

## California Responsible Textile Recovery Act Seeks Path Forward Amid Lingering Questions



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.

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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.”

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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.

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“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."

#### **Link**

<https://sourcingjournal.com/sustainability/sustainability-news/california-responsible-textile-recovery-act-sb707-apparel-waste-recycling-456389/>

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## FABRIC Act is Reintroduced in Congress



A GROUP OF 80 FABRIC ACT SUPPORTS, INCLUDING GARMENT WORKERS, MET WITH LAWMAKERS IN WASHINGTON, D.C., THIS WEEK. **REMAKE**

A bill that seeks to improve conditions for 100,000 U.S. garment workers is getting another shot at becoming law.

On Thursday, Senator Kirsten Gillibrand and Congressman Jerrold Nadler reintroduced the Fashioning Accountability and Building Real Institutional Change, or FABRIC, Act, a move to put an end to what the New York Democrats describe as the “misuse” of piece-rate pay, which doles out pennies for every hem sewn or button stitched rather than a consistent wage.

The measure also aims to boost domestic apparel manufacturing by creating a \$50 million per year support program, administered by the Department of Labor, that will administer grants and technical aid to manufacturers

equipment upgrades, safety improvements and training and workforce development.

The idea, which draws from California’s Garment Worker Protection Act, or SB 62, is to hold brands accountable for the labor practices of their manufacturing partners, compelling them to “become allies” in fighting workplace violations, Gillibrand said.

“The popularization of the fast fashion business model has perpetuated abuse of an already underpaid and overworked workforce, promoting profits over people, overconsumption, and rampant wage theft,” she said. “From designers to workers, women, people of color, and immigrants shoulder this burden.”

Senators Cory Booker (D-N.J.), Dianne Feinstein (D-Calif.), Alex Padilla (D-Calif.), Bernie Sanders (I-Vt.) and Elizabeth Warren (D-Mass.) are original co-sponsors of the FABRIC Act, which was introduced in the Senate last May. Congresswomen Debbie Dingell (D-Mich.) and Deborah Ross (D-N.C.) debuted the bill in the House of Representatives that July.

"As the representative of New York's storied Garment District, I'm proud to join Senator Gillibrand in introducing the FABRIC Act today, legislation that will advance historic protections for garment workers and revitalize fashion manufacturing in the United States," Nadler said. "With domestic fashion manufacturing having declined precipitously, the FABRIC Act is essential to bringing back these jobs from overseas while holding manufacturers accountable for labor violations that are far too common in the industry."

U.S. garment workers experience the second-highest rate of wage theft of any group of workers in the country. Their numbers have also declined throughout the decades, falling from a height of 1.4 million in April 1973 to 91,200 as of August, even as apparel imports from China grew eightfold and the Asian superpower gained roughly 1.25 million jobs in apparel and apparel-adjacent manufacturing.

Gillibrand said that the U.S. garment industry now misses out on more than \$23 billion worth of clothing that is instead imported from China.

"Protecting the garment workforce has direct impacts on economic prosperity, environmental sustainability, and gender equality. It's time to take bold action at the federal level to change the fabric of the American garment manufacturing industry so we can protect these vital workers and not only make American, but buy American," she said.

If signed into law, the measure will create a new Undersecretary of Labor of the Garment Industry to oversee enforcement of its provisions. It will also establish a nationwide garment industry registry to ensure manufacturers and contractors operate according to minimum labor standards.

"It is unconscionable in 2023 that the makers of our clothes do not make enough to feed their families," said Ayesha Barenblat, CEO of Remake, a fashion advocacy group that is among the bill's 200 endorsers, including brands like Everlane, Mara Hoffman, Outerknown and Reformation.

Barenblat was one of a group of 80, including members of the Garment Worker Center in Los Angeles, garment workers and their children, who met with lawmakers on Capitol Hill this week to drum up support for the bill.

"Joining forces and voices, we made history by implementing SB 62 into California law, and now we want the same justice extended for all garment workers in all 50 states," said Cris, a garment worker from California with 20 years of experience. "We want justice for the workers in the garment industry. Because it is a worker's right to earn a fair wage. The FABRIC Act would make earning a living wage a possibility for workers across America."

Enedina, a garment worker in San Antonio, Texas, agreed.

"I would like to see the FABRIC Act pass and see fair wages for all garment workers," she said. "We need a law that protects fair labor wages. We need a guarantee of safe and respectful jobs because what we earn now sometimes doesn't even cover the basic necessities."

### **Link**

<https://sourcingjournal.com/topics/thought-leadership/canada-fighting-against-forced-labour-child-labor-supply-chains-act-tradebeyond-450141/>

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## Draft UN plastics treaty floats ban on chemicals and polymers of concern

Three options in text for limiting hazardous substances in plastic production



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A worldwide ban on chemicals and polymers of concern is one of the options under consideration in a just published draft global plastics treaty.

The move would have massive implications for some of the 13,000 substances currently used in plastic production. The UN Environment Programme (UNEP) published on 4 September the first draft of a new [global treaty](#) intended to advance efforts to eliminate plastic pollution by 2040.

The draft document, also known as the 'zero draft', marks the first time countries have put to paper what this should look like and comes ahead of the third round of talks in November. The aim is to finalise the treaty in 2024.

Requirements under it would funnel down to national and regional policy bodies, and ultimately affect companies that produce or use plastics, as well as those that make and supply chemical additives.

The draft says that parties to the treaty should "prevent and eliminate" the emissions of hazardous substances, including microplastics, into the air, soil, water and ecosystems.

To achieve that goal, the text outlines three options that will be discussed by countries in future.

Option 1 would bind nations "to not allow and to eliminate" chemicals and polymers of concern in plastic production.

Option 2 is less strict, mandating that countries "minimise" their use.

Either of these options would require producers and importers of chemicals and polymers of concern to disclose information on the chemical composition of all plastics and plastic products throughout their lifecycle, including their hazards to human health or the environment.

They would also need to "take appropriate measures to ensure the traceability of chemicals," as well as "establish marking and labelling requirements".

Option 3 is the least binding, leaving it up to countries themselves to regulate their presence and use. They would then share their strategy in individually developed national plans.

## **Defining 'chemical' and 'polymer'**

Irrespective of the option selected, its effectiveness will depend on the treaty's definitions. Potential criteria for the determination of chemicals and polymers of concern are included in a supporting document. They include:

- harmfulness to the environment and/or human health, including carcinogenic, mutagenic and reprotoxic chemicals, endocrine disruptors, or chemicals that are persistent, bioaccumulative and toxic to the environment;
- impeding recyclability or circularity for safe and high-quality secondary materials, including polymers that cannot be readily recycled and brominated flame retardants;

- risk of release, including due to slow or non-degradation in the environment, such as intentionally added microplastics;
- substances with ozone-depleting effects and global warming potential (GWP);
- 'polymers of high concern'; and
- potential migration/release from plastic products.

Break Free From Plastic, an environmental watchdog group, said the policy options for chemicals and polymers of concern are among the "most promising areas presented in the draft".

Von Hernandez, BFFP global coordinator, however, said that "as always, the devil will be in the details, specifically with regard to [...] the criteria that will need to be agreed upon to reduce and eliminate problematic polymers, plastic products and chemicals of concern."

### **Link**

<https://chemicalwatch.com/830477/draft-un-plastics-treaty-floats-ban-on-chemicals-and-polymers-of-concern>

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