



MEMORANDUM IN OPPOSITION

S.1464 (Harckham) / A.1749 (Glick)

AN ACT to amend the environmental conservation law, in relation to enacting the packaging reduction and recycling infrastructure act

The Capital Region Chamber, representing 2,600 businesses and organizations from throughout the Capital Region that employ more than 150,000 area residents, opposes S.1464/A.1749, which would enact the "Packaging Reduction and Recycling Infrastructure Act".

While the Chamber remains committed to working with the Hochul Administration, Senate, Assembly and other stakeholders to fashion an effective, workable "expanded producer responsibility" law in New York State that improves the state's current efforts to divert post-consumer materials from disposal and to instead separate, collect, process and remanufacture post-consumer packaging material into new products, we continue to strongly oppose the recently reintroduced legislative proposal. Beyond several updated implementation dates, this bill is unchanged from last year's version, (S.4246-D/A.5322-D).

The following issues of concern remain with the current version of the bill:

- imposes unreasonable mandatory reductions in total packaging used by each individual producer of packaging of 50 percent by weight, applied equally to all categories of materials, with little regard for already achieved source reduction measures, and with no accommodation for shifting market share or consumer demands. For a workable program, these targets need to be established with producer input;
- imposes a ban on the presence of fifteen specific chemicals in packaging and allows for additional chemicals to be banned in future years, without clear environmental or public health justification, and without providing for any *de minimis* levels to account for substances that were not intentionally added to packaging product. Chemicals in packaging can and should be addressed outside of packaging producer responsibility and under other existing statutory and regulatory frameworks in New York, including ongoing participation in the Toxics in Packaging Clearinghouse;
- requires packaging producers to reimburse "participating" municipalities and private haulers/processors for 100% of their costs related to managing post-consumer packaging and paper, leaving those entities with no incentive to assure efficient and cost-effective programs;
- sets up an unworkable timeframe for business compliance, with producer responsibility plans required to be submitted to the state on the same timeframe for the state to adopt implementation regulations, and with other provisions of the bill allowing the state to expand its list of recyclable materials with no adequate time for businesses to remain in compliance with expanded obligations;

- proposes a confusing definition of what constitutes a “producer,” that will make it difficult for businesses to understand their specific compliance obligations, rather than reflect negotiated definitions being adopted or considered by other state’s legislatures;
- imposes a mandate on product producers that within two years they assure “a consistent regional market” for all post-consumer packaging and paper product materials collected, a compliance mandate that is beyond the capabilities of individual companies to achieve;
- inappropriately excludes the use of advanced recycling, such as material-to-material molecular recycling technologies, which can be employed in addition to mechanical recycling to increase material recovery and reduce waste disposal and carbon emissions;
- would impose significant civil penalties for any violation of this complex new law, including violations based on factors beyond their control (such as the impact of economic conditions on markets) without providing any opportunity for producers to address and correct alleged violations;
- would establish a new, unnecessary “office of recycling inspector general” that would duplicate oversight and enforcement authority of the DEC and the office of attorney general, and whose costs would be borne by packaging and paper producers.

For these reasons, the Capital Region Chamber opposes this legislation.

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