



TESTIMONY OF
TOY INDUSTRY ASSOCIATION (TIA)
SUBMITTED TO
VERMONT HOUSE COMMITTEE ON NATURAL RESOURCES AND ENERGY
IN OPPOSITION TO HB 695
"AN ACT RELAED TO ESTABLISHING A PRODUCT STEWARDSHIP PROGRAM FOR
PRIMARY BATTERIES"
JANUARY 30, 2014

www.toyassociation.org

Representative Klein and Members of the Committee on Natural Resources and Energy, the Toy Industry Association (TIA) respectfully appreciate this opportunity to provide testimony in opposition to HB 695. TIA is a not-for-profit trade association composed of approximately 700 members, both large and small in size, located throughout North America. In Vermont, there are 35 small toy companies that support over 1100 jobs in the state. The sales of toys in Vermont also support over 500 retail jobs in the State. Our member's products meet and/or exceed stringent U.S. safety and environmental requirements and are sold throughout the State of Vermont.

TIA and its members have long been leaders in toy safety and are continually seeking product and package materials that reduce resource usage and improved life-cycle considerations. TIA commends you, the Committee and the bill's sponsors for a keen interest in improving the environmental profile of products and addressing potential impacts on the environment. However, TIA would like to address major fundamental concerns with HB 695 that would establish an extremely broad battery take-back program that has some significant flaws as stipulated in this legislation.

Flawed Premise of Mandates

Current mandates for manufacturer take-back programs have not successfully demonstrated positive cost/benefit results in collecting products at the end of their life-cycle. Instead they shift immense collection costs to manufacturers and undermine market progress toward more efficient solutions.

- Mandates to take-back products and packaging have not increased environmental design or recycling. The German Green Dot program that mandates product packaging take-back reduced waste beyond its targets; at the same time, countries without take-back programs (including the U.S, Canada, and the Netherlands) achieved greater reductions in waste without such programs.¹
- Voluntary collection program and the growth of materials recycling industries demonstrate, manufacturers and recyclers are already finding ways to produce more environmentally-efficient products, and use recyclable components and packaging - without government mandates.
- EPR or Product Stewardship mandates do not create "green jobs" instead they create an unnecessary network of consultants, certifiers, and paperwork necessary to comply with a government-run program. True "green jobs" are created in when there is an efficient market-based opportunity to reuse and recycle products materials.
- Legislation that mandates broad collection goals for products ignore consumer behavior and there willingness to participate in these programs. Understanding consumer behavior and market mechanisms is critical to proper product management and EPR mandates ignore real-world factors.

Toys Containing Batteries

The facts show that toys and games do not represent a significant portion of the waste stream that *could* contain batteries. ***In British Columbia, a model e-waste collection program found that electronic toys represent only 0.0612% of the total electronic waste stream.*** However, despite this fact the broad category of "Primary battery-containing product" sweeps in toys and wide swaths of other product categories, when these product makers DO NOT actually produce and manufacture the batteries sold in or with their products.

¹ Schwartz, Joel and Dana Joel Gattuso. 2002. Extended producer responsibility: Reexamining its role in environmental progress. Reason Public Policy Institute. Available at: <http://www.reason.org/files/513cbdab3d05aaa322c4fbfb3a0ee1c5.pdf>

Flawed Structure of House Bill 695

TIA asserts that the batteries that might be sold in toys DO NOT represent a significant volume such as should be addressed by this legislation. However, regardless of that fact, there remains significant flaws and equity with the structure of this legislation - if the battery industry supports such a mandate. These issues are as follows:

- **Responsibility for Enforcement:** As currently drafted this legislation essentially shifts enforcement and market compliance requirements to product makers that sell products in Vermont. Even if a product maker is using a supplier that is participating in the stewardship program, there still is an unnecessary burden on product makers to report and force suppliers to participate in the stewardship program.
- **Lack of Battery Industry Participation:** TIA understands that this program has not been attempted anywhere in the United States. We have requested an idea of who would be participating in such a program and it is clear that a vast majority of battery suppliers to many industries have not agreed to participate in the program. Until such time as a significant number of suppliers are willing to participate in the program, legislating this mandate is not equitable and will face significant feasibility challenges.
- **Monopoly and Anti-Trust Issues:** Mandating in law that an entire industry and its suppliers participate in a program such as this runs the risk of violating anti-trust laws and creates a captive market for product makers to either use certain suppliers participating in the program or cost-prohibitively create their own stewardship organization.
- **Uncertain Costs and Fees:** TIA has requested estimates of what participating in a battery stewardship program, such as the one envisioned by House Bill 695, would cost and we have yet to get any estimate of what a real-world fee to product makers to participate would be. Until such time as reasonable costs can be estimated and this program can be demonstrated to actually work, it is not appropriate to mandate participation. The creation of other such stewardship programs began as voluntary initiatives to build a capacity for such programs, a similar attempt to establish such a program should be attempted in this case.
- **Battery Traceability:** If a battery is traceable to a battery maker, it should not be a product maker or retailer's responsibility to force compliance from suppliers. The State should have appropriate resources to ensure enforcement and compliance, for "traceable" batteries, if the Legislature chooses to endorse this mandate.

Conclusion

House Bill 695 would establish a broad battery take-back program; however, there has not been full investigation into the true benefits and costs of such a program and the structure of this legislation. In contrast to a thoughtful analysis before establishing mandates, House Bill 695 proposes a mandate that would burden both industry and consumers. For these reasons, **TIA urges you to oppose the passage of HB 695.**

On behalf of the members of Toy Industry Association and our members in Vermont we thank you for consideration of these concerns. If you or the Committee has any questions with regard to our concerns on this legislation, please do not hesitate to contact Andy Hackman, for the Toy Industry Association at ahackman@serlinhaley.com or 202-570-8526.