



September 5, 2024

The Honorable Gavin Newsom, Governor
State of California
1021 O Street
Sacramento, CA 95814

Re: SB 1053 (Blakespear) as enrolled, Solid waste: reusable grocery bags: standards: plastic film prohibition; VETO Requested

Dear Governor Newsom,

We, the undersigned, are writing to request your veto of Senate Bill 1053 (Blakespear), which will prohibit grocery stores from selling certified reusable polyethylene bags made with 40 percent post-consumer resin (PCR) at the point of sale. This bill will result in negative environmental outcomes, and cause unnecessary economic harm to the state and to consumers.

We stood opposed, unless amended, on this bill and pushed instead for integration into the existing SB 54 legislation as more viable, less disruptive and more environmentally and economically preferable approach. **We request you VETO this bill and recommend the legislature send you a bill that moves certified reusable 40 percent recycled content polyethylene bags to be included as a covered product under SB 54, the Extended Producer Responsibility (EPR) legislation passed in 2022.** If reusable polyethylene bags are included in the EPR program, producers would be required to pay fees to the producer responsibility organization (PRO) and ensure that these bags are collected, sent to a viable end market and recycled, or they will be banned according to the statute. This approach would help increase volumes in the film and flexible recycling markets, and provide a circular pathway to compliance with SB 54, which is responsive to the wants of consumers, and the goals of NGO's, CalRecycle, and our California legislators.

In 2022 you signed the Plastic Pollution Prevention and Packaging Producer Responsibility Act (SB 54, Chapter 75, Statutes of 2022), which established a comprehensive regulatory framework and aggressive goals to increase recycling and reduce single-use plastic waste in this state. This 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 and requires that plastic packaging be recycled at not less than 30% by 2028; 40% by 2030; and 65% by 2032.

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.

Fees collected by the Producer Responsibility Organization (PRO) will be used to fund investments in the state's recycling infrastructure and to cover costs associated with recycling/composting covered products.

All of the undersigned organizations were part of the business community that diligently worked on and negotiated in good faith with your Administration, the legislature, local governments, waste haulers/recyclers and environmental advocates on developing a comprehensive plan for California in dealing with pollution. To that end, it was understood that existing programs that dealt with waste would be exempt from SB 54, like the recycled shopping bag. If there was any thought that interested parties would attempt to ban these products in future years, those film plastic bags would have been added to the covered products list, to be regulated by the new Plastic Pollution Prevention and Packaging Producer Responsibility Act. As it was made clear to all parties, producers of these materials would be funding enhancements to the state's recycling infrastructure so that more of these materials can be collected and recycled into new products and packaging.

Failure in policy under SB 1053:

- Does **economic harm** by banning recyclable products made by California companies, and California workers
- Ends up being a **regressive tax** on consumers by increasing grocery costs for underserved and low-income communities due to the increased cost of paper bags for grocers
- Perversely **grants a monopoly** to the paper bag industry by banning a competitive material type, while not holding paper to any performance or environmental standards
- **Wastes taxpayer dollars**, by ignoring the over \$12 million in investment by CalRecycle to improve recycling including film plastic recycling

California business will be harmed. SB 1053 takes a giant leap backward with the introduction of even fewer environmental protections. This approach is in direct conflict with the intent of California's landmark legislation, SB 54 (Allen) Chapter 75 of the statutes of 2022, which is to establish a shared goal of greater product circularity in an environmentally responsible manner. This measure will likely result in unintended negative consequences for consumers, the environment, and the state's recycling industry and our in-state recycled bag manufacturers. Whether intended or not, most beneficiaries will be out of state manufacturers, whose products are not held to a performance standard, nor are their products certified by a third-party ensuring compliance with state recycling standards.

Small to medium sized grocers in California will be hit the hardest, especially in low-income communities. Paper bags cost anywhere from eight to 10 cents per bag. Meanwhile certified reusable polyethylene bags made with 40 percent PCR cost around three to four cents per bag. If SB 1053 is signed into law, small to medium grocers will double their costs for this now state-required paper bag. Additionally, grocery stores in low-income areas, where a majority of customers may be on assistance programs like the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), CalFresh, Food Stamps, or EBT, must give their bags away for free to these specific customers. Therefore, these small grocers will either absorb the costs, or must raise prices of products throughout the store to make up for the doubling of bag costs. Either way, low-income Californians up and down the state will feel the negative financial effects of this bill. SB 1053 is regressive public policy.

Reusable plastic bags are held to a strong performance and environmental standard. California's current definition of reusable plastic bags, set under SB 270 (Chapter 850, Statutes of 2014), is a national model for setting the highest, most stringent U.S. regulations on making reusable plastic bags from 40 percent PCR content. To add, reusable bag manufacturers have the feasibility to increase their minimum PCR content to 85%, especially if California increases collection and the recycling rate of plastic grocery bags through the regulations of SB 54. This means all reusable plastic bags sold in California have been successfully manufactured from recycled plastic, directly replacing the use of virgin plastic. In addition, this is the only state law that requires certified PCR, setting a national standard for accountability in recycled content. This PCR requirement has improved the market for many suppliers and provided a large, feasible end market for film PCR that would not otherwise exist. As recently amended, the definition of "reusable bag", which was removed, will result in more virgin plastic being used to make bags for sale outside of the checkout lane. This policy is more hope than science, and it will ultimately do harm to our environment and state economy. The PCR market is already exposed due to the extremely cheap prices of virgin plastic. SB 1053, with the removal of this definition, will only further hurt PCR markets and suppliers within California. This is contrary to what was promised when you enacted SB 54.

California has invested at least \$12 million dollars (through grants administered by CalRecycle) in the last ten years to lower overall greenhouse gas emissions by expanding existing capacity, or by establishing new facilities in California that use California-generated PCR plastic to manufacture new bags. One recipient of such investment was PreZero U.S., then known as Roplast, of nearly \$2.5 million through CalRecycle's *Recycled Fiber, Plastic, and Glass Grant Program*. The state recognizes the importance of elevating California's plastic film recycling, even in advance of the passage of SB 54.

Over one billion pounds of post-consumer recycled film and flexible packaging were recovered for recycling in the U.S in 2022. California bag manufacturers use this recycled plastic to make the bags that comply with CA law, which helps to support the overall recycling system by guaranteeing there is a buyer, or end market, for

recycled plastic films. The current polyethylene bag available to consumers, requires a minimum of 40 percent PCR. In 2022, over 220 million pounds retail bags were recovered directly through retail store drop-off programs throughout the United States. If you were to enact SB 1053 as enrolled, any film and flexible retail take-back that is being voluntarily implemented, and the millions of pounds kept out of landfills because of this program, will likely be removed from our recycling stream as consumers are forced to use paper bags. Recyclers, and the state through CalRecycle grants, have invested millions of dollars into processing recovered bags and film and are actively selling into the certified polyethylene reusable bag market, plastic decking, and other applications. CalRecycle data shows that each year, roughly 180 million pounds of PCR is used in reusable plastic grocery bags. By eliminating this "reusable bag" requirement, a viable end market for recovered flexible packaging will suffer negative consequences and it will be harder to expand recycling for other film plastics.

For all of the reasons outlined above, we urge you to VETO SB 1053 (Blakespear). Should you have any questions about our position, please contact Bruce A. Magnani or Dylan L. Finley, at bruce@houstonmagnani.com and dylan@houstonmagnani.com.

Sincerely,

Steve Alexander; President/CEO, Association of Plastic Recyclers
Dylan de Thomas; Vice-President, The Recycling Partnership
Cherish Changala; President, Western Plastics Association
Tim Shestek; Senior Director, State Affairs, American Chemistry Council
John Richard; Director, Governmental Relations, Flexible Packaging Association