

**Introduced by Senator Newman
(Coauthor: Senator Wiener)**

February 16, 2023

An act to add Section 42970.5 to, and to add Chapter 20.5 (commencing with Section 42984) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 707, as introduced, Newman. Responsible Textile Recovery Act of 2023.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste. The act establishes stewardship programs for various products, including, among others, carpet, mattresses, and pharmaceutical and sharps waste.

This bill would enact the Responsible Textile Recovery Act of 2023, which would require producers, as defined, either individually or through the creation of one or more stewardship organizations, to establish a stewardship program for the collection and recycling of a covered product. This bill would define a "covered product" to include any apparel, textile, or textile article that is unsuitable for reuse by a consumer in its current state or condition. The bill would require a program operator, as defined, to submit a complete stewardship plan to the department for review and approval, disapproval, or conditional approval. The bill would require the program operator to review the plan at least every 5 years after approval. The bill would also require a program operator to submit an annual report to the department. The bill would require all reports and records provided to the department to be

provided under penalty of perjury. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill would restrict public access to certain information collected for the purpose of administering a stewardship program.

This bill would require the department to post on its internet website a list of producers that are in compliance with the requirements of the program. The bill would require the department to adopt regulations governing the program, and would authorize, beginning January 1, 2032, the department to adopt regulations establishing minimum recycling efficiency. The bill would require program operators to pay fees to the department, not to exceed the department's actual and reasonable regulatory costs to implement and enforce the provisions of the act. The bill would establish the Textile Stewardship Recovery Fund in the State Treasury for the deposit of all moneys received from program operators and would make the moneys in the fund available to the department, upon appropriation by the Legislature, for purposes of the program. The bill would also authorize the department to impose administrative civil penalties for a violation of the program's requirements, not to exceed \$10,000 per day, or not to exceed \$50,000 per day for an intentional, knowing, or reckless violation, as specified. The bill would create the Textile Stewardship Recovery Penalty Account in the fund for the deposit of penalties, which would be available for expenditure upon appropriation by the Legislature. The bill would also exempt textiles made from synthetic fibers, and carpet made from synthetic fibers, from the carpet stewardship program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42970.5 is added to the Public Resources
2 Code, to read:

3 42970.5. This chapter does not apply to textiles, as defined in
4 Section 42984, made from synthetic fibers or carpet made from
5 synthetic fibers.

6 SEC. 2. Chapter 20.5 (commencing with Section 42984) is
7 added to Part 3 of Division 30 of the Public Resources Code, to
8 read:

9

10 CHAPTER 20.5. RESPONSIBLE TEXTILE RECOVERY ACT OF 2023

11

12 Article 1. General Provisions

13

14 42984. For purposes of this chapter, the following definitions
15 apply:

16 (a) "Apparel" means clothing and accessory items intended for
17 regular wear or formal occasions, including, but not limited to,
18 undergarments, shirts, pants, skirts, dresses, overalls, bodysuits,
19 costumes, vests, dancewear, suits, saris, scarves, tops, leggings,
20 school uniforms, leisurewear, athletic wear, sports uniforms,
21 everyday swimwear, formal wear, onesies, bibs, diapers, footwear,
22 and everyday uniforms for workwear. Clothing items intended for
23 regular wear or formal occasions does not include personal
24 protective equipment or clothing items for exclusive use by the
25 United States military.

26 (b) "Authorized collector" means a person or entity that has
27 entered into an agreement with a program operator to collect
28 covered products.

29 (c) "Authorized sorter" means a person or entity that has entered
30 into an agreement with a program operator to sort covered products
31 collected by authorized collectors.

32 (d) "Authorized repair business" means a person or entity that
33 has entered into an agreement with a program operator to repair
34 covered products for resale after collection by an authorized
35 collector or after sorting by an authorized sorter.

36 (e) "Brand" means a trademark, including both a registered
37 trademark and an unregistered trademark, a logo, a name, a symbol,

1 a word, an identifier, or a traceable mark that identifies a covered
2 textile and identifies the owner or licensee of the brand.

3 (f) “Collection site” means a permanent or temporary location
4 operated by an authorized collector at which covered products are
5 collected and prepared for transport in accordance with the
6 requirements of this chapter.

7 (g) “Consumer” means an owner of a covered product, including
8 a person, business, corporation, limited partnership, nonprofit
9 organization, or governmental entity, and includes the ultimate
10 purchaser, owner, or lessee of a covered product, who is not, as to
11 that covered product, the distributor, importer, producer, recycler,
12 retailer, or stewardship organization.

13 (h) “Covered Product” means any apparel, textile, or textile
14 article that is unsuitable for reuse by a consumer in its current state
15 or condition.

16 (i) “Department” means the Department of Resources Recycling
17 and Recovery or a successor agency.

18 (j) “Distributor” means a company that has a contractual
19 relationship with one or more producers to market and sell covered
20 textiles to a retailer.

21 (k) “Importer” means either of the following:

22 (1) A person qualifying as an importer of record for purposes
23 of Section 1484(a)(2)(B) of Title 19 of the United States Code
24 with regard to the import of a covered textile that is sold,
25 distributed for sale, or offered for sale in or into the state that was
26 manufactured or assembled by a company outside of the United
27 States.

28 (2) A person importing into the state for sale, distributing for
29 sale, or offering for sale in the state a covered textile that was
30 manufactured or assembled by a company physically located
31 outside of the state.

32 (l) “Local jurisdiction” means a city, county, city and county,
33 or a regional agency formed pursuant to Chapter 5 (commencing
34 with Section 6500) of Division 7 of Title 1 of the Government
35 Code or Article 3 (commencing with Section 40970) of Chapter
36 1 of Part 2 of this code, or a special district that provides solid
37 waste collection services.

38 (m) “Mail-back program” means a method of collecting covered
39 products using prepaid, preaddressed mailing envelopes that are
40 reusable, recyclable, or compostable.

1 (n) “Person” has the same meaning as set forth in Section 40170.

2 (o) (1) “Producer” means a person who manufactures a covered
3 product and who owns or is the licensee of the brand or trademark
4 under which that covered product is sold, offered for sale, or
5 distributed for sale in or into the state.

6 (2) If there is no person in the state who is the producer for
7 purposes of paragraph (1), the producer of the covered product is
8 the owner of a brand or trademark or, if the owner is not in the
9 state, the exclusive licensee of a brand or trademark under which
10 the covered product is sold, imported for sale, offered for sale, or
11 distributed for sale in or into the state. For purposes of this
12 subdivision, an exclusive licensee is a person holding the exclusive
13 right to use a trademark or brand in the state in connection with
14 the manufacture, sale, or distribution for sale in or into the state
15 of the covered product.

16 (3) If there is no person in the state who is the producer for
17 purposes of paragraph (1) or (2), the producer of the covered
18 product is the person who sells, offers for sale, or is the importer
19 or distributor of the covered textile in or into the state for sale in
20 or into the state.

21 (4) For purposes of this chapter, the sale of a covered textile
22 shall be deemed to occur in the state if the covered textile is
23 delivered to the consumer in the state.

24 (5) “Producer” does not include a seller of secondhand apparel,
25 secondhand textiles, or secondhand textile articles.

26 (p) “Program operator” means a producer, or a stewardship
27 organization on behalf of a group of producers, which is
28 responsible for implementing a stewardship program in accordance
29 with the requirements of this chapter.

30 (q) “Recycler” means a person or entity who recovers fiber,
31 yarn, or fabric and reuses or reprocesses that recovered fiber, yarn,
32 or fabric into new, usable products.

33 (r) “Recycling” has the same meaning as set forth in subdivision
34 (a) of Section 25121.1 of the Health and Safety Code. “Recycling”
35 does not include any of the following:

- 36 (1) Combustion.
- 37 (2) Incineration.
- 38 (3) Energy generation.
- 39 (4) Fuel production.

- 1 (5) Beneficial reuse in the construction and operation of a solid
2 waste landfill, including use of alternative daily cover.
- 3 (6) Other forms of disposal, as defined in subdivision (b) of
4 Section 40192.
- 5 (s) “Recycling efficiency rate” means the ratio of the weight of
6 covered products recycled by a program operator to the weight of
7 those covered products collected by the program operator.
- 8 (t) “Repair” means any alteration or improvement of damaged
9 covered materials deemed worth the cost of repair by criteria
10 established by the stewardship plan, including, but not limited to,
11 any of the following:
- 12 (1) Washing at a commercial laundry.
- 13 (2) Upcycling, redesign, and repurposing.
- 14 (3) Mending rips, holes, seams, and hems.
- 15 (4) Removing and repairing surface damages, such as pilling,
16 stain removal, or abrasion.
- 17 (5) Securing and reattaching buttons and other fastenings.
- 18 (u) “Retailer” means a person who sells or offers for sale a
19 covered product in or into the state to a person through any means,
20 including, but not limited to, sales outlets, catalogs, the telephone,
21 the internet, or any electronic means.
- 22 (v) “Secondhand apparel” means any apparel items that has
23 been previously owned by a consumer.
- 24 (w) “Secondhand textile” means a usable textile item that has
25 been previously owned by a consumer.
- 26 (x) “Secondhand textile article” means a usable textile article
27 that has been previously owned by a consumer.
- 28 (y) “Secondhand markets” means a retailer who sells secondhand
29 apparel, secondhand textiles, or secondhand textile articles,
30 including, but not limited to, thrifts, online resale platforms, and
31 flea markets.
- 32 (z) “Stewardship organization” means an organization exempt
33 from taxation under Section 501(c)(3) of the federal Internal
34 Revenue Code of 1986 (26 U.S.C. Sec. 501(c)(3)) that is
35 established by a group of producers in accordance with this chapter
36 to develop and implement a stewardship program.
- 37 (aa) “Stewardship plan” or “plan” means a plan developed by
38 program operator pursuant to this chapter for the collection,
39 transportation, repair, recycling, and the safe and proper
40 management of covered products.

1 (ab) “Stewardship program” means a program established by a
2 program operator pursuant to this chapter for the free at drop off,
3 convenient, and safe collection, transportation, repair, recycling,
4 and otherwise proper management of covered products.

5 (ac) “Textile” means any item made in whole or in part from a
6 natural, manmade, or synthetic fiber, yarn, or fabric, and includes,
7 but is not limited to, leather, cotton, silk, jute, hemp, wool, viscose,
8 nylon, or polyester. “Textile” does not include disposable hygiene
9 products made from paper, including, but not limited to, toilet
10 paper, paper towels or tissues, or disposable absorbent hygiene
11 products.

12 (ad) “Textile articles” means textile goods of a type customarily
13 used in households and businesses, and include, but are not limited
14 to, apparel, accessories, handbags, backpacks, draperies, shower
15 curtains, furnishings, upholstery, beddings, towels, napkins, and
16 tablecloths. “Textile articles” does not include any of the following:

17 (1) Either of the following items regulated under the Safer
18 Consumer Products Program (Chapter 55 (Commencing with
19 Section 69501) of Division 4.5 of Title 22 of the California Code
20 of Regulations):

21 (A) Carpets and rugs.

22 (B) Treatments containing polyfluoroalkyl for use on converted
23 textiles or leathers.

24 (2) Component parts from a vehicle, as defined in Section 670
25 of the Vehicle Code, including, but not limited to, an off-highway
26 motor vehicle, as defined in Section 38012 of the Vehicle Code,
27 such as seats and carpets or synthetic flooring.

28 (3) Component parts from a vessel, as defined in Section 21 of
29 the Harbors and Navigation Code, such as seats, synthetic flooring,
30 and boat covers.

31 (4) Filtration media and filter products used in industrial
32 applications, including, but not limited to, chemical or
33 pharmaceutical manufacturing, and environmental control
34 technologies.

35 (5) Textile articles used in or for laboratory analysis and testing.

36 (6) Component parts from an aircraft, as defined in Section
37 21012 of the Public Utilities Code.

38 (7) Stadium shades or other architectural fabric structures. For
39 purposes of this subparagraph, “architectural fabric structure”

1 means a permanent fabric structure that is intrinsic to a building's
2 design or construction.

3 42984.1. (a) The department, acting in accordance with Article
4 1 (commencing with Section 11340) to Article 8 (commencing
5 with Section 11350), inclusive, of the Administrative Procedure
6 Act, as set forth in Chapter 3.5 (commencing with Section 11340)
7 of Part 1 of Division 3 of Title 2 of the Government Code, shall
8 adopt regulations to implement this chapter with an effective date
9 of no earlier than December 31, 2025.

10 (b) Beginning January 1, 2032, the department may adjust,
11 through regulations adopted by the department, the minimum
12 required collection sites to ensure that consumers have sufficient
13 and convenient access to collection sites if the department
14 determines, after consultation with program operators and the
15 advisory committee, that an adjustment will increase the collection
16 of covered products.

17 (c) Beginning January 1, 2032, the department may establish,
18 through regulations adopted by the department, a minimum
19 recycling efficiency rate for covered products collected and
20 recycled by program operators.

21 (d) (1) No later than 90 days after the effective date of
22 regulations adopted pursuant to this section, the department shall
23 create an advisory body for the purposes of consulting with
24 producers and stewardship organizations with approved plans.
25 Membership in the advisory committee may include, but is not
26 limited to, representatives from local governments, recyclers,
27 retailers, authorized collectors, authorized sorters, authorized repair
28 businesses, nongovernmental organizations, environmental
29 organizations, community-based justice and public health
30 organizations, and the solid waste industry.

31 (2) Participation on the advisory body shall be voluntary.

32 (3) The advisory body is not a state body for purposes of Section
33 11121 of the Government Code, but shall provide advanced public
34 notice about meetings, allow public participation in all meetings,
35 and vote on written recommendations at public meetings.

36

37

Article 2. Producers

38

39 42984.2. (a) In order to comply with the requirements of this
40 chapter, a producer may establish and implement a stewardship

1 program independently, or as part of a group of producers through
2 membership in a stewardship organization exempt from taxation
3 under Section 501(c)(3) of the federal Internal Revenue Code of
4 1986 (21 U.S.C. 501(c)(3)). Producers may establish one or more
5 stewardship organizations to comply with the requirements of this
6 chapter.

7 (1) A producer shall not sell, distribute for sale, offer for sale,
8 or import for sale a covered product in or into this state unless the
9 producer is in compliance with this chapter and any regulations in
10 effect and adopted pursuant to Section 42984.1.

11 (2) Every producer shall, no later than 180 days after the
12 effective date of this chapter, notify all persons through which it
13 is selling, distributing, importing, or offering for sale a covered
14 product in or into the state for sale in or into the state whether it
15 will comply with this chapter individually or through a stewardship
16 organization.

17 (3) Each producer covered under a stewardship organization
18 shall register with that stewardship organization in accordance
19 with the procedures and requirements established by that
20 stewardship organization and shall comply with those procedures
21 and requirements.

22 (b) A producer is not in compliance with this chapter and is
23 subject to penalties pursuant to Article 7 (commencing with Section
24 42984.15) if, commencing two years from the adoption of
25 regulations pursuant to Section 42984.1, a covered product sold
26 or offered for sale by the producer is not subject to an approved
27 stewardship plan that has been approved by the department
28 pursuant to Section 42984.5.

29 42984.3. (a) No later than 180 days after the effective date of
30 this chapter, individual producers shall provide to the department,
31 in a form and manner established by the department, a list of
32 covered products and brands of covered products that the producer
33 sells, distributes for sale, imports for sale, or offers for sale in or
34 into the state.

35 (b) A producer shall update the list described in subdivision (a)
36 and provide the updated list to the department on or before January
37 15 of each year or upon request of the department.

1 Article 3. Program Operators

2

3 42984.4. (a) (1) A program operator shall include as a
4 collection site under its stewardship program any entity that offers
5 in writing to participate in the stewardship program and agrees to
6 comply with any program operator requirements that are consistent
7 with that program operator's approved stewardship plan, even if
8 the minimum thresholds described in subdivision (e) of Section
9 42984.7 as applicable, have been achieved.

10 (2) A program operator shall include as a collection site under
11 its stewardship program any local jurisdiction that offers in writing
12 to participate in the stewardship program and agrees to comply
13 with any program operator requirements that are consistent with
14 that program operator's approved stewardship plan, even if the
15 minimum thresholds described in subdivision (e) of Section
16 42984.7, as applicable, have been achieved.

17 (3) A program operator shall include the offering entity or local
18 jurisdiction as a collection site in the stewardship program within
19 90 days of receiving the written offer to participate, confirming
20 that the offering entity will comply with any program operator
21 requirements that are consistent with that program operator's
22 approved stewardship plan, even if the minimum thresholds
23 described in subdivision (e) of Section 42984.7, as applicable,
24 have been achieved.

25 (4) The program operator shall not be required to respond to
26 offers pursuant to this paragraph until the program operator's
27 stewardship plan has been approved by the department.

28 (b) A program operator may suspend or terminate a collection
29 site that does not comply with all applicable state, federal, or
30 municipal laws and regulations or adhere to the rules and conditions
31 imposed by the program operator pursuant to paragraph (5) of
32 subdivision (g) of Section 42984.7.

33 (c) A collection site shall be operated to ensure that covered
34 products are collected safely and handled in accordance with all
35 applicable state, federal, and municipal laws and regulations and
36 the rules and conditions of the stewardship plan. Authorized
37 collectors may divert usable apparel, textiles, and textile articles
38 without damage for sale in domestic secondhand markets.

39 (d) A program operator shall require all contractors to pay the
40 state minimum wage.

1 Article 4. Stewardship Plan for Covered Products

2
3 42984.5. (a) Within 12 months of the effective date of the
4 regulations adopted by the department pursuant to Section 42984.1,
5 a program operator shall develop and submit to the department a
6 complete stewardship plan, in accordance with the requirements
7 of this chapter, for the collection, transportation, repair, sorting,
8 recycling, and the safe and proper management of covered products
9 in the state. No program operator serving more than one producer
10 may limit its stewardship plan for covered products to the covered
11 products of the producers participating in that stewardship program.

12 (b) The department shall review the stewardship plan for
13 compliance with this chapter and shall approve, disapprove, or
14 conditionally approve the plan within 120 days of receipt of the
15 plan. The department may consult with or submit a stewardship
16 plan for review to the Department of Toxic Substances Control if
17 the department determines it is necessary for making a
18 determination of approval of a stewardship plan. If the department
19 consults with the Department of Toxic Substances Control, then
20 the department shall approve, disapprove, or conditionally approve
21 the plan within 180 days of receipt of the plan.

22 (c) If the department disapproves a stewardship plan submitted
23 by a program operator, the department shall explain how the
24 stewardship plan does not comply with this chapter and provide
25 written notice to the program operator within 30 days of
26 disapproval. The program operator may resubmit to the department
27 a revised stewardship plan within 60 days of the date the written
28 notice was issued, and the department shall review the revised
29 stewardship plan within 90 days of resubmittal. If a revised
30 stewardship plan is disapproved by the department, a producer
31 operating under the stewardship plan shall not be in compliance
32 with this chapter until the department approves a stewardship plan
33 submitted by a program operator that covers the producer's
34 products.

35 (d) Within 24 months of the effective date of the regulations
36 adopted by the department pursuant to Section 42984.1, a program
37 operator shall have a complete stewardship plan approved by the
38 department and each producer shall be subject to an approved
39 stewardship plan in order to be in compliance with this chapter.

1 (e) The approved plan shall be a public record, except that
2 financial, production, or sales data reported to the department by
3 the program operator is not a public record for purposes of the
4 California Public Records Act (Division 10 (commencing with
5 Section 7920.000) of Title 1 of the Government Code) and shall
6 not be open to public inspection. The department may release
7 financial, production, or sales data in summary form only so the
8 information cannot be attributable to a specific producer or
9 distributor or to any other entity.

10 42984.6. (a) Within 12 months of the approval of the
11 stewardship plan by the department pursuant to Section 42984.5,
12 a program operator shall fully implement its stewardship program.

13 (b) An individual producer or a program operator may petition
14 the department to investigate a noncompliant producer, and the
15 department shall respond to the petition in a timely manner.

16 42984.7. A stewardship plan for covered products shall include
17 all of the following:

18 (a) The names of producers and brands of covered products
19 covered under the stewardship plan.

20 (b) A description of the consultative process by which the
21 program operator consulted with the advisory body created
22 pursuant to subdivision (d) of Section 42984.1 to receive advice
23 on the development and implementation of the stewardship plan,
24 including all correspondence between the program operator and
25 the advisory committee and a detailed explanation of how and why
26 the program operator decided to adopt or not adopt each
27 recommendation by the advisory committee.

28 (c) (1) A description of the method to establish and administer
29 a means for fully funding the stewardship program in a manner
30 that equitably distributes the stewardship program's costs among
31 the producers that are part of the stewardship organization. For
32 producers that elect to meet the requirements of this chapter
33 individually, without joining a stewardship organization, a
34 description of the proposed method to establish and administer a
35 means for fully funding the stewardship program.

36 (2) The stewardship plan shall include a stewardship program
37 budget, for the next three calendar years, which includes a funding
38 level and anticipated revenues and costs sufficient to cover the
39 budgeted costs, including, but not limited to, administrative costs,
40 operational costs, and capital costs, to operate the stewardship

1 program in a prudent and responsible manner. Administrative costs
2 shall include the department’s anticipated actual, reasonable, and
3 direct regulatory costs to implement and enforce this chapter as
4 the criteria for all the costs are defined in the regulations adopted
5 pursuant to Section 42984.1. For purposes of this paragraph,
6 stewardship program implementation begins once the department
7 approves a program operator’s stewardship plan, except the
8 department’s costs shall include actual, reasonable, and direct
9 regulatory development costs and other startup regulatory costs
10 incurred prior to stewardship plan submittal and approval.

11 (d) A description of methodologies for measuring, and meeting
12 or exceeding the recycling efficiency rate established by the
13 department pursuant to subdivision (c) of Section 42984.1, as
14 applicable. If a minimum recycling rate has not been established
15 by the department, a program operator shall instead include a target
16 recycling efficiency rate for covered products recycled by the
17 program operator.

18 (e) A description of how the program operator will provide for
19 a free and convenient collection system for covered products in
20 each county of the state that meets both of the following
21 requirements:

22 (1) A minimum of 10 collection sites per county or one
23 collection site per 25,000 people, whichever is greater, except as
24 identified in this paragraph.

25 (A) A county with a population of 18,000 and under, as reported
26 annually by the Department of Finance, shall have a minimum of
27 three collection sites.

28 (B) A county with a population of between 18,001 and 50,000,
29 as reported annually by the Department of Finance, shall have a
30 minimum of four collection sites.

31 (C) A county with a population between 50,001 and 100,000,
32 as reported annually by the department of Finance, shall have a
33 minimum of eight collection sites.

34 (2) The collection sites in each county shall be spread throughout
35 the county to facilitate widespread access and convenience.

36 (f) A description of how a program operator and its authorized
37 collection sites will allow a consumer to drop off covered products
38 at a collection site at no charge.

39 (g) A description of how collection sites will be authorized and
40 managed, including all of the following:

1 (1) A description of the process by which entities and local
2 jurisdictions can request to be a collection site pursuant to Section
3 42984.4.

4 (2) A description of how the program operator will provide to
5 collection sites at no cost the appropriate containers for covered
6 products, training, signage, safety guidance, and educational
7 materials.

8 (3) An explanation of the process by which the program operator
9 will provide for the collection and transport of covered products
10 from the collection sites to an authorized sorter, or directly to an
11 authorized repair business, or recycling facility.

12 (4) A description of how the program operator will maintain all
13 collection and transport records and make them available to the
14 department upon request.

15 (5) A list of all proposed rules, conditions and requirements for
16 authorized collectors, authorized sorters, and authorized repair
17 businesses, including a template proposed agreement for each of
18 those types of entities, as applicable.

19 (h) A description of the process by which covered products will
20 be sorted, processed, and recycled following collection at collection
21 sites, including all of the following:

22 (1) A description of how covered products will be handled and
23 managed according to the waste hierarchy as defined in Section
24 40051.

25 (2) A description of how covered products will be sorted by
26 authorized sorters, including a description of how the flow of
27 covered products to and from an authorized sorter will be tracked.

28 (3) A description of how the program operator will maximize
29 the repair and recycling of all covered products.

30 (4) A description of how the program operator will minimize
31 disposal of covered products collected by the program operator.

32 (5) A description of how the program operator will prioritize
33 the use of sorting, repair, and recycling facilities located closer to
34 the point of collection to minimize transportation-related emissions
35 and increase accountability for the ultimate disposition of the
36 covered products.

37 (i) A comprehensive statewide education and outreach program
38 designed to educate consumers and promote participation in the
39 collection, repair, and recycling program offered by the program

1 operator. At a minimum, the comprehensive statewide education
2 and outreach program shall include all of the following:

3 (1) A description of the education and communications strategy
4 being implemented to effectively promote participation in the
5 stewardship program and provide the information necessary for
6 effective participation by consumers, retailers, local jurisdictions,
7 and others.

8 (2) An internet website that publicizes the location of collection
9 sites and provides information to consumers on how to drop
10 covered products at the free and convenient network of collection
11 sites offered by the stewardship program, including any information
12 reasonably necessary to safely and conveniently access the
13 collection, repair, and recycling services offered by the program
14 operator.

15 (3) All signage and materials required for collection sites by
16 the program operator, and the method by which collection sites
17 can access replacement materials at no cost to the collection site.

18 (4) A description of efforts to support participation by all
19 California communities, including a description of efforts to
20 communicate with consumers in languages other than English.

21 (5) A description of strategies, goals, and metrics used to
22 determine the success of the statewide education and outreach
23 program.

24 (A) The statewide education and outreach program shall promote
25 the safe and proper management of covered products, including
26 source reduction, environmentally preferable purchasing, and
27 repairing covered products. This includes education and training
28 for authorized collectors to incentivize domestic resale of usable
29 textiles.

30 (B) The statewide education and outreach program shall not
31 promote the disposal of covered products in a manner inconsistent
32 with the services offered by the stewardship plan.

33 (C) The statewide education and outreach plan shall include
34 information for consumers about how to avoid improper disposal
35 of covered products.

36 (6) (A) A description of how the program operators will
37 annually assess and evaluate the efficacy of the comprehensive
38 statewide education and outreach program and periodically adjust
39 strategies to maximize participation in the stewardship program.

1 (B) Any program operator serving more than one producer shall
2 coordinate with other program operators on the education and
3 outreach programs that they implement pursuant to this subdivision.

4 (j) Coordination with, and a description of the efforts and
5 methods used to coordinate activities with, all of the following
6 entities who are responsive to a request from the program operator:

7 (1) Other program operators.

8 (2) Existing textile collection, repair, and recycling programs.

9 (3) Community-based organizations that contact the program
10 operator and that are qualified to run or support collection events.

11 (k) Consultation with the California Environmental Protection
12 Agency's Environmental Justice Task Force regarding methods
13 to supplement those of the program operator to collect covered
14 products for repair or recycling in areas and communities that face
15 unique challenges associated with proper waste management, such
16 as poverty, language barriers, and illegal disposal.

17 (l) A contingency plan in the event the stewardship plan expires,
18 is disapproved, or is revoked. The contingency plan shall describe
19 how the stewardship plan objectives can be carried out in the
20 absence of a plan, either by the program operator or through an
21 entity such as an escrow company.

22 (m) Develop a program in coordination with other program
23 operators to support commercial laundries for laundering-covered
24 products that includes funding for microfiber filtration devices.

25 (n) Develop strategies to address counterfeit goods that are
26 illegal for secondhand markets to resell pursuant to Section 350
27 of the Penal Code.

28 (o) Develop strategies to address green design challenges for
29 covered products, such as, but not limited to compostability,
30 reduction and removal of harmful chemicals, microfiber shedding,
31 and mixed material blends.

32 42984.8. (a) In preparing a stewardship plan pursuant to
33 Section 42984.7, and any updates to the plan pursuant to Section
34 42984.9, a program operator shall engage in a consultative process
35 with the advisory body created by the department pursuant to
36 subdivision (d) of Section 42489.1. A program operator shall
37 provide sufficient time and shall consider all written
38 recommendations from the advisory body during the plan
39 development process.

1 (b) A program operator shall consider the advisory body's
2 recommendations. If the producer or stewardship organization
3 decides not to incorporate the advisory body's written
4 recommendations into the plan, the program operator shall provide
5 a brief written explanation to the department and the advisory body
6 that explains the basis for the decision and also indicates whether
7 the program operator plans to incorporate the recommendations
8 into a subsequent stewardship plan, subsequent amendments to
9 the plan, or a subsequent annual report.

10 42984.9. (a) A program operator shall review its stewardship
11 plan at least every five years after approval by the department and
12 determine whether revisions to the plan are necessary.

13 (b) If a program operator determines that revisions to the plan
14 are necessary, the program operator shall submit to the department
15 a revised plan for review and approval employing the procedures
16 set forth in Section 42984.5. The stewardship organization shall
17 submit the revised plan pursuant to this subdivision within 90 days
18 of the review deadline outlined pursuant to subdivision (a).

19 (c) If a program operator determines that no revisions to the
20 plan are necessary, the program operator shall send a letter to the
21 department no later than 30 days after the review deadline outlined
22 in subdivision (a), explaining that the program operator has
23 reviewed the plan, consulted with the advisory committee, and
24 determined that no revisions are needed. The department may
25 disapprove the program operator's determination within 30 days
26 of receipt of that determination if the department concludes that
27 the program operator cannot implement the objectives of this
28 chapter without revising the stewardship plan. In the event the
29 department disapproves the program operator's determination, the
30 program operator shall submit to the department a revised
31 stewardship plan for review and approval in accordance with
32 Section 42984.5. The program operator shall submit the revised
33 plan pursuant to this subdivision within 90 days of receipt of the
34 department's disapproval.

35
36 Article 5. Financial Provisions
37

38 42984.10. (a) No later than 90 days before a budget is
39 submitted to the department, the department shall notify each
40 program operator of each agency's respective anticipated actual

1 and reasonable regulatory costs directly related to implementing
 2 and enforcing this chapter in relation to the program operator’s
 3 activities as the criteria for those costs are defined in the regulations
 4 adopted pursuant to Section 42984.1. This may include the actual
 5 and reasonable costs associated with regulatory regulation
 6 development pursuant to Section 42984.1 and other startup
 7 activities prior to stewardship plan submittal and approval, relative
 8 to the role of the program operator’s program compared to other
 9 programs.

10 (b) Program operators shall, on a schedule determined by the
 11 department, pay the department fees incurred to reimburse the
 12 department for incurred costs as described in subdivision (a). The
 13 fees shall not exceed the department’s actual and reasonable
 14 regulatory costs to implement and enforce this chapter. The fees
 15 shall be paid by each producer, either individually, if the producer
 16 is complying with the requirements of this chapter individually,
 17 or through a stewardship organization.

18 (c) (1) The department shall deposit all moneys received from
 19 a program operator pursuant to this section into the Textile
 20 Stewardship Recovery Fund, which is hereby established in the
 21 State Treasury.

22 (2) Upon appropriation by the Legislature, moneys in the Textile
 23 Stewardship Recovery Fund shall be expended by the department
 24 to implement and enforce this chapter, as well as to reimburse any
 25 outstanding loans made from other funds used to finance regulation,
 26 development, and startup costs of the department’s activities
 27 pursuant to this chapter.

28 (3) The money in the Textile Stewardship Recovery Fund shall
 29 not be expended for any other purpose.

30 42984.11. Each producer shall, either individually or through
 31 a stewardship organization, pay all administrative and operational
 32 costs associated with establishing and implementing the
 33 stewardship program in which it participates, including, but not
 34 limited to, the cost of collection, transportation, sorting, repairing,
 35 recycling, and the safe and proper management of covered
 36 products.

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 38
 39

Article 6. Records, Audits, and Reports

1 42984.12. (a) A program operator shall keep board minutes,
2 books, and records that clearly reflect the activities and transactions
3 of the program operator.

4 (b) A program operator shall retain, at the program operator's
5 expense, an independent public accountant, certified in the United
6 States, to annually audit the accounting books of the program
7 operator.

8 (c) The program operator shall include the audit in its annual
9 report submitted pursuant to Section 42984.13 commencing within
10 18 months of plan approval by the department. The department
11 shall review the audit for compliance with this chapter and
12 consistency with the program operator's stewardship plan. The
13 department shall notify the program operator of any compliance
14 issues or inconsistencies.

15 (d) The department may conduct its own audit if it determines
16 that an audit is necessary to enforce the requirements of this chapter
17 and that the audit conducted pursuant to subdivision (b) is not
18 adequate for this purpose. The program operator may obtain copies
19 of the department's audit upon request.

20 (e) The department shall not publicly disclose any confidential
21 proprietary or trade secret information in an audit conducted
22 pursuant to this section.

23 42984.13. A program operator shall annually submit to the
24 department, in the form and manner, and by the date, determined
25 by the department, an annual report, which the department shall
26 make publicly available that includes all of the following
27 information for the preceding calendar year:

28 (a) The program operator's costs and revenues.

29 (b) An estimate of the quantity of covered products sold in or
30 into the state by the producers covered by the program operator's
31 stewardship plan, as determined by the best available commercial
32 information, potentially including the application of California
33 population data to the national sales information and the discarded
34 covered textiles collected for repair and recycling through the
35 stewardship program.

36 (c) A list of the stewardship program's collection sites, by name,
37 location, and type.

38 (d) The total weight of covered products, respectively, that were
39 collected.

- 1 (e) A list of each authorized sorter, authorized repair business,
2 and textile recycling facility used by the stewardship program,
3 including both of the following:
- 4 (1) Name and location.
 - 5 (2) Total weight of covered products handled by each location.
- 6 (f) An updated list of the names and corporate mailing addresses
7 of producers, as described in subdivision (a) of Section 42984.7
8 and brands of covered textiles covered under the stewardship plan.
- 9 (g) The total weight and number of covered textiles sold in or
10 into the state attributed to a producer, who is a registered participant
11 of the program operator's plan, which are collected in the state
12 and recycled by the program operator during the preceding calendar
13 year, including a description of the methodology and information
14 used to determine and calculate these values.
- 15 (h) A complete accounting of the ultimate disposition of all
16 covered products collected by the program operator, including the
17 total weight of covered products that were repaired and recycled.
- 18 (i) A description of methods used to collect, transport, repair,
19 and recycle covered products by the program operator.
- 20 (j) A description of outreach efforts and education, including,
21 but not limited to, education and outreach provided to consumers,
22 collection sites, manufacturers, distributors, and retailers by the
23 program operator for the purpose of promoting the collection,
24 repair, reuse and recycling of covered products. This includes
25 messaging on environmentally preferable purchasing and repairing
26 covered textiles.
- 27 (k) Findings from the evaluation of the comprehensive statewide
28 education and outreach program required by paragraph (8) of
29 subdivision (i) of Section 42984.7.
- 30 (l) A description of consultation with the California
31 Environmental Protection Agency's Environmental Justice Task
32 Force and other relevant stakeholders for collecting covered textiles
33 for repair and recycling in areas and communities that face unique
34 challenges.
- 35 (m) A description of actions taken by the program operator to
36 pay all administrative and operational costs associated with
37 establishing and implementing the stewardship program.
- 38 (n) A report on activities the program operator has undertaken
39 to prioritize the use of sorting, repair, and recycling facilities
40 located closer to the point of generation to minimize transportation

1 emissions and increase accountability for the ultimate disposition
2 of collected covered products.

3 (o) The progress toward attaining the goals included in the
4 program operator's stewardship plan.

5 (p) Any modifications or revisions to the stewardship plan.

6 (q) Any other information deemed relevant by the program
7 operator for the department to determine compliance with the
8 approved stewardship plan.

9 (r) Any other information required by regulations promulgated
10 pursuant to Section 42984.1.

11 42984.14. (a) No later than 120 days after the date the
12 department receives the annual report submitted by a program
13 operator pursuant to Section 42984.13, the department shall notify
14 the program operator if the annual report is compliant or
15 noncompliant.

16 (b) (1) If the department determines that the annual report is
17 noncompliant due to failure to meet the requirements of Section
18 42984.13, the program operator shall resubmit a revised annual
19 report addressing the department's written reasons for its decision
20 within 30 days of the department's response.

21 (2) The department, within 60 days from the date a program
22 operator resubmits a revised annual report, shall determine whether
23 the annual report is compliant or noncompliant.

24 (3) If the department determines a revised annual report
25 submitted pursuant to paragraph (1) is noncompliant, the program
26 operator may submit only one additional revised annual report,
27 subject to review in accordance with paragraph (2).

28

29

Article 7. Enforcement

30

31 42984.15. (a) Within 24 months of the effective date of
32 regulations pursuant to Section 42984.1, and on or before July 1
33 of each year thereafter, the department shall post on its internet
34 website a list of producers that are in compliance with this chapter.
35 The department shall list, as appropriate, the reported brands of
36 covered products for each producer.

37 (b) A producer that is not listed on the department's internet
38 website pursuant to subdivision (a) that demonstrates compliance
39 with this chapter before the next list is posted by the department
40 may either be added to the internet website or be provided a

1 certification letter from the department stating that the producer
2 of a covered product is in compliance with this chapter.

3 (c) (1) A retailer, importer, or distributor shall monitor the
4 department's internet website to determine if a producer, brand,
5 or covered product is in compliance with this chapter for that brand
6 of covered product.

7 (2) Except as provided in subdivision (d), on and after the date
8 a stewardship plan is approved by the department pursuant to
9 Section 42984.5, a retailer, importer, or distributor shall not sell,
10 distribute, offer for sale, or import a covered product in or into the
11 state for sale in the state unless the producer of the covered product
12 is listed as in compliance pursuant to this section for that brand
13 and covered product.

14 (d) (1) Notwithstanding paragraph (2) of subdivision (c), a
15 retailer, importer, or distributor may sell, offer for sale, import, or
16 distribute a covered product if, on the date the retailer or distributor
17 sells or offers for sale the covered product in or into the state, the
18 producer, brand, or covered product was listed as compliant on
19 the department's internet website.

20 (2) Notwithstanding paragraph (2) of subdivision (c), a retailer
21 or distributor may, for any existing inventory in stock before the
22 initial list was posted by the department pursuant to subdivision
23 (a), sell or distribute that inventory for sale in or into the state.

24 (e) (1) If the department determines a producer is not in
25 compliance with this chapter, the department shall remove the
26 producer, along with its brands and covered products, from the list
27 of compliant producers posted on the department's internet website
28 pursuant to subdivision (a).

29 (2) The department shall list on its internet website a producer,
30 along with its brands and covered products, if the department
31 subsequently determines that the producer is in compliance with
32 this chapter.

33 42984.16. (a) The department may impose an administrative
34 civil penalty on a producer, program operator, stewardship
35 organization, manufacturer, distributor, retailer, or importer that
36 is in violation of this chapter. The amount of the administrative
37 civil penalty shall not exceed ten thousand dollars (\$10,000) per
38 day, but, if the violation is intentional, knowing, or reckless, the
39 department may impose an administrative civil penalty of not more
40 than fifty thousand dollars (\$50,000) per day. The department shall

1 establish, through regulations adopted by the department pursuant
2 to Section 42984.1, a process that shall include an informal hearing
3 process by which the penalties will be assessed.

4 (b) The department shall deposit all penalties collected pursuant
5 to this section into the Textile Stewardship Recovery Penalty
6 Account, which is hereby created in the Textile Stewardship
7 Recovery Fund. These moneys shall be available for expenditure
8 upon appropriation by the Legislature.

9 (c) This chapter does not limit or restrict the department's
10 enforcement authority pursuant to Chapter 6.5 (commencing with
11 Section 25100) of Division 20 of the Health and Safety Code and
12 its implementing regulations, if any.

13 (d) The Administrative Adjudication Bill of Rights, as set forth
14 in Chapter 4.5 (commencing with Section 11425.10) of Part 1 of
15 Division 3 of Title 2 of the Government Code, applies to hearings
16 conducted under this chapter and mandates minimum due process.

17 42984.17. (a) Upon a written finding that a producer, program
18 operator, stewardship organization, manufacturer, distributor,
19 retailer, or importer site has not met a material requirement of this
20 chapter, in addition to any other penalties authorized under this
21 chapter, the department may, after affording the entity a reasonable
22 opportunity to respond to, or rebut, the finding, take any of the
23 following actions to ensure compliance with the requirements of
24 this chapter:

25 (1) Revoke the program operator's stewardship plan approval
26 or require the program operator to resubmit the plan.

27 (2) Remove the producer, along with its brands and covered
28 textiles from the department's list of compliant producers, as
29 specified in Section 42984.15.

30 (3) Impose additional compliance reporting requirements.

31 (4) Post the noncompliant entity onto a list of noncompliant
32 entities.

33 (b) If a stewardship plan is revoked pursuant to paragraph (1)
34 of subdivision (a) or terminated by the program operator that
35 submitted the plan, a producer no longer subject to that plan may,
36 without being subject to administrative civil penalties pursuant to
37 Section 42984.16, sell or offer for sale covered products in or into
38 the state for a period of up to one year after the stewardship plan
39 was terminated or revoked if the producer continues to operate

1 under the most recent approved stewardship plan to which the
2 producer was subject.

3 42984.18. (a) A producer, program operator, stewardship
4 organization, manufacturer, distributor, retailer, or importer shall
5 do both of the following:

6 (1) Upon request, provide the department with reasonable and
7 timely access, as determined by the department, to its facilities
8 and operations, as necessary to determine compliance with this
9 chapter.

10 (2) Upon request, provide the department with relevant records
11 necessary to determine compliance with this chapter.

12 (b) The records required by this chapter shall be maintained and
13 accessible for three years. All reports and records provided to the
14 department pursuant to this chapter shall be provided under penalty
15 of perjury.

16 (c) (1) The department may impose administrative civil
17 penalties pursuant to Section 42984.16 on a producer, program
18 operator, stewardship organization, manufacturer, distributor,
19 retailer, or importer that fails to provide the department with the
20 access required pursuant to this section.

21 (2) The department may post a notice on the department's
22 internet website that is maintained pursuant to Section 42984.15
23 that a producer that fails to provide the department with access
24 pursuant to this section, along with the producer's brands and
25 covered products, is no longer in compliance with this chapter.

26 42984.19. After the time for judicial review under Section
27 11523 of the Government Code has expired, the department may
28 apply to the small claims court or superior court, depending on the
29 jurisdictional amount and any other remedy sought, in the county
30 where the penalties, restitution, or other remedy was imposed by
31 the department, for a judgment to collect any unpaid civil penalties
32 or restitution or to enforce any other remedy provided by this
33 chapter. The application, which shall include a certified copy of
34 the final agency order or decision, shall constitute a sufficient
35 showing to warrant the issuance of the judgment. The court clerk
36 shall enter the judgment immediately in conformity with the
37 application. The judgment so entered shall have the same force
38 and effect as and shall be subject to all the provisions of law
39 relating to a judgment in a civil action and may be enforced in the

1 same manner as any other judgment of the court. The court shall
2 make enforcement of the judgment a priority.

3

4

Article 8. Antitrust Immunity

5

6 42984.20. (a) Except as provided in subdivision (c), an action
7 specified in subdivision (b) that is taken by a program operator
8 that relates to any of the following is not a violation of the
9 Cartwright Act (Chapter 2 (commencing with Section 16700) of
10 Part 2 of Division 7 of the Business and Professions Code), the
11 Unfair Practices Act (Chapter 4 (commencing with Section 17000)
12 of Part 2 of Division 7 of the Business and Professions Code), or
13 the Unfair Competition Law (Chapter 5 (commencing with Section
14 17200) of Part 2 of Division 7 of the Business and Professions
15 Code).

16 (b) Subdivision (a) applies to all of the following actions taken
17 by a program operator:

18 (1) The creation, implementation, or management of a
19 stewardship plan approved or conditionally approved by the
20 department pursuant to Article 3 (commencing with Section
21 42984.4) and the determination of the types or quantities of covered
22 products repaired, reused, recycled, or otherwise managed pursuant
23 to a stewardship plan.

24 (2) The determination of the cost and structure of an approved
25 stewardship plan.

26 (3) The establishment, administration, collection, or
27 disbursement of a charge associated with funding the
28 implementation of this chapter.

29 (c) Subdivision (a) does not apply to an agreement that does
30 any of the following:

31 (1) Fixes a price of or for covered products, except for an
32 agreement related to costs or charges associated with participation
33 in a stewardship plan approved or conditionally approved by the
34 department and otherwise in accordance with this chapter.

35 (2) Fixes the output or production of covered products.

36 (3) Restricts the geographic area in which, or customers to
37 whom, covered products will be sold.

38 SEC. 3. The Legislature finds and declares that Section 1 of
39 this act, which adds Section 42984.5 of the Public Resources Code,
40 imposes a limitation on the public's right of access to the meetings

1 of public bodies or the writings of public officials and agencies
2 within the meaning of Section 3 of Article I of the California
3 Constitution. Pursuant to that constitutional provision, the
4 Legislature makes the following findings to demonstrate the interest
5 protected by this limitation and the need for protecting that interest:

6 It is in the best interest of the public to provide limited protection
7 of certain financial, production, and sales data of program
8 participants, in order to protect the interests of businesses and the
9 privacy of their data regarding their customers.

10 SEC. 4. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.