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June 29, 2026

The Honorable Kate Hogan
Speaker Pro Tempore
State House, Room 370
Boston, MA 02133

RE: PFAS in Consumer Products, House language (former amendment #447 of H.5510)

Dear Speaker Pro Tempore Hogan,

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to submit written comments on former amendment #447 of H.5510. AMERIPEN is deeply concerned about the proposed legislation and its significant impact on food packaging sold in the Commonwealth. We believe that any PFAS legislation affecting food packaging must be consistent from state to state, and former amendment #447 of H.5510 fails to align with 13 states on this issue. At a minimum, AMERIPEN asserts that a clear and consistent approach and definitions for PFAS policy are necessary to ensure that the requirements are feasible and do not inadvertently ban vast swaths of safe and essential food packaging.

AMERIPEN represents the entire packaging value chain, advocating for responsible packaging policies that drive meaningful progress in packaging sustainability while supporting industry growth and consumer needs. As the leading voice for packaging policy in the United States, AMERIPEN works with legislators, regulators, and stakeholders to develop science-based, data-driven solutions that enhance packaging's role in product protection and circularity. We focus on science and data to support our public policy positions, and our advocacy and policy engagements are based on rigorous research rooted in our commitment to achieve sustainable packaging policies.

Packaging plays a vital role in ensuring the quality of consumer goods throughout their manufacture, shipping, storage, and consumption. It also protects the health and safety of Massachusetts residents, who consume, use, and handle those products. The intentional use of PFAS in food packaging is already prohibited nationwide or has been discontinued. However, flawed definitions in former amendment #447 of H.5510 threaten to dramatically expand the scope of this "intentionally-added" restriction in a way that is infeasible for food packaging manufacturers to validate and comply with. Below are the critical concepts that threaten the ability to implement a reasonable PFAS regulation program.

Flawed Definitions & Scope

The first critical issue is the inconsistency of the definition of "intentionally added" with other existing state laws, which is a foundational issue for any PFAS restriction law. The definition in former amendment #447 of H.5510 establishes a highly subjective standard that is inconsistent with the 13 other states that have restricted PFAS in food packaging. Specifically, the definition stipulates the following highlighted flawed concepts:

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> *"Intentionally added", PFAS that is added to a product, or* ***enters the product from the manufacturing or processing of that product****; the addition of which is known* ***or reasonably ascertainable by the manufacturer****. "Intentionally added" PFAS also includes any degradation by-products of PFAS or the use of PFAS or PFAS precursors as a processing agent, mold release agent, or the creation of PFAS via chemical reactions.* ***[inconsistent emphasis added]***

AMERIPEN is greatly concerned that this definition is inconsistent with generally accepted definitions of "intentionally added" in existing PFAS laws and does not include a threshold for "intentionally added." Specifically, the inclusion of incidental PFAS contact during the manufacturing process and the subjective, undefined "reasonably ascertainable by the manufacturer" language in this definition run counter to a real-world, workable, intentionally added concept.

The use of incidental PFAS in the manufacturing and distribution processes of food packaging is, at times, unavoidable and does not pose a risk to human health. AMERIPEN strongly recommends that Massachusetts look to existing state laws on this topic, as a more reasonable definition for the term "intentionally added". For example, the Connecticut law stipulates:

> "*Intentionally introduced*" *means deliberately utilizing PFAS chemicals in the formulation of a package or packaging component where the continued presence of the PFAS is desired in the final package or packaging component to provide a specific characteristic, appearance, or quality. Use of post-consumer recycled materials as feedstock where some portion may contain PFAS shall not usually be considered intentional introduction."*[1]

Additionally, the absence of a specific threshold in the definition of PFAS creates further ambiguity if PFAS testing becomes necessary. The definition of "intentionally added" PFAS should include a *de minimis* threshold of 100 parts per million or greater, aligning with generally accepted guidance for testing packaging for total organic fluorine.[2] Omitting thresholds greatly increases the likelihood that even food packaging designed without any intentionally added PFAS would be subject to the restrictions proposed in former amendment #447 of H.5510. Adding a reasonable de minimis threshold is necessary to clarify what is considered intentionally added for testing lab purposes.

Finally, the definition of "known or reasonably ascertainable" is a completely subjective and unnecessary concept that will invite litigation and create ambiguity. We urge that this language be removed.

We hope our comments are constructive for the Committee and that you might consider amending former amendment #447 of H.5510 to align these critical concepts with other state laws regulating PFAS in food packaging. Please contact Danielle Waterfield, AMERIPEN Policy Director & General Counsel at DanielleW@ameripen.org, or Andrew Hackman, with Serlin Haley LLP at ahackman@serlinhaley.com, with questions regarding AMERIPEN's position on this important matter.

Respectfully submitted,

Danielle F. Waterfield

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[1] Public Act 21-191; S.B. 292 (PA 24-59) Conn. Gen. Stat. § 22a-903 et seq.

[2] *See* Biodegradable Products Institute (BPI) certification standards for fluorinated chemicals, available at https://bpiworld.org/Fluorinated-Chemicals).