
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2023 - 2024 Regular

Bill No: SB 707
Author: Newman
Version: 3/20/2023
Urgency: No
Consultant: Brynn Cook

Hearing Date: 3/29/2023
Fiscal: Yes

SUBJECT: Responsible Textile Recovery Act of 2023

DIGEST: Establishes the Responsible Textile Recovery Act of 2023, which would create an Extended Producer Responsibility (EPR) program for textiles with oversight from the Department of Resources Recycling and Recovery (CalRecycle).

ANALYSIS:

Existing law:

- 1) The California Integrated Waste Management Act (IWMA) of 1989, administered by the Department of Resources Recycling and Recovery (CalRecycle), generally regulates the disposal, management, and recycling of solid waste. The act establishes extended producer responsibility (EPR) programs for various products, including, among others, carpet, mattresses, and pharmaceutical and sharps waste. (PRC §§ 40000 et. seq.) Establishes under IWMA a state recycling goal that 75% of solid waste generated is to be diverted from landfill disposal through source reduction, recycling, and composting by 2020. (PRC § 41780.01)
- 2) Requires CalRecycle to establish a three-year pilot project located in the Los Angeles and Ventura Counties partnering with garment manufacturers to study and report on the feasibility of recycling fabric. (PRC § 40512)
- 3) Establishes, upon appropriation from the Legislature, a Zero-eWaste equity grant program that can be used for repair and extending the life of products including textiles (PRC § 42999.5).

This bill:

- 1) Establishes the Responsible Textile Recovery Act of 2023, which would create an Extended Producer Responsibility (EPR) program for apparel, textiles, or textile articles.

- a) Defines “covered product” to include any apparel, textile (e.g. cloth), or textile article (e.g. bed sheets, curtains, etc.) exempting carpets and mattresses that are already in other EPR programs.
- b) Requires CalRecycle to set regulations to implement this chapter by December 31, 2025, and authorizes CalRecycle to adjust regulations pertaining to collection sites and minimum recycling efficiency rate for covered products collected and recycled by program operators beginning January 1, 2032.
- c) Requires CalRecycle to establish an advisory body no later than 90 days after the effective date of regulations adopted pursuant to this section
- d) Establishes a producer responsibility organization (PRO) that would submit to CalRecycle a stewardship plan within 12 months of regulations being developed. CalRecycle will review the Plan and approve, disprove, or conditionally approve the plan.
- e) Requires the PRO to review the stewardship plan at least every five years thereafter.
- f) Requires PROs to pay fees to CalRecycle, not to exceed the department’s actual and reasonable regulatory costs to implement and enforce the provisions of the act.
- g) Requires the stewardship program to submit an annual report to the department, under penalty of perjury, and requires the department to post online a list of producers that are in compliance with the program requirements.
- h) States that a retailer, importer, or distributor shall not sell, distribute or import covered products into the State unless the producer is on the list of producers in compliance with program requirements.
- i) Authorizes the department to impose a civil penalty on a producer, PRO, or importer manufacturer, distributor, or retailer that does not meet the requirements of the chapter. The civil penalties can be up to \$10,00 per day or up to \$50,000 per day if the violation is intentional, knowing, or reckless.
- j) Establishes a Textile Stewardship Recovery Penalty Account for these penalties for the deposit of penalties, which would be available for expenditure upon appropriation by the Legislature.

Background

- 1) *Textiles waste is a growing environmental problem.* According to CalRecycle’s 2020 ‘Facility-Based Characterization of Solid Waste in California’ report, textiles, including apparel, textile (cloth), and textile articles (such as linens, curtains, etc.) were the sixth most prevalent material type disposed of by single-family residences in 2018. Overall, Californians disposed of nearly 1.2

million metric tons of textiles in 2018, making up about 3% of California's total waste stream.

Textile waste has been supercharged by the rise of fast fashion. "Fast fashion" is an approach to the design, creation, and marketing of clothing that emphasizes making fashion trends quickly and cheaply available to consumers. Retailers and producers benefit from frequently updating styles to incentivize shopping. Fast fashion has contributed to a global doubling of clothing production from 2000 to 2014. Fast fashion provides clothes to consumers for lower prices, but sacrifices the quality and longevity of garments in the process: this leads to more waste.

Dealing with all this waste is expensive: in 2021, approximately 1.2 million tons of textiles were disposed of, costing California taxpayers more than \$70 million dollars in disposal costs.

This waste comes with a carbon cost as well: textile and garment industries account for between 6-8% of total global carbon emissions, or some 1.7 billion tons in carbon emissions per year.

- 2) *Reuse and Recycle: What is currently done with old textiles?* According to CalRecycle, 95% of California's textile waste is reusable or recyclable, meaning that the textiles are in a condition for reuse or still have tags identifying the material used (tags are important to recycling since it is critical to know what the material type of a textile is to select the proper recycling processes for that material).

Both recycling and reuse for used textiles begin when textiles are discarded--either when businesses toss out scrap or surplus material, or when consumers throw out old clothes or textile household items, like sheets, curtains, and pillows. Once these materials have been collected, they are sorted to separate reusable material from material that is only eligible for recycling or landfilling.

According to CalRecycle, only 10-15% of garments donated or sold to second-hand markets are directly resold in the stores where they are deposited. Of the remaining material, 30% is cut down to rags, 20% is converted into recycled fibers for uses such as carpet padding, insulation, and pillow stuffing, 5% is landfilled in-State, and 45% is sent overseas for further processing. Items that are sent overseas may or may not have a long second life: of the 15 million used garments that flow into Ghana every week, an estimated 40% are deemed worthless upon arrival and landfilled. This off-shore landfilling comes at a carbon cost, since shipping is a carbon-intensive process.

Recycling - Recycling textiles is a multistep process. Natural fibers are mechanically processed: for example, cotton textiles are shredded, the fibers are separated, and then re-spun with virgin fibers into yarn to make new textiles. Synthetic fibers, such as polyester, can sometimes be mechanically processed by shredding, cleaning, molding into pellets, and then extruding into new fibers. If mechanical processing is not possible, the textiles can also undergo the more intensive process of chemical processing, where the synthetic material is broken down into its component molecules to remove contaminants and then reformed into fibers.

Blends of materials, either different types of natural, synthetic, or both are typically not eligible for chemical processing, but can be mechanically processed and downcycled: blended fabrics are shredded and pulled to transform them into fibers of shorter length to produce other composite materials such as thermal insulation or carpet for use in the building industry.

The current recovery rate for textiles in the U.S. is approximately 15%, while the remaining 85% of discarded clothing and textiles are sent to landfill or incineration. Just 1 percent of recycled clothes are turned back into new garments—the gold standard for recycling towards a zero-waste economy.

- 3) *Introduction to EPR.* According to CalRecycle, extended producer responsibility (EPR) is a strategy that places shared responsibility for end-of-life product management on the producers and all entities involved in the product chain, instead of on the general public and local governments. EPR programs rely on industry, formalized in a product stewardship organization, to develop and implement approaches to create a circular economy that makes business sense, with oversight and enforcement provided by the government. This approach provides flexibility for manufacturers, based on their expertise in designing products and the systems that bring these products to market, to design systems to capture those products at the end-of-life to meet statutory goals. Currently, there are five statewide EPR programs: paint, carpet, mattresses, pharmaceutical and sharps waste, and plastic packaging, and single-use plastic items. To date, 33 U.S. states have passed 124 EPR laws covering 15 products, although to date no EPR laws cover textiles. Internationally, France currently has the only EPR law for textiles.

There are several key elements to any EPR program that should be carefully evaluated to develop a working EPR program that avoids loopholes. These elements are part of CalRecycle's "EPR checklist" and include considerations of (1) the scope of the program: what and who is captured in the covered

product and PRO universe; (2) requirements for the stewardship organization; (3) funding for the program; and (4) oversight for the program.

Comments

- 1) *Purpose of Bill.* According to the author, “the fashion industry is considered a top industrial polluter, accounting for approximately 10% of global carbon emissions. A well-designed and effectively administered statewide textile extended producer responsibility (EPR) program has the potential to develop previously untapped or underutilized upcycled and recycled clothing and fiber markets, as well as to support ongoing efforts to encourage the repair and reuse of clothing and other textiles in California. In so doing, SB 707 will facilitate a transition to a sustainable, market-aligned, circular economy for textiles that will unlock new production and consumption opportunities to the benefit of the environment, all at a relatively low cost to both the State and consumers alike.”
- 2) *What are the big-picture goals?* This bill outlines clear metrics for collection sites, but does not set any other specific goals for the EPR program. Existing EPR programs have set goals for recycling, source reduction, recycling efficiency rate, or other strategies that are used to drive progress and evaluate the success of EPR programs. By giving license to CalRecycle and then the stewardship organizations to set and prioritize these goals and identify how the program will be funded, the bill minimizes the role of the Legislature in steering textile reduction and recycling policy. While EPRs operate by allowing producers, with their insider-knowledge of industry, to develop solutions, it is the role of policy makers to set clear objectives for industry-led product stewardship organizations to steer towards. Developing more clear goals for the program, a lengthy and iterative process, will allow the Legislature to make clear their policy goals in reducing textile waste.

Moreover, the current language specifies that in 2032, CalRecycle can re-open their regulations to set recycling efficiency rates goals for materials in the program: this language implies that CalRecycle cannot include recycling efficiency rates goals before 2032, and may imply that CalRecycle cannot set targets for other metrics (such as targets for post-consumer recycled content) when reopening the regulations. This could hamper the Department’s ability to steer or update policy, leaving it in the hands of the producers.

Suggested amendment: Clarifying that CalRecycle may consider setting targets for metrics beyond recycling efficiency rates when it reopens its regulations for the program in 2032 will ensure that the Department has the authority to apply the right tools to achieve reductions in textile waste.

- 3) *Incorporating advice from old-hats at the game.* The bill specifies collection site goals for the stewardship program, including collection sites that will be available to the public. These collection sites can use existing collection infrastructure, such as donation drop-offs for thrift stores. This co-location is important for creating a path for reusable textiles that are exempted from this EPR program but that could be valuable to second-hand markets.

Given that second-hand markets play such an important role in this EPR program they should have a seat at the table when the Stewardship Plan is being developed. The bill appropriately does not consider second-hand markets to be producers (which are required to pay into the program). As such, second-hand markets will not be part of the stewardship organization: to ensure that reuse markets can still participate in the discourse, however, representation from this sector of the industry could be added to the advisory committee established in the bill. ***The committee may wish to add representatives from second-hand markets to the EPR textile Advisory Committee created in the bill to ensure second-hand markets are able to weigh in on policy that directly affects their business.***

- 4) *Define Recycling.* The bill currently references the definition of “recycling” used in Section 25121.1 of the Health and Safety Code, which defines recycling as “using reusing, or reclaiming a recyclable material.” While this definition is broad and captures all elements of recycling, it doesn’t provide a clear intention of the end goals of this recycling: focusing on helps establish the intent of recycling and can help direct the tools, types, and approaches to recycling that should be used.

The definition of recycling in SB 707 currently includes “reuse”—given that the bill excludes textiles that can be reused, the definition of recycling should be changed to exclude “reuse.” ***The committee may wish to replace the current definition of recycling in the bill with the definition used in Senate Bill 54, which includes objectives for recycling, to provide important context as to what should qualify as “recycling.”***

- 5) *Timeline matchup.* The Textile Stewardship Plan, once it is released in 2026, must be reviewed by the PRO every five years: however, the bill requires that the Plan include a budget for three years. The timeline for budget planning and review should be brought into alignment so as not to strand the program implementation plan without a funding plan.

Suggested amendment. Align the budget and Stewardship Plan review timelines to ensure that the Program is not operating “blind” with respect to how much money it can allocate to different goals in its Stewardship Plan.

- 6) *Committee amendments. Staff recommends the committee adopt the bolded amendments contained in comments 2,3,4 &5 above.*

DOUBLE REFERRAL:

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Judiciary Committee.

Related/Prior Legislation

SB 1187 (Kamlager, Chapter 616, Statutes of 2022) requires CalRecycle to establish a three-year pilot project located in the Los Angeles and Ventura Counties partnering with garment manufacturers to study and report on the feasibility of recycling fabric.

SB 54 (Allen, Chapter 75, Statutes of 2022) establishes the Plastic Pollution Prevention and Packaging Producer Responsibility Act, which sets minimum content requirements for single-use packaging and food service ware and source reduction requirements for plastic single-use packaging and food service ware through an extended producer responsibility program.

SOURCE: California Product Stewardship Council

SUPPORT:

5 Gyres Institute
Accelerating Circularity, INC.
Ambercycle
Aquafil Carpet Recycling
California Environmental Voters
California Product Stewardship Council
California Resource Recovery Association
Californians Against Waste
Calpirg, California Public Interest Research Group
Castro Valley Sanitary District
Cbu Productions
Changing Markets Foundation
Circ, INC.

Cirtex
City of Roseville
City of San Jose
Coare
County of Santa Clara
Environmental Working Group
Fashion Revolution USA
Fibershed
Friends Committee on Legislation of California
Heal the Bay
Materevolve
National Stewardship Action Council
Northern California Recycling Association
Plastic Pollution Coalition
Product Stewardship Institute
R3 Consulting Group, INC.
Ravel
Repeat Reuse, INC
Republic Services INC.
Roboro
Salinas Valley Solid Waste Authority
Santa Barbara County Resource Recovery & Waste Management Authority
Santa Clara County Recycling and Waste Reduction Commission
Scullyspark
Sea Hugger
Sierra Club
Sortile
South Bayside Waste Management Authority (SBWMA) / Rethinkwaste
St. Catherine University
Sustainable Works
Upcycle It Now
Western Placer Waste Management Authority (WPWMA)
Wishtoyo Chumash Foundation
Zero Waste Company
Zero Waste San Diego
Zero Waste Sonoma

OPPOSITION:

None received

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