

California Responsible Textile Recovery Act Tabled Until 2024 – Sourcing Journal

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Decision-making on SB 707 will be delayed until 2024. *Wokephoto17 / Getty Images*

There wasn't much fanfare when California State Senator Josh Newman pulled the bill he authored, SB 707, from legislative consideration in July. But the action signaled that the California Textile Recovery Act of 2023 was not ready for prime time.

Proposed in March, the first-of-its-kind legislation would make producers of textiles and apparel goods sold within the state liable for the industry's waste. SB 707 would mandate that the sector fund an Extended Producer Responsibility (EPR) program—a statewide platform for discarded garments and fabrics made up of Producer Responsibility Organizations (PRO), which would manage the collection, sortation and recycling process. Joanne Brasch, special project manager for the bill's primary sponsor, the California Product Stewardship Council (CPSC), said the decision to push out decision-making on SB 707 until 2024 came from a desire to glean input from more industry stakeholders. The California Legislature convenes in two-year sessions, and under the state Constitution, bills introduced during the first year can be carried over to the subsequent year if they require further study or debate.

While Brasch contends the bill could have been passed in 2023, discussions with members of the Golden State's retail community, as well as recyclers and other collaborators, prompted the timeline extension. "There were a lot of moving parts, and there still are," she

explained. The group, along with Sen. Newman's office, agreed that the precedent-setting legislation warranted more time for industry input. "We want to make sure to set the example correctly," both for the future of this program and the others that will surely follow it, she added. The bill can be acted upon in January, though the group believes it is more likely to reach Governor Gavin Newsom's desk during the second half of the year.

Trade organizations like the American Apparel and Footwear Association (AAFA) and American Circular Textiles (ACT), along with circular supply chain non-profit Accelerating Circularity, voiced "significant concerns and questions about how and whether the scope and mechanics of SB 707 can truly support circularity efforts." In a July letter to California State Assembly's Natural Resources Committee, which oversees issues like climate change, energy efficiency and recycling, the groups lobbied on behalf of making SB 707 "a two-year bill."

"Robust EPR legislation is a critical tool to create incentives and infrastructure needed to achieve textile circularity at scale," Sarah Coulter, director of operations and special projects at Accelerating Circularity, told Sourcing Journal this week. "Because California is a first-mover in the US on this issue, any legislation adopted here is likely to become a model for similar statutes nationwide."

"That's why it's critical to get it right with SB 707," Coulter added. More time will allow essential partners, from collection and sortation groups to recyclers, brands and producers "to ensure that what passes in California is implementable and creates the right incentives to build a functioning and equitable system."

The bill's language should also be revised to include "clear, accurate, robust terms and definitions, particularly when it comes to the scope and applicability of the legislation," she said. As it stands, multiple industries that use textiles in their products could be subject to the legislation, though there is considerable confusion about who will be held responsible for recycling.

Perhaps most pressing are the infrastructural holes, which cannot be ignored, according to Coulter. While there is a robust secondary market for used textiles, like thrifts and other secondhand sellers, textile-to-textile recycling efforts are decidedly less mature. "The infrastructure [for these efforts] is currently nonexistent at commercial scale," she said. "Creating the right incentives to build this infrastructure and develop the nascent market for recycled materials at the same time, without negative unintended impacts, is a massive challenge."

CPSC's Brasch said the organization has heard the sector's calls for "more guidance" related to their responsibilities under the proposed law, and welcomes their continued input as work on the text continues. "We need written feedback from stakeholders," she added. "We want tracked changes, actual provisions to the bill. We actually haven't heard any major red flags that are critical program failures, and [the bill's] large scope is in the process of getting defined."

Brands and retailers are eager for the program to get underway as a means of supporting their goals tied to sustainability and circularity, Brasch said. She pointed to Los Angeles-based women's wear label Reformation as an example. The company, which got its start developing dresses from deadstock fabrics, has engaged with CPSC throughout the development of SB 707.

Reformation chief sustainability officer and vice president of operations Kathleen Talbot said the brand has struggled to find in-state textile recycling solutions. "One of the biggest challenges with closing the loop and keeping textile waste in the fashion system is the lack of infrastructure and accountability," she said. "Building a truly circular fashion industry will require a combination of brands, consumers, and industry-wide regulation all working in tandem."

Talbot believes that "regulation like SB 707 has the potential to help close these gaps," and that as it gains traction in California, it stands to "influence broader policy and practice" across industries and economies.

California Retailer's Association (CRA) president and CEO Rachel Michelin echoed the sentiment that building a circular economy for textiles will require cooperation across government, industry and the public. "I think making it easy for consumers and educating consumers is a piece that's really missing," she said.

CRA has advised Sen. Newman's office throughout the creation of SB 707, and also served on the advisory committee for SB 54, the Plastic Pollution Prevention and Packaging Producer Responsibility Act, signed into law by Governor Gavin Newsom in June 2022. "Whether you're talking about textile recycling or talking about plastic bottles, it's confusing," she said. "It's not easy to recycle as a consumer in California."

The largest state in the nation must coordinate across a multitude of jurisdictions, recycling bodies and waste management systems to develop and implement recycling programs, and it's tough for consumers to keep track of individual protocols. "Fundamentally, Californians want to be good stewards of the environment, but we need to ensure that these programs are workable, and that consumers understand how to utilize them and become active participants," Michelin said. Asking retailers to assume responsibility for developing a circular economy will be for naught if shoppers don't know how to do their part, she believes.

CRA advocates for a tiered, multi-step approach to recycling infrastructure development that can be rolled out over time, Michelin said. "Consumers are demanding more environmental responsibility, and retailers are figuring out ways to step up to do that and lean into it," she added. "There's some hesitation because we're just one piece of the puzzle, and this is being driven by groups that may not understand the complexity of trying to do something so sweeping this quickly."

Having a strong foundation based in multi-stakeholder collaboration will be essential to SB 707's future, according to Will Wagner, a San Francisco-based consumer products attorney and senior associate at multinational law firm Arnold & Porter. Wagner pointed to the packaging EPR, SB 54, as a cautionary tale, calling its rollout "a huge disaster."

As of yet, a PRO, which will assume the responsibility of facilitating packaging recycling on behalf of producers, has not been approved by the state, despite the requirement that all producers doing business in California join such an organization by January 1. "I think exactly what would be happening if [SB 707] had been passed this year," Wagner said. "It would be a mad rush to figure out who the responsible organization would be."

The attorney said the bill's delay was not only expected, but necessary. "It's really the first of its kind and there's a lot of a lot of kinks to work out," he added. "There's no proof of concept, we don't know exactly how this is going to going to work in the world, and an extra year to try to work through that issue will be critical."

SB 707's scope will be the biggest area of concern—"both from the perspective of what products are going to be covered, and from the perspective of who the responsible producers are," according to Arnold & Porter policy advisor Yuvaraj Sivalingam.

Much of what's been stated about the purpose of the bill relates to the impact of fast fashion, "but if you look at the language of the legislation, it's not just apparel—what's captured is also things like window coverings, architectural fabrics, towels and upholstered furniture," he said. Meanwhile, responsible producers have been defined as the operators responsible for the final sale of a product in the state of California, meaning that a retailer importing products from another state—or another country—assumes responsibility for compliance with the bill.

This could create a disproportionate burden to in-state brands and retailers—especially the smaller players. "If you're a California company or entity, you're going to have to comply with this statute, and that may put you at a disadvantage in terms of the additional costs you may have to bear in selling your products," Sivalingam said. "Another company overseas that may not have to comply itself, because they're passing the burden on to the in-state partner."

Wagner said that out-of-state brands and retailers will most likely be held accountable for their direct online sales to California shoppers, "but the mechanism for doing so will be tricky." If a New York brand sells products to consumers in California, for example, and does not sign up with a PRO to cover its impact in the state, "there will absolutely be public enforcement to force compliance," Wagner believes. That muscle will likely come from district attorneys leveraging the unfair competition law, he said. "They're essentially going to say the company is operating in an unlawful way by not complying with clear California legislation."

When it comes to brands and producers from outside of the U.S.—which make up the bulk of California's apparel and textile purchases—"The importer of record will likely take on the responsibility of the producer, and will have legal liability to comply," Wagner added.

Enforcement details become murkier when considering direct-to-consumer sales from outside of the country, however. Some Asian fast fashion brands operate on a drop-ship model, sending orders from their in-country distribution centers straight to consumers' doorsteps in the U.S., bypassing an importer, or a retailer, altogether. At a July hearing of the California Assembly Committee on Natural Resources, committee members determined that it "may be difficult or impossible to require overseas producers to participate in the program" for this reason.

Sivalingam believes these factors played into Sen. Newman's decision "that this is a bill that was worth reconsidering."

"It's fairly common that a bill author determines that more homework and more conversation with partners and stakeholders is needed," he added. "Our expectation is that over the next several months, there will be a number of opportunities for the bill author and the sponsor to discuss some of the stakeholders' concerns, and try and get to a place with revised and refined language that may receive more support from all the interested parties."

Initial reporting on SB 707, including remarks from its author, Sen. Newman, can be found in Sourcing Journal's June [Sustainability Report](#).

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