

CONGRESSIONAL ACTION NEEDED ON PACKAGING CLAIMS, SUPPORTING A CIRCULAR ECONOMY



Packaging plays a vital role in the United States, ensuring the quality of consumer goods as they are manufactured, shipped, stored, and consumed, and by protecting the health and safety of U.S. citizens who consume, use, and handle those products. Businesses and consumers recognize that packaging has value and is an integral part of a sustainable supply chain.

THE CHALLENGE

Retailers, consumer packaged goods companies, and their suppliers are facing a patchwork of state laws related to making recyclable, compostable, and reusable claims on packaging. This is leading to interstate commerce issues for businesses and causing consumer confusion on how to dispose of packaging. This dynamic exists because the Federal Trade Commission (FTC), which regulates advertising claims under federal law, currently lacks the authority to preempt state laws regulating these claims. While the FTC has issued the “Green Guides,” these are merely just “guides” that are not independently enforceable, without the force and effect of law.

THE SOLUTION

We support the passage of **the Packaging and Claims Knowledge Act (PACK Act)** which was introduced by Congressman Randy Weber (R-TX-14) to create a federal framework under the Federal Trade Commission (FTC) for making recyclable, compostable, and reusable claims on consumer packaging. This uniform structure will replace the confusing patchwork of state regulations, helping businesses provide accurate and transparent information across state lines. By reducing consumer confusion and enabling informed choices, the PACK Act will promote proper management of packaging materials at end-of-life, diverting them from landfills and advancing a circular economy.

PACK ACT SUMMARY

The bill continues to vest the FTC with primary authority to regulate these claims but adds a new section to the FTC Act to create a truly harmonized national framework to prohibit unfair and deceptive claims. The PACK Act also calls on the FTC to work with and consider input from the Environmental Protection Agency (EPA) administering the new scheme. The key elements of this framework include:

1. **Mandatory Third-party Certification for Consumer Packaging**

The PACK Act requires an accredited third-party certification body to authorize recyclable, compostable, and reusable claims on consumer packaging. This allows businesses to utilize a variety of qualified independent parties to certify that packaging meets industry standards and follows the FTC’s “Green Guides” to avoid deceptive claims.

2. **Focus on Consumer Packaging**

The certification programs will address how recyclable, compostable, and reusable claims can be made for different types, shapes, sizes, and colors of consumer packaging. Non-consumer packaging will not be subject to the mandatory third-party certification requirement.

3. **State Preemption**

States will be preempted from enacting or enforcing any legal requirement that is not identical to the requirements under the PACK Act. This approach will: (1) ensure that a truly national and consistent framework for recyclable, compostable, and reusable claims for consumer packaging is achieved to eliminate interstate commerce challenges; (2) to the extent possible, eliminate consumer confusion and mistrust regarding consumer packaging claims; and (3) help assure that consumer packaging is handled correctly.

READY TO SUPPORT THE PACK ACT?

If you would like to support the passage of this much-needed bill, or have questions, please reach out to Danielle Waterfield, AMERIPEN Policy Director & General Counsel, via email to daniellew@ameripen.org.

