



Producer Responsibility for Recalled Products

Summary

AB 1860 (Huffman) was passed by the legislature and signed into law by Governor Arnold Schwarzenegger in 2008. The purpose of the bill was to enhance protection for consumers by prohibiting the sale of recalled products, imposing fines for the sale of recalled products, requiring disposal or retrofit / repair of recalled products, establishing a notification system for consumers, and providing for safe and cost-free return for both retailers and consumers.

Unfortunately, since the passage of this bill many producers have directed consumers to bring these recalled items to public solid waste facilities instead of returning them to the manufacturer. The result has been an explosion in costs for local public agencies.

This bill would improve current law by eliminating the ability for responsible manufacturers to shift their responsibility to public agencies.

Background

AB 1860 (Huffman) created state-level protection for consumers in response to Product Recall Safety and Protection Act at the Federal Level. AB 1860 bans the sale and distribution of recalled products into the stream of commerce. The bill covers products that are recalled because they do not conform to state or federal laws, as well as products that are recalled by the manufacturer due to safety reasons, whether that recall was prompted by the Consumer Product Safety Commission or was voluntarily triggered for safety reasons.

If a recall or warning is issued, then the commercial dealer, manufacturer, importer, distributor, or wholesaler that placed the recalled product into the stream of commerce must initiate specified steps

within 24 hours. This includes contacting its customers and posting information on its website.

The manufacturer of the product must also provide for the safe return of the product to the manufacturer at no cost to the end consumer or retailer. Manufacturers are then responsible for proper disposal. Manufacturers can choose to instead repair, retrofit, or choose another corrective action to be performed at the consumer's home.

The purpose of the Product Recall Safety and Protection Act is to protect California residents from the burden of managing recalled products, which are the responsibility of the commercial dealer, manufacturer, importer, distributor, wholesaler, or retailer.

Problem

AB 1860 enhanced consumer protection in California, but the current law allows manufacturers to shift their burden onto public agencies by directing consumers to drop recalled products at local solid waste facilities instead of taking them back. As a result, recalled products show up in collection programs and burden limited public resources. Local government program operators are responsible for household hazardous waste and receive recalled products, but AB 1860 does not cover local government costs of returning these products to the manufacturer.

For example, in 2025, Anker Power Core 1000 power banks were recalled due to fire and burn hazards. Around 1.5 million units were recalled, many of which ended up at local government solid waste and recycling facilities. Many damaged products, such as these recalled batteries, require

special handling that can be quite expensive. For example, the cost of properly packaging a recalled battery for return to the manufacturer ranges from \$3.37 - \$4.20 per unit.

Seventeen years after this bill's passage, recalled products continue to end up at public collection sites as an economic and environmental burden for established program operators.

In addition to the problems with cost shifting, the current program has inadequate penalty structures and enforcement to drive compliance.

Solution

We propose legislation that would eliminate the ability for responsible manufacturers to shift their responsibility for recalled products to public agencies.

The bill updates the definition of manufacturer to include distributors, wholesalers, and retailers in case the manufacturer refuses to comply with the law, much like Extended Producer Responsibility (EPR) bills. The bill would also add local governments to the list of entities able to return a recalled product to the manufacturer at no cost to that entity.

Finally, we propose to increase the civil penalties for violations and provide the Department of Resources Recycling and Recovery with clear enforcement authority.

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