



CIVIL JUSTICE
ASSOCIATION OF CALIFORNIA



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INNOVATION ECONOMY

March 28, 2022

TO: Members, Assembly Judiciary Committee

**SUBJECT: AB 2026 (FRIEDMAN) RECYCLING: PLASTIC: PACKAGING AND CARRYOUT BAGS
OPPOSE UNLESS AMENDED – AS AMENDED MARCH 23, 2022
HEARING SCHEDULED – APRIL 5, 2022**

The California Chamber of Commerce and the organizations listed respectfully **OPPOSE UNLESS AMENDED AB 2026 (Friedman)**, as amended. We agree that increased efforts, including packaging redesign, substantial financial investments in infrastructure, and the formation of extended producer responsibility (EPR) programs are critically important to developing a circular economy to create a more sustainable market. To that end, in addition to companies' individual sustainability goals, the collective business community has been negotiating in good faith on Senate Bill 54 (Allen) to develop a comprehensive extended producer responsibility program that creates a "first in the nation" extended producer responsibility program for the management of packaging sold into California.

We would like to work with the Author to align **AB 2026** with the broader priorities of creating a California Circular Economy that:

- ensures single-use plastic packaging is designed to be fully recyclable or compostable;
- has domestic end markets for recycled materials;
- source reduces superfluous packaging;
- ensures manufacturers pay their fair share in an extended producer responsibility program;
- ensures that supply chains are not disrupted; &
- creates sustainable recycling infrastructure and sustainable jobs associated with managing packaging materials here in California responsibly.

As drafted, **AB 2026** creates blanket prohibitions on certain packaging materials, with notable exemptions, that do not fully consider the unintended impacts such as increased waste as a result of product breakage,

unintended consequences of increasing greenhouse gases from less efficient packaging or banning vital packaging that lack a viable substitute. For example, expanded polystyrene plays a critical role in the shipment of large, high value products such as televisions, monitors and appliances for which no viable alternative currently exists that provides adequate product protection. A ban on EPS for many durable goods would result in increased environmental impacts from damaged products. To this point, no jurisdiction in the world has banned EPS for durable goods and the Oregon Department of Environmental Quality (DEQ) has stated “packaging serves several essential roles, including protecting products from damage. Taken to extremes, packaging waste prevention can lead to insufficient protection and product damage – and waste. Ideally, packaging waste prevention should reduce packaging waste without increasing waste (financial or environmental) elsewhere in the system.”¹

Additionally, there is confusion pertaining to the scope of covered packaging in **AB 2026**. Many definitions include “but not limited to” language that injects ambiguity to what is covered, as well confusion from some terms being defined but not clearly reflected in the mandates section. For example, tertiary packaging and dunnage are included in the definition of “packaging”, raising the question whether pallet wrap for example, is banned.

We believe there is an opportunity to not only clarify the scope of this bill, but more importantly, strike the right balance of policy that ensures transport and e-commerce packaging is more sustainably and responsibly managed here in California while protecting the environment from pollution. This Legislature passed last year [SB 343 \(Allen\)](#) to require all single-use plastic packaging be properly labeled recyclable if certain recycling metrics are met. That legislation and the broader circular economy negotiations transpiring this session will create a first in the nation program here in California. Companies are already working diligently to make necessary investments here in California to achieve circularity. **AB 2026** proposes to ban many of the very materials needed to get products safely to consumers with the lowest carbon footprint, thereby cutting off any opportunity to make those investments and achieve circularity here in California. The exemptions in **AB 2026** reinforce that the material banned in the bill is still necessary for ensuring products reach consumers safely across a wide variety of sectors, from health care to food safety to electronics to other durable goods.

We recognize the role industry needs to play to reduce waste and increase the recycling and recovery of the packaging materials put into the marketplace. The policy concepts mentioned herein need to be crafted and implemented in a collaborative manner to ensure a more sustainable market, environment and economy can emerge.

For these reasons, we respectfully **OPPOSE AB 2026 UNLESS AMENDED**. We appreciate the opportunity to continuing to engage on this important issue.

Sincerely,



Adam Regele
Senior Policy Advocate for the California Chamber of Commerce, on behalf of:

Air Conditioning, Heating & Refrigeration Institute
American Chemistry Council
American Cleaning Institute
Ameripen
Auto Care Association
CAWA – Representing the Automotive Parts Industry
California Chamber of Commerce
California League of Food Producers

¹ <https://www.oregon.gov/deq/mm/production/Pages/Packaging.aspx>

California Manufacturers & Technology Association
California Retailers Association
Civil Justice Association of California
Consumer Technology Association
EPS Alliance
Flexible Packaging Association
National Marine Manufacturers Association
Personal Care Products Council
Plastics Industry Association
TechNet
Tekni-Plex, Inc.
The Toy Association

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