



1900 W. Field Court  
Lake Forest, IL 60045  
847.482.2000  
[pactivevergreen.com](http://pactivevergreen.com)

September 28, 2023

To: House Natural Resources, Environment, Tourism, and Outdoor Recreation Committee

**Subject: Testimony in Opposition of House Bill 4359**

Dear Chair Pohutsky and Members of the Natural Resources, Environment, Tourism, and Outdoor Recreation Committee:

Pactiv Evergreen is a leading manufacturer of fresh food and beverage packaging in North America with a diversified mix of customers, including restaurants, foodservice distributors, supermarkets, food and beverage producers, food packers and processors. ***Our company has six manufacturing, warehouse, and office locations in Kalamazoo and Battle Creek. We have over 450 employees in the state with an annual payroll of over 27 million dollars in 2022.*** In order to meet the specific needs of our customers, and deliver food and beverages safely to millions of consumers daily, our products are made from a variety of materials including paper, molded fiber, plastics, compostable materials and aluminum.

**Pactiv Evergreen is opposed to HB 4359 which seeks to repeal Public Act 389 (2016) in its entirety – and our opposition stems from our longstanding business presence in the state – which has continued now for over 70 years.**

Act 389 preempts local units of government from regulating the use, disposition, sale of, prohibition or restriction of auxiliary containers. It also prohibits local units of government from charging any fees or taxes on auxiliary containers.

Under the Act, “Auxiliary container” means a bag, cup, bottle, or other packaging, whether reusable or single-use, that meets both of the following requirements: (i) Is made of cloth, paper, plastic, cardboard, corrugated material, aluminum, glass, postconsumer recycled material, or similar material or substrates, including coated, laminated, or multilayer substrates. (ii) Is designed for transporting, consuming, or protecting merchandise, food, or beverages from or at a food service or retail facility.

The above list of products and materials included under the auxiliary container definition are extensive. In fact, should HB 4359 pass into law, any and all of the aforementioned products and materials would then be subject to local bans in counties, townships, cities, and villages across the state. It is simply not prudent for the state to allow locales to adopt piecemeal ordinances restricting auxiliary containers when those actions have the potential to drastically impact the state’s overall economic stability.

Furthermore, we find the intent of this legislation to be in direct conflict with the state’s current strategic economic initiatives, such as Governor Whitmer’s *Executive Order 2023-4*, which established a Growing Michigan Together Council tasked with ensuring the state is able to attract good paying jobs. According to

Governor Whitmer, "Over the last few decades, we have seen Michiganders find opportunity elsewhere because jobs and talent have been pushed out of the state."<sup>1</sup>

It is widely known that product and material bans impose negative unintended consequences and often result in regional job losses. Therefore, we are extremely concerned with HB 4359 and its potential impact on a wide range of Michigan businesses and employees.

Perhaps this excerpt from *Executive Order No. 2023-4* best portrays our opposition to HB 4359:

*To usher in a better tomorrow, we must collaborate to grow Michigan together today.*

*Growing Michigan together is a Team Michigan task. We must shore up our talent pipeline, build on our strong manufacturing base, leverage our rich natural resources, and draw more people from across the nation and around the world, all while maintaining our state's high quality of life and low cost of living. Michigan must be a place that attracts all, welcomes all, and includes all. Together we can again make Michigan a magnet for jobs, people, and prosperity. To achieve these critical goals – to make Michigan bigger, better, stronger – we need a cohesive strategy; a long-term vision that addresses current and future challenges and sets Michigan up for success in the 21st century.<sup>2</sup>*

Pactiv Evergreen holds that HB 4359 subjects Michigan's economy to unnecessary risk. Businesses look to certainty in markets when making critical and long-term business decisions. Indeed, Michigan-based businesses count on the state's leadership to put in place sound and comprehensive economic policies that ensure our businesses will thrive.

**In closing, we respectfully request that you oppose HB 4359. Instead, we ask that you support and propose policy that stabilizes market forces during an already tumultuous time for businesses and residents due to current and persistent inflationary pressures.**

We thank the Committee for the providing us with the opportunity to submit written testimony on HB 4359. Should you have any questions, please feel free to contact me at [Heather.Kazmark@pactivevergreen.com](mailto:Heather.Kazmark@pactivevergreen.com).

Sincerely,



Heather Kazmark  
Manager, Government Relations

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<sup>1</sup> [Gov. Whitmer Establishes the 'Growing Michigan Together Council' to Focus on Population Growth, Building a Brighter Future for Michigan](#), June, 1, 2023.

<sup>2</sup> [EO-20234-Growing-MI-final-signed.pdf \(michigan.gov\)](#), June 1, 2023.