

Re: SB4246 AB5322 – OPPOSE

The Biodegradable Products Institute (BPI) sincerely appreciates New York's continued efforts to reduce harmful waste, including through EPR legislation, however we oppose this iteration. While these companion bills recognize the benefits of recyclable and reusable products, they fail to follow the lead of other states that have recognized the benefits of compostable products, despite their being covered within the proposed program. As a result, organics waste management will suffer as fees paid by compostable products will be diverted towards non-compost activities. Without programmatic support, compostable products and the organic waste they carry may continue to reach landfills where they can create methane emissions instead of creating a valuable soil amendment in compost.

Specifically, we oppose the following elements:

- 1) **Failure to include a member of the compost industry on the advisory council.** EPR bills in Colorado and California have included at least one member of the compost industry (read: composter, not compostable product-maker)
- 2) **Failure to recognize or reward certified compostable products as a specific design incentive or unique material type for eco-modulation.** While categories for 'paper,' 'bio-plastics,' and 'other plastics' might include certified compostable products, the lack of distinction between compostable and non-compostable versions fails to recognize the unique benefits of compostability (food waste diversion, degradability in compost). The bill also directs departmental fee adjustments on paid producers for materials that are readily recyclable or designed for reuse, however design and certification for compostability aren't included, despite those attributes being included in other statewide EPR programs.
- 3) **Failure to specify funding opportunities for compost infrastructure.** While the bill alludes to *"designs and processes that improve and facilitate development of infrastructure and systems for source reduction, reuse, recycling, and composting,"* it fails to specify compost collection and processing infrastructure, or compost education, as eligible for funding from fees collected from certified compostable product-makers.
- 4) **Failure to specify specific toxic substances and test methods.** BPI has been an industry leader in toxic substance control and prevention, prohibiting PFAS in member product formulas and requiring testing for total organic flourine before any state legislature required it. However, the language in this bill gives us pause, as 'heavy metals, including' fails to specify common materials that might affect inks and dyes, let alone reusable metal cups or mugs. Also, the thresholds and methods by which toxic substances are to be tested aren't articulated, making it difficult for well-intentioned producers to anticipate and adjust for manufacturing changes that the bill might require.
- 5) **Failure to define "composting" or "compostable."** Though composting is mentioned, and the fate of compostable products is implied, nowhere are the terms defined relating standards for degradation, independent third-party certification, etc.

In the future, we'd be happy to work with the legislature to develop language that aligns with existing laws throughout the country and recognizes the benefits provided by certified compostable products alongside reusable and readily recyclable ones.

Sincerely,

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The Biodegradable Products Institute (BPI) is North America's leading certifier of compostable materials, products, and packaging, with over 500 member companies worldwide. As a science-driven organization, BPI supports a shift to the circular economy by promoting the production, use, and appropriate end of lives for materials and products that are designed to fully biodegrade in specific biologically active environments. Our certification program has verified more than 14,000 items using ASTM standards as a baseline, plus additional requirements on PEAS, labeling, and eligibility criteria, all to help to keep organic waste out of landfills.