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Connecticut To Establish Packaging Guidelines

A hotly debated Connecticut proposal (HB 6641) granting the Department of Environmental Protection (DEP) authority to regulate packaging practices, passed the legislature June 7, the last day of the session, and now awaits the governor's signature. Representative Mary Mushinsky's (D-85) original tax on packaging and single-use or disposable items mutated into the creation of a regulatory mechanism to promote the use of packaging that is recyclable, reusable, made of recycled materials, and "toxic-free," and to phase out single-use and disposable products.

Representative Mushinsky effectively cemented support for her packaging regulatory proposals by linking them to legislation allowing the state to override local zoning when siting ash disposal facilities. She convinced legislators that they could divert criticism from constituents on the vote for an override by pointing out support for a measure that also would reduce packaging waste.

HB 6641, in its final form, directs the commissioner of DEP to establish requirements and standards to reduce the volume or weight of disposable packaging material, to enhance its recyclability, and to increase the proportion of recycled resources used in its manufacture. Any actions taken under this authority must be consistent with the recommendations of the Coalition of Northeastern Governors (CONEG) Source Reduction Task Force. The Governors' group proposes regional uniformity in packaging policies, and favors voluntary actions and incentives over restrictive measures.

The bill's July 1991 ban on the use of cadmium and lead as pigments and stabilizers in printing and plastics was substituted by language granting DEP the right to require labels on products to indicate the presence of any toxic substances that might affect disposal systems. DEP may also prohibit or require reductions in the use of these toxic substances.

DEP may require labels on packaging to indicate recyclability or recycled content. The commissioner also is authorized to set minimum standards for recycled content in classes of packaging, and to establish guidelines for the use of refillable or reusable packaging. This authority does not include the power to mandate recycled content or require the use of refillables and reusables. Finally, the commissioner may establish standards for the volume or weight of classes of packaging. While this language is somewhat ambiguous, it was designed to address the issue of "headroom" in packages that results from content settling.

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Commissioner Leslie Carothers must identify any actions she proposes to take under this authority by January 1, 1990, but must wait until October 1, 1991, to promulgate regulations. This time frame will provide two legislative sessions for industry to seek redress from any onerous proposals, in addition to providing input during the regular hearing process on any regulations. CSWS and affected industries, particularly those that participated on the CONEG Source Reduction Task Force, will offer to work with DEP in developing the proposals.

HB 6641 also directs the commissioner of Administrative Services to submit a plan by February 1, 1990 to the Joint Environment Committee on phasing out single-use and disposable items in government facilities. Exemptions are provided for health, medical and veterinary purposes, and scientific research items.

Legislation that would have extended the effective date for the state's mandatory plastic container coding law by 1 year passed the Senate May 31, but was not acted on in the Assembly before adjournment. SB 925 by Senator George Gunther (R-21) died upon adjournment.

Regulations implementing the state's coding law, which has a January 1, 1990, effective date, have not been finalized by DEP. The hearing officer's report is expected to be released soon, after which the regulations must be reviewed by the legislature's Regulations Review Committee.

Maine Says No Taxes Or Foam Bans

The Maine Joint Energy and Environment Committee has rejected the inclusion of packaging taxes and polystyrene foam packaging bans in its compromise solid waste bill that was endorsed by both houses of the legislature in an all-night session June 21. LD 1431 sets a 50 percent solid waste recycling goal, calls for mandatory plastic container coding, encourages the use of paper grocery bags over plastic ones, and places a prospective ban on the use of any plastic ring connectors or other plastic holding devices for all containers, regardless of whether they are degradable.

After extensive testimony on plastic container coding requirements across the country, CSWS convinced the committee to follow the SPI coding program and set size thresholds of 16 ounces or more for bottles and 8 ounces or more for other rigid containers. Original coding proposals had no size restrictions. The committee also devised compromise language on the triangulated arrows symbol, agreeing to allow its use unless six other northeastern states specifically prohibit it prior to January 1, 1991.

The vote on language banning plastic ring connectors and expanding the deposit system to cover juice, wine, and liquor containers was highly controversial on the floor of the Senate. As a result, the legislature agreed to delay the ban on the plastic ring connectors and plastic holding devices until July 1, 1991, to allow two more legislative sessions for reconsideration of the issue. The expansion of the deposit law will take place September 1, 1990.

The original version of the bill proposed a ban on plastic grocery sacks; however it was amended to require grocery stores to use paper grocery bags unless the consumer specifically requests a plastic one.

Following the vote on June 21, LD 1431 was sent to the Appropriations Committee for fiscal review because of the state's budget crisis. The committee will examine funding levels for a number of legislative proposals during a special session that began June 29. The bill will then go to the governor for approval.

**Restrictive Legislation
Headed Off In
Rhode Island**

CSWS and a strong local coalition of industry representatives worked with Rhode Island legislators to amend proposals banning multi-resin food and beverage containers (SB 1272), restricting the sale of beverage containers that do not meet an 85 percent recycling rate by 1992, and limiting product design (HB 5565). Despite firm support of the original proposals by Senate and House leadership, the bills' proponents agreed to accept amendments that recognize the progress and potential of plastics recycling.

SB 1272, by Senator Sean Coffey (D-2), would have banned the sale of food and beverage containers which are multi-resin, and have caps, lids, or rings made of a different material that is not readily detachable. The bill was amended by the Joint Energy and Environment Committee and on the Senate floor to drop the restriction on food containers and provide exemptions for multi-resin beverage containers that are either being recycled or can be demonstrated to be recyclable or those that must be multi-resin in order to ensure product integrity. In addition, the effective date was delayed 1 year to December 31, 1990. Without the amendments, the bill would have banned polyethylene terephthalate (PET) soda bottles with aluminum caps, plastic containers with aluminum tops and other similar products. The bill passed the Senate on June 22 and is now on the House calendar.

Representative George Castro's (D-20) HB 5565 would require that all beverage containers meet an 85 percent recycling rate by 1992 or be banned. It also would set design standards for beverage packaging, and limit a manufacturer's ability to create new packaging. Beverage containers would have to be free of design components that would make them less recyclable than comparable containers, or that would adversely affect the recyclability of other containers. In addition, the bill would prohibit the sale of containers designed as a substitute for containers presently being recycled.

CSWS and the industry coalition negotiated amendments with the bill's proponents that would lower the recycling rate requirement to 50 percent and limit its applicability to only containers on the state's mandatory source separation list. In addition, the amendments would weaken the impact of the design standards and eliminate the ban on substitute containers. The bill remains in the Joint Energy and Environment Committee and may not be acted on in the 1989 session.

HB 5565 and SB 1272 were part of a package of bills heard on short notice by the Joint Environment Committee on June 16 and June 20. CSWS testified on a number of other restrictive bills that were subsequently held in committee. These included the following proposals: to ban packages that are not "readily recyclable," as determined by the Department of Environmental Management (SB 1264); to ban the use of packages not part of the state's source-separation program if they are replacements for items that are part of the state's program (SB 1248); to ban multi-material packaging (SB 1282); and to ban packages that are not either required to be source-separated by the state, made with recycled content, or biodegradable (SB 1297).

**New Hampshire
Protects SPI Code**

Governor Judd Gregg (R) on May 29 signed Representative Elizabeth S. Millard's (R-Merrimack) legislation to establish a state recycling emblem program. HB 605, now Chapter 318-1989, includes a clause that ensures that standards for the recycling emblem will not prohibit or interfere with the placement of the SPI resin container code. Earlier amendments to the bill posed a threat to the SPI coding system by requiring the recycling emblem standards to conform with the programs of the Northeast Recycling Council, a task force of recycling officials that opposes the use of triangulated arrows in the SPI coding system.

**Massachusetts
Endorses Coding**

Massachusetts legislation requiring the use of SPI's plastic container coding system was signed by Governor Michael Dukakis on June 21. The law (Chapter 166, Acts 1989), proposed by Representative Barbara Gardner (D-Holliston), takes effect July 1, 1991. The original bill (HB 3337) would have applied to containers of all sizes, and did not spell out the specifics of the SPI system. CSWS worked with the sponsor to develop the final version, HB 5551.

HB 5678, which would require plastic garbage bags to be transparent and biodegradable, was referred to the House Committee on Bills In Third Reading on May 17 by the House Natural Resources and Agriculture Committee. The legislation, sponsored by Representative Stanley Rosenberg (D-Amherst), is a substitute for his earlier HB 4009, and mandates that, as of January 1, 1991, plastic garbage bags must be designed to disintegrate after disposal and, by January 1, 1995, must be specifically biodegradable.

Senator William Golden's (D-Weymouth) SB 80, which requires fast-food or take-out packaging to be biodegradable or recyclable, was on the verge of Senate passage before being referred to the Senate Committee on Bills In Third Reading for further review. CSWS is working with the sponsors of both measures emphasizing polystyrene recycling activity and the limitations of biodegradable products in landfills.

**PVC Ban Moves In
New York,
Degradability Doesn't**

The New York Assembly Ways and Means Committee on June 22 approved a proposal to prohibit the sale and distribution of food products packaged in polyvinyl chloride (PVC). AB 5578 by Assemblyman Maurice Hinchey (D-101), which would be effective 90 days after passage, is now before the Assembly Rules Committee. CSWS has urged Assembly Speaker Mel Miller, also Chairman of the Assembly Rules Committee, to keep the bill in committee, citing FDA sanction for PVC food packaging and its increased recycling.

A coalition of 23 Democratic senators, in a show of support of Assemblyman Hinchey's bill, proposed a similar PVC packaging ban in May. SB 5994, modeled after Assemblyman Hinchey's AB 5582, also would impose a 3-cent packaging tax on manufacturers or distributors. In addition, the bill's provision to ban the sale of beverage containers made of metal and plastic, plastic and glass, or metal and glass, is copied from the governor's solid waste program bill. It also would increase the deposit to 10 cents on beverage containers of 16.9 ounces or more. The bill remains in the Senate Environmental Conservation Committee.

Senator Nicholas Spano (R-35), Vice Chairman of the New York State Legislative Commission on Solid Waste, on June 1 introduced a version of Assemblyman Hinchey's packaging tax. One notable difference is that SB 6080 designates containers made of PVC as recyclable and thus exempt from the tax. The bill remains in the Senate Rules Committee.

The Assembly Environmental Conservation Committee at its June 13 meeting decided not to act on four bills prohibiting nonbiodegradable products. Assemblyman Neil Kelleher (R-100) authored three of these proposals that would prohibit the use of nonbiodegradable plastic grocery bags (AB 2270); ban nonbiodegradable packaging for retail sales (AB 2884); and prohibit nonbiodegradable disposable diapers (AB 2885). The other bill, AB 6953 by Assemblyman Frederick Parola (R-14), would prohibit the sale of nonbiodegradable diapers and incontinence pads after September 30, 1990.

**Glen Cove, New York
Delays Ban**

The City Council of Glen Cove, New York, on June 27 voted to extend by 2 months the implementation date for its law (Chapter 72) banning nondegradable packaging added at retail (i.e. plastic bags) and polystyrene and polyvinyl chloride take-out food packaging that was copied from the Suffolk County, New York law. The city council changed the deadline to August 30 from June 30 to give businesses additional time to comply.

The city council on June 20 held a public meeting which was packed with pro-ban, anti-incineration activists. Mayor Donald DeRiggi came out in support of the ban. He had originally indicated he planned to rescind portions of the ban encouraged by the success of his city's plastic recycling program.

The statutory deadline has passed for bringing suit against the city based on its failure to conduct an environmental impact study (EIS) that is required by New York law.

**New Jersey Township
Looks At Ban**

The Bridgewater, New Jersey Township will hold a public hearing July 17 on a proposal to restrict retail food establishments from selling food that is not in biodegradable packaging. Township Environmental Officer Michael McCann believes the proposed ordinance will simplify the waste stream and be "a step toward total recycling, composting, and the refuse-derived fuel solid waste management alternatives." He also believes it would help eliminate plastic litter in parks and on roadsides. The ordinance is modeled after the Suffolk County law. CSWS and industry representatives will contact township officials and participate in the hearing.

**North Carolina Solid
Waste Bill Softens**

North Carolina solid waste legislation, similar to Florida's solid waste law that includes packaging taxes, degradability requirements for plastic packaging, and mandatory plastic container coding, has received close scrutiny over the past 3 weeks in the House Infrastructure Subcommittee on Solid Waste. The subcommittee held 10 hearings on Representative Joe Hackney's (D-24) HB 1225 and continues to meet daily on substitute language in an effort to address all of the amendments proposed by proponents and opponents during public testimony. CSWS and an industry task force are working with the bill's sponsor and the committee's staff counsel to develop amendments that will be acceptable to all parties.

A proposed amendment to substitute recyclability requirements for the bill's degradability requirements for plastic-coated paper and polystyrene foam food packaging has been accepted by the sponsor and is expected to be approved by the subcommittee. Degradability requirements for plastic bags, however, are still under discussion. The committee is also expected to modify the plastic container coding section, mandatory by July 1, 1991, so that it will reflect the national program developed by SPI. It is likely that the broad-based packaging taxes and the deposits on beverage containers will be deleted from the bill. The committee, however, is studying alternate mechanisms to fund the bill's solid waste management trust fund program.

The subcommittee is committed to advancing the bill to the full Infrastructure Committee before the end of the session, which is expected around July 14. It is extremely doubtful that the bill will be able to move through both the House and the Senate by that time and thus it will carry over to the second half of the 2-year legislative session that ends in 1990.

Senator Marc Basnight's (D-1) SB 359, requiring plastic ring connectors to be degradable, has been expanded to apply to all containers connected by plastic rings rather than just beverage containers. The bill will also provide for an insignia to be embossed on the connector to signify its degradability. It passed the legislature on June 18 and is on the governor's desk awaiting signature.

**Louisiana Promotes
Plastic Coding**

Louisiana Governor Charles Roemer (D) on June 23 signed a comprehensive solid waste bill that originally included a ban on all plastic containers. HB 1199 now requires, as of January 1, 1991, that plastic containers be coded following the SPI voluntary program, and that plastic ring connectors be recyclable or degradable within 120 days. The bill was sponsored by Representative Bruce Bolin (D-10).

Legislation that would have directed all state agencies to use degradable plastics in place of nondegradable plastics whenever appropriate and economically feasible was significantly amended before passing the legislature on June 29. CSWS, the Louisiana Chemical Association, and the Louisiana Retail Merchants worked closely with the Senate Committee on Natural Resources and the sponsor, Representative James Cain (D-32), to amend HB 109 so that it now encourages state agencies to use recyclable or degradable plastics whenever appropriate and economically feasible.

**Coding Law Adopted
In Ohio**

The Ohio Legislature on June 30 approved SB 142 that mandates plastic container coding by January 1, 1991. Senator Roy Ray's bill reflects the SPI voluntary coding program, but also provides legal standards and penalties for enforcing the law. The bill also gives the director of Environmental Protection the power to add new numbers and letters to the coding system, but ensures that the new designations will be consistent with laws in other states as they come into existence. B.F. Goodrich, Procter & Gamble, the Sierra Club, and the state's Department of Natural Resources testified in support of the bill.

**Chicago Recycling
Frustrations Spur
Restrictive Measures**

A Chicago City Council committee has tentatively scheduled hearings in July on proposals to ban polystyrene and potentially all plastic food containers. Alderman Edward Burke introduced a clone of the Minneapolis, Minnesota, ordinance that would ban nonbiodegradable food containers that are not recycled by the city. Alderman David Orr's proposal would restrict, as of January 1, 1991, the sale of polystyrene food packaging or any product made of or with polystyrene.

Representatives of CSWS, the Association of Commerce and Industry, the Chemical Industry Council, soda manufacturers, grocery stores, retailers, and the waste industry are working with the city council, pointing out the advantages of recycling programs over product bans.

**Iowa Governor Shows
Interest In Incineration**

Iowa Governor Terry Branstad(R) on May 31 signed the comprehensive solid waste reduction and recycling bill HF 743 (see *State Reporter* No. 5) but vetoed the funding provisions of the bill and its restrictions on financial assistance to waste incineration facilities. He stated in his letter to the legislature that "Europe and Japan make considerable use of incineration in their waste reduction efforts. While the jury is still out on the practicality and cost-effectiveness of widespread use of waste incineration, we should not rule out this waste reduction option. With proper safeguards, an incineration facility that will produce energy may well be an appropriate method of waste disposal while reducing Iowa's dependence on imported energy."

He rejected the bill's provision to tax motor vehicle registration fees in order to raise \$3 million for funding state and local solid waste projects for two reasons. He noted that the state constitution requires all motor vehicle fees to be used for highway purposes and that money is already available in the landfill alternative fund, which is financed through landfill fees. He added that if the state needs to put more funds into the waste reduction and recycling effort, it can do so without raising taxes.

**Restrictive Wisconsin
Bill Launched, Coding
Expanded**

A Wisconsin special legislative committee last week approved for introduction comprehensive recycling legislation with a restrictive packaging emphasis. CSWS, working with industry allies, convinced the Legislative Council to drop bans on polystyrene foam used as loose fill packaging, food packaging, or shaped or formed packaging, prior to formal introduction of the legislation. However, bill language would still preclude disposal of those products and many other materials in landfills.

Restrictive measures still would impose a \$.0016 throw-away fee on disposable packaging as of July 1, 1991, and would ban food and beverage containers made from polyvinyl chloride, multi-layer plastic, aluminum/steel, and plastic/aluminum (plastic can); plastic bags used by retailers; and any "nonrecyclable" packaging so identified by the Department of Agriculture, Trade and Consumer Protection. Proceeds from the throw-away fee would go into a recycling fund. The draft bill also directs the department to develop labelling standards that must be met before a product could be advertised as degradable, recyclable or made from recycled material, with penalties ranging from \$100 to \$10,000 for false advertising. The legislature is expected to take up the legislation in October. CSWS is planning to alert all Wisconsin plastics producers to the threat posed by the legislation before its consideration.

In response to concerns that the January 1, 1990, deadline for mandatory plastic container coding would cause significant economic disruption for manufacturers, wholesalers and retailers, the legislature on June 30 agreed to push back the initial deadline 1 year to January 1, 1991, as well as expand the law to include bottles of 8 ounces to 16 ounces. The amended law (part of budget bill SB 31) sets the following coding requirements for manufacturers and wholesalers and gives retailers an additional year for each category to get those products on the shelves:

- January 1, 1991 - bottles and other rigid containers holding 16 ounces or more and beverage bottles of 8 ounces or more.
- January 1, 1992 - rigid containers of 8 ounces or more.
- January 1, 1993 - non-beverage bottles of 8 ounces or more

Thus, coded non-beverage bottles of 8 ounces to 16 ounces would not have to be on the shelves until January 1, 1994, giving retailers 4 and 1/2 years to comply.

**Michigan Bans Plastic
Liquor Bottles**

The Michigan Liquor Control Commission on May 30 adopted a policy that, as of April 29, 1990, it would not purchase any spirit product in a plastic container. Industry representatives plan to attend the annual open public hearing to express their opposition to the policy. The hearing is scheduled for July 11 at 10 a.m. at the Bay Valley Hotel in Bay City.

**Hennepin County,
Minnesota Evaluates
Plastics Ban**

The Hennepin County, Minnesota, Commission is expected to vote July 17 or possibly a week later on a proposal modeled after the Minneapolis plastics food packaging ban. The 7-member commission will not conduct hearings on the measure. Instead, it has referred it to a commission-appointed Recycling Task Force for a non-binding recommendation.

CSWS is working with a coalition of retailers, dairies, food companies, plastics processors, and material suppliers to urge the commissioners to vote against imposing a Twin Cities ban county-wide and in favor of requiring county municipalities to recycle plastics in order to be eligible for county recycling funds. Hennepin County includes Minneapolis and 25 percent of the state's population.

Nebraska To Study Degradables

Nebraska Legislator Elroy Hefner (District 19) proposed Legislative Resolution 199 that requests that a comprehensive interim study on degradable products be undertaken this summer by a legislative committee. All study resolutions are automatically referred to the appropriate committee by the Executive Board Committee. Thus the Natural Resources Committee will probably begin hearings for the study in late summer.

The committee has been asked to determine the types of technologies used to produce degradable products, their state, their effectiveness, the availability of degradable products and their quality, materials used to manufacture degradable products, the environmental impact of degradable products, any trends in this field, and the economic impact of such trends. The study would also include a review of laws and regulations proposed or enacted in other states or by the federal government to regulate or control the use, sale, manufacture, or disposal of degradable products.

OR Law Sets Plastics Recycling Rates For Food Packaging; Other Restrictive Proposals Die

The Oregon Legislature on June 30 enacted legislation imposing strict guidelines for state purchasing of disposable food packaging. HB 2854, by Representative Nancy Peterson (D-52), requires the state to purchase packaging which is either biodegradable or recyclable through an existing "effective" recycling program. The Department of Environmental Quality is responsible for establishing the recycling percentages necessary for a plastics recycling program to qualify as "effective." The law sets a minimum recycling standard of 15 percent for each type of plastic resin to be achieved by 1992. The recycling requirements apply only to plastics packaging. The bill passed the Senate by a slim margin after a substitute bill, supported by industry and the minority caucus, failed to pass. The substitute would have mandated that the state purchase degradable or recyclable food packaging but did not require that an "effective" recycling program be in place.

The legislature on June 30 also passed two industry supported measures designed to assist statewide recycling programs. SB 1083, by Senator Joyce Cohen (D-13) will provide tax credits for the purchase of equipment or machinery necessary for the collection, transportation, reprocessing and manufacture of reclaimed products. HB 3482, by Representative Bruce Hugo (D-1) confirms the intent of the legislature to establish a Conservation Trust Fund which will provide funds for recycling programs for all disposable goods and for the purchase of wildlife reserves. The bill's funding provision was set aside for discussion during the interim. The original proposal would have imposed a \$1 surcharge or a tax of three-quarters of 1 percent of the wholesales sales price, whichever was less, on a variety of disposable products (see *State Bulletin* No. 5).

SB 990, which would have prohibited retail food vendors from using polystyrene and other plastic food containers that failed to achieve a 15 percent recycling rate by 1992, died in the Senate. A substitute proposal, supported by industry and the minority caucus, which replaced SB 990, died in the Senate Revenue Committee. It would have appointed a task force to develop a state-wide infrastructure for plastics recycling, established tax incentives for waste haulers to include plastics in their recycling programs, and required plastic container coding.

Senator Dick Springer (D-6), Chairman of the Senate Agriculture and Natural Resources Committee and sponsor of SB 990, has stated numerous times over the last 2 weeks that he intends to sponsor a statewide initiative to ban certain plastics and require the establishment of plastics recycling programs.

All other restrictive proposals died upon the July 3 adjournment.

**Albuquerque,
New Mexico
Switches To
Recycling**

The City of Albuquerque, New Mexico, decided on June 8 to develop a plastics recycling program rather than adopt a plastics ban identical to the Minneapolis, Minnesota ordinance. After testimony by CSWS and industry representatives before its Public Works Committee, the city council voted to postpone a vote on the ban legislation for at least 3 months and establish a plastic recycling task force to formulate a recycling plan. Task force members will include representatives of the plastics industry (including CSWS), the fast food industry, the New Mexico Grocers Association, and environmental organizations.

**California: Los Angeles
Revisits Foam Ban,
West Hollywood
Wants To Give It
A Try**

Following last year's lack of action on polystyrene restrictions, Los Angeles City Councilwoman Ruth Galanter last week introduced a plan to eliminate all polystyrene foam packaging products and force reductions in nondegradable/nonrecyclable packaging. Her proposal has yet to be taken up by the city council. CSWS will follow up with the councilwoman.

The West Hollywood, California, City Council recently called for the preparation of an ordinance aimed at banning foam and other "environmentally unacceptable" food packaging. A task force has been established to help draft the restrictive ordinance that is expected to be considered in 3 to 4 months. CSWS will assist allies in bringing to light the fallacies of restrictive approaches and the existence of positive alternatives.

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