

**PASSING THE BUCK ON RECYCLING:  
TEXTILES AS A CASE STUDY  
OF STATE EPR LAWS**

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WLF

**Washington Legal Foundation**  
Critical Legal Issues WORKING PAPER Series

Number 233  
February 2024



## TABLE OF CONTENTS

ABOUT OUR LEGAL STUDIES DIVISION .....	ii
ABOUT THE AUTHORS .....	iii
INTRODUCTION .....	1
I. WHAT’S DRIVING TEXTILE EPR LEGISLATION? .....	2
II. OVERVIEW OF CALIFORNIA’S RESPONSIBLE TEXTILE RECOVERY ACT OF 2024 .....	4
A. Purpose and Scope .....	4
B. RTRA Definitions .....	6
C. Obligations for Producers .....	8
D. PRO Obligations and the “Stewardship” Plan .....	9
E. Retailers, Online Marketplaces, and Others .....	10
F. Enforcement and Penalties .....	11
III. IMPLICATIONS OF CALIFORNIA’S TEXTILE EPR LAW AND BEYOND .....	12
CONCLUSION .....	16

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# **PASSING THE BUCK ON RECYCLING: TEXTILES AS A CASE STUDY OF STATE EPR LAWS**

## **INTRODUCTION**

Extended Producer Responsibility (EPR) is a regulatory approach that shifts responsibility for the end of a product's lifecycle—meaning the cost of disposal—away from local governments and consumers to producers or other businesses in the distribution chain. Goals are to reduce landfill waste, promote recycling and reuse, and encourage innovation in product design and disposal. The policy concept is not new; many states have long had EPR programs for diverse product categories, including electronics, mattresses, carpeting, paint, batteries, and more. Packaging EPR laws have been adopted in five states (California, Colorado, Maine, Minnesota, and Oregon) over the last four years, with more packaging EPR legislation expected to pass in 2025.

However, a new category—textiles—is now the focus of EPR legislation. Last year California became the first state to impose EPR obligations on producers of textile and apparel articles with the passage of the Responsible Textile Recovery Act of 2024 (RTRA or Act)<sup>1</sup>. RTRA is modeled on California's packaging EPR law, the Plastic Pollution Prevention and Packaging Producer

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<sup>1</sup> SB 707, <https://perma.cc/F7ZZ-44SQ>.

Responsibility Act (SB 54),<sup>2</sup> and just as packaging EPR legislation has spread from state to state, textile EPR legislation is already under consideration in more states.

EPR programs are distinct from efforts to prompt voluntary or mandatory environmental and social governance (ESG) reporting but have their roots in similar concerns. Just as pictures of plastic waste have helped catalyze adoption of packaging EPR legislation, the sheer volume of discarded apparel and textiles and criticism of environmental and other impacts of “fast fashion” seem to be a significant factor in this focus on textile waste. Below, we review international and domestic concerns over textile waste, provide an overview of California’s RTRA, and offer a few observations of the practical implications of RTRA and other EPR schemes on businesses. California’s RTRA will likely serve as a model for other textile EPR legislation in the U.S. Indeed, a textile EPR bill modeled on RTRA was introduced in Washington on January 20, 2025<sup>3</sup>, and a 2024 New York textile EPR bill was re-introduced in the state’s senate on January 24, 2025<sup>4</sup>.

## **I. WHAT’S DRIVING TEXTILE EPR LEGISLATION?**

Over the last several years, “fast fashion” has come into vogue. Fast fashion is pejoratively described as the rapid mass production of inexpensive

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<sup>2</sup> SB 54, <https://perma.cc/S3XN-5E89>.

<sup>3</sup> HB 1420, <https://lawfilesexternal.wa.gov/biennium/2025-26/Pdf/Bills/House%20Bills/1420.pdf?q=20250207145130>.

<sup>4</sup> S3217, <https://perma.cc/4L55-4KX5>.



clothing that takes advantage of fast-changing trends, but is often discarded after just a few wearings. Fast fashion has generated negative public attention because of alleged linkage to a proliferation of child labor and unsafe working conditions in the developing countries where it is typically produced. More recently, attention in both the U.S. and internationally has expanded to textile waste and its negative environmental effects, which reportedly worsen socio-economic issues and disproportionately affect developing countries, highlighting what some view as a growing environmental crisis.

Last year, National Geographic reported<sup>5</sup> that Chile’s Atacama Desert has become “one of the world’s fast-growing dumps of discarded clothes, thanks to ... fast fashion.” Greenpeace published a scathing report<sup>6</sup> on what it termed the “toxic impact of global textile waste in Ghana,” claiming that “[e]very week, approximately 15 million items of clothing are received in Ghana,” with “nearly half” of them unsellable. Many such items end up in informal dumpsites or burned in public warehouses, according to the report which, the group contends, contaminates air, soil, and water resources and creates a public health hazard.

According to the California Department of Resources Recycling and Recovery (CalRecycle or the Department), 1.2 tons of textiles are thrown away

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<sup>5</sup> Nat. Geographic, *Fast Fashion Goes to Die in the World’s Largest Fog Desert. The Scale is Breathtaking*, <https://perma.cc/M8LL-3MPF>.

<sup>6</sup> Greenpeace, *Fast Fashion, Slow Poison: New Report Exposes Toxic Impact of Global Textile Waste in Ghana*, <https://perma.cc/48E8-DB6F>.

in California every year, comprising about 3% of the state’s total landfill waste, and 85% of old clothes wind up in landfills.<sup>7</sup> According to the U.S. Environmental Protection Agency (EPA) data<sup>8</sup>, more than 17 million tons of textiles were generated in 2018. Only about 18% were recycled, more than 27% were incinerated, and more than 54% ended in landfills.

This confluence of concerns has prompted a focus on how to manage textile and apparel disposal, leading to the adoption of California’s RTRA.

## **II. OVERVIEW OF CALIFORNIA’S RESPONSIBLE TEXTILE RECOVERY ACT OF 2024**

### **A. Purpose and Scope**

The stated purpose of RTRA is “to increase the amount of postconsumer apparel and textile articles that are diverted from landfills and reused, repaired, and recycled into secondary products or otherwise managed in a manner that is consistent with the state’s hierarchy for waste management practices.”<sup>9</sup> Similar to other EPR laws built on a “producer pays” model, RTRA applies to “any producer, regardless of whether that producer is domiciled in California, who sells, offers for sale, or distributes a covered product into the state.”<sup>10</sup>

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<sup>7</sup> CalRecycle, <https://calrecycle.ca.gov/epr/textiles/>.

<sup>8</sup> EPA, *Advancing Sustainable Materials Management: Facts and Figures Fact Sheet*, <https://perma.cc/RC9N-CM82>.

<sup>9</sup> RTRA, § 42984.1(a).

<sup>10</sup> *Id.*

RTRA is modeled on California’s packaging EPR law, SB 54, so understanding California’s packaging EPR requirements will aid affected businesses in understanding RTRA.

In brief, California’s SB 54 requires covered “producers” of packaging to register with and join a Producer Responsibility Organization (PRO), a non-profit organization that must be approved by the state, to pay fees and report certain data to the PRO. Collectively, covered producers must meet certain metrics, like increasing the percentage of products that are recyclable or compostable and source reduction mandates, and, beginning in 2027, they must pay \$500 million a year for ten years to address plastic pollution. The Circular Action Alliance (CAA), founded in 2022 by producers representing the packaged food, beverage, consumer goods, and retail industries, is the PRO designated by California, Colorado, and Oregon to administer their state packaging EPR programs. State definitions of “covered producers” and other key terms vary widely, as do deadlines, substantive requirements, and exemptions. This is expected to create compliance challenges for national businesses subject to other packaging EPR laws. Another feature of packaging EPR laws is the imposition of an “eco-modulation fee,” designed to incentivize improvements in the environmental footprint of packaging. That trend is a harbinger of what textile and apparel companies are likely to face as EPR initiatives expand.

For many textile and apparel producers whose products are sold in California and in other states with other EPR laws, textile EPR obligations may be in addition to obligations under existing state packaging EPR laws if they apply to packaged textile/apparel items. Some producers may have to navigate compliance with multiple state EPR schemes. For example, producers of battery-powered heated gloves or socks may have to join multiple PROs to comply with textile, packaging, and battery EPR laws.

## **B. RTRA Definitions**

Like California’s SB 54, RTRA provides several important definitions, starting with the meaning of a “producer.” RTRA provides for cascading responsibility for “producers.” While the law makes the actual domicile of covered producers irrelevant, as a practical matter, responsible “producers” still have to be subject to California jurisdiction. Thus, responsibility starts with the “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 or into the state.”<sup>11</sup> If there is no such person in California, responsibility rolls down to the brand/trademark owner, and if that person is not in California, then the exclusive licensee, and if neither is in the state, responsibility goes to the entity that imports the covered product into California.<sup>12</sup> If there are no such entities, then responsibility for

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<sup>11</sup> *Id.*, § 4284.3(s)(1).

<sup>12</sup> *Id.*, § 4284.3(s)(2), (3).

compliance with RTRA goes to the distributor, retailer, or wholesaler who sells the product in or into California.<sup>13</sup> This tiered responsibility mirrors the “producer” definition in California’s packaging EPR law.<sup>14</sup>

Also similar to SB 54, RTRA specifies that a sale takes place in California if the covered product is delivered to a consumer in the state, meaning online sales shipped to Californians will be covered.<sup>15</sup> Sellers of second-hand products and those with “annual aggregate global turnover” of less than \$1 million are exempt.<sup>16</sup> Of note here as well is the reference to “aggregate global turnover,” a term seen in many EU legal instruments.

“Covered product” means “apparel” or “textile articles.” “Apparel” is defined as “clothing and accessory items intended for regular wear or formal occasions and outdoor activities,” and “includes only 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, and everyday uniforms for workwear.”<sup>17</sup> Although “includes only” appears intended as a limiting term, the reference to “accessories,” which is

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<sup>13</sup> *Id.*, § 4284.3(s)(4).

<sup>14</sup> *See* SB 54, § 42041(w).

<sup>15</sup> RTRA, § 4284.3(s)(5).

<sup>16</sup> *Id.*, § 4284.3(s)(8).

<sup>17</sup> *Id.*, § 4284.3(a)(1).

not a defined term, does create ambiguity about the scope of covered articles of “apparel.” Limited exceptions apply.

A “textile article” is defined as an “item customarily used in households or businesses that [is] made entirely or primarily from a natural, artificial, or synthetic fiber, yarn, or fabric.”<sup>18</sup> Again, some specific exceptions apply.

### **C. Obligations for Producers**

RTRA creates a number of obligations for covered producers and for the PRO, which, as with packaging EPR legislation, producers must form and join.

Producer responsibilities include:

- ✓ Forming a PRO and, upon approval of the PRO by CalRecycle, joining the PRO by July 1, 2026;
- ✓ Registering with the PRO, paying fees, providing records and information to the PRO, and otherwise complying with the PRO’s procedures and requirements; and
- ✓ Ensuring that the producer’s covered products are accounted for in the PRO plan, as approved by CalRecycle (i.e., a plan for “the collection, transportation, repair, sorting, recycling, and the safe and proper management of covered products in the state,” § 42984.8).

Upon approval of the PRO plan by CalRecycle, or starting on July 1, 2030, whichever is *sooner*, covered producers are subject to penalties if they have not joined the PRO or if all their covered products are not accounted for in the PRO plan.<sup>19</sup>

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<sup>18</sup> *Id.*, § 4284.3(ae)(1).

<sup>19</sup> *See id.*, § 42984.4.

Further, RTRA requires CalRecycle to pass regulations implementing the law. Within 30 days after the effective date of such regulations, either individual producers or the PRO must provide CalRecycle a list of brands of covered products that each producer sells, imports, or distributes in the state. That list must be updated and submitted to CalRecycle annually, by January 15 or upon CalRecycle's request.<sup>20</sup>

#### **D. PRO Obligations and the “Stewardship” Plan**

RTRA also creates many detailed obligations for the PRO. While a complete summary is beyond the scope of this paper, some noteworthy obligations include:

- ✓ By January 1, 2026, submit an application to CalRecycle. The Department must approve a PRO by March 1, 2026.<sup>21</sup>
- ✓ The approved PRO must prepare the initial statewide needs assessment, and submit it to CalRecycle by March 1, 2027, which the Department must approve or disprove within 90 days of submission.<sup>22</sup>
- ✓ The PRO must notify CalRecycle within 30 days of a producer's failure to pay a fee, or to provide records or information to the PRO, a producer's exit of the PRO, and any instance of noncompliance by a participating producer.<sup>23</sup>
- ✓ The PRO must “establish a method for fully funding the PRO in a manner that distributes the program's costs among participating producers that reflects sales volumes and the eco-modulated fee criteria.” It must also cover CalRecycle's implementation and

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<sup>20</sup> *Id.*, § 42984.5.

<sup>21</sup> *Id.*, § 42984.6(a).

<sup>22</sup> *Id.*, § 42984.6(b).

<sup>23</sup> *Id.*, § 42984.7(f).

enforcement costs, which will be deposited in the state's newly established Textile Stewardship Recovery Fund.<sup>24</sup>

Extensive planning and work (not to mention funding) will be required in 2025 to form the PRO by the end of the year.

Within 12 months after the effective date of CalRecycle's regulations implementing RTRA, the PRO must submit to the Department a stewardship plan "for the collection, transportation, repair, sorting, recycling, and the safe and proper management of covered products in the state." Like California's packaging EPR law, RTRA provides that the PRO plan must meet multiple detailed requirements, too numerous to list in this paper. A complete plan must be approved by CalRecycle by July 1, 2030, and the PRO must begin implementation within three months, with full implementation within 12 months after approval.<sup>25</sup>

### **E. Retailers, Online Marketplaces, and Others**

As noted above, the definition of "producers" includes a fallback provision holding "the distributor, retailer, or wholesaler who sells the product in or into the state" responsible for compliance with RTRA if the manufacturer, brand owner, or licensee is not located in California.<sup>26</sup> Industry organizations have expressed concerns over the potential impact of this provision in holding entities accountable for products they do not manufacture. It is also unclear

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<sup>24</sup> *Id.*, § 42984.13.

<sup>25</sup> *Id.*, §§ 42984.8–10.

<sup>26</sup> *Id.*, § 4284.3(s)(4).



whether online marketplaces are covered by this fallback provision.

RTRA also imposes further obligations on retailers, importers, and distributors, as well as on online marketplaces directly. For example, they are required to “monitor the department’s internet website where compliant producers are posted” and prohibited from selling products from a producer that is not listed on CalRecycle’s website.<sup>27</sup> If a retailer, importer, distributor, or an online marketplace wants to sell covered products from an unlisted producer, it must “fulfill the [RTRA] obligations for those covered products.”<sup>28</sup>

Separately, online marketplaces are required to notify CalRecycle and the PRO each year “of all third-party sellers with sales of covered products over one million dollars (\$1,000,000) sold on their online marketplace in the preceding year.”<sup>29</sup> If a seller does not have sales in California during the preceding year, CalRecycle need not be notified, but the requirement to notify the PRO appears to remain.<sup>30</sup>

## **F. Enforcement and Penalties**

Within 12 months after the effective date of CalRecycle’s regulations implementing RTRA, and by July 1 of each year thereafter, CalRecycle must post on its website a list of producers that are *in compliance* with RTRA.<sup>31</sup>

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<sup>27</sup> *Id.*, § 4284.20(c).

<sup>28</sup> *Id.*, § 4284.20(d).

<sup>29</sup> *Id.*, § 4284.27(a)(1).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*, § 42984.20.

This is the reverse of a similar requirement in California’s packaging EPR law, which requires CalRecycle to post on its website “a list of covered material categories..., by producer, that are *not* in compliance” with that law.<sup>32</sup> The inconsistency may create confusion in the marketplace, particularly as states continue to enact EPR laws, and it becomes difficult to track whether a producer’s presence on any particular regulator’s list indicates compliance or noncompliance with a law.

A violation of any provision of RTRA may lead to an administrative civil penalty of \$10,000 per day, and, if the violation is intentional or knowing, up to \$50,000 per day. In assessing penalties, CalRecycle must consider a list of enumerated factors, as well as “any other factor that justice may require.”<sup>33</sup> Entities must provide records to determine compliance with the law upon the Department’s request and under penalty of perjury.<sup>34</sup>

### **III. IMPLICATIONS OF CALIFORNIA’S TEXTILE EPR LAW AND BEYOND**

Although RTRA obligations do not kick in until 2026, as noted above, it is not too early for apparel and textile manufacturers, as well as retailers, distributors, and online marketplaces, to consider the law’s application and start preparing for compliance. As the definitions and provisions outlined

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<sup>32</sup> See SB 54, § 42082(a) (emphasis added).

<sup>33</sup> RTRA, § 42984.21.

<sup>34</sup> *Id.*, § 42984.23.

above demonstrate, the Act may have far-reaching implications not only for manufacturers and brand owners but also for other entities in the distribution chain.

Businesses may want to start thinking about which textile and apparel products would be in scope, and how responsibility for those products' compliance should be allocated. Commercial relationships may need to be renegotiated and contracts redrawn to account for compliance with RTRA and other EPR laws. For example, RTRA “does not prohibit a person who manufactures, distributes, imports, offers for sale, or sells the covered product from assuming some or all of the duties and liabilities of the producer of the covered product.”<sup>35</sup> Businesses that are or may become covered “producers” may want to give thought to the types of data that would have to be collected and reported to the PRO, and the policies and processes that need to be developed for compliance. Retailers and online marketplaces should consider their monitoring and reporting obligations concerning third-party sellers on their platforms. Companies should also keep an eye out for CalRecycle’s implementing regulations, which may clarify (or further confound) RTRA’s scope and application, as well as impose additional operational requirements.

CalRecycle has already announced it will hold a workshop on July 2025, to review RTRA, including PRO requirements and the rulemaking process, and

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<sup>35</sup> *Id.*, § 42984.3(s)(6).

to address questions from attendees.<sup>36</sup> With deadlines starting in January 2026, even with the benefit of this regulatory workshop, affected companies will have a short compliance runway.

In addition to navigating compliance obligations and costs under RTRA, companies should consider their obligations under existing packaging EPR laws. In some jurisdictions, companies that are not subject to textile EPR obligations may still be subject to packaging EPR obligations. Upcoming deadlines include the March 31, 2025 Oregon deadline for covered producers to “pre-register” to report data to CAA, including for example, data about the number, weight, and material categories of all covered items purchased by consumers or businesses in the state in 2024, although the actual reporting deadline for Oregon is July 1, 2025. CAA has been trying to sign up as many producers as possible, as early as possible, to collect necessary data to understand the scope of EPR packaging obligations and estimate related fees. For textile and apparel manufacturers that sell in California utilizing single-use packaging, this means that they will have to gather required packaging data for reporting under SB 54, while also preparing for compliance with RTRA.

Finally, the recently introduced textile EPR bill in Washington<sup>37</sup> and the re-introduced textile EPR bill in New York<sup>38</sup> appear to confirm that RTRA is

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<sup>36</sup> See CalRecycle, *Public Meeting Notice: Textile Stewardship Informational Workshop*, <https://www2.calrecycle.ca.gov/PublicNotices/Details/6654>.

<sup>37</sup> See *supra*, n.3.

<sup>38</sup> See *supra*, n.4.

unlikely to remain the only such law for long. As new bills pass and become laws, manufacturers, brand owners, retailers, distributors and others may soon have to navigate a web of state definitions and obligations that may not only differ but also conflict in significant ways.

Words matter when it comes to legislation and regulations. Consider, for example, the definition of “apparel.” The California definition “includes only” enumerated items. The proposed New York definition, in contrast, is broader, expressed as “including, but not limited to,” a list of textile and apparel items. The Washington bill uses yet another qualifier, “includes,” without either the “only” or the “not limited to” language. The lists of covered “apparel” items also differ between RTRA and pending bills. For example, California and Washington list “handbags, backpacks, knitted and woven accessories,” but these products are not expressly included in the New York list (though they may be covered via the broad “including, but not limited to” framing). As for covered entities, the Washington bill, like RTRA, includes “the distributor, retailer, or wholesaler” in the definition of producer, but the New York bill does not. Unlike California and Washington, however, New York contemplates applying its textile EPR scheme to a person “who renovates a covered product” sold in the state. Further, the New York bill does not even mention “online marketplaces,” but the Washington bill imposes much of the same obligations on online marketplaces that California’s RTRA does.

Should the proposed New York and Washington bills become law, a company may be covered by one, two, or all three laws and may have different obligations under the different state schemes depending on their product portfolio. In addition to anticipated confusion and uncertainty among producers, proliferating (and inconsistent) state EPR laws will undoubtedly create significant marketplace confusion. For example, retailers, distributors, and online marketplaces may have to decipher whether a producer's presence on a state regulator's list indicates compliance or noncompliance with the particular EPR law, and whether a producer's absence from a list indicates compliance or non-compliance or simply means that the company is not a covered entity under the specific state law.

## **CONCLUSION**

EPR schemes are likely here to stay, and we expect them to grow in both geographic scope and industries covered. While the concept of “producer pays” is at the heart of EPR laws, costs will inevitably be passed down to consumers, and inconsistency and complexity will add costs to the system. Textile companies considering the new obligations under RTRA should monitor not just textile EPR developments but also developments in packaging and other EPR schemes in 2025 and beyond. As reporting and financial obligations for packaging take effect in California, Colorado, and Oregon, these rollouts will undoubtedly affect how businesses think about and prepare for these and other EPR schemes. Businesses should also evaluate how these

developments affect industry advocacy strategies in response to the proliferation of EPR laws, striving for solutions that address the pollution reduction goals behind EPR laws while maintaining choice and avoiding unreasonable costs.