



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Martin O'Malley  
Governor

Shari T. Wilson  
Secretary

Anthony G. Brown  
Lieutenant Governor

Robert M. Summers, Ph.D.  
Deputy Secretary

March 13, 2009

The Honorable Maggie L. McIntosh, Chairman  
Environmental Matters Committee  
House Office Building, Room 251  
6 Bladen Street  
Annapolis, MD 21401-1991

The Honorable Dereck E. Davis, Chairman  
Economic Matters Committee  
House Office Building, Room 231  
6 Bladen Street  
Annapolis, MD 21401-1991

Dear Chairman McIntosh and Chairman Davis:

The Maryland Department of the Environment (MDE) Waste Management Administration has reviewed House Bill 1306, entitled *Recycling – Restaurants and Bars – Aluminum, Glass, and Plastic Bottles*, and we would like to offer our support for the bill's concept, along with some concerns.

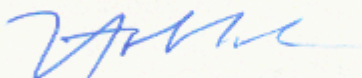
The following information is provided for your consideration:

- The proposed legislation would require an owner or manager of a restaurant or bar to recycle aluminum, glass, and plastic bottles that the restaurant or bar generates for disposal. It should be noted that the bill does not include a requirement to recycle cans, which are also generated by restaurants and bars, it only includes bottles.
- Considering the limited storage space and potential for vector harborage from residues with collection of recyclables at some restaurant and bar locations, it may be prudent to establish a threshold for restaurant or bar seating capacity to determine which facilities must collect bottles for recycling.
- State law requires Maryland Counties and Baltimore City to recycle 15% or 20% of their waste, depending upon the jurisdiction's population. The counties and Baltimore City are also required to report annually to MDE on their recycling and waste diversion activities. Although State law does not require certain materials to be recycled, all counties and Baltimore City collect aluminum, plastic, and glass containers for recycling.
- The bill would require the Department to facilitate the coordination of recycling efforts between a local jurisdiction and the restaurants and bars located in the local jurisdiction. The bill is not clear regarding what type of coordination is expected of the Department. The Department is not involved in the physical collection and recycling of materials. If local governments provide solid waste and recycling services, they (not the restaurants and bars or the Department) determine which materials and the manner in which the materials are recycled and collected for marketing in their jurisdictions.

- The legislation states that an owner or manager of a restaurant or bar that fails to comply with the recycling requirement is subject to a fine not exceeding \$100 for the first failure to comply, and not exceeding \$250 for any subsequent failure to comply, up to a \$500 maximum. These fines are not expected to be a deterrent against non-compliance with the legislation as a contract for recycling could cost much more than the fines imposed.
- The bill does not specify to which fund the fines would be credited. However, it may be appropriate for the funding to be deposited into the State Recycling Trust Fund since the bill's provisions are placed in Subtitle 17 *Office of Recycling*, the location of the State Recycling Trust Fund.
- The bill provides that, on written application, the Department may exempt a restaurant or bar from compliance with the requirements if the Department determines that, after a good faith effort, the restaurant or bar was unable to locate a recycling facility to accept the materials collected, or would suffer undue financial hardship if a waiver were not granted. It is likely that many restaurants and bars will request exemption from compliance. In addition, defining demonstration of hardship in regulations would be difficult for the Department. There is no criteria for exemption in the bill.
- The Department would be required to adopt regulations, which may include reporting requirements, to ensure compliance with the legislation. The Department welcomes additional sources of recycling data from the commercial sector to assist in determining accurate County and Statewide recycling and waste diversion rates. The minimal fine in the legislation, however, may be insufficient to compel reporting compliance by the restaurants and bars.
- By requiring restaurants and bars to recycle beverage containers, this will increase the amount of recyclables available to be hauled and could increase contracts for small businesses. In addition, the restaurants and bars may receive revenue from marketing of the recyclables depending upon the contractual arrangement with the hauler and the value of the materials.
- This bill would require that the Department hire a minimum of one additional Natural Resources Planner I to assist with the coordination of recycling efforts between the local governments and restaurants and bars, draft regulations for the legislation, review the reports by the restaurants and bars, and enforce the recycling requirements. This work cannot be absorbed with existing staff, which has been reduced in the past two years.

Thank you for your consideration. We will continue to monitor House Bill 1306 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-537-3304 or by e-mail at [htablada@mde.state.md.us](mailto:htablada@mde.state.md.us) if I can be of assistance.

Sincerely,



Horacio Tablada, Director  
Waste Management Administration

cc: The Honorable Jill P. Carter  
Shari T. Wilson, Secretary  
Heather Barthel, Director of Legislation and Policy  
Lisa Nissley, Legislative Liaison/Environmental Justice Coordinator