

Testimony
on
Senate Bill 269
in the
Tennessee Government Operations Committee

February 26, 2025

Dear Chair Ragan, Vice-Chair Reedy, and Members of the Senate Government Operations Committee,

The Flexible Packaging Association (FPA) appreciates the opportunity to submit testimony on Senate Bill 269 (Campbell), which directs the Department of Environment and Conservation to establish an extended producer responsibility program in the State of Tennessee.

I. Background on FPA and Flexible Packaging

FPA represents flexible packaging manufacturers and suppliers to the industry in the United States. Flexible packaging represents \$42.9 billion in annual sales; is the second largest, and fastest-growing segment of the packaging industry; and employs approximately 85,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products.

These are products that you and I use every day—including hermetically sealed food and beverage products such as cereal, bread, frozen meals, infant formula, and juice, as well as sterile health and beauty items and pharmaceuticals, such as aspirin, shampoo, feminine hygiene products, and disinfecting wipes. Even packaging for pet food uses flexible packaging to deliver fresh and healthy meals to a variety of animals. Flexible packaging is also used for medical device packaging to ensure that the products packaged, like diagnostic tests, IV solutions and sets, syringes, catheters, intubation tubes, isolation gowns, and other personal protective equipment maintain their sterility and efficacy at the time of use. Trash and medical waste receptacles use can liners to

manage business, institutional, medical, and household waste. Carry-out and take-out food containers and e-commerce delivery, which became increasingly important during the pandemic, are also heavily supported by the flexible packaging industry. Thus, FPA and its members are particularly interested in and deeply committed to solving the plastic waste issue and increasing the recycling of all packaging.

Flexible packaging is in a unique situation as it is one of the most environmentally sustainable packaging types from water and energy consumption, product-to-package ratio, transportation efficiency, food waste, and greenhouse gas emissions reduction standpoints. But circularity options for flexible packaging are currently limited. There is no single solution that can be applied to all communities when it comes to the best way to collect, sort, and process flexible packaging. Viability is influenced by existing equipment and infrastructure; material collection methods and rates; volume and mix; and demand for the recovered material. Single-material flexible packaging, which is approximately half of the flexible packaging waste generated, can be mechanically recycled primarily through store drop-off programs; however, end markets are scarce. The other half can be used to generate new feedstock, through pyrolysis and gasification.

Developing end-of-life solutions for flexible packaging is a work in progress, and FPA is partnering with manufacturers, recyclers, retailers, waste management companies, brand owners, and other organizations to continue making strides toward total packaging recovery. Some examples include The Recycling Partnership (TRP); the Materials Recovery for the Future (MRFF) project; the Hefty® ReNew® Program; the Consortium for Waste Circularity; and the Flexible Film Recycling Alliance (FFRA). All these programs are seeking to increase the collection and recycling of flexible packaging. Also, increasing the recycled content of new products, including packaging, will not only create markets for the products, but will also serve as a policy driver for the creation of a new collection, sortation, and processing infrastructure for the valuable materials that make up flexible packaging.

It is FPA's position that a suite of options is needed to address the lack of infrastructure for non-readily recyclable packaging materials, and promotion and support of market development for recycled packaging is an important lever to build that infrastructure. FPA also supports well-crafted EPR that can be used to promote this needed shift in recycling in the U.S. In fact, FPA was

the first trade Association to support the Minnesota EPR law, which was the only successful EPR proposal to become law last year. It is with this background that FPA provides this testimony to inform SB 269.

II. FPA Appreciates the Author's Thoughtful Changes to the Tennessee Waste to Jobs Act

Last year, the Flexible Packaging Association came in opposed to the Tennessee Waste to Jobs Act as introduced because of a flawed producer definition, a lack of antitrust protections for the PRO, and because the program was linked to inefficient litter clean-up efforts that threatened the investments producers of packaging would be making in Tennessee. FPA wishes to thank and commend Senator Campbell and her team for fixing these issues in this version of the bill.

III. FPA Requests Material-Neutrality in the Producer Definition

Because flexible packaging is made from paper, plastic, and aluminum foil, FPA strongly supports the material-neutrality principle of EPR. Within SB 269's producer definition, there are two exemptions that apply only to paper. One is for a mill that uses any virgin wood fiber in the products it produces and the other applies to paper mills that produce container board derived from 100% postconsumer recycled content and non-postconsumer recycled content. FPA requests that these exemptions be made material neutral or be stripped out of the final bill.

IV. FPA Requests the TN EPR Program Adopt the MN Cost-Share

While FPA's members strongly support well-crafted EPR, one compromise that came out of the Minnesota dialogue was a 90%/10% cost share between producers and the rest of the recycling system. This policy principle acts like a co-pay to ensure costs do not increase out of control because they have been completely divorced from the entities responsible for incurring those costs. FPA requests an amendment that incorporates this language.

V. Conclusion & Next Steps

FPA is pleased with the progress on SB 269 and look forward to supporting a future version of this bill. Thank you for your consideration. We are happy to discuss any of these issues with you and your staff before your vote. If we can provide further information or answer any questions in advance of your decision, please do not hesitate to contact me at (410) 694-0824 or jrichard@flexpack.org.

Respectfully,

A handwritten signature in black ink that reads "John J. Richard". The signature is written in a cursive style with a large initial 'J' and a distinct 'R'.

John J. Richard
Director, Government Affairs
Flexible Packaging Association