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**AMERIPEN**  
**American Institute for Packaging and the Environment**

**Testimony**  
**Not in Favor of**  
**Maryland House Bill 31**  
**Labeling, Marketing, and Advertising for Recycling**

**House Environment and Transportation Committee**  
**February 22, 2023**

Chair Barve, Vice-Chair Dana Stein, and Members of the House Environment and Transportation Committee.

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to provide written testimony on House Bill 31 (Love) that seeks to establish Maryland-specific labeling and marketing requirements by altering plastic resin labeling requirements for rigid plastic containers and plastic bottles to mandate use of the “chasing arrows” symbol in combination with the resin identification code (RIC) on plastic bottles and rigid plastic containers, but then only allow that to occur if those items meet certain state-specific recyclability requirements. AMERIPEN supports clear and consistent labeling for all packaging recovery and recycling, and we understand that proponents of the bill are likely seeking to lower contamination within the waste stream. While we appreciate the intent of HB 31, we cannot support it in its current form. We would welcome the opportunity to work with the Committee and all stakeholders to address contamination and labeling issues in a more feasible way.

AMERIPEN is a coalition of stakeholders dedicated to improving packaging and the environment. We are the only material neutral packaging association in the United States. Our membership represents the entire packaging supply chain, including materials suppliers, packaging producers, consumer packaged goods companies and end-of-life materials managers. We focus on science and data to define and support our public policy positions and our comments are based on this rigorous research rooted in our commitment to achieve sustainable packaging, and effective and efficient recycling policies. We have several member companies with a presence in Maryland, and many more who import packaging materials and products into the state. The packaging industry supports more than 15,000 jobs and accounts for nearly \$4.8 billion in total economic output in Maryland.

Packaging plays a vital role in Maryland, ensuring the quality of consumer goods as they are manufactured, shipped, stored and consumed, protecting the health and safety of Marylanders who consume, use and handle those products. Packaging has value and none of it belongs in landfills, roadsides or waterways. We need to recover it to be recycled and reused, and no one knows better how to do that than the AMERIPEN members who design, supply, produce, distribute, collect and process it. They are driving innovation, designing for better environmental performance to boost recycling and evolve the recycling infrastructure.

AMERIPEN supports policy solutions, including packaging producer responsibility, that are:

- **Results Based:** Designed to achieve the recycling and recovery results needed to create a circular economy.
- **Effective and Efficient:** Focused on best practices and solutions that spur positive behaviors, increase packaging recovery, recapture material values and limit administrative costs.
- **Equitable and Fair:** Focused on all material types and funded by shared cost allocations that are scaled to make the system work and perceived as fair among all contributors and stakeholders.

HB 31 does not meet these principles and we are therefore not in favor of it as currently drafted. We support uniform labeling standards as essential to the free flow of interstate commerce and support the adoption of the U.S. Federal Trade Commission (FTC) Green Guides by states in conjunction with existing state truth-in-advertising statutes. We believe it will be very difficult, if not impossible, for manufacturers and distributors to comply with the labeling standards in HB 31 given that these standards will create conflict across jurisdictions because those manufacturers and distributors do not distribute products solely to Maryland. The following are more specific concerns we have with the bill.

HB 31 will establish new labeling requirements for certain products, requiring the “chasing arrows” symbol while simultaneously restricting its use on certain packaging that does not meet Maryland-specific recyclability standards. While the intention of HB 31 would be to clarify the recyclability of certain packaging to consumers, establishment of state-specific, rather than national, criteria pertaining to recycling and labeling may have unintended consequences in both the usage of recycling systems in Maryland as well as the feasibility of compliance for producers of covered packaging. This would force packaging manufacturers and distributors to create and use Maryland-specific labeling for their packaging if they want to sell products in Maryland and remain in compliance with labeling requirements in neighboring states. This is not realistic, especially given Maryland’s geography, and does not reflect the free flow of goods through interstate commerce. Manufacturers do not distribute products solely to Maryland, and segregating products labeled specifically for Maryland, given the state’s central location in commerce in the Mid-Atlantic region, will be nearly impossible.

HB 31, as currently drafted, would force companies to remove and replace recycling labels and instructions to comply with Maryland-specific regulation. This could not only create a situation where the feasibility of enforcement and compliance of such a statute would be questionable, but may also have unintended consequences, such as more recyclable materials ending up in landfills due to consumer confusion and perceived inconsistencies in the recycling systems themselves. AMERIPEN supports uniformity of labeling standards at the national level for clarity to consumers and recyclers and to enable the free flow of interstate commerce.

Finally, HB 31 includes provisions with no relevance to packaging recyclability. Specifically, the criteria that would prohibit intentionally added PFAS chemicals or detection above 100 ppm for total fluorine, from packaging to be deemed recyclable. These provisions would result in extensive new testing requirements and great uncertainty were they to become law. Unless specific chemicals have been shown to impede recycling, determined at a national level, they should not be the basis for any recyclability criteria.

**In conclusion,** AMERIPEN supports policy solutions that create greater awareness of uniformly implemented labeling and proper recycling practices and that improve packaging recovery and recycling. While HB 31 sets out similar goals, the state-specific nature of the regulations will most likely have unintended consequences for Maryland’s recycling systems and will interfere with producers’ ability to comply and effectively operate regionally, given the state’s central location. We therefore encourage the Committee not to pass HB 31 as currently written.

We would welcome the opportunity to collaborate with Delegate Love, Chairman Barve, Vice Chair Stein, and this Committee and other stakeholders on legislative solutions to reduce consumer confusion and increase packaging recovery and recycling in Maryland in a meaningful and responsible way. Please feel free to contact Dan Felton, Executive Director of AMERIPEN at [danf@ameripen.org](mailto:danf@ameripen.org), or Andy Hackman at [ahackman@serlinhaley.com](mailto:ahackman@serlinhaley.com) for any questions or for stakeholder discussions on this important issue. Thank you for your consideration of our comments.