

118TH CONGRESS
2D SESSION

H. R. 10112

To amend the Food, Agriculture, Conservation, and Trade Act of 1990 to establish a system to regulate compostable agricultural packaging, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 12, 2024

Mrs. CHAVEZ-DEREMER introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Food, Agriculture, Conservation, and Trade Act of 1990 to establish a system to regulate compostable agricultural packaging, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Compostable Agri-
5 culture Packaging Act of 2024” or the “CAP Act of
6 2024”.

1 **SEC. 2. PACKAGING AND CLAIMS KNOWLEDGE ACT OF 2024.**

2 Section 1472 of the Food, Agriculture, Conservation,
3 and Trade Act of 1990 (7 U.S.C. 5402) is amended by
4 adding at the end the following:

5 “(e) COMPOSTABLE PACKAGING.—

6 “(1) DEFINITIONS.—In this section:

7 “(A) ACCREDITATION.— The term ‘accred-
8 itation’ means a determination by a recognized
9 accreditation that a third-party certification
10 body meets the applicable requirements for
11 verifying compostable material.

12 “(B) ACCREDITATION BODY.—The term
13 ‘accreditation body’ means a person that per-
14 forms accreditation of third-party certification
15 bodies.

16 “(C) ACCREDITED THIRD-PARTY CERTIFI-
17 CATION BODY.—The term ‘accredited third-
18 party certification body’ means a third-party
19 certification body that a recognized accredita-
20 tion body has determined meets the applicable
21 requirements and is accredited to evaluate, de-
22 velop, and authorize compostable claims and in-
23 structions for consumer product packaging.

24 “(D) CLAIM.—The term ‘claim’ means any
25 statement or representation on labeling that is
26 conveyed through any means, including through

1 writing, symbols, marks, graphics, or electronic
2 or digital links, except that a claim shall not in-
3 clude any instructions regarding how to com-
4 post packaging.

5 “(E) COMPOSTABLE.—The term
6 ‘compostable’ means the packaging will break
7 down into, or otherwise become part of, usable
8 compost (e.g., soil-conditioning material, mulch)
9 in an appropriate industrial composting facility,
10 or in a home compost pile or device, within a
11 reasonable and specified period of time.

12 “(F) CONSUMER PRODUCT.—The term
13 ‘consumer product’ means any tangible product
14 which is sold, offered for sale, or distributed in
15 the United States, or intended to be sold, of-
16 fered for sale, or distributed in the United
17 States, to a person that is an individual con-
18 sumer, which is normally used or consumed by
19 an individual consumer, including, but not lim-
20 ited to, for personal, recreational, educational,
21 family, household, or personal property mainte-
22 nance or care purposes, and shall include prod-
23 ucts that are ordinarily available for purchase
24 by individual consumers.

1 “(G) LABEL.—The term ‘label’ means a
2 display of written, printed, or graphic matter
3 upon, or attached to, packaging.

4 “(H) LABELING.—The term ‘labeling’
5 means all labels and other written, printed, or
6 graphic matter accompanying such packaging
7 at any time or to which reference is made on
8 the label or in literature accompanying the
9 packaging.

10 “(I) PACKAGING.—The term ‘packaging’
11 means any material that is used for the con-
12 tainment, protection, handling, delivery, and
13 presentation of a tangible product, including
14 food, that is sold, offered for sale, or distributed
15 in the United States.

16 “(J) PERSON.—The term ‘person’ means
17 an individual, trust, firm, joint stock company,
18 corporation (including a government corpora-
19 tion), partnership, association, State, munici-
20 pality, commission, political subdivision of a
21 State, or any interstate body and shall include
22 each department, agency, and instrumentality
23 of the United States.

24 “(K) RECOGNIZED ACCREDITATION
25 BODY.—The term ‘recognized accreditation

1 body' means an accreditation body that the Sec-
2 retary has determined meets the applicable re-
3 quirements and is authorized to accredit third-
4 party certification bodies.

5 “(L) THIRD-PARTY CERTIFICATION
6 BODY.—The term ‘third-party certification
7 body’ means a person that is eligible to be con-
8 sidered for accreditation to evaluate, develop
9 and authorize compostable claims and instruc-
10 tions for consumer product packaging.

11 “(2) ESTABLISHMENT OF SYSTEM FOR REC-
12 OGNITION OF ACCREDITATION BODIES AND ACCREDI-
13 TATION OF THIRD-PARTY CERTIFICATION BODIES TO
14 AUTHORIZE COMPOSTABLE CLAIMS AND INSTRUC-
15 TIONS FOR CONSUMER PRODUCT PACKAGING.—

16 “(A) RECOGNITION OF ACCREDITATION
17 BODIES.—No later than 18 months after the
18 adoption of this section, the Director shall—

19 “(i) establish a system for the rec-
20 ognition of accreditation bodies and begin
21 accepting applications from accreditation
22 bodies; and

23 “(ii) promulgate regulations to estab-
24 lish model accreditation criteria for recog-
25 nized accreditation bodies to use in accred-

1 iting third-party certification bodies who
2 shall evaluate, develop and authorize
3 compostable claims and instructions for
4 consumer product food packaging.

5 “(B) ACTION ON APPLICATIONS FOR REC-
6 OGNITION OF ACCREDITATION BODIES.—The
7 Director shall act on an application from an ac-
8 creditation body within 120 days after receipt
9 of the accreditation body’s application by deny-
10 ing the application or recognizing the accredita-
11 tion body.

12 “(C) FEES.—The Secretary shall have no
13 authority to collect fees as part of the applica-
14 tion process for accreditation bodies.

15 “(D) DURATION OF RECOGNITION.—Rec-
16 ognition of accreditation, once granted, shall
17 not lapse unless the recognized accreditation
18 body voluntarily ceases to accredit third-party
19 certification bodies or the recognition of accred-
20 itation is revoked under this section.

21 “(E) FINAL AGENCY ACTION.—Denial of
22 an accreditation body’s application by the Di-
23 rector shall constitute a final agency action that
24 may be challenged in the United States District
25 Courts.

1 “(F) DIRECT ACCREDITATION.—If, by the
2 date that is 4 years after the adoption of
3 Compostable Agriculture Packaging Act of
4 2024, the Director has not identified and recog-
5 nized an accreditation body, the Secretary may
6 directly accredit third-party certification bodies.

7 “(G) PUBLICATION REQUIREMENTS FOR
8 RECOGNIZED ACCREDITATION BODIES.—The
9 Secretary shall publish a list of recognized ac-
10 creditation bodies on the Environmental Protec-
11 tion Agency’s website.

12 “(H) LISTS OF ACCREDITED THIRD-PARTY
13 CERTIFICATION BODIES AND PUBLICATION RE-
14 QUIREMENTS.—Recognized accreditation bodies
15 shall provide a list of accredited third-party cer-
16 tification bodies to the Secretary and the Sec-
17 retary shall publish a list of accredited third-
18 party certification bodies.

19 “(I) CONFLICTS OF INTEREST.—A recog-
20 nized accreditation body shall not be owned,
21 managed, or controlled by any person that owns
22 or operates an accredited third-party certifi-
23 cation body.

24 “(3) DEVELOPMENT OF MODEL ACCREDITA-
25 TION CRITERIA REGULATIONS.—

1 “(A) REGULATIONS.—

2 “(i) IN GENERAL.—A compostable
3 claim for consumer product packaging, and
4 instructions for how to compost consumer
5 product packaging, may be used only if au-
6 thorized by an accredited third-party cer-
7 tification body that a recognized accredita-
8 tion body has determined meets the model
9 accreditation criteria developed by the Di-
10 rector.

11 “(ii) REQUIREMENTS.—The Secretary
12 shall promulgate regulations to establish
13 model accreditation criteria for—

14 “(I) the use of compostable
15 claims for consumer product pack-
16 aging that are not false or misleading,
17 and in so doing shall—

18 “(aa) work with the Federal
19 Trade Commission and coordi-
20 nating on issues relating to the
21 use of compostable claims for
22 consumer product packaging that
23 are not false or misleading;

24 “(bb) incorporate prominent
25 standards in place on the date of

1 the enactment of this Act and
2 that relate to use of compostable
3 claims for consumer product
4 packaging;

5 “(cc) consider different
6 types of consumer product pack-
7 aging materials;

8 “(dd) consider different col-
9 ors, shapes, and sizes of con-
10 sumer product packaging mate-
11 rials;

12 “(ee) consider the use of dif-
13 ferent methods, including any ex-
14 isting, emerging, or future tech-
15 nologies, in authorizing a range
16 of disclosure options for claims
17 that consumer product packaging
18 is compostable; and

19 “(ff) have no authority to
20 require, compel, or otherwise
21 mandate a person to make a
22 claim that consumer product
23 packaging is compostable.

24 “(II) use of acceptable labeling
25 instructions for how to compost con-

1 consumer product packaging that are
2 clear and readily understandable, and
3 in so doing shall—

4 “(aa) incorporate prominent
5 standards in place on the date of
6 the enactment of this act and
7 that relate to use of labeling in-
8 structions for how to compost
9 consumer product packaging;

10 “(bb) consider different
11 types of consumer product pack-
12 aging materials;

13 “(cc) consider different col-
14 ours, shapes, and sizes of con-
15 sumer product packaging mate-
16 rials;

17 “(dd) provide for the use of
18 different methods, including any
19 existing, emerging, or future
20 technologies, in authorizing a
21 range of disclosure options for in-
22 structions for how to compost
23 product packaging; and

24 “(ee) have no authority to
25 require, compel, or otherwise

1 mandate a person to include in-
2 structions for how to compost
3 consumer product packaging.

4 “(B) EVALUATIONS OF THIRD-PARTY CER-
5 TIFICATION BODIES.—Prior to accrediting a
6 third-party certification body, a recognized ac-
7 creditation body may perform such reviews of
8 the internal systems and undertake other inves-
9 tigations of the third-party certification body to
10 determine whether each accredited third-party
11 certification body has the systems in place to
12 ensure the model accreditation standards are
13 met when the accredited third-party certifi-
14 cation body evaluates, develops, and authorizes
15 compostable claims and instructions for con-
16 sumer product packaging.

17 “(C) NON-CONSUMER PRODUCT PACK-
18 AGING.—Any regulations or requirements im-
19 posed under this section shall not apply to non-
20 consumer product packaging except that
21 compostable claims for non-consumer product
22 packaging are subject to other provisions of the
23 law.

1 “(4) RECORDS ACCESS AND PROCEDURES FOR
2 REVOCATION AND REINSTATEMENT OF RECOGNIZED
3 ACCREDITATION BODIES.—

4 “(A) RECORDS.—Following the recognition
5 of an accreditation body, or the accreditation of
6 a third-party certification body by a recognized
7 accreditation body, the Secretary may, at any
8 time, request the recognized accreditation body
9 or any accredited third-party certification body
10 to provide records and other documents for pur-
11 poses of determining compliance with the model
12 accreditation criteria established under law.

13 “(B) REVOCATION OF RECOGNITION OF AN
14 ACCREDITATION BODY.—The Secretary may re-
15 voke the recognition of any accreditation body
16 found to have knowingly and intentionally ac-
17 credited a third-party certification body that is
18 not in compliance with the model accreditation
19 criteria.

20 “(5) USE OF RESIN IDENTIFICATION CODES.—
21 Packaging that is not eligible to bear a compostable
22 claim shall not bear a Resin Identification Code
23 (RIC) that is surrounded by 3 chasing, triangulated
24 arrows, except that such packaging may bear a RIC
25 that is surrounded by an equilateral triangle, con-

1 sistent with ASTM International Standard D7611/
2 D7611M–19.

3 “(6) MISBRANDED PACKAGING.—Packaging is
4 misbranded if it knowingly and intentionally—

5 “(A) bears a compostable claim that is
6 false or misleading; or

7 “(B) is consumer product packaging that
8 does not conform to the requirements, including
9 any regulations established by the Secretary,
10 under this section.

11 “(7) ENFORCEMENT.—

12 “(A) ENFORCEMENT AUTHORITY.—The
13 Secretary shall only have the authorities speci-
14 fied in this section to enforce violations of this
15 subtitle, including the lack of any authority to
16 recall any products, or to assess criminal pen-
17 alties or seek imprisonment, on the basis of
18 whether any packaging for such products is
19 misbranded under this subtitle.

20 “(B) JURISDICTION.—In order to facilitate
21 the efficient regulation and enforcement of the
22 provisions of this subtitle, it is established
23 that—

24 “(i) the Secretary shall exercise pri-
25 mary jurisdiction over a claim that any

1 packaging, including packaging for con-
2 sumer products and non-consumer prod-
3 ucts, is compostable;

4 “(ii) the Federal Trade Commission
5 shall exercise primary jurisdiction over
6 other matters regarding advertising that
7 packaging is compostable; and

8 “(iii) the Secretary and the Federal
9 Trade Commission shall enter into a
10 memorandum of understanding for the
11 purpose of joint planning and coordination,
12 exchange of information, and the careful
13 selection of the procedure of either Agency
14 promising greatest benefits to the public.

15 “(C) PROCEEDINGS IN THE NAME OF THE
16 UNITED STATES.—All such proceedings for the
17 enforcement, or to restrain violations, of this
18 subtitle shall be by and in the name of the
19 United States.

20 “(D) PREEMPTION.—No State or political
21 subdivision of a State may establish, enforce, or
22 continue in effect any provision of law or a legal
23 requirement that is not identical with any re-
24 quirement, including any regulations promul-
25 gated by the Secretary, under this section, and

1 no person shall be liable under the laws of any
2 State or any political subdivision thereof for
3 making a compostable claim for consumer prod-
4 uct packaging that is authorized by an accred-
5 ited third-party certification body.

6 “(E) INJUNCTIVE RELIEF.—A civil action
7 may be brought only in United States District
8 Court to enjoin the sale, distribution, or impor-
9 tation into the United States of packaging that
10 is misbranded within the meaning of this sec-
11 tion. Such actions may be brought by the Sec-
12 retary, or by the Attorney General, in any
13 United States District Court for a district
14 wherein the violation occurred, or in the United
15 States District Court for the district wherein
16 the defendant is found or transacts business.

17 “(F) COMPLIANCE DATES.—Packaging
18 shall not be subject to any of the requirements
19 imposed under this subtitle, including any
20 standards that are promulgated, until January
21 1, 2028, or at a later date, if the Secretary de-
22 termines additional time is needed.”.

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