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January 26, 2021

The Honorable Delegate Michael Weibert
Chair, House Agriculture, Chesapeake and Natural Resources Sub-Committee: Agriculture
Pocahontas Building, Room E418
900 East Main Street
Richmond, Virginia 23219

RE: OPPOSE - HB 647, HB 709, and HB 918 (Packaging Stewardship Program and Fund)

Dear Chairman Weibert:

On behalf of the Consumer Healthcare Products Association (CHPA), the national trade association representing the leading manufacturers of over-the-counter (OTC) medicines, dietary supplements, and consumer medical devices, I'd like to express opposition to HB 647, HB 709, and HB 918. While we share a desire to increase recycling and reducing waste in landfills, we cannot support a state program that potentially conflicts with existing federally mandated packaging requirements meant to ensure consumer safety, medicinal efficacy, and product stability. We also hesitate to support legislation that will add to already historic inflationary pressures that threaten the affordability of personal healthcare for millions of Virginians.

Consumer Healthcare Product Packaging Focuses on Safety

Manufacturers of consumer healthcare products take very seriously the types of packaging used to transport, store, and safely deliver consumer healthcare products to consumers seeking self-care which is the first-line of care for Americans to address minor health ailments. A very complex and highly regulated federal framework for OTC consumer healthcare packaging has been in place for decades and serves to provide safety, efficacy, and stability of products for consumers. State action on packaging for these products' likely conflicts with federal laws and regulations already in place and could compromise the end safety, affordability, and stability of the product themselves.

Consumer Healthcare Products Should Be Exempt from State Packaging Stewardship Programs

Packaging of consumer healthcare products differs from other consumer products in that it is often dictated by federal rules and regulations. The federal government has created packaging protocols to ensure among other things that medications are protected from adulteration, that they communicate vital information on labels and packaging, and that the product is stored to withstand temperature changes during transportation, shipping, and storage. Protections like the Poison Prevention Packaging Act (PPPA), enacted in 1970, was established to ensure safeguards for consumers including packaging, and the Consumer Product Safety Commission has the authority to require certain types of packaging for many OTC drugs.

Similarly, the Food and Drug Administration (FDA) requires all ingested OTC drugs to include tamper-evident packaging to help protect consumers. Tamper-evident packaging most frequently involves plastic packaging features which are removed after the consumer brings the product home. Manufacturers are required to strictly follow federal packaging regulations for OTC products. Any attempt by the Commonwealth of Virginia to limit packaging could cause conflict between state and federal requirements. Manufactures of consumer healthcare products should not be penalized for using packaging that satisfied federal requirements for safety and stability.



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To avoid state and federal conflict, CHPA respectfully requests an exemption from HB 647, HB 709, and HB 918. This exemption can be accomplished by including the language pasted below on page two, line 73 of each of the bills:

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

Consumer Healthcare Products Play a Critical Role in American Healthcare

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

Conclusion

Thank you for the opportunity to comment on these three pieces of legislation. We respectfully request you give careful consideration to our concerns as these bills will have a profound impact on the affordability of consumer healthcare products for residents of Virginia for years to come. Please feel free to contact me directly with any questions or concerns.

Sincerely,

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Cc: Members of the House Agriculture, Chesapeake and Natural Resources Sub-Committee:
Agriculture
The Honorable Delegate Betsy Carr, Richmond
The Honorable Delegate Mark Keam, Vienna
The Honorable Delegate Alfonso Lopez, Arlington