



FOODSERVICE PACKAGING  
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House Environment and Transportation Committee  
Room 251  
House Office Building  
Annapolis, Maryland 21401

**Written Testimony: Opposition to HB 69 - Environment - Plastic Products - Postconsumer Recycled Content Program**

Dear Chair Korman, Vice Chair Boyce and House Environment and Transportation Committee Members,

Thank you for the opportunity to share our respectful opposition to HB 69 - *Environment - Plastic Products - Postconsumer Recycled Content Program* (HB 69).

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](#).

In principle, FPI supports policies and programs that result in more recycling and/or composting of foodservice packaging. While HB 69 aims to increase plastic recycling through postconsumer recycled content (PCR) targets, it does not align with regulatory requirements or market realities for foodservice packaging. Additionally, the bill sets arbitrary PCR targets for all types of rigid plastic food containers at rates that exceed those for other types of rigid plastic containers. For these reasons, and others detailed below, FPI is opposed to HB 69.

**Foodservice Packaging Considerations:** There are several considerations that need to be taken into account when considering the addition of PCR resins to rigid plastic foodservice packaging, including U.S. Food & Drug Administration requirements, supply of PCR resins, and product considerations.

*U.S. Food & Drug Administration (FDA) Considerations:* According to the FDA, PCR resins must meet the same specifications as virgin plastic resin. In this regard, all foodservice packaging manufacturers have to follow strict FDA guidelines for all manufacturing processes and materials used in the making of foodservice packaging as per the [Guidance for Industry: Use of Recycled Plastics in Food Packaging \(Chemistry Considerations\)](#).

Of note, food contact materials used in the manufacture of foodservice packaging are required to obtain a letter of no objection (LNO) from the FDA, this extends to PCR resins. Also, an LNO for a certain resin does not indicate that all foodservice packaging of that resin type is approved for PCR. The LNO is specific to a manufacturer and the defined application.

*Supply of PCR Resins:* With FDA requirements, the amount of PCR resin types available for food-contact applications has historically been at lower supplies than non-food contact PCR resins. This can also vary from resin type to resin type.

Further, as various food and beverage companies continue to make commitments to use PCR at higher rates, for an increasing number of products, the supply of available material dwindles. It is our understanding that there is not currently enough PCR resin in the marketplace to meet the voluntary demand.

To increase the supply of food-contact it will also be necessary to recognize PCR resins from all available recycling technologies.

*Product Considerations:* Although PCR resins and virgin resins must adhere to the same FDA requirements, the use of PCR impacts packaging containers to differing extents. As PCR resins are increased, factors like rigidity can be affected. As we understand it, PCR for foodservice packaging items is blended with virgin resin at a rate that renders differences undetectable, ensuring product performance and safety.

Certain packaging container shapes are more easily manufactured using PCR resins at higher percentages, while others cannot as easily utilize the same percentage, making it difficult to uniformly assign minimum content requirements across all containers.

*Waivers:* We also note that the temporary waiver language in the bill does not reflect the need to allow for exceptions where compliance with the regulations set forth by the FDA prevents its inclusion, where there is lack of supply and where it is not technically feasible.

**General Considerations:** In addition to the above, we have the following concerns with HB 69.

*Definitions:* A clear definition of rigid plastic containers should include specific size parameters to avoid ambiguity. Adopting a definition, such as the one used in New Jersey, may provide clarity and uniformity.

*Compostables:* Certified compostable products should be exempt from PCR requirements in all product categories, including rigid plastic containers for food. Unlike recyclables, these containers cannot be reprocessed into new compostable products. Instead, certified compostable packaging is designed to break down into compost, a soil nutrient.

*Funds:* All funds allocated to the State Recycling Trust Fund should remain dedicated to their intended purpose and not be redirected to the General Fund as described under (V)(5) and (IV) (8) (ii). Instead, both the funds and earnings should be used exclusively to achieve the bill's objectives, with any surplus being returned to contributors through lower annual dues or other appropriate methods.

Thank you for your consideration of our feedback and opposition to HB 69. We would be pleased to discuss these comments with you further.

Sincerely,



Carol Patterson - Vice President, Government Relations