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## **STANDING LEGISLATIVE COMMITTEE MEETING**

### **AGENDA**

**MAY 17, 2024 – 1:00 P.M.**

RecycleSmart  
1850 Mt. Diablo Blvd., Ste. 320  
Walnut Creek, CA 94596

1. **CALL TO ORDER**

2. **PUBLIC COMMENT ON ITEMS NOT ON THIS AGENDA**

When addressing the Committee, please state your name, company and/or address for the record. There is a three-minute limit to present your information. (The Committee Chair may direct questions to any member of the audience as appropriate at any time during the meeting.)

3. **CONSENT ITEM**

a. Approve Minutes of the Standing Legislative Committee Meeting on April 12, 2024\*

4. **ACTION ITEM**

a. Update on 2024 Legislation Bills\*

Review and discuss developments in 2024 legislation and if appropriate direct Staff to present recommendations to the Board at a future meeting for potential action.

5. **COMMITTEE COMMUNICATIONS AND ANNOUNCEMENTS**

6. **ADJOURNMENT**

**ADDRESSING THE COMMITTEE ON AN ITEM ON THE AGENDA**

Persons wishing to speak on PUBLIC HEARINGS and OTHER MATTERS listed on the agenda will be heard when the Chair calls for comments from the audience, except on public hearing items previously heard and closed to public comment. The Chair may specify the number of minutes each person will be permitted to speak based on the number of persons wishing to speak and the time available. After the public has commented, the item is closed to further public comment and brought to the Board for discussion and action. There is no further comment permitted from the audience unless invited by the Board.

**ADDRESSING THE COMMITTEE ON AN ITEM NOT ON THE AGENDA**

In accordance with State law, the Committee is prohibited from discussing items not calendared on the agenda. For that reason, members of the public wishing to discuss or present a matter to the Committee other than a matter which is on the Agenda are requested to present the matter in writing to RecycleSmart Board Secretary at least one week prior to a regularly scheduled Board meeting date. If you are unable to do this, you may make an announcement to the Committee of your concern under PUBLIC COMMENTS. Matters brought up which are not on the agenda may be referred to staff for action or calendared on a future

**AMERICANS WITH DISABILITIES ACT**

In accordance with the Americans With Disabilities Act and California Law, it is the policy of the Central Contra Costa Solid Waste Authority dba RecycleSmart to offer its public meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require special accommodations to participate, please contact RecycleSmart Board Secretary at least 48 hours in advance of the meeting at (925) 906-1801.



**MINUTES OF THE  
STANDING LEGISLATIVE COMMITTEE MEETING  
OF THE CENTRAL CONTRA COSTA SOLID WASTE AUTHORITY  
HELD ON APRIL 12, 2024**

The meeting of the Standing Legislative Committee of the Central Contra Costa Solid Waste Authority (CCCSWA) convened at 1850 Mt. Diablo Boulevard, Suite 320, Walnut Creek, County of Contra Costa, State of California, on April 12, 2024. Committee Chair Cindy Silva called the meeting to order at 3:00 P.M.

**1. CALL TO ORDER AND ROLL CALL**

PRESENT: Committee Members: John McCormick  
Janet Riley  
Cindy Silva, Chair  
Renata Sos

ABSENT: Committee Members: Candace Anderson  
Newell Arnerich

**Staff members present:** David Krueger, Executive Director; Janna McKay, Executive Assistant/Secretary to the Board; and Jennifer Faught, Contract Compliance Specialist.

**2. PUBLIC COMMENT ON ITEMS NOT ON THIS AGENDA**

No written comments were submitted, or oral comments made, by any member of the public.

**3. CONSENT ITEM**

a. Approve Minutes of the Standing Legislative Committee Meeting on April 17, 2023

MOTION by Chair Silva to approve the minutes of the Standing Legislative Committee meeting on April 17, 2023, as submitted. SECOND by Committee Member Sos.

MOTION PASSED unanimously by a voice vote.

**4. ACTION ITEM**

a. 2024 Legislative Bills

Review and discuss 2024 legislation and direct staff to present Committee's recommendations to the full Board at the April meeting for potential action.

Jennifer Faught, Contract Compliance Specialist, referred to the large number of relevant pieces of legislation to review this year (2,100+) and explained that she had whittled that number down to 20 for review by the Legislative Committee.

Ms. Faught referred to the inverted pyramid waste management hierarchy put out by the Environmental Protection Agency (EPA), which ranked waste management approaches from the most desirable for the environment to the least desirable option for the environment. She noted that RecycleSmart normally handled recycling, composting and landfill but it had mature programs and relatively stagnant diversion numbers, and it was interested in more upstream solutions to waste management. Many of the bills had to do with upstream source reduction type waste management approaches.

Joanne Brasch, Director of Advocacy and Outreach, California Product Stewardship Council (CPSC), was present at the meeting through Zoom. She presented a graphic to show the true Extended Producer Responsibility (EPR) Waste Program, a program not funded or run by local government, although local government was tacked into the program through reimbursement or encouraging residents to use the program. She emphasized that zero money came out of public money.

Ms. Brasch noted variations from the established EPR model and referred to the process and programs related to carpets, paint, and mattresses as established programs that were not EPR but the producers were still involved, ran the program and reduced the burden from local governments. She reported there were now 16 EPRs in California over the last 15 years, each slightly different. Such things as batteries, pharmaceuticals, and packaging were true EPRs with zero public money into the program.

Ms. Brasch stated with respect to deadline, that if the bill was in the second house and met the February deadline, the next deadline may be to get out of appropriations. But if not fiscal, the next deadline would be in June. The objective of the Legislative Committee would be to make recommendations to the RecycleSmart Board of Directors to meet the deadlines.

The Legislative Committee reviewed the following waste reduction and recycling bills presented for consideration.

**AB 2 (Solar Panel End-of-Life Management)**, a recycling bill that would create an EPR program for solar panel recycling, sponsored by CPSC and supported by Cal Cities. RecycleSmart had supported AB 2 last year in concept. It was clarified that the bill had been changed to cover only customer-owned panels.

Ms. Brasch reported the amendments had not yet gone public but in the next few weeks they should be. She described an intensive year of negotiations with DTSC (Department of Toxic Substances Control), CalRecycle and the solar industry but it was now at the point of agreement pending technical assistance from DTSC to clarify and strengthen what the agencies wanted.

By consensus, the Legislative Committee **SUPPORTED IN CONCEPT AB 2.**

**SB 615 (Electric Vehicle Traction Batteries)**, would create an EPR program for vehicle batteries, an obligation on vehicle manufacturers, dealers, automobile dismantlers, automotive repair dealers, and nonvehicle secondary users to be responsible for end-of-life management of electric vehicle traction batteries once removed from a vehicle.

Ms. Faught noted there had been a Lithium-ion battery recycling group that had created a report in 2020 stating this would be a good idea to deal with an influx of old car batteries. The bill was supported in concept by Cal Cities, and had been supported in concept by RecycleSmart last year.

In response to the question of whether it was okay to encompass the secondary use aspect of the bill, Ms. Brasch stated her group supported the bill, understood there was new language and it was consistent with the technical assistance CalRecycle was reporting out. She noted the new language in the bill was being circulated to make sure stakeholders were on board before going public.

By consensus, the Legislative Committee **SUPPORTED IN CONCEPT SB 615.**

**SB 707 (Responsible Textile Recovery Act of 2023)**, would require the establishment of a stewardship program for the collection and recycling of covered textiles, as defined.

Ms. Brasch referred to numerous print articles about the clothing in the Atacama Desert in Chile that was visible from satellites. She noted that people leaned on thrifts and secondhand but that somewhat identified everything as reuse, although it was just dumping in second markets. The dumping was bigger than CalRecycle had estimated. Through intensive negotiations, the language that had come out was input from brands, water groups, and protection of natural fibers versus synthetics. She referred to a new structure and a new format for EPR rules. She identified the multiple endorsements for the bill with about 15 recognizable major brands, and noted that endorsements had come about because there were EPRs in Sweden that had been very successful and SB 707 was probably the most business friendly of all the EPRs.

In response to questions, Ms. Brasch defined textile as apparel (as defined by the trades), with sub product types, and stated the CPSC had attempted to limit the list to exclusively include such things as beds, linen, curtains but did not include furniture, toys, blinds. Upholstery, if on a bolt and unused, or on furniture, was not in the program, but if there were loose textiles there would be no idea where it came from. She added that loose upholstery would technically be called a free rider. Products not on the list were not acceptable in the program.

By consensus, the Legislative Committee **SUPPORTED SB 707.**

**AB 660 (Food labeling: quality dates, safety dates and sell by dates)**, had been supported by RecycleSmart last year, although Ms. Faught referred to a rumor that AB 660 might not be moving forward. She commented that “use by” and “best by” had utility but “sell by” was confusing because it was not meant to function as an expiration date although customers used it as an expiration date.

Ms. Brasch stated it had been determined to be easier to start fresh, and it had been reintroduced but it would probably not move forward.

By consensus, the Legislative Committee designated **AB 660 as a WATCH.**

**SB 1280 (Solid Waste EPR)**, a ban on the sale of single-use propane cylinders, which had been supported by RecycleSmart last year. Cal Cities still supported it, as did the CPSC.

By consensus, the Legislative Committee **SUPPORTED SB 1280**.

**SB 1384 (Powered Wheelchair Repair)**, would be the right to repair for powered wheelchairs, similar to the right to repair considered last year, where original equipment manufacturers had to make parts and manuals available for independent repair shops or owners. That bill had been vetoed last year because there had been a provision to prohibit the prior authorization that Medi-Cal required for certain repairs to wheelchairs. That provision had been left out this time.

By consensus, the Legislative Committee **SUPPORTED SB 1384**.

**AB 1238 (Solar Panels)**, meant to help facilitate what was intended to be accomplished with AB 2. When there were hazardous waste components, the intent was to keep recycling solar panel businesses in California and make it easier to keep them out of the landfill instead of being sent to Texas to be recycled.

Ms. Brasch stated AB2 had a consumer fee so it was public money and most of the processing had to happen in California if it was public money. As a companion bill, if AB2 passed, the desire was to have California processors get the bill. DTSC technical assistance was pending.

Ms. Faught also explained, when asked about the requirement that CalRecycle develop alternative management standards, that alternative management standards was something in between hazardous waste and universal waste. The idea was that solar panels were not appropriate for either category and it created a middle ground for handling them. Ms. Brasch offered that she did not know why DTSC would not be the proper agency to make the regulations but commented that CalRecycle had done the same thing in the past for treated wood waste. This would be just for solar panels in California. CalRecycle would be getting technical assistance from DTSC to make sure it was done properly.

By consensus, the Legislative Committee **SUPPORTED AB 1238 IN CONCEPT**, to avoid conflicts with AB 2.

**SB 1053/AB 2236 (Reusable Grocery Bags)**, two companion bills in both houses to eliminate the ability to use thicker plastic bags and call them reusable. Cal Cities had taken a watch position.

On the discussion, Committee Members noted that the City of Lafayette was on record in support, Sustainable Rossmoor also supported it as did the CPSC and the California Grocers Association.

By consensus, the Legislative Committee **SUPPORTED SB 1053 and AB 2236**.

**SB 1167 (Single-Use Drinking Vessels)**, would prohibit chain restaurants from providing single-use drinkware to customers who were consuming their beverage on the premises, with reusable cups and mugs just for drinking, just for chain restaurants, and just for customers who would be consuming their beverage on site. A similar bill last year did not move forward.

Chair Silva noted her objection to the bill consistent with her objection last year in that restaurants that were primarily take away restaurants and customers could still sit in may not have the equipment or the staff to wash dishes, and they may not be able to meet the Health Department requirements for how to wash dishes, or for the storage needed for the necessary drinkware.

Ms. Brasch stated the Legislature was trying to find ways to reduce food ware and CPSC had endorsed the bill even though there were certain questions. She explained it was a new bill not introduced last year and sometimes those types of legislation took multiple years. She stated anything for reuse would be better than the alternative, but enforcement was really loose.

Committee Member Sos wanted to know more about the consequences. She pointed out that the legislation stipulated that restaurants must serve beverages to consumers on site in reusable containers while the staff report indicated that the legislation would prohibit chain restaurants from providing single-use drinkware on site, which were different.

Ms. Faught read the actual language from the bill.

Chair Silva could not support the bill and supported a watch given consequences that were colliding in the restaurant business; Committee Member Sos was also not comfortable supporting the legislation; Committee Member Riley was comfortable with it and wanted to push for the change; and Committee Member McCormick could accept a watch position.

By consensus, the Legislative Committee designated **SB 1167 as a WATCH.**

**AB 2346 (Procurement of Recovered Organic Waste Products)**, would provide additional procurement options for local jurisdictions to meet their SB 1383 requirements.

By consensus, the Legislative Committee **SUPPORTED AB 2346.**

**AB 2577 (Organic Waste Reduction Regulations)**, food labeling that would require CalRecycle to include product labeling requirements that reduced food waste in existing edible food recovery efforts.

Committee Member Sos had concerns as to whether Cal Recycle was the right agency to regulate that activity.

Ms. Faught stated that the CPSC supported the legislation, and Cal Cities designated it as a watch.

Committee Member Silva suggested there were competing priorities; protecting the public health, taking something not selling to reuse through the food stream through something like Pony Express, but the wrong date could kill people and an early date could move products. She described it as a huge balancing act and she also questioned whether CalRecycle was the appropriate regulating body.

Ms. Faught identified those groups in support, and noted one in opposition.

By consensus, the Legislative Committee designated **AB 2577 as a WATCH.**

**SB 972 (Methane Emissions)**, the Bill would require CalRecycle, CARB and the California Environmental Protection Agency to hold at least two joint meetings per calendar year to coordinate their implementation efforts to accomplish the goals within SB 1383.

By consensus, the Legislative Committee **SUPPORTED SB 972**.

**AB 2311 (Greenhouse Gas Reduction Fund)**, would expand existing CalRecycle grants to include eligibility for transportation for edible food recovery projects.

By consensus, the Legislative Committee **SUPPORTED AB 2311**.

**AB 2762 (California Reusable Beverage Container Act)**, would establish the Act to encourage manufacturers and distributors of beverages sold in California to reduce the sale of beverages in single-use beverage containers and increase the amount of reusable beverage containers. The timeline was for not less than 5 percent reduction by January 1, 2031; not less than 10 percent reduction by January 1, 2033 and not less than 25 percent reduction by January 1, 2035.

Ms. Brasch stated it might be one of those bills that took multiple years to pass. It was supported by CPSC, and was a watch by Cal Cities.

Committee Members were interested in learning more about the legislation.

By consensus, the Legislative Committee **SUPPORTED AB 2762 IN CONCEPT**.

**AB 863 (Carpet Stewardship Organizations)**, would increase potential penalties on CARE from \$10,000 to \$50,000 per day as well as stipulate that repeated violations would render a stewardship organization ineligible to continue operating.

The CPSC supported the legislation as did Cal Cities.

By consensus, the Legislative Committee **SUPPORTED AB 863**.

The next two pieces of legislation were related to the Brown Act and open meeting, teleconferencing regulations intended to offer more flexibility. Both were intended to modernize the Brown Act, and most of the provisions of both would expire on January 1, 2026.

**AB 817 (Open Meetings/Teleconferencing)**, would authorize a subsidiary body, as defined, to use similar alternative teleconferencing provisions and would impose requirements for notice, agenda and public participation, as prescribed.

**SB 537 (Open Meetings/Multijurisdictional, Cross-county Agencies)**, would allow multi-jurisdictional, cross-county local agencies with appointed members to teleconference without meeting all the teleconferencing requirements of the Brown Act, and would add to the “just cause” conditions allowing a member to use alternative teleconferencing.

It was reported that Cal Cities had sponsored AB 817 and supported SB 537, although there was some opposition by the media and one opposed by the Americans Civil Liberties Union (ACLU).



By consensus, the Legislative Committee **SUPPORTED AB 817 and SB 537.**

The next two bills were sponsored by the National Stewardship Action Council, the CPSC supported both in concept, and both had Cal Cities support.

**SB 1066 (Marine Flares)**, would establish an EPR for the financing and collection of unwanted or expired marine flares, shifting the cost of managing this product from local ratepayers to the industry responsible for producing them.

By consensus, the Legislative Committee took **NO POSITION on SB 1066 and removed it from the list.**

**SB 1143 (Household Hazardous Waste)**, would establish an EPR for Household Hazardous Waste (HHW), which would be charged with financing operations and proper disposal.

Ms. Brasch stated SB 1066 was a first year EPR bill, and EPR bills never passed the first year. She noted that the CPSC supported in concept because it thought the bill could be stronger to push on a few areas such as education and reuse on source reduction and collection convenience. She described it as a good bill and a good solution and wanted to push the author to make it great.

It was noted that SB 1143 was a huge problem affecting RecycleSmart.

By consensus, the Legislative Committee **SUPPORTED SB 1143.**

Ms. Faught referred to an additional bill, **SB 1426** (“Ridwell Bill”), which would, through the Public Resources Code, allow others to collect organics and recyclables if there was no exclusive franchise to do that collection. It was noted that the bill was being pursued by Ridwell, a specialty recyclable material collector. She suggested a watch was the proper position to take. Cal Cities’ position was pending.

Executive Director Krueger explained that right now local government could grant an exclusive franchise and SB 1426 would indicate that if not recycling an item, Ridwell or someone else could charge for recycling that item.

The Legislative Committee had mixed feelings about the legislation and by consensus designated **SB 1426 as a WATCH.**

Chair Silva recommended consideration of another piece of legislation, **AB 2632** by Assemblymember Lori Wilson of Solano County, about thrift stores where the bill stipulated could not be treated differently from regular retailers, although the proponent was Savers, a for-profit. The concern would be with the size of the store, noise and disposal.

By consensus, the Legislative Committee designated **AB 2632 as a WATCH.**

MOTION by Committee Member Sos to recommend **Support in Concept for AB 2, SB 615, AB 1238 and AB 2762** to the Board of Directors for approval. SECOND by Committee Member McCormick.

MOTION PASSED unanimously by a voice vote.

MOTION by Committee Member Sos to recommend **Support for SB 707, SB 1280, SB 1384, SB 1053, AB 2236, AB 2346, SB 972, AB 2311, AB 863, AB 817, SB 537, and SB 1143** to the Board of Directors for approval. SECOND by Committee Member Riley.

MOTION PASSED unanimously by a voice vote.

MOTION by Committee Member Sos to recommend a **Watch for AB 660, SB 1167, AB 2577, SB 1426 and AB 2632** to the Board of Directors for approval. SECOND by Committee Member McCormick.

MOTION PASSED unanimously by a voice vote.

MOTION by Chair Silva to recommend **No Position and to Remove SB 1066 from the List** to the Board of Directors for approval. SECOND by Committee Member Riley.

MOTION PASSED unanimously by a voice vote.

The Committee discussed the California Business Roundtable support of the Taxpayer Protection Act, the ballot measure that would amend the state constitution by defining all state and local levies, charges and fees as taxes and went to the ability of local jurisdictions and the state to get to an analysis of where local jurisdictions were impacted.

The Committee discussed the proposed ballot measure, the potential impacts to RecycleSmart and its member agencies, the pros and cons of taking a position on the ballot measure, and whether or not to ask Legal counsel to identify the potential impacts.

Given the complicated issue, Committee Member Sos asked if RecycleSmart was willing to take a position on behalf of the member agencies, and the discussion questioned whether or not it would make a difference to do so. The Committee discussed the potential impacts, consequences and actions that could be considered and whether any action should be considered. A second meeting of the Legislative Committee was recommended to continue the discussion when more information might be available, potentially in a month and prior to the May Board meeting. Checking with similar agencies to determine if there was a similar concern elsewhere was recommended.

The Committee thanked staff for the legislative information.

Chair Silva commented that Danville, Orinda and Lafayette had already taken a position on the Taxpayer Protection Act.

## **5. COMMITTEE COMMUNICATIONS AND ANNOUNCEMENTS**

There were no Committee communications or announcements.

**6. ADJOURNMENT**

There being no further business to come before the Committee, Chair Silva adjourned the meeting at 5:00 P.M. to the next meeting to be determined.

Respectfully submitted by:

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Janna McKay, Executive Assistant/  
Secretary to the Board of the  
Central Contra Costa Solid Waste Authority,  
County of Contra Costa, State of California





Central Contra Costa Solid Waste Authority

# Agenda Report

**TO:** CCCSWA LEGISLATIVE COMMITTEE  
**FROM:** DAVID KRUEGER, EXECUTIVE DIRECTOR  
JENNIFER FAUGHT, CONTRACT COMPLIANCE SPECIALIST  
**DATE:** MAY 17, 2024  
**SUBJECT:** UPDATE ON 2024 LEGISLATION

## SUMMARY

The Legislative Committee met April 12 to discuss bills pending in the legislature and a potential ballot measure that would affect the way local and state government assess taxes and charge fees. There are updates on four bills from the list of the Authority's Support in Concept and Watch bills. Regarding the ballot measure, at this time no other JPAs have taken a formal position, but some might. Also, staff submitted comments on the SB draft regulations to CalRecycle on May 8.

## RECOMMENDED ACTION

1. Review and discuss developments in 2024 legislation and if appropriate direct Staff to present recommendations to the Board at a future meeting for potential action.

## DISCUSSION

### Bills

The Legislative Committee met April 12 to discuss a number of pending bills in the legislature this year. The Committee recommended, and the Board approved, supporting eleven bills, supporting "in concept" four bills, and watching five bills. The eleven supported bills are still progressing through the legislative process and have not changed significantly. Of the bills being supported in concept, three have not changed since the Committee last met, and one has been amended (AB 2762). The text of the amended bill and the committee analysis are attached in Attachment B. Of the bills being watched, one has not changed at all since the Committee last met, two have failed to get out of committee and are now dead, and one has been amended (AB 2632). The text of the amended bill and the committee analysis are attached in Attachment C. A list of the updated bills appears in Attachment A.

### Ballot Measure

A measure entitled the Taxpayer Protection and Government Accountability Act may appear on the November 2024 ballot. Staff asked other Bay Area waste management joint powers authorities (StopWaste, Zero Waste Sonoma, ReThink Waste, RecycleMore, and ReGen Monterey) if they were taking a position on the measure. None has taken a position, but if the Supreme Court fails to remove the measure from the ballot, ReThink Waste and Zero Waste Sonoma have indicated that they may take a formal position.

SB 54 Comments

For the Committee's information, staff submitted comments to CalRecycle on the SB 54 draft regulations by the May 8 deadline. Attachment D is a copy of the comments. In related news, the Governor appointed Zoe Heller as the Director of CalRecycle. The position requires Senate confirmation.

ATTACHMENTS

- A. Updates on four bills
- B. Text and analysis for AB 2762
- C. Text and analysis for AB 2632
- D. SB 54 comment letter to CalRecycle, dated May 8

## Update on Legislative Bills

Bill	Author	Description	Status
<b>Support in Concept</b>			
<b>AB 2762</b>	<b>Friedman</b>	<p><b>Reusable Beverage Container Act.</b> Would establish gradual targets for beverage manufactures to reach for increasing the use of reusable beverage containers, as well as stipulate the creation of a Reusable Beverage Container Managed System to oversee, govern, and facilitate reuse across industry stakeholders.</p> <p>Amended April 24 to extend time for compliance.</p>	<p>Passed Assembly Natural Resources Committee</p> <p>Awaiting Assembly Appropriations Committee Hearing</p>
<b>Watch</b>			
<b>AB 2632</b>	<b>Wilson</b>	<p><b>Planning and zoning: thrift retail stores.</b> Would prohibit a local agency from treating thrift retail stores differently from nonthrift retail stores (that sell similar items as the thrift stores) for purposes of zoning and development standards.</p> <p>Amended April 22 to clarify that reasonable local rules are still allowed.</p>	<p>Passed Committee on Local Government (4/17)</p> <p>Awaiting Assembly Appropriations Committee Hearing</p>
<b>Former Watch Bills Not Moving Forward</b>			
<b>SB 1167</b>	<b>Blakespear</b>	<p><b>Reusable Mugs for Dine-In.</b> Would have prohibited chain restaurants from providing single-use drinkware to customers who are consuming their beverage on the premises.</p>	Failed to pass Senate Environmental Quality Committee on 4/17
<b>SB 1426</b>	<b>Blakespear</b>	<p><b>Waste Reduction: undiverted materials (“Ridwell Bill”).</b> Would have prohibited a city or county ordinance from precluding the collection, transportation, or diversion of materials not diverted by, or the provision of diversion services using a method or process not offered by, a local governing body’s solid waste handling services.</p>	Failed to pass Local Government Committee on 4/24





Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2762 (Friedman) – As Amended April 15, 2024

**SUBJECT:** Plastic waste: California Reusable Beverage Container Act

**SUMMARY:** Establishes rates for the use and the collection for reuse of reusable beverage containers.

**EXISTING LAW** establishes the Beverage Container Recycling and Litter Reduction Act (Bottle Bill), administered by the Department of Resources Recycling and Recovery (CalRecycle) (Public Resources Code 14500 *et seq.*), which:

- 1) Defines terms used in the Bottle Bill, including:
  - a) “Beverage” to mean the following product in liquid, ready-to-drink form:
    - i) Beer and other malt beverages;
    - ii) Wine and distilled spirit coolers;
    - iii) Carbonated and noncarbonated water;
    - iv) Carbonated and noncarbonated soft drinks, including sports drinks;
    - v) Carbonated and noncarbonated drinks that contain any percentage of fruit juice;
    - vi) Coffee and tea drinks;
    - vii) Vegetable juice;
    - viii) Distilled spirits; and,
    - ix) Wine, including nonalcoholic wine and wine sold in a pouch, box, or bladder.
  - b) “Beverage container” as the individual, separate bottle, can, jar, carton, or other receptacle, however denominated, in which a beverage is sold, and which is constructed of metal, glass, plastic, or other material, or any combination of these materials.
  - c) “Beverage manufacturer” as any person who bottles, cans, or otherwise fills beverage containers, or imports filled beverage containers, for sale to distributors, dealers, or consumers, as specified.
  - d) “Processor” as any person, including a scrap dealer, certified by CalRecycle to purchase empty beverage containers from recycling centers in the state for recycling and who cancels, or certifies to CalRecycle the cancellation of, beverage containers.

- e) “Refillable beverage container” as any aluminum, bimetal, glass, plastic, or other beverage container holding 150 fluid ounces or less that has a minimum deposit of 3 cents and that would ordinarily be returned to the manufacturer to be refilled and resold.
  - f) “Reusable beverage container” as a glass beverage container with a refund value that is processed by a processor for subsequent washing for refill and sale by a beverage manufacturer.
- 2) Requires beverage containers, as defined, sold in-state to have a California redemption value (CRV) of 5 cents for containers that hold fewer than 24 ounces and 10 cents for containers that hold 24 ounces or more. Specifies that a beverage container that is a box, bladder, pouch, or similar container that contains wine or distilled spirits has a CRV of 25 cents.
  - 3) Requires beverage distributors to pay a redemption payment to CalRecycle for every beverage container sold in the state. Provides that these funds are continuously appropriated to CalRecycle for, among other things, the payment of refund values and processing payments.
  - 4) Requires processors to take the actions necessary and approved by CalRecycle to “cancel” containers to render them unfit for redemption. Authorizes a processor to satisfy the cancellation requirements for beverage containers by washing a reusable beverage container or transferring a reusable beverage container for subsequent washing at a processor, as specified.

**THIS BILL:**

- 1) Requires a beverage manufacturer with annual gross sales of \$1 million or more that sells, offers for sale, or distributes a beverage in the state that is bottled in the state (beverage manufacturer) to ensure that the percentage of the volume of beverages it bottles and sells in the state is bottled in reusable beverage containers that meet the following rates:
  - a) Not less than 5% by January 1, 2031;
  - b) Not less than 10% by January 1, 2033; and,
  - c) Not less than 25% by January 1, 2035.
- 2) Requires a beverage manufacturer to bottle beverages in reusable beverage containers that have been previously returned for reuse at the following rates:
  - a) Not less than 60% of the beverages it sells in reusable beverage containers by January 1, 2031;
  - b) Not less than 90% of the beverages it sells in reusable beverage containers by January 1, 2033; and,
  - c) Not less than 95% of the beverages it sells in reusable beverage containers by January 1, 2035.

- 3) By January 1, 2026, and annually thereafter, requires a beverage manufacturer to demonstrate compliance by submitting a report to CalRecycle that includes the percentage of the total volume of beverages produced and sold in reusable beverage containers and the number of single-use beverage containers and reusable beverage containers produced and sold in California in the previous calendar year, specified by the type of beverage, size of container, and container material type. Requires a beverage manufacturer to make the report publicly available on its website.
- 4) Requires CalRecycle to aggregate the data received and annually report on the total volume of beverages sold in reusable beverage containers in California each year and returned for reuse from 2025 through 2031.
- 5) Requires a beverage manufacturer to provide CalRecycle with any additional information requested to ensure the reliability of the data reported and to determine the progress made toward compliance.
- 6) Authorizes one or more beverage manufacturers to form a reusable beverage container management system (BCMS) for purposes of complying with the bill. Requires a BCMS to prepare and submit a plan to CalRecycle, which may include:
  - a) A governance structure for the organization that provides equitable voting power for participants;
  - b) An equitable financial structure;
  - c) The roles and responsibilities of all responsible parties participating in the BCMS;
  - d) How the BCMS plans to meet the reusable beverage container rates and any actions the BCMS may take related to consumer action;
  - e) How the BCMS plans to provide efficient collection, washing, and redistribution of reusable beverage containers, including how the organization will promote maximum ease of return of reusable beverage containers by consumers; and,
  - f) How the transportation needs of the BCMS plan will affect greenhouse gas (GHG) emissions.
- 7) Defines BCMS as an operational and financial arrangement in which beverage manufacturers cooperate with dealers, dealer cooperatives, processors, recycling centers, and other necessary actors to provide an efficient managed system for the collection, sorting, washing, refilling, and redistribution of reusable beverage containers.
- 8) Specifies that no reimbursement is required by the bill pursuant to Section 6 of Article XIII B of the California Constitution.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **The Bottle Bill.** The Bottle Bill was established in 1986 to be a self-funded program that encourages consumers to recycle beverage containers and to prevent littering. The program

accomplishes this goal by requiring consumers to pay a deposit for each eligible container purchased. Then the program guarantees consumers repayment of that deposit, the CRV, for each eligible container returned to a certified recycler. Statute includes two main goals for the program: (1) reducing litter; and, (2) achieving a recycling rate of 80% for eligible containers. Containers recycled through the Bottle Bill's certified recycling centers also provides a consistent, clean, uncontaminated stream of recycled materials with minimal processing. The current overall recycling rate for the Bottle Bill is 70%.

- 2) **Eligible beverage containers.** Only certain containers containing certain beverages are part of the CRV program. Most containers made from glass, plastic, aluminum, and bimetal (consisting of one or more metals) are included. Containers for milk, medical food, or infant formula are excluded. While most beverages have been included in the Bottle Bill for many years, wine and distilled spirits were added to the program on January 1<sup>st</sup> of this year.
- 3) **Ways to redeem containers.** Consumers have a handful of options to redeem containers:
  - Return the container to a “convenience zone” recycling center located within ½-mile radius of a supermarket. These are generally small centers that only accept beverage containers and receive handling fees from the Beverage Container Recycling Fund.
  - Return to “dealers,” i.e., stores that sell CRV containers that accept them. In convenience zones without a convenience zone recycler, beverage dealers, primarily supermarkets, are required to either accept containers for redemption or pay CalRecycle an “in lieu” fee of \$100 per day. The option to pay the in lieu fee sunsets on January 1, 2025. Few stores accept beverage containers for redemption.
  - Return the container to an “old line” recycling center, which refers to a recycler that does not receive handling fees and usually accepts large quantities of materials, frequently by truckload from municipal or commercial waste collection services.
  - Beginning January 1, 2025, return containers to a dealer cooperative.
  - Consumers can also forfeit their CRV and “donate” their containers to residential curbside recycling collection. Curbside programs keep the CRV on these containers.
- 4) **Reuse.** Reuse is above recycling in the waste management hierarchy – reduce, reuse, recycle. Prior to the popularity of single-use plastic bottles and cans, refillable bottle systems were the most common delivery system for beverages. According to The Story of Stuff, the sponsor of this bill, reuse can reduce raw material needs by up to 40% for beverage container packaging. After three uses, reusable glass containers have lower GHG emissions than single-use glass, polyethylene terephthalate (PET), or aluminum containers. When used 25 times and recycled, reusable glass bottles reduce GHG emissions by 85% compared to single-use glass, 70% compared to PET bottles, and 57% compared to aluminum cans. According to a 2020 report by Oceana, *Just One Word: Refillables*, increasing the market share of reusable beverage containers by 10% in all coastal countries in place of single-use PET bottles would reduce PET bottle marine plastic pollution by 22%, or more than 4 billion containers and a 20% increase would reduce plastic pollution by 39%.

California's Bottle Bill defines refillable beverage containers and exempts them from most of the requirements of the Bottle Bill, including collection of the CRV, though beverage manufacturers are required to submit reporting information to CalRecycle, such as sales and returns. This exemption was intended to encourage reuse by enabling manufacturers who used refillable containers to continue the practice. Even still, refillable containers have dropped from around 15% of glass beverage containers in 1986 to less than 1% today.

While reuse is preferable to recycling, efforts to prevent fraud create challenges. Fraud in the program may occur in a number of ways, including bringing containers from out of state, for which no CRV was collected, for redemption. Another potential avenue for fraud exists if containers are collected for recycling, but instead of being recycled are redeemed again for CRV. To prevent this, CalRecycle regulations have historically required empty beverage containers to be "canceled" by being crushed, densified, shredded, otherwise altered to make reuse impossible, or exported out of state.

In order to encourage the reuse of containers included in the Bottle Bill, AB 962 (Kamlager), Chapter 502, Statutes of 2021, established a new definition for reusable beverage containers and a pathway for them to participate in the program. The bill specified that processors can fulfill the cancellation requirement in-state by washing a reusable beverage containers or sending it to an approved processor for washing. CalRecycle's regulations to implement AB 962 were approved by the Office of Administrative Law on January 22 of this year.

- 5) **This bill.** AB 2762 is intended to build on the efforts of AB 962 by requiring beverage manufacturers to increase the percentage of reusable beverage containers distributed in California. It does so by requiring that specified percentages of the overall volume of beverages sold must be in reusable beverage containers, in order to ensure that the reusable beverage containers are replacing single-use beverage containers. Additionally, this bill establishes minimum reuse rates for those containers to ensure that they are collected and reused. The bill authorizes beverage manufacturers to work together to achieve these requirements by forming a BCMS.

Supporters of this bill point to the enormous environmental impacts of single-use beverage containers. The beverage industry uses over 580 billion polyethylene terephthalate containers a year worldwide – nearly 1 million per minute. Replacing a percentage of these with reusable glass containers would provide environmental benefits, including reducing the amount of raw materials and greenhouse gas emissions. Reuse also reduces litter and marine plastic pollution. Reuse used to be the standard for beverage containers in the United States, and over 170 countries currently have reusable beverage container systems for beverage containers.

Opponents of the bill note that the state recently adopted a significant expansion of the Bottle Bill when it approved SB 1013 (Atkins), Chapter 610, Statutes of 2022. SB 1013 added wine and distilled spirits to the program and eliminated exemptions for large fruit and vegetable containers. Those containers were added to the program on January 1<sup>st</sup> of this year. SB 1013 also created a new option for beverage dealers to form cooperatives to redeem empty beverage containers that goes into effect on January 1, 2025. Opponents argue that AB 2762 adds another layer of cost and regulation before the program has had time to fully implement and adjust to the expansion.

**6) Author's statement:**

Plastic bottles continue to litter our state's beautiful landscape. While global waste audits and beach clean-up data repeatedly reveal that beverage containers constitute one of the greatest sources of ocean-bound pollution. It is timely for California to take the opportunity to make the sustainable transition to reusable bottles which is imperative to reducing the devastating consequences that frontline communities experience due to plastic pollution.

**7) Suggested amendments:** The *committee may wish to make the following amendments* to the bill:

- In order to allow beverage manufacturers time to achieve the requirements for the use of reusable beverage containers that have been previously sold and returned for reuse, the committee may wish to extend the dates by one year.
- Extend the due date for the initial beverage manufacturer report to CalRecycle from 2026 to 2030.
- Extend the date by which CalRecycle is required to post aggregated data from 2025 to 2031 to 2031 and thereafter.
- Make a related technical amendment.

**REGISTERED SUPPORT / OPPOSITION:****Support**

7th Generation Advisors  
Beyond Plastics  
Blue Ocean Warriors  
Breast Cancer Prevention Partners  
California Product Stewardship Council  
Californians Against Waste  
Center for Environmental Health  
Clean Earth 4 Kids  
Clean Production Action  
Clean Water Action  
Climate Action California  
CupZero  
Cyclei  
Double Mountain Brewery  
ECOlunchbox  
Facts Families Advocating for Chemical and Toxics Safety  
GAIA  
Green Science Policy Institute  
Indivisible Alta Pasadena  
Northern California Recycling Association

NRDC  
Occidental Arts and Ecology Center  
Plastic Free Future  
Plastic Pollution Coalition  
Race to Zero Waste  
Resource Renewal Institute  
Rethink Disposable  
Revolusation INC.  
Santa Cruz Climate Action Network  
Save Our Shores  
Save the Bay  
Sea Hugger  
Surfrider Foundation  
The 5 Gyres Institute  
The Green Room Corporation  
The Last Beach Cleanup  
The Last Plastic Straw  
The Story of Stuff Project  
Zero Waste Sonoma

**Opposition**

American Beverage Association

**Analysis Prepared by:** Elizabeth MacMillan / NAT. RES. /

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## AB-2762 Recycling: reusable beverage containers. (2023-2024)

### As Amends the Law Today

**SECTION 1.** Chapter 6.8 (commencing with Section 14579) is added to Division 12.1 of the Public Resources Code, to read:

#### **CHAPTER 6.8. Reusable Beverage Container Minimums**

**14579.** (a) A beverage manufacturer, with annual gross sales of one million dollars (\$1,000,000) or more, that sells, offers for sale, or distributes a beverage in the state that is bottled in the state shall ensure that the percentage of the volume of beverages it bottles and sells in the state is bottled in reusable beverage containers at the following rates:

(1) Not less than 5 percent by January 1, 2031.

(2) Not less than 10 percent by January 1, 2033.

(3) Not less than 25 percent by January 1, 2035.

(b) A beverage manufacturer described in subdivision (a) shall bottle beverages in reusable beverage containers that have been previously sold and returned for reuse at the following rates:

(1) Not less than 60 percent of the beverages it sells in reusable beverage containers by January 1, 2032.

(2) Not less than 90 percent of the beverages it sells in reusable beverage containers by January 1, 2034.

(3) Not less than 95 percent of the beverages it sells in reusable beverage containers by January 1, 2036.

(c) A beverage manufacturer shall ensure compliance with subdivisions (a) and (b) for the beverages it sells.

(d) (1) By January 1, 2030, and annually thereafter, a beverage manufacturer shall demonstrate compliance with this section by submitting a report to the department that includes the percentage of the total volume of beverages produced and sold in reusable beverage containers and the number of reusable beverage containers and beverage containers that are not reusable beverage containers produced and sold in California in the previous calendar year, specified by type of beverage, size of container, and container material type.

(2) A beverage manufacturer shall make the report required by paragraph (1) publicly available on the beverage manufacturer's internet website. The department shall aggregate the data received pursuant to paragraph (1) and annually report on the total volume of beverages sold in reusable beverage containers in California each year and returned for reuse, starting in 2031.

(e) A beverage manufacturer shall provide to the department any additional information requested by the department to ensure the reliability of the data reported and to determine the progress made towards compliance with this section.

**14579.1.** (a) One or more beverage manufacturers may form a reusable beverage container management system for purposes of complying with this chapter.

(b) A BCMS may prepare and submit a plan to the department. The plan may, but is not required to, include any of the following:

(1) A governance structure for the organization that provides equitable voting power for participants.

(2) An equitable financial structure.



*(3) The roles and responsibilities of all beverage manufacturers participating in the BCMS.*

*(4) How the BCMS plans to meet the reusable beverage container rates described in Section 14579 and any actions the BCMS may take related to consumer action.*

*(5) How the BCMS plans to provide efficient collection, washing, and redistribution of reusable beverage containers, including how the organization will promote maximum ease of return of reusable beverage containers by consumers to achieve the returned-for-reuse rates described in subdivision (b) of Section 14579.*

*(6) How the transportation needs of the BCMS plan will affect greenhouse gas emissions.*

*(c) For purposes of this section, "beverage container management system" or "BCMS" means an operational and financial arrangement in which beverage manufacturers cooperate with dealers, dealer cooperatives, processors, recycling centers, and other necessary actors to provide an efficient managed system for the collection, sorting, washing, refilling, and redistribution of reusable beverage containers. For purposes of this definition, "dealers," "dealer cooperatives," "processors," and "recycling centers" have the same meanings as in Chapter 2 (commencing with Section 14502) of Division 12.1.*

**SEC. 2.** *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*



Date of Hearing: April 17, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2632 (Wilson) – As Introduced February 14, 2024

**SUBJECT:** Planning and zoning: thrift retail stores

**SUMMARY:** Prohibits a local government from treating a thrift retail store differently from a retailer that sells similar goods. Specifically, **this bill**:

- 1) Defines “thrift retail store” to mean a retail store and related donation facilities engaged primarily in the sale of secondhand clothing, shoes, apparel, toys, and standard household goods, such as furniture, fixtures, and small household appliances, and the collection of those goods for resale. “Thrift retail store” does not include the sale of large household appliances such as refrigerators or stoves and does not include the sale of cars or anything automotive-related.
- 2) Prohibits a city, including a charter city, a county, or city and county from treating a thrift retail store differently from a retail store for purposes of zoning, development standards, including, but not limited to, height, size, parking requirements, or setbacks from adjacent uses, or permitting. A city, county, or city and county may require that thrift retail stores meet certain aesthetic or design standards, including design review approval, provided those standards or design review, or both, are also required of nonthrift retail stores.
- 3) Prohibits a city, including a charter city, a county, or a city and county from prohibiting a thrift retail stores from receiving used and donated items for sale in the store or other thrift retail stores, or reuse or recycling, or both reuse or recycling, through other means.
- 4) Contains a number of findings and declarations, including that a significant portion of the waste stream into California landfills is composed of clothing and households goods that have not reached the end of their usefulness and that thrift retail establishments diverts reusable goods from landfills which furthers statewide policy.
- 5) Finds and declares that reducing waste streams of discarded clothing and households goods to state lands is a matter of statewide concern and not a municipal affair. Therefore, the bill applies to all cities, including charter cities.
- 6) Provides that no reimbursement is required by this bill because the only costs that may be incurred by a local agency or school district under this bill would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article 1 of the California Constitution.

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state-mandated local program.

**COMMENTS:**

- 1) **Bill Summary.** This bill would prohibit a local government from treating a thrift retail store differently from a retailer that sells similar goods. The bill allows a local government to require that thrift retail stores meet certain aesthetic or design standards, including design

review approval. Under this bill, a local government can not prohibit a thrift retail store from receiving used and donated items for sale in the store or other thrift retail stores, or reuse or recycling, or both reuse or recycling. The bill is sponsored by Savers Value Village.

- 2) **Author's Statement.** According to the author, "Used clothing is a significant portion of the waste Californians produce. McKinsey estimates that in one year alone, Californians will purchase 780,000 tons of apparel, 740,000 tons of which will ultimately end up in landfills. The growth in fast fashion and the ready availability of new, affordable clothes mean this unsustainable cycle will continue.

"Because less than 1% of clothing is made into new clothing the solution to textile waste lies in reuse and the circular economy. Moreover, one person's trash may well be another's treasure. People who shop at secondhand stores are both environmental heroes and economically smart. Despite this, some jurisdictions hold stereotypical and false beliefs that thrift store shoppers are less valuable or more problematic than shoppers of full price retail stores, and sometimes use zoning and ordinances to exclude thrift stores from their shopping districts.

"This bill to remove these unjustified prohibitions against secondhand stores will encourage the reduction of apparel waste by preventing local jurisdictions from continuing to treat thrift stores differently from other retailers."

- 3) **Integrated Waste Management Act.** The Integrated Waste Management Act (Act) requires waste diversion from landfill or transformation facilities through source reduction, recycling, and composting activities identified in city, county and regional agency Source Reduction and Recycling Elements (SRRE). In addition to the SRREs, local jurisdictions are also required to prepare additional solid waste planning documents. These include the Household Hazardous Waste Element (HHWE), the Nondisposal Facility Element (NDFE), the Countywide Siting Elements (CSE), and the Countywide Integrated Waste Management Plan (CIWMP). The NDFEs are to be consistent with the implementation of a local jurisdiction's SRRE. However, it is the SRREs that are required to have an implementation schedule which shows the diversion of 25 percent and 50 percent through source reduction, recycling and composting activities.

Under the CSE, counties are required to prepare a CSE that describes areas that may be used for developing new disposal facilities. The element also provides an estimate of the total permitted disposal capacity needed for a 15-year period if counties determine that their existing disposal capacity will be exhausted within 15 years or if additional capacity is desired

- 4) **Trash and Garbage and Waste, Oh My!** In *State of Disposal and Recycling in California for Calendar Year 2020*, CalRecycle reported that California's overall waste generation was about 77.4 million tons and, of that, 40 million tons went to landfill. Of the total materials generated, 52% were sent to landfill, 17% were exported as recyclables, 12% were composted, anaerobically digested or mulched, and another 13% were recycled.

According to CalRecycle's *2020 Facility-Based Characterization of Solid Waste in California* report, textiles were the sixth most prevalent material type disposed by single-family residences in 2018. California disposed of nearly 1.2 million metric tons of textiles in

2018, making up about 3% of California's total waste stream. CalRecycle indicates that up to 95% of California's textile waste is reusable or recyclable. In order to recycle or reuse the fabric, the item must have the material tag attached to identify the type of material. Without tags, it becomes impractical to determine the blends used in each product making them essentially unrecyclable.

- 5) **Talkin' Trash.** Although current law requires that local government at local governments divert at least 50% of waste by 2000 through various means, some local governments have achieved higher percentages of waste diversion. Alameda County has set a waste diversion goal of 89% by 2020, they have achieved currently achieved a diversion rate of 81%. One of the strategies Alameda County is attempting to create a zero waste culture and has considered second-hand stores and thrift shops as a way to cultivate this culture.

Los Angeles County has set a goal of 80% diversion by 2025 and 90% by 2035. These targeted diversion rates would be implemented through various strategies and initiatives. One initiative that seeks to institutionalize waste prevent and source reductions identifies that the promotion of thrift stores and repair shops is a way to prevent waste.

- 6) **It was ninety-nine cents.** The bill raises the issue that retail stores are treated differently than the retail stores of similar items. In the adoption of commercial zoning districts, some cities have written thrift stores out of the permitted uses allowed in that zone even though retail stores and antique shops are permitted uses in the same zones.

However, the California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority. Local governments use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, and lot coverage ratios to increase open space, among others. These ordinances can also include conditions on development to address community impacts or other particular site-specific considerations. Local governments have broad authority to define the specific approval processes needed to satisfy these considerations, including the permits the developer must obtain.

- 7) **Policy Considerations.** Though thrift stores may provide benefits to the community like waste diversion and providing affordable household items and clothes for sale, the Constitution vests local governments with discretion to regulate uses of land to promote health and safety within their jurisdiction. The bill requires local governments to treat thrift retail the same as retail stores that sell new items. While the two uses of land are similar enough in the sale of items, how the stores acquire items requires further consideration. A thrift store may receive donations from institutions, other stores, and individuals. Donations collection can range from walk-in only to curbside pick-up to freight drop-off. The Committee may wish to consider the operational differences between a retail store receiving new items and a thrift retail store receiving donated items.

- 8) **Committee Amendments.** In order to address the policy consideration outlined above, the committee may wish to amend the bill as follows:

**65631. ~~As used in this article,~~ For purposes of this article,** “thrift retail store” means a retail store and related donation facilities engaged primarily in the sale of secondhand clothing, shoes, apparel, toys, and standard household goods, such as furniture, fixtures, and small household appliances, and the collection of those goods for resale. “Thrift retail store” does not include the sale of large household appliances such as refrigerators or stoves and does not include the sale of cars or anything automotive-related.

**(b) “Local agency” means a city, including a charter city, a county, or a city and county.**

**65632. (a) Except as provided by subdivision (c),(d), and (e), ~~A city, including a charter city, a county, or a city and county,~~ a local agency** shall not treat a thrift retail store differently from a nonthrift retail store **engaged in the sale of sale of new items that similar to items sold by a thrift retail store similar new items** for purposes of zoning, development standards, including, but not limited to, height, size, parking requirements, or setbacks from adjacent uses, or permitting. A **~~city, county, or city and county~~ local agency** may also require that thrift retail stores meet certain aesthetic or design standards, including design review approval, provided those standards or design review, or both, are also required of nonthrift retail stores.

**(b) A ~~city, including a charter city, a county, or a city and county,~~ local agency** shall not prohibit a thrift retail store from receiving used and donated items for sale in the store or other thrift retail stores, or reuse or recycling, or both reuse and recycling, through other means.

**(c) Nothing in this section shall be construed to prohibit the adoption or enforcement of reasonable local rules and ordinances as applied to retail establishments engaging in the sale of new items that similar to items sold by a thrift retail store.**

**(d) Nothing in this section shall be construed to prohibit the adoption or enforcement of reasonable regulations on the collection or receiving of used and donated items by a thrift retail store, including but not limited to, reasonable regulations related to:**

- (1) Requirements that the delivery of goods from non-passenger vehicles be conducted within a specified area of the thrift retail store premises.**
- (2) Requirements that the donation process is operated by employees the thrift retail store and that donations of goods from the public be collected and received by thrift store employees.**
- (3) Limitations upon the square footage or percentage of the thrift retail store premises within which collection and receiving activities are conducted.**
- (4) Requirements applicable to the operation of equipment associated with the collection, receiving, processing or disposal of used and donated items.**
- (5) Enforcement of health and safety standards including, but not limited to, shopping center ingress and egress or the enforcement of illegal dumping, as generally applied to retail.**

**(e) Nothing in this section shall be construed to limit or otherwise affect the ability of a local agency to adopt or enforce any local rules and ordinances on businesses other than thrift retail stores as defined in section 65631.**

- 9) **Previous Legislation.** SB 1187 (Kamlager), Chapter 616, Statutes of 2022, required CalRecycle to establish a three year pilot project located in Los Angeles and Ventura Counties with garment manufacturers to study and report on the feasibility of recycling fabric.

AB 939 (Sher), Chapter 1095, Statutes of 1989, established the California Integrated Waste Management Act and required cities, counties, and approved regional solid waste management agencies responsible for enacting plans and implementing programs to divert 25 percent of their solid waste by 1995 and 50 percent by year 2000. Later legislation mandates the 50 percent diversion requirement be achieved every year.

- 10) **Arguments in Support.** None on file.

- 11) **Arguments in Opposition.** None on file.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file.

**Opposition**

None on file.

**Analysis Prepared by:** Linda Rios / L. GOV. / (916) 319-3958

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### AB-2632 Planning and zoning: thrift retail stores. (2023-2024)

#### As Amends the Law Today

**SECTION 1.** Article 10.11 (commencing with Section 65630) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

#### Article 10.11. Thrift Retail Stores

**65630.** (a) The Legislature finds and declares all of the following:

(1) The 2020 annual report, as published by the Department of Resources Recycling and Recovery, found that California is falling far short of the state diversion goal of 75 percent in 2020.

(2) A significant portion of the waste stream into California landfills is composed of clothing and household goods that have not reached the end of their usefulness. Discarded clothing remains the largest source of textile waste in the world, with the average United States citizen throwing away 81 pounds of clothing each year, 95 percent of which could have been reworn or repurposed. Yet, 85 percent of this material ends up in landfills. According to the Ellen MacArthur Foundation, one garbage truck of textiles is landfilled or incinerated every second.

(3) California faces a growing problem in siting and approving sufficient landfill space. Landfill siting and the expansion of current landfill facilities are controversial and landfills create the potential for significant adverse environmental impacts.

(4) Discarding still-usable clothing and household goods increase greenhouse gas emissions by stimulating production of replacement goods and adding greenhouse gas emissions along the continuum of product manufacture, transportation, warehousing, and delivery.

(5) Recent years have seen an increase in consumer interest in purchasing used clothing and smaller household items from retail establishments that specialize in selling such goods, commonly referred to as "thrifting" and "thrift" retail establishments. Thrift accounted for approximately 60 percent of the total secondhand market in 2021. As of June 2022, more than one in three shoppers in the United States, and nearly one-half of Canadian shoppers, surveyed reported caring more about the environmental impact of their apparel choices today than they did three years ago.

(6) Thrift retail establishments are identical to other retail establishments in terms of local impacts on traffic, parking, and other land use topics. In addition, given that thrift establishments divert reusable goods from landfills in furtherance of important statewide policy, those establishments provide environmental benefits that nonthrift retail establishments do not.

(b) Therefore, it is the intent of the Legislature that local governments be prohibited from classifying or otherwise treating thrift retail establishments differently than nonthrift retail establishments, subject to certain limitations contained in this article.

**65631.** For purposes of this article, the following definitions apply:

(a) "Thrift retail store" means a retail store and related donation facilities engaged primarily in the sale of secondhand clothing, shoes, apparel, toys, and standard household goods, including furniture, fixtures, and small household appliances, and the collection of those goods for resale. "Thrift retail store" does not include the sale of large household appliances such as refrigerators or stoves and does not include the sale of cars or anything automotive-related.

(b) "Local agency" means a city, including a charter city, a county, or a city and county.



**65632.** (a) Except as provided by subdivisions (c) to (e), inclusive, a local agency shall not treat a thrift retail store differently from a nonthrift retail store engaged in the sale of new items that are similar to items sold by a thrift retail store for purposes of zoning, development standards, including, but not limited to, height, size, parking requirements, or setbacks from adjacent uses, or permitting. A local agency may also require that thrift retail stores meet certain aesthetic or design standards, including design review approval, provided those standards or design review, or both, are also required of nonthrift retail stores.

(b) A local agency shall not prohibit a thrift retail store from receiving used and donated items for sale in the store or other thrift retail stores, or reuse or recycling, or both reuse and recycling, through other means.

(c) Nothing in this section shall be construed to prohibit the adoption or enforcement of reasonable local rules or ordinances on retail establishments engaged in the sale of new items that are similar to items sold by a thrift retail store.

(d) Nothing in this section shall be construed to prohibit the adoption or enforcement of reasonable local rules or ordinances on the collection or receipt of used and donated items by a thrift retail store, including, but not limited to, reasonable local rules or ordinances related to any of the following:

(1) Requirements that the delivery of goods from nonpassenger vehicles is conducted within a specified area of the premises of a thrift retail store.

(2) Requirements that the donation process is operated by employees of the thrift retail store and that the donations of goods from the public are collected and received by employees of the thrift retail store.

(3) Limitations on the square footage or percentage of the thrift retail store premises within which collecting and receiving activities are conducted.

(4) Requirements applicable to the operation of equipment associated with the collection, receipt, processing, or disposal of used and donated goods.

(5) Enforcement of health and safety standards including, but not limited to, standards relating to shopping center ingress and egress or the enforcement of illegal dumping, as generally applied to retail establishments.

(e) Nothing in this section shall be construed to limit or otherwise affect the ability of a local agency to adopt or enforce any local rules or ordinances on businesses other than thrift retail stores.

**SEC. 2.** The Legislature finds and declares that reducing the waste stream of discarded clothing and household goods to state landfills by facilitating the siting of thrift retail establishments is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act, adding Article 10.11 (commencing with Section 65630) to Chapter 3 of Division 1 of Title 7 of the Government Code, applies to all cities, including charter cities.

**SEC. 3.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.





May 8, 2024

Claire Derksen

SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations  
Department of Resources Recycling and Recovery, Regulations Unit  
1001 "I" St., MS-24B, Sacramento, CA 95814

Submitted via Public Comment Form and via email to [packaging@calrecycle.ca.gov](mailto:packaging@calrecycle.ca.gov)

**Re: Comments on Proposed SB 54 ("Plastic Pollution Prevention and Packaging Producer Responsibility Act") Regulations**

Dear CalRecycle,

RecycleSmart (the Central Contra Costa Solid Waste Authority) submits the following comments regarding the proposed SB 54 regulations. RecycleSmart is a joint powers authority that manages the solid waste and recycling programs for the cities and towns of Danville, Lafayette, Moraga, Orinda, Walnut Creek, and surrounding portions of unincorporated Contra Costa County. This letter is in response to the first formal draft of the SB 54 regulations released by CalRecycle on March 8.

RecycleSmart maintains relationships with our peers at waste management joint powers authorities in the Bay Area, as well as with our counterparts in waste management divisions of cities and counties. Therefore, many of these comments, or similar comments, will have also been submitted by our counterparts. RecycleSmart appreciates CalRecycle's work to provide a robust set of regulations so that SB 54 can achieve its potential to accelerate a shift to a more circular economy for California. We strongly support the intentions of the law to slow the flow of materials entering our communities, keeping materials in circulation through reuse and refill, and by creating packaging that is designed for recycling or composting at end of life. We also strongly support the EPR intent of the law – to shift the responsibility for the costs of collecting and processing covered materials from jurisdictions and ratepayers to the producers of the materials themselves.

**Topic #1: Payments to local jurisdictions**

Public Resources Code (PRC) Section 42040(b)(2)(A) states:

Local jurisdictions are the backbone of the solid waste management and recycling efforts in California...the new law is intended to shift the burden of costs to collect, process, and recycle materials from local jurisdictions to the producers of plastic products.

Section 42040(b)(2)(B) states:

It is the intent of the Legislature in enacting this chapter to ensure that local jurisdictions will be made financially whole for any new costs incurred associated with the implementation of this chapter and its implementing regulations.

Section 42060(a)(1) contains similar language, requiring CalRecycle to adopt:

[a]ny regulations necessary to ensure the PRO fully funds plan implementation, including fully funding the budget. This shall include the costs incurred by a local jurisdiction or a local jurisdiction's recycling service providers to implement this chapter, including, but not limited to, the cost of consumer education and of collection, including the cost of containers where relevant, as well as the processing, storage, and transportation of covered materials. Costs may vary based on population density or other relevant factors and shall allow local jurisdictions to protect ratepayers from increased costs associated with the processing and marketing of covered material.

A great deal of the materials jurisdictions like ours already collect in their curbside programs is packaging covered by SB 54, which is now the responsibility of producers. These costs are often wrapped up in collection and processing contracts where they're amortized over many years.

**Comment 1a: We urge CalRecycle to provide clarity in the regulations for the types of existing and new costs to be covered by producers, including a point in time at which that shift in cost responsibility is to occur so there is no confusion about what is to be paid for by producers and what remains the responsibility of local jurisdictions and ratepayers. We believe the point in time at which cost responsibilities for covered materials shifted to producers is when the law went into effect: January 1, 2023.**

#### **1a Questions:**

- Are existing infrastructure and operational costs such as containers, vehicles, and MRFs that are currently in operation to collect, transport, and sort covered materials to be reimbursed by the producer responsibility organization (PRO)?
- Are personnel, overhead, and other indirect costs incurred while administering the law reimbursable?
- Are disposal costs for covered materials that do not yet have a responsible end market to be covered by producers?

**We believe the answer to the above questions is “yes” – these should be considered reimbursable producer-covered costs. We are asking CalRecycle to affirm that assumption with clear language added to the regulations.**

#### **Comment 1b: State in one place of the regulations the costs to be covered by the PRO.**

- These costs are currently referenced in multiple sections of statute and in the regulations; it would be helpful to have one consolidated list to eliminate confusion during implementation.

- Instead of referencing one section of the public resource code which gives an incomplete picture of the covered costs, we recommend Article 8 Section 18980.8(a) be amended to include a consolidated and edited list as suggested below, with some additional recommended clarifications noted in **red**.

*Pursuant to sections 42051.1 and 42060(a)(1) of the Public Resources Code the plan shall include and the budget shall fully fund costs incurred by a local jurisdiction or a local jurisdiction's recycling service providers to implement this chapter, including, but not limited to:*

- *Costs to educate ratepayers to improve consumer behavior related to sorting and proper disposal necessary to achieve recycling, **reuse and refill** rates*
- *Costs to improve collection, sorting, decontamination, remanufacturing, and other infrastructure necessary to achieve recycling, **reuse and refill** rates*
- *Costs to transport covered materials to a materials recovery facility, broker, **and** ~~or~~ viable responsible end markets*
- *Costs of waste stream sampling and reporting required by this chapter for local governments*
- *Costs to collect, **sort**, process, store, segregate, break, flake or otherwise process materials to specifications for sale, and transport covered materials **through the supply chain to responsible end markets***
- *Costs for containers **or modifications to existing containers** where relevant*
- *Costs related to waste stream sampling and reporting required by this chapter for local governments*
- *Costs and investments to improve/expand collection, processing and end market infrastructure*
- *Costs and investment in reuse/refill infrastructure*
- ***Costs incurred by local jurisdictions to administer and manage recycling and compost collection programs and services, including indirect, administrative, and overhead costs***
- ***[And additional clarifications per Comment 1a and related questions]***

**Comment 1c: Add specificity to require the PRO plan to include a process for determining and paying the costs that will be incurred by local jurisdictions, recycling service providers, alternative collection systems, and others under this chapter.**

- The process should include a date by which payments shall begin, the frequency for payments moving forward, the form of payment to be used (e.g., electronic), and an opportunity for review and agreement with the costs to be paid by the party incurring the costs.

## **Topic #2: Local jurisdiction requirements and enforcement**

**Comment 2a: Provide specific guidance regarding when jurisdictions must begin to collect items determined to be recyclable and compostable, if they are not already collecting them. This timeline should coincide with the date that the PRO is prepared to reimburse local jurisdiction and service provider costs. The timeline must also consider the time needed for local jurisdictions and service providers to modify their public education materials, update infrastructure and sometimes, and in some cases, amend contracts.**

- A requirement for local jurisdictions to accept all recyclable/compostable materials before approval of a PRO plan and reimbursement process would conflict with the intent of the law to make local jurisdictions whole.

**Comment 2b: Remove local jurisdictions from enforcement under SB 54 and instead rely on an existing enforcement mechanism for local jurisdiction diversion programs.**

- Sections 18980.13 and 18980.13.2 of the proposed regulations subject local jurisdictions and recycling service providers to potential enforcement, including penalties of up to \$50,000 per day for each covered material category not included in a local collection program.
- The scale of proposed penalties is extreme and unnecessarily high – five times higher than those included in SB 1383.
- The list of materials considered recyclable by CalRecycle will be potentially changing at least every two years. Education and behavior for recycling through curbside programs are not particularly nimble.
- Both AB 939 and SB 1383 include enforcement mechanisms for local jurisdiction diversion programs. Consider these or similar approaches when determining an appropriate mechanism for enforcement under SB 54.

**Comment 2c: Jurisdictions should have an opportunity to cure such a failure before the imposition of penalties. This could take the form of a corrective action plan.**

- We think that in many, if not most, cases the failure to include a covered material category in a curbside program will be inadvertent. In addition, as mentioned above, the list of recyclable materials will be changing much more frequently than curbside programs usually change. Jurisdictions should have a chance to correct material collection errors before monetary penalties are considered.
- As the regulations are currently written, only producers are entities that can violate Section 42081 and local jurisdictions may violate Section 42060.5. Compliance action plans are only granted for violations of Section 42081.

**Comment 2d: Should CalRecycle determine that local jurisdictions are subject to enforcement under SB 54, the regulations need to include a clear determination of when and how local jurisdictions are able to demonstrate compliance.**

- Section 42060.5 of the Public Resources Code states, “local jurisdictions or recycling service providers shall include in their collection and recycling programs all covered material contained on the lists published pursuant to subdivisions (c) and (d) of Section 42061.” To allow for compliance pursuant to 42060.5, the regulations must include a clear and straightforward process for how compliance will be evaluated on an ongoing basis. For example:
  - Will CalRecycle review publicly accessible public education materials using the irecyclesmart.com website as done for SB 343 recycling acceptance determinations, or will another method be utilized?
  - Will both material type and form be evaluated when determining compliance? For example, do local jurisdictions need to specifically list plastics 1, 2 and 5 including the mention of thermoforms, or would a jurisdiction be considered

- compliant if they accept “rigid plastics 1, 2 & 5” with the assumption being thermoforms are included? How explicit must the language be?
- How will CalRecycle determine compliance if a jurisdiction’s public education materials are found to have conflicting messages about acceptability?
  - For items that are deemed both recyclable and compostable, will local jurisdictions have to list them as both recyclable and compostable on public education materials to be considered compliant, or is one waste stream acceptable? Jurisdictions may wish to elect a preferred stream for such items/materials.

### **Topic #3: Reuse and Refill**

**Comment 3a: Clarify the statutory definitions of “Reusable, Refillable, Reuse, and Refill” in Section 18980.1 (34)(A)-(B) by specifying a difference between returnable and refillable packaging, among other changes.**

- While both are viable “reuse” models, the distinction between returnable and refillable packaging is critically important because returnable and refillable packaging require entirely different business models, logistics, and infrastructure. Returnable packaging requires a system – complete with reverse logistics (collection and transportation) and cleaning infrastructure. Returnable packaging is a service that producers provide to their customers as a means of delivering their products with less waste. On the other hand, refillable packaging is a product that producers sell to consumers, that consumers must wash and transport on their own, and may not result in reuse infrastructure or ultimate reduction of single-use plastic packaging.

**Comment 3b: Specify in the regulations that refillables must be part of a system where the producer has made the same or similar product available and accessible for consumers to refill multiple times without the need for additional packaging.**

- Requiring a system for refillables is especially important for the purposes of SB 54, given that refillable packaging will fall under the definition of “reusable packaging” and will therefore be exempt from the program as a covered material.

**Comment 3c: Revise section 18980.1 (34)(D), which defines “capable of being conveniently and safely reused or refilled,” to remove the proposed language regarding the avoidance of chemical leaching and microplastic shedding.**

- It is inequitable to require certain higher standards for reusable packaging than for single-use packaging. While we do not wish for any packaging – including reusables – to contribute to the proliferation of microplastics or chemical pollution in the environment, we also acknowledge that plastic is the most cost-effective material for reusable packaging at this time. We should take care to avoid creating additional barriers to the nascent reuse sector that might prevent reuse systems from scaling.
- Unless CalRecycle intends to require *all* covered materials to demonstrate zero shedding of microplastics and no chemical leaching, we urge you to remove these requirements, or suggestions of them, from requirements of reusable packaging.
- It is our understanding that all plastics shed microplastic particles, and it would be impossible to demonstrate absolutely no microplastic shedding from plastic reusables (or



disposables for that matter). Therefore, this is too stringent a condition to require for packaging to qualify as reusable under the Act. Methodologies for testing microplastics shedding and chemical leaching are also not mature.

**Comment 3d: We specifically suggest the following edits to the regulatory language:**

*“Reusable,” “refillable,” “reuse,” and “refill,” have the same definition as provided in section 42041(af) of the Public Resources Code. Determinations of whether packaging or food serviceware meet that definition shall be subject to the provisions of this paragraph.*

*(A) The terms “reuse” and “refill” refer to ~~usage~~ packaging or food service ware ~~systems~~ that ~~is-accommodate~~ ~~returnable~~ or refillable ~~packaging~~ pursuant to section 42041(a)(1)(A) through (a)(1)(D) and (a)(2)(A) through (C), subsequent to the initial use of the packaging or food service ware for its original purpose.*

*(B) To be considered ~~returnable~~ or refillable, packaging or food service ware must not constitute single-use packaging or food service ware pursuant to paragraph (35) and section 42041(ai)\* of the Public Resources Code. ~~Returnable reusable packaging is typically owned by producers or a third-party manager or pooler and is returned to producers or a third party after each use in a system for reuse. Refillable packaging is part of a system wherein producers have made the same or similar product available and accessible for consumers to refill multiple times without the need for additional single-use packaging.~~*

**Comment 3e: Should CalRecycle wish to define *returnable reusable packaging* separately within the definitions, we suggest using the proposed definition above.**

**Comment 3f: Include language in the regulations to allow packaging and food service ware to be certified as reusable once appropriate certification programs are developed.**

- PR3 is already leading a process to develop global standards for reusable packaging and service ware. Once these standards are officially adopted, it will be easier for producers to gain third-party certification for their reusable packaging or food service ware than to provide individualized data to CalRecycle or the PRO. Allowing an independently verifiable third-party certification to take the place of individual exemption requests will ultimately streamline oversight and enforcement of the program while still encouraging the development of reusables. This will also align with language elsewhere in the statute and regulations regarding third-party validation for postconsumer recycled content (Section 18980.3.4. Independent Third-Party Validation for Postconsumer Recycled Content).

**Comment 3g: We specifically suggest the following revisions to section 18980.1 (34)(E) “Multiple Cycles” of the draft regulations:**

*(E) For purposes of this section and section 42041(af) of the Public Resources Code, “multiple times,” “multiple cycles,” and “multiple uses” have the same meaning. For packaging or food service ware to be considered reused or refilled multiple times or for multiple cycles, or for use to be considered multiple uses, ~~usage must occur~~ ~~it must cycle through a reuse system~~ more than once, rather than being ~~a single-use used once~~ prior to disposal as described in subparagraph (A)(i) (for packaging) or (A)(ii) (for food service*



ware) of paragraph (35), and shall satisfy the following conditions, as demonstrated according to procedures and methods set forth in the PRO's approved plan, or, for entities that are not participants in a PRO plan, those in their plans (for Independent Producers) or the PRO's approved plan.

~~(i) The item is more likely than not to be used on more than one occasion or the item is, on average, used on more than one occasion without being discarded or disposed within five years after commencement of its initial use. For food service ware and food packaging whose usage can be shown to occur, on average, over a period of shorter than five years before it has been subject to at least 780 cycles in a cleaning and sanitization process as set forth in (C)(ii), this requirement shall be reduced to such shorter period.~~

(i) The observed average number of **returns** or refills will result in the **packaging or food service ware** having lower environmental impact than **its** equivalent single-use counterparts. The PRO plan shall include a procedure, including specific methods, for establishing estimates of the average number of **returns** or refills for particular **packaging, food service ware**, or types of products, and those estimates may be used as the observed average number of uses for purposes of this clause. Independent Producers' plans may include their own procedure or incorporate one from an approved plan by reference. **This requirement may also be met by obtaining an independently verifiable third-party certification according to relevant adopted ISO or ANSI standards.** ~~Environmental impact must consider, at a minimum, the resources used throughout the lifecycle of the product, including, but not limited to, those related to:~~ **Environmental impact must consider, at a minimum:**

(I) Raw material extraction

(II) Manufacturing

(III) Transportation

(IV) End-of-life management **and waste prevented or produced**

(V) Aquatic or terrestrial pollution

(VI) Resources used throughout the lifecycle of the material, including but not limited to water

(VII) Greenhouse gas emissions

#### **Topic #4: Compostability**

**Comment 4a: Give clarity around the term “desirable organic wastes” in section 18980.3.3(b)(2)(A-B). We recommend defining desirable organic waste as “food material” and “yard trimmings” as referred to in Public Resources Code Section 42357 and specifically defined 14 CCR Section 17852 (20) and (43).**

- Clarity and rationale are needed to inform any future decisions relating to this section and reduce the need for further interpretation. We believe this aligns with the intent of AB 1201.

**Comment 4b: We support including acceptance thresholds as listed in section 18980.3.3(b)(2)(A-B) and recommend that the regulations include an acceptance pathway for compostable materials that includes robust, statewide field testing.**

- This section establishes that acceptance rates of covered materials by composting facilities be used to determine whether a covered material meets PRC Section 42357(g)(1)(E) and is “designed to be associated with collection of desirable organic wastes.” CalRecycle interprets “designed to be associated with” as collected and

processed with other materials. We support the decision by CalRecycle to use acceptance rates as an indicator of desirability by composters, and to use those rates established for SB 1335 implementation.

- Currently very little compostable packaging meets the acceptance rate criteria, and it is hard to imagine how a new material would meet the criteria without a viable pathway to onboard.

**Comment 4c: Remove the requirement that 100% of compostable covered material must be converted into a recycled organic product in section 18980.4(a)(4)(B).**

- This section requires a responsible end market for compostable materials to fully convert compostable materials into a recycled organic product. We recommend deleting this requirement, as complete biological decomposition of covered materials through composting is not feasible to measure and it holds composters and compostable materials manufacturers to a much higher standard than recyclers.
- Further, the standard as currently written is impractical because composters must continue to process incoming material to reduce contamination, the sources of which extend beyond those covered by SB 54; covered materials will inevitably be removed as well.
- A better approach would be to require a field-testing standard for the material itself that could be used by composters and programs to determine acceptability. We recommend that CalRecycle work with composters and compost testing laboratories to identify indicators that can be used to determine if a facility is recovering sufficient compostable covered materials.

**Comment 4d: Delete the word “raw” from the definition of “Recycled organic product” in section 18980.1(29).**

- The definition currently reads, “‘Recycled organic product’ means raw organic material that is produced through composting...and is not disposed.” Recycled organic products such as compost have undergone processes to convert raw organic material into a stabilized product, so the definition as currently written is inaccurate.

**Topic #5: Coordinated outreach and education for communities**

**Comment 5a: Direct the PRO to include in their plan details about how they will engage with the general public, producers, jurisdictions, and service providers to ensure that education and outreach programs for the general public are coordinated and allow jurisdictions to review and provide localized input on new public messaging before it is disseminated.**

- Potential conflicts with existing messaging should be considered by the PRO, and strategies to mitigate public confusion should be included in the PRO plan. Local jurisdictions should have the ability to customize and tailor outreach materials for their local communities.

**Comment 5b: Change the word “may” to “shall” in section 18980.8 (c) “Pursuant to section 42051.1(e) of the Public Resources Code, those efforts *shall* additionally include:”**

## Topic #6 Alternative collection systems

**Comment 6a: To align with Public Resources Code Sections 40000, *et seq.*, we recommend that CalRecycle add language to the draft regulations stating that local jurisdictions, or their designee(s), retain the right to be the primary sponsor of alternative collection programs, if desired. The PRO may sponsor or implement an alternative collection program, only after the local jurisdictions declines to sponsor the program and after the PRO obtains written approval from the jurisdiction on the proposed alternative collection program.**

- Pursuant to existing statute, jurisdictions have authority over solid waste handling, and therefore should remain central in decision making around programs and services operating in their jurisdiction under SB 54. The introduction of alternative collections systems, while they may be beneficial or necessary in some cases, should not interrupt local collection programs or be implemented without the consent of local jurisdictions.

## Topic #7: Responsible end markets

**Comment 7a: For plastic covered materials specifically, please clarify the roles and responsibilities of Intermediate Supply Chain Entities to ensure transparency and that plastics processors are held to the same standards placed on Responsible End Markets. Alternatively, change the definition of end market for plastics recyclers in 18980.4(b)(4).**

- The current wording of section 18980.4(b)(4) in the draft regulations places the end market for plastics at the point at which new products are made through molding, extruding, or thermoforming processed material.
- This in turn makes entities that pre-process, such as those that flake or pelletize plastic materials, intermediate supply chain entities, where they are not required to meet the standards of a responsible end market.
- One of the key provisions of SB 54 is the requirement that covered materials be recycled at responsible end markets where recycling must be conducted in a way that “benefits the environment and minimizes risks to public health and worker health and safety.”
- Note that this issue is not a concern in regard to other material categories because their end markets are defined at earlier stages in the processing. For example, the regulations state that the end market for paper is the entity that re-pulps the material and sells the product to paper manufacturers, *or* makes it into paper products, *or* produces a project that is sold without further processing. (18908.4(b)(3).)

**Comment 7b: Update Section 18980.4.1(a) to include “(3) Describe efforts to enhance or expand viable responsible end markets in California including manufacturing as required by Public Resource Code section 42051.1(c)(5).”**

- Public Resources Code section 42051.1(c)(5) states the PRO plan shall include details for how the plan will enhance or expand viable responsible end markets in California including manufacturing. This should include a plan for how reliance on overseas markets will be reduced. One of the best ways to ensure recycling end markets are “responsible” is to locate them within the state of California, which also keeps materials within a smaller geographic footprint, reduces transportation impacts, and reduces negative impacts on communities in other states and countries where environmental and human rights regulations and protections are less stringent. The emphasis on and support

of responsible end markets is a very important aspect of SB 54 that should not be overlooked.

**Comment 7c: Establish a mechanism for local jurisdictions to request records pertaining to responsible end markets.**

- Currently, the CalRecycle may request records pertaining to responsible end markets. Please include a mechanism to extend to local jurisdictions to request that data from the CalRecycle so we can have assurances that our materials are reaching ethical, sustainable end markets.

Thank you for your consideration of these comments. Please reach out if you have questions or if you would like to discuss further.

Sincerely,

A handwritten signature in dark ink that reads "David Krueger". The signature is written in a cursive, slightly slanted style.

David Krueger  
Executive Director, RecycleSmart