



Empire State Forest Products Association

The people behind New York's healthy forests and quality wood products

www.esfpa.org

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Memorandum of Opposition

A. 5322-A/S. 4246-A

Honorable Deborah Glick
Assembly Member

621 LOB
Albany, NY 12248
Via Email: glickd@nyassembly.gov

Honorable Peter Harckham
Senator

315 LOB
Albany, NY 12247
Via Email: harckham@nysenate.gov

June 5, 2023

Dear Assembly Member Glick and Senator Harckham:

The Empire State Forest Products Association opposes **A. 5322-A/S. 4246-A** to enact the Packaging Reduction and Recycling Infrastructure Act (otherwise known as Extended Producers Responsibility - EPR). While the amended bills make one significant change in limiting the scope of this legislation to packaging, and no longer cover non-packaging paper such as print and copy paper, this legislation still has significant impacts on covered materials and leaves the principal stakeholders - manufacturers and producers – without a voice in the process.

The Empire State Forest Products Association (ESFPA) represents over 350 member businesses, industries and landowners engaged in forest resource production and stewardship of New York's 19 million acres of forest. In total, \$22.9 billion dollars in annual industry production and nearly 100,000 jobs are attributable to operations of various industries within the forest related sectors.

This legislation proposes a fundamental shift in responsibility for the development and implementation of strategies to promote recycling, reuse, and recovery of covered packaging. It does so by merely shifting the responsibility and costs from municipalities to private sector producers with no improvements or solutions to the problems in recycling markets and programs which have struggled for decades. Merely shifting responsibility does not address the underlying problems.

Selection of a "Packaging Reduction and Recycling Organization". As amended, the Department of Environmental Conservation (DEC) would directly contract with a statewide, product wide Packaging Reduction and Recycling Organization (PRRO). DEC would solicit a PRRO via a request for proposals and enter into a contract with an organization to act as the initial PRRO for a period of up to 10 years.

Lack of Manufacturer/Producer Input. Should DEC be unable to secure a satisfactory proposal or should the PRRO fail to meet its obligations under contract, DEC could either directly undertake the functions of the PRRO or designate a State public body to operate the program. DEC would do this without direct input from the packaging manufacturers/producers that are most impacted by the

legislation and would pay for all the expenses and infrastructure. There appears to be an intentional effort to minimize or eliminate input from those most responsible for the program. Throughout the legislation and as part of the Advisory Council, the manufacturers/producers are silenced or eliminated.

Untimely Needs Assessment. The proposal calls for “needs assessment” within one-year of the effective date. Such an assessment should be done prior to prescribing packaging reduction, reuse and recycling goals and programs in legislation. We note that DEC has initiated such a needs assessment this year and this should be completed prior to consideration of this legislation.

Unrealistic Recycling and Source Reduction Goals. The proposal establishes mandatory rates, dates and material reduction goals that are not consistent with other states nor based on similar programs elsewhere. These goals do not take into consideration the significant historical progress that producers have made to recover, reduce, and recycle their packaging products. Compliance on mandated rates and dates is by producer and not by product type. A more balanced and achievable program should be based across a product category, particularly when it comes to post-secondary recycled content. Mandated source reduction goals also do not allow for individual product growth. Mandated reductions would drive manufacturing out of state.

Mandated and Free Reusable/Refillable Packaging. The program also mandates reusable/refillable packaging with expenses to be borne by all producers other than producers of reusable/refillable packaging. Cross subsidization of reusable/refillable packaging is both inequitable and doomed to fail. Coupled with the source reduction goals and eventual declines in packaging overall, investments in and maintenance of reusable/refillable packaging will eventually run out of funding. Collection and recovery of reusable/refillable packaging envisioned in this legislation appears to be fundamentally different than that which is presently used today.

Unrealistic Toxic Chemical Bans. The prohibitions on certain toxic substances and materials leave no provision for “de minimis” chemical presence in packaging nor reflect the reality of widespread chemical presence in natural materials. Language on “intentionally added for a specific purpose” should be included in this section. In addition, the breadth and depth of the prohibitions and mandate for a Toxic Packaging Task Force would eliminate significant packaging types in New York that currently protect food and other products.

Disposal Costs. In various sections of the proposed legislation there are inferences that manufacturers/producers of packaging will be responsible for the costs associated with disposal and end-of-life costs associated with covered products. This would add significantly to the costs for the program and will make it virtually impossible to segregate other disposal costs in the waste stream.

Immense Data Burdens. Finally, the massive and unique data/reporting burdens of this legislation add significant costs and go well beyond those of any other state or nation.

For these reasons ESFPA opposes this legislation and urges that these bills be tabled until further amended.

cc: Senate Finance Committee and Environmental Conservation Committee
Assembly Environmental Conservation Committee

For More Information Contact:

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