. It also sets robust eco-modulation factors to incentivize positive environmental outcomes. These eco-modulation factors are similar to those established in the existing U.S. programs. Importantly, eco-modulation includes toxicity. This is necessary to encourage companies to phase out the use of toxic chemicals in packaging. Currently, SB 901 does not address toxics at all. Maine, Minnesota, and California all use the fee structure to address toxic chemicals in packaging.

Table 6 in Attachment A provides an overview of how the five existing programs handle the fee structure and eco-modulation.

E. Remove the “Traditional Beverage Containers” from the Definition of “Packaging Materials.”

Finally, we urge the committee to amend the definition of “packaging materials” to exclude “traditional beverage containers.” Traditional beverage containers include aluminum cans, glass bottles, and plastic bottles. These containers are better managed under a separate producer

²³ SB 901, §9-2505(e)(II).

²⁴ *Id.*

²⁵ See, M.R.S.A., § 2146(6) for Maine’s fee structure. See, Minnesota Packaging Waste and Cost Reduction Act, Section 13 [115A.1454].

responsibility program called a Bottle Bill. The Maryland Legislature is currently considered bills that would establish a Bottle Bill.²⁶ Under our recommended approach, non-traditional containers such as cartons, aseptic containers, and pouches will be covered under the EPR for packaging program because they are not readily recyclable.

Bottle Bills are significantly more effective at managing traditional beverage containers. Evidence from around the world demonstrates that these programs reduce litter, increase recycling rates, create jobs, and develop the consumer culture and infrastructure necessary for reusable beverage systems.²⁷ Maryland should double-down on its efforts to reduce waste and increase recycling by passing both a Bottle Bill and EPR for packaging program. These separate programs will complement each other.

Forgoing the development of a Bottle Bill program in favor of an EPR for packaging program – even if it includes beverage containers – because that will result in several negative consequences, such as:

- (1) **Elimination of litter reduction benefits associated with Bottle Bills:** When beverage containers are part of an EPR for Packaging Program, you do not get the refundable deposit on each container. As a result, consumers do not have an economic incentive to hold on to their containers for recycling. This means the containers are likely to continue to get littered and discarded, rather than recycled.
- (2) **Lowered quality of recycled material from beverage containers:** The containers that are currently captured through Maryland’s recycling system are commingled with other recyclables. This commingling increases contamination, lowering the quality and value of the containers making it harder to recycle them. This is true even when the system is enhanced through an EPR for Packaging Program. A Bottle Bill will remove these containers by processing them through a separate recycling system which maximizes value and recyclability.
- (3) **Lowered recycling rates for all packaging materials:** One of the key goals of an EPR for packaging program is to develop new ways to collect and manage hard to recycle materials. If a state does not have a Bottle Bill, EPR programs must divert precious resources to manage beverage containers rather than focusing on addressing other, more problematic packaging. There is already evidence of the higher recycling rates for packaging achieved through enacting a Bottle Bill.²⁸ States with Bottle Bill recycle 34% of packaging, compared to 7% in non-Bottle Bill states.²⁹

III. Conclusion

Maryland must act to reduce plastic, improve recycling, and hold corporations accountable for the waste they create. An amended version of SB 901 can develop a program that will fix Maryland’s broken and disjointed approach to managing packaging waste. This legislation can

²⁶ See, SB 346, 2025 Leg., 447th Sess. (Md. 2025), and HB 232, 2025 Leg., 447th Sess. (Md. 2025).

²⁷ Kevin Budris, [How the Best Bottle Bills Make a Real Impact](#), Just Zero. (Mar. 30, 2023)

²⁸ Eunomia, *The 50 States of Recycling: A State-by-State Assessment of US Packaging Recycling Rates*, 6. (Dec. 2023).

²⁹ *Id.*

be a key step in the process of creating a fairer, more sustainable model that is paid for by the responsible parties, not Maryland residents.

Thank you for your time and consideration of this testimony. We look forward to continuing to work with you on the development of this program.

Respectfully submitted,

Peter Blair, Esq.
Policy + Advocacy Director
Just Zero

**ATTACHMENT A:
Summary of EPR Performance Goals in the U.S.**

Overview

This attachment is intended to provide a summary of the key components in the five existing EPR for packaging programs in the U.S.

- Table 1: Overview of the process for determining which packaging material types are considered recyclable and/or compostable in each program.
- Table 2: Provides an overview of the performance standards the Maine Department of Environmental Protection and the Minnesota Pollution Control Agency is required to develop through rulemaking.
- Table 3: Provides an overview of the performance standards the Maine Department of Environmental Protection developed through rulemaking. Maine finalized these rules in December 2024.
- Table 4: Provides an overview of how each program addresses waste reduction.
- Table 5: Provides an overview of the recycling goals for each program.
- Table 6: Provides an overview of the eco-modulated fee structure for each program.

TABLE 1: Determination of Recyclability and Compostability in U.S. EPR for Packaging Laws

State	Who Makes the Determination?	Summary
California. ³⁰	The Department.	CalRecycle is required to publish a list of covered material categories that are recyclable or compostable.
Colorado. ³¹	The Producer Responsibility Organization	The PRO is responsible for developing a list of recyclable materials. The Colorado Department of Public Health and Environment must approve the list.
Maine. ³²	The Department.	The Department of Environmental Protection is responsible for determining what materials are recyclable. Criteria for recyclability is established through rulemaking.
Minnesota. ³³	The Department.	The Minnesota Pollution Control Agency is responsible for determining what materials are considered recyclable or compostable by 2028.
Oregon. ³⁴	The Department.	The Oregon Department of Environmental Quality is responsible for developing two material lists: <ul style="list-style-type: none"> • Materials that are recyclable through curbside recyclable programs; and • Materials that are recyclable through programs established by the PRO.

³⁰ California Public Resource Code, §42061.

³¹ Colorado Producer Responsibility Program for Statewide Recycling Act, Section 25-17-706 (1)(a).

³² M.R.S.A., Section 2146(13)(a).

³³ Minnesota Packaging Waste and Cost Reduction Act, Section 13 [115A.1453]

³⁴ Oregon Plastic Pollution and Recycling Modernization Act, Section 22(4).

Table 2: Performance Goals Maine and Minnesota’s Programs will Establish Through Rulemaking.

Maine	<p>In Maine, the Department of Environmental Protection is responsible for setting performance goals related to: (1) packaging waste reduction, (2) packaging reuse, (3) post-consumer recycled content, (4) litter reduction, (5) recycling access and collection, (6) overall recycling rates, and (7) material-specific recycling rates.³⁵</p> <p>These performance goals we’re adopted by the Board of Environmental Protection in December, 2024.</p>
Minnesota	<p>In Minnesota, the Minnesota Pollution Control Agency is responsible for setting statewide requirements related to: (1) recycling rates, (2) composting rates, (3) reuse rates, (4) return rates, (5) waste reduction, (6) post-consumer recycled content.³⁶</p> <p>These performance goals have not been developed yet.</p>

Table 3: Maine’s Program Goals³⁷

Recycling Access	This goal measures the percent of Maine residents with access to municipal recycling of readily recyclable packaging material. The percent should be no less than 70%, as measured by the second needs assessment, no less than 90%, as measured by the third needs assessments, and no less than 100% by the fourth needs assessment..
Participation	This goal measures the percent of cities, towns, townships, villages, and plantations, in each group of similar municipalities, as specified in Section 15, that are participating in the program. The percent should be no less than 60% from 2030 to 2034, no less than 75% from 2035 to 2039, and 100% from 2040 onward
Collection	This goal measures the percent of readily recyclable packaging material in the disposal stream. It is measured once every 10 years as the weight of readily recyclable packaging material in one ton of the disposal stream (as identified during disposal audits) multiplied by the total tons disposed in the State (as most recently reported by the Department in accordance with 38 M.R.S. § 2124-A) divided by the tons of readily recyclable packaging material produced, according to the most recent producer reporting. The percent should be no more than 40% from 2030 to 2034, no more than 30% from 2035 to 2039, and no more than 20% from 2040 onward.
Reduction	This goal measures the total weight of packaging material reported by producers, collectively, per capita, relative to the fifth reporting year. The total weight should be reduced by no less than 40% from 2040 to 2049 and no less than 60% from 2050 onward.
Reuse	This goal measures the percent by weight of total packaging material reported by producers that is managed for reuse by participating municipalities or through alternative collection programs. The percent should be no less than 15% from 2030 to 2039, no less than 30% from 2040 to 2049, and no less than 50% from 2050 onward.

³⁵ 38 M.R.S.A., § 2146(13)(A)(5).

³⁶ See, Minnesota Packaging Waste and Cost Reduction Act, Section 13, Subsection 7. [115A.1454].

³⁷ See, 06-096 CMR Ch. 428 §(3)(A).

Readily Recyclable, Reuseable, or Compostable	This goal measures the percent of packaging material that is readily recyclable, reusable, or compostable. The percent should be no less than 50% from 2030 to 2039, no less than 75% from 2040 to 2049, and 100% from 2050 onward.
Base Material Specific Recycling Rate	This goal measures the percent of packaging material expected to be managed by participating municipalities that is managed for recycling, by base material. The percent should be no less than 60% from 2030 to 2034, no less than 65% from 2035 to 2039, no less than 70% from 2040 to 2044, and no less than 75% from 2045 onward.
Overall Recycling Rate	This goal measures the percent of packaging material expected to be managed by participating municipalities that is managed for recycling. This percent should be no less than 60% from 2030 to 2034, no less than 65% from 2035 to 2039, no less than 70% from 2040 to 2044, and no less than 75% from 2045 onward.
Post-Consumer Recycled Content	This goal measures the percent of the total weight of packaging material eligible for a post-consumer recycled material incentive fee that is post-consumer recycled material, by base material, according to the most recent producer reporting. This percent should be no less than 10% from 2030 to 2039, no less than 20% from 2040 to 2049, and no less than 30% from 2050 onward
Litter	This goal measures the percent of litter that is packaging material, as measured in items. The percent should be less than 80% of cumulative litter collected as determined by litter audits from the effective date of this rule to 2029, less than 50% of cumulative litter collected during litter audits from 2030 to 2039, and less than 30% of cumulative litter collected during litter audits from 2040 to 2049. From 2050 onward, the percent of litter that is packaging material in each litter audit conducted should be less than 15%.

Table 4: State-By State Reduction Requirements / Goals

California ³⁸	Just for plastic packaging: - 25% by weight and 25% by plastic component by 2032 *10% of this must be met through elimination/switching to reusable/refillable.
Colorado	No reduction requirements. Only attempts to incentivize producers to reduce packaging through eco-modulation of producer fees.
Maine ³⁹	Applies to all covered packaging material types. Department set program goals through rulemaking. Under the rules the total weight of packaging reported by producers must be reduced: - 15% by 2030 - 30% by 2040 - 50% by 2050
Minnesota ⁴⁰	Department required to establish statewide requirement through rulemaking. PRO incorporates this as performance targets in the plan subject to public comment and commissioner approval. Awaiting rules.
Oregon ⁴¹	No reduction requirements. PRO is responsible for providing waste prevention and reuse grants that <i>must</i> be used for waste reduction (not waste recovery/recycling).

³⁸ See, Cal. Env. Code §42057(a).

³⁹ See, 06-096 CMR Ch. 428 §(3)(A)(3).

⁴⁰ See, Minnesota Packaging Waste and Cost Reduction Act, Section 13, Subsection 7. [115A.1454].

⁴¹ See, ORS 459A.926 §32

Table 5: State-by-State Recycling Requirements

California	<p>Percentage of covered material that must be recyclable or compostable: - 100% by 2032.⁴²</p> <p>Plastic packaging recycling rates: - 30% by 2028 - 40% by 2030 - 65% by 2032.⁴³</p> <p>Expanded polystyrene food service ware cannot be sold unless it meets the following recycling rates: - 25% by 2025 - 30% by 2028 - 50% by 2030 - 65% by 2032.⁴⁴</p>
Colorado ⁴⁵	<p>Targets set by PRO. Failure to meet does not result in penalties. After the needs assessment PRO selected: (1) 40% by 2030, and (2) 50% by 2035</p>
Maine	<p>Department required to set program goals through rulemaking. Under rules:</p> <p>Percent of packaging that is readily recyclable, reusable or compostable: - 50% by 2030 - 75% by 2040 - 100% by 2050.⁴⁶</p> <p>Percent of packaging material that is recycled annually: - 60% by 2030 - 65% by 2035 - 70% by 2040 - 75% by 2045.⁴⁷</p>
Minnesota ⁴⁸	<p>Department is required to establish statewide requirements. PRO incorporates this as performance targets in the plan subject to public comment and commissioner approval. Awaiting rules</p>
Oregon ⁴⁹	<p>Targets just for plastic packaging and plastic food service ware: - 25% by 2028 - 50% by 2040 (by 2038 this goal can be adjusted) - 75% by 2050</p>

⁴² See, Cal. Env. Code §42050(b).

⁴³ See, Cal. Env. Code §42050(c).

⁴⁴ See, Cal. Env. Code §42057(i).

⁴⁵ Maria Rachal, [Colorado Legislature Greenlights “Medium” Scenario for EPR Implementation](#), Packaging Dive. (April 22, 2024).

⁴⁶ See, 06-096 CMR Ch. 428 §(3)(A)(5).

⁴⁷ See, 06-096 CMR Ch. 428 §(3)(A)(6).

⁴⁸ See, Minnesota Packaging Waste and Cost Reduction Act, Section 13, Subsection 7. [115A.1454].

⁴⁹ See, ORS 459A.926 §27(2)(a)(A)-(C).

Table 6: Fee Structure + Eco-Modulation Requirements

State	Who Sets the Fee	Eco-Modulation Factors.
California ⁵⁰	PRO subject to approval by Department.	Fees are eco-modulated to incentivize: (1) increased recycled content, (2) source reduction, (3) standardization of packaging to increase reuse, recycling, and composting, (4) reduction in toxics, (5) improved labeling, and (6) reuse + refill.
Colorado ⁵¹	PRO subject to approval by Department.	The fees must be eco-modulated to incentivize: (1) reduction, (2) innovation and practices to enhance recyclability and commodity value, (3) post-consumer recycled content, and (4) designed for reuse/refill. The fees must also be eco-modulated to disincentivize: (1) practices that increase costs of reuse, recycling, and composting, (2) design that disrupts recycling of other materials, and (3) producers from using materials not on the minimum recyclable list.
Maine ⁵²	Department	The fees are eco-modulated to incentivize: (1) post-consumer recycled content, (2) increased recyclability, (3) reduced toxicity, (4) reduction, (5) litter reduction, (6) increased reusability, and (7) reduced confusion surrounding labeling.
Minnesota ⁵³	PRO subject to approval by Department.	The fees shall be eco-modulated to incentivize: (1) minimization of environmental and human health impacts, (2) elimination of toxics, (3) reduction in packaging, (4) increased reuse + refill, and (5) increased recyclability and compostability.
Oregon ⁵⁴	PRO subject to approval by Department.	<p>The fees are eco-modulated to account for: (1) post-consumer content of the material, (2) product to package ratio, (3) producer’s choice of material, (4) life-cycle of environmental impacts, and (4) recycling rate of the material.</p> <p>Dept. is responsible for establishing a contamination management fee and commingled recycling processing fee which are paid by PRO.</p>

⁵⁰ See, Cal. Env. Code §42053(e).

⁵¹ CO Rev Stat § 25-17-705(4)(i)(IV).

⁵² 38 M.R.S.A., § 2146(13)(A)(1)(c).

⁵³ See, Minnesota Packaging Waste and Cost Reduction Act, Section 14, Subsection 3. [115A.1454].

⁵⁴ See, ORS 459A.926 §11(4).

SEMA MD SB 901 Oppose.pdf

Uploaded by: Christian Robinson

Position: UNF



February 18, 2025

Maryland Senate
Education, Energy, and the Environment Committee
2 West Miller Senate Office Building
Annapolis, Maryland 21401

Re: SEMA Opposition to SB 901

Dear Members of the Education, Energy, and the Environment Committee:

On behalf of the Specialty Equipment Market Association (SEMA) and its members, I am writing to express our strong opposition to Senate Bill 901, which establishes a producer responsibility framework for packaging materials in Maryland. While we recognize the importance of responsible waste management, SB 901 places an undue burden on small businesses, which are the backbone of Maryland's economy and the specialty automotive aftermarket industry.

SEMA represents over 7,000 member companies, including 67 in Maryland, 95% of which are small businesses employing fewer than 100 individuals. These businesses design, manufacture, distribute, and sell aftermarket automotive parts and accessories, supporting thousands of jobs in Maryland and nationwide. Unfortunately, the small business exemptions in SB 901 are insufficient, and many of our members will be forced to comply with complex and costly new regulations that could threaten their viability.

Maryland has a thriving specialty automotive aftermarket industry. This industry significantly contributes to the state's economy, generating \$3.24 billion in economic impact. This translates to supporting 14,946 jobs, \$1.19 billion in total wages and benefits, and \$530.24 million in taxes paid.

The bill exempts only businesses with less than \$1 million in revenue or those producing less than 1 ton of packaging materials annually. This threshold is far too low, failing to capture many small and mid-sized businesses that lack the resources to absorb new compliance costs. Unlike large corporations with dedicated compliance departments, small businesses operate on tight margins and would struggle to meet the administrative and financial burdens imposed by this legislation. These regulations will also increase packaging costs, which will inevitably be passed on to consumers, making automotive products more expensive for Maryland residents.

Chairman of the Board

* Kyle Fickler

Chair-Elect

* Melanie White

**Immediate Past Chairman
& Secretary**

* James Lawrence

Treasurer

* Tim McCarthy

Board of Directors

Bill Bader

Rich Butler

Doug Lane

Norris Marshall

Kelle Oeste

Kim Pendergast

Kathryn Reinhardt

Melissa Scoles

Marcus Umlauff

Ted Wentz III

President and CEO

Mike Spagnola

General Counsel

David P. Goch

* Executive Committee

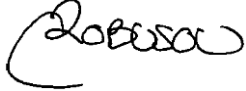
1575 S. Valley Vista Dr.
Diamond Bar, CA 91765-3914

909-610-2030

E-mail: sema@sema.org
Website: www.sema.org

SEMA urges lawmakers to reconsider the approach taken in SB 901 and adopt more realistic exemptions that align with policies in other states, such as Colorado and Oregon, which have set higher revenue thresholds to better protect small businesses. If you have any questions or require additional information, please call (202) 794-8279 or e-mail me at christianr@sema.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Robinson", written in a cursive style.

Christian Robinson
Senior Director, State Government Affairs
Specialty Equipment Market Association

AHRI Written Testimony MD SB 901 - EPR - 2.18.25.p

Uploaded by: Christopher Bresee

Position: UNF



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,

Petra M. Smeltzer
Senior Director of State Government Affairs
Air-Conditioning, Heating, and Refrigeration Institute
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Arlington, VA 22201
Cell: 202-304-9995
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AF&PA SB 901 Testimony.pdf

Uploaded by: Frazier Willman

Position: UNF



American Forest & Paper Association

February 18, 2025

The Honorable Brian Feldman, Chair
The Honorable Cheryl Kagan, Vice Chair
Senate Education, Energy, and Environment Committee
Maryland Senate
2 West Miller Senate Office Building
Annapolis, Maryland 21401

RE: Opposition to Senate Bill 901 – Requiring certain producers of packaging materials, individually or as part of a producer responsibility organization, to submit a certain packaging materials producer responsibility plan to the Department of the Environment for review and approval on or before April 1, 2027, and every 5 years thereafter, in accordance with certain requirements.

The American Forest & Paper Association¹ (AF&PA) appreciates the opportunity to share our perspective on SB 901 on behalf of our members and their employees who are an integral part of the circular economy. **In Maryland, the forest products industry employs over 5,600 individuals producing packaging, sales displays, corrugated boxes and other products with an annual payroll of about \$395 million.**²

AF&PA respectfully opposes SB 901, which creates an extended producer responsibility (EPR) program that requires producers to establish or participate in a producer responsibility organization to sell or distribute paper packaging for use in Maryland. The paper industry has a demonstrated, measurable record of success in making paper packaging more circular and sustainable through market-based approaches.

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 highly recycled material like paper packaging 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 packaging producers that could direct capital away from investing in recycling infrastructure. We ask that Maryland consider the opportunities to learn from other states on the verge of implementation, in addition to completing the valued work under SB 222, to ensure the most informed consideration of EPR for Maryland.

¹ 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 recyclable 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 5% of the total U.S. manufacturing GDP, manufactures about \$350 billion in products annually and employs about 925,000 people. The industry meets a payroll of about \$65 billion annually and is among the top 10 manufacturing sector employers in 43 states.

² Data sources: U.S. government, AF&PA, and RISI. Figures are the most recent available as of December 2022.

Paper Recycling Works

Paper recycling is an environmental success story. Paper is one of the most widely recycled materials in America, and paper recycling rates in the U.S. have consistently increased in recent decades. The paper industry recycles nearly 60% more paper today than it did in 1990, when the industry set its first recycling rate goal. **In 2023, between 65 and 69 percent of paper and 71 and 76 percent of cardboard available for recovery in the United States was recycled.**³

In calendar year 2023, U.S. pulp, paper and paperboard mills consumed 31.3 million tons of recovered paper to manufacture new products, and the U.S. exported another 14.8 million tons for use in manufacturing new pulp, paper and paperboard around the world.

Additionally, the paper industry is working to capture even more paper from the waste stream for recycling. Since 2019, our industry has announced or is expected to complete projects by 2025 that will use more than 9 million tons of recycled paper. These projects include building new mills, converting or expanding existing mills, and updating machinery and equipment.

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 to advance the recycling rate of our products and strictly prohibit the use of fees generated by one material to subsidize development of recycling infrastructure for competing materials with lower recycling rates.**

Maryland already has a well-developed and widely accessible paper and paperboard recycling system with 95.1% of the population having access to curbside recycling.⁴ This level of access is some of the highest in the nation, negating the need for an EPR program. Identifying successful parts of existing programs will allow the state to replicate proven solutions with lowered risk for all stakeholders.

Continuing innovation and meeting customer needs are important parts of the way our members do business. Through research among our members and best practices in the industry, AF&PA developed a tool to help packaging manufacturers, designers and brands create and manufacture packaging that meets their recyclability goals. The *Design Guidance for Recyclability* is intended to serve as a data-driven resource to support ongoing innovation.⁵

Unintended Outcomes of EPR Policies

EPR policies must be carefully designed to avoid creating fees or mandates that could disrupt efficient and successful paper recycling streams and directing private sector funds away from

³ <https://www.afandpa.org/priorities/recycling>

⁴ Data source: AF&PA, *2021 Access to Recycling Study*.

⁵ <https://www.afandpa.org/news/2021/afpa-releases-new-guide-further-advance-paper-recycling-0>

investment in recycling infrastructure. SB 901 requires packaging producers to provide funding to pay for the 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 to manufacture 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.

Recycled Content

Recovered fiber markets are complex, efficient, and dynamic and are not served by regulations or prescriptive approaches to specify the use of recycled fibers or dictate what type of recovered fiber is used in products. The performance goals for “post-consumer” recycled content in packaging as part of the program plan could be contrary to sustainability goals and is a distinction that is not recognized in international third-party certification programs such as the Forest Stewardship Council or the Sustainable Forestry Initiative. Rather than drive increased paper recycling, content goals intended to incentivize recycled content in paper packaging could: make markets for recovered fiber less efficient; prevent recovered fiber from going to highest value end use; raise the cost of production for new paper products; and narrow available choices for consumers.⁶ It can also result in unintended consequences such as an increase in transportation costs and emissions due to shipping recovered fiber in cases where virgin fiber can be sourced more locally.

Current efforts have achieved strong gains in paper recycling and are expected to continue in the future. **Putting pressure on producers to arbitrarily change content in paper packaging interrupts the market-based utilization of recovered fiber, prevents recovered fiber from flowing to its highest value end-use, is counterproductive both economically and environmentally, and is inconsistent with the precepts of sustainability.**

Maximizing Opportunities for Informed Policymaking

AF&PA has engaged throughout the advocacy, passage, and implementation of SB 222 (2023), which established a diverse advisory council of stakeholders, including AF&PA, to consider legislative recommendations for a packaging EPR program. AF&PA appreciates the opportunity to serve on this advisory council and share best practices from the paper industry’s track record as a responsible producer. However, this process is ongoing, and the conclusions of this council deserve both time and the needed information to provide insightful recommendations.

This perspective was reinforced by the council during their December 5, 2024, meeting with an 11-4 vote requesting more time to provide recommendations because providing final recommendations in time for the 2025 legislative session would result in a substandard final work

⁶ https://www.afandpa.org/sites/default/files/2022-09/AF%26PA-RecycledContentMandates_8152022_0.pdf

product. The council has repeatedly stressed the importance of reviewing the needs assessment of Maryland's current waste management system. This resource, valuable to the council and policymakers alike, is currently unavailable. Considering SB 901 while the advisory council has requested both more time and needed resources risks the state advancing policies without a full understanding of their consequences.

The concern for advancing without a full scope of understanding is enhanced by the realities of the national EPR landscape. **While five states have passed EPR legislation, not a single state has initiated their EPR program.** However, this year, Maryland can learn from Oregon as its program starts July 1. This is a unique opportunity not afforded to any other state that has considered EPR. **The potential to study the best practices and challenges of an EPR program in progress further highlights how this is an inopportune time for Maryland to advance SB 901.**

Conclusion

SB 901 should take a more solution-oriented approach focused on problematic materials in the commingled residential collection stream. 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 every day. The paper packaging industry is proud to be part of the recycling solution by providing renewable, sustainable, and highly recycled products for consumers.

We encourage the Committee to avoid measures that might penalize paper packaging and existing successful recycling programs. Furthermore, we encourage the Committee to only consider such legislation once the statutorily required needs assessment is available. It is important the advisory council established by SB 222 has the chance to digest and integrate insights from the assessment into their recommendations, without the pressure of pending (or possibly enacted) legislation. These recommendations, and this Committee's consideration of EPR legislation, are better served by observing the initiation of Oregon's program throughout 2025.

We look forward to continuing our work with the State of Maryland. Please direct any questions regarding this matter to Frazier Willman, Manager, Government Affairs at [Frazier Willman@afandpa.org](mailto:Frazier.Willman@afandpa.org).

SB 901_Environment - Packaging Materials - Produce

Uploaded by: Hannah Allen

Position: UNF

Senate Bill 901

Date: February 18, 2025

Committee: Senate Education, Energy, and the Environment

Position: **Unfavorable**

Founded in 1968, the Maryland Chamber of Commerce (the Chamber) is the leading voice for business in Maryland. We are a statewide coalition of more than 7,000 members and federated partners working to develop and promote strong public policy that ensures sustained economic growth and recovery for Maryland businesses, employees, and families.

Seante Bill 901 (SB 901) requires certain producers of packaing materials, either indivually or as part of a procurder responsibility organizatrion, to submit a producer responsibility plan to the Maryland Department of the Environment for review and approval by April 1, 2027, and every five years thereafter. The bill also establishes a fee structure for producers and producer responsibility organizations.

SB 901 proposes an overhaul of the state's recycling system through an extended producer responsibility (EPR) program for packaging materials. While we acknowledge the intent to improve recycling and waste management, we believe that SB 901 poses risks to Maryland businesses, particularly without sufficient data to support such a major policy shift.

The advisory council's recommendation process is still incomplete. As of their last meeting on February 13th, 2025, the needs assessment remains unpublished, with revisions still underway. The advisory council voted in December 2024 to request additional time to ensure a thorough review. We believe EPR legislation should not proceed until the advisory council issues well-informed recommendations. The lack of a finalized needs assessment raises concerns that the policy will be based on incomplete data, resulting in inefficiencies and unintended consequences for businesses.

Other states that have implemented EPR programs that have proven to be workable for the industry should be looked to as models. Oregon's system, which will be fully operational by mid-2025, is an example we should learn from before proceeding. The advisory council, including the producer responsibility organization managing Oregon's program, has emphasized the need for alignment across states to avoid unnecessary complexity and a patchwork approach. Not waiting for Oregon's real-world results could set Maryland on a path to higher costs and greater regulatory burdens.

Additionally, the lack of a clear cost structure leaves Maryland businesses uncertain about their financial obligations under this program. The uncertainty about fees, reimbursement rates, and compliance costs creates an environment where businesses must prepare for potential increases in operational expenses, which may be passed onto consumers. Businesses, particularly those

operating across state lines, would be faced with complex requirements to track, report, and pay fees based on shifting standards.

Lastly, Maryland's recycling infrastructure, especially in rural areas, relies on cross-state collaboration with neighboring states like Delaware and Pennsylvania. EPR's one-size-fits-all approach risks disrupting these established relationships without considering the regional dynamics of waste management. As recommended by the advisory council, additional time should be taken to conduct a comprehensive needs assessment and learn from the experiences in other states. A thoughtful, data-driven approach is necessary to ensure that Maryland adopts a system that benefits both the environment and businesses alike.

For these reasons, the Chamber respectfully requests an **unfavorable report** on **SB 901**.



MD SB 901_Information_Only_APR letter_FINAL.pdf

Uploaded by: Allison Kustic

Position: INFO

February 14, 2025

Dear Chair Feldman and members of the Education, Energy, and the Environment Committee,

On behalf of the [Association of Plastics Recyclers \(APR\)](#), I am submitting comments as **Informational only on SB 901 – Environment - Packaging Materials - Producer Responsibility Plans**. APR understands that the sponsor plans to update this draft with feedback from the Maryland Advisory Council and other stakeholders. It is our hope to move to a more favorable position based on the bill changes.

[The Association of Plastic Recyclers \(APR\)](#) is a US-based non-profit and the only North American organization focused exclusively on improving the recycling of plastics. APR represents over 90% of the processing capacity for post-consumer plastic packaging — **our members include the businesses that recycle most of the plastic packaging after it has been collected and sorted by Maryland’s recycling programs**. APR understands the challenges facing the industry and the solutions needed to scale recycling effectively as a key solution to reduce plastic pollution and waste and move toward a more sustainable, circular economy.

PACKAGING EPR IS A NEEDED SOLUTION TO INCREASE PLASTICS RECYCLING

EPR is the [most proven, effective policy](#) to improve recycling for packaging and paper. Increasing plastics recycling requires both more convenient access to recycling services and greater participation in recycling programs. **While Maryland has a strong program compared to other US states, there are still significant volumes of recyclable plastics and other materials ending up in landfills, incinerators, and in the environment each year.** EPR is a needed solution for all states.

The US could recycle [nearly 50% more plastic bottles today](#) using our existing recycling capacity if there were more bottles collected from communities, including in Maryland. Many plastics recyclers are not running at full capacity because the US is not collecting enough bottles, milk jugs, and other common plastics for recycling from households and businesses. APR supports EPR policies as a priority solution to collect more plastic packaging to be recycled and used in US manufacturing.

BEST PRACTICES AND LESSONS FROM OTHER STATES

APR supported EPR laws passed in Minnesota and Colorado and has been actively engaged with the packaging EPR implementation in Oregon, Colorado, and California. Maryland has a distinct advantage in adopting EPR at this time: The state can benefit greatly from the improved statutory language to find harmonization with other programs, from the two program plans written by Circular Action Alliance (CAA) so far to better understand the implementation process, and from the state agency management and oversight of programs. All this will help Maryland build upon recognized best practices to develop a more efficient and successful program.

Specifically, APR recommends the packaging EPR laws passed in Minnesota and Colorado as strong models for success, and will work with Senator Augustine on specific recommendations for this bill.

SUGGESTIONS ON ADVISORY COUNCIL RECOMMENDATIONS

APR greatly appreciates the diligent work of the Advisory Council in providing recommendations on the bill structure. In addition, APR appreciated the opportunity to present to the board in October to provide insights and answer questions on the specifics of plastics recycling. Since there is no representation of the plastics recycling industry on the council, APR provides the following considerations based on the council's initial recommendations:

EPR Program Goals: Recommendation 1

The primary focus of the legislation should be to improve the amount and quality of recycling for packaging and paper products in the State. This is the most direct result of EPR for packaging legislation based on decades of experience around the world. This goal should be the primary focus of the program implementation to start. Having a clear, singular focus will provide the most efficient startup and implementation, which will build a strong foundation and allow for future growth. Additional goals can be layered into the program once it is established and as it evolves over time.

Packaging EPR programs to date have not shown to invest enough resources toward the goal to “stimulate or support responsible end markets.” Because packaging EPR is limited to a subset of packaging and does not address the majority of uses for recycled plastics, it has limited ability to stimulate the robust markets to improve plastics recycling. APR recommends complementary legislation, such as HB 69, to support more manufacturing demand for recycled plastics.

Stakeholder Engagement by MDE and Advisory Council: Recommendations 3&4

Roles of MDE and the Advisory Council should include ensuring adequate stakeholder engagement and input from the broader network of entities impacted by this legislation, and that CAA, MDE or others are adequately responding to feedback.

Market Development: Recommendation 8b

The PRO Program Plan should include a dedicated fund and strategies for market development programs to increase the use of recycled plastics in manufacturing.

Recycled Content Targets: Recommendation 9

APR supports the inclusion of targets for recycled content in this bill. However, recycled content reporting for plastics needs to be specific to resin type and product formats in order to build stronger markets to recycle more volumes and types of plastics. Setting targets by material type, i.e. for just plastics or just paper, is too broad. Companies are likely to only use recycled content in some products to meet the targets, rather than increasing across a wide variety of packaging uses. Greater use of recycled content is critical to supporting new programs to recycle more types of plastics packaging such as film plastics.

Implementation Timeline: Recommendation 10

APR supports a faster timeline for full EPR implementation. Maryland has nearly completed the Needs Assessment, CAA has already been approved as the PRO, and CAA has drafted Program Plans in two states to date. A faster approach will bring economic and environmental benefits to Maryland communities sooner, and could be structured as such:

- Producer registration within one year
- 18 months to complete Program Plan after registration deadline
- 6 months to review and revise Plan with Advisory Council and MDE feedback
- Program launch 6 months after final plan approval.

DEFINITIONS

The Advisory Council discussed several definitions, and APR provides the following feedback on the proposed definition of Responsible End Market as this is a specific area where there has been much debate and lessons learned in other states.

1. APR recommends removing the word “end” because in many cases, the market is not the final buyer, especially for plastic. The “market” is commonly a plastics reclaimer that processes the materials after the MRF, but still relies upon a manufacturer to buy the recycled pellet or flake to be made into a new product.


Recycling does not end at the plastics reclaimer, so calling them the “end market” is misleading.

2. APR proposes an amended definition to identify the market and establish their role in being a responsible business. Responsible market means an entity that
 - (a) First produces and sells or transfers recycled organic product or recycled content feedstock that meets the quality standards necessary to be used for the creation of new or reconstituted products.
 - (b) Complies with all applicable federal, state, and local statutes, rules, ordinances, and other laws governing environmental, health, safety, and financial responsibility;
 - (c) Meets the minimum operational standards adopted under the PRO Program Plan to protect the environment, public health and worker health and safety.

MOVING FORWARD

Thank you for your leadership to improve recycling of plastics. APR staff are available at your convenience to discuss these comments and share further technical, regulatory, and policy information upon request. Please contact Allison Kustic, State Government Relations Manager, at allison@plasticsrecycling.org.

Sincerely,



Allison Kustic

State Government Relations Manager
The Association of Plastic Recyclers (APR)

Informational Only_SB 901 EPR_FPI Comments_2025021

Uploaded by: Carol Patterson

Position: INFO



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February 14, 2025

Informational Only: Senate Bill 901 – AN ACT concerning Environment – Packaging Materials – Producer Responsibility Plans (SB 901)

Dear Chair Feldman, Vice Chair Kagan and Education, Energy, and the Environment Committee Members,

Thank you for the opportunity to offer comments concerning Senate Bill 901 – *AN ACT concerning Environment – Packaging Materials – Producer Responsibility Plans (SB 901)*.

Founded in 1933, the Foodservice Packaging Institute (FPI) is the leading authority on foodservice packaging in North America. FPI supports the responsible use of foodservice packaging, while advocating an open and fair marketplace for all materials. Our core members include raw material and machinery suppliers as well as packaging manufacturers, which represent approximately 90 percent of the industry. Additionally, a number of distributors and purchasers of foodservice packaging are part of FPI's affiliate membership.

The foodservice packaging industry is committed to reducing the impact of its products on the environment and is dedicated to increasing their recovery. FPI has several special interest groups that bring together the supply chain to develop and promote economically viable and sustainable recovery solutions for foodservice packaging. These special interest groups include the Paper Recovery Alliance, Plastic Recovery Group, Paper Cup Alliance and Foam Recycling Coalition. More information on these groups and their efforts can be found [here](#).

As part of our commitment to increasing the recovery of foodservice packaging, FPI is supportive of policy approaches that advance this effort through systems such as recycling and composting. With respect to extended producer responsibility (EPR) programs, it is our position that programs should be based on the principles of shared responsibility, fairness and system effectiveness and efficiency.

FPI appreciates the ongoing effort to develop an effective EPR framework in Maryland. However, we believe additional time is necessary to complete the needs assessment and allow the Packaging Advisory Board to thoroughly finalize its work before advancing an EPR proposal.

In addition, the EPR landscape in the United States has continued to evolve, offering additional perspectives and lessons learned from other states since this bill was originally introduced in 2023. New opportunities exist to review and consider recent EPR approaches, such as those in Minnesota's EPR law, as well as the current EPR proposal in Washington (House Bill 1150), among others.

FPI appreciates the opportunity to contribute to the development of a well-informed and effective EPR policy in Maryland. We also welcome the chance to provide our perspectives with respect to foodservice packaging and EPR.

Thank you for your time and consideration of these comments and information.

Sincerely,

A handwritten signature in purple ink that reads "C. Patterson".

Carol Patterson
Vice President, Government Relations
cpatterson@fpi.org

SB0901_LOI_ACA_Environment - Packaging Materials -

Uploaded by: Christine Krone

Position: INFO



AmericanCoatings
ASSOCIATIONSM

TO: The Honorable Brian J. Feldman, Chair
Members, Senate Education, Energy, and the Environment Committee
The Honorable Malcolm Augustine

FROM: Andrew G. Vetter
Christine K. Krone
410-244-7000

DATE: February 18, 2025

RE: LETTER OF INFORMATION – Senate Bill 901 – Environment – Packaging Materials – Producer Responsibility

The American Coatings Association (ACA)¹ submits the following testimony to the Senate Education, Energy, and the Environment Committee regarding the proposed exemptions for the term ‘packaging materials’ in Senate Bill 901, An Act concerning Environment – Packaging Materials – Producer Responsibility Plans (SB 901). ACA represents approximately 96% of the paint and coatings products manufactured in the United States (U.S.), including architectural, industrial, and specialty coatings.

The \$719 million paint and coatings industry in Maryland manufactures a wide variety of coatings products for consumers, businesses, and manufacturing establishments alike. With the exception of powder coatings, most paint and coatings products are in liquid form and utilize containers in a range of sizes. The sizes range from small containers of less than a liter or pint to large containers that hold several hundred gallons. These containers are typically either metal, plastic, or a hybrid of metal and plastic.

With the increasing number of packaging extended producer responsibility (EPR) laws across the country, ACA members will be required to evaluate the packaging being used for paint and coatings products to ensure compliance with these laws. Consequently, ACA has a significant interest in assisting our industry in compliance with any legal requirements.

ACA is concerned that the differing requirements from state to state will result in confusion for manufacturers as well as Maryland residents. Significant differences from state to state in regulatory programs are problematic and burdensome for the paint and coatings industry since manufacturers with a nationwide customer base will find developing any compliance plan(s) to be extremely challenging. The coatings industry routinely conducts interstate transactions where their products are shipped across state lines, thereby requiring companies to comply with various applicable federal and state laws.

ACA provides the following recommendations to SB 901 to provide clarification and consistency with other existing packaging EPR laws in the U.S.

- 1. Amend the definition of ‘packaging materials’ to clarify that products managed under MD. CODE ANN., ENV’T § 9-1733 (2024) are not covered products under SB 901.**

In states with PaintCare programs, leftover paint in their original containers are collected and managed responsibly. ACA and PaintCare’s goal is to divert leftover paint from landfills and recycle as much as possible. Our goal with respect to paint containers is the same – to divert from landfills and recycle as much as possible. This is true for all the states with PaintCare

¹ ACA is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory, and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services.

programs and Maryland is the most recent state to do so.²

In order to avoid confusion, promote efficiency, and prevent double coverage of these containers by two different EPR systems, ACA urges inclusion of the above language in SB 901 to provide that products subject to a stewardship program are exempt from the relevant packaging EPR law.³

Currently, products managed by PaintCare are not exempt under the definition for ‘packaging materials’ in SB 901. Clarification that these containers are managed under the paint stewardship law will assist municipal operators, Maryland Department of the Environment, and Maryland residents with leftover paint. Consequently, ACA recommends that Maryland harmonize its proposed packaging EPR law with the other states’ laws by amending SB 901’s definition of ‘packaging materials’ to exempt products collected under MD. CODE ANN., ENV’T § 9-1733 (2024).

2. Amend the definition of ‘packaging materials’ to include additional exemptions commonly found in other states’ packaging EPR laws.

The following states have enacted a packaging EPR law: (1) California, (2) Colorado, (3) Maine, (4) Minnesota, and (5) Oregon. Notably, within these states’ laws, there exists several exemptions to the term ‘packaging materials,’ including but not limited to the following:

- a) Packaging materials that are used for the long-term storage (e.g., 5+ years) and/or protection of a durable product;
- b) Packaging materials that are exclusive to the manufacturing or industrial process;
- c) Packaging materials that are sold and/or supplied in connection with products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) under 7 U.S.C. § 136 et. seq.;
- d) Packaging materials that are sold and/or supplied in connection with products that meet certain poison prevention requirements;
- e) Packaging materials that are sold and/or supplied in connection with hazardous or dangerous goods regulated by 49 C.F.R. § 178;
- f) Packaging materials that are sold and/or supplied in connection with hazardous or flammable goods regulated by 29 C.F.R. § 1910 (Occupational Safety and Health Standards);
- g) Packaging materials that are used solely for business-to-business operations; and
- h) Other packaging materials that the relevant authority identifies.

The paint and coatings industry operates from coast to coast in all directions. Harmonization of the requirements of the states’ packaging EPR laws would greatly aid our member companies in developing compliance schemes. Currently, out of the foregoing exemptions, SB 901 only provides for packaging materials that are sold and/or supplied in connection with products regulated by FIFRA. Consequently, ACA urges consideration and incorporation of the above-mentioned exemptions in order to provide some harmonization with packaging EPR laws adopted in other states.

Conclusion

Overall, ACA appreciates the opportunity to provide testimony to the Senate Education, Energy, and the Environment Committee on SB 901, and we look forward to working cooperatively on this matter.

² The following states, in addition to Washington, D.C., have enacted a paint stewardship program (e.g., PaintCare): (1) California, (2) Colorado, (3) Connecticut, (4) Illinois, (5) Maine, (6) Minnesota, (7) New York, (8) Oregon, (9) Rhode Island, (10) Vermont, and (11) Washington. In 2024, Maryland became the 12th state to adopt a paint stewardship program. Under this program, beginning in January 2026, producers will be prohibited from selling and/or distributing certain products into the state of Maryland prior to implementing an approved paint stewardship program.

³ See ME. STAT. tit. 38, § 2146(1)(I)(3) (2021); COLO. REV. STAT. § 25-17-703(13)(b)(X) (2022); MINN. STAT. § 115A.1441(16)(12) (2024); OR. REV. STAT. § 459A.863(6)(b)(I) (2021); CAL. PUB. RES. CODE § 42041(e)(2)(G) (West 2022).

PCIA Packaging EPR Letter - Maryland - Feb 4 2025.

Uploaded by: David Keeling

Position: INFO



Attn: Bradley Baker
Program Manager, Resource Management Program
Maryland Department of Environment
and
Michael Okorafor
Chair
Maryland Packaging Advisory Council

Sent via email: bradley.baker1@maryland.gov and Michael.Okoroafor@mccormick.com

From: David Keeling, Executive Director, Pressurized Cylinder Industry Association

Date: February 4, 2025

RE: Packaging EPR Legislation and Pressurized Cylinders

Thank you for the opportunity to provide feedback as part the ongoing Advisory Council meetings on the development of legislation in Maryland. We are writing to provide feedback on the discussions at the Advisory Council related to producer exemption.

The Pressurized Cylinder Industry Association (PCIA) was incorporated in June 2023 to represent the interests of pressurized cylinder brands and producers in the development of extended producer responsibility legislation. PCIA is made up of leading brands supplying both refillable and non-refillable pressurized cylinders to US consumers, including Cascade Designs, Inc., The Coleman Company Inc., Johnson Outdoors Gear Inc., Manchester Tank, Sterno Group LLC, Worthington Enterprises, YSN Imports, and Zippo. PCIA is collaborating with additional impacted producers to implement a producer responsibility program for cylinders in Connecticut and is actively engaged with a number of other states, including Vermont and California, that are legislating or considering legislating similar programs.

PCIA recommends that pressurized cylinders be excluded from packaging legislation for the following reasons:

- 1. Pressurized cylinders (refillable and non-refillable) are not compatible with collection programs designed for other types of residential packaging (e.g., beverage containers, soup cans, plastic film).**

The different considerations for pressurized cylinder collection methods are included in Table 1.



Table 1 – Considerations related to collection, transportation, and processing of pressurized cylinders

	Considerations
Collection	<ul style="list-style-type: none"> • Cylinders are typically physically segregated from other recyclables at depots or in special publicly accessible containers (e.g., collection bins at parks) • Municipalities typically do not allow residents to place cylinders in curbside collection systems (recycling or garbage)
Transportation	<ul style="list-style-type: none"> • Health and safety risks exist if cylinders are compacted in a collection vehicle • Additional training, placarding, and inspections are required for transportation of hazardous materials
Processing	<ul style="list-style-type: none"> • Cylinders pose health and safety risks to workers at material recovery facilities (MRF) particularly in the baling process • MRFs do not have equipment to properly process cylinders (e.g., remove the gas safely and prepare for recycling)
Overarching Impacts	<ul style="list-style-type: none"> • Unique permitting requirements or specifications for the collection, storage, transportation and processing of pressurized cylinders (e.g., Fire Marshall, Department of Transportation requirements) • Communications with the public become more complex and the public is more likely to be confused if cylinders are included in a broader packaging program. For example, handling requirements are different.

A number of packaging laws in the US have excluded certain packaging for similar reasons (e.g., packaging related to drug prescriptions or pesticides/insecticides). Including producers of cylinders in the same producer responsibility organization (PRO) as producers of packaging for non-hazardous products that can be safely collected through commingled curbside collection adds administrative complexity and reduces the effectiveness and efficiency of both collection systems.

2. Unlike typical curbside packaging, there is little to no ability to influence the packaging design of pressurized cylinders.

Pressurized cylinders are Federally regulated by the Department of Transportation (DOT). Title 49 of the Code of Federal Regulations defines hazardous materials, outlines transportation requirements by hazardous material type, and dictates the design of the packaging (e.g., pressurized cylinder) containing the hazardous material, including the cylinder material, wall thickness and strength.

3. Pressurized cylinders are best managed in programs with dedicated collection, transportation and management systems for hazardous products.

Pressurized cylinders are typically included in regulations focusing on packaging for hazardous or special products rather than in regulations for packaging of non-hazardous products. By way of example, no Canadian



residential packaging regulation includes pressurized cylinders. Instead, jurisdictions like Ontario¹, Quebec², Manitoba³, Alberta⁴, and British Columbia⁵ include pressurized cylinders in a regulation for packaging for hazardous or special products. The European Union also excludes pressurized cylinders under their definition of packaging due to the hazmat product designation (i.e., Transportation of Dangerous Goods).⁶

4. Refillable cylinders already have functional commercial reuse models and exchange systems designed to address these considerations.

Finally, refillable pressurized cylinders require separate consideration from non-refillable cylinders due to the existence of current commercial solutions for reuse and exchange of these cylinders. The legislation already acknowledges propane exchange systems which have a robust reuse system, achieving high recovery and reuse rates relative to other packaging on the market. It however fails to recognize other gases that have similar robust systems. The inclusion of refillable pressurized cylinders in producer responsibility legislation creates unnecessary regulatory burden for this category of cylinders.

In conclusion, we urge the Advisory Council to apply an exemption for all pressurized cylinders as is done in other jurisdictions.

We look forward to the opportunity to discuss these issues with you and answer any questions you might have.

Sincerely,

A handwritten signature in black ink, appearing to read "David F. Keeling".

David F. Keeling
Pressurized Cylinder Industry Association
E: davidkeeling@cylinderindustry.org
T: 414-630-9382

¹ Ontario Government. O. Reg 449/21 - Hazardous and Special Products, 2021. Available at <https://www.ontario.ca/laws/regulation/r21449>.

² Quebec Government. O.C.C 933-2022 – Recovery and reclamation of products by enterprises – Amendment. Available at <http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=1&file=105769.pdf>.

³ Manitoba Government. Household Hazardous Material and Prescribed Material Stewardship Regulation, 2010. Available at <https://web2.gov.mb.ca/laws/regs/annual/2010/016.pdf>.

⁴ Alberta Government. Extended Producer Responsibility (EPR) for Packaging, Paper Products, Single-Use Plastics, as well as Hazardous and Special Products, 2021. Available at <https://www.alberta.ca/circular-plastics-economy-engagement.aspx>.

⁵ British Columbia Government. Advancing Recycling in B.C.: Extended Producer Responsibility Five-Year Action Plan 2021-2026. Available at https://www2.gov.bc.ca/assets/gov/environment/waste-management/recycling/recycle/extended_producer_five_year_action_plan.pdf

⁶ European Union Regulation 2025/40 on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive 2019/904 and repealing Directive 94/62/EC. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202500040.

SB0901_LOI_NWRA_Env. - Packaging Materials - Produ

Uploaded by: Drew Vetter

Position: INFO

Collect
Recycle
Innovate



National Waste
& Recycling AssociationSM

Senate Education, Energy, and the Environment Committee

February 18, 2025

Senate Bill 901 – *Environment – Packaging Materials – Producer Responsibility Plans*

LETTER OF INFORMATION

The Maryland chapter of the National Waste and Recycling Association (NWRA-MD) 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. NWRA-MD is pleased to submit this letter of information on Senate Bill 901.

While NWRA-MD has concerns about the effectiveness of extended producer responsibility (EPR) for packaging and the timing of the proposed legislation, we acknowledge the General Assembly's interest in continuing to advance EPR for packaging in Maryland and offer several suggestions for consideration. We thank the sponsor for his continued efforts to improve recycling in Maryland and we look forward to working collaboratively to ensure any comprehensive packaging EPR legislation adopted in Maryland is as strong as possible, while also protecting our current recycling infrastructure.

First, NWRA-MD and our national organization, NWRA, continue to have reservations about the effectiveness of EPR for packaging. We support improving existing recycling systems and reducing packaging waste, but do not believe EPR for packaging is the best solution. Maryland already has a robust and effective infrastructure for recycling packaging materials. A new EPR for packaging program risks disruption to that successful system and is still a relatively new and unproven concept that has yet to be fully implemented anywhere in the U.S. We are very supportive of EPR approaches for difficult-to-manage items and those that are dangerous if disposed of improperly, such as electronics, batteries, mattresses, paint, and carpet. We also note that some of the biggest challenges facing recycling include contamination, confusion over what materials can be recycled, and inadequate markets for recycled products. These challenges are not addressed by EPR, and we suggest that approaches like post-consumer content standards for materials, including plastic, glass, and paper packaging and containers, should be considered as a simpler alternative. We have included NWRA's national policy statement on EPR as an addendum at the end of this testimony.

Second, NWRA-MD has concerns with the timing of advancing comprehensive EPR legislation this Session. NWRA notes that we have some concerns about moving forward with legislation while the Advisory Council recommendations and needs assessment required by Senate Bill 222 of the 2023 Session remain pending. Our membership has been actively engaged in the Advisory Council process, and several members have also participated in the needs assessment. It has been our assumption that legislation on comprehensive EPR legislation would be based on the Advisory Council recommendations and the findings of the needs assessment. That information is not yet available, and even if it was, there is limited time to digest it and incorporate it into legislation in the weeks remaining in the 2025 Session.

If comprehensive EPR legislation were to move forward this year, we have several suggestions that can help make this bill a better product. However, we note that in addition to the changes below, there may be additional amendments or suggestions from NWRA-MD members as we continue to analyze the bill. Moreover, we note that additional changes may be necessary as the Advisory Council continues to finalize its recommendations and that changes may be necessary to reflect the needs assessment findings, which have yet to be released.

- The language in SECTION 2, lines 22-25 on page 29 at the end of the bill, should be eliminated. It is unclear what this language is trying to accomplish, but if left in the bill, it restricts what markets recyclers can sell products to and threatens critical revenue needed for our recycling facilities to operate.
- We would request language that protects and anonymizes the business data of companies participating

in needs assessments. The following language was adopted in Minnesota's recently passed EPR law, and we request its inclusion in Senate Bill 901:

Subd. 6. Participation required; not public data.

(a) A service provider or other person 129.20 with data or information necessary to complete a needs assessment must provide the data or information to the commissioner upon request.

(b) A service provider or other person providing the data or information may submit a written request to the commissioner that the data or information be classified as not public data. The request must set forth the statutory grounds and the reasons that justify the classification of the data or information as not public data. The commissioner must approve the request if the commissioner determines:

(1) the data or information constitutes trade secret information as defined in section 129.28 13.37, subdivision 1, paragraph (b), or sales information;

(2) disclosure of the data or information would tend to adversely affect the competitive position of the service provider or other person, including but not limited to data related to profits, service rates, fees, or business expenses; or

(3) the data or information is otherwise nonpublic data with regard to data not on individuals, pursuant to section 13.02, subdivision 9, or private data on individuals, pursuant 130.3 to section 13.02, subdivision 12.

(c) The contractor conducting the needs assessment must aggregate and anonymize the not public data or information, excluding location data necessary to assess needs, received from all parties under this subdivision and must then include the aggregated anonymized data in the needs assessment.

(d) The commissioner, any employee of the agency, or any agent thereof, when authorized by the commissioner, may enter upon any property, public or private, for the purpose of obtaining information necessary for completing the evaluation in subdivision 4, clause (2), provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damage to the property caused by the entrance and activity.

- We think it is critical that existing recycling infrastructure and the investments that have been made in it are protected under the bill. Language on page 21, lines 6-10 states that the Producer Responsibility Organization (PRO) must include in Producer Responsibility Plans “THE METHOD FOR EITHER DIRECT INVESTMENTS FOR IMPROVING INFRASTRUCTURE FOR REUSE, ORGANICS RECYCLING, AND RECYCLING IN ACCORDANCE WITH (C)(11) OF THIS SECTION, WITH PRIORITY GIVEN TO THE IMPROVEMENT OF EXISTING INFRASTRUCTURE.” We are unclear what this level of input into infrastructure investments means from the PRO, which is primarily responsible for working with producers and brands to decrease packaging waste. This language should be strengthened to clarify that PROs are not interfering with infrastructure investments made by local jurisdictions and companies in their recycling infrastructure.
- NWRA-MD recommends removing compostables from the scope of the bill. Compostables present unique challenges and needs to the recycling system that are distinct from other types of packaging.
- NWRA *supports and requests we retain* the language on page 15, lines 8-10 of the bill that “THIS SUBTITLE MAY NOT BE CONSTRUED TO: (2) PROHIBIT A LOCAL GOVERNMENT OR ANY OTHER ENTITY FROM SELLING RECYCLED MATERIALS OR COMPOST TO END MARKETS AND RETAINING THE REVENUES FROM THOSE SALES. This language is important not to disrupt revenue that supports existing recycling systems.

Again, NWRA-MD has appreciated participating in the ongoing Advisory Council process and the opportunity to provide input into this legislation. We look forward to working with the sponsor as the General Assembly continues to discuss this issue.

ADDENDUM

NWRA POLICY POSITION ON 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 needs 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 its quality requirements and import licenses for cardboard have constricted, the Chinese market 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 cases, municipalities saw a net benefit from the sale of recyclable commodities. However, when the markets for recyclables decline, 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 comes 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 is 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 from 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 June 2021.

SB901_RestaurantAssoc_Thompson_INFO.pdf

Uploaded by: Melvin Thompson

Position: INFO



Senate Bill 901 – Environment - Packaging Materials – Producer Responsibility Plans

February 18, 2025

Dear Education, Energy, and the Environment Committee:

The Restaurant Association of Maryland sincerely appreciates the opportunity to submit comments on Senate Bill 901 regarding extended producer responsibility (EPR). Over the years, the bill sponsors have been working with us to address our many questions and concerns regarding this issue.

We appreciate that the requirements of this legislation would not apply to restaurants and similar establishments that are headquartered in the State, and primarily sell food intended for immediate consumption. However, some of our members have raised concerns that the exemption should also apply to other restaurant operational scenarios (e.g., restaurants that may be based elsewhere but operating as a separate Maryland LLC, and restaurants operating in Maryland but locally based in D.C. or Virginia).

Some of our members who are not headquartered in Maryland have also raised concerns about language in the legislation regarding packaging material waste and the baseline for the required reduction, a lack of clarity in the definition of “producer” (which is a concern we also expressed in 2023), and the unique challenges of foodservice packaging needs (especially with the growth of takeout/delivery).

In 2023, the General Assembly enacted legislation (SB 222) that requires the Maryland Department of Environment to conduct a statewide recycling needs assessment. This law also established an advisory council to study and make recommendations for implementing a producer responsibility program for packaging materials. The advisory council’s recommendations will be informed by the results of the recycling needs assessment and EPR programs enacted in other states. We are still awaiting the release of these reports. We believe it would be prudent for the General Assembly to wait until after the release of these reports before passing any EPR policy legislation.

Thank you for your consideration of our concerns.

Sincerely,

A handwritten signature in black ink that reads "Melvin R. Thompson". The signature is written in a cursive style and is followed by a long horizontal flourish.

Melvin R. Thompson
Senior Vice President
Government Affairs and Public Policy