

Senate Finance

05/04/2022 01:30 PM

HB22-1355 Producer Responsibility Program For Recycling

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Timothy Broderick For Boulder County Government	<p>Chair, Members of the Committee, thank you for the opportunity to provide written testimony in support of HB 1355 Producer Responsibility Program for Statewide Recycling. My name is Tim Broderick, and I am writing on behalf of Boulder County and as a board member of Recycle Colorado as a sustainability professional to testify in support of HB 1355.</p> <p>This important bill will save Colorado residents, businesses, and local governments money while advancing Colorado’s sustainability and climate goals. As a local government that has prioritized protecting our environment and increasing our recycling rates, Boulder County supports HB22-1355 as it:</p> <ul style="list-style-type: none">• Ensures Coloradans do not subsidize companies’ business practices through their pocketbooks or pollution. HB22-1355 would require producers to start funding the cleanup of their materials, rather than putting the burden on consumers or the state. This would support Colorado businesses by creating a more resilient domestic supply of raw materials.• Develops infrastructure, incentives, and programs for a more circular economy.• Reduces Greenhouse Gas Emissions: For example, Boulder County every year emits an estimated 245,000 MTCO₂e from the landfill due to the lack of recycling access and economically viable end markets for both recyclable and organic materials. If these materials were recycled and composted it would be the equivalent to taking 50,000 passenger cars off the road each year.• Includes key stakeholders in guiding implementation: The producer responsibility policy and advisory board created by HB22-1355 would create the mechanism to guide implementation.• Increases our state’s recycling rate: Colorado’s recycling rate is 15%, less than half of the nationwide rate of 32%. The state has a responsibility to turn this low recycling rate around and become a national leader. <p>Please help us teach, educate, and model for our youth and all Coloradans while improving Colorado’s recycling rate. For all these reasons, Boulder County strongly supports the passage of HB 1355 and respectfully requests your yes vote on this bill.</p>



1111 19th Street NW > Suite 402 > Washington, DC 20036
t 202.872.5955 f 202.872.9354 www.aham.org

TESTIMONY

Jacob Cassady
Director, Government Relations

On Behalf of
The Association of Home Appliance Manufacturers

Before the Colorado Senate
Finance Committee

HEARING

HB22-1355:
Extended Producer Responsibility for Packaging

May 4, 2022

Chair Gonzales, Vice-Chair Winter and members of the Senate Finance Committee, HB22-1355 would establish a system of addressing packaging waste and recycling in Colorado. For the reasons outlined below, the Association of Home Appliance Manufacturers (AHAM) is strongly opposed to HB22-1355 but is willing and committed to work with you on proven solutions that are effective.

AHAM represents more than 150 member companies that manufacture 90% of the major, portable and floor care appliances shipped for sale in the U.S. Home appliances are the heart of the home, and AHAM members provide safe, innovative, sustainable and efficient products that enhance consumers' lives.

The home appliance industry is a significant segment of the economy, measured by the contributions of home appliance manufacturers, wholesalers, and retailers to the U.S. economy. In all, the industry drives nearly \$200 billion in economic output throughout the U.S. and manufactures products with a factory shipment value of more than \$50 billion.

In Colorado, the home appliance industry is a significant and critical segment of the economy. The total economic impact of the home appliance industry to Colorado is \$1.7 billion, nearly 12,000 direct and indirect jobs, \$260.9 million in state tax revenue and more than \$610.5 million in wages.

HB22-1355 would require a stewardship organization to implement and manage a packaging stewardship program for the recovery of all packaging materials, which will penalize all packaging materials and consumer goods while not addressing the environmental and social impact of plastic packaging. Assigning costs to all packaging material does not solve the primary problem of plastic waste and provides a disincentive to transition to non-plastic packaging.

The home appliance industry takes its responsibility to provide solutions to help reduce waste seriously. Manufacturers continue to evaluate and research more sustainable alternatives for product packaging. The industry regularly collaborates with environmental advocates and policymakers to achieve goals like greater appliance efficiency. Current all-material packaging EPR programs essentially just fund the status quo, expensive and complex. AHAM supports solutions that are simple, effective and efficient.

Approach Would Negatively Impact the Recycling System in Colorado

In 2016, Connecticut established a Task Force to Study Methods for Reducing Consumer Packaging that Generates Solid Waste, which included a review of EPR. The Task Force released its recommendations in February 2018 after a year of stakeholder meetings, expert testimony, and public comments. The final recommendations did not recommend product stewardship as a means of reducing consumer packaging that generates solid waste with concerns over the creation of a recycling monopoly through a product stewardship organization, pushing Colorado recycling firms out of business and forcing higher costs on the collection and recycling system as a whole.

EPR is Not a Proven Solution to Waste Management Challenges

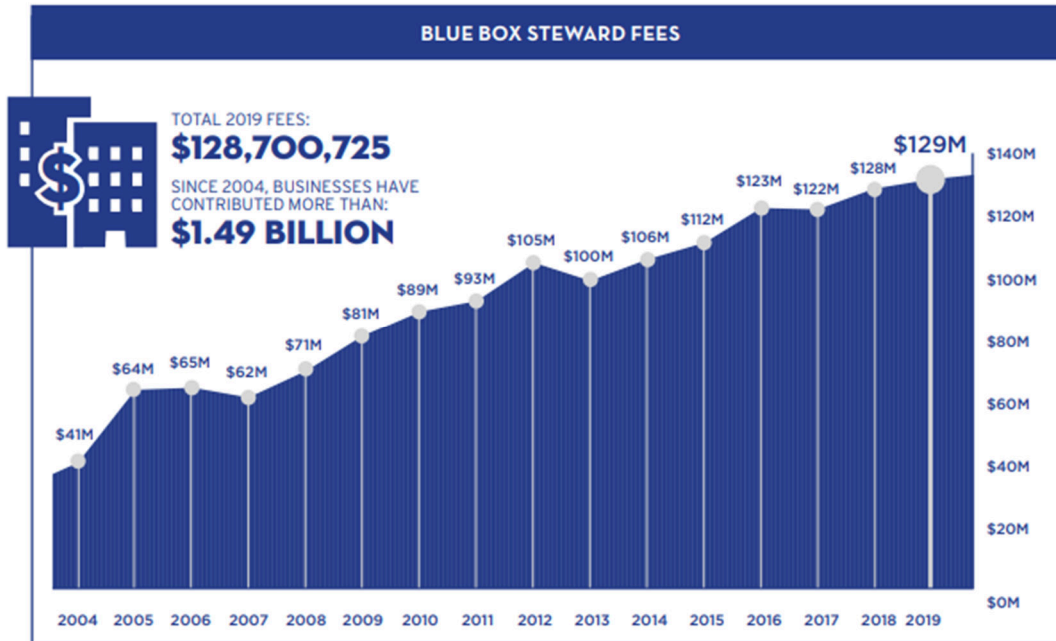
AHAM understands that the intent of this legislation is to manage packaging in the state. While this bill's result would likely reduce costs to municipalities, it would increase costs for its residents and create little to no changes in how municipalities deal with recycling and waste. In practice, where these programs have been adopted in other countries, the municipalities or other solid waste and recycling entities continue to charge the public the same amount for their services as they did prior to implementation of an EPR program and the public pays more for products. Therefore, there is no actual "shift" in financial responsibility to the producer. Instead, absent any offsetting reductions in their municipal solid waste and recycling fees, consumers are caught in the middle and wind up paying more. To make matters worse, the ever-increasing costs from EPR programs actually create a disincentive for achieving greater energy savings and other potential benefits. The cost increase from EPR could deter consumers from purchasing new appliances, which are more energy and water efficient, and more sustainable.

In addition, EPR attempts to insert a product manufacturer into the recycling stream, but the manufacturer has limited ability to influence consumer behavior regarding recycling or to change municipal waste policies that can drive greater recycling. In reality, EPR often results in hidden new costs to consumers that are by and large used to pay for the operation of a stewardship organization, substantial manufacturer compliance and reporting costs, and the government agency that is providing oversight.

In Canada, "EPR" packaging programs exist in various provinces, with manufacturers having to comply with each program that varies in scope. This is very costly to both manufacturers and to residents and has shown to be ineffective in improving recycling rates or achieving any of the recycling targets that are set. Ontario and British Columbia (B.C.) have two of the more recognized programs. In Ontario, program costs have increased on average 8% per year and have tripled since its inception (see below).¹ In B.C., the program costs are 28.5 percent higher since 2014 (average annual increase of 5.2 percent).²

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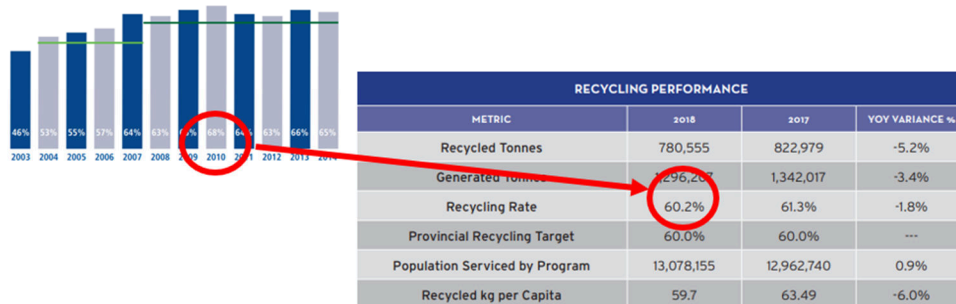
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-Stewardship Ontario 2020 Report

While the program costs skyrocket, the recovery rate is worse. In Ontario’s program materials recovery rate decreased from 68 percent to 60 percent (see below) and B.C’s has decreased by 2.4 percent. And to be clear, this is not even “recycling rate,” but “recovery rate,” which measures the reported amount of materials into the system compared to the amount collected.

Recovery Rate **decreased** from 68% in 2010 to 60.2% in 2018



Recycle BC and Stewardship Ontario are the only package recycling programs approved by each province’s Government, and as a result all obligated parties must adhere to their strict rules and regulations. This includes local processors and recyclers of materials, which if these programs choose not to do business with them, they will be out of business.³

³ Note, Stewardship Ontario is currently winding down its program to restart under a new Ontario Authority, which aims to shift program costs completely to obligated parties

Institutional, Commercial and Industrial (IC&I) Streams and Service Parts Not Exempted

Typically, when a new appliance is delivered and installed, the company delivering the appliance removes the packaging and takes it away for recycling. Through the business-to-business channel, materials are recycled and discarded accordingly, without placing a burden on municipal waste and recycling systems. The inclusion of Institutional, Commercial and Industrial (IC&I) would create significant unfairness and cross-subsidization between manufacturers. It also would create significant additional complexity and cannot be tracked by manufacturers on a unit level basis. For example, stretch wrap applied to a pallet of small appliances may be applied by a third party at a distribution center or after the manufacturing process, and service parts shipped to a service provider may sometimes be packaged individually and sometimes with multiple parts. The variability of packaging related to IC&I and service parts would add major complexity to manufacturer compliance requirements, ultimately raising costs for Colorado consumers. In addition, material collected in business-to-business transactions have less contamination, which makes recycling easier. Placing this material in the more contaminated “blue box” recycling stream is lowering the recyclability of this material.

Producers May Not Have Data on Where Products Are Ultimately Sold and Used

Producers of products that are sold through national and even US-Canada distribution chains do not have control or information pertaining to how products move through various distribution and retail networks. For example, an appliance manufacturer that ships products to a distribution center likely is unable to determine the location of final product sale and use. In such situations, a producer would only be able to report on products shipped to a distribution center, which could be regionally based inside or outside of Colorado. This also would be a major disincentive for maintaining and locating new distribution facilities in the state of Colorado and could lead to sales data that does not accurately reflect what is sold to Colorado consumers.

Conclusion

AHAM appreciates the opportunity to provide comments on HB22-1355. Manufacturers of consumer products need flexibility in choosing appropriate materials for packaging their products to avoid situations that cause product breakage and damage during transport (which ultimately increases the lifecycle impact of the product) as well as to deter theft of smaller, high value electronics from retail establishments. An EPR program would increase costs for the industry thereby limiting the available resources for companies to invest in innovative and sustainable packaging solutions. The current system for appliances and appliance packaging works, and it should be allowed to continue on its successful path. Please AHAM’s Principles to Manage Packaging, which guide our advocacy as we address packaging in the waste stream and the recycling system design. For future reference, my contact information is (202) 202.872.5955 x327 or via electronic mail at jcassady@aham.org.

Policy Position

AHAM's 8 Key Principles to Manage Packaging

Background

The appliance industry recognizes the problems associated with pollution from packaging materials, and is making efforts to reduce the environmental impact of its product packaging.

Multiple stakeholders including state, local and federal governments must come together and identify responsible policy solutions that address this important environmental matter and recognize the role that manufacturers and businesses play in the delivery of consumer goods. The appliance industry provides the following 8 key principles to address packaging in the waste stream and the recycling system design.

Principles That Address Materials in the Waste Stream

1. Source Reduction Requirements Should be Realistic and Consider Whether Packaging Alternatives Are Adequate

Requirements to use alternatives to existing packaging materials or material source reduction involve tradeoffs. There are already inherent financial incentives for manufacturers to reduce costs and amounts of packaging because their intent is to sell the product, not its package. At the same time, packaging must be robust enough to protect the product adequately. For example, polystyrene is an important component in packaging. The material is very effective because it is light, resilient, and withstands all climates, even very high humidity. Replacing polystyrene with a material such as corrugated cardboard may result in safety concerns and increased product damage because cardboard is unable to maintain its structural integrity in high humidity. Cardboard also makes the packaging larger, which increases GHG emissions because more truckloads are needed to deliver the same number of products. Similarly, no alternative exists for protective plastic film, which protects stainless steel surfaces and electronic displays on appliances. Furthermore, vague language for source reduction mandates, such as “to the maximum extent feasible,” are impossible to demonstrate and create compliance uncertainty.

2. There Are Fundamental Differences Between Consumer-Facing Packaging and Non-Consumer Facing Packaging

Non-consumer facing packaging (often called transport or tertiary packaging) and household recycling streams that handle largely consumer facing or point-of-purchase packaging (common terms also include primary, sales, grouped, or secondary packaging), require separate policy frameworks. Large appliances generally operate within highly streamlined packaging waste management streams with high material recovery for tertiary packaging. Companies have an inherent financial incentive to cut costs and many have internal sustainability goals. Because tertiary packaging waste streams generally have less contamination across waste types, mixing tertiary waste streams with primary or secondary waste streams increases the system's complexity, makes compliance difficult, and creates more contaminated streams. Decreased recycling is the result. Furthermore, inclusion of tertiary packaging forces significant subsidization of residential programs, which is unfair for businesses that already manage and pay for tertiary packaging recycling independent of municipal recycling programs.

Principles That Address Recycling System Design

3. If EPR, then Real EPR

Extended Producer Responsibility (EPR) is a policy approach where the responsibility for the recycling and/or disposal of post-consumer products lies with producers, but if producers are responsible, then their involvement should not be limited to merely subsidizing inefficient recovery and recycling programs. The decisions behind producers selecting efficient and effective partners must be proportional to the financial contribution. If producers are responsible for all of the costs to dispose/recycle in a given jurisdiction, then producers must have the ability to exercise proper oversight without being required to give preferential treatment to existing partners, collectors, or municipal programs during the EPR program's design and implementation.

4. Recycling Infrastructure Is Inadequate

The United States lacks sufficient recycling capabilities to meet current needs. Any program that sets mandates on recycling must also address the shortfall in capabilities where the recycling would actually take place. Many types of packaging materials are recyclable today, and increased infrastructure will support increased recycling rates and markets for their re-use.

5. Responsibility for Recycling Requirements Must Be Based on Who Has Authority, And Targets Must Be Fair and Realistic

Responsibility for meeting recycling requirements belongs with those entities who have authority to achieve the requirements. Assigning responsibility without authority is dysfunctional. In addition, recycling targets must be realistic and based on step-level improvement in infrastructure capability, with adequate time given to regulated entities for meeting established targets. Fair and realistic targets also require clear definitions for terms such as "compostable," "recycling," "recycled," or "recyclable."

6. Post-Consumer Content Requirements Must be Realistic

Post-consumer content requirements must not degrade packaging quality, performance, and safety, or lead to burdensome cost increases. Increasing the amount of post-consumer content in packaging materials requires an adequate market to incentivize use of these materials. The current market does not support adequate supply or quality of many recycled packaging materials.

7. Harmonize Recycling Policies so People Clearly Understand What to Recycle and How

Consumer confusion is rampant on how and what to recycle because existing recycling programs vary across jurisdictions. An effective recycling program relies on volume, which means municipalities must harmonize recycling policies and increase consumer involvement. Standards useful to this harmonization process are under development, containing methodologies to assess both recycling facilities and recyclable materials.

8. Implement Pay-As-You-Throw and Enforce Consumer Recycling Requirements

Data from jurisdictions in San Francisco and Europe show that consumer financial incentives are necessary to achieve ambitious recycling targets. Pay-As-You-Throw or mandatory recycling policies must be part of a comprehensive plan.

AHAM Position

AHAM recognizes the importance of finding solutions on this important environmental issue. The appliance industry will consider supporting legislative and regulatory packages that are consistent with the above stated principles.

December 5, 2019

April 6, 2022

Honorable Alex Valdez, Chair
House Committee on Energy and Environment
200 East 14th Avenue Room A
Denver, CO 80203

RE: House Bill 22-HB1355 (Cutter) - Extended Producer Responsibility - Oppose

Dear Chair Valdez and Members of the Committee on Energy & Environment:

On behalf of the Household & Commercial Products Association (HCPA)¹, I respectfully oppose HB 22-1355, which seeks to establish an Extended Producer Responsibility (EPR) program.

HCPA has worked with legislatures across the country in response to product stewardship proposals. Our member companies are working to achieve goals made to improve the design of packaging through source reduction, improved recyclability, and increased recycled content. Accordingly, HCPA supports materials management policies that improve fractured recycling systems, and programs that embrace a shared responsibility across the packaging value chain to reach a circular system harmonized across state lines. As a member of the Recycling Leadership Council (RLC), HCPA joined consumer facing industry partners and NGOs in a call for action to address plastics in our landfills and the environment. The RLC is striving for circular supply chains that cycle materials through the economy and recently released a Blueprint for America's Recycling System. As such, HCPA is committed to working with Colorado policymakers to achieve a comprehensive solution that bolsters existing recycling infrastructure through standardization for efficient scalable systems, incentivizes materials market development, and provides transparency and accountability in data collection.

HCPA's opposition to the current proposal stems from our standing on shared responsibility, as the burden of progress must be absorbed across the value chain in order to drive innovation and

¹ The Household & Commercial Products Association (HCPA) is the premier trade association representing the interests of companies engaged in the manufacture, formulation, distribution and sale of more than \$180 billion annually in the U.S. of familiar and trusted consumer products that help household and institutional customers create cleaner and healthier environments. HCPA member companies employ hundreds of thousands of people globally. Products HCPA represents include disinfectants that kill germs in homes, hospitals and restaurants; air fresheners, room deodorizers, and candles that eliminate odors; pest management products for home, lawn and garden, and pets; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; aerosol products and a host of other products used every day.

systemic change. Specifically, we are concerned by Sec. 25-17-605(VI)(i) which says: *“Include reimbursement rates for one hundred percent of the net recycling services costs of the recycling services provided by service providers under the program consistent with the requirements of section 25-17-606”*. HCPA believes the provision is contradictory to the declarative clause in Section 25-17-602 (1)(f) which states: *“All parties have the obligation to share in the responsibility to reduce negative impacts of end-of-use management for covered materials...”*

If enacted, the executing language of the bill would impose all costs of the program on producers without regard to necessary incentives, transparency, and accountability measures for all stakeholders. HCPA is concerned that, as drafted, the producer responsibility organization would be responsible for services for businesses, schools, public places, and multifamily housing. This broad scope of responsibility would interfere with commercial recyclers and deviates from what should be a focus on residential recycling. We suggest this matter be further studied to assess the potential impact on improving the state’s recycling system, focusing resources, and strengthening materials markets.

Furthermore, HCPA is concerned that producers who are responsible for fees, collection, and program execution are excluded from the statewide recycling advisory board. Additionally, the advisory board would have outsized influence over key decisions, such as determining post-consumer recycled content requirements, which must be based on the capacity of the national recycling system and material availability. Manufacturers and formulators of products in scope of this bill are important subject matter experts and must be represented on the advisory board.

We believe there are other technical issues to be addressed, including sequential timing and order of fee due dates, plan submission and approval, and the effective date of product sales prohibition without program participation. HCPA thanks the author for the unique considerations related to Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and believes this language could benefit from minor changes for clarity.

For these reasons, HPCA respectfully opposes HB 22-1355 and welcomes any opportunity to further discuss these concerns.

Sincerely,



Christopher Finarelli
Director, State Government Relations & Public Policy - Western Region



1111 19th Street NW > Suite 402 > Washington, DC 20036
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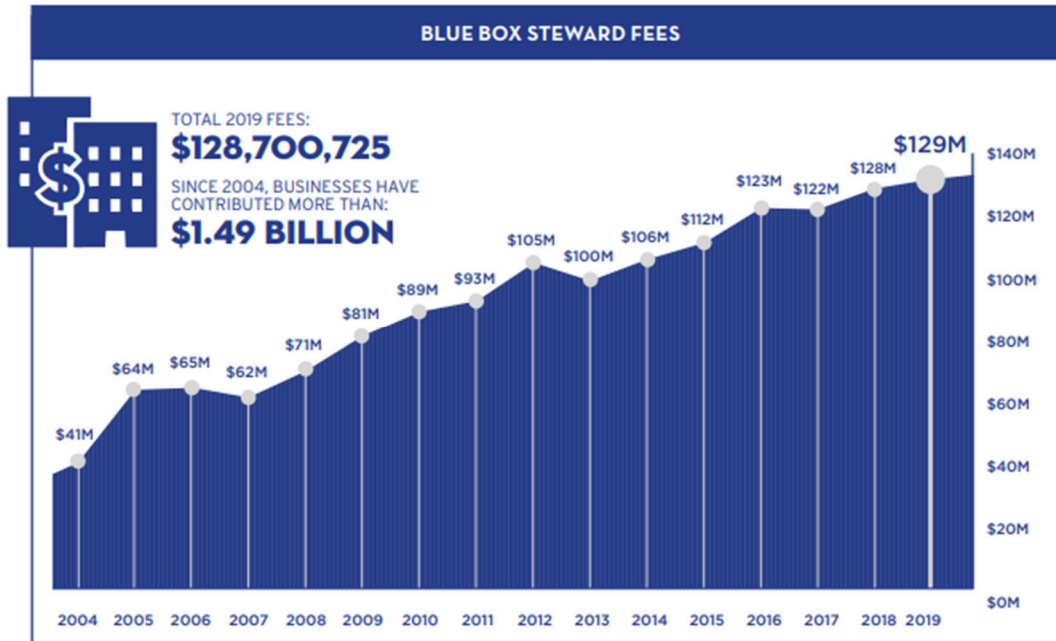
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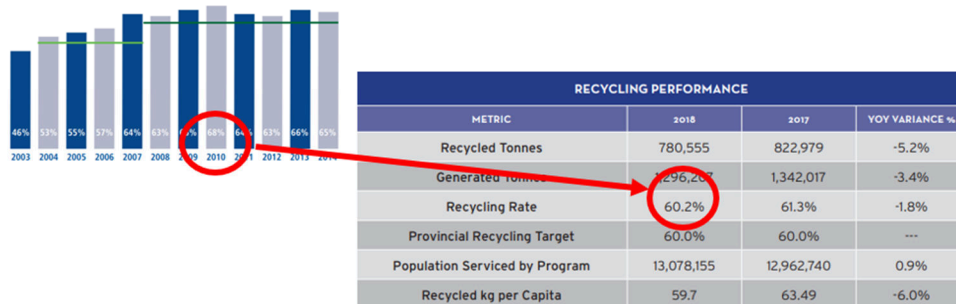
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5. Responsibility for Recycling Requirements Must Be Based on Who Has Authority, And Targets Must Be Fair and Realistic

Responsibility for meeting recycling requirements belongs with those entities who have authority to achieve the requirements. Assigning responsibility without authority is dysfunctional. In addition, recycling targets must be realistic and based on step-level improvement in infrastructure capability, with adequate time given to regulated entities for meeting established targets. Fair and realistic targets also require clear definitions for terms such as "compostable," "recycling," "recycled," or "recyclable."

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AHAM Position

AHAM recognizes the importance of finding solutions on this important environmental issue. The appliance industry will consider supporting legislative and regulatory packages that are consistent with the above stated principles.

December 5, 2019

Testimony of Bree Dietly to the Senate Finance Committee in Support of House Bill 22-1355: Producer Responsibility Program for Recycling

May 4, 2022

Dear Chair Gonzales, Vice-Chair Winter, and Committee Members:

My name is Bree Dietly, and I am a Principal at Breezeway Consulting in Somerville, Massachusetts. I am writing on behalf of the Colorado Beverage Association and the American Beverage Association. I appreciate the opportunity to present written testimony to supplement my remote testimony in support of House Bill 22-1355, a producer responsibility program for recycling.

I would like to acknowledge the Chair and Senator Priola for sponsoring this important legislation. Senator Priola was a member of the Zero Waste and Recycling Interim Study Committee, and back in 2019 I spoke at length to the Committee about our industry's policy approaches and principles. I am impressed that you have made this kind of progress toward a strong, producer responsibility model for packaging and paper, so I offer my congratulations to the many stakeholders who worked to shape this bill, which we view as a model for other states to follow.

Our Employees and Our Commitments

The Colorado Beverage Association represents manufacturers, distributors, and suppliers to the refreshment beverage industry in the state and the American Beverage Association is its national counterpart. Our industry provides jobs to over 3500 Coloradans; these jobs are some of the best paid, highest benefit jobs available in communities to employees with and without college degrees, and many of them are union jobs. We are proud of our employees and how they and the companies they work for are involved in and give back to our communities.

The beverage industry plays an important role in advancing the circular economy. Our packaging is specifically designed and optimized for recycling. In particular, our PET bottles and aluminum cans are 100% recyclable, have a high commodity value and, when collected and recycled, can become new bottles and cans. The industry also has invested in local and regional recycling infrastructure for more than 40 years.

The companies have also made commitments to collect and recycle packaging waste, to incorporate more recycled content into our PET bottles and to reduce the amount of new plastic in our bottles. We are working to get every bottle back to meet these ambitious goals and support a circular economy for our beverage containers.

The industry's Every Bottle Back program announced in late 2019 asserted ABA's commitment to reduce new plastic use and increase collection of their valuable bottles. The program, launched by The Coca-Cola Company, Keurig Dr Pepper, and PepsiCo, represents collaboration among competitors to support the circular plastics economy by reinforcing to consumers the value of their 100 percent recyclable plastic bottles and caps and ensuring they don't end up as

waste in oceans, rivers, or landfills. We are executing this program in conjunction with two of the country's most prominent environmental nonprofits and the leading investment firm focused on the development of the circular economy. More information can be found at <https://www.innovationnaturally.org/plastic/>.

Advocacy for Better Collection Policies

The beverage industry supports Extended Producer Responsibility (EPR) as a means of funding recycling collection programs that are effective, efficient, and convenient for consumers. We developed a set of producer responsibility principles based on best-in-class EPR systems and we are working to advocate for systems based on these principles across the country. The overarching principles behind our approach are to:

- Generate strong environmental outcomes in an efficient, transparent, and accountable manner
- Provide convenient service to consumers
- Create a financially sustainable model that producers fully fund and manage
- Offer producers access to recovered material for closed loop recycling

The beverage industry is taking an active role in advocating for EPR laws for packaging and printed paper that are well-designed, follow best practices, and can produce the kinds of improvements in recycling and markets that are necessary to create a circular economy. We are engaged in several states across the country, collaborating with stakeholders and legislators to shape this legislation: it is a top priority for our industry.

Support for HB 22-1135

This bill is the strongest and most promising EPR bill introduced in the US this year. We support the bill because it reflects the principles common to the most successful EPR programs for packaging and paper around the world. The bill is comprehensive; well thought-out; reflective of Colorado's varied demographics, geography, and markets; and responsive to the concerns of a wide range of stakeholders whose input is reflected in the legislation before you.

Strong Environmental Outcomes

- The producers' plan of action is informed by a detailed assessment of needs and gaps in recycling access, infrastructure, and educational resources.
- Producers are then held to performance targets for three critical factors: collection (what is picked up), recycling (what makes it to market), and recycled content (what makes it back into new products).
- Annual reporting on progress and opportunities for mid-course correction and plan adjustment lead to transparency and accountability critical to program success.
- Producers' incentives to meet these targets are reinforced by the need to meet their own recycled content commitments and legal requirements in other states.

Convenient Access

- Many Coloradans lack access to recycling where they live. Communities that only offer subscription recycling have very low participation rates, many multi-family residents have no access at all, and public space recycling is spotty at best.
- HB 22-1135 addresses these gaps, and not only provides needed capital to bring access to those residents, but will support operating costs, provide promotion and education resources, and invest in the capacity to process the material efficiently for end markets.
- Without coordinated efforts and funding, these hurdles will not be overcome.

Financially Sustainable

- EPR system governance is critical to the success of these programs, operationally and financially. HB 22-1135 replicates the best practices of funding system design from similar programs around the world.
- Producer dues support the needs assessment, administration (by the organization and the state), capital costs, and operating costs, varying dues to match funding needs.
- Further, the funding mechanism reinforces environmental outcomes by setting dues to reflect the amount of material sold, the net costs to recycle it, and then eco-modulation factors to incentivize desirably environmental and recycling characteristics of covered material and discourage use of problematic materials and designs.
- Finally, service providers who collect and process material will either contract with the organization to provide services or receive reimbursement based on costs to provide services in similar communities.
- The large infusion of new funding for recycling creates enormous economic development and expansion opportunities for hauling companies, processors, and others in the recycling supply chain.

Circularity

- Ultimately, we are all seeking to rely more on the resources we already have, rather than extracting more virgin materials to make products. Our companies' packaging is designed as it is, using the materials it does, to help close that loop: our cans and PET are valuable and recyclable.
- Our industry recognizes that it is time for public policy to help support that circular economy and make producer responsibility a reality.
- A well-designed, well-managed EPR system for packaging will help us get back the material we need to meet our targets, reduce use of virgin materials, and spur the economic engine that is recycling.

Conclusion

Colorado is poised to enact model EPR legislation that other states could and should follow. The beverage industry offers its support of HB 22-1135, and we look forward to our continued work with legislators, the executive branch, and stakeholders.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bree Dietly". The signature is fluid and cursive, with a large initial "B" and a long, sweeping tail.

Bree Dietly, Principal
Breezeway Consulting LLC

Testimony Before the Colorado State Senate Finance Committee

May 4, 2022

The Recycling Partnership

Michael Washburn, Senior Policy Advisor

Thank you chair and members of the committee:

My name is Michael Washburn, and I'm Senior Policy Advisor for The Recycling Partnership, a national nonprofit, that collaborates with companies, communities, and policymakers across the country to strengthen public recycling programs. We do this through education, technical assistance, grantmaking, and advancing recycling policy. We believe well-designed policy that strengthens quality recycling is a key ingredient to achieving a circular economy.

Throughout 2020, The Recycling Partnership's policy arm, the Circular Economy Accelerator, managed a stakeholder dialogue process, and convened some of the private sector's largest consumer brands, manufacturers, waste and commodity industries, and materials associations to inform its own policy solution.

The resulting [policy report](#) outlines a shared responsibility model proposing a packaging and printed paper fee paid by private sector brands to support residential recycling infrastructure and education and was endorsed by 18 companies and organizations, including big brands like Mars and Danone and manufacturers like Alpek and the Ball Corporation, who said that policy proposal advances the opportunity for the private sector to act as stewards of the circular economy.

The most successful EPR programs globally are those that empower industry to develop a program to meet a goal and are held accountable to that goal by the state. Legislation that establishes a strong producer responsibility organization (PRO), empowers that PRO to assess needs for the recycling system and develop a plan to address those needs, with CDHPE in the role of regulatory agency, will achieve the strongest results. An advisory committee to CDPHE that represents non-industry stakeholders is important so that the recycling system can reflect other interests and be inclusive of all communities and stakeholders. A successful EPR program in Colorado can mean universal, equitable access to recycling for all in the Centennial state with the burden on packaging producers not taxpayers or local recycling programs.

Some have mistakenly argued that EPR will increase costs for consumers. Various analyses have hypothesized about these impacts. Different economists have different views about the validity of input output models, but regardless of that, those are the wrong tools for evaluating the impact of a compliance cost on pricing. We have looked in every major market around the world where producer responsibility has been implemented and we have not found any credible evidence that compliance fees have affected consumer prices. **Let me repeat that. With thoughtful, well-designed, strong EPR programs globally – outcomes show NO credible evidence of a link between fees and how much consumers pay for products.**

The Recycling Partnership applauds the introduction and supports the passage of [HB-1355](#) and we stand ready to assist by convening stakeholders, providing our expertise around technical issues, and educating about the potential for a well-designed and implemented producer responsibility program to

advance recycling in Colorado, delivering quality manufacturing feedstock for the circular economy in the Centennial State.

Thank you for including me in today's hearing.



GE APPLIANCES
a Haier company

May 3, 2022

Senator Julie Gonzales
Chair, Senate Finance Committee
Via Email: julie.gonzales.senate@state.co.us

LETTER OPPOSING HB 1355

Dear Chair Gonzales:

GE Appliances strongly opposes HB 1355.

Increasing the statewide recycling rate is an important goal and one that we share with you and many Coloradans, but HB 1355 will not help us accomplish this goal. So-called “extended producer responsibility,” or EPR, has proven ineffective in comparable real-life situations.

For example, popular EPR programs have not reduced waste in Canada, even while increasing costs to manufacturers and adding to their regulatory burden. Notably, even many who supported EPR in Canada now acknowledge its shortcomings.

Our company, along with other manufacturers and groups such as the Association of Home Appliance Manufacturers (AHAM), has endorsed an alternative plan under consideration in states like California -- a penny-per-piece fee on single-use plastic packaging. The plan ensures that all single-use plastic packaging is reusable, refillable or compostable by 2030.

Our alternative is not only less burdensome and expensive for manufacturers, retailers, and others, it actually reduces single-use plastic waste.

Thank you for your consideration of this urgent matter. GE Appliances takes its responsibility to help reduce waste seriously. As we evaluate and research more sustainable alternatives for product packaging, we urge policymakers to support proven, workable waste reduction solutions.

Warmest regards,

A handwritten signature in black ink, appearing to read "Eric Criss".

Eric Criss
Director, Government Relations
eric.criss@geappliances.com
850.491.3903



May 4, 2022

Senator Julie Gonzalez
Chair, Senate Finance Committee
Old Supreme Court
Denver, CO 80203

Dear Chairman Valdez,

On behalf of the members of the Plastics Industry Association, I write to respectfully oppose House Bill 1355, a proposal to create a Producer Responsibility Program for Recycling.

The Plastics Industry Association represents manufacturers across the recycling supply chain including material suppliers, equipment manufacturers, plastic processors, and recyclers. With more than 8,500 Coloradans employed in the plastics industry, we are concerned about the negative impacts HB1355 will have on our workers.

This legislation, as written is overly complex, confusing, and will be very costly. At a time when consumers are already dealing with record high inflation, adding higher costs to everyday items at stores, restaurants, and pretty much any other retail establishment is the wrong thing to do.

While we understand and agree with the goal of modernizing and expanding recycling infrastructure in Colorado, HB1335 isn't the right way to do it. The lack of guardrails on the costs could result in runaway spending. The unlimited taxing authority that would be given to a massive new nonprofit organization (PRO) is unprecedented and very problematic. The definition of producer is unworkable and places requirements on manufacturers who won't have access to the required information.

Make no mistake, this is a significant fee. Without the necessary guardrails in place to ensure that there is truly an efficient and effective extended producer responsibility program, this legislation is likely to result in significant burdens placed on Colorado businesses and consumers.

We urge the committee to continue working on HB 1355 and avoid rushing it through before the end of session.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt Seaholm", is written over a light blue horizontal line.

Matt Seaholm
President and Chief Executive Officer
Plastics Industry Association



Colorado 73rd General Assembly
Second Session
Senate Finance Committee
Testimony in Opposition of HB 22-1355 – Producer Responsibility Program
May 4, 2022

Dear Chair Gonzalez, Vice Chair Winter, and Members of the Senate Finance Committee:

I am the Central States Counsel for Wine Institute, a public policy trade association comprised of roughly 1,000 California wineries and affiliated businesses. We are the only U.S. organization advocating for wine at the state, federal, and international levels. Wine Institute members are committed to sustainability with an impressive 80% of California’s total wine production certified under a statewide sustainable winegrowing program. Our sustainability program encourages the use of products with recycled content, reusability, takeback or recyclable packaging, and non-toxic materials. Because of that, we support the objective of increasing recycling in Colorado. However, we have serious concerns about the producer responsibility program in HB 1355, first with the lack of predictable fees required of producers, and second with the lack of actual shared responsibility with consumers.

Despite the good intentions of HB 1355, Wine Institute cannot support a program that has no clear cost associated with it. A needs assessment should be performed by the State to first determine the cost of a statewide recycling program state (as in HB 1159), and the cost of this should not fall on the producers. Without a needs assessment, wineries around the world have no idea how much this EPR program will cost them individually, which is quite frightening. And with the “dues” largely based on the weight of the covered material, wineries are even more concerned. Glass is heavy, and as any wine drinker knows, wine bottles are heavy. Thus, the program presents to us a possibility of a huge expense by wineries alone. This does not even include the packaging for wine shipments, which generally includes cardboard, other paper-based products, and often Styrofoam, all of which are included in covered materials.

I hope that the committee can understand our wineries’ fear of being forced into a program that requires a payment for which we have no idea what the cost will be. And despite what has been said, with all that California wineries have faced in the past few years – like fires, a pandemic, etc. – wineries are not in a position to absorb the cost of this EPR program. They will have no choice but to pass the cost onto consumers in a time of high inflation. Additionally, the cost associated with the program will undoubtedly keep certain smaller wineries from selling their wines into Colorado, thereby reducing the choice of wines for Colorado citizens.

Second, programs such as the one proposed have worked in other countries because they have required shared responsibility between both producers AND the consumers. While producers pay into a PRO, like the one proposed, consumers in successful EPR programs also have a responsibility, taken in forms such as “pay as you throw” or “tipping fees” or a non-refundable “eco-fee,” similar to the PaintCare fee already in place in Colorado. HB 1355 has none of these. Basically, it has no consumer responsibility at all, which puts the entire onus of the program on the producers. With no consumer responsibility or consumer incentive, is there even a guarantee that consumers will actually recycle?

For these reasons, as well as the legal problems associated with the proposed EPR program, Wine Institute urges the Committee to vote against the legislation and seek a better way to clearly and equitably increase recycling in the State of Colorado. Unfortunately, HB 1355 as written is not the way.

Thank you for your time and consideration,

Tyler Rudd
Central States Counsel
Wine Institute
TRudd@wineinstitute.org
(512) 293-0247



HB 22-1355 –The Enhanced Producer Responsibility Tax

Position: OPPOSED

The National Federation of Independent Business is a 78-year-old, Not for Profit membership organization with approximately 300,000 dues paying members nationally and dedicated to making it possible for every individual to own, operate and grow their business free from over regulation by government. Our membership is comprised of small and independent businesses whose has an average of 5-9 employees.

House bill 22-1355 will raise prices on every packaged consumer good at a time of dramatic inflation. Small businesses and small manufacturers will be unable to compete with foreign, non-Colorado based businesses. In addition, should Hb 22-1355 pass it is surely guaranteed to result in a multitude of lawsuits. A recent legal opinion stated 22-1355 is unconstitutional on multiple counts.

Sponsors and proponents cannot show one state that has passed EPR in its current form or implemented a similar law. Last year, an EPR proposal in NY was independently analyzed by York University. Using New York and Canadian data, the study estimated a typical “basket of goods” would see costs increase by 4-6% **if the bill had passed.**

Cost estimates for programs such as the one 22-1355 proposes to institute would easily be in the hundreds of millions of dollars. The most analogous program in existence is the Quebec model. That program costs over \$233 million a year, and only reimburses existing municipal recyclers.

A medium-sized craft brewer in Colorado could pay \$50,000 a year or more to comply with the requirements in 22-1355. Hb 22-1355 is an unjustifiable mandate on Colorado industry.

Hb 22-1355 requires that any entity create and join a new nonprofit (PRO) with unlimited taxing authority and no Sunshine requirements by June of next year. That PRO must conduct recurring needs assessments, make and remake statewide recycling plans, create a list of recyclable materials, produce extensive reports, reimburse existing recyclers, provide new recycling services where none exist, build new recycling infrastructure, fund composting facilities, etc. This is a massive, new, bureaucratic private nonprofit that can enrich itself while costing Colorado businesses literally hundreds of millions of dollars a year, while doing nothing to address the real problem - that not enough people recycle even when it's convenient and free.

Please vote NO on 22-1355

Contact: A.F. Tony Gagliardi, 303-831-609