



**AMERIPEN - American Institute for Packaging and the Environment
MEMO in Opposition – S.420 (Liu) - Recyclable Labeling Claims**

TO: New York Senate Environment Conservation Committee

Chairman Harckham, Senator Stec and Members of the Senate Environmental Conservation Committee

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to submit testimony on Senate Bill 420 that requires the Department of Environmental Conservation to develop regulations on types and forms of plastic products and packaging for which a claim of recyclability be made, along with other provisions related to resin codes and recyclability symbols. AMERIPEN supports clear and consistent labeling for packaging recovery and recycling, composting, and reuse. While we appreciate the intent of S.420, we cannot support it in its current form. We would welcome the opportunity to work with the Committee and stakeholders in New York to address consumer education for all packaging that will truly improve the quantity and quality of recyclable materials in the state.

AMERIPEN is a trade association dedicated to improving packaging and the environment. We are the only material-inclusive packaging industry trade association in the United States representing the entire packaging supply chain. This includes materials suppliers, packaging manufacturers, consumer packaged goods companies, retailers, and end-of-life materials managers. Our membership also includes a robust array of industry, material, and product-specific trade associations who are essential to the AMERIPEN fabric. We have several member companies with a significant presence in New York, and many more who import packaging materials and products into the state. The packaging industry in New York supports and estimated 16,873 jobs and accounts for more than \$12.5 billion in total economic output.

Packaging plays a vital role in New York, ensuring the quality and safety of consumer goods as they are manufactured, shipped, stored and consumed. Effective labeling is needed to recover all packaging so that it may be recycled, composted or reused. No one knows better how to do that than the AMERIPEN members who design, supply, produce, distribute, collect and process it. They are driving innovation and designing packaging and labeling to improve the quality of materials destined for recycling, composting, and for reuse.

Concerns with S.420 Recyclability and Resin Identification Labeling

S.420 will create a new definition of recyclability with unworkable criteria and a New York-specific labeling requirement for plastic packaging. As a result, plastic packaging may not be able to carry valuable recycling instructions and follow uniform national labeling program standards under this approach. In addition, under S.420, all rigid plastic containers sold in the state will need to be labeled with a code that indicates the resin used to produce such containers. Three dozen other states already require a similar “resin identification code,” (RIC) but New York’s would conflict with other states in that it would not follow the widely adopted standard for using the RIC—ASTM D7611 Standard Practice for Coding Plastic Manufactured Articles for Resin Identification.

AMERIPEN supports the use of labels that clearly differentiate between recyclable, compostable, and reusable packaging. Unfortunately, S.420 would restrict the use of the widely adopted chasing arrows symbol



or similar recycling claims/instructions on plastic packaging. It would also force the removal of the chasing arrows symbol or equilateral triangle surrounding a resin identification code on plastic packaging. This would be extremely problematic for any producers that must follow statutory RIC requirements in dozens of other states.

S.420 as currently drafted will prohibit the voluntary labeling schemes on many types of plastic packaging, and potentially other commonly used labeling programs that use chasing arrows. This prohibition is problematic because the chasing arrows and similar symbols are used by many companies to identify a package as recyclable and provide valuable environmental information to consumers.

The varying requirements in S.420 conflict with the labeling requirements that align with national guidelines under U.S. Federal Trade Commission (FTC) Green Guides that are designed to ensure uniform labeling standards for the free flow of interstate commerce. Manufacturers do not distribute products solely to New York, and segregating New York specifically-labeled products, given the state's central location in commerce, will be nearly impossible. New York has already adopted a uniform approach for effective enforcement of false labeling claims that has been approved in many states. This adoption of the FTC Green Guides in conjunction with existing state truth-in-advertising statutes, unlike the provisions in S.420, will address both consumer confusion and burden on interstate commerce.

The net result of S.420, as currently drafted, is that companies will be forced to remove recycling labels and instructions on plastic packaging, and more recyclable material will unfortunately be sent to landfill. A similarly flawed law in California that has yet to be implemented is already producing confusion among packaging manufacturers on label messaging that conflict with other states.

For this reason, AMERIPEN supports enactment of H.R. 6832, the Packaging and Claims Knowledge Act (PACK Act) as a uniform structure that will help businesses provide accurate and transparent information across state lines. By reducing consumer confusion and enabling informed choices, the PACK Act will promote proper packaging materials management at end-of-life, diverting them from landfills and advancing a circular economy. We welcome the opportunity to discuss how New York consumers will benefit from this federal approach in lieu of the confusing approach in S.420.

In conclusion, AMERIPEN supports policy solutions that create greater awareness of proper recycling practices and that improve packaging recycling, composting, and reuse. S.420 will not improve the education of consumers for plastics recyclability. Instead, it will only result in more materials being sent to landfills and reduce the ability of local recycling systems to innovate and add materials to their recycling bins.

We would appreciate the opportunity to collaborate with Senator Liu, this Committee and other stakeholders on legislative solutions to increase packaging recovery and recycling in New York in a shared and responsible way. Please feel free to contact Danielle Waterfield at AMERIPEN at DanielleW@ameripen.org, or AMERIPEN's lobbyist Andy Hackman at AHackman@serlinhaley.com for any questions or for stakeholder discussions on this important issue.