

California's Trash Talk

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The registration deadline for apparel and textile producers under the state's new Extended Producer Responsibility (EPR) law is July 1, 2026.

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Under the Responsible Textile Recovery Act of 2024, which aims to make textile and apparel producers responsible for the cost of consumer textile and apparel waste, all producers of covered products in California must register with the state-selected Producer Responsibility Organization (PRO) by July 1. The PRO is responsible for overseeing textile waste collection, implementing appropriate waste management and processing infrastructure, and representing members before regulatory authorities, among other activities.

The law contains sweeping definitions of apparel and textiles; the sale of a covered product is deemed to occur in California if the product is delivered to the consumer in the state.

For many fashion businesses, compliance with the new law requires a careful analysis of the cascading definition of "producer." Specifically, the law defines as "producer" any "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." If there is no such person in California, then the producer "is the owner of a brand or trademark or, if the owner is not in the state, 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." In the absence of a brand owner or exclusive licensee in California, the producer "is the person that imports the covered product into the state for sale or distribution," and, failing that, the producer is the "distributor, retailer, or wholesaler who sells the product in or into the state."

The law provides a carve-out for entities (including affiliates) with under $1 million in annual global turnover and for exclusive sellers of secondhand apparel or textiles, while allowing any producer identified within the definition to assume producer responsibility, thereby "relieving from those duties and liabilities any other person who manufactures, distributes, imports, offers for sale, or sells the covered product." Fashion businesses, therefore, may need to revisit their licensing and distribution agreements to explicitly assign producer responsibility to one entity along the California supply chain.

Each year, the California Department of Resources Recycle and Recovery (CalRecycle) will post a list of compliant producers, detailing the reported brands of covered products for each. Retailers, importers, distributors and online marketplace providers are tasked with monitoring the list of compliant producers and are prohibited from selling, distributing, offering for sale or importing a covered product into California, "unless the producer of the covered product is listed as in compliance pursuant to this section for that brand and covered product."

Civil penalties for noncompliance are stiff: CalRecyle can impose sanctions of $10,000 per day for violations of any provision of the law, or as much as $50,000 per day for intentional or knowing violations. In assessing civil penalties, CalRecyle will consider factors such as the nature and extent of a violation, the economic effect of the penalty, the violator's good faith attempts at compliance, the willfulness of the noncompliance and the deterrent effect of a penalty.

CalRecycle selected Landbell USA as the PRO earlier this year — other candidates were the Circular Textile Alliance and the Textile Renewal Alliance. Landbell USA is the US subsidiary of the German Landbell Group, which helps global businesses comply with environmental regulations.

In late March, the American Apparel & Footwear Association (AAFA), a trade organization that counts over 1,100 members, filed a petition in Sacramento County Superior Court, asserting that CalRecycle's designated PRO fails to meet statutory requirements and seeking a preliminary injunction. Specifically, the AAFA asserts that Landbell USA, as the subsidiary of a foreign for-profit entity, is not truly a US nonprofit organization and is not formed by producers.

A hearing is slated for August 7, but in the interim, producers remain subject to the law's registration deadline.

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