



March 11, 2019

The Honorable Ben Allen  
Member of the Senate  
State Capitol  
Sacramento, CA 95814

**RE: SB 54 (Allen) – Oppose**  
***Set for hearing, March 20, 2019 Senate Committee on Environmental Quality***

Dear Senator Allen:

The American Chemistry Council (ACC) appreciates the opportunity to offer the following comments relative to your SB 54, legislation to create the California Circular Economy and Plastic Pollution Reduction Act. ACC members include many of the world's leading plastic resin producers, as well as manufacturers of a variety of plastic packaging products. We agree that more can and should be done to reduce the amount of plastic material that is disposed of in landfills or that makes its way into our creeks, rivers and oceans. Recent policy actions imposed by China and other Asian countries are creating new challenges – but also opportunities – in how plastics and other commodities are recycled and managed domestically.

We are committed to action and have set targets for 100% of plastic packaging to be recyclable or recoverable by 2030 and that 100% of plastic packaging be re-used, recycled or recovered by 2040. In addition, ACC helped launch and many of our members are founders of the new global Alliance to End Plastics Waste. Launched earlier this year, the Alliance - which consists of nearly 30 companies and brands that make, sell, use or recycle plastics - have committed to invest \$1.5 billion to bring innovation, investment and engagement to end plastics waste in the environment. This will include support for innovative new packaging formats, more efficient recycling technologies, and new business models to create value in used plastic, particularly where gaps in recycling infrastructure are the greatest.

Additionally, ACC supported your legislation (SB 1335) last year that created new recycling and composting requirements for food service packaging used at state facilities.

While we support the overall objective of SB 54, the bill as drafted raises several questions, uses terms that are unclear and vague, establishes implementation timelines that are overly ambitious and not practical, and provides CalRecycle with open ended authority to impose new mandates on businesses operating in the state.

#### **Scope is Unclear**

As drafted, the bill uses terms such as “single use packaging,” “single use products,” and “single use consumer goods” yet does not define these terms. These terms are not interchangeable. As written the bill would give CalRecycle the sole discretion to determine the scope of products that would be subject to this mandate, and that process alone would likely take years to resolve. Rather, we would welcome the opportunity to work with the author's office to determine whether it would be appropriate to include some parameters and specificity around scope. It is imperative that the regulated community understand clearly the scope of potentially impacted products and packaging types that may be subject to the legislative mandates.



### **Unfettered Authority Granted to CalRecycle**

As drafted, the SB 54 provides new authority to CalRecycle to develop implementing regulations including “any other regulations and policies the department deems necessary to accomplish this requirement...” (page 5, lines 2-3). The Legislature should not delegate such authority without clear guidelines and oversight. Conceivably, CalRecycle would have the authority to ban particular products or packaging types whenever and however it deems necessary in order to achieve the objectives of SB 54. These actions could have significant impacts on thousands of California manufacturers, retailers and small businesses.

### **Practical Timelines are Necessary**

The bill requires CalRecycle to develop an initial scoping plan by January 1, 2021 and requires manufacturers to meet a 20% recycling rate by January 1, 2022. It is unclear whether CalRecycle has the resources and access to information and data to develop an initial plan in one year, nor is it clear how manufacturers would determine a recycling rate for a particular product/package. Presumably, upon completing the scoping plan, CalRecycle would then need to develop implementing regulations all before the January 1, 2022 recycling rate requirement becomes effective.

Furthermore, developing and/or expanding existing collection infrastructure and developing new markets for collected material will take some time. It would appear that the timelines proposed in the bill need to be modified.

### **Avoid Regrettable Substitution**

The bill not only establishes recycling rate requirements but also states the objective of source reducing single use packaging and products. As drafted, it is unclear what is exactly meant by this term or how manufacturers might comply. Packaging serves many purposes and helps to reduce waste by ensuring products are transported to consumers in a safe and effective manner. Simply using “less” packaging may not be technically feasible and may conflict with state and federal law.

Furthermore, plastics are often the preferred packaging choice because the material can do more with less. Plastics help reduce greenhouse gas emissions, require less energy and water to produce, require less fuel and help significantly reduce food waste.<sup>1</sup> These types of environmental impacts need to be considered as implementing regulations are developed. We believe it does not make policy sense to impose “source reduction” requirements on certain plastics, only to have manufacturers switch to an alternative packaging material that may require more energy to produce or generates more greenhouse gas emissions because the alternative material is heavier to transport.

Other questions ACC believes the Legislature should assess prior to finalizing any policy around packaging include:

- Will this legislation actually reduce waste or rather simply result in replacing one type of trash with another?
- Are there environmental impacts (e.g. energy use, water use, impacts on greenhouse gas emissions, trash generation, landfill waste, etc.) associated with the manufacture, distribution, use and disposal of likely alternative replacement products?
- Are likely replacement products recycled or composted within the State’s existing infrastructure and do viable, end use markets exist for these products?

### **Existing Rigid Plastic Packaging Container (RPPC) Law**

Currently, product manufacturers that utilize certain plastic packaging must comply with the state’s Rigid Plastic Packaging Container law (RPPC). This law requires product manufacturers to demonstrate their RPPC be either 1) made from 25% post-consumer recycled content; 2) be reusable or refillable; or 3) be source reduced by 10%. Over the years, consumer product companies have made great strides in utilizing packaging that can meet these requirements. It will be essential for SB 54 to recognize these achievements and ensure any new requirements are not duplicative and/or overly burdensome on consumer product companies who are compliant with this law.

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<sup>1</sup> <https://www.plasticpackagingfacts.org/plastic-sustainability/sustainable-packaging-design/>

**Stakeholder Involvement Should be Mandated**

The bill specifies that CalRecycle *may* convene a stakeholder group to assist in developing the plan. We believe CalRecycle should be mandated to convene such a group. What is being proposed under SB 54 is a major undertaking and will likely have profound impacts on packaging design and use, and on the consumer product companies that rely on packaging to deliver products to markets. CalRecycle does not have the expertise in packaging design or in the manufacture or distribution of any consumer products. If SB 54 is to be successful, it will require the implementing regulations to be, at a minimum both practical and technologically feasible. Engagement by industry experts will be essential to achieve this goal.

As previously stated, ACC supports efforts to increase the amount of plastic material that is recovered and/or recycled. While we have identified several issues and concerns with the bill as drafted, we welcome the opportunity to work with you and other stakeholders as this bill makes its way through the legislative process. We are hopeful that the final work product will result in a packaging policy that is both environmentally responsible and economically sustainable.

Thank you for the opportunity to share these comments. Should you or your staff have any questions or comments, please contact me at 916-448-2581; [tim\\_shestek@americanchemistry.com](mailto:tim_shestek@americanchemistry.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Ti Sh", with a long horizontal flourish extending to the right.

Tim Shestek  
Senior Director, State Affairs

cc: Members, Senate Committee on Environmental Quality