

June 1, 2023

Governor Joe Lombardo
State Capitol Building
101 North Carson Street
Carson City, NV 89701

Dear Governor Lombardo:

On behalf of the undersigned organizations representing the manufacturers of thousands of consumer products and the various retailers who sell those products to consumers all across our state, we want to thank you for your service to Nevada and your commitment to economic vitality.

We know that you have a deep concern for hard-working Nevadans and want to ensure that our state government does nothing to make it more difficult, inefficient and costly for job creators to operate their businesses and for consumers to access critical household products at prices that they can afford. As you know, there are already plenty of local, state and federal regulations that business owners must navigate and comply with, and our inflationary environment has made almost every consumer product more expensive.

As such, we respectfully urge you to veto SB 76, which would establish certain restrictions on the manufacturing and sale of products containing intentionally added perfluoroalkyl and polyfluoroalkyl (PFAS) chemicals and would be the least business-friendly law governing these type of products in the country. While we agree the bill is well intentioned, it is not reflective of the implementation timelines needed, current PFAS testing methods and appropriate enforcement mechanisms. Other states, such as California, have passed similar laws, and our coalition was committed to work with the author and legislative members to find an acceptable compromise.

We do acknowledge that the path to the bill language you see before you today was a long and arduous one. While the final bill incorporates some of our feedback, we still remain concerned with a couple of problematic provisions in the bill, including:

- The effective date of October 1, 2024 does not provide enough time for retailers to “sell through” the products that are currently on their shelves before they would be prohibited from doing so. A product manufactured right now can take years until it is sold and in the consumer’s shopping cart. For example, some of the implicated industries have usually seen an 18 month sell through period. Moreover, given the broad use of certain PFAS across most kinds of consumer products, finding alternative chemistries is difficult and time consuming, meaning there might be substantial research and development phases required before products can be made without PFAS. Accordingly, we requested an effective date of January 1, 2025 to line up with California’s similar laws, which currently have the most aggressive implementation date in the country. If Nevada advances the implementation date into 2024, members will have to dump millions of dollars of unsellable merchandise

strictly as a result of Nevada's bill being more aggressive than every other state in the United States.

- The misdemeanor penalty for failure to comply with the provisions of this bill outlined in Section 23 would make Nevada one of the few states in the nation with criminal penalties for the sale of these type of PFAS-containing products. While we understand the need for some type of penalty to ensure compliance, we have suggested throughout this process that the penalties associated with this bill should be civil in nature and consist of graduated fines. This issue is further compounded because there are not universally recognized ways to test for PFAS in products, such that a company may not detect any PFAS in its product when testing but someone else does. This kind of uncertainty is not compatible with criminal liability. Threatening criminal penalties and jail time for small businesses and retailers who will be struggling to comply with this law is certainly not The Nevada Way!

In closing, we want to reiterate that we had offered amendment language to SB 76 throughout the entire legislative process, in both chambers, to the sponsor, committee chairs, and legislative leadership. We had reached out to the sponsor in the fall of 2022 to offer our expertise and experience and had requested several times to meet together, in person, in a working group environment, so that we could get to "Yes." We worked very hard to come to an agreement on this bill and while the bill saw improvements, the final bill still contains language that would hurt Nevada residents and businesses.

Thank you for your consideration of our request and please do not hesitate to reach out to us with any questions or for further background and information.

Again, we appreciate your service to our great state.

Sincerely,

Retail Association of Nevada
Nevada Franchised Auto Dealers Association
Reno Sparks Chamber of Commerce
NFIB Nevada Chapter
American Chemistry Council
National Council of Textile Organizations
American Bakers Association
American Forest and Paper Association
Personal Care Products Council
Flexible Packaging Association
Consumer Brands Association
American Institute for Packaging and the Environment (AMERIPEN)
Food Service Packaging Institute
Juvenile Products Manufacturers Association