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A Closer Look at California's Recently Passed Responsible Textile Recovery Act of 2024

Holland & Knight Alert

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Highlights

- California recently approved Senate Bill (SB) 707, the Responsible Textile Recovery Act of 2024 (the Act) – the first Extended Producer Responsibility (EPR) recycling program aimed to address textile waste in the U.S.
- Ratified by Gov. Gavin Newsom in late September 2024, the Act will require qualified producers of apparel or textile articles to form and join a producer responsibility organization (PRO), approved by California's Department

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of Resources Recycling and Recovery (the Department), by July 1, 2026.

- The approved PRO will need to submit a plan for collection, repair, reuse and recycling of such clothing and textiles to the Department for review. Upon approval of a plan or by July 1, 2030, whichever occurs first, noncompliant producers of covered products shall be subject to penalties up to \$50,000 per day for intentional or willful violation of the Act.

With Gov. Gavin Newsom's signature in late September 2024, Senate Bill (SB) 707, the Responsible Textile Recovery Act of 2024 (the Act), made California the first state to adopt the Extended Producer Responsibility (EPR) textile recycling program designed to address textile waste in the U.S. EPR is an environmental policy that holds producers responsible for costs associated with a product's entire life cycle, including disposal and management. The Act will require qualified producers of apparel or textile articles to form and join a producer responsibility organization (PRO), approved by California's Department of Resources Recycling and Recover (the Department), by July 1, 2026.

According to the Department's [2021 Disposal Facility-based Waste Characterization Data Tables](#), 1.2 million tons of textiles were disposed of in California in 2021. In recent years, textile waste has become the fastest-growing component of the state's landfills, comprising 3 percent of the state's total landfill waste. Based on data provided by U.S. Environmental Protection Agency, the U.S. recycled only 14.7 percent of all textiles in 2018 – an exceedingly low percentage considering almost 95 percent of all textile products are recyclable.

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The legislation in part will combat the rapidly growing environmental impacts of "fast fashion," divert the amount of postconsumer apparel and textile articles from landfills and encourage brands to emphasize their repair and reuse programs. Producers of covered products and other downstream participants in the value chain are responsible for their products' entire life cycle, including repairing, reusing and upcycling their garments and fibers.

Covered products include apparel and accessory items intended for various occasions and activities, as well as textile articles customarily used in households or businesses. More specifically, such products comprise undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, swimwear, formal wear, onesies, bibs, footwear, handbags, backpacks, knitted and woven accessories, jackets, coats, snow pants, ski pants, everyday uniforms for workwear, blankets, curtains, fabric window coverings, knitted and woven accessories, towels, tapestries, bedding, tablecloths, napkins, linens and pillows.

Defining "Producer"

The Act uses a tiered analysis to determine who qualifies as a "producer." Additionally:

1. The obligation of complying with the Act falls first to the manufacturer of a covered product who owns or is the licensee of the brand or trademark under which the covered product is sold, offered for sale or distributed for sale in or into California.
2. If there is no such person or entity in the state who is the producer for purposes of the previous paragraph, the obligation then is on the exclusive

licensee of a brand or trademark under which the covered product is sold, imported for sale, offered for sale or distributed for sale in or into the state, regardless of whether the trademark is registered.

3. If there is no such person or entity in the state who is the producer for purposes of the previous two paragraphs, the producer of the covered product is the importer of that covered product, regardless for sale or distribution.
4. If there is no other person or entity in the state who is the producer for purposes of the previous three paragraphs, the obligation to comply with the Act falls to the distributor, retailer or wholesaler who sells the product in or into the state.

Sellers who sell only secondhand covered products in California or have less than \$1 million in aggregate annual sales in the state are exempt from complying with the Act.

Under the provisions of the Act, the approved PRO will need to submit a plan for free, accessible and convenient drop-off or collection systems for covered products to the Department for review. Upon approval of the plan or by July 1, 2030, whichever comes first, the PRO will then set up publicly available permanent and/or temporary collection sites and mail-back options and charge each participant producer "eco-modulated" annual fees to fund those programs. The intent of the eco-modulated fee is to incentivize collection plans that facilitate the achievement of reusing, repairing and recycling covered products through reduced fees, while disincentivizing production of materials incongruent with that goal by charging producers higher fees.

Once the Act goes into effect, the Department is required to post a list of producers that are in compliance with the Act on its website, and any noncompliant producers of covered products may be subject to administrative civil penalties of up to \$10,000 per day, or \$50,000 per day if the violation is intentional or knowing.

Conclusion

Not surprisingly, France and Netherlands are among the first countries around the world to have an EPR program for textiles, and other European Union countries have since began considering adopting similar regulations. Although California is the first state in the U.S. that has passed a clothing recycling law, it is anticipated that this novel legislation will spur the actions of other states to address the issues related to textile waste.

For additional information on the Act, please contact the authors.

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