

Testimony
on
Senate Bill 269
in the
Tennessee Government Operations Committee

March 10, 2026

Dear Chair Jackson, Vice-Chair Rose, and Members of the Senate Government Operations Committee,

The Flexible Packaging Association (FPA) appreciates the opportunity to provide testimony on Senate Bill 269 (Southerland/Campbell), the Tennessee Waste to Jobs Act. While we support efforts to increase packaging recovery rates and promote a circular economy in Tennessee, we are opposed to SB 269 at this time, and we urge the Committee to consider the significant legal and economic uncertainties emerging nationwide related to extended producer responsibility (EPR) for packaging. If this legislation advances, it is essential that Tennessee avoid the administrative, constitutional and operational challenges that have complicated and delayed similar programs in other states.

I. Background on FPA and Flexible Packaging

FPA represents flexible packaging manufacturers and suppliers in the United States. Flexible packaging generates \$51.5 billion in annual sales, is the second largest and fastest-growing segment of the packaging industry and employs approximately 98,000 workers nationwide. These materials, made from paper, plastic, film, aluminum foil, or combinations of these, include pouches, liners, and wraps that protect Tennessee's food supply, medical devices, and e-commerce shipments. Our industry has more than 2,300 employees at flexible packaging manufacturing facilities in Tennessee, representing a total economic impact of more than \$3.6 billion.

Flexible packaging is among the most environmentally sustainable packaging types in terms of water and energy use and greenhouse gas reduction. However, options for circularity remain limited. Solutions must be tailored to each community, depending on infrastructure, collection methods, and

demand for recovered materials. FPA is committed to addressing these challenges and is working with organizations such as The Recycling Partnership (TRP) and the Flexible Film Recycling Alliance (FFRA) to advance packaging recovery. We believe a range of solutions is needed to address infrastructure gaps, and FPA supports well-designed EPR to facilitate this transition.

II. Concerns Regarding the State-by-State Patchwork

With seven different packaging EPR laws enacted in the U.S. since 2021, FPA is concerned that Tennessee may adopt a framework that will only add to the complex and difficult-to-manage patchwork of related state regulations that have only begun to emerge during this time. We implore the Committee to pause on advancement of any packaging EPR legislation until several of these laws are fully operational and lessons learned from those laws can be fully shared with and understood by Tennessee legislators. Absent of that, Tennessee may set itself up for a failed law from the beginning. Give the existing state laws time to fail or flourish themselves, and then take the lessons learned from those states to draft and advance the most successful legislation possible. \\\

III. Cautionary Lessons from Federal Litigation

Tennessee risks investing significant time and taxpayer resources in a program that could face immediate constitutional challenges. We highlight the recent National Association of Wholesalers (NAW) injunction in Oregon, where a federal judge, on constitutional grounds, halted enforcement of some parts of that state's EPR law that went into full effect in July of 2025. Although the Oregon case currently focuses on wholesale distribution and food-service packaging, it reflects broader legal uncertainty surrounding emerging EPR frameworks in the U.S. We encourage you to pause advancing this legislation until the outcomes of these federal challenges in Oregon, and potentially other states, are clear. This will help avoid committing the state to a program that may quickly be invalidated.

IV. FPA Requests Material-Neutrality in the Producer Definition

Because flexible packaging includes paper, plastic, and aluminum foil, FPA strongly supports material-neutrality in packaging EPR. SB 269's producer definition currently includes two exemptions that apply only to paper: one for mills using any virgin wood fiber and another for mills

producing container board from 100% postconsumer and non-postconsumer recycled content. FPA requests that these exemptions be made material-neutral or removed from the final bill.

V. FPA Requests Cost Sharing

FPA members support well-designed EPR, but we are concerned that the current framework in SB 269 places the full financial burden on producers. An equitable and sustainable EPR program needs balanced funding. Since packaging EPR legislation was first introduced in Tennessee, a clear national standard for cost sharing has emerged. Based on successful models enacted in Minnesota, Maryland, and Washington, FPA requests an amendment to SB 269, should it advance, to establish a 90%/10% cost-share between producers and the rest of the recycling system. This approach serves as a necessary co-pay to prevent uncontrolled costs. Maintaining a financial connection between municipal waste managers and producers will help Tennessee avoid cost-shifting, inefficiency, and rising consumer prices. Setting this 90% threshold offers the fiscal stability needed to protect Tennessee businesses and consumers.

VI. Conclusion and Next Steps

FPA strongly believes SB 269 requires the critical guardrails outlined above to protect Tennessee businesses and consumers from legal volatility and rising costs. We look forward to working with you to ensure this bill aligns with the evolving national standards and to ideally move off our current opposition to the bill. Please do not hesitate to contact me at (410) 694-0824 or MSingh@Flexpack.org.

Respectfully,



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