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February 27, 2026

The Honorable Senator Brian Feldman
Chairman, Senate Education, Energy, and the Environment Committee
2 West Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Re: SUPPORT for SB 926 – Producer Responsibility for Packaging and Paper Products – Definition of Exempt Material – Alteration

Dear Chairman Feldman:

On behalf of the Consumer Healthcare Products Association (CHPA)[1], I write to express our strong support for Senate Bill 926, which would correct an inadvertent omission in Maryland's Extended Producer Responsibility (EPR) packaging law by restoring the exemption for packaging used with Food and Drug Administration (FDA) regulated dietary supplement products. We urge the Committee to report this bill favorably and advance it to the full Senate without delay.

Background

During the 2025 legislative session, CHPA worked closely with Maryland legislators to ensure that the State's EPR packaging framework – enacted as Chapter 431 of 2025 – appropriately exempted packaging for FDA regulated products, including drugs, medical devices, and dietary supplements. Unfortunately, prior to Senate passage, the exemption for dietary supplement packaging was inadvertently removed from the final enrolled bill. SB 926 would correct that omission and restore the regulatory consistency that was originally intended. We strongly believe this correction is both warranted and necessary.

Dietary Supplements Are Already Subject to Rigorous Federal Packaging Oversight

Dietary supplements are regulated by the U.S. Food and Drug Administration (FDA), including detailed packaging requirements under the agency's Good Manufacturing Practices (GMP) (21 C.F.R. Part 111). These regulations require that packaging:

- Preserve product quality (21 C.F.R. § 111.410), and
- Protect against contamination, including airborne contaminants (21 C.F.R. § 111.415).

These standards are specifically designed to ensure product safety and integrity. Mandating state-level packaging material changes—particularly recycled content requirements—could directly conflict with these federal obligations and compromise compliance.

State-Level Mandates Would Create Direct Conflicts with Federal Law

[1] Consumer Healthcare Products Association is the national trade association representing the manufacturers of nonprescription drugs, dietary supplements and over-the-counter medical devices

Beyond the GMP requirements, manufacturers of dietary supplements must also comply with the federal Poison Prevention Packaging Act, which mandates child-resistant packaging for certain products. These requirements constrain the types of packaging materials and designs that manufacturers may lawfully use. Subjecting dietary supplement producers to Maryland's EPR recycled content mandates would layer state obligations on top of an already robust federal regime – creating potential conflicts that could force manufacturers to choose between state compliance and federal law.

The FDA's prohibition on post-consumer recycled materials in primary pharmaceutical and dietary supplement packaging is absolute and non-negotiable. FDA guidance explicitly states that "postconsumer recycled plastic should not be used in the manufacture of a primary packaging component." This prohibition directly satisfies the statutory test under Maryland's EPR law: federal regulations do preclude packaging modifications that would increase recyclability through recycled content use. Requiring PCR content under Maryland's EPR framework would therefore place supplement manufacturers in an untenable position – comply with state law and risk violating federal standards, or comply with federal law and face state penalties.

These are not theoretical concerns. Primary, secondary, and tertiary packaging for dietary supplements must ensure:

- Product stability and shelf life;
- Prevention of contamination or adulteration;
- Maintenance of efficacy;
- Compliance with tamper-evident requirements; and
- Protection from chemical migration.

Manufacturers who comply with these federal requirements would face ongoing financial penalties under Maryland's EPR program – not because they chose less sustainable packaging, but because federal law prohibits the alternatives. This outcome is plainly inconsistent with the Legislature's intent when it specifically directed the Department to evaluate whether federal requirements "preclude or significantly diminish" packaging modifications. Where federal law speaks as clearly as it does here, the exemption is not merely appropriate – it is required.

Not Exempting Dietary Supplements Creates Inconsistent Treatment of FDA-Regulated Products

Under current law, packaging for FDA-regulated drugs and medical devices is already exempt from Maryland's EPR program. There is no rational basis for treating dietary supplements differently. Like drugs and medical devices, dietary supplements are subject to comprehensive FDA oversight – including manufacturing, labeling, and packaging requirements. Excluding dietary supplements from the exemption creates an arbitrary and inconsistent regulatory distinction among products that share the same federal regulatory framework. SB 926 would restore the uniformity and logical consistency that was the original intent of the 2025 legislation.

Many Dietary Supplements Require Specialized Packaging to Maintain Safety and Efficacy

The technical packaging requirements for dietary supplements are not incidental – they are essential to product integrity. Many supplements require highly specialized packaging materials and designs to preserve their safety and efficacy. For example:

- Omega-3 products require packaging that limits light and oxygen exposure to prevent oxidation and rancidity.
- Probiotics require moisture-resistant, airtight containers to preserve the viability and potency of live cultures.

Mandating specific recycled content levels could restrict manufacturers' ability to use packaging materials that meet these critical technical performance standards. The consequences could include product degradation, safety concerns, recalls, and a significant erosion of consumer confidence – outcomes that serve no one's interest.

An Exemption Would Promote Multistate Regulatory Uniformity

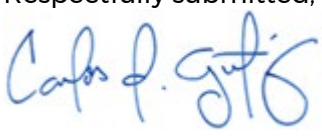
Other states that have enacted EPR packaging legislation have generally exempted packaging for all FDA-regulated products, including dietary supplements. Aligning Maryland's law with these frameworks would reduce the compliance burden on manufacturers who operate across multiple states and promote a more consistent national regulatory environment. SB 926 is a straightforward correction that puts Maryland in step with other leading states on this issue.

Conclusion

SB 926 is a targeted, commonsense correction to an inadvertent omission in Maryland's EPR packaging law. It would restore the intended exemption for dietary supplement packaging, prevent conflicts with federal law, eliminate arbitrary disparities among FDA regulated products, and protect consumers' access to safe and effective dietary supplements. CHPA strongly urges the Committee to support this bill and advance it to the Senate floor for passage.

We appreciate the Committee's attention to this important matter. Please do not hesitate to contact us if we can provide any additional information or assistance.

Respectfully submitted,



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