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**Memo**
**in Opposition to**
**Senate Bill S420**
**in the**
**New York Senate Standing Committee on Environmental Conservation**

**February 2, 2026**

Dear Chair Harckham, Ranking Member Stec, and Members of the New York Senate Standing Committee on Environmental Conservation.

The Flexible Packaging Association (FPA) appreciates the opportunity to submit this memo in opposition to Senate Bill S420 (Liu) that would establish labeling requirements related to the recyclability of plastic packaging and products and require the New York Department of Environmental Conservation (DEC) to promulgate related regulations based on developing a list of material types and forms that are determined to be recyclable in New York State.

## I. Background on FPA and Flexible Packaging

FPA represents flexible packaging manufacturers and suppliers to the industry in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products. Flexible packaging is the fastest-growing and second largest segment of the U.S. packaging industry, representing $51.5 billion in annual sales and approximately 98,000 workers in the U.S. Our industry has over 4,000 employees at flexible packaging manufacturing facilities in New York State, representing a total economic impact of nearly $6 billion.

Flexible packaging encompasses products we use every day, including hermetically sealed food and beverage products such as cereal, bread, frozen meals, infant formula, and juice, as well as sterile health and beauty items and pharmaceuticals, such as aspirin, shampoo, feminine hygiene products, and disinfecting wipes. Even packaging for pet food uses flexible packaging to deliver fresh and healthy meals

to a variety of animals. Flexible packaging is also used for medical device packaging to ensure that the products packaged, like diagnostic tests, IV solutions and sets, syringes, catheters, intubation tubes, isolation gowns, and other personal protective equipment maintain their sterility and efficacy at the time of use. Trash and medical waste receptacles use can liners to manage business, institutional, medical, and household waste. Carry-out and take-out food containers and e-commerce delivery, which became increasingly important during the pandemic, are also heavily supported by the flexible packaging industry. Thus, FPA and its members are particularly interested in and deeply committed to solving the plastic waste issue and increasing the recycling of all packaging.

Flexible packaging is in a unique situation as it is one of the most environmentally sustainable packaging types from water and energy consumption, product-to-package ratio, transportation efficiency, food waste, and greenhouse gas emissions reduction standpoints. But circularity options for flexible packaging are currently limited. There is no single solution that can be applied to all communities when it comes to the best way to collect, sort, and process flexible packaging. Viability is influenced by existing equipment and infrastructure; material collection methods and rates; volume and mix; and demand for the recovered material. Single-material flexible packaging, which is approximately half of the flexible packaging waste generated, can be mechanically recycled, primarily through store drop-off programs. However, end markets are scarce. The other half can be used to generate new feedstock through non-mechanical recycling technologies such as pyrolysis and gasification.

Developing end-of-life solutions for flexible packaging is a work in progress, and FPA is partnering with manufacturers, recyclers, retailers, waste management companies, brand owners, and other organizations to continue making strides toward total packaging recovery. Some examples include our work with The Recycling Partnership (TRP); the Materials Recovery for the Future (MRFF) project; the Hefty® ReNew® Program; and the Flexible Film Recycling Alliance (FFRA). All these programs are seeking to increase the collection and recycling of flexible packaging. Also, increasing the recycled content of new products, including packaging, will not only create markets for the products, but will also serve as a policy driver for the creation of a new collection, sortation, and processing infrastructure for the valuable materials that make up flexible packaging.

It is FPA's position that a suite of options is needed to address the lack of infrastructure for non-readily recyclable packaging materials, and promotion and support of market development for recycled packaging is an important lever to build that infrastructure. FPA also supports well-crafted packaging extended producer responsibility (EPR) that can be used to promote this needed shift in recycling in the U.S. It is with this background that FPA provides comments in opposition to S420.

**II. FPA Opposes State-Specific Labeling Programs**

In today's modern economy, products are packaged, marketed, transported, and sold nationally. In applying its own specific labeling requirements for packaging, New York would be creating an onerous burden on businesses and directly interfering with interstate commerce. Additionally, if other states were to similarly follow suit in adopting their own requirements, companies would find themselves paralyzed by a complete inability to navigate and comply with a patchwork or conflicting state mandates. Such requirements will only serve to further strain the recycling system and frustrate the legislative intent of S420. It may also lead to greater consumer confusion, causing more – not less – used packaging to go to landfills.

Further, the Federal Trade Commission's (FTC) Green Guides are a product of extensive comments and stakeholder meetings that already serve as a workable industry standard on recyclability claims. These Guides are currently in the process of being updated and should be followed to ensure national harmonization of labeling for recyclability. New York State has previously stated support for harmonization with the Guides, so S420 is immediately in conflict with the state's own public policy position on labeling for recyclability.

Finally, FPA strongly believes there is a need for a single uniform federal legal structure for when compostable, recyclable, and reusable claims can be made for product packaging. We are therefore very pleased to be actively supporting the Packaging and Claims Knowledge Act (PACK Act) introduced in Congress in December 2025 (H.R.6832, Weber) that will establish a new framework for compostable, recyclable, and reusable claims for product packaging under the federal Solid Waste Disposal Act and to be administered by the FTC. Rather than state-by-state solutions such as proposed in S420, we believe the PACK Act, which is written to preempt state labeling laws for recyclability, is ultimately a better and

more comprehensive solution to address packaging claims, reduce consumer confusion, and drive a more circular economy for flexible packaging throughout the entire U.S. Should the PACK Act become law, S420 will not be necessary, relieving the State of an unnecessary use of valuable agency resources.

**III. Economic Impacts**

Companies in New York and throughout the U.S. are already struggling with economic uncertainty due to high tariff costs and other economic factors. Requiring those companies to potentially relabel or remanufacture their products or take those products off the market to be compliant with S420, if enacted, will likely lead to higher business costs that consumers may ultimately pay. This could also lead to job losses in New York State.

**IV. A Note on Non-Mechanical Recycling**

Common non-mechanical recycling technologies like pyrolysis, gasification, and depolymerization convert used plastics that would be otherwise be considered waste into high-value materials using methods that are regularly deployed in other industries. Despite being a nascent industry compared to other materials that have had centuries to figure out how to design for a circular economy, our industry has voluntarily invested over $7 billion into these new technologies, leading to a massive 21 billion pounds of plastic waste being diverted from landfills across the nation each year. In time, we are confident that engineers and chemists will be able to definitively make the case for fully leveraging these technologies for a circular plastics economy.

A common myth that FPA and others must constantly dispel is that non-mechanical recycling is just burning plastic waste through incineration, when it actually relies on cutting-edge technologies that purposefully operate with little to no oxygen (allowing for the recovery of material). Furthermore, non-mechanical recycling produces emissions equal to or lower than similar facilities in other industries with the added benefit of no measurable lead or dioxin emissions. All non-mechanical recycling facilities are subject to the same Clean Air Act standards as mechanical recycling and often outcompete those facilities on environmental indicators. Any labelling scheme should be material-neutral and recycling-agnostic to maximize opportunities for consumers to recycle their used packaging. That is not currently the case with S420.

**V. Conclusion and Next Steps**

For the reasons outlined above, FPA must oppose S420. But we request further engagement with the Committee on how to boost the recycling of flexible packaging in the State of New York. Thank you for your consideration. We are happy to discuss any of these issues with you and your staff before your vote. If we can provide further information or answer any questions in advance of your decision, please do not hesitate to contact Matt Singh at (410) 694-0824 or msingh@flexpack.org.