

S.1464 (Harckham)/A.1749 (Glick)

STAFF CONTACT : Ken Pokalsky | Vice President | 5186944460

BILL S.1464 (Harckham)/A.1749 (Glick)
SUBJECT "Packaging Reduction and Recycling Infrastructure Act"
DATE May 19, 2025
OPPOSE

The Business Council and numerous other business organizations continue to oppose S.1464/A.1749.

In comparing the bill to our longstanding issues of concern, including but not limited to material and chemical bans, material source reduction mandates, the role of producers in implementing the program, mandated payments for municipal disposal costs and others, this version of the bill falls well short of a package that could be supported by business.

Moreover, we maintain our concerns that this overly aggressive legislation will lead to increased consumer costs and reduced consumer choices, in addition to its direct compliance cost impacts on businesses.

We have not heard from any businesses saying that the modified mandates in this legislation are workable or achievable, and we question on what basis these targets were established. The bill has the most stringent source reduction mandates of any EPR legislation adopted by any other state, and no other state EPR law imposes broad chemical, or material bans as included in S.1464/A.1749. Requiring businesses to incur costs to reformulate products and modify production lines in an attempt to achieve an unworkable target, with the possibility of the state providing regulatory relief at some point in the future, is not a sound policy approach. These proposed targets are not based on any real-world assessment of opportunities to reformulate or redesign packaging, or any assessment of current market conditions – indeed the state’s “needs assessment” is still a year or more away from completion. To give the state discretion to modify unworkable mandates at some time in the future provides little relief to producers, who will have to begin spending resources on product and process modifications in an attempt to achieve these mandates. And we note, the only waiver in S.1464/A.1749 for its source reduction mandates is if compliance is impossible due to federal law (and it must be re-applied for annually). It is unclear what if any federal mandate would come into play with regard to material reduction mandates.

Importantly, the current version of the bill makes the proposed program even less responsive to practical limitations on achieving its source reduction mandates. It strikes a provision from last year’s “C-print” that would allow DEC to adjust the source reduction mandate to as low as 10 percent based on “information gathered through the needs assessment or provided in producer plans and reports, and/or based on consideration of

environmental, technical and economic conditions.” It is unclear what the state would be precluded from adjusting these mandates based on the findings of its own needs assessment, or on other technical or economic feasibility assessments.

The bill fails to address other key business concerns and raises new issues. It still leaves significant uncertainty as to the role of producers in setting up and implementing the “packaging reduction and recycling organization,” or PRRO (the bill says that DEC can designate as the PRRO any entity from among the non-profits that apply.) The bill continues to require the PRRO to reimburse municipalities for the costs of disposing of collected packaging material – something that no other state ERP requires, and that could provide an incentive to landfill, rather than recycle, materials.) The bill also imposes new labor mandates in instances where municipalities elect not to provide material collection and processing services, something we have not seen in other EPR proposals.

The bill also requires that – within two years of the promulgation of implementation rules, which are due 18 months after the bill is signed -- all packaging sold in the state must have “a consistent regional market for purchase, by end users in the production of new products,” or be prohibited from in-state sale. While the exact meaning of this provision remains unclear, it raises concerns if the new program is unable to achieve “consistent markets” for the remanufacture of all categories of packaging material within 3.5 years, this would serve as a “backdoor” material ban.

In summary, S.1464/A.1749 continues to fall well short of what is necessary to create an affordable, workable, “competitive” and effective packaging collection, recycling and material reuse programs. This legislation should be evaluated against well-recognized concerns regarding impacts on consumer costs and consumer choice, as well as on New York businesses and jobs. It should also be evaluated in light of other state’s EPR legislation, most recently Minnesota and Maryland. Based on these factors, we strongly urge you oppose adoption of S.1464/A.1749.

-