



April 7, 2023

The Honorable Luz Rivas
 Member of the Assembly
 1021 O Street, Suite 4250
 Sacramento, CA 95814

**RE: AB 1290 (Luz Rivas). Product safety: plastic packaging: substances
 As amended March 21, 2023 - OPPOSE**

Dear Assembly Member Rivas:

The undersigned organizations, representing a cross section of manufacturers, consumer product companies, agriculture, food producers, restaurants, and others must respectfully oppose your AB 1290.

The enactment of SB 54 (Stats. 2022), along with SB 343 (Stats. 2021) has resulted in arguably the most comprehensive and rigorous single use packaging and plastics recycling and waste reduction requirements enacted domestically and internationally. As outlined below, new mandates to ensure that packaging is recyclable or compostable by 2032, are source reduced by 25%, and recycled at unprecedented rates will directly impact the types of materials used, including the specific materials subject to AB 1290. Packaging decisions will be directly influenced by a future fee schedule that will incentivize easier to recycle materials, and new recyclability labeling requirements will include criteria that considers substances used in packaging, including perfluoroalkyl and polyfluoroalkyl substances (PFAS).

These new laws will require significant resources to implement, both from the regulated community and CalRecycle. Given that the law was only passed and signed into law in June 2022, and the development of implementing regulations has only just begun, creating new packaging mandates as proposed in AB 1290 is unnecessary and counterproductive. Outright bans on certain materials do not consider potential important tradeoffs, including how certain packaging materials promote food safety or prevent food waste, a significant contributor to climate change as around 25% to 30% of global

emissions come from our food systems. These types of factors are considered in SB 54 as it is implemented. The Legislature should allow for SB 54 and SB 343 to be fully implemented before imposing new packaging requirements and/or restrictions on producers.

California Enacts Sweeping Single Use Packaging/Plastics Recycling and Reduction Law

As you know, Senator Ben Allen and other legislators led months of negotiations between industry, environmental organizations, local governments, and waste haulers/recyclers that ultimately led to the enactment of SB 54. This new law mandates, among other things that producers ensure that all covered materials offered for sale, distributed, or imported into the state by 1/1/32 be recyclable or compostable; requires that plastic packaging be recycled at not less than 30% by 2028; 40% by 2030; and 65% by 2032; and prohibits the sale of expanded polystyrene food service packaging if a 25% recycling rate is not met by 2025.

Unlike extended producer responsibility (EPR) laws enacted elsewhere, SB 54 also mandates that producers achieve a 25% plastics source reduction level by 2032 through a combination of eliminating plastic materials, shifting to reusable/refillable packaging options, and using recycled materials in the manufacture of new packaging.

Additionally, producers are required to pay \$500 million per year for 10 years into a mitigation fund to support various environmental projects and programs.

SB 54 requires that a producer responsibility organization (PRO) be created to develop a plan to ensure the mandates in the law are met, including outlining the actions and investments the PRO will implement, how the PRO will support the collection, processing, recycling, and composting of materials and ensure these materials are sent to a “responsible end market.”

Fees collected by the PRO will be used to fund investments in the state’s recycling infrastructure and to cover costs associated with recycling/composting covered products. Fees will also be “eco-modulated” meaning fees will be lower for materials that are easier to be recycled or composted thereby incentivizing producers to make changes in their packaging decisions.

CalRecycle is also tasked with several requirements, including conducting a need assessment, reviewing and approving or denying the PRO’s plan, publishing a list of covered materials that are deemed recyclable or compostable, and setting an administrative fee to be paid by the PRO to cover administrative costs.

In signing SB 54, Governor Newsom stated this law “is the most significant overhaul of California’s plastics and packaging recycling policy in history, goes further than any other state on cutting plastics products at the source and continues to build a circular economy that is necessary to combat climate change.” Senator Ben Allen also stated, “with this new law, California continues its tradition of global environmental leadership – tackling a major problem in a way that will grow markets for sustainable innovations, create incentives for investment, and set the stage for partnership with other states and countries on these issues.”

Recyclability Labeling Criteria Includes Substances Used in Packaging

In addition to SB 54, California enacted a sweeping new requirement (SB 343) that sets standards for labeling products or packaging as recyclable. The intent behind the measure is to ensure claims related to the recyclability of a product or package is truthful and accurate.

The law outlines the following criteria that must be met for a package or product to be considered recyclable, including factoring in the use of packaging components, inks, etc.

(A) For plastic packaging, the plastic packaging is designed to not include any components, inks, adhesives, or labels that prevent the recyclability of the packaging according to the APR Design® Guide published by the Association of Plastic Recyclers.

(B) For plastic products and non-plastic products and packaging, the product or packaging is designed to ensure recyclability and does not include any components, inks, adhesives, or labels that prevent the recyclability of the product or packaging.

(C) The product or packaging does not contain an intentionally added chemical identified pursuant to the regulations implementing subparagraph (4) of subdivision (g) of Section 42370.2.

(D) The product or packaging is not made from plastic or fiber that contains perfluoroalkyl or polyfluoroalkyl substances or PFAS that meets either of the following criteria:

(i) PFAS that a manufacturer has intentionally added to a product or packaging and that have a functional or technical effect in the product or packaging, including the PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product.

(ii) The presence of PFAS in a product or product component or packaging or packaging component at or above 100 parts per million, as measured in total organic flourine.

To comply with the mandates in SB 54, producers will have no choice but to ensure their product/package meets the recyclability labeling requirements in SB 343.

For the reasons stated, we must respectfully oppose AB 1290.

Sincerely,



Adam Regele
California Chamber of Commerce



Tim Shestek
American Chemistry Council



Rob Spiegel
California Manufacturers & Technology Association



Jack Monger
Industrial Environmental Association



Kirk Wilbur
California Cattlemen's Association



Jonathan Choi
Dart Container Corporation



Savonne Caughey
Pet Food Institute



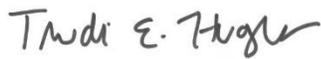
Christopher Finarelli
Household & Commercial Products Association



Katie Davey
California Restaurant Association



Lisa Johnson
Chemical Industry Council of California



Trudi Hughes
California League of Food Producers



Brendan Flanagan
Consumer Brands Association



Karin Ross
Personal Care Products Council



Carlos Gutierrez
Consumer Healthcare Products Association



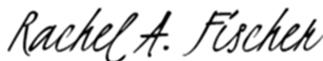
Dan Felton
American Institute for Packaging and the Environment



Alison Keane
Flexible Packaging Association



Emily Williams
Transcontinental Packaging



Rachel Fischer
National Marine Manufacturers Association



Ned Monroe
The Vinyl Institute



Stephen Rossi
American Supply Association



Robert Flores
Berry Global



Lisa Foshee
Auto Care Association

Rodney Pierini
California Automotive Wholesalers' Association

Bill Schiek
Dairy Institute of California

Anja Raudabaugh
Western United Dairies

Ronald Cotterman
Sealed Air

Kris Quigley
Plastics Industry Association

Erin Raden
The Toy Association

Bill Mattos
California Poultry Federation

Cherish Changala-Miller
Western Plastics Association

Carol Patterson
Food Service Packaging Institute

Ally Peck
Consumer Technology Association