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To: House Committee on Energy & Environmental Protection

From: Cheryl Kakazu Park, Director

Date: February 3, 2022, 9:05 a.m.
State Capitol, Conference Room 325 and Via Videoconference

Re: Testimony on H.B. No. 1684
Relating to Recycling

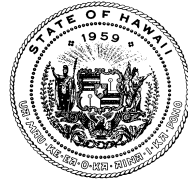
Thank you for the opportunity to submit testimony on this bill, which would establish a packaging stewardship program within the Department of Health (DOH) to reduce the amount of packaging material that becomes solid waste. The Office of Information Practices (OIP) takes no position on the substance of this bill, but offers comments and a proposed amendment to a confidentiality provision on page 48 of the bill.

Proposed section 342G-O, on page 48, would require DOH to keep confidential “[p]roprietary information submitted . . . pursuant to this part . . . that are identified by the submitter as proprietary information.” In other words, the standard to determine whether submitted information is confidential is simply whether the submitter marked it as confidential; there is no objective check on what is marked as proprietary. This would result in uneven treatment of submitted information, and would favor a submitter who marked everything as proprietary over a submitter who made an effort to be more discerning and mark as proprietary only the specific information the submitter was concerned about protecting.

OIP recommends replacing the current language with language referring to the UIPA, which provides an existing standard to determine what information in government records constitutes confidential commercial and financial information or may otherwise be withheld from the public, and requiring DOH to keep information marked as proprietary confidential to the extent permitted by law. Specifically, OIP recommends the following language:

§342G-O Proprietary information. A submitter may mark as proprietary information submitted to the department pursuant to this part or rules adopted thereunder, and the department shall treat that information as confidential to the extent permitted by chapter 92F and other applicable laws.

Thank you for considering OIP's testimony.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on HB1684
RELATING TO RECYCLING**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Hearing Date: 2/3/2022 Room Number: Via Videoconference

1 **Fiscal Implications:** This bill creates a special fund to support the program's annual costs after
2 establishment. However, the Department of Health (Department) estimates that it will need an
3 appropriation by the State Legislature for the initial costs to establish an extended producer
4 responsibility (EPR) program to accomplish HB1684. This includes establishing and funding
5 new positions, overhead, and other common expenses. Implementing this measure will impact
6 the priorities identified in the Governor's Executive Budget Request for the Department of
7 Health's (Department) appropriations and personnel priorities.

8 **Department Testimony:** Packaging waste is a significant pollutant and addressing packaging
9 waste will benefit the State and protect the environment, economy, and public health. Costs to
10 develop and implement solutions to address packaging waste is currently borne by the taxpayers
11 of the State, and HB1684 proposes an innovative solution to require manufacturers and
12 producers be accountable for their packaging decisions.

13 The Department respectfully offers the following comments to this bill:

14 Establishment costs. The Department estimates that it may initially cost approximately
15 \$500,000.00 a year to institute a new program to accomplish this bill, until the new special fund
16 identified in HB1684 is established and producers have remitted sufficient funds for the program
17 to operate without legislative appropriations. This includes personnel costs, including
18 establishing, funding, and ultimately filling approximately ten to twelve positions consisting of:
19 1) a contract specialist to develop the request for proposals, execute the contract, and manage all

1 contract deliverables and reimbursement requests; 2) planners and/or program specialists to
2 review plans and provide guidance to the packaging stewardship organization; 3) enforcement
3 and inspection staff to ensure compliance; 4) accountants to process producer fee payments and
4 manage the program's annual budget; and 5) clerical and administrative staff, including a
5 program supervisor. Funding and filling all these positions can be phased over several years, as
6 enforcement staff will not be necessary at the onset of the program, but personnel will need to be
7 in place to develop administrative rules and initiate the procurement and contract process. This
8 estimate would also include overhead, supplies, and other common expenses, including office
9 lease rents, and miscellaneous professional service and/or other consultant service contract
10 expenses if necessary.

11 Municipal EPR. The Department supports HB2399, a similar EPR bill that directs the
12 Department to manage an EPR program that delegates the implementation of EPR to the
13 counties. Due to the significant differences between counties (i.e., logistical challenges on the
14 Big Island, population density on Oahu, etc.), the Department prefers that solutions to address
15 packaging waste be conducted at the local level. Costs for the Department to implement HB2399
16 are lower because the counties will manage individual programs and be reimbursed by the
17 producers (through disbursements by the Department).

18 The Department is committed to reducing packaging waste in the State and supports
19 efforts to apportion accountability among all responsible parties, including producers.

20 **Offered Amendments:** None

21 Thank you for the opportunity to testify on this measure.

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

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House Committee on Energy & Environmental Protection
Honorable Nicole E. Lowen, Chair
Honorable Lisa Marten, Vice Chair

RE: Testimony Opposing H.B. 1684, Relating to Recycling
Hearing: February 3, 2022 at 9:05 a.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote governmental transparency. Thank you for the opportunity to submit testimony **opposing** the confidentiality provision of **H.B. 1684** as currently drafted.

Proposed section 342G-O provides that a company participating in the anticipated packaging stewardship program would have the power to unilaterally decide what information is kept secret from the people of Hawai'i. The Law Center is not aware of any other provision of the Hawai'i Revised Statutes that permits a for-profit company to hide information relevant to a government program without any authority for a government official to override such purported need for secrecy.

Other models exist that would permit a company to designate information as confidential, but subject to government review. For example, H.B. 2399 (part II, section 7) – also before this Committee today – provides for *more responsible* confidentiality of corporate records related to a similarly proposed program.

Notwithstanding any law to the contrary, financial or proprietary information, including trade secrets, commercial information, and business plans, submitted to the department under this Act shall be confidential and exempt from public disclosure to the extent permitted by chapter 92F, Hawaii Revised Statutes.

For-profit companies should not have sole authority to dictate what government records are kept hidden from the public.

Thank you again for the opportunity to testify in **opposition** to the confidentiality provision of H.B. 1684 as currently drafted.

TO: Committee on Energy & Environmental Protection

FROM: Adrian Hong, President of Island Plastic Bags, Inc.

RE: HB 1684 Relating to Recycling

POSITION: STONGLY OPPOSE

Thank you for the opportunity to submit testimony in strong opposition to HB 1684. My name is Adrian Hong and I am the president of Island Plastic Bags Inc. (IPB), a second-generation, family business in Halawa Valley that manufactures plastic trash liners and recycles plastic scraps. The issue of extended producer responsibility (EPR) should be addressed at the federal level or in coordination with as many states as possible.

Packaging used in Hawaii is created all over the world. The recycling systems in place now and in the future are not and will not be in Hawaii but on the mainland. As are the experts in packaging design and manufacture. This points to a federal or multi-state response. Each state having their own EPR will lead to inefficiencies and higher expenses that do not lead to better environmental outcomes. A federal or multi-state response will have better resources, expertise, leverage, and reach.

Island Plastic Bags is not against the idea of extended producer responsibility. There should be incentives to design packaging so it is easier to recycle and reuse. The company does object to each state having its own EPR. The compliance requirements would be enormous and the outcomes poorer. Thank you for the opportunity to provide testimony in strong opposition to HB 1684. Should you have any questions or comments about my testimony you can contact me by email at ahong@islandplasticbags.com or by phone at 808-484-4046.

Sincerely,

Adrian K. Hong, CPA*

President

Island Plastic Bags, Inc.

www.islandplasticbags.com

Email: ahong@islandplasticbags.com | Phone: 808-484-4046 | Fax: 808-488-8505

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TESTIMONY

Jacob Cassady
Director, Government Relations

On Behalf of
The Association of Home Appliance Manufacturers

Before the Hawaii House of Representatives
Committee on Energy & Environmental Protection

HEARING

HB 1684: Relating to Recycling
HB 2399: Relating to Waste Management

February 3, 2022

Chair Lowen, Vice Chair Martin and members of the Committee, HB 1684 and HB 2399 would establish a system of addressing packaging waste and recycling in Hawaii. We are still reviewing HB 2399, but it is very interesting in its practicality of focusing efforts on the priority waste material. We look forward to discussing HB 2399 in more detail. However, we are strongly opposed to HB 1684, which is based on a concept of EPR we have seen operate unsuccessfully in Canada for more than a decade.

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 Hawaii, the home appliance industry is a significant and critical segment of the economy. The total economic impact of the home appliance industry to Hawaii is \$2.95.2 million, more than 1,070 direct jobs and 1,120 indirect jobs, \$68.8 million in state tax revenue and more than \$100.4 million in wages.

HB 1684 would establish a packaging stewardship program to administer an extended producer responsibility (EPR) program, which would 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. HB 2399 takes a different approach and addresses "fast-moving consumer goods" and their packaging. Solutions to manage packaging waste challenges is complex and a one-size fits all approach does not work. Focusing packaging waste efforts in a priority order makes sense. HB 2399 appears to be consistent with this intent. 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 Hawaii

Hawaii would not be the first state to explore a packaging stewardship program. The state of Connecticut established a Task Force to Study Methods for Reducing Consumer Packaging that Generates Solid Waste in 2016. 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 Connecticut 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

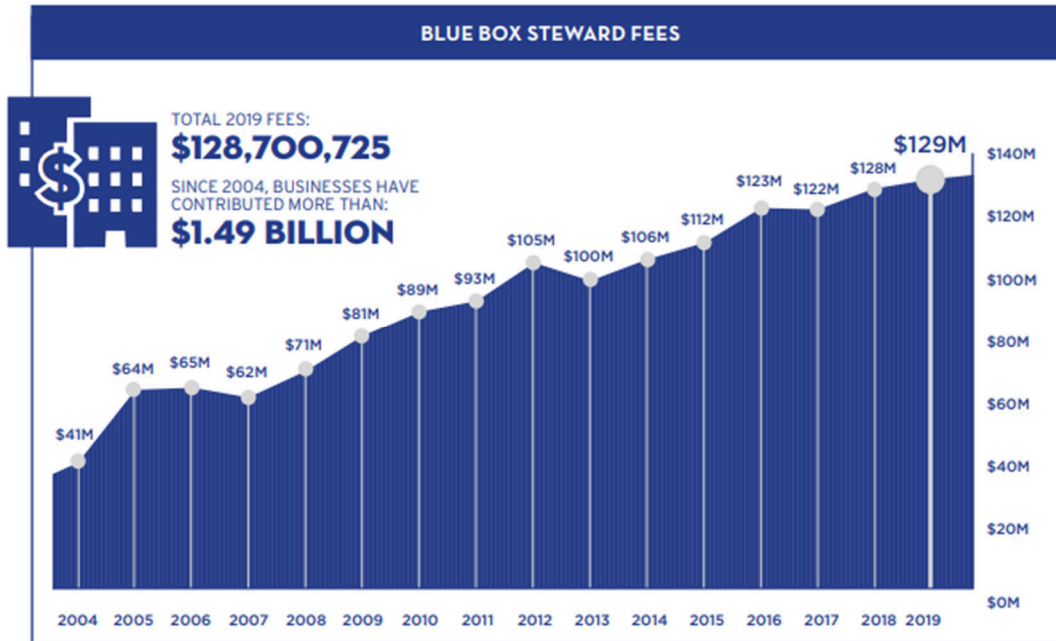
AHAM understands that the intent of this legislation is to manage packaging in the state. While this bill's result would likely reduce costs to municipalities, it would increase costs for its residents and create little to no changes in how municipalities deal with recycling and waste. In practice, where 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

¹ Stewardship Ontario. (2019). 2019 Annual Report. Stewardshpontario.ca

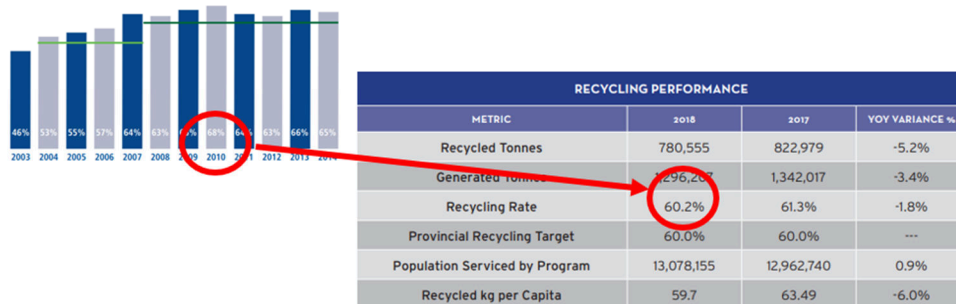
² Recycle BC. (2019) Annual Report 2019. Recyclebc.ca



-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 Hawaii 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 Hawaii. This also would be a major disincentive for maintaining and locating new distribution facilities in the state of Hawaii and could lead to sales data that does not accurately reflect what is sold to Hawaii consumers.

Conclusion

AHAM appreciates the opportunity to provide comments on HB 1684 and HB 2399. 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

February 2, 2022

Representative Nicole E. Lowen
Chair, House Committee on Energy &
Environmental Protection
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Representative Lisa Marten
Vice Chair, House Committee on Energy &
Environmental Protection
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Chair Lowen and Vice Chair Marten,

On behalf of companies that make medicine for animals, I am writing to request a clarification to HB 1684, an act related to recycling, and ask that animal health products not to be subject to the requirements of this bill.

The Animal Health Institute (AHI) is the U.S. trade association for research-based manufacturers of animal health products – the medicines that keep pets and livestock healthy.

The animal health industry is committed to improved sustainability in all facets of the supply chain, including the packaging used to deliver safe products to customers. Many companies have already made changes to reduce unnecessary packing waste, including replacing Styrofoam packing needed to keep vaccines cold with reusable coolers.

Sustainability is one factor among many that animal health companies must consider in the packaging equation. Medical products for animals are required to be sterile or enclosed in packaging with tamper-resistant seals to protect public health. Other factors that must be considered include:

- protection against all adverse external influences that can alter the properties of the product, e.g., moisture, light, oxygen, and temperature variations;
- protection against biological contamination;
- protection against physical damage;
- ability to carry the correct information and identification of the product;
- ability to ensure these requirements are met throughout the whole of the intended shelf-life of the product.

Additionally, depending on the requirements from the governing federal agency, products may be labeled with specific instructions on disposal.

The kind of packaging and the materials used must be chosen in such a way that the packaging itself does not chemically interact with the product through leaching or absorption. Conversely, the packaging must not allow the product to have an adverse effect on the packaging, changing its properties or affecting its protective function.

Animal health products are licensed by three different federal agencies, each with their own unique packaging standards and requirements.

1. Drugs approved by the Food and Drug Administration under the Food, Drug and Cosmetic Act. Sponsors must specify for the agency the materials of construction and packaging used for each product and provide data showing those factors will maintain stability of the product over its shelf life. Consequently, each product has its own unique approved packaging. Changes to product packaging take months of development followed by FDA review and approval.
2. Vaccines and biologics are approved by the US Department of Agriculture under the Virus, Serum, Toxins Act. Manufacturers are required to ensure packaging maintains the integrity of the vaccine, so temperature is a major consideration. Packaging must also accommodate detailed USDA labeling requirements.
3. Flea and tick prevention products are approved by the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act. FIFRA §25(c)(3) authorizes EPA to establish standards with respect to the package, container, or wrapping in which a pesticide or device is enclosed to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated under FIFRA. Additionally, §25(c)(3) requires EPA's CRP standards to be consistent with those established under the Poison Prevention Packaging Act of 1970.

In order for animal health companies to maintain product safety and stability while increasing the sustainability of packaging, we ask that animal health products not to be subject to the requirements of this bill and offer this possible exemption language:

In Section 342G-A, and the end of the list of exemptions from the definition of packaging material, add:

- (1) Used for drugs, medical devices, biologics, or diagnostics approved or authorized by the Food and Drug Administration or United States Department of Agriculture for use in animals;
- (2) Used for veterinary pesticide products approved by the Environmental Protection Agency for use in animals.

Please let me know if you have questions or if I can provide additional information. Thank you for your consideration.

Sincerely,



Ronald B. Phillips
Vice President, Legislative and Public Affairs



February 2, 2022

To: The Honorable Nicole Lowen, Chair
Members, House Committee on Energy and Environmental Protection

From: Tim Shestek
Senior Director, State Affairs

Re: **HB 1684 – Comments**

The American Chemistry Council (ACC) appreciates the opportunity to comment on HB 1684, legislation that seeks to establish an extended producer responsibility (EPR) program for packaging materials.

ACC and its member companies support a variety of policies that aim to reduce plastic waste in the environment, increase the collection and processing of plastic material and create new market demand for recovered plastics. We have established industry targets that 100% of plastic packaging be recyclable or recoverable by 2030 and that plastic packaging contain a minimum of 30% post-consumer recycled material by that same date.

In addition, efforts to modernize and expand the nation's recycling infrastructure have significantly increased. In the last three years, 64 projects in mechanical and advanced recycling¹ in the U.S have been announced, valued at \$6 billion. Together, these projects have the potential to divert approximately 8.9 billion pounds of waste from landfills each year.

ACC also believes an effective EPR system for consumer packaging can improve the collection and recycling of packaging materials. At its core, an EPR system should do the following:

Improve the recycling system overall by increasing access and modernizing the collection of all materials, including metals, paper, glass, and plastic.

- Increase the types and volumes of materials that are currently recycled through increased access, collection and sortation infrastructure investment.
- Improve education for consumers and residents to increase participation and reduce confusion and contamination.
- Encourage new business initiatives and entrepreneurs focused on developing local solutions that promote circularity.

Provide funding to help improve recycling access, collection, sorting and outreach by investing all money collected through fees on consumer-packaged goods back into the system.

- Companies that manufacture consumer packaged goods could provide additional resources to support existing government and subscriber funding to improve recovery and recycling for all packaging materials.
- All packaging materials should be covered by the program to ensure specific packaging does not disproportionately shoulder the funding support required for the overall system.

¹ <https://www.americanchemistry.com/better-policy-regulation/plastics/advanced-recycling>



- Funds collected through the program should be reinvested solely to help expand efficient collection and sorting and enable recycling systems, while capitalizing on existing infrastructure.
- Systems should provide disincentives to landfilling waste with the objective of encouraging recycling.

Consider and incentivize the use of packaging materials with better environmental performance.

- Recognize key sustainability attributes such as source reduction, weight, energy and water use, greenhouse gas emissions and food waste reduction.
- Consider the circularity traits of all materials such as recycled content, recyclability and composting.
- Support initiatives that use environmentally sustainable recycling technologies and packaging.

Support innovation in recycling technologies via the private and public sectors to ensure more used plastic is reused and not treated as waste.

- Support a competitive marketplace for increased investment in improved sortation and mechanical recycling.
- Recognize the role of advanced recycling in recovering more plastic waste and in producing recycled plastics and other recycled products.

Maintain and promote a competitive, free market approach to strengthen manufacturing supply chains and to develop recycling infrastructure and new circular markets for recycled plastics through appropriate collaboration across the plastics value chain.

- Maintain the important roles of local government and waste management companies, including operation and management of community and municipal waste management programs to avoid single-source providers and stranded assets.
- Allow companies to freely compete for materials.
- Allow use of new technologies and processes for materials to be remanufactured into new products.
- Reward efficiency and innovation and, where possible, help build on existing infrastructure.

Should HB 1684 move forward, ACC encourages the committee to engage in further dialogue with producers, material suppliers, packaging producers, waste industry representatives, environmental organizations, local governments and other stakeholders to discuss crafting an EPR program that is efficient, effective and implementable. ACC looks forward to being part of such a discussion.

Thank you in advance for considering our views. If you have any questions, please do not hesitate to contact me at 916-448-2581 or via email at tim_shestek@americanchemistry.com. You may also contact ACC's Hawaii based representative Ross Yamasaki at 808-531-4551 or via email at ryamasaki@808cch.com



CONSUMER
HEALTHCARE
PRODUCTS
ASSOCIATION

Taking healthcare personally.

February 2, 2022

To: Committee on Energy and Environmental Protection
The Honorable Nicole E. Lowen, Chair

Fr: Carlos I. Gutiérrez, Vice President, State & Local Government Affairs
Consumer Healthcare Products Association

RE: HB 1684 Relating to Recycling/EPR - OPPOSE

On behalf of the Consumer Healthcare Products Association (CHPA), the national trade association representing the leading manufacturers of over-the-counter medicines (OTC), dietary supplements, and consumer medical devices, I'm writing to express opposition to H.B. 1684. While we share a desire to increase recycling and reduce waste in landfills, we cannot support a state program that potentially conflicts with existing federally mandated packaging requirements meant to ensure consumer safety, medicinal efficacy, and product stability. We also hesitate to support legislation that will add to already historic inflationary pressures that threaten the affordability of personal healthcare for thousands of Hawai'i residents.

Consumer Healthcare Product Packaging Focuses on Safety

Manufacturers of consumer healthcare products take very seriously the types of packaging used to transport, store, and safely deliver consumer healthcare products to consumers seeking self-care options. As the first-line of defense for Americans looking to address minor health ailments, consumer healthcare product packaging must withstand the rigors of volatile temperature changes during transport, lengthy durations on store shelves and medicine cabinets, and illicit tampering of the product itself before it is consumed. A very complex and highly regulated federal framework for OTC consumer healthcare packaging has been in place for decades and serves to provide safety, efficacy, and stability of products for consumers. State action on packaging for these products likely conflicts with federal laws and regulations already in place and could compromise the end safety, affordability, and stability of the product themselves.

OTC Product Packaging Are Regulated by the Federal Government

Packaging of consumer healthcare products differs from other consumer products in that it is often dictated by federal rules and regulations. The Food and Drug Administration (FDA) regulates drug product packaging under Good Manufacturing Practices regulations (GMPs) (21 C.F.R. Part 211, Subpart G), including material examination and usage criteria (§211.122), packaging and labeling operations (§ 211.130), tamper-evident packaging (§ 211.132), and expiration dating (§ 211.137). Certain drugs are also regulated by the Consumer Product Safety Commission (CPSC) under the Poison Prevention Packaging Act (PPPA), which requires child resistant packaging. Manufacturers are required to test and certify compliance. In addition, drug products for which packaging does not comply with PPPA packaging and labeling regulations are misbranded under the FDCA (21 U.S.C. § 352(p)). Any attempt by the state of Hawai'i to limit packaging could cause conflict between state and federal law. Manufactures of consumer healthcare products, therefore, should not be penalized for using packaging that satisfies existing federal requirements for safety and stability.

Consumer Healthcare Products Should Be Exempt from State Packaging Stewardship Programs

To avoid conflict between state and federal law, CHPA recommends exempting FDA approved consumer healthcare products from the requirements of HB 1684. This exemption can be accomplished by including the language pasted below:

“Any material that is used in the packaging of a product that is regulated as a drug, medical device or dietary supplement by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et seq., sec. 3.2(e) of 21 U.S. Code of Federal Regulations or the Dietary Supplement Health and Education Act is exempt.”

Consumer Healthcare Products Play a Critical Role in American Healthcare

Thousands of Hawai'i residents rely on consumer healthcare products as an easily accessible, affordable, and effective first line of defense against common ailments and illnesses. The COVID-19 pandemic has illustrated the importance of these products in limiting needless visits to doctors' offices and boosting immune health for American families. Today, Hawai'i residents are facing historically high inflation rates not seen in decades. The costs associated with this proposed program will exacerbate already existing inflationary pressures and hurt Hawai'i residents' ability to treat common health issues affordably.

Conclusion

Thank you for taking the time to consider our concerns and feel free to contact me or our local representative, Lauren Zirbel, directly with any follow up questions you may have.

Respectfully submitted,



Carlos I. Gutierrez
Vice President, State & Local Government Affairs
Consumer Healthcare Products Association
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HB-1684

Submitted on: 2/1/2022 2:25:41 PM

Testimony for EEP on 2/3/2022 9:05:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

Stop wasting the peoples money and Time. You people should all be fired!!

HB-1684

Submitted on: 2/1/2022 7:03:17 PM

Testimony for EEP on 2/3/2022 9:05:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Alan Garcia	Individual	Support	No

Comments:

I support HB1684, to reduce packaging waste and to protect our environment from the build up of trash.

This bill is to protect both the consumer and the environment.

HB-1684

Submitted on: 2/1/2022 8:22:43 PM

Testimony for EEP on 2/3/2022 9:05:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Barbara Barry	Individual	Support	No

Comments:

Aloha,

I strongly support HB 1684.

Companies that sell products in Hawai'i need to do a much better job with their packing materials.

We need to reduce the amount of styrofoam that ends up in the landfill and on our beaches.

Mahalo,

Ms. Barbara Barry

HB-1684

Submitted on: 2/2/2022 7:59:55 AM

Testimony for EEP on 2/3/2022 9:05:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Georjean Adams	Individual	Comments	No

Comments:

Packaging EPR for Hawaii state and counties is extremely more complicated than programs on the mainland. I recommend waiting for experience with the new state EPR packaging efforts and then applying life cycle principles to the logistical challenges we have. We should encourage pilot programs for collection, processing, reuse and remanufacturing methods that would support circular economies on our islands

HB-1684

Submitted on: 2/3/2022 5:04:21 AM

Testimony for EEP on 2/3/2022 9:05:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Johnnie-Mae L. Perry	Individual	Support	No

Comments:

The 4Rs

RESPONSIBLE GOVERNMENT, MANUFACTURERS, CONSUMERS

REDUCE

RECYCLE

REFUSE