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Historic California Textile EPR Passes in State Legislature

BY KATE NISHIMURA 🗣️ AUGUST 30, 2024 2:40PM

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THE CAPITOL BUILDING IN SACRAMENTO, CALIF. DUSTYPIXEL / GETTY IMAGES

[California](#) is one step closer to making history.

The Golden State's much-hyped, first-of-its-kind [EPR bill](#) addressing textile waste has been approved by both houses of the State Legislature. Now, it heads to Governor Gavin Newsom for a final signoff.

Incorporating input from the fashion industry and other stakeholders across the waste and recycling sectors, a negotiated text for the [Responsible Textile Recovery Act of 2024](#) (SB 707) was voted through by the upper house this

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week and finalized when it returned to the Assembly for concurrence on Friday morning.

The bill, which mandates the creation of an extended producer responsibility (EPR) program for apparel and other textile products, stipulates that that sellers of such goods must establish and fund a producer responsibility organization (PRO) to manage their collection, sortation and recycling—keeping them from ending up in landfills and waterways at the end of their useful life.

The buzzy proposal has been a subject of conversation and debate, and it's encountered some blowback from industry trade groups and [brands](#) in recent months.

Concerns about which parties will ultimately be compelled to pay for the program and what types of recycling are deemed suitable solutions for discarded textiles have been circulating. Groups like the American Apparel and Footwear Association (AAFA) and American Circular Textiles (ACT) stated their positions on the bill as “opposed unless amended” to address the issues.

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AAFA walked back its opposition on Monday, shifting its position to “neutral” in an open letter to bill’s author, California State Senator Josh Newman. Following the bill’s passage Friday, Lamar wrote that the group was “pleased Senator Newman prioritized stakeholder engagement throughout this two-year [legislative](#) session,” ultimately amending certain provisions in the bill to align with industry needs.

AAFA has been pressing SB 707’s authors to tighten what it perceives as a “loophole for online marketplaces” that would potentially allow third-party vendors selling into California to skirt paying into the PRO. The group’s senior director of sustainability, Chelsea Murtha, told Sourcing Journal in July that the group worried that U.S. brands would be left holding the bag for the EPR program while Goliaths like Amazon, [Temu](#) and [Shein](#) sell gobs of goods to consumers in California.

The tiered definition of “producer”—the party deemed responsible for paying for dealing with a product at the end of its useful life—includes brands, then retailers, then importers within the state. But if the consumer is the importer of a product they purchased directly from Temu, for example, AAFA proposed that the marketplace should bear the responsibility of paying into the PRO.

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The group also wanted to see brands' existing resale and reuse efforts, like take-back programs, recognized and incentivized, and to ensure that "circularity partners" like advanced textile recyclers were covered under the bill as acceptable channels for disposing of textile waste.

Joanne Brasch, director of advocacy and outreach for the California Product Stewardship Council (CPSC), the bill's primary sponsor, indicated that stakeholders reached an imperfect consensus on these issues in recent weeks.

If SB 707 is signed into law, online marketplaces won't be "a pathway for fee collection...but a pathway for the information that we need for better enforcement," she explained.

These sites must notify CalRecycle—the branch of California's Environmental Protection Agency (EPA) responsible for implementing the bill—of the third-party sellers on their platforms that are covered by the law (those that sell \$1 million per year of covered goods into the state each year). The marketplaces will be responsible for communicating obligations to sellers who meet the requirements of the law.

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"They are a major part of the enforcement, but they're not a collector of fees, unless they own the brand," Brasch said. Questions remain about how to hold individual sellers on marketplaces accountable for non-payment, as well as direct-to-consumer brands selling into the state from outside the country, a la Shein.

On the recycling side, the bill calls for "[a]n evaluation of the availability or lack of availability of responsible end markets for recycled covered products, the need to incentivize reused products or recycled material market development, and the associated investments and actions needed to ensure that the covered products are reused or recycled and have responsible and economically viable and sufficient end markets."

SB 707 doesn't ban advanced recycling—it puts the onus on recyclers to provide proof of concept to CalRecycle and to work with the agency on getting approval to be a part of the PRO, Brasch explained.

"It's not really the bill's job to prove technologies—that's between the recycler and CalRecycle," she said. Once the EPR is authorized, the agency can begin vetting new technologies that go beyond currently accepted recycling processes used throughout the state, like depolymerization, methanolysis and enzymatic digestion, to name a few. The bill also tasks the PRO with assessing how to keep PFAS and other chemicals banned in California, which have been commonly used to waterproof clothing and other textile products, out of the pipeline for recycled textiles.

According to Brasch, the writers of SB 707 have also incorporated a framework for rewarding good environmental stewardship. The bill calls for the PRO to establish a structure for "eco-modulated" fees to "incentivize

design choices that facilitate the achievement of goals as outlined in the plan, including reuse, repair, and recycling.” That means a brand that independently implements a take-back program could see its fees to the program reduced, for example.

AAFA’s Lamar said there are still some outstanding issues with SB 707, though “it is not our wish to delay needed progress in search of perfection.”

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“The industry would have preferred to see some additional amendments, such as language to provide for harmonization with the European Union on the recycling definition, to eliminate restrictions on the sale of recycled textiles, and to fully close the loophole for third-party sellers on online marketplaces,” he wrote. Nonetheless, the letter indicated that AAFA plans to continue to collaborate with Newman’s office as the bill moves toward becoming the rule of law.

“The EPR program’s successful operation will be vital to supporting the industry’s circular transition,” he added.

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