maryland recycling network

February 12, 2025

To: Maryland House Environment and Transportation and Economic Matters Committee
Re: HB69 Environment - Plastic Products - Postconsumer Recycled Content Program
SUPPORT with amendments

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 HB69 with suggested changes.

Thirty-three years ago, Maryland became one of the first states to enact recycled content legislation for newspapers. Eventually 14 states enacted these laws. Combined with technological advancements making recycled newsprint as good as virgin, the use of recycled content newsprint soared in America. Now, we have the chance to enact similar requirements for plastic products.

We thank the sponsors of this bill for introducing this legislation. Recycled content bills can help expand the market for our curbside recyclables. They send a message to package and product manufacturers to support our recycling programs by using those raw materials in their products.

At the same time, experience with recycled content requirements in this country and elsewhere show they are imperfect. In particular, while they can expand markets, they do not guarantee consistently strong prices for recyclables. Recycling markets are subject to the impact of national and international economic trends. We saw that in the 90's as prices for old newspapers fluctuated in spite of the minimum content laws. Nonetheless, these laws have the potential to create a better base for prices.

HB69 has challenging goals. Unfortunately, we question if some are achievable. Nothing can be recycled infinitely. All recyclables suffer product loss during collection, materials recovery facility processing and during the recycling manufacturing process. This varies by material and process, but we don't know of any package in which, for instance, 2000 bottles can be made from 2000 bottles.

In addition, recycled content materials are bought by end users who may have a different use than the previous use. Markets for PET bottles, for instance, were started by fiber companies who made carpets, clothing, or other fiber products. In fact, those fiber companies invented nurtured PET bottle recycling over the last three and a half decades. Only in the last three years have bottles exceeded fiber as the biggest user of recycled PET. We believe that legislative goals must recognize the existence of competing markets and the reality that those markets may be able to outbid packaging markets.

We understand that some of the goals are based on laws already passed in other states. However, some of those states adopted aggressive goals that will be hard to meet. Given the realities of material loss as noted above, we suggest the authors consider changing the dates for achieving recycled content goals. For instance, national beverage companies using PET in their bottles should have no trouble meeting fifteen percent recycled content for plastic beverage containers in 2027. Smaller regional or local companies will be harder pressed to meet that goal. Moreover, companies using natural HDPE in beverage containers will be hard pressed to meet those goals.

We also suggest that requirements for Household Cleaning Products and Personal Care Products be reconsidered. While three states have set goals for those packages, they are unlikely to be met. Most of those packages use a dyed HDPE resin, called "colored HDPE". As the Ocean Conservancy study, Recommendations for Recycled Content Requirements for Plastic Goods and Packages, noted, "High volumes of colored packaging (e.g., colored HDPE and PP) create a recycled resin that is grey or black, limiting the applications to those that can tolerate black. Currently, few packaging applications fit that description" (page 33). Instead, those packages are recycled into durable products such as pipe, lumber, lawn and garden equipment, etc.

Finally, the waiver provision, 9-2707, should be expanded to include the conditions found in New Jersey's minimum recycled content law. These include FDA regulatory requirements, technological feasibility and inadequate supply. Those requirements are similar to those in 9-2710(B)(4)(III)(1-4), the corrective action plan for failure to meet the minimum recycled content percentage.

The Ocean Conservancy's report stated that "Some laws allow for waivers or exemptions where a manufacturer demonstrates that it is not technically feasible for them to achieve the requirements, or there is not sufficient supply of recycled materials available to meet the requirements based on robust justification" (page 20) and "Waivers should be available when supply is inadequate to fulfill requirements or other technical issues arise. However, a supply-based waiver must require robust justification and exploration of barriers between existing and potential supply" (page 39). Producers have no control over supply and the state of the economy. New Jersey followed that path in crafting its recycling content law.

Nonetheless, we congratulate the sponsors of this bill on bringing forth this legislation. We look forward to working with the sponsors to improve this bill. Maryland has another chance to be a recycled content leader, just as it was for newspapers.

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 the above.

Sincerely,

Chaz Miller,
Chair, MRN Legislation Committee