

PACKAGING WASTE AND COST REDUCTION ACT

THE PROBLEM

- E-commerce and the delivery economy has led to a dramatic increase in packaging waste. **Packaging waste and printed paper now account for 40% of our waste stream.**
- Despite increasing public pressure, global plastic production is expected to double in the next 20 years. In the metro alone, **the amount of waste generated is projected to grow by 19% over the next two decades.**
- The burden of managing these ever-growing mountains of packaging waste currently falls on local governments and taxpayers.

THE SOLUTION

A producer-funded system to reduce packaging and single-use plastic, make recycling easier, and lower taxpayer costs for managing waste.

CREATE OVERSIGHT



The MN Pollution Control Agency (MPCA) will appoint an advisory board to oversee the Producer Responsibility Organization (PRO). The MPCA holds enforcement responsibilities to meet the goals of the bill.

BUILD ON A STRONG FOUNDATION



PRO must work with existing haulers and recycling facilities to ensure recycling services are as conveniently available to all Minnesotans as trash collection.

SIMPLIFIED RECYCLING



The PRO will fund and develop outreach and consumer education materials that are consistent across the entire state, building on existing educational efforts.

Shifting the costs of recycling to producers will:

- Create an incentive for producers to reduce waste and stop using materials that are hard to recycle.
- Decrease climate impacts of manufacturing and disposal of waste.
- Save local governments and taxpayers millions of dollars for source reduction, reuse, recycling, and composting programs.

By 2032, all packaging must be reusable, recyclable, or compostable, and by 2033:

15% of materials **source reduced.**

10% transitioned to a **reuse system.**

65% **recycled or composted.**

10% min **postconsumer recycled content** per item and 30% overall



Scott Cassel
Chief Executive Officer/Founder

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Formerly Metro, OR

February 19, 2024

Committee Chair Rep. Rick Hansen
Vice Chair Rep. Sydney Jordan
10 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

RE: Support for HF 3577DE1, Packaging Waste and Cost Reduction Act

Dear Chair Hansen, Vice Chair Jordan, and Committee members:

Thank you for the opportunity to submit testimony in support of **HF 3577DE1** to create an Extended Producer Responsibility (EPR) program for packaging materials and paper products in Minnesota that will support resource conservation through waste reduction, reuse, recycling, and sustainability.

The Product Stewardship Institute (PSI) is a national policy expert and consulting nonprofit that pioneered product stewardship in the United States along with a coalition of hundreds of state and local government officials, including those in Minnesota. Since 2000, PSI's policy models have helped to develop producer responsibility policies for many of the 136 EPR laws enacted for 18 industry sectors in 33 states.

HF 3577DE1 incorporates the basic elements that PSI believes are critical for successful EPR for packaging legislation. PSI is pleased to have had the opportunity to assist in the development of the bill and is impressed with how those basic elements are being adapted and crafted to fit the needs and concerns of Minnesota stakeholders.

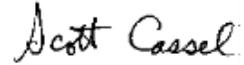
The bill does an exemplary job of establishing clear roles and responsibilities for program participants related to stewardship plans, reporting requirements, public education, and enforcement. The bill also incorporates emerging best practices for packaging EPR regarding needs assessments, definitions, waste reduction, reuse, responsible end markets, performance measures and targets, and the role of the Advisory Council.

How the bill incorporates waste reduction and reuse into the fabric of the EPR program is especially commendable, as both elements are woven into the needs assessment (including investments needed), program plans, educational efforts, and performance targets. The bill is also notable for addressing environmental justice concerns, reduction of toxics in packaging, and the need for health and safety protections, including a living wage, for workers in this industry.

Packaging EPR has been successfully implemented throughout Europe and Asia for over 35 years, and in five Canadian provinces for over 15 years. Four states – Colorado, Oregon, California, and Maine – have passed EPR for packaging laws.

I urge you to **support HF 3577DE** for the financial and environmental health of Minnesota’s economy. If you have any questions, please feel free to contact me at (617) 513-3954, or Scott@ProductStewardship.US.

Sincerely,

A handwritten signature in black ink that reads "Scott Cassel". The signature is written in a cursive, slightly slanted style.

Scott Cassel
Chief Executive Officer/Founder

Testimony in OPPOSITION
to
MN HF3577
in the
Environment and Natural Resources Finance and Policy Committee

February 20, 2024

Dear Minnesota Environment and Natural Resources Finance and Policy Committee Members,

The Flexible Packaging Association (FPA) is **opposed to the current MN HF3577**, which would establish an Extended Producer Responsibility program in the State of Minnesota but stands ready to strongly support an amended version.

I. Background on FPA & Flexible Packaging

I am John Richard, Director of Government Relations at FPA, which represents flexible packaging manufacturers and suppliers to the industry in the U.S. Flexible packaging represents \$42.9 billion in annual sales; is the second largest, and fastest-growing segment of the packaging industry; and employs approximately 85,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products.

These are products that you and I use every day—including hermetically sealed food and beverage products such as cereal, bread, frozen meals, infant formula, and juice, as well as sterile health and beauty items and pharmaceuticals, such as aspirin, shampoo, feminine hygiene products, and disinfecting wipes. Even packaging for pet food uses flexible packaging to deliver fresh and healthy meals to a variety of animals. Flexible packaging is also used for medical device packaging to ensure that the products packaged, like diagnostic tests, IV solutions and sets, syringes, catheters, intubation tubes, isolation gowns, and other personal protective equipment maintain their sterility and efficacy at the time of use. Trash and medical waste receptacles use can liners to manage business, institutional, medical, and household waste. Carry-out and take-out food containers and e-commerce delivery, which became increasingly important during the pandemic, are also heavily supported by the flexible packaging industry.

Thus, FPA and its members are particularly interested in solving the plastic pollution issue and increasing the recycling of solid waste from packaging. Unfortunately, we do not believe HF3577 as written will provide Minnesotans with a durable, effective EPR program.

Flexible packaging is in a unique situation as it is one of the most environmentally sustainable packaging types from a water and energy consumption, product-to-package ratio, transportation efficiency, food waste, and greenhouse gas emissions reduction standpoint, but circularity options are limited. There is no single solution that can be applied to all communities when it comes to the best way to collect, sort, and process flexible packaging waste. Viability is influenced by existing equipment and infrastructure; material collection methods and rates; volume and mix; and demand for the recovered material. Single-material flexible packaging, which is approximately half of the flexible packaging waste generated, can be mechanically recycled through store drop-off programs, however, end markets are scarce. The other half can be used to generate new feedstock, whether through pyrolysis, gasification, or fuel blending.

Developing end-of-life solutions for flexible packaging is a work in progress, and FPA is partnering with manufacturers, recyclers, retailers, waste management companies, brand owners, and other organizations to continue making strides toward total packaging recovery. Some examples include The Recycling Partnership (TRP); the Materials Recovery for the Future (MRFF) project; the Hefty® ReNew® Program; and the Consortium for Waste Circularity. All of these programs seek to increase the collection and recycling of flexible packaging. Increasing the recycled content of new products will not only create markets for the products, but will also serve as a policy driver for the creation of a new collection, sortation, and processing infrastructure for the valuable materials that make up flexible packaging.

It is FPA's position that a suite of options is needed to address the lack of infrastructure for non-readily recyclable packaging materials and promotion and support of market development for recycled products is an important lever to build that infrastructure. FPA also supports well-crafted EPR that can be used to promote this needed shift in recycling in the U.S. In fact, FPA worked with the Product Stewardship Institute (PSI) and jointly drafted a set of principles to guide EPR for flexible packaging (<https://www.flexpack.org/end-of-packaging-life>). The dialogue looked at the problems and opportunities for EPR to address the needs of the flexible packaging industry to reach full circularity.

It is with this background that FPA provides this testimony to improve the Minnesota extended producer responsibility bill in order to support a well-crafted EPR program. This would provide Minnesota with the necessary elements to improve collection and infrastructure investment and development of advanced recycling systems, allowing for the collection and recycling of a broader array of today's packaging materials—including flexible packaging—and quality sorting and markets for currently difficult-to-recycle materials.

II. Statewide Goals Must Flow from Needs Assessment & Material-Neutral Metrics

The authors of HF3577 required that the needs assessment inform the performance targets of Minnesota's EPR program to generate a suite of policy options to achieve a circular economy. In order to appropriately judge progress towards circularity, the bill correctly uses the information that will be provided by a needs assessment as a baseline. Unfortunately, HF3577 subsequently requires the Commissioner of the Pollution Control Agency to override the organic performance targets to achieve arbitrary goals outlined in legislation. While the Minnesota Pollution Control Agency's SCORE report for 2022 showcased the highest recycling rate ever in Minnesota at 45.2%, the goal of 75% for covered materials by 2038 is far too ambitious based on historical data.¹ FPA and its members request the bill be amended to allow the needs assessment to inform and determine any overall statewide goals in order to prevent the most recyclable materials in the bin from being properly recycled.

In addition to allowing the needs assessment to drive data-based policy decisions, it is vitally important to have an unbiased set of metrics to compare packaging materials to. HF3577 directs the producer responsibility organization to develop a stewardship plan that, among other metrics, develops source reduction targets. Unfortunately, the criteria for these targets specifically excludes applications when a non-plastic material is to be replaced by a plastic material – even in cases where the plastic material outperforms its competitors on every environmental metric. FPA requests that Minnesota's EPR program be data-driven and use an unbiased set of metrics to evaluate all materials in the recycling stream.

Finally, the needs assessment for Minnesota's EPR program can be improved by considering several nuances related to flexible packaging. The Recycling Association of Minnesota has utilized a grant

¹ Minnesota Pollution Control Agency, "Select Committee on Recycling and the Environment Report," (St. Paul: MPCA, 2023).

from Scott County to develop a list of locations where plastic films can be collected for recycling.² Any statewide needs assessment should expand this inventory and consider innovative collection methods when determining recycling access for Minnesotans. Facilities should also be evaluated for investments in up-to-date advanced recycling technologies so producers can properly target investments toward any existing gaps in existing infrastructure.

III. Necessary Exemptions for Critical Goods

While FPA supports extended producer responsibility to drive circularity and improve environmental outcomes, there are several critical products that must be exempted from EPR programs. The Sterilization Packaging Manufacturers' Council develops rigorous medical device packaging specifications that adhere to ASTM International standards to ensure the integrity of flexible barrier materials. If these types of packaging were forced into the recycling system or if they were subject to recycled content requirements, Minnesotans would not be guaranteed access to life-saving healthcare. FPA and its members request an amendment to the bill that provides an exemption for medical device packaging from the EPR program. This exemption should also apply to animal biologics for many of the same reasons. FPA and its members also urge consideration of exemptions for other critical goods like infant formula, medical food, and packaging regulated by the Federal Insecticide, Fungicide, and Rodenticide Act.

IV. Reasonable Costs to Producers

As stated above, FPA and its members support well-crafted EPR that can be used to promote this needed shift in recycling in the United States. While FPA's members are wholly committed to addressing plastic pollution, asking producers to pay for Minnesota's recycling system for covered materials in full with no maximum payment threshold threatens the long-term success of the EPR program. It is likely also to lead to unintended policy consequences within the waste supply chain.

VII. Conclusion & Next Steps

For these reasons, FPA opposes the current HF3577 but stands ready to support a future version that creates a strong foundation for a meaningful EPR program for packaging. FPA and its members wish to note that the authors of this bill have gotten a lot right, from antitrust protections for the PRO, to the producer definition, to the targeting of producer investment in packaging infrastructure. We look

² Recycling Association of Minnesota, "SNAG Those Bags! Plastic Bag and Film Recycling," (St. Paul: RAM, 2024).

forward to working with you to provide the necessary investment in new infrastructure and markets for all packaging, including flexible packaging. In advance, thank you for your consideration. If we can provide further information or answer any questions, please do not hesitate to contact me at (443) 534-3771 or jrichard@flexpack.org.

Respectfully,

A handwritten signature in cursive script that reads "John J. Richard".

John J. Richard
Director, Government Affairs
Flexible Packaging Association

February 20, 2024

Honorable Rick Hansen, Chair
Minnesota Environment and Natural Resources Finance and Policy Committee
407 State Office Building
St. Paul, MN 55155

Dear Chair Hansen:

On behalf of companies that make medicine for animals, we request that animal medicines of all types not be subject to the requirements of HF 3577, the Packaging Waste and Cost Reduction Act.

This legislation requires producers to implement and finance a statewide stewardship program for packaging and paper products that encourages packaging redesign to reduce risks to environmental and human health and that reduces generation of covered materials waste through waste reduction, reuse, recycling, and composting. It does not currently contain exemptions for highly regulated product packaging. Animal health products are licensed and regulated by three federal agencies, each with their own packaging standards and requirements to ensure that products can be delivered which meet requirements for purity, shelf-life and other considerations.

Drugs and devices are approved by the U.S. Food and Drug Administration under the Food, Drug and Cosmetic Act (FDCA). 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 full FDA review and approval.

Vaccines and biologics and diagnostic test kits are approved by the U.S. Department of Agriculture under the Virus-Serum-Toxin Act (VST). Manufacturers are required to ensure packaging maintains the integrity of the product, so temperature is a major consideration. Packaging must also accommodate detailed USDA labeling requirements.

Flea and tick prevention products are approved by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). 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, FIFRA §25(c)(3) requires EPA's CRP standards to be consistent with those established under the Poison Prevention Packaging Act of 1970.

There is a lengthy lead time for all phases of providing animal drugs to veterinarians, livestock producers and pet owners. The discovery, research, regulatory approval, manufacturing and distribution all require long lead times. Without this exemption, our ability to deliver safe and effective medicines for the treatment and prevention of disease in animals will be threatened. We suggest the following exemption language:

Subd. 9. Covered material. "Covered material" means packaging and paper products sold, offered for sale, or distributed in the state. Covered material does not include packaging for drugs, biological products, parasiticides, medical devices, or in vitro diagnostics used to treat, or administered to, animals and regulated by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), by the United States Department of Agriculture under the federal Virus-Serum-Toxin Act (21 U.S.C. Sec. 151 et seq.), or by the United States Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.)."

In order for animal health companies to maintain product safety and stability while increasing the sustainability of packaging, we ask that all animal medicines be exempt from the definition of covered materials in this legislation.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Mandy Hagan', with a stylized flourish at the end.

Mandy Hagan
Director, State Government Affairs

World Wildlife Fund

1250 24th Street, NW | Washington, DC 20037 | 202 293 4800 | 202 293 9211 fax

worldwildlife.org



February 20, 2024

Representative Rick Hansen, Chair
Representative Sydney Jordan, Vice Chair
House Environment and Natural Resources Finance and Policy Committee
Minnesota State Legislature
10 State Office Building
Saint Paul, MN 55155

RE: Support for HF 3577 – Packaging Waste and Cost Reduction Act in Minnesota

Dear Chair Hansen, Vice-Chair Jordan, and Members of the Committee:

World Wildlife Fund (WWF) submits the following comments in **support of advancing HF 3577 – Packaging Waste and Cost Reduction Act**, which would establish an Extended Producer Responsibility policy for packaging in Minnesota. We thank you for the opportunity to provide our comments. As the world's leading global conservation organization, WWF works in 100 countries and at every level, collaborating with people around the world to develop and deliver innovative solutions that protect communities, wildlife, and the places in which they live. WWF works to help local communities conserve the natural resources they depend upon, transform markets and policies toward sustainability, and protect and restore species and their habitats. Our efforts ensure that the value of nature is reflected in policymaking from the local levels to the global stage. WWF connects cutting-edge conservation science with the collective power of our partners in the field, more than 1.3 million supporters in the United States and 5 million globally, and our partnerships with communities, companies, and governments.

At WWF, we believe in a future where there is no plastic in nature. Plastic pollution is a growing problem that impacts communities across the US and around the globe. Plastic can also be a valuable material – it protects our food, our homes, and even our bodies. However, plastic is often misused and mismanaged, leading to high rates of landfilling and leakage into nature. Extended Producer Responsibility (EPR) has the potential to reimagine the way we produce and use packaging, especially plastic packaging and products, so that we continue to use, reuse, and recycle our materials to their fullest potential. As an international conservation organization, WWF has seen how the implementation of effective EPR policies has benefited states and countries around the world by providing infrastructure, economic incentives, and accessibility for consumers with the goal of achieving circularity. In a global context, EPR is a policy framework that can effectively and cost-efficiently address waste that is currently negatively impacting nature and our communities, which why we advocate for the establishment of EPR at the state, federal, and international levels.

EPR legislation will hold producers of packaging financially responsible for their recycling and reuse, incentivize a reduction in the amount of materials used, ensure that the recycling system

receives the funding and investment it needs, and prevent plastic from leaking in-to nature. By advancing HB 3577, Minnesota would be setting an example for a whole-of-society approach to address plastic pollution and transform the way we use, reuse, and recycle materials. Effective EPR policies can lead to the creation of new jobs, reduce consumers' cost burden of waste management, and save funds for local governments in the state. WWF believes that an Extended Producer Responsibility policy for packaging will be significantly beneficial to Minnesotan consumers and businesses alike, by establishing a system that promotes sustainable packaging and best practices for it while also increasing recycling and reuse infrastructure across the state.

WWF is supportive of passing EPR legislation in Minnesota that ties business practices with better environmental outcomes, giving the producers of packaging a stake in the performance of the system. EPR provides an incentive for the state and producers to improve upon waste management and recycling systems. WWF has established principles on Extended Producer Responsibility that guide our thoughts on HB 3577.

Based on these principles, we believe that a strong EPR model is one that:

1. Generates strong environmental, social, and economic outcomes
2. Provides a convenient service to consumers
3. Creates a financially sustainable model for recycling
4. Offers producers access to recovered material for closed loop recycling
5. Supports environmental justice objectives in recycling systems

World Wildlife Fund believes in a future where there is no plastic in nature, and to realize this, we must bring the private sector, government, and the public together to achieve this common goal for a healthy and sustainable reality for generations to come. For more information on WWF's positioning on policies to advance a circular economy, [please see our policy guidance](#). WWF supports efforts to enact strong and effective EPR legislation in Minnesota. **We encourage you to advance HF 3577, the Packaging Waste and Cost Reduction Act, to be favorably reported out of the Committee.**

Please feel free to contact me at will.gartshore@wwfus.org if you have any questions about WWF's positioning on this matter.

Thank you,

A handwritten signature in black ink, appearing to read 'Will Gartshore', with a long horizontal line extending to the right.

Will Gartshore
Senior Director of Policy and Government Affairs
World Wildlife Fund



AdvaMed

Advanced Medical Technology Association

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February 19, 2024

Representative Rick Hansen, Chair
Committee on Environment and Natural Resources Finance and Policy
10 State Office Building
Saint Paul, MN 55155

Representative Sydney Jordan, Vice-Chair
Committee on Environment and Natural Resources Finance and Policy
10 State Office Building
Saint Paul, MN 55155

RE: HF 3577 -- Packaging Waste and Cost Reduction Act

Chair Hansen, Vice-Chair Jordan, and Members of the Committee,

The Advanced Medical Technology Association (AdvaMed) appreciates the opportunity to submit these comments on HF 3577. AdvaMed is the largest MedTech association that represents over 400 of the world's leading innovators and manufacturers of medical devices, diagnostic products, digital health technologies, and health information systems. Medical devices made by AdvaMed members help patients stay healthier longer, expedite recovery, allow earlier detection of disease, and improve effectiveness and efficiency of treatment. While well intended, we respectfully oppose HF 3577 as introduced and propose an amendment for the committee's consideration.

AdvaMed is engaged on legislative and regulatory EPR efforts nationwide working with state regulators so that broad Extended Producer Responsibility (EPR) legislation account for the complexity and strict Food and Drug Administration (FDA) regulation of packaging for medical devices and medical products. We are currently working with the state of Oregon and Maine on exemption language for FDA regulated drugs and medical devices in the rulemaking process for their EPR packaging laws. In the 2024 legislative session, states like New York, Massachusetts, New Hampshire, and Vermont have exempt medical devices from their EPR and stewardship proposals.

The purpose of EPR regulations is to provide an incentive for producers to reduce packaging volume and improve circularity. However, the drug and medical device industry are obligated to create packaging according to certain specifications to maintain safety and functionality of life-saving medical devices and medical products used in thousands of



routine and complex healthcare procedures every day. Furthermore, some medical devices are themselves considered a packaging, such as a blood bag, saline drip bag, and ostomy bags. We request medical devices and medical products and their packaging be exempt from this legislation.

As part of FDA's regulatory process for medical devices coming to market, materials of the product as well as the packaging may be considered a component of the device itself or it could be a part of the final design specifications of the device as it's meant to be sold and distributed. The FDA also ensures the packaging used is safe and effective at keeping the contents clean and germ-free. The packaging used to seal and deliver medical devices is tested to ensure it will protect the sterility of instruments and implants. This resilient packaging must also meet rigorous labeling standards which let the FDA trace devices in use.

Without making a clear exemption, medical device manufacturers will be subject to the material goals and fees of this EPR law, effectively penalizing them for using packaging that complies with FDA regulations and keeps patients and healthcare providers safe. We propose the following language for your consideration:

Packaging does not include:

- (a) Medical devices and packaging which are included with products regulated as a drug, medical device, or dietary supplement by the United States 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;

AdvaMed appreciates the opportunity to provide these comments and we look forward to working with the sponsor and the committee on this matter. Please contact me at rkozyckyj@advamed.org if you have any questions.

Sincerely,



Roxy Kozyckyj
Director, State Government and Regional Affairs
AdvaMed



Medtech's Role in Extended Producer Responsibility (EPR) Programs



Design & Manufacturing

- FDA requirements govern the methods, facilities and controls used in the design, manufacturing, packaging, labeling, storage, installation, and servicing of all finished devices. This is to ensure that the products are safe and effective for patients and consumers.
- Medical devices must remain sterile, free from contamination and protected from any mechanical damage throughout the supply chain process. Packaging must be designed to meet these requirements, in order to protect the medical devices and help ensure their effective delivery.
- Manufacturers have very little control over the type of packaging available from their suppliers to meet these standards and therefore can't easily change it. Any additional requirements by individual states risk compliance with the FDA.



Devices in Action

- Once a medical device has been given the green light by the FDA, and is through the supply chain process, it's made available to patients, hospitals, and consumers through various distribution channels.
- Products and equipment typically remain in service with the end user until they reach the stage for disposal, at which time some hospitals operate recycling programs or participate in partnerships with manufacturers and other organizations to recycle or repurpose constituent materials.



Sustainability in Medtech

- Many medical device companies have specific sustainability goals and support recycling programs for their products and packaging. Some even operate stewardship and partnership programs to reclaim materials, including products and packaging, from consumers and hospitals to divert material from the waste stream and support the circular economy.
- The medtech industry is working to develop and redesign packaging to be more sustainable (recyclability/recycled content/sustainable sourcing) and use less materials while still meeting the rigorous standards of the FDA.
- Several companies are members of the Healthcare Plastics Recycling Council (HPRC), which is a consortium of the health care and recycling industry working to improve recycling of the plastic products that are vital to medical technology. HPRC partners with hospitals to create recycling programs and identify common challenges of recycling throughout the supply chain and potential solutions.

Bottom Line

Any legislation at the state level must prioritize access to medical equipment and allow for environmental stewardship to be carefully managed by federal regulators and the industry to ensure a consistent process and stable supply of lifesaving medical equipment.

February 20, 2024

Representative Rick Hansen - Chair
House Committee on Environment and Natural Resources Finance and Policy
10 State Office Building
100 Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Re: HF 3577DE1 – “Packaging Waste and Cost Reduction Act”

Dear Chairman Hansen and Members of the Committee,

The Consumer Technology Association™ (CTA) respectfully submits this letter to voice our opposition to HF 3577DE1, the “Packaging Waste and Cost Reduction Act.” CTA is North America’s largest technology trade association. Our members are the world’s leading innovators – from startups to global brands – helping support more than 18 million American jobs. Our member companies have long been recognized for their commitment and leadership in innovation and sustainability, often taking measures to exceed regulatory requirements on environmental design and product stewardship. We respect the overall intent of this bill to reduce the amount of packaging in the waste stream but cannot support this bill as written and offer the following comments that support our opposition.

Industry Experience with Extended Producer Responsibility

We recognize the importance of recycling. Our members have financially supported and facilitated the collection and recycling of consumer electronics across 24 states and the District of Columbia. Our industry has almost two decades of experience in state level producer responsibility programs. The patchwork of state level electronics producer responsibility laws, each one varying in scope, has proven costly and inefficient across jurisdictions as the electronics industry has spent well over \$1 billion complying with these various state laws. CTA strongly cautions against a state-by-state approach especially for packaging, which is a vastly larger and more complex waste stream with potentially thousands of responsible producers.

It is also worth noting that producer responsibility programs do not equate to a no-cost recycling system for consumers. Where manufacturers can, consumers end up paying for the system through the cost of the products they purchase plus premium markup as products move through distribution and retail channels.

Needs Assessment

CTA supports the inclusion of a robust Needs Assessment as outlined in Section 11 [115A.1450]. As written in Subd. 3 of Section 11, the needs assessment includes an evaluation of the current recycling system infrastructure as well as the levels of packaging being received in the state of Minnesota. CTA supports proposed potential performance targets that are based on this evaluation from the needs assessment, as is currently proposed in the bill.

Additionally, the bill states that the needs assessment serves as a baseline for performance targets. While we agree with this statement, we believe that an evaluation of previous actions taken by producers to reduce their packaging and achieve better environmental outcomes should be included as part of the needs assessment. The technology industry has already made strong commitments over the past several years to packaging reduction and should not be punished for being proactive in their design innovation.

Performance Targets

CTA agrees with the statement in Section 12 [115A.1451] Subd.6 Performance Targets, stating that established performance targets shall be based on the needs assessment for any stewardship plan and must cover a variety of targets including waste reduction, reuse, recycling, composting, and postconsumer recycled content for covered materials. Additionally, we agree with the statements on source reduction on page 21, that explain source reduction targets must not go “beyond what is necessary to efficiently deliver a product without damage.” Consumer technology products have unique protection needs – screen protection, protection against shock and vibration for sensitive components – that dictate and severely limit the packaging material types and amounts that adequately protect these products. CTA does not support broad source reduction targets across all industries because our packaging material demands have unique characteristics that are not shared by other industries. We believe that source reduction targets should consider the amount of material needed to protect consumer electronics from breakage.

CTA opposes the mandatory statewide goals outlined in Section 12 [115A.1451] Subd. 7. Statewide Goals. We believe this section is contradictory to the previous statements on the intent of the Needs Assessment as outlined in Section 11. Subd. 4 of Section 11, states, “When determining the extent to which any statewide requirement or performance target under this act has been achieved, information contained in the needs assessment must serve as the baseline for that determination.” CTA agrees that performance targets need to be connected to information collected through the needs assessment and that the mandated goals should be removed from the bill.

Additionally, while we agree that the transition to refillable or removable packaging can be an important component to increased resilience in our recycling and solid waste management systems, we do not agree that these requirements can be applied to the electronic industry in the same manner as other traditional consumer packaged goods brands. The durable goods industry is a small contributor to packaging waste overall and CTA would support packaging reduction strategies specifically tailored to our industry, not arbitrary goals mandated in statute that will hinder innovation.

Toxic Substances

CTA disagrees with any prohibition of toxic substances contained within this bill because it goes beyond the scope of reducing packaging waste. The scientific evaluation of chemicals to be determined as toxic is complex and requires extensive expertise. Any regulation of toxic substances should be handled separately via Department conducted risk evaluations to determine if a material is toxic based on its risk

CTA Comments on HF 3577DE1 – OPPOSE

February 20, 2024

and the exposure from the actual packaging material. The Federal government is leading in chemical regulation under the Toxic Substances Control Act at the Environmental Protection Agency (EPA).

CTA believes chemical regulations should be based on sound science conducted through a peer-reviewed risk evaluation. The potential for an entire material type to be designated as “toxic” and therefore banned from the recycling system is not the best path forward for encouraging the recycling and proper handling of packaging material. Instead, it will lead to an increase in disposal of these material types. Designation of “toxic substances” that should be banned from packaging should be handled separately outside of a producer responsibility system based on a risk assessment approach.

Covered Materials Pollution and Cleanup Study

CTA agrees with the intent of Section 25 that aims to reduce covered products becoming litter and to clean up litter in Minnesota. However, we do not agree with section (3)(c) that the PRO must cover the costs of the recommended actions identified in the study.

Conclusion

CTA appreciates the opportunity to provide written testimony on HF3577DE1 and welcomes further discussion with the Committee. We strongly encourage a comprehensive stakeholder engagement process on the development of these policies in order for a successful program to be implemented. As written, we do not believe HF3577DE1 is the solution for packaging waste and cost reductions in Minnesota and respectfully oppose this legislation. Please do not hesitate to contact me with any questions or requests for additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Ally Peck". The signature is fluid and cursive, with the first name "Ally" and last name "Peck" clearly distinguishable.

Ally Peck

Senior Manager, Environmental and Sustainability Policy

apec@cta.tech

(703) 395-4177

February 19, 2024

The Honorable Rick Hansen, Chair
House Environment and Natural Resources Finance and Policy Committee
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

RE: House File 3577 (Jordan): Packaging Waste

Dear Chair Hansen and Members of the House Environment and Natural Resources Finance and Policy Committee:

The Household & Commercial Products Association (HCPA)¹ appreciates the opportunity to provide written testimony on House File 3577 regarding packaging waste and the establishment of an Extended Producer Responsibility (EPR) program across the state of Minnesota. 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 such, HCPA is committed to working with Minnesota 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.

We commend the author's inclusion of critical components such as the Producer Responsibility Organization (PRO), needs assessment, and advisory council in the bill. These elements align with established frameworks in other states, thereby moving the legislation closer to conformity which would promote more favorable conditions for implementation and compliance.

However, we have several concerns that warrant additional evaluation and consideration. Firstly, we urge Minnesota leaders to align existing state programs with the exclusion of products regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from the program. The complex framework

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.

under which these products are regulated, coupled with federal preemption and layered disposal requirements, necessitates careful deliberation to avoid confusion and ensure effective recycling programs. Furthermore, specific considerations should be given to packaging intended for long-term storage, reuse, or specialized purposes, such as child-resistant packaging, to prevent unintended consequences and maintain consumer safety. This is especially concerning given the bill's emphasis on post-consumer recycled content (PCR) mandates. Post-consumer recycled plastic can be weaker than virgin plastics and the integrity of the packaging is critical for various chemistries (including corrosive materials). Weakening packaging integrity could have negative impacts on human health and the environment through product leakage. Or in the case of federally regulated plastic aerosols, these products are explicitly restricted from using recycled materials.

Additionally, packaging primarily used in business-to-business transactions, such as wood pallets and corrugated pads, should be excluded from the program, as they typically have established recycling systems and minimal consumer impact.

HCPA supports the goal of increasing recyclable packaging and recycling rates, however rigid targets set into law in the absence of adequate data and stakeholder input risk undermining the program's effectiveness. We advocate for a robust yet realistic approach to setting targets through the PRO plan, with state oversight, and therefore request the removal of any "rates and dates" explicitly established in law.

We believe funds raised from producers should be expressly earmarked for enhancing residential recycling infrastructure and packaging recovery systems, ensuring transparency and accountability in program expenditures. Clear language is needed to establish guardrails against siphoning funds into unrelated programs.

Moreover, as the fiduciaries of funds and administrators of the program, producers should have appropriate representation on the advisory council to ensure that decisions align with the industry's capabilities and expertise. The advisory board would have outsized influence over key decisions. Manufacturers and formulators of products in the scope of this bill – who are important subject matter experts -- must be better represented on the advisory board.

HCPA supports the use of incentives for sustainable packaging practices, which can drive innovation and environmental stewardship among producers. To this end, we encourage that the bill refer to these incentives as "ecomodulation" in line with other existing programs.

The bill includes several provisions related to "toxic materials," and we believe these deserve the attention of separate stand-alone legislation. EPR programs are incredibly complex and adding additional priorities on top of recycling steers away from the primary goal of improving recycling. Similarly, any new requirements established in legislation should have a direct nexus to recycling and packaging recovery, and therefore ancillary programs like ocean litter cleanup or extraneous studies should be considered separately. We strongly encourage the sponsor to focus on this primary goal and not use the bill to add additional priorities, as meritorious as they may be.

HF 3577 should strive for consistency across state lines to facilitate efficient tracking, monitoring, and reporting, and promote greater effectiveness in recycling initiatives. We encourage the committee to consider cross-state alignment where appropriate.

Effective EPR programs also embrace shared responsibility across the packaging value chain to address waste management. Under EPR programs, state and local governments, waste management entities, producers, and consumers must be accountable for a robust and effective recycling system that builds on existing infrastructure.

For these reasons, HCPA is opposed to HF 3577 as written, and we welcome the opportunity to discuss these concerns further and collaborate on effective solutions. Thank you for considering our comments, and we look forward to continuing the dialogue on this important legislation.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. Finarelli', with a stylized flourish at the end.

Christopher Finarelli

Sr. Director, State Government Relations & Public Policy - Western Region

February 19, 2024

Dear Chair Hansen and members of the Environment and Natural Resources Finance and Policy Committee,

On behalf of the Association of Plastics Recyclers, I am **testifying in support of HF3577, the Packaging Waste and Cost Reduction Act.**

[The Association of Plastic Recyclers \(APR\)](#) is a US-based non-profit and the only North American organization focused exclusively on improving the recycling of plastics. APR members are the entirety of the plastics recycling industry from design to collection to recovery to remanufacturing. Plastics recycling is what APR does every day. APR understands the challenges facing the industry and the solutions needed to scale recycling effectively as a key solution to reduce plastic pollution and waste and move toward a more sustainable, circular economy.

Under our policy and advocacy initiatives, the APR works with U.S. states and stakeholders to adopt and implement producer-funding recycling policies as a critical solution to improve plastics recycling. **This bill will increase recycling rates and reduce plastic waste; reduce greenhouse gas emissions; spur more sustainable packaging design; and achieve all these milestones through an industry-driven solution without government spending.**

WE NEED TO COLLECT MORE PLASTICS FOR RECYCLING

The US could [recycle nearly 50% more plastic bottles today](#) using our existing recycling capacity if there was stronger participation and improved access to recycling programs. Many plastics recyclers are not running at full capacity because **we are not collecting enough bottles, milk jugs, and other common plastics for recycling from households and businesses.** A 2024 national recycling report found [Minnesota only recycles 20% of its PET bottles and only 26% of its HDPE bottles](#), despite 100% of these bottles being recyclable. This is why APR is supporting and actively engaging in Extended Producer Responsibility (EPR) policies in US states like HF3577.

EPR for packaging and printed paper is the [only proven policy to provide sufficient, ongoing, and dedicated funding to increase recycling.](#) By providing sustained,

consistent, and adequate funding for recycling, Minnesota can improve the convenience of recycling, provide stronger and more regular education and outreach to improve participation in recycling, and drive investments in new collection programs, sorting infrastructure, and more regional markets to support a circular economy and reduce plastic waste.

MINNESOTA'S RECYCLING SYSTEM NEEDS IMPROVEMENT

All states can see improvements in recycling rates under EPR programs, even states like Minnesota that have relatively strong existing programs. Three of the four states that have already adopted EPR for packaging—Maine, Oregon, and California—are also some of the top recycling programs in the country. [Data from across the US shows there is substantial room to improve recycling, both in the number of households participating in recycling and the amount of recyclables collected from households.](#) A 2024 national recycling report found Minnesota [buries or burns over 685 million tons of recyclable materials](#) each year from households. Improvements are needed and now is the time to transform the system through this bill.

This bill will drive needed investments in infrastructure and education to improve recycling in Minnesota without passing those costs along to local governments or consumers. Even maintaining Minnesota's current recycling system will require continual investment, and EPR for packaging is the best solution to shift the funding toward brand companies and off taxpayers and local governments' budgets.

PLASTICS RECYCLING PROTECTS OUR ENVIRONMENT

Plastics recycling has numerous environmental benefits and is a critical solution to reducing plastic pollution and waste. The use of recycled PET and HDPE plastics instead of virgin plastics [reduces energy use by 75 to 88% and reduces GHG emissions by 70%.](#) Recycling plastics also reduces air and water pollution compared to virgin production. Greater plastics recycling will move Minnesota closer to its climate goals. In addition, more recycling will result in millions of tons of materials kept out of landfills and incinerators, which will reduce the harm these facilities pose to the environment and local communities.

THIS POLICY IS BUILT UPON PROVEN SUCCESS WORLDWIDE

Today and every day of the year, in five provinces in Canada and over 20 European countries, more than 3,000 companies participate in EPR programs. Most of those companies are the same companies that sell the same products on our shelves in the US., companies such as Coca-Cola and Pepsi, Keurig and Kelloggs, Clorox and Colgate,

and many, many others. **We know EPR policies work, and we know they are one of the most effective solutions to increase the amount of plastics collected for recycling and ensure more recycled materials are used in new plastic packaging.**

ECONOMIC BENEFITS AND BUSINESS OPPORTUNITIES IN MINNESOTA

The APR represents recycling businesses and we want to underscore that recycling is a business, not an environmental movement. We want to grow plastics recycling businesses in Minnesota instead of expanding landfills. This bill is a huge opportunity for the existing service providers in MN, not a threat. There is a large need for more services, new and renovated infrastructure, innovative collection and processing systems, and more to reach these goals. The existing recycling providers are in the best position to deliver these new and expanded services because they have the existing infrastructure, partnerships, and experience to best serve the state.

This bill will expand and bring new recycling businesses throughout Minnesota and the Midwest. One notable example of this is the [recent opening of the plastics reclaimer, Myplas, in Rogers, MN](#). Myplas can recycle over 90 million pounds of flexible film plastics each year and the facility development was a collaborative partnership of the GREATER MSP Partnership's MBOLD coalition. Additional funding partners included General Mills, Schwan's Company, Charter Next Generation, Target, Ecolab, The Alliance to End Plastic Waste, Closed Loop Partners and the Minnesota Department of Employment and Economic Development. By creating a stronger recycling program that collects millions more tons of plastics and other recyclables, Minnesota can attract other recyclers and remanufacturers into the region.

EPR DOES NOT DRIVE UP CONSUMER COSTS

EPR for packaging has been in place in parts of Europe and Canada for over two decades, and **there is no data to show that Producer Responsibility programs lead to a noticeable increase in consumer prices based on actual program experience.** [There is no discernable difference in the price of consumer goods](#) in locations that have EPR for packaging programs compared to those that do not.

Under EPR for packaging regulations in Canada, brand companies pay fractions of a penny per product. These costs are spread throughout the supply chain and the company portfolio, and do not result in perceptible changes in consumer prices. Data from three Canadian provinces show the [EPR program is less than 1% of the total price of the average cost of goods in those regions](#). There are numerous factors that

influence product prices far greater than compliance costs such as EPR, including labor, transportation, retailer agreements, raw material supplies, and inflation.

[A 2023 Columbia University study](#) reinforced the findings that EPR for packaging is not a major driver of consumer costs. The study concluded that packaging is never more than 2% of the total cost of a product and that there is never a case where brand companies pass 100% of an added compliance cost to consumers. This demonstrates that opposition to this bill related to cost recovery is vastly overstating the potential cost increases by using inaccurate assumptions.

In addition, cost modeling in Washington state for a similar EPR for packaging program [showed EPR for packaging would provide substantial economic benefits](#). WA households could save \$60-300 per year by no longer having to pay for recycling services. Recycling programs would become more efficient to operate as more materials are collected, lowering the net costs per ton of managing recyclable materials. Overall the system could contribute over \$200 million to Washington's economy through direct, indirect, and induced jobs.

RECYCLED CONTENT STANDARDS ARE NEEDED FOR STRONGER RECYCLING

The APR was the first plastics-related organization to publicly support mandatory recycled content legislation in 2006, and we continue to champion these policies. Using post-consumer resin (PCR) content in plastic packaging is [one of the most effective ways to reduce the environmental impact of the packaging](#). This bill will also help build and stabilize end markets for recycled plastics. This stronger market demand helps recyclers to invest in the needed infrastructure to grow plastics recycling. This, in turn, can support the expansion and stability of community recycling programs.

The APR supports both EPR for packaging and strong recycled content requirements as necessary solutions. Both supply and demand policies are needed to improve plastics recycling; it's a both-and, not either-or.

REQUESTED REVISIONS

Below are suggested revisions to strengthen the bill based on experience in other states and emerging issues around the world:

1. **Update definition of post-consumer recycled content** to align with the International Standards Organization (ISO) standards and other US state

definitions. This is important to clearly differentiate between post-consumer materials collected from households, and not industrial recyclable materials that are commonly factory scraps. The goal is to ensure materials collected from households are recycled back into new products. The preferred definition per ISO is: “Postconsumer material” means material generated by households or by commercial, industrial and institutional facilities in their role as end users of the product which can no longer be used for its intended purpose. This includes returns of material from the distribution chain.

- 2. Remove performance targets from the bill and set targets after the Needs Assessment.** It is challenging to set appropriate performance goals in statute without a clear understanding of the current system performance, especially when establishing new metrics. For example, the current methods of measuring the recycling rate in the state, based on what is recycled rather than disposed, is substantially different than the measurements proposed under this bill based on what is recycled compared to the amount of packaging sold into the state. In this case, the bill establishes a new denominator in the equation. The APR supports ambitious and achievable targets, and more work is needed to evaluate the current system before strong and feasible rates can be set. The APR supports having the Commissioner set targets based on the outcomes of the Needs Assessment.

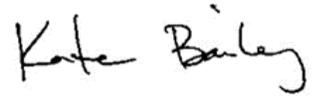
MOVING FORWARD

The bill is the right policy for Minnesota right now and is based on proven programs working in dozens of countries around the world each and every day. This is a good bill and while it will never be a perfect bill, we should not let perfection get in the way of progress. Most importantly, this is a solid framework and we can improve it as we go. We will not succeed if we do not start moving forward, and the bill outlines a reasonable, phased approach to implementation with appropriate feedback and input along the way to develop the best program for Minnesota.

I urge you to move this bill forward and continue to work with stakeholders on further refinements to make it a model for the entire country. Thank you for your vision, leadership, and commitment. APR staff are available at your convenience to discuss these comments and share further technical, regulatory, and policy information upon

request. Please contact Kate Bailey, Chief Policy Officer, at katebailey@plasticsrecycling.org.

Sincerely,



Kate Bailey
Chief Policy Officer, Association of Plastic Recyclers (APR)



The power of packaging in balance.™

AMERIPEN
American Institute for Packaging and the Environment

Testimony in Opposition
House File 3577
Packaging Waste and Cost Reduction Act

Minnesota House Environment and Natural Resources Finance and Policy Committee
February 20, 2024

Chairman Hanson, Vice Chair Jordan and members of the Minnesota House Environment and Natural Resources and Finance and Policy Committee. AMERIPEN appreciates the opportunity to present testimony on H.F. 3577, the Packaging Waste and Cost Reduction Act (Jordan). AMERIPEN greatly appreciates the extensive work that has gone into H.F. 3577, and the balanced approach it takes to address a very complex issue. However, due to prescriptive performance rates and other important factors, we must oppose H.F. 3577 as currently drafted in the DE1 amendment.

AMERIPEN supports packaging extended producer responsibility (EPR) legislation that represents shared responsibility for packaging recovery and recycling where the entire recycling system is improved. We believe that additional changes are necessary to H.F. 3577 to create a balanced approach to packaging EPR for Minnesota. We welcome the opportunity to continue to work with the Committee, Representative Jordan, and stakeholders in Minnesota to address packaging producer responsibility in a way that will improve recovery and recycling in the State and move its systems forward.

AMERIPEN is a trade association dedicated to improving packaging and the environment. We are the only material-inclusive packaging association in the United States representing the entire packaging supply chain. This includes materials suppliers, packaging producers, consumer packaged goods companies, retailers, and end-of-life materials managers. Our membership also includes a robust array of industry, material, and product-specific trade associations who are essential to the AMERIPEN fabric. We focus on science and data to define and support our public policy positions, and our advocacy and policy engagement is based on rigorous research rooted in our commitment to achieve sustainable packaging policies. We have several major, brand name, member companies headquartered in Minnesota, many who have a presence in the state, and more many who import packaging materials and products into the state. The packaging industry in Minnesota supports more than 40,000 jobs and accounts for more than \$12.2 billion in total economic output.

Packaging plays a vital role in Minnesota, ensuring the quality of consumer goods as they are manufactured, shipped, stored, and consumed, protecting the health and safety of Minnesotans 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 packaging for better environmental performance to boost recycling and evolve the recycling infrastructure.

Positive Elements: AMERIPEN has been engaged in dialogues regarding packaging producer responsibility in Minnesota for more than two years and we recognize that progress has been made in H.F. 3577 to balance various interests and protect the State's already robust recycling system. AMERIPEN appreciates that H.F. 3577 grants producers the ability to choose a producer responsibility organization (PRO), for compliance, that represents their interests and that will implement producer responsibilities under the law. We also appreciate that the current draft balances requirements on the PRO and recycling service providers in a way that does not place the entire burden of the law on the PRO. AMERIPEN also appreciates that there is some flexibility built into the current draft that allows for adjustments if feasibility issues arise around implementation and maintenance of the packaging EPR program.

Key Concerns: Despite these positive aspects of H.F. 3577, several overarching concerns remain with the current draft of the bill that will prevent it from being an effective solution to truly improve the State’s recovery and recycling systems. These concerns include:

- 1. Performance Rates:** AMERIPEN has strong concerns that the Statewide Goals in Section 12, Subdivision 7, are not based on real-world analysis of the recovery and recycling systems in Minnesota and could prove to be unachievable. While we appreciate that the lead-time on these goals have been increased, we remain concerned that they are overly optimistic for all materials. We are also concerned that only the Minnesota Pollution Control Agency (MPCA) Commissioner can initiate the process for adjusting these goals, and only after review by the Producer Responsibility Advisory Board created in H.F. 3577. AMERIPEN believes that statewide goals should only be developed after the needs assessment, also required under the bill, is completed and that the PRO should propose reasonable goals in their first producer stewardship plan. Additionally, we believe that the PRO should be able to request that goals be adjusted due to unforeseen challenges or changes in the marketplace, instead of the MPCA Commissioner having to initiate such a process.
- 2. “Producer” Definition:** We appreciate that the current draft attempts to clearly define who is a responsible “producer.” However, as implementation in other states continues, we have discovered that the current definition in H.F. 3577 lacks full clarity, particularly in co-packaged and private label scenarios. We believe that additional language is needed to ensure that the brand owner is and should be the ultimate primary entity that has responsibility for compliance with producer responsibilities, as they have the power to make packaging decisions and the data available to comply with the law. We are happy to provide additional related language.
- 3. Reusable Packaging:** AMERIPEN understands the desire of this policy to encourage reusable packaging to reduce packaging materials going to landfill. However, the performance rates (as noted above) are incredibly aggressive for reusable packaging, and the application of the lowest fee to these products only once creates unjustified subsidies and drivers for this type of packaging. Additionally, Section 15 in H.F. 3577 stipulates that the PRO will be paying for continual cleaning and infrastructure costs under this program, yet producers of this type of packaging only will pay a fee once into the system for that packaging. This is not equitable and will cause other types of packaging to subsidize the true cost reusable packaging. Finally, the definition of reuse does not fully encompass at-home refill systems that are likely to prove to be the most feasible options for reuse in the short-term.
- 4. Recyclable Determination:** AMERIPEN appreciates that H.F. 3577 creates a process for determining what covered materials are considered “recyclable” and creates a uniform requirement for these materials across the State. However, we believe that a 3-year review cycle for this process is not frequent enough to evaluate changes in the marketplace and create improvements needed to meet performance goals. Additionally, AMERIPEN believes that the PRO should have the ability to petition the Commissioner to evaluate materials that are able to achieve “recyclable” status, perhaps with Advisory Board review.
- 5. Timeframes:** AMERIPEN is concerned that PRO registration and compliance must begin a mere 10.5-months from now, on January 1, 2025, if H.F. 3577 is enacted. While a PRO has been formed and

approved for compliance with packaging EPR laws in other states, this timeframe for developing a registration application and ensuring producer participation is unreasonably fast and will create an immense burden on current PRO efforts. AMERIPEN asserts that registration of the packaging PRO in Minnesota should not occur until January 1, 2026, to allow for greater alignment and regulatory scoping to occur.

6. **Toxic Chemicals Benchmarking:** AMERIPEN appreciates that the current draft does not stipulate expansive and undefined toxics reduction language, which would be difficult for a PRO to calculate and measure. Within Section 8, we appreciate that the PRO is tasked with an information sharing duty in this regard. However, we recommend that the Commissioner also have a role in informing the PRO of chemical issues of concern and any new laws prohibiting toxic substances. Additionally, we would like to seek clarity for the use of language regarding “all laws prohibiting toxic substances in covered products” – we are concerned that this language is open-ended and could lead to extensive time researching the world for chemical restrictions, which is not typically a PRO’s purview.
7. **Bottle Deposit Return System:** AMERIPEN appreciates that Section 21 creates the ability for a future bottle deposit return system in Minnesota to interact with a packaging EPR program. AMERIPEN requests that if at such time a bottle deposit return system is created, there be an appropriate transition period away from the packaging EPR program to avoid major shocks to the State’s recycling systems from the sudden subtraction of some covered materials from curbside recycling programs.
8. **Infrastructure Investments:** AMERIPEN believes that infrastructure investments should be made through the procurement of services, through the competitive bidding process described in the bill. However, prescriptive infrastructure plans, as envisioned by the current draft of H.F. 3577, should be more adaptable and based on estimates of capital investments provided in the PRO plan. Infrastructure investments must be flexible and able to react to market conditions, as opposed to a dollar figure locked in stone at the time of a plan submission.
9. **Compostable Products:** We appreciate the specific consideration of compostable packaging within the draft legislation but encourage the sponsor to explore that further, including in collaboration with the AMERIPEN members and the Biodegradable Products Institute (BPI). It is very important within any EPR program to recognize the unique attributes of and recovery methods for compostable packaging that are often distinctly different than recyclable materials.

In conclusion, AMERIPEN again appreciates the significant work that has gone into H.F. 3577 and the forward progress that has been made. While we cannot support the bill at this time, we look forward to working with Representative Jordan, the Committee, and other critical stakeholders to address the aforementioned issues and continue to improve this legislation. AMERIPEN looks forward to working towards policy solutions, including packaging producer responsibility, that are results based, effective and efficient, and equitable and fair – and that will improve packaging recovery and recycling in Minnesota.

Please feel free to Dan Felton, Executive Director of AMERIPEN at: danf@ameripen.org, or Andy Hackman at: ahackman@serlinhaley.com for any questions or for stakeholder discussions on this important issue



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February 19, 2024

Dear House Environment and Natural Resources Finance and Policy Committee Members,

Thank you for the opportunity to provide written testimony concerning the amended version of *HF 3577 – Packaging Waste and Cost Reduction Act* (HF 3577-DE1), which we respectfully oppose.

Founded in 1933, the Foodservice Packaging Institute (FPI) is the leading authority on foodservice packaging in North America. FPI supports the responsible use of all foodservice packaging, while advocating an open and fair marketplace for all materials. Our core members include raw material and machinery suppliers as well as packaging manufacturers, which represent approximately 90 percent of the industry. Additionally, a number of distributors and purchasers of foodservice packaging are part of FPI's affiliate membership.

The foodservice packaging industry is committed to reducing the impact of its products on the environment and is dedicated to increasing their recovery. FPI has several special interest groups that bring together the supply chain to develop and promote economically viable and sustainable recovery solutions for foodservice packaging. These special interest groups include the Paper Recovery Alliance, Plastic Recovery Group, Paper Cup Alliance and Foam Recycling Coalition. More information on these groups and their efforts can be found [here](#).

As part of our commitment to increasing the recovery of foodservice packaging, we are supportive of policy approaches that advance this effort through systems such as recycling and composting. With respect to producer responsibility programs, it is our position that programs should be based on the principles of shared responsibility, fairness and system effectiveness and efficiency. With these principles in mind, please find detailed below our main concerns and recommendations with respect to HF 3577-DE1.

Packaging Definition

We acknowledge the desire to leverage established definitions of packaging and food packaging for the purposes of HF 3577-DE1. However, we suggest that additional considerations are necessary for producer responsibility programs. From our perspective, it is essential to include language specifying that covered materials as it relates to packaging and food packaging pertains exclusively to consumer packaging intended for the residential sector. This distinction is crucial for clearly delineating the scope of covered materials under the program.

Statewide goals

Establishing performance targets relating to recycling and/or composting, reuse, source reduction and the use of postconsumer recycled content is a complex task, particularly in the absence of robust data to guide such goals in Minnesota.

It is our view that mandated statewide goals should be removed from HF 3577-DE1. Instead, the producer responsibility organization should be responsible for proposing targets in stewardship plans submitted for

approval after the completion of the needs assessment. This approach allows for targets to reflect the realities of the marketplace and infrastructure within the state.

Funding and Scope

As proposed, the producer responsibility organization is responsible for reimbursing service providers for “collecting covered materials generated from all single-family residences, multifamily residences, and public places in the state” and “processing covered materials generated from all single-family residences, multifamily residences, public places, and commercial, industrial, and institutional facilities in the state”. We are concerned with several aspects of these reimbursement requirements.

First, it is our suggestion that during the transition to a producer responsibility program only those residential sources with existing services be included in the initial program plan. This promotes a seamless transition of existing services for single-family homes and multifamily residences. Over time, these services may be expanded to new sources and consideration may be given to public places and other locations that may generate consumer packaging.

Additionally, we propose that a definition of “public places” is needed to scope these areas to those where waste disposal services are provided by either the state or local jurisdiction.

We also note concern with the inclusion of reimbursements for the processing of covered materials from commercial, industrial, and institutional facilities as these properties often have contracts for recycling service that already include processing costs as part of overall fees.

Also related to reimbursements, we recommend clarity with respect to the need for reimbursement rates to reflect the cost of managing contamination and cleaning or sanitation needed for reuse systems. It is our view that there should not be cross subsidization of programs and materials. That is to say that the costs related to reuse should be funded by those producers of reusables rather than all producers.

Reuse Definition

With respect to the definition of reuse, we suggest consideration of a definition that differentiates between producer reuse systems and consumer reuse and refill. A consumer reuse and refill definition should reflect the ability of the packaging to be reused for the same or similar general purpose for which it was conceived (for example, for food storage purposes), as well as that formal systems are not always needed in these instances.

For the reasons outlined above, we are opposed to HF 3577-DE1. FPI would be pleased to discuss these comments with you further, and we thank you for your consideration of this feedback.

Sincerely,



Carol Patterson
Vice President, Government Relations
cpatterson@fpi.org



February 19, 2024

Chair Hansen & Members of the House Environment and Natural Resources Committee:

Thank you for the opportunity to provide comments on HF 3577, the Packaging Waste and Cost Reduction Act.

The Minnesota Retailers Association is made up of 1,200 retail stores across the state, including main street retailers, regional/mid-sized retailers, and retailers with a national presence. Today's retail market is competitive, and consumers are mobile with many options for purchasing products, including across a state border, the country and in some cases even the world.

This past summer we had a small work group discussing extended producer responsibility (EPR) as we recognize the importance of such conversations. As a result of that work, we developed a dozen draft principles we deem important when considering any EPR program. To the credit of Vice Chair Jordan, HF 3577 meets some of those principles, however it has significant challenges in several areas, and as a result we are opposed.

Our main objections to the bill center on:

- The proposed framework stands to create a Minnesota-only approach, without harmony with other state initiatives. Without such uniformity with other states, Minnesota's consumers may face higher product costs, and retailers may be placed at a competitive disadvantage in today's competitive marketplace.
- Unlike the original bill, the DE does not prohibit consumer point of sale fees, and as such a consumer could end up seeing increased prices for products before and at the point of sale.
- The proposal leaves open the door for requiring consumer take-back at retail outlets. Consumer participation should be convenient and easy, and utilize existing outlets for recycling, however retailer participation should be voluntary.
- Related to cost-benefit, the rates and dates in the proposal are arbitrary and lack data to support whether they are reasonable or even achievable.

Retailers share your goal of being good stewards of the environment, and we hope you share our goal of fostering a marketplace where Minnesota's retailers can competitively serve their customers.

Sincerely,

Bruce Nustad
president

MINNESOTA IS LEADING



Minnesota has a robust recycling infrastructure and one of the highest recycling rates in the country. According to “The 50 States of Recycling” report released in December of 2023, Minnesota has one of the highest recycling rates in the country for packaging materials including cardboard, boxboard, paper packaging, plastic films, and flexible plastic packaging. Beyond capturing a large portion of materials, Minnesota’s curbside recycling stream is one of the cleanest in the country, with a contamination rate of only 10-12% versus an average of 25% nationally.

As companies that have invested significantly in collecting packaging products and facilities to process them, we are concerned about completely overhauling the entire system through the Packaging Waste and Cost Reduction Act (S.F. 3561/H.F. 3577) as introduced, which creates a large new bureaucracy with unknown costs to manage only a portion of Minnesota’s waste stream.

BEFORE ACTING ON HF 3577: CONDUCT A NEEDS ASSESSMENT

Before the Legislature turns over the keys to a Producer Responsibility Organization (PRO) as proposed in the introduced bill, Minnesota should legislate only a comprehensive solid waste needs assessment to determine:

- 1) where there are gaps in the recycling system, and
- 2) how to encourage recycling, reuse, and reduction strategies in the most efficient way that builds on our state’s current infrastructure.

Once the needs assessment has been completed, a more thoughtful determination about whether an extended producer responsibility (EPR) approach to recycling should be made.

The needs assessment language in the bill is for figuring out how to operate EPR not to determine whether an EPR system should be established in the first place.

BUILD ON EXISTING RESOURCES AND MARKETS

If the needs assessment demonstrates that an EPR program is necessary, it should:

- 1) Supplement, not supplant, Minnesota’s existing recycling infrastructure, including material recovery facilities (MRFs), transfer stations, and other assets.
- 2) Ensure existing contractual relationships between recycling companies and their customers are not disrupted.
- 3) Create end markets for post-consumer recycling through minimum content requirements.

The bill as introduced:

- does not protect the millions of dollars of investments in recycling infrastructure by the state through the CAP program and by private companies is protected.
- allows the PRO to engage in anti-competitive behavior and disrupt existing waste and recycling contracts, stifling competition in the marketplace.
- sets no standards to develop markets for post-consumer recycling content, only vague goals.

NWRA MN supports the goals of reducing waste through recycling, reuse, and reduction – but H.F. 3577 as introduced is not the path to get us there.





Date: February 19, 2024

To: House Committee on Environment and Natural Resources Finance and Policy

Re: Letter of Information: MN HF 3577

Dear House Committee on Environment and Natural Resources Finance and Policy:

The Carton Council of North America is composed of four leading carton manufacturers, Elopak, Pactiv Evergreen, SIG, and Tetra Pak. Formed in 2009, the Carton Council works to deliver long-term collaborative solutions to divert valuable cartons from the landfill. Through a united effort, the Carton Council is committed to building a sustainable infrastructure for carton recycling nationwide and works toward its goals of increasing access to recycling, as well as recycling of cartons throughout the U.S. Currently, cartons have achieved 62% household access to recycling nationally. As of December 2023, household access to carton recycling in Minnesota was 82% – this can be broken down further to the Twin Cities Metropolitan area, which has 99% household access to carton recycling and 54% for the rest of the State.

Food and beverage cartons are a packaging option with an excellent environmental profile used to hold a variety of products. Two types of food and beverage cartons exist: gable-top and aseptic cartons. Both are made primarily from high-quality fiber. Cartons also contain a small amount of polyethylene, plus a small amount of aluminum is present in shelf-stable/aseptic cartons. These multiple layers allow cartons to safely store their contents for long periods of time. They do not prevent the package from being recyclable.

Cartons are recycled in one of two ways:

- Full carton recycler, where the entire carton, including the polyethylene and any aluminum, is turned into sustainable building products.
- At a recovered fiber paper mill, the extracted fiber is used to create new paper products such as tissue, toweling, and printing and writing paper as well as other paper-based packaging.

Fiber recovered from recycled cartons saves precious natural resources. A ton of paper made from recycled fibers conserves an estimated 7,000 gallons of water, 17 to 31 trees, 4,000 kWh of electricity, and 60 pounds of air pollutants. Recycling cartons is a great way to make new paper-based products and sustainable building materials.

The Carton Council supports the development and implementation of well-designed EPR systems for packaging and printed paper. The Carton Council is aligned with the spirit of HF 3577 in that the policy aims to bolster and improve the recycling system, but certain aspects of the bill are not realistic or achievable, including the various statewide goals. The Carton Council commends the bill sponsors for inserting language that targets should be based on the statewide needs assessment, however, including goals in the language of the bill prior to the needs assessment is concerning since the knowledge of achievability is not present at this point.



- **Statewide goals** - Setting statutorily mandated recycling, recycled content, source reduction, or other goals is an extremely challenging exercise, especially without any reliable data to support what these goals might be in the State. The Carton Council agrees that performance targets should be determined after the baseline is found in the statewide needs assessment. The Carton Council opposes mandatory recycled content requirements for fiber-based cartons and containers until high-quality, food-grade recycled materials necessary to ensure product safety, performance, and food protection are available at scale in the marketplace. The Carton Council suggests language be added to the bill to exempt fiber-based packaging from recycled content mandates if the manufacturer cannot achieve the postconsumer recycled content requirements and remain in compliance with applicable rules and regulations adopted by the FDA. In addition, source reduction should consider the product to package ratio that already exists for source reduced products such as cartons. We encourage Minnesota to develop recycled content policy in concert with food contact regulation and clearance practices to ensure full policy alignment and necessary quality assurances. Current market conditions, material availability, and ensuring that the material is at scale in the marketplace also need to be considered.
- **Packaging Reduction** – Setting unachievable packaging or source reduction goals in statute will either result in banning a wide range of products under the law or cause the law to fail under the inability to meet such mandates. Packaging reduction is happening in the marketplace and has been occurring for some time, as it is an area that reduces costs to producers. However, codifying punitive source reduction goals in statute like in A5322B, without considering producers’ historical source reduction efforts as determined by a needs assessment, and without a clear vision for how companies and their retail partners could achieve them, will cause an undue burden on producers and / or prevent certain products from being sold in the State.
- **Accepted Materials List** – In section 115A.1453, Subdivision 3, point 2, which refers to the accepted materials list, the Carton Council appreciates the “OR” ISRI OR defined stream language written into the bill and urge your Committee to keep that language in the bill through future iterations. Cartons are going into Grade 54 as a defined stream, but since the Grade definition doesn’t specifically include it, cartons wouldn’t otherwise be included.

Additionally, the legislation gives authority to the Commissioner of the Pollution Control Agency to establish a statewide materials list based on the statewide needs assessment. The Carton Council suggests amending the language to give the authority of compiling an accepted materials list based on a statewide needs assessment to the PRO. The Carton Council looks forward to engaging with the accepted materials list process should this legislation move forward.

The Carton Council is dedicated to building strong, sustainable recycling infrastructure and end markets. Our comments are offered in this context. We appreciate the opportunity to weigh in on HF 3577 and look forward to continuing to engage with the Committee and providing any data it may need to help make decisions beneficial to the recycling system in Minnesota and continuing to expand partnerships with public and private entities to further carton recycling.

Please don’t hesitate to contact us for any reason.

Sincerely,



Ed Klein
Executive Director
Carton Council



CONSERVATION
MINNESOTA

February 20, 2024

To the Members of the House Environment and Natural Resources Committee:

Conservation Minnesota urges your support for HF3577 (Jordan), the Packaging Waste and Cost Reduction Act. We believe this bill is a critical piece of the puzzle in reducing our solid waste stream, increasing recycling, and meeting Minnesota's environmental goals.

Minnesota has a trash problem. Currently, more than half of our solid waste ends up buried in a landfill or burned at facilities like the Hennepin Energy Recovery Center (HERC). At the same time, statewide recycling rates have plateaued around 45%. This imbalance has exacerbated many harmful impacts on our climate and health, polluting the air, water and soil, and disproportionately affecting the communities immediately surrounding waste facilities.

The Packaging Waste and Cost Reduction Act will increase recycling rates and the use of recyclable materials by making producers responsible for designing less harmful and more sustainable product packaging. Requiring the use of more recyclable, reusable or compostable packaging will reduce our waste stream and our reliance on wasteful single-use plastics. This will divert a large portion of our waste out of landfills and incinerators, and put reusable materials back into the supply chain, creating a more sustainable circular system.

Through the creation of a non-profit Producer Responsibility Organization (PRO), management of this program will be funded by eco-modulated fees paid by producers based on how recyclable, reusable or compostable their products are. These funds will be used by the PRO to support counties in their recycling and waste programs, rather than relying on increased costs to the consumer or the state.

If we are going to meet a zero-waste goal, we must make producers more responsible and accountable for the products and the packaging they sell. The burden cannot be left to the consumers - producers must be a part of the solution to our waste problem. We respectfully ask that this committee support HF3577 to help reduce our reliance on single-use packaging and start tackling Minnesota's growing trash problem.

Sincerely,
Nels Paulsen
nels@conservationminnesota.org
608-469-5299

James Lehner
james@conservationminnesota.org
978-844-4625

February 19, 2024

Representative Rick Hansen
Chair of the Committee on Environment and Natural Resources Finance and Policy

Re: HF 3577 — Jordan: Establishing the Packaging Waste and Cost Reduction Act

House Environment and Natural Resources Policy and Finance Committee members,

The City of Minneapolis is well-known for our high participation and low contamination in our residential recycling and organics recycling programs. Even so, our 2022 Capture Rate Study found it is not feasible for Minneapolis to meet the City, County or the State’s recycling and composting goals without systematic changes and infrastructure improvements.

Our customers, Minneapolis residents (and all residents and businesses in the State), have always had to cover the cost for recycling, composting and disposal of packaging and have had no say in how products are manufactured. It’s time that manufacturers and producers be held accountable for the packaging they make and the infrastructure needed to manage packaging at its end of life. We encourage you to support the Packaging Waste and Cost Reduction Act which will do just that.

Passage of this bill will not only reduce taxpayer money spent to manage the end of life of these products; it will set requirements for manufacturers to reduce and redesign their packaging so eventually it is all reusable, recyclable, or compostable. Additionally, passage of this bill will help cover education and outreach costs, and expand access to reuse, recycling and composting programs around the State.

These systematic changes and financial support - packaging redesign, increased access to reuse, recycling and organics recycling programs and increased education - are necessary to reduce greenhouse gas emissions to help meet City, County and State waste and climate goals.

Please continue to support waste reduction, reuse, recycling, and organics recycling programs and all residents of Minnesota by passing the Packaging Waste and Cost Reduction Act.

Sincerely,



David A. Herberholz, Director
Minneapolis Solid Waste & Recycling



CONSUMER
HEALTHCARE
PRODUCTS
ASSOCIATION

Taking healthcare personally.

February 19, 2024

Representative Rick Hansen
Chair, House Environment and Natural Resources Finance and Policy
407 State Office Building
St. Paul, MN 55155

Dear Chairman Hansen,

Thank you for the opportunity to comment on HF 3577, a bill sponsored by Representative Jordan, seeking to address packaging waste in the State of Minnesota. The Consumer Healthcare Products Association¹(CHPA) supports efforts to reduce waste in a responsible manner that do not interfere with existing federal government packaging obligations in place to ensure product safety, stability, and efficacy.

The Food and Drug Administration (FDA) regulates consumer healthcare product packaging under Good Manufacturing Practices regulations (GMPs) (21 C.F.R. Part 211, Subpart G), including material examination and usage criteria, packaging and labeling operations, tamper-evident packaging and expiration dating. Similarly, FDA regulates dietary supplement product packaging under separate GMP regulations (21 C.F.R. Part 111, Subpart L) so that the condition of the packaging will ensure the quality of the dietary supplements (§ 111.410); and that it will protect against contamination, particularly airborne contamination (§ 111.415). Other consumer healthcare products are also regulated by the Consumer Product Safety Commission under the Poison Prevention Packaging Act (PPPA), which requires child resistant packaging. Manufacturers are required to test and certify compliance and products can be considered misbranded under the Federal Food, Drug, and Cosmetic Act when packaging does not comply with PPPA packaging and labeling regulations.

HF 3577, unlike most extended producer responsibility (EPR) bills considered in states around the country, does not exempt FDA regulated consumer healthcare products (drugs, dietary supplements, and medical devices) from the EPR or post-consumer recycled content (PCRC) sections of the legislation. This is unfortunate given the existing federal restrictions on packaging material use for these healthcare items.

To maintain uniformity with other states around the country and to avoid conflict with existing federal packaging requirements, we respectfully request FDA regulated drugs, medical devices, and dietary supplements be granted an exemption from this bill. Consumer healthcare products undergo rigorous packaging checks from the FDA and other federal agencies. The specialized packaging needs of these products make across-the-board state mandated packaging proposals unfeasible in many cases. Exempting these FDA regulated products from scope of the bill would preserve the overall intent of cutting excess

¹ The Consumer Healthcare Products Association is the Washington, D.C. based national trade association representing the makers and marketers of over-the-counter medicine, dietary supplements, and consumer medical devices



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packaging from landfills, while not unduly affecting the availability and affordability of these important healthcare products.

Amendment Request

To accommodate FDA regulated consumer healthcare products in the legislation, we recommend the following exemption be added to the bill:

This Act does not apply to packaging for products that are regulated as a medical device, drug, or dietary supplement by the United States Food and Drug Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 321 et seq.;

Conclusion

Packaging for pharmaceuticals, dietary supplements, and medical devices is a multi-faceted and highly regulated space that forces manufacturers to consider several factors beyond basic aesthetics of the package itself. A federal framework guiding the industry's packaging is already in place, and for decades has served the public interest well. For this reason, we respectfully request the aforementioned exemption amendment be added to the legislation before final approval.

Thank you for taking the time to consider our concerns and feel free to contact me directly with any follow-up questions you may have. CHPA has a long track record of working collaboratively with state legislatures and we look forward to continuing that on this proposal and with this committee as well.

Sincerely,

A handwritten signature in blue ink that reads 'Carlos I. Gutiérrez'.

Carlos I. Gutiérrez
Vice President, State & Local Government Affairs
Consumer Healthcare Products Association
Washington, D.C.
202.429.3521
cgutierrez@chpa.org

Cc: Members of the House Environment and Natural Resources Finance and Policy Committee



February 19, 2024

Subject: HF 3577 Packaging Waste and Cost Reduction Act

Environment and Natural Resources Finance and Policy Committee:

As the City of Saint Paul's manager of recycling and solid waste programs, I am writing to express our support for HF 3577 Packaging Waste and Cost Reduction Act.

This bill, if passed as currently written, would have many benefits for the City of Saint Paul, its residents, and the State of Minnesota. These proposed benefits will:

- Save local government and residents money by shifting the cost to producers and offering reimbursement for City source reduction, reuse, recycling, and composting programs. The City of Saint Paul recycling program anticipates approximately 10 million dollars reimbursement annually for collection and education services if the proposed bill is passed.
- Simplify recycling by creating a single baseline list of recyclable materials statewide to reduce confusion and contamination.
- Increase recycling throughout the state by requiring that the Producer Responsibility Organization (PRO) work with existing haulers and recycling facilities to ensure recycling services are as conveniently available to all Minnesotans as trash collection.
- Require producers to pay for and manage the packaging they sell and transition to sustainable packaging that prevents waste, establishes reuse systems, makes sure the items are recyclable/compostable and that communities have those services available, reducing citizens' burden.

Please vote in favor of HF 3577. Thank you for the great work you are doing to protect the environment in Minnesota.

Sincerely,

Sarah Haas





Feb. 19, 2024

Re: HF 3577 (Packaging Waste and Cost Reduction Act)

Dear Chair Hansen and Members of the House Environment and Natural Resources Finance and Policy Committee:

I write as executive director of the Minnesota Newspaper Association (MNA) to express our concerns about HF 3577. MNA represents more than 250 newspapers throughout the state, from the smallest to the largest.

Imposing on newspapers the regulatory obligations and associated expense of compliance with the program created in HF 3577 would have a severely negative impact on them, even though newspapers are not principal contributors to the waste problem in Minnesota. Including them in the bill would yield minimal environmental benefits at a very high cost of compliance for Minnesota's newspapers.

For more than 30 years, newspapers have not only actively sought to promote responsible environmental practices, but have vigorously advocated for them, and have repeatedly encouraged their readers to recycle. As a result, newspapers are recycled at a rate of more than 64 percent, higher than any other product, while also recycling 100 percent of leftover retail product. Newspapers are environmentally friendly as well, because they use soy-based non-toxic inks, making them fully compostable and biodegradable. In addition, newspapers can be recycled multiple times.

According to the Environmental Protection Agency, newspapers comprise only 1.7 percent of municipal solid waste. Furthermore, the newspaper category also includes directories and other forms of printed paper, so the percentage of actual discarded newspapers is even lower.

It is also a fact that newspaper print volumes are declining, as newspapers and their readers increasingly move to digital. Thus, there is likely to be diminished print demand and a reduced number of newspapers entering the waste stream system in the future.

It also bears noting that the function performed by newspapers is very different from that of most other products in the waste stream. Newspapers provide vital news and information to residents of the state, frequently addressing environmental issues. Given the current degree of disruption in the newspaper business and the stress on newspaper budgets, the kinds of additional expenses imposed by HF 3577 would literally deprive residents of news and information: newsroom budgets would be reduced, and in many cases home delivery of printed newspapers would be unsustainably expensive.

We appreciate your consideration of our concerns as you discuss this proposal.

A handwritten signature in black ink that reads "Lisa Hills".

Lisa Hills
Executive Director
Minnesota Newspaper Association

CC: Representative Sydney Jordan



02/19/24

RE: HF 3577

Members of the House Environment and Natural Resources Finance and Policy Committee, Medical Alley proudly represents a network of more than 800 leading health technology and care companies, research organizations, and cutting-edge innovators working in service to our mission – to activate and amplify healthcare transformation on behalf of patients around the world.

For 40 years, Medical Alley has been a critical partner and connection point between companies, talent, and the broader Medical Alley community, which employs more than half a million Minnesotans in all corners of this state.

Our partners understand the significant challenges facing this industry and are working to ensure care becomes more accessible, affordable, and effective for everyone.

It is with these guiding principles that we express concern about House File 3577's impact on access to care from medical devices, medical drugs, medical equipment, medical products, infant formula, medical food, and nutritional supplements.

For medical devices, FDA requirements govern the methods, facilities, and controls used in the design, manufacturing, packaging, labeling, storage, installation, and servicing of all finished devices. This is to ensure that the products are safe and effective for patients and consumers.

Medical devices must remain sterile, free from contamination, and protected from any mechanical damage throughout the supply chain process. Packaging must be designed to meet these requirements in order to protect the medical devices and help ensure their effective delivery.

Manufacturers have very little control over the type of packaging available from their suppliers to meet these standards and therefore cannot easily change it. Any additional requirements by individual states risk compliance with the FDA.

Once a medical device has been given approval by the FDA and is through the supply chain process, it is made available to patients, hospitals, and consumers through various distribution channels.

Products and equipment typically remain in service with the end user until they reach the stage for disposal, at which time some hospitals operate recycling programs or participate in partnerships with manufacturers and other organizations to recycle or repurpose constituent materials.

Many medical device manufacturers have specific sustainability goals and support recycling programs for their products and packaging. Some even operate stewardship and partnership



programs to reclaim materials – including products and packaging – from consumers and hospitals to divert material from the waste stream and support the circular economy.

The medical technology industry is working to develop and redesign packaging to be more sustainable and use less materials while still meeting the rigorous standards of the FDA.

Several companies are members of the Healthcare Plastics Recycling Council (HPRC), which is a consortium of the health care and recycling industry working to improve recycling of the plastic products that are vital to medical technology. HPRC partners with hospitals to create recycling programs and identify common challenges of recycling throughout the supply chain and potential solutions.

We ask committee members to ensure this legislation prioritizes access to medical care while allowing for environmental stewardship to be carefully managed by federal regulators and the industry to ensure a consistent process and stable supply of life-saving medical equipment.

Sincerely,

A handwritten signature in black ink that reads 'Peter Glessing'. The signature is written in a cursive style and is centered within a light gray rectangular box.

Peter Glessing
Senior Director of Policy and Advocacy
Medical Alley



February 20, 2024

Representative Rick Hansen
Minnesota House of Representatives
10 State Office Building
St. Paul, MN 55155

RE: Opposition to House Filling 3577– The Packaging Waste and Cost Reduction Act

Dear Committee Chair Hansen, Vice Chair Jordan, and Members of the Environment and Natural Resources Finance and Policy Committee,

The American Forest & Paper Association (AF&PA) must respectfully oppose House Filling 3577- the Packaging Waste and Cost Reduction Act on behalf of our members and their employees who are an integral part of the circular economy.

Introduction to AF&PA

AF&PA serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. The forest products industry is circular by nature. AF&PA member companies make essential products from renewable and recycle resources, generate renewable bioenergy and are committed to continuous improvement through the industry’s sustainability initiative — [Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future](#). The forest products industry accounts for approximately five percent of the total U.S. manufacturing GDP, manufactures about \$350 billion in products annually and employs about 925,000 people. The industry meets a payroll of approximately \$65 billion annually and is among the top 10 manufacturing sector employers in 43 states.

In Minnesota, the industry employs more than 23,000 individuals, with an annual payroll of over \$1.7 billion. The estimated state and local taxes paid by the forest products industry totals \$103 million annually.¹

Concerns with Packaging Waste and Cost Reduction Act

AF&PA must respectfully oppose HF 3577, which would require producers to create or participate in a product stewardship organization to sell or distribute products for use in Minnesota. We respectfully ask policymakers to focus on improving recycling for materials with low recovery rates, instead of creating mandates and fees for paper producers that could direct capital away from investing in recycling infrastructure.

¹ Data sources: U.S. government, AF&PA, and Fastmarkets RISI. Figures are the most recent available as of December 2022.

The paper industry has a demonstrated, measurable record of success in making paper and paper-based packaging more circular and sustainable through market-based approaches. Extended producer responsibility policies are typically applied as a solution for hazardous, hard-to-handle materials with low recycling rates, such as batteries, paint, mattresses, or electronics. For a highly recycled material like paper, with widely accessible collection programs and robust and resilient end markets, EPR could disrupt efficient and successful paper recycling streams to improve the least effective streams.

The Paper Industry Is a Responsible Producer

Paper recycling rates in the U.S. have consistently increased in recent decades, with 68 percent of paper recovered for recycling in 2022.² The paper industry recycles about 50 million tons of recovered paper every year — totaling more than 1 billion tons over the past 20 years. According to the EPA, more paper by weight is recovered for recycling from municipal waste streams than plastic, glass, steel, and aluminum combined.³ The paper industry has planned or announced around \$7 billion in manufacturing infrastructure investments by the end of 2025 to continue the best use of recycled fiber in our products, resulting in an over 9-million-ton increase in available capacity.⁴

This success has been driven by the paper industry's commitment to providing renewable, sustainable, and highly recycled products for consumers. Recycling is integrated into our business to an extent that makes us unique among material manufacturing industries – our members own over 100 materials recovery facilities (including two in Minnesota) and 80 percent of paper mills use some amount of recycled fiber. Any EPR system must fully and fairly credit the early, voluntary action our industry has taken to advance the recycling rate of our products, and strictly prohibit the use of fees generated by one material to subsidize development of recycling infrastructure for competing materials with lower recycling rates.

In fact, our industry's recycling rates are so successful that some products are approaching the maximum achievable recycling rate. The three-year average recycling rate for the material that would be most impacted by EPR; old corrugated containers (OCC), is already 91.3 percent.⁵ In addition, 81.4% percent of Minnesotans have access to residential curbside recycling.⁶ The state already has a well-developed and widely accessible paper and paperboard recycling system, thus negating the need for an EPR program. Identifying successful parts of existing programs will allow the state to replicate proven solutions with lowered risk for all stakeholders.

Continuing innovation and meeting customer needs is an important part of the way our members do business. Through research among our members and best practices in the industry, AF&PA developed a tool to help packaging manufacturers, designers and brands create and manufacture

² <https://www.afandpa.org/priorities/recycling>

³ https://www.epa.gov/sites/default/files/2021-01/documents/2018_ff_fact_sheet_dec_2020_fnl_508.pdf

⁴ <https://www.afandpa.org/priorities/recycling/paper-recycling-process>

⁵ <https://www.afandpa.org/news/2023/us-paper-industry-tallies-high-recycling-rate-2022>

⁶ <https://www.afandpa.org/priorities/recycling/what-were-doing>

packaging that meets their recyclability goals. *The Design Guidance for Recyclability* is intended to serve as a data-driven resource to support ongoing innovation.⁷

Paper Products Do Not Belong with Packaging EPR Concepts

Not only does HF 3577 create an inappropriate one-size-fits-all solution for packaging types that have vastly different needs and sustainability goals, but it adds paper products to the list of covered materials, which simply does not make sense. The argument that “everyone in the bin needs to pay” is a distraction from whether paper products are contributing to the concerns that are to be addressed by EPR or if it can become more sustainable as a result of EPR being in place- and the answer is no to both.

- Printing paper consumption is naturally declining due to electronic substitution- 64 percent nationally since 2000- and are not contributing to growing volumes in recycling bins associated with other materials.
- Printing papers have already achieved the EPR “design for the environment” goal, as the vast majority of printing papers are 100 percent recyclable and do not contain hard-to-recycle components like other materials that would benefit from major infrastructure improvements.
- Printing paper processing is straightforward and does not require the kind of special equipment needed to sort lightweight, multi-material or complex products. PRO Investments in infrastructure would likely subsidize needs for non-paper materials, not paper.
- This is an aspirational and counter-productive goal for printing papers due to expanding single-stream collection and an increasing proportion of packaging papers in the mix. These trends make increased recycled content unsuitable for making high quality printing paper and diverts otherwise usable fiber away from more efficient uses like packaging products.
- Including printing paper in the legislation would involve the registration, fee collection and enforcement for potentially thousands of printing paper “producers” due to the complex supply chain relationships among manufacturers, brand owners or distributors, and retailers of printed paper products. This raises the question of how high administrative costs of managing such a program with so many producers representing such a small volume of material could be justified.
- Paper maintains importance as a medium for sensitive financial and medical documentation, conservation and archival grade paper, paper designed for use in building construction, and important First Amendment conduits. The overly broad definition of “paper product” in HF 3577 creates issues for access to essential products in addition to First Amendment equity issues.
- The definition of “paper product” in HF 3577 captures materials that are unlikely to be found in the waste stream. Unprinted paper is an intermediary product and until it converted into its final use, does not enter the waste stream. By charging producers of these products for entering Minnesota, they are unfairly charged for a material that is unlikely to be found in municipal waste streams.

⁷ <https://www.afandpa.org/news/2021/afpa-releases-new-guide-further-advance-paper-recycling-0>

Unintended Consequences of EPR Policies

EPR policies must be carefully designed to avoid creating fees or mandates that could disrupt efficient and successful paper recycling streams or that direct private sector funds away from investment in recycling infrastructure. HF 3577 requires funding which would be used to pay the costs of municipalities and entities providing solid waste management services. But this is merely a cost-shifting mechanism common in other EPR programs that does not create added value or develop end markets for recyclable materials. The paper industry already contributes to economically sustainable recycling programs by purchasing and utilizing material sourced from residential collection programs in manufacturing new products.

HF 3577 requires statewide goals that for postconsumer recycled content for 2033 and 2038. Recovered fiber markets are complex, efficient, and dynamic and are not served by regulations or prescriptive approaches to specify the use of recycled fibers or dictate what type of recovered fiber is used in products. The preference for recycled content in packaging could be contrary to sustainability goals. Rather than drive increased paper recycling, fee structures to incentivize recycled content in paper products could: make markets for recovered fiber less efficient; prevent recovered fiber from going to highest value end use; raise the cost of production for new paper products; and narrow available choices for consumers.⁸ It can also result in unintended consequences such as an increase in transportation costs and emissions due to shipping recovered fiber even while virgin fiber can be sourced more locally.

Recycled paper fiber can be reused 5-7 times to make new products. Virgin pulp supply is needed to sustain and grow the recovered fiber cycle. The paper and wood products industry promotes and uses sustainable forestry best practices because it depends on sustainable forest growth. These best practices include forest certification programs that provide standards, or guidelines and structure, for sustainable forest management and fiber sourcing. In North America there is a mosaic of healthy forests, wherein growing, harvesting, replanting, and regrowing forests occurs as a standard practice. Forest lands in North America have been stable for more than 100 years. Our industry responsibly uses every part of the tree to make essential products for everyday life. Using paper and wood products incentivizes regeneration and replanting trees after harvest and keeping land in forests, decreasing the likelihood of conversion to other uses like parking lots, subdivisions, or pastures.

Current efforts have achieved strong gains in paper recycling and are expected to continue to do so in the future. Putting pressure on producers to arbitrarily change content in certain paper products interrupts the market-based utilization of recovered fiber, prevents recovered fiber from flowing to its highest value end-use, is counterproductive both economically and environmentally, and is inconsistent with the precepts of sustainability.

HF 3577 also requires, “10 percent of the number of units of packaging sold in the state must be returned to an established reuse system by 2033,” increasing to 20 percent in 2038. These goals

⁸ https://www.afandpa.org/sites/default/files/2022-09/AF%26PA-RecycledContentMandates_8152022_0.pdf

preference reusable packaging which is often, by nature, neither recyclable nor compostable. Similar to the current situation with e-commerce and curbside pickup groceries in New Jersey leading to a glut of reusable bags for customers, a sudden shift to reusable packaging mandated by policy before its end-of-life disposition is worked out could result in that packaging being treated as single-use when it may be ultimately less sustainable from a life-cycle perspective than packaging options available today. This issue is exacerbated by the bill preferencing reuse through lower producer fees, an incentive that will likely increase this concerning outcome.

Focus On Solutions for Products with Low Recycling Rates

Paper recycling has enjoyed decades of success because of the industry's investments, consumer education, the wide availability of well-developed recycling programs, and the efforts of millions of Americans who recycle at home, work, and school every day. The paper products industry is proud to be part of the recycling solution by providing renewable, sustainable, and highly recycled products for consumers. We respectfully ask policymakers to focus on improving recycling for materials with low recovery rates that contaminate the recycling stream.

Conclusion

We encourage the Committee to avoid measures that might penalize the forest products industry from continuing to engage in the state economy and we look forward to continuing our work with the State of Minnesota. Please contact Frazier Willman, Manager, Government Affairs at Frazier_Willman@afandpa.org with any questions.



TESTIMONY

Jacob Cassady
Director, Government Relations

On Behalf of
The Association of Home Appliance Manufacturers

Before the Minnesota House
Environment and Natural Resources Finance and Policy Committee

HEARING

H.F. 3577
An Act Relating to Packaging Waste and Cost

February 20, 2024

Chair Hansen, Vice Chair Jordan, Ranking Member Heintzeman and members of the Environment and Natural Resources Finance and Policy Committee, the Association of Home Appliance Manufacturers (AHAM) supports reasonable and effective extended producer responsibility (EPR) measures. AHAM is willing and committed to working with the committee on a bill similar to Oregon's EPR law, the Plastic Pollution and Recycling Modernization Act (SB582, 2021).

AHAM represents more than 160 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 Minnesota, the home appliance industry is a significant and critical segment of the economy. The total economic impact of the home appliance industry to Minnesota is \$3.6 billion, more than 25,000 direct and indirect jobs, \$468.5 million in state tax revenue, and more than \$1.2 billion in wages. The home appliance industry, through its products and innovation, is essential to consumer lifestyle, health, safety and convenience. Home appliances also are a success story in terms of energy efficiency and environmental protection.

AHAM supports all material packaging EPR legislation that provides the following:

Packaging That Does Not Enter the Household/Curbside Recycling Stream is Excluded

Appliance packaging materials, including expanded polystyrene (EPS) and thin plastic film (PE), may ultimately not enter the residential recycling stream because large appliances are usually delivered to a consumer's home and, as part of the installation, the packaging material is removed by the installer and not left in the home. The installers load the packaging into the delivery truck and return those materials to be recycled through commercial (non-residential) recycling systems.

Like major appliances, packaging materials that are used for the shipping and distribution of multiple portable and floor care units are commercially recycled and do not enter the residential recycling stream. A shipment of portable and floor care appliances would include hundreds of products placed in multiple master cartons that are secured to a pallet. The pallet of product goes to a distribution center and is either separated by units or delivered to the final seller. Like major appliances, packaging materials that are used for the shipping and distribution of multiple portable and floor care units are commercially recycled and do not enter the residential recycling stream.

Oregon's EPR law, the Plastic Pollution and Recycling Modernization Act (SB582, 2021) recognizes and encourages this successful recycling process by including a provision that exempts covered packaging materials if the producer can demonstrate that their packaging is recovered as a function of the distribution chain and is recycled at a responsible end market. The Oregon law states the following:

A producer may demonstrate to the department that a material is exempt from the requirements for a covered product if the material:

- (A) Is collected through a recycling collection service not provided under the opportunity to recycle;*
- (B) Does not undergo separation from other materials at a commingled recycling processing facility; and*
- (C) Is recycled at a responsible end market.*

Ontario, Canada takes a similar approach with a regulation that allows for two deductions and home delivered appliances are one of them. The following is a common deduction in Canada:

Allowable deductions are those Blue Box materials that are:

Collected from an eligible source at the time a related product was installed or delivered. For example, packaging that is supplied with a new appliance and is removed from the household by a technician installing the new appliance.¹

AHAM requests the legislation to be amended to include the provisions above.

Program Should Focus on Packaging Recovery and Not Material Design Requirements

Appliance packaging is used to protect the appliance and factory personnel during storage, transport, and delivery. The safest and most cost-effective materials for this use are lightweight, can withstand multiple impacts, and maintain their integrity in humid conditions. Unlike smaller, fast-moving consumer goods, packaging for heavy durable goods have different requirements and must be able to ensure the protection of workers during transportation and at distribution centers. Large appliances such as refrigerators, freezers, dishwashers, cooking ranges, washers and dryers are stacked as high as 30 feet and packaging cannot fail while products are warehoused, regardless of environmental or climate conditions.



Worker safety in warehouses, distribution centers or during transportation/delivery must be considered, especially when dealing with large appliances such as refrigerators, freezers, dishwashers, cooking ranges, clothes washers and dryers. Once assembled, major appliances are often packaged, stored and moved in very large warehouses or distribution centers. These facilities often have limited climate control and can experience extreme temperature and humidity changes. Low temperatures can cause packaging materials to become brittle while humidity and heat can affect the packaging's structural integrity and limit the effectiveness of adhesives or the strength of products that

are made from fiber.

For safety purposes, it is vital to maintain the structural strength of packaging materials, particularly with respect to major appliances that are regularly stacked vertically with multiple units above ground. Furthermore, these appliances are often moved around by clamp truck and the packaging must withstand the force of the clamps to be moved efficiently. Other paper alternatives such as cardboard, molded pulp or honeycomb can only handle a more limited impacts and more apt to lose structural integrity in hot and humid environments.



A fiber-based alternative would be larger and heavier, which leads to more truck loads and more warehouse space. It is estimated that there would be an increase of 5-10% in all directions of the packaging, which equates to an increase of about 20-30% more trucks needed to deliver large appliances.

Additionally, thin plastic film (PE) is used to protect the finish of appliances as well as the display screen. Fiber alternatives, such as paper, are like sandpaper and would scratch the product and would lead to consumers either accepting a damaged product or refusing delivery and the distributor returning the product to the warehouse. There is no alternative to the use of plastic film to protect the finish of appliances or the display screen.

Durable Product Manufacturers Should Have Designated Seat on Advisory Board/PRO

Manufacturers of durable products should have an equal role in the management of the program as other stakeholders. Durable goods have unique packaging needs that other, non-durable manufactured goods do not necessarily require. A designated seat or position would ensure that all stakeholders have a voice in the program.

Recovery programs that place responsibility for recycling and/or disposal of post-consumer packaging with producers must ensure producers' involvement is not limited to merely subsidizing the status quo of inefficient recovery and recycling programs. If producers are

responsible for the costs to dispose/recycle in a given jurisdiction, then producers must have the authority to exercise proper oversight without being required to give preferential treatment to existing partners, collectors, or municipal programs during the program's design and implementation. Requiring responsibility without authority is a dysfunctional management structure.

Material Fees Appropriately Assigned Based on Material's Environmental Impact

Packaging material fees or "eco fees" must consider the life-cycle impact of the material. The use of packaging material that is easily and readily recycled should be incentivized as compared to lightweight, non-biodegradable materials. Alternatives to existing packaging materials or material source reduction involve tradeoffs. For example, plastic-based products will generally be lighter and less volume than fiber-based packaging. In addition, there are already inherent financial incentives for manufacturers to reduce costs and amounts of packaging, especially for home appliances that have non-consumer facing packaging, because the packaging is not used for marketing purposes. It is purely an additional cost to the product to ensure the product arrives at the home without being damaged. The methodology used to set fees should be consistent with established practices to determine fair allocation of costs based on the complexity required to collect certain material. Minnesota should require the PRO(s) to apply the minimal annual administration fee feasible to prevent less environmentally impactful materials from subsidizing more environmentally impactful materials.

Credit Manufacturers for Previous Packaging Reductions

Manufacturers who proactively reduced and/or included recycled material in their packaging should have those actions counted toward any source reduction or recycled material requirement. A future packaging law or regulation should not penalize companies that have already taken these steps.

States should seek a Harmonized Approach

To the greatest extent possible, states should harmonize stewardship programs including definitions and the process for reporting and remitting with existing state programs. Harmonization of recycling policies will encourage economies of scale, efficiencies and convenience for consumers, while streamlining compliance. In Canada, "EPR" packaging programs exist in most Provinces, with manufacturers having to comply with each program that varies in scope. This is very costly to both manufacturers and to residents.

Conclusion

AHAM appreciates the opportunity to provide comments to the Committee. 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. The current system for appliances and appliance packaging works, and it should be allowed to continue on its successful path. For future reference, my contact information is (202) 202.872.5955 x327 or jcassady@aham.org.



February 19, 2024

Representative Rick Hansen, Chair
Representative Sydney Jordan, Vice Chair
Environment and Natural Resources Finance and Policy Committee
Minnesota House of Representatives
10 State Office Building
Saint Paul, MN 55155

RE: Support for HF 3577 - Packaging Waste and Cost Reduction Act.

Dear Chair Hansen, Vice-Chair Jordan, and Members of the Committee:

Thank you for the opportunity to submit comments in **support** of HF 3577 on behalf of Upstream. Upstream is a US-based non-profit and leading change agency for the reuse movement in the US and Canada. We spark innovative solutions to help people, communities and businesses shift from single-use to reuse.

In our current linear economy, roughly 15% of wood harvested, 22% of aluminum mined, 36% of plastic created, and half of glass produced goes primarily to making single-use packaging that is consumed in a matter of minutes before it is trashed, recycled, or littered. This system perpetuates the extraction of precious natural resources while generating significant waste and pollution. In short: it treats people and the planet as disposable. HF 3577 will break this cycle by creating an extended producer responsibility (EPR) program for packaging and paper products with reuse provisions and incentives. **EPR is a comprehensive, systemic policy that will lay the foundation for Minnesota's transition to a circular economy.**

Successful packaging EPR programs have been operating around the world for over 35 years. In fact, packaging EPR is the most common type of EPR program globally - more than paint, electronics, household hazardous waste, appliances, or any of the other programs developed to date. Over one billion people live in places where consumer goods companies pay some or all of the costs of packaging collection and recycling. In these jurisdictions, recycling rates for covered materials are significantly higher than in countries without EPR. **Most covered producers under these systems are the same global companies that would be held responsible under an EPR program in MN, and the same ones who are now responsible for their packaging and paper products in Colorado, California, Oregon, and Maine.**

HF 3577 includes strong provisions to support not just recycling but upstream waste prevention and reuse as well, in line with [Upstream's principles](#) for reuse in EPR. While packaging EPR is a tried-and-true strategy, this bill will employ this time-tested approach to

achieve cutting edge results for people and the planet alike. When viewed through a consumption-based lens, packaging and packaged goods represent over 40% of US greenhouse gas emissions. Reuse systems are [far more effective](#) at reducing climate emissions, boosting local economies, generating domestic jobs, and of course eliminating waste than recycling and other downstream interventions, which is why reuse is increasingly being incorporated into EPR policy. For example, the CO2 impacts of disposable paper, plastic, and bioplastic cups are 3 to 10 times greater than reusable ceramic, stainless steel and glass alternatives. Over its average life, a reusable stainless steel cup at an event venue will generate *over 160 times less climate pollution* than its single-use plastic counterpart. HF 3577 will require that producers transition a portion of their packaging into reusable, returnable containers and make investments throughout the state into infrastructure that will enable all Minnesotans to access a new reuse economy. We have been working with Representative Jordan as well as other interested stakeholders to strengthen and clarify the reuse provisions throughout HF 3577, and we look forward to continuing to do so.

For too long, local governments and communities have shouldered the burden of managing packaging waste. Municipalities and community leaders are powerful catalysts for reuse and recycling, and critical players in the transition to a circular economy, but they can't get there alone. There is limited control at the local level over the products and packaging that corporations place onto the market - and limited resources for managing the associated waste. The time has come for producers to take responsibility for their products and packaging, from design through end-of-life management. **We thank Representative Jordan for her leadership on this urgent bill and strongly encourage you to favorably report it from your Committee.**

Please feel free to contact me at sydney@upstreamolutions.org if you have any questions.

Thank you for all you do,

Sydney Harris
Policy Director



February 20, 2024

Minnesota House of Representatives
Environment and Natural Resources Finance and Policy Committee

Re: Packaging Waste & Cost Reduction Act (HF3577-DE1)

Dear Chair Hansen and Members of the Committee,

We are committed to improving recycling and reducing waste in Minnesota. We appreciate Representative Jordan's work on the Packaging Waste & Cost Reduction Act. Our letter highlights major pieces of the bill that will improve recycling and advance waste reduction efforts in the state and sections of the legislation that need to be shored up to ensure it is meeting the aims of the program.

Eureka Recycling is a non-profit, social enterprise, recycler here in the Twin Cities. We are a proud union shop with union mechanics and drivers. Our team sorts 100,000 tons of residential recyclables each year into 15 different commodities that support our local supply chain. About 80% of our feedstock is turned into new products here in Minnesota and 90% in the greater Midwest. We work to demonstrate that recycling can and should be done in ways that benefit our environment, communities, and the regional economy.

Unfortunately, the growing packaging crisis is making this work increasingly difficult. Problematic and unnecessary packaging is trashing our recycling system, adding unnecessary costs to our communities, and polluting our environment. It's time producers are held accountable for these impacts. The Packaging Waste and Cost Reduction Act aims to do this by requiring producers pay for the cost to take back, recycle, or properly dispose of their products and packaging while driving towards reduction, reuse, and increased recycling and composting rates.

HF3577 - DE1 amendment takes the following key actions:

Supports Equitable Access to Recycling. While Minnesota has worked hard to develop strong recycling programs, only about 55% of households have automatic access to curbside services and our [combined recycling and composting rate](#) has remained somewhat stagnant at around 45%. Where curbside programs do not exist, many communities cannot afford to provide recycling drop-off centers and rural areas face significantly higher costs. This bill creates a sustainable funding system to support convenient, equitable recycling for all residents regardless of income, housing type, or demographics. The Producer Responsibility Organization (PRO) will be required to use member fees to ensure all residents have convenient, equitable, access to recycling.

Supports Higher Recycling Rates & Reduces Climate Pollution: The primary environmental and climate benefits of recycling occur when we use recycled materials to make new products and packaging, not just by keeping materials out of landfills and

incinerators. Using recycled materials in new products directly displaces the use of virgin resources, and with that, the energy used and pollution caused by extracting and processing fossil fuels, timber, metals and other raw feedstocks is greatly reduced. The displacement of virgin resources through use of recycled content is where most of the environmental benefits of recycling occur, so driving greater use of recycled content is a primary motivation for collecting materials for recycling. The bill supports these efforts by driving redesign of packaging towards recyclability, creating strong criteria for what can be considered curbside recyclable, setting strong recycled content requirements, and increasing access to recycling programs.

Provides Stability to Commodity Markets: The bill includes strong minimum requirements for post consumer recycled content in materials sold into the state. While this is key for reducing reliance on virgin materials, it will also provide much needed stability to commodity markets. Recycled content requirements drive stronger recycling markets for MRFs and create the market demand for materials to go back into containers rather than into downcycled uses. Post-consumer recycled content standards appropriately place the onus of recycling on producers, rather than the recycling operators, since the companies make the decisions about where to source their feedstock and how to design their products.

Leverages Infrastructure & Supports Quality Jobs: The bill protects the open and fair bidding process that haulers across our state are currently accustomed to. It ensures that priority is given to service providers here in Minnesota that provide living wages and benefits, employ strong safety standards for their workers, and provide quality services. For recyclers, it also requires bale standards are met and materials are sent to responsible end markets.

Prioritizes Source Reduction: We cannot recycle or compost our way out of the packaging crisis, we need a fundamental shift towards reduction and reuse systems. The bill does not rely simply on eco-modulation to incentivize producers to reduce or move to reusable and refillable containers. It includes specific targets for source reduction, reuse, recycling, composting and recycled content over the next 10-15 years. The targets set in the bill are data driven and appropriate to build off of the successful progress we have made in Minnesota. The bill also offers a pathway for the agency to amend these targets based on the needs assessment. As we've noted below, the language in this section needs to be strengthened to ensure producers are held accountable to these targets.

Outstanding Issues that Need to be Addressed:

Ensure Statewide Targets are Enforced: While the bill sets specific source reduction, reuse, recycling, composting and recycled content targets, the language needs to be shored up to ensure producers are required to meet these statewide targets. Without clear mandates on producers that can be enforced by the agency, this bill will not result in the improvements we urgently need. We support language that the Minnesota Pollution Control

Agency (MPCA) has previously put forward to make it clear that producers must meet targets and the agency will enforce them.

Criteria for Alternative Collections: Currently the PRO can petition to collect a covered material, not on the approved recyclable list, through an alternative collection program. However, there is no criteria that these collection programs need to meet. This leaves a considerable loophole in the program, allowing producers to continue to use problematic materials. Any system used to collect materials for recycling outside of the curbside system needs to be equitably accessible to all Minnesotans by meeting convenience standards, send materials to responsible end markets and meet the prevailing recycling rate within 5 years of its rollout. We have drafted specific language, and shared it with the sponsor, to address this issue.

Prevent False Solutions: The bill uses the existing statute definition of recycling. Since the creation of this definition, plastic has become more prevalent and the industry has developed various types of technologies that they claim are recycling, often referred to as “[chemical recycling](#).” Since the definition is not being updated for the purposes of the bill, the bill needs to include strong guardrails to prevent false solutions by setting strong criteria for the measuring the environmental and human health impacts of each covered material.

Ban Toxics in Packaging: We cannot continue to recycle toxic packaging, but we should not be producing, using, or burning or burying toxic packaging either. We need to get toxics out of packaging in the first place. The bill creates incentives for producers to reduce toxics in packaging and adhere to existing toxics in packaging laws in Minnesota. However, these statutes need to be updated. As this bill advances, it is crucial that legislation addressing these toxics statutes also advances.

Develop Recycling Refunds: In addition to this bill which addresses packaging, a deposit return system for beverage containers will further support higher recycling rates and ultimately keep resources in the ground. An effective statewide bottle deposit program in Minnesota should reduce waste, increase recycling rates, promote reuse, support a local feedstock for our supply chain, and create fair and inclusive standards for informal workers. We will work to support and strengthen the complimentary Recycling Refund Program ([HB3200](#)).

Recycling in Minnesota and across the country has stagnated for over a decade and is plagued by volatile commodity markets, increasing contamination rates, limited local government resources, inequities in services, and a patchwork system of programs. We need big changes to address the crisis we’re facing, and a well-crafted bill can help transform the packaging stream and how we fund and manage the entire system.

As a state we must focus on recycling right, not just recycling more. This bill, along with the changes we’ve identified, are an opportunity to raise the bar for all operations and programs

across the country. However, efforts to weaken this bill risks us simply shifting the costs of recycling without ushering in systemic improvements and community benefits.

We are happy to provide additional information on any of these policy proposals and appreciate your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lucy Mullany', with a stylized flourish at the end.

Lucy Mullany
Director of Policy & Advocacy
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