

Testimony in OPPOSITION
to
Senate Bill 5697
in
Washington Senate Environment, Energy and Technology Committee
on
January 18, 2022

The Flexible Packaging Association (FPA) is submitting testimony in opposition to SB5697, “Renewing Washington's recycling system and reducing waste,” which sets arbitrary rates and dates for all packaging in Washington to have post-consumer recycled content (PRC) incorporated and assess fees for non-compliance but would establish the nations first ever Extended Producer Responsibility (EPR) program with a Producer Responsibility Organization (PRO) run by packaging manufacturers as opposed to the brands that use the packaging.

I am Alison Keane, President and CEO of FPA, which represents flexible packaging manufacturers and suppliers to the industry in the U.S. Flexible packaging represents \$33.6 billion in annual sales; is the second largest, and fastest growing segment of the packaging industry; and employs approximately 80,000 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, 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 are increasingly important during this national emergency, are also heavily supported by the flexible packaging industry.

Thus, FPA and its members are particularly interested in solving the plastic pollution issue and increasing the recycling of solid waste from packaging. We do not believe that SB5697 will help to do that. Flexible packaging is in a unique situation as it is one of the most environmentally sustainable packaging types from a water and energy consumption, product-to-package ratio, transportation efficiency, food waste, and greenhouse gas emissions reduction standpoint, but circularity options are 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 waste. 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 through store drop-off programs, however, end-markets are scarce. The other half can be used to generate new feedstock, whether through pyrolysis, gasification, or fuel blending, but again, if there are no end markets for the product, these efforts will be stranded.

Developing end-of-life solutions for flexible packaging is a work in progress and FPA is partnering with other 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; the Materials Recovery for the Future (MRFF) project; the Hefty® EnergyBag® Program; and the University of Florida's Advanced Recycling Program. All of these programs seek to increase the recycled content of new products that will not only create markets for the products but will serve as a policy driver for the creation of the collection, sortation, and processing of the valuable materials that make up flexible packaging. To increase recycled content in new products, reliable high-quality supply must be available.

FPA believes 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 products is an important lever to build that infrastructure. We also believe that EPR can be used to promote this needed shift in recycling in the U.S. In fact, FPA worked with the Product

Stewardship Institute (PSI) and have jointly drafted a set of principles to guide EPR for flexible packaging (<https://www.flexpack.org/end-of-packaging-life>).

An effective and working EPR bill would provide for packaging circularity, by providing for the improvement of collection and infrastructure investment and development of advanced recycling systems to allow for collection and recycling to a broader array of today's packaging materials, including flexible packaging; as well as quality sorting and markets for currently difficult-to-recycle materials. SB5697 has a number of elements which we believe give cause for concern. Chief among them is the problematic definition of "Producer" in the bill. EPR legislation generally aims at defining "Producer" to mean a brand owner who uses packaging. The definition here however points to packaging manufacturers which seems to be in conflict with the rest of the bill. Under the current definition, Washington would be creating the first ever PRO essentially run by the manufacturers of packaging. In addition, FPA has some serious concerns regarding the PCR requirements. FPA members are leaders in the field of sustainability and remain fully committed to increased use of recycled content in flexible packaging, but these overly ambitious standards are too rigid and fail to adequately account for the generally unpredictable nature of markets and the economy. As written, SB5697 also gives the service providers too much power and authority, which is a recipe for failure.

FPA does not believe this bill has been appropriately thought out, nor do we believe it will achieve its stated goals. Thus, FPA opposes the bill and respectfully requests a **negative report of SB5697**.

In advance, thank you for your consideration. If we can provide further information or answer any questions, please do not hesitate to contact me at 410-694-0800 or akeane@flexpack.org

Sincerely,

A handwritten signature in blue ink, appearing to read "Alison Keane", with a stylized flourish at the end.

Alison A. Keane, Esq., CAE, IOM

President & CEO, FPA