

January 30, 2024

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Honorable Jeion A. Ward, Chair, and
Member, Committee on Labor and Commerce
House of Delegates,
Commonwealth of Virginia

In re: H 228, relating to: recycling labeling

Dear Chair Ward and Members,

On behalf of the members of the Plastics Division of the American Chemistry Council (ACC), thank you for this opportunity to provide comments to H. 228, relating to: recycling labeling. ACC does **not** support this legislation in its current form.

ACC and our members are working hard to create a more circular economy for plastics and end used plastic in the environment. That is why ACC and its Plastics Division members were among the first to establish ambitious, forward-thinking goals that all plastic packaging in the United States is reused, recycled, or recovered by 2040 and that all U.S. plastic packaging is recyclable or recoverable by 2030.¹

Under this proposal, a product with a recyclability claim may not be sold unless it is recyclable under a majority of adopted regional and local waste management plans.

ACC supports uniform labeling standards as an important aspect of increasing plastic recycling. The fact that the U.S. Federal Trade Commission (FTC) is well underway in revising FTC's positions on recyclability claims demonstrates that the legislative proposal is premature if not completely unnecessary. The proposal also raises two concerns.

Creates a state-specific label. This proposed labeling standard will be very difficult for manufacturers to comply with, if not impossible. These standards will cause market disruption and regulatory conflict across jurisdictions since manufacturers tend not exclusively distribute in a single state. There may be inherent conflicts with how the labeling restrictions can coexist with future initiatives on extended producer responsibility, recycled content, and other packaging policy initiatives.

New definition of recyclability with unworkable criteria. Labeling restrictions in this bill will prevent manufacturers from communicating with their consumers on how to properly recycle those items, resulting in fewer materials being recycled and manufactured into new packaging and products. As a result, more materials will end up in landfills, negatively impacting the state's ability to achieve its diversion goals.

¹ Plastics Division, "U.S. Plastics Resin Producers Set Circular Economy Goals to Recycle or Recover 100% of Plastic Packaging by 2040," Media release (American Chemistry Council, May 9, 2018), <https://www.americanchemistry.com/chemistry-in-america/news-trends/press-release/2018/us-plastics-resin-producers-set-circular-economy-goals-to-recycle-or-recover-100-of-plastic-packaging-by-2040>.

Instead of creating a state-specific labeling requirement, ACC believes that establishing the Virginia Recycling Development Center (H. 228) are better ways to both increase recycled content and landfill diversion.

Again, thank you for this opportunity to provide this information to the committee. If you have any questions or if I may be of further service, please feel free to contact Josh Young, ACC's Senior Director, Mid-Atlantic Region at +1 (202) 249-6223 or Josh.Young@AmericanChemistry.com

Sincerely,

A handwritten signature in black ink, appearing to read 'AS Peer', written in a cursive style.

Adam S. Peer, Senior Director
American Chemistry Council

**Suggested Amendment, relating to: Complying with federal environmental claims,
To House Bill 228, relating to: Prohibited recyclability claims under the Virginia
Consumer Protection Act**

[...]

79. Selling or offering for sale any product that indicates on the product's container or packaging that such container or packaging is recyclable unless such container or packaging is made out of a material that is recyclable under a majority of regional and local waste management plans adopted in the Commonwealth pursuant to § 10.1-1411. [This subsection 79 shall not apply to a product that complies with 15 U.S.C. 41, et. seq.]

[...]