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TESTIMONY

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On Behalf of
The Association of Home Appliance Manufacturers

Before the New York
Senate Finance Committee
Assembly Ways and Means Committee

HEARING

New York Executive Budget
Transportation, Economic Development and Environmental Conservation
Part RR – Extended Producer Responsibility

February 1, 2022

Chair Krueger, Chair Weinstein, and Committee members, Part RR of the TED would establish a system of extended producer responsibility, enforced by a producer responsibility organization (PRO) to recover covered materials. For the reasons outlined below, the **Association of Home Appliance Manufacturers (AHAM) is strongly opposed to Part RR 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 New York, the home appliance industry is a significant and critical segment of the economy. The total economic impact of the home appliance industry to New York is \$6.8 billion, more than 16,900 direct jobs and 22,620 indirect jobs, \$1.1 billion in state tax revenue and more than \$2.6 billion in wages.

We urge you to remove Part RR from the budget. Unfortunately, the proposal would establish an EPR program by penalizing 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. In California, for example, home appliance manufacturers are the first business group to join environmental advocates in support of a ballot initiative that, if passed, would require producers to pay a penny-per-piece fee on single-use plastic packaging, as well as implement a number of measures to ensure that all single-use plastic packaging is reusable, refillable or compostable by 2030.

Canadian Programs Show Part RR Would Cost New York Households \$290 Million Annually. In Canada, the cost to manage EPR packaging recycling programs, such as the one envisioned by Part CCC, is ultimately paid by consumers. Once launched, the program would cost New York households approximately \$290 million (USD) annually.¹

¹ Calculation based on \$38.97-\$42.90 (USD) program costs per household under the B.C. and Ontario EPR packaging recycling program

Approach Would Negatively Impact the Recycling System in New York

New York 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

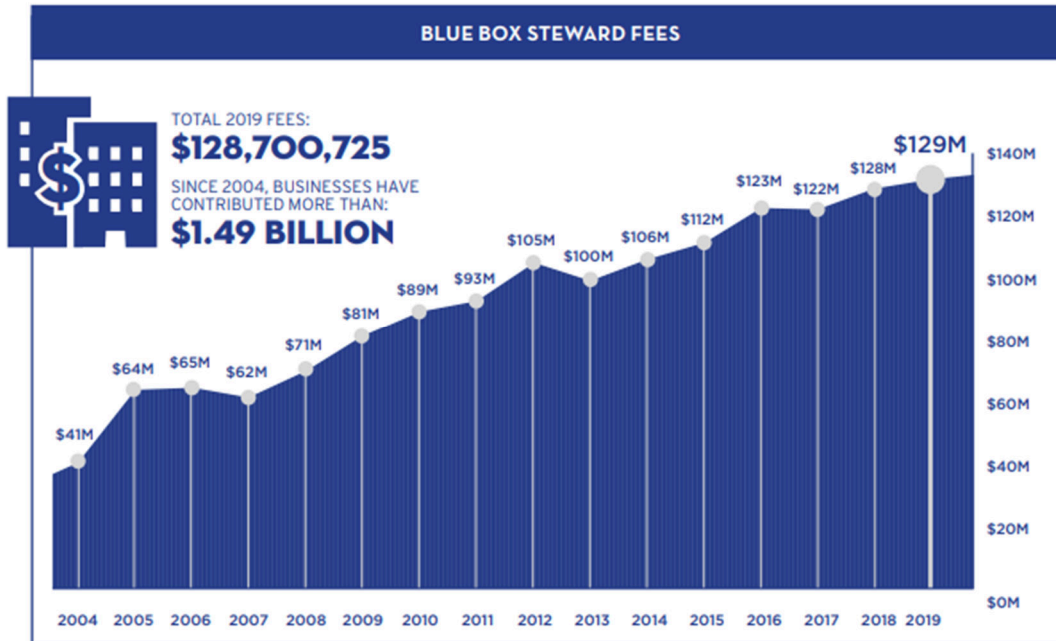
AHAM understands that the intent of this legislation is to manage packaging in the state. While this bill's result would likely reduce costs to municipalities, it would increase costs for its residents and create little to no changes in how municipalities deal with recycling and waste. In practice, where 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).² In B.C., the program costs are 28.5 percent higher since 2014 (average annual increase of 5.2 percent).³

² Stewardship Ontario. (2019). 2019 Annual Report. Stewardshpontario.ca

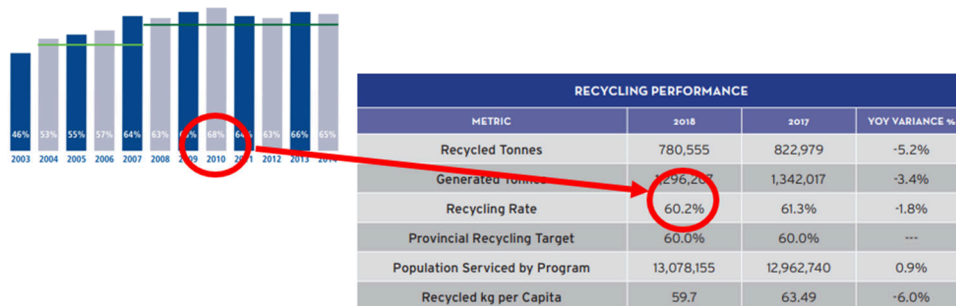
³ Recycle BC. (2019) Annual Report 2019. Recyclebc.ca



-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.⁴

⁴ 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 New York 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 New York. This also would be a major disincentive for maintaining and locating new distribution facilities in the state of New York and could lead to sales data that does not accurately reflect what is sold to New York consumers.

Conclusion

AHAM appreciates the opportunity to provide comments on Part RR of the TED and urges the legislature to oppose the proposal. 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