

Memorandum of Support with Amendments Packaging Reduction and Recycling Infrastructure Act S.4246 (Sen Harckham)/A.5322 (Assemblymember Glick)

Statement of Support

The organizations represented here generally support S.4246/A.5322, introduced by Senator Harckham and Assemblymember Glick. This bill would create an extended producer responsibility program for packaging, paper, and single-use plastic items. Critically, this bill would reduce packaging, including plastic packaging, by half over the next 12 years, ban certain toxic chemicals and materials from being used for packaging, and prevent any kind of chemical recycling from being counted as recycling.

However, we urge the sponsors to make some amendments to the bill, to strengthen it and ensure its effectiveness. The requested amendments can be found below. After which, we urge the legislature to pass this bill before the end of this legislative session. Doing so would help New York reduce air pollution, including greenhouse gas emissions, reduce the release of plastic pollution into our environment, reduce the demand for new natural resources, extend the life of municipal landfills, reduce unsightly litter, and ease financial burdens on taxpayers.

Why We Need Packaging Reduction

An average of 6.8 million tons of packaging waste is produced each year in New York, constituting 40% of the total waste stream. Most of this packaging is sent to landfills, burned in incinerators, or winds up as litter on our streets and beaches. 33 billion pounds of plastic pollution enters the ocean each year worldwide, the equivalent of a garbage truck dumping its load into the ocean every minute.

Plastic production is an environmental justice, climate change, and human health problem, and an estimated 40% of plastic produced is used for single-use packaging. In 2020, 35.7 million tons of plastic was made in the United States, and that number is expected to triple by 2050. Plastic manufacturing facilities, which are disproportionately located in communities of color, are on track to produce more greenhouse gas emissions than coal plants by 2030.

Plastic waste persists in the environment, destroying wildlife and breaking down into microplastics that disrupt the food chain and enter human bodies. When burned in incinerators or processed in chemical recycling facilities, plastic waste releases toxic chemicals. Only 5-6% of plastic is actually recycled and it is often downcycled rather than being turned back into products or materials of equal value. The cost of disposal, litter clean-up, and recycling is currently shouldered by taxpayers, not by the companies that make packaging decisions.

Key Provisions:

- Requires a 50% reduction in packaging over 12 years. Reduction can be achieved through elimination of packaging or by switching to reuse and refill systems.
- Mandates that 100% of remaining packaging must be recyclable. The bill also contains some specific recycled content requirements.

- Prohibits certain toxic materials and chemicals from being used in packaging, making packaging safer for consumers and more recyclable.
- Transfers the responsibility for managing packaging waste to the companies that create the packaging waste problem, shifting this burden away from taxpayers.
- Provides funding to local governments for recycling, disposal, and source reduction strategies through the use of new fees on the companies, which are adjusted based on the environmental impacts of the packaging. The bill contains clear mechanisms for municipalities to receive their reimbursements.
- Excludes “chemical recycling”, “advanced recycling”, and other false recycling marketing strategies from counting as recycling, providing protection from new sources of pollution that disproportionately impact Environmental Justice communities.
- Includes accountability and enforcement mechanisms, such as reporting and auditing requirements, including a new Office of Inspector General to oversee the implementation and enforcement of the program.
- Requires collection and reporting of data that will inform spending decisions for reuse and refill, and local reduction, recycling, and waste management systems.

Requested Amendments:

- Change the reduction timeline to 50% in 10 years.
- Add a mandatory minimum 70% recycling rate for all material types within 12 years to drive system performance and prevent producers from using packaging materials that are not recyclable.
- Add the creation of a Packaging Use Reduction Institute at a New York State college or university to provide technical support to producers, especially small businesses. It can be modeled on the Massachusetts Toxics Use Reduction Institute based at the University of Massachusetts at Lowell. The work of this institute helped the state of Massachusetts reduce its generation of hazardous waste by 50% over 10 years. See www.turi.org.
- Place the Office of Inspector General within the State Office of the Attorney General.
- Define “*high reuse or refill rate*” within the bill or direct the department to do so in the regulations.
- Revenue from special assessments on unrecyclable materials should not be used to make system improvements for that specific packaging material that the assessment was levied against. Producers should be encouraged to phase out problematic packaging, not build more infrastructure to accommodate it.
- Increase the percentage of funds directed to reuse and refill infrastructure to 25%. The bill currently sets aside 5%.
- Streamline the structure of the PRROs by requiring some amount of consolidation to ensure that producers work together to comply with the requirements of the program. This will make the program run more smoothly for municipalities, make enforcement easier for the DEC, strengthen the role of eco-modulated fees, and ensure coordination on infrastructure investments. Our preference is that producers be required to register

with a non-profit PRRO that is directed by people who have no stakes in any packaging company or other conflicts of interest.

→ Change the definition of “Disposal” to make sure that it covers all types of “chemical recycling” or “advanced recycling”. The language needs to include the full list of technologies that fall under these industry-created terms and make it clear that these technologies are not recycling.

◆ “Disposal” includes energy recovery, energy generation, or the creation of hazardous chemicals by any means, including but not limited to advanced recycling, chemical recycling, molecular recycling, combustion, gasification, incineration, pyrolysis, solvolysis, thermal desorption, waste-to-energy, waste-to-fuel, or any other chemical or molecular conversion process. It also includes landfill disposal of discarded material or discarded product component materials, including the use of materials as landfill cover.

→ Update the definition of “Recycling” to ensure that “chemical recycling” and “advanced recycling” in any of their forms are not considered recycling, regardless of whether they are directly related to energy recovery or energy generation. For example:

◆ “Recycling” does not include energy recovery, energy generation, or the creation of hazardous chemicals by any means, including but not limited to advanced recycling, chemical recycling, molecular recycling, combustion, gasification, incineration, pyrolysis, solvolysis, thermal desorption, waste-to-energy, waste-to-fuel, or any other chemical or molecular conversion process. It also does not include landfill disposal of discarded material or discarded product component materials, including the use of materials as landfill cover.

Overall, S.4246/A.5322 recognizes the urgency of the plastics and packaging waste problem by proposing a program that would reduce packaging waste, make packaging less toxic and more recyclable, make investments in reuse and recycling infrastructure, and save taxpayers money. Adopting such a program this legislative session is urgently needed to help solve New York’s packaging waste problem. We urge the sponsors to amend the bill to strengthen it and ensure its effectiveness and then pass it this legislative session.

April 25, 2023

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