



Testimony RE: H.115 – Household products
containing hazardous substances
Submitted by Erin Sigrist, VRGA President
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VRGA represents over 750 members across the state. Our membership is inclusive of a variety of business types and models. Members include general retail, grocery stores, convenience stores, distributors, food producers, and business service members. Of the retail and food retail-related members, our membership represents just under 2000 retail outlets.

From a general standpoint there is an incredible amount of change happening in the marketplace. The way consumers shop has changed at lightning speed over the past ten years and will continue to change quickly into the future.

VRGA cannot support H.115 as presented due to many factors. Some initial concerns that I would like to raise with the committee include:

- Marketplace facilitators should be held responsible for following state regulations and ensure that any banned products remain out of Vermont's commerce stream, or fees associated with private label products are remitted just as manufacturers would.
- What is the mechanism that will collect fees or prohibit products from being shipped to individual households?
- What are the estimated additional costs that will be added to the wholesale cost of the product due to increased costs and fees on manufacturers. This again, places brick and mortar retailers at a disadvantage.
- what is the mechanism to address the lost revenue due to consumers shopping across the board.
- Language should make clear that retailers will only be held responsible for fees applied to the packaging of their private brands.
- Should a stewardship organization be created, all aspects of implementation, including goal setting, packaging fee design and revenue allocation should be managed by an industry-led multi-stakeholder, multi-state stewardship organization that includes producers, retailers, haulers, etc.
- Products should not be banned. This creates confusion in the marketplace and push consumers to purchase those products online or across state borders.
- What does the role of the distributor in the process of getting products to retailers look like under H.115?
- This is an infrastructure conversation. VRGA strongly urges the committee to consider a regional model for such programs to build sustainable infrastructure to address these concerns.

Online Retailer/Marketplace Facilitator Treatment

Many of the products that are found on the shelves – or online – come from overseas. The rate of online shopping has increased twofold over the past 10 years. Early estimates show that online grew more than 14% in 2021 and the online market now makes up one fifth of the total retail sales in the United States. Any proposed legislation should also apply to all online commerce and marketplaces. Marketplace facilitators should be held responsible for following state regulations and ensure that any banned products remain out of Vermont's commerce stream, or fees associated with private label products are remitted just as manufacturers would.

What is the mechanism that will collect fees or prohibit products from being shipped to individual households? Without a mechanism to address the growing influx of products being sent directly to consumers, this bill places the brick-and-mortar retailers at a disadvantage and places uneven burdens on the employers and taxpayers of the state.

Additionally, I would be curious to receive estimates of what additional costs will be added to the wholesale cost of the product due to increased costs and fees on manufacturers. This again, places brick and mortar retailers at a disadvantage. Retailers no longer have the luxury of increasing prices and passing the additional costs onto consumer due to easy access of online retail marketplaces.

Cross Boarder Issues

As with any regulations in Vermont that increase costs to consumers or limit consumer access to specific products, what is the mechanism to address the lost revenue due to consumers shopping across the board. We see this issue with the Bottle Bill. Shopper cross the board, buy their beverages and return the container in Vermont, further straining the financial burden that our distributors and retailers carry.

Brand and product loyalty are very real and if legislation tells a customer they can no longer have access to a product in Vermont, they have access at the click of a button or a 1-hour car ride across the border.

Private label Responsibility

Should H.115 move forward VRGA would respectfully request that the legislation clarify that retailers will only be held responsible for fees applied to the packaging of their private brands. Many larger stores have brands for which they are the legal owner of and therefore have control over the packaging and ingredients.

Creation of a Stewardship Organization

VRGA believes that should a stewardship organization be created, all aspects of implementation, including goal setting, packaging fee design and revenue allocation should be managed by an industry-led multi-stakeholder, multi-state stewardship organization that includes producers, retailers, haulers, etc.

Creation of a Stewardship Program with multiple lists completed and ready to file within the 2023 timeframe seems unrealistic considering the number of products that are distributed into

the State of Vermont. This unrealistic timeframe sets up all stakeholders for failure. I strongly recommend reconsidering the timeframe set forth in H.115.

I would urge the committee to hear from the Agency of Natural Resources about the capacity to administer this proposed new program as well. Would this require an additional staff person? We believe that the stewardship program should manage the program with the oversight by the Agency. This will ensure efficiencies at all levels within the program.

Banned Products

VRGA does not believe that products should be banned. Even if retailers aren't financially responsible, what is the mechanism for them to know what is covered and what is not? Retailers will want to understand what products are included in this legislation. If certain products are to be banned, this places an additional burden on the retailer to monitor products being delivered to their stores. The list of products on page 4 is a start, however a comprehensive list that a retailer can quickly review is the only way to ensure banned products are not accessible to the public.

Additionally, similar to previous laws, banning certain products may create a negative result of multiple products from a single manufacturer, again placing retailers in Vermont on an uneven playing field.

One stakeholder group that is not identified in the bill are the distributors that bring products into the retail establishments. What does the role of the distributor in the process of getting products to retailers look like? Language should clarify that distributors should not be responsible for policing the products that H.115 proposes to ban. Again, VRGA does not believe that banning items is realistic in today's retail landscape.

Conclusion

We recognize the need for cooperation and coordination among states to address the need to reduce product packaging in the end-of-life stages. This is an infrastructure conversation; we can't build the system alone and shouldn't. We should be cooperating with surrounding states and working to address the issue on a regional basis. VRGA strongly urges the committee to consider a regional model, or the creation of a committee that can serve as Vermont's contingent in those discussions.

My understanding is there is a group – the Institute for State Policy Leaders which was created to assist state policymakers in making informed policy decisions by conducting nonpartisan educational programming. I believe they're all former State Representatives or Senators. EPR programs is one of the efforts they are working to bring states together to discuss regional solutions. I would strongly encourage the committee and Legislature to consider the opportunity to work with them.

