

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 707 (Newman) – As Amended July 3, 2023

SENATE VOTE: 32-8

SUBJECT: Responsible Textile Recovery Act of 2023

SUMMARY: Establishes an extended producer responsibility (EPR) program for waste textiles.

EXISTING LAW:

- 1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery (CalRecycle), generally regulates the disposal, management, and recycling of solid waste. Establishes 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. (Public Resources Code (PRC) 40000 *et seq.*)
- 2) Establishes the Plastic Pollution Prevention and Packaging Producer Responsibility Act, which imposes minimum content requirements for single-use packaging and food ware and source reduction requirements for plastic single-use packaging and food ware, to be achieved through an EPR program. (PRC 42040 *et seq.*)
- 3) Establishes the Used Mattress Recovery and Recycling Act, which creates an EPR program for the collection and recycling of used mattresses. (PRC 42985 *et seq.*)
- 4) Establishes the Electronic Waste Recycling Act of 2003, which requires consumers to pay a fee for specified electronic devices, defined to include video screens larger than four inches and battery-embedded products and establishes processes for consumers to return, recycle, and ensure the safe disposal of covered electronic devices. (PRC 42460 *et seq.*)
- 5) 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)
- 6) 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) Requires CalRecycle to adopt regulations to implement the bill's requirements with an effective date no earlier than December 31, 2025. Authorizes CalRecycle to reassess the regulations beginning January 1, 2032, including adjusting the minimum recycled collection rates, establishing minimum recycling efficiency rates, or establishing other criteria.
- 2) Requires, no sooner than 90 days after the effective date of the regulations, CalRecycle to appoint an advisory committee to consult with producers and stewardship organizations (SO) with approved plans. Requires the advisory committee to include, but not limited to,

representatives from local governments, recyclers, retailers, nonprofit thrift stores, authorized collectors, authorized sorters, authorized repair businesses, nongovernmental organizations, environmental organizations, community-based justice and public health organizations, the second-hand industry, and the solid waste industry.

- 3) Authorizes producers to establish and implement a stewardship program independently or as part of one or more stewardship organizations (SO).
- 4) Prohibits producers from selling, distributing for sale, offering for sale, or importing for sale any apparel or textile article in or into unless the producer is in compliance with any regulations in effect adopted pursuant to the bill.
- 5) Requires producers opting to comply with the program through an SO to register with the SO and comply with all procedures and requirements of the SO.
- 6) Specifies that producers are not in compliance with the bill and subject to penalties if, commencing two years from the adoption of regulations, a covered product sold or offered for sale by the producer is not subject to an approved stewardship plan.
- 7) Requires producers, within 180 days of the effective date of this bill , to provide CalRecycle a list of covered products that the producer sells, distributes for sale, imports for sale, or offers for sale in or into the state. Requires the list to be updated on or before January 15 of every year or upon the request of CalRecycle.
- 8) Requires a program operator to establish a method of fully funding the stewardship program in a manner that equitably distributes the program's costs among participating producers that reflects the production and sales volumes. Requires the funding mechanism to incentivize green design by modulating distribution of costs to consider the cost of repairing, recycling, or otherwise managing specific covered products.
- 9) Requires that all collection sites be operated to ensure that covered products are collected safely and handled in accordance with all applicable state, federal, and municipal laws and regulations and the rules and conditions of the stewardship plan. Allows authorized collectors and authorized sorters to divert reusable apparel and textile articles for sale in secondhand markets.
- 10) Requires program operators, within 12 months of the effective date of the regulations, to develop and submit a complete stewardship plan to CalRecycle. Requires the stewardship plan to cover the collection, transportation, repair, sorting, recycling, and the safe and proper management of covered products in the state, as specified. Prohibits a program operator from limiting the stewardship plan to covered products of the producers participating in the program.
- 11) Requires CalRecycle to review and approve, disapprove, or conditionally approve the plan within 120 days of receipt, unless CalRecycle consults with the Department of Toxic Substances Control, in which case it has 180 days. Establishes a process for revisions to the plan.

- 12) Requires, within 24 months of the effective date of the regulations, program operators to have a complete stewardship plan approved by CalRecycle and requires that each producer to be subject to an approved stewardship plan.
- 13) Requires, within 12 months of the approval of a stewardship plan, the program operator to fully implement the stewardship program.
- 14) Requires CalRecycle to respond to requests for petitions to investigate noncompliant producers in a timely manner.
- 15) Establishes required components for a stewardship plan, including:
 - a) The names of producers and brands of covered products covered by the plan;
 - b) A budget that fully funds the stewardship program;
 - c) A description of methodologies used to measure and achieve the recycling efficiency rate or other criteria established by CalRecycle;
 - d) A description of how the program operator will provide for a free and convenient collection system for covered products in each county and how the collection sites will be authorized and managed;
 - e) A description of the process by which collected covered products will be sorted, transported, processed, repaired, reused, and recycled;
 - f) A comprehensive statewide education and outreach program to educate consumers and promote participation in the program;
 - g) A description of efforts to coordinate with specified entities;
 - h) A contingency plan in the event the stewardship plan expires, is disapproved, or revoked.
 - i) Develop a program in coordination with other program operators to support laundries for laundering covered products; and,
 - j) A description of how the program operator will minimize the negative environmental impacts of all operations associated with the plan.
- 16) Requires a program operator to review its stewardship plan at least every five years and determine whether plan revisions are necessary and, if necessary, submit the revised plan for review and approval. Authorizes CalRecycle to require plan revisions, as specified.
- 17) Requires the program operator to pay CalRecycle's costs associated with administering the program, as specified. Establishes the Textile Stewardship Recovery Fund for the purpose of implementing enforcing the bill's requirements.
- 18) Requires each producer, individually or through an SO, to pay all administrative and operational costs associated with establishing and implementing the stewardship program in which it participates.

- 19) Requires the program operator to keep board minutes, books, and records that clearly reflect the activities and transactions of the program operator. Requires the program operator to retain an independent public accountant to annually audit the accounting books of the program operator, which must be included as part of its annual report. Authorizes CalRecycle to conduct its own audits.
- 20) Requires the program operator to submit an annual report to CalRecycle that includes specified information about the preceding calendar year. Requires CalRecycle to determine if the annual report is in compliance with the program within 120 days of receipt.
- 21) Requires CalRecycle, within 24 months of the effective date of the regulations, and on or before July 1 thereafter, to post a list of compliant producers, brands, and covered products. Requires retailers, importers, and distributors to monitor the list and prohibits the sale of noncompliant products.
- 22) Establishes administrative civil penalties of up to \$10,000 per day, and up to \$50,000 per day for intentional, knowing, or reckless violations.
- 23) In addition to assessing penalties for violations, authorizes CalRecycle to revoke a program operator's stewardship plan approval, remove the producer from the website, impose additional compliance reporting requirements, and post the noncompliant entity to a list of noncompliant entities.
- 24) Allows producers under a plan that was terminated or revoked to continue to continue to sell or offer for sale covered products for up to one year after the plan was terminated or revoked if the producer operates under the most recent approved plan.
- 25) Establishes inspection, recordkeeping, and auditing requirements.
- 26) Establishes anti-trust immunity for stewardship organization actions and provides justification for limitations on the public's access to specified information.
- 27) Specifies that nothing in the bill grants any city, county, city and county, special district, or joint powers authority with any new authority over solid waste handling or solid waste franchise agreements.
- 28) Defines terms used in the bill, including:
 - a) "Apparel" as clothing and accessory items intended for regular wear or formal occasions, including, but not limited to, undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear, formal wear, onsies, bibs, diapers, footwear, handbags, backpacks, and everyday uniforms for workwear. Excludes personal protective equipment or clothing items exclusively for use by the United States military.
 - b) "Brand" as a trademark, including both a registered trademark and an unregistered trademark, logo, name, symbol, word, identifier, or traceable mark that identifies a covered textile article and identifies the owner or licensee of the brand.

- c) “Covered product” as any postconsumer apparel or postconsumer textile article that is unwanted by a consumer. Excludes products covered by the Used Mattress Recovery and Recycling Act or the Electronic Waste Recycling Act.
- d) “Importer” as either:
 - i) A person qualifying as an importer or record, as specified; or,
 - ii) A person importing into the state for sale, distribution for sale, or offering for sale in the state a covered textile article that was manufactured or assembled by a company physically located outside of the state.
- e) “Producer” as a person who manufactures a covered product and who owns or is the licensee of the brand or trademark under which that covered product is sold, offered for sale, or distributed for sale in the state. If there is no person who meets this requirement, the producer is the owner of a brand or trademark or the exclusive licensee of a brand or trademark. If there is no person who meets these requirements, the producer is the person who sells, offers for sale, or is the importer or distributor of the covered textile article. Excludes sellers of secondhand apparel or secondhand textile articles.
- f) “Stewardship organization” (SO) means an organization exempt from taxation under Section 501 (c)(3) of the federal Internal Revenue Code that is established or designated by a group of producers in accordance with this chapter to develop and implement a stewardship program.
- g) “Stewardship program” as a program established by a program operator pursuant to the bill for the free at drop off, convenient, and safe collection, transportation, repair, recycling, and otherwise proper management of covered products.
- h) “Textile article” as any item customarily used in households or business that are made entirely or primarily from a natural, artificial, or synthetic fiber, yard, or fabric, including, blankets, curtains and fabric window coverings, knitted and woven accessories , towels, tapestries, bedding, tablecloths, napkins, linens, pillows, and fabric sold by the bolt at retail.

FISCAL EFFECT: According to the Senate Appropriations Committee, unknown ongoing costs, possibly in the millions of dollars annually (special fund), for CalRecycle to implement and administer the EPR program that would be established by this bill. CalRecycle notes that the initial fund source is not identified and a loan would be required. Once an SO is established, the fund source would be the Textile Stewardship Recovery Fund, which would be established by this bill. These costs would eventually be offset by reimbursements paid by the producer responsibility organization.

COMMENTS:

- 1) **Textile waste.** According to CalRecycle’s 2020 *Facility-Based Characterization of Solid Waste in California* report, textiles, including apparel, textile (fabric), 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.

The generation of 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 leading to more waste.

Dealing with all this waste is expensive; in 2021, California ratepayers paid more than \$70 million dollars in disposal costs. Textile 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) **Managing waste textiles.** According to CalRecycle, 95% of California's textile waste is reusable or recyclable, meaning that the textiles are in a condition that allows them to be reused, or that still have tags identifying the materials used. Tags are critical for textile recycling in order to identify the material type.

Both reuse and recycling for used textiles begin when textiles are discarded, either when businesses toss out scrap or surplus material, or when consumers dispose of old clothes or textile household items, like sheets, curtains, and pillows. Once these materials have been collected, they can be 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 collected. 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 the state, and 45% is sent overseas for further processing or eventual disposal. Items that are sent overseas may or may not have a long second life. For example, 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 high carbon cost, since shipping overseas is a carbon-intensive process.

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 fibers, synthetic fibers, or both, are typically not eligible for chemical processing, but can be mechanically processed and downcycled into composite materials, such as thermal insulation or carpet for use in the building industry.

The current recovery rate for textiles in the United States is approximately 15%, while the remaining 85% of discarded clothing and textiles are sent to landfill or incineration. Just

one-percent of recycled clothes are turned back into new garments, which is the gold standard for recycling towards a circular economy.

- 3) **Pilot programs.** According to the bill’s sponsor, the California Product Stewardship Council (CPSC), there are various textile recycling pilot projects underway or completed in San Francisco, the City of Los Angeles, the County of Los Angeles, and the County of Alameda. Additionally, SB 1187 (Kamlager), Chapter 616, Statutes of 2022, requires CalRecycle to establish a three-year pilot project in the Counties of Los Angeles and Ventura to study and report on the feasibility of recycling fabric; however, this program has not received funding through the Budget process.
- 4) **EPR.** According to CalRecycle, EPR is a strategy that places shared responsibility for end-of-life management for products on the producers and all entities involved in the product chain, instead of entirely on local governments and ratepayers. 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 a government entity. This approach provides flexibility for manufacturers to design products in a way that facilitates recycling and to develop systems to capture those products at the end-of-life to meet statutory goals.

There are several key elements that should be carefully evaluated to develop a successful EPR program. 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 SO universe); (2) requirements for the SO; (3) funding for the program; and, (4) oversight for the program.

5) **Author’s statement:**

The fashion industry is considered a top industrial polluter, accounting for approximately 10% of global carbon emissions. As textiles decompose, they emit high levels of methane gas, a major contributor to global warming. The phenomenon of “fast fashion,” which revolves around the marketing and sale of low-cost, low-quality garments that go out of vogue with increasing speed, is a major contributor to this alarming environmental trend.

A well-designed and effectively administered statewide textile [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.

- 6) **The big picture.** This bill is intended to create a statewide EPR program to manage the volumes of textile waste generated in California. The program would require producers, either individually or through one or more SOs, to design and implement a program to collect and recycle, reuse, repair, or otherwise properly manage textile wastes, including apparel, bulk fabric, and other textile articles.

- 7) **Details matter.** This bill establishes a broad framework for an EPR program, including the basic components of an EPR program, but leaves the details open for the producer responsibility organization or CalRecycle to develop through the plan or as part of the regulations.

“Apparel” is defined broadly to include, but not be limited to, nearly all items of clothing and accessories that are worn. “Textile article” is also defined, but uses terminology that aligns with federal harmonized tariff schedule (HTS) codes, which are widely used by industry to describe individual items in commerce. Using two different definitions, one that will have to be interpreted by CalRecycle (apparel) and the other that is based on accepted industry standards (textile articles) may create confusion about what types of textiles and textile products are covered by the bill. Additionally, the stated focus of the bill is to address the significant waste generated by the fast fashion industry, but the bill includes fabric sold by the bolt at retail, which is used by consumers who make their own clothes or textile items and is arguably the opposite end of the spectrum from fast fashion.

This bill models the definition of producer after prior EPR legislation, which starts with the brand owner and steps down to the importer or retailer to ensure that there is an entity located within the state that is responsible for ensuring compliance with the bill’s requirements. This has worked well previously, but it may not be able to capture many fast fashion producers, as a significant portion of fast fashion apparel is shipped directly to in-state consumers from companies located overseas. These products would be collected and managed by the in-state program operators, but it may be difficult or impossible to require overseas producers to participate in the program.

Program operators will also continue to be responsible for the collection and management of items collected from the reuse and repair market. For example, a pair of jeans imported into the state and sold by a member of a stewardship organization who participates in the program, including paying the relevant fees and complying with program requirements. When those jeans are collected by a program operator, sorted, and used as fabric by a different manufacturer to make a new item like a skirt or a throw pillow, that manufacturer only covered by the program as a reuse facility. This means that program operators of the stewardship program will continue to be responsible for the collection and reuse or recycling of the fabric that skirt or pillow is made from until it is recycled into a product that is not a textile or disposed.

This bill establishes clear metrics for collection sites, requiring each program operator to provide at least 10 collection sites per county, or one collection site for every 25,000 people, whichever is greater. This appears to be required for every program operator, including every producer opting to implement the program individually. As drafted, all producer responsibility organizations would have to collect all materials covered by the bill, whether or not their stewardship plan covers all covered products. This will provide convenience for consumers, but may be somewhat challenging for program operators if there are multiple stewardship plans covering different covered products.

This bill does not establish any recycling goals or timelines. CalRecycle is required to adopt regulations to implement the bill, but there is no timeline for those regulations to be adopted or to go into effect other than “no earlier than December 31, 2025.” While this should

alleviate any concerns about CalRecycle's capacity to adopt the regulations quickly, it may result in an indefinite delay before the program goes into effect. Moreover, it precludes CalRecycle from adopting a minimum recycling efficiency rate (i.e., the percentage of material collected that is actually recycled) when developing the program's regulations. Instead, the bill allows CalRecycle to adopt a minimum recycling efficiency rate when it reassesses the program's regulations in 2032. So, for at least the first several years of the program's operation, program operators will not have any specific targets to achieve beyond collection. If CalRecycle decides not to adopt a rate in 2032, the bill allows program operators to include one, at their discretion, in a stewardship plan revision. The bill also precludes CalRecycle from adopting, "other criteria" for the program until 2032, which may include things like recycled content requirements or limitations on certain types of products or materials that may hinder recycling. While EPR programs appropriately allow producers to determine how to achieve the goals of the programs, it is the role of policy makers to establish clear objectives and timelines for those programs.

According to the author, they are working with CalRecycle to receive technical assistance to refine the bill's provisions. Many prior bills that established EPR programs took multiple years to allow adequate time for negotiations with all stakeholders. If this bill moves forward, the author and sponsors should continue to work with stakeholders, the administration, and this committee to ensure that the bill can be effectively implemented and that the program fulfills the goals of the author.

- 8) **Suggested amendments:** *The committee may wish to make the following amendments to the bill:*
- a) Correct references to "covered product" and "apparel and textile articles" throughout the bill.
 - b) Revise the definition of "apparel" to include knitted and woven accessories and remove handbags and backpacks.
 - c) Exempt products covered by the state's carpet EPR law to avoid potentially duplicative regulation of carpets and rugs.
 - d) Revise the definition of "textile article" to remove knitted and woven accessories and clarify that the list of textile articles is exclusive.
 - e) Revise the effective date from "no earlier than December 31, 2025" to "no later than December 31, 2026" and extend the date CalRecycle is authorized to revise the regulations from 2032 to 2033.
 - f) Authorize CalRecycle to establish a minimum recycling efficiency rate and other program criteria by regulation and specify that the regulations can be revised no more frequently than every two years.
 - g) Require the program operator to consult the advisory committee when determining whether revisions to the stewardship plan are necessary.

- h) Clarify the reporting requirements for apparel and textile articles sold in the state and covered products collected by the program operator for reuse, recycling, or disposal.
- i) Authorize CalRecycle to require, by regulation, producers or program operators to meet program requirements if it determines that a producer or program operator has not achieved any of the requirements of the program.
- j) Clarify that the statement that the bill does not grant a city, county, city and county, special district, or joint powers authority any new authority over solid waste franchises is legislative intent.
- k) Make related technical and clarifying amendments.

REGISTERED SUPPORT / OPPOSITION:

Support

5 Gyres Institute	California
Ambercycle	Full Circle Environmental
Aquafil Carpet Recycling	Grace Veterinary, INC
Boardrider	Greenwaste Recovery
California Environmental Voters	Heal the Bay
California Product Stewardship Council	Luna Lab
Californians Against Waste	Lymi, INC. DbA Reformation
CALPIRG	Mara Hoffman
Castro Valley Sanitary District	Marmot
CBU Productions	Materevolve
Center for Oceanic Awareness, Research, & Education	Mojave Desert and Mountain Recycling Authority
Changing Markets Foundation	National Stewardship Action Council
Circ, INC.	Northern California Recycling Association
Cirtex	Ocean+main
City of Roseville	Ouros Industries
City of San Jose	Plastic Oceans International
City of Sunnyvale	Plastic Pollution Coalition
Climate Reality Project, Los Angeles	Plsreturnit INC
Chapter	Product Stewardship Institute
Climate Reality Project, San Fernando Valley	R3 Consulting Group, INC.
County of Santa Barbara	Ravel
Coyuchi	Recology
Delta Diablo	Renewcell
Environmental Working Group	Repeat Reuse, INC
Everlane	Republic Services INC.
Fashion Revolution USA	Resource Recovery Coalition of California
Fibershed	Roboro
Fort Ord Environmental Justice Network	Rural County Representatives of California
Friends Committee on Legislation of	Salinas Valley Solid Waste Authority
	Santa Barbara County Solid Waste Local

Task Force
Santa Clara County Recycling and Waste
Reduction Commission
Scullyspark
Sea Hugger
Seventh Generation Advisors
Sierra Club California
Social Compassion in Legislation
Solana Center for Environmental Innovation
Sortile
South Bayside Waste Management
Authority DbA Rethinkwaste
St. Catherine University

Stand Up to Trash
Sustainable Works
The Fashion Connection
Upcycle It Now
USAgain
Western Placer Waste Management
Authority (WPWMA)
Wishtoyo Chumash Foundation
Zero Waste Company
Zero Waste San Diego
Zero Waste Sonoma
Zero Waste USA

Opposition

Accelerating Circularity, INC.
American Apparel & Footwear Association
American Circular Textiles Group
California Chamber of Commerce
California Manufacturers and Technology Association

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