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AMERIPEN Testimony on Bill No 233

“An Act Concerning A Reduction of Consumer-Based Packaging Materials”

**Connecticut Joint Environment Committee
March 4, 2016**

Senator Kennedy, Representative Albis and Members of the Joint Environment Committee, thank you for the opportunity to comment on Senate Bill 233 and offer AMERIPEN's perspective on this legislation and effective recycling policy for packaging.

AMERIPEN – the American Institute for Packaging and the Environment – is a coalition of packaging producers, users and end-of-life materials managers dedicated to improving packaging and the environment. We are the only material neutral packaging association in the United States. Our membership represents the diversity of the packaging sector, its supply chain, and end-of-life management partners. We focus on science and data to define and support public policy positions that improve the recycling of packaging materials---our comments are based on this rigorous research approach and rooted in our commitment to achieve sustainable packaging.

AMERIPEN supports the State's efforts to revise and evaluate their solid-waste plan and improve the management of packaging materials in the municipal waste stream. We recognize the State's recent efforts to develop a comprehensive materials management strategy and believe a focus on the full lifecycle of waste as well as the adoption of a toolbox of approaches to achieve diversion is the most effect approach to success.

However, AMERIPEN has concerns about the proposed change in Senate Bill 233 – requiring that the state implement a specific strategy to reduce packaging by 50% and to consider industry-financed stewardship programs. We ask you to consider the following issues, concerns and recommendations and refrain from enshrining the current approach in Senate Bill 233 in statute.

1. *Packaging is not the most significant portion of the waste stream, and in fact prevents food¹ and product waste*

Organic waste, not packaging, comprises the single largest component of Connecticut's waste stream at approximately 27 percent.² This portion of the waste stream is also growing across the states. For example, in Minnesota the portion of the waste stream comprised of organics increased from 26% to 31% from 2000 to 2013³. Similarly, California has document an increase in organics in the waste stream from 34.4% to 37.4% of the waste stream from 2008 to 2014⁴

Pursuant to Senate Bill 233's focus on source reduction we encourage the state to recognize the significant role packaging can play in reducing food waste. We caution that tying the State's

¹ Plastics Packaging and the War on Food Waste. <https://www.plasticsmakeitpossible.com/plastics-at-home/food/prep-storage/plastic-packaging-and-the-war-on-food-waste>.

² Connecticut State-Wide Solid Waste Composition and Characterization Study, Final Report. Prepared for the Department of Environmental Protection, Bureau of Materials Management and Compliance Assurance/Solid Waste Management Program (2010).

³ 2015 Solid Waste Policy Report, Minnesota Pollution Control Agency, January 2016. <https://www.pca.state.mn.us/sites/default/files/lrw-sw-1sy15.pdf>

⁴ 2014 Solid Waste Characterization Study, CalRecycle, December 2015. <http://www.calrecycle.ca.gov/wastechar/>

recovery goals to a focus on a 50% reduction in packaging may inadvertently penalize innovations and opportunities to reduce food waste—a greater source of total tonnage and GHG emissions⁵.

Additionally, packaging prevents critical product breakage and damage in transportation, such as an aggressive 50% packaging reduction rate could result in the unintended consequence of increased product breakage and waste before end products reach retail shelves or consumers' homes.

2. *Flaws with Extended Producer Responsibility/Product Stewardship for packaging*

Extended Producer Responsibility (EPR) or product stewardship, requires producers to take financial and management responsibility for products at the end of their life. It has primarily been used as a funding mechanism to implement end-of-life materials management programs where no funding source has been previously available. In the European Union, for example, funding from EPR was used to implement the widespread implementation of recycling programs for packaging. Conversely, the US already has systems and infrastructure in place to handle traditional recyclables, and EPR has been used as a funding mechanism for hard-to-handle (HtH) materials such as paint and rechargeable batteries. Proponents of EPR cite its effectiveness in achieving three main goals (1) reduce costs to states, (2), incentive product design (3) increased collection.

However, currently, there is no research available to help assess the impact of EPR in reducing costs to the State⁶. Because the systems operate independently and often face a multitude of contractual obligations, there has been no comprehensive study to date to ascertain effectiveness. Even within the European Union the extent to which EPR fees cover net operational costs are highly variable.⁷ In the 1980s the Resource Conservation Committee, a Congressionally authorized taskforce analyzed the potential of a national disposal charge similar to today's scope for EPR. The taskforce voted against the proposal partly because of a lack of data to prove program coordination, enforcement and awareness would reduce overall system costs⁸. If we look more recently at take-back programs for electronics, we are witnessing an increase in fees and unanticipated costs⁹ partly as a result of fluctuations in commodities. What started as a promising solution is now becoming a cost-burden on both states and manufacturers.

⁵ Plastics Packaging and the War on Food Waste. <https://www.plasticsmakeitpossible.com/plastics-at-home/food/prep-storage/plastic-packaging-and-the-war-on-food-waste>;

Wasted: How America is Losing up to 40 Percent of Its Food from Farm to Fork to Landfill. NRDC Issue Paper. August 2012

⁶ Miller, Chaz. "From Birth to Rebirth: Will Product Stewardship Save Resources?" American Bar Association. Section of Environment, Energy and Resources. 2011.

⁷ Packaging and Packaging Waste Statistics 1998-2011. European. 2014;
<http://www.globalpsc.net/european-experience-on-extended-producer-responsibility-epr/>

⁸ United States, Resource Conservation Committee, Choices for Conservation: Final Report to the President and Congress, 113-120, (EPA 1980).

⁹ <https://www.greenbiz.com/article/too-much-good-thing-hobbles-best-buys-e-waste-recycling>

The effectiveness of EPR on promoting “green design” is also unproven¹⁰. Noah Sachs notes that the “collective’ approach to product stewardship ‘pools’ products and fees and therefore independent actors have no incentive to design differently than their peers. It’s difficult to assess the role of EPR on “green design” in the EU as they also apply a toolkit of approaches to encourage environmental product design. Additionally, according to US EPA data, there has been an 11% decrease in per capita packaging generation in the U.S. since 2000. During the same time period, per capita packaging generation has remained relatively constant in Europe, in spite of their EPR programs for packaging.

Also, packaging EPR programs, as envisioned by SB 233, do not send pricing signals to consumers because the cost is simply built into product pricing, which defeats the goal of using EPR to influence purchasing practices. Moreover, this will be a cost externality for producers. Since EPR does not reward high recycling rates, it is reasonable to expect that producers will try to keep their costs down in order to maintain a competitive edge and achieve revenue targets.

Packaging EPR legislation requiring product manufacturers to fund and manage community recycling programs could also result in the elimination of local government’s role in recycling – which includes the hands-on public education programs that have proven to be effective in communities with the most successful recycling programs. Turning over recycling to large corporations for whom recycling is a cost externality threatens existing infrastructure investments, service quality and local jobs as producers look for ways to meet their obligations as cheaply as possible.

3. Connecticut should adopt a Sustainable Materials Management (SMM) framework as espoused by the US EPA, G7 and OECD countries

Sustainable Materials Management seeks to explore to impact of materials on the environment across its entire lifecycle. This requires a shift from focusing on ‘end-of-pipe’ waste management to looking ‘upstream’ and more comprehensively at how materials that would otherwise become waste can be more sustainably managed. SMM encourages us to consider the imbedded energy and economic value of materials as well as minimize the generation of greenhouse gases and other pollutants. We note within the DEEPs 2016 Draft Comprehensive Materials Management Strategy there is interest in aligning management planning and policy with the State’s greenhouse gas reduction goals but that the strategy does not fully espouse SMM; rather it offers support for an integrated waste management strategy.

4. Connecticut should adopt the recommendations put forth by the “Municipal Solid Waste Management Services in Connecticut” Study¹¹.

The 2010 Municipal Solid Waste Management (MSWM) report notes that:

- i. Although paper has the highest rate of diversion from landfill¹² a significant portion of recycled material is being directed to waste-to-energy facilities.

¹⁰ Packaging and Packaging Waste Statistics 1998-2011. European. 2014; <http://www.globalpsc.net/european-experience-on-extended-producer-responsibility-epr/>

¹¹ Municipal Solid Waste Management Services in Connecticut (2010).
https://www.cga.ct.gov/2009/pridata/Studies/PDF/MSW_Services_Final_Report.pdf

- ii. Sorting facilities are under-utilized. Even if Connecticut successfully redirected all the recoverable paper currently directed towards incineration, there would still be excess capacity that could be utilized to reclaim other materials.
- iii. While existing recycling mandates cover the majority of packaging materials, enforcement is non-existent.
- iv. A lack of competition for collection services may be resulting in improper pricing.

Within the strategies promoted by the MSWM Report, AMERIPEN would like to note our own research lends support to the following:

- A. The MSWD suggests a need for greater support and enforcement of existing recycling mandates. Our analysis of recycling mandates suggests they can be effective as long as the necessary infrastructure and enforcement is in place. We've seen significant increases in recovery once a strong system to support mandates is in place¹³
- B. The MSWM recommends increased support for Pay-as-you-throw (PAYT). Both AMERIPEN and it's European equivalent, EUROPEN, have demonstrated that PAYT is an effective policy for diverting waste and increasing recycling¹⁴. **PAYT helps drive behavior change by externalizing costs.** By incentivizing recycling over disposal, we agree with the MSWM that PAYT may help effectively redirect recyclable materials to recovery facilities. Increased collection opportunities could result by enacting the State's own recommendations for incentivizing PAYT (which drives consumer behavior change and incentives sortation within the household) and enforcing recycling mandates which requires sortation prior to disposal.
- C. National studies consistently find one of the most effective ways to increase recycling is to implement convenient cart-based recycling¹⁵. The recovery infrastructure within the US was established to address the most commonly found materials in packaging (paper, plastics, metals and glass) and cart-based recycling provides broader and efficient access to that infrastructure

However, in a follow-up study by the *Modernizing Recycling Working Group*¹⁶ that there was not further examination of these recommendations. AMERIPEN believes the MSWD report has comprehensively documented the opportunity to divert and renew recycling facilities within the state and we believe there is significant research to support doing so by strengthening the existing programs already in place within the state. These efforts, coupled with PAYT pricing signals, in particular drive

¹² Municipal Solid Waste Management Services in Connecticut (2010) p. 16

¹³ Unlocked Potential: A Roadmap for Improved Packaging Recovery. AMERIPEN.

http://www.ameripen.org/files/100_Cities.pdf

¹⁴ AMERIPEN Analysis of Strategies and Financial Platforms to Increase the Recovery of Used Packaging. August 2013.

http://www.ameripen.org/files/AMERIPEN_Recovery_White_Paper_Final_August_27-2013.pdf

Packaging and Packaging Waste Statistics 1998-2011. Europen. 2014

¹⁵ Single-Stream Recycling Collection Methods Bins vs. Carts.

<http://www.gobroomecounty.com/files/dpw/pdfs/Issue%20Paper%20%2310%20-%20Bins%20vs%20Carts%20Final.pdf>

¹⁶ Final Report of the Governor's Modernizing Recycling Working Group. 2012

individual consumer actions to recycle. **Virtually every single city, state or country with high recycling rates also has high tipping fees, PAYT systems and/or mandatory recycling¹⁷.**

5. Focus on potential public/private partnerships which can increase the recovery of all recyclable materials—including packaging

Connecticut recognizes the need to engage in public–private partnerships to help fund and support an increase in recovery and decrease in diversion. Towards this objective, we encourage the State to explore two significant initiatives led by the private sector and designed to help increase and finance recycling systems across the country:

- i. **The Recycling Partnership** works to increase access and efficacy of municipal recycling programs. They also offer financial support to place large recycling carts in communities which have been proven to increase the amount of recyclable collected. As the State seeks to increase access to single stream recycling, the Recycling Partnership can be an effective resource in identifying best practices and funding support.
- ii. Funded by a consortium of private brands, **The Closed Loop Fund** provides no-interest loans to communities and low-interest loans to private entities to help increase the capacity of recycling systems. They are also currently exploring a future proposal to fund the development of an organics collection infrastructure.

Both programs are demonstrating significant impacts on increasing recovery within an aging and challenged recovery system.

AMERIPEN appreciates the opportunity to comment on proposed Senate Bill 233. As the State seeks to redefine its current solid waste strategy and seeks to align with a comprehensive materials management strategy, we would encourage you to consider that the proposal in Senate Bill 233, to isolate consumer packaging from a collective recovery goal, may inadvertently penalize much more effective means towards reaching the state wide goal of 60 percent diversion.

¹⁷ Unlocked Potential: A Roadmap for Improved Packaging Recovery. AMERIPEN.
http://www.ameripen.org/files/100_Cities.pdf