

Understanding New Packaging Reporting Requirements

UNDER THE CALIFORNIA PLASTIC POLLUTION PREVENTION
AND PACKAGING PRODUCER RESPONSIBILITY ACT (SB 54)



KAHN, SOARES & CONWAY, LLP

Initial Statement of Reasons, Page 15

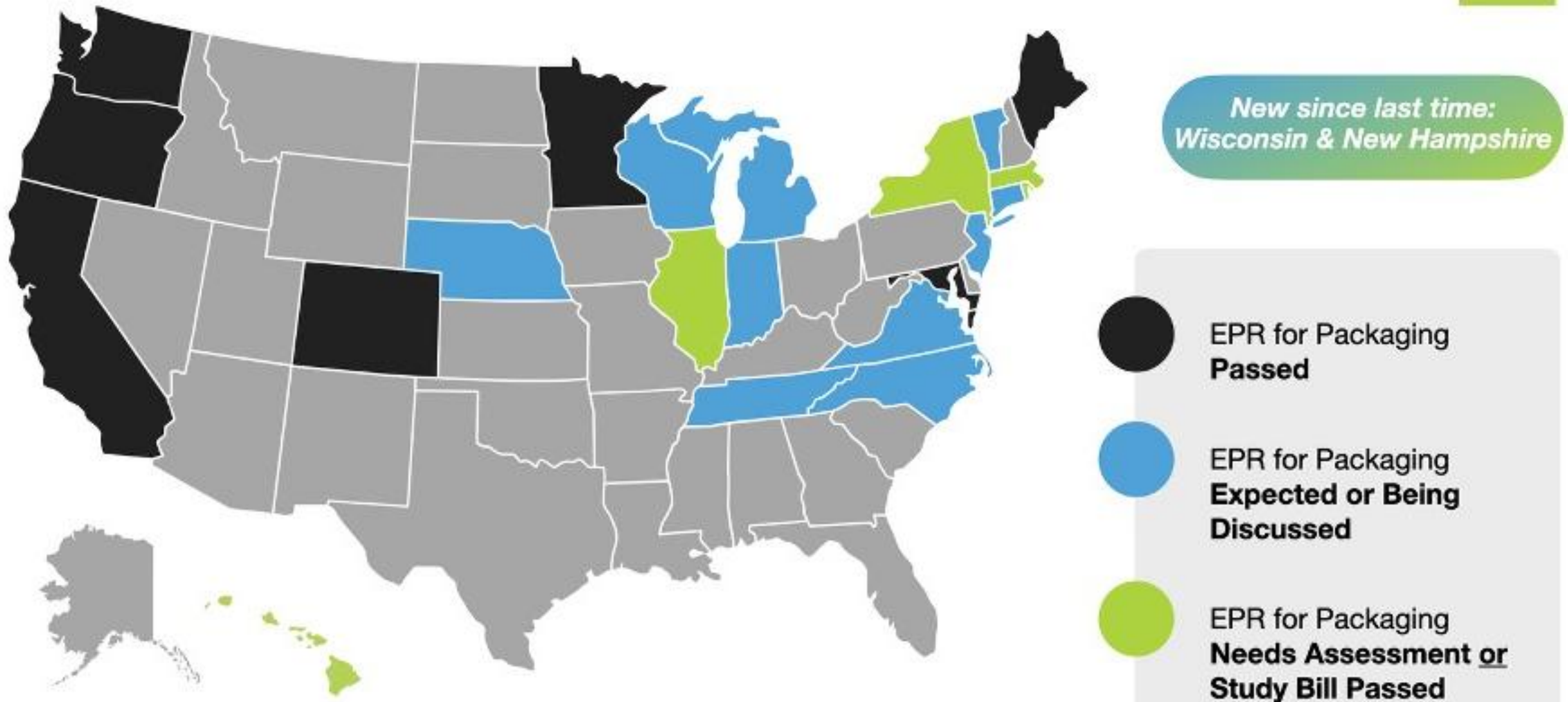
“The express intent behind the Act, as explained in section 42040, and the policy priorities referenced in section 42050 make clear that the Act concerns materials that *reach their end of life in the state, not materials that merely move through it.*”

CalRecycle, August 2025



KAHN, SOARES & CONWAY, LLP

EPR ACCELERATION



*Current as of February 1, 2026

Source: <https://www.atlanticpkg.com/deep-dive-extended-producer-responsibility-epr-for-packaging-explained/>

The Bottom Line

SB 54 establishes a new Extended Producer Responsibility (EPR) program that requires producers selling single-use packaged product (covered material) into California to fund and meet statewide recycling and plastic-reduction targets.

Producers must register within 30 days of the regulation's effective date, May 1, 2026. Registration and data submission was due **JUNE 1, 2026**. The first producer fees will be assessed soon after registration.

By 2032, the law requires:

- 100% of single-use packaging to be recyclable or compostable
- 25% reduction (collectively) in the total amount of plastic packaging sold in California, compared to the 2023 baseline.
- 65% recycling rate for single-use plastic packaging



Covered Material

Material classes include:

Glass

Ceramic

Metal

Paper & Fiber

Plastic

Wood & Organics

This definition includes:

- Single-use packaging that is routinely recycled, disposed of, or discarded after its contents have been used or unpackaged, and typically not refilled or otherwise reused by the producer.
- Plastic single-use food service ware.



Packaging Definition

Any separable and distinct material component used for the containment, protection, handling, delivery, or presentation of goods by the producer for the user or consumer, ranging from raw materials to processed goods.

This could include:

Sales packaging or primary packaging

Individual serving or unit of the product and most closely containing the product, food, or beverage

Grouped packaging or secondary packaging

Intended to bundle, sell in bulk, brand, or display the product

Transport packaging or tertiary packaging

Intended to protect the product during transport

Packaging components and ancillary elements integrated into packaging

Ancillary elements directly hung onto or attached to a product and that perform a packaging function



Who is a Producer?

“In the State” Definition:

A person is in the state if the person is subject to the jurisdiction of California courts pursuant to section 410.10 of the Code of Civil Procedure with respect to the Act and any of the following is true:

(1) Service of summons, excluding service in a manner requiring a court order, on the person may be completed in the state pursuant to sections 413.10 through 417.40 of the Code of Civil Procedure or section 2110 of the Corporations Code.

(2) The person consents to being considered in the state, being served notices and accusations by any means chosen by the Department pursuant to section 18980.13.3 and being personally subject to the jurisdiction of California courts. To be considered in the state, such person must be registered as a producer pursuant to section 18980.10 and must, upon demand, confirm the foregoing consent in writing, such as by affidavit or written agreement, and through conduct consistent with such consent. Conduct consistent with such consent includes responding to an accusation, filing a pleading, or otherwise appearing in a legal proceeding in the state.

Producer, for items not foodservice ware, and as defined in Public Resources Code section 42041(w) 1 and further detailed in the regulation (CCR §18980.1.1), follows this hierarchy:

- 1) A person in the state who manufactures a product using covered material **and** owns or is the exclusive licensee of the brand/trademark under which it is used in a commercial enterprise, sold, offered for sale, or distributed in the state.
- 2) If no such person exists in-state, the producer is the brand or trademark owner (if in the state).
- 3) If there is no producer according to (1-2), the producer is the licensee of the designated brand/trademark in the state (with additional conditions).
- 4) If no producer can be identified under (1)–(3): where a brand owner or licensee is in the state, it is the producer of all covered material items used by the good when the good is sold or distributed by the owner or a person acting on the behalf of the owner or licensee.
- 5) If there is no brand owner in the state, the first person who sells, offers for sale, or distributes the product using the CM in or into the state.

Field-Pack Provision: If a person produces, harvests, and packages an agricultural commodity on the site where it was grown or raised, they are not a producer under PRC §42041(w)(4)



Producer & Covered Material Exemptions or Exclusions

Exemptions or Exclusions May Include:

Small producers, retailers, or wholesalers (gross annual sales of less than \$1 million in CA)

Covered material that cannot comply for health and safety reasons, or because it is unsafe to recycle

Reusable or refillable packaging (e.g., pallets)

Packaging designed to protect or store products that have a lifespan of five years or longer

De minimis exclusions may be considered if it a plastic component is not independent and does not affect recyclability

Producers of specific materials with demonstrated recycling rates



Categorical Exclusion

Applies to regulations, rules, or guidelines issued by USDA, FDA, or others applicable to food and ag.

The current regulation draft includes a framework for entities to notify CalRecycle of categorical exclusions for packaging or packaging components used with food or agricultural commodities, if it is ***not reasonably possible*** for other packaging material to comply with regulations, rules, or guidelines issued by the United States Department of Agriculture (USDA) or the United States Food and Drug Administration (FDA) or other applicable food or agricultural regulations, rules, or guidelines.

Potential to justify continued use of packaging materials that cannot currently meet regulatory requirements, due to various factors, which could include:

- Food Safety
- Transportation/Quality
- Shelf-Life/Food Waste



Producer Requirements

1 Report

2 Register

3 Label

4 Pay Fees

5 Subject to Enforcement

Reporting Requirements:

- Must report total weight of CM and plastic components sold, distributed or imported in or into the state annually (May 31)
- CAA will request that producers provide qualitative data about their company or organization. This includes:
 - List of brands for all covered materials submitted in the supply report
 - List of corporate affiliates, including Tax ID/EIN, affiliate legal name, and a declaration of affiliate inclusion in the supply report
 - Disclosure of all methodologies used to prepare supply data
- SB 54 Individual Source Reduction Plan Due August 1, 2026
 - CAA requests information by source reduction equation pathways (design-enabled changes, sales-enabled changes, and shifts to reuseable/refillable formats). In this plan, producers project their expected source reduction activity for three target years (2027, 2030, and 2032).
- Will be subject to CalRecycle enforcement for failure to report, register or meet other obligations, which could include a fine of up to \$50,000/violation/day



SB 343

The basis of what is “recyclable”
is dependent upon language in
another state law: SB 343



SB 343 **Material Characterization** **Study Final Findings 2023/2024** **April 2025**

CALIFORNIA PACKAGING REGULATIONS UPDATE

Tuesday, June 30, 2026

- **SB 343 Lawsuit: CLFP v. Bonta**
- Plaintiffs: Coalition of 21 trade association representing dairy, food processors, agriculture, restaurants, retailers, packaging supplies and paper product manufacturers
- US District Court in San Diego
- June 3, 2026: Preliminary injunction hearing
- Violation of free speech rights
 - Labeling products as recyclable without meeting the SB 343 criteria is not misleading.
- Vagueness challenge
 - SB 343 recyclability criteria (60/60 threshold, Basel Convention, APR Design)
- **SB 54 Lawsuits**
 - State of Nebraska/National Association of Wholesalers v. Heller/CAA
 - NRDC/CAW v. CalRecycle
- **Californians for Affordable Packaging**
- Coalition of dairy, agriculture, businesses, packaging manufacturers and associations
- Advancing practical, affordable, safe, and sustainable packaging policy outcomes in California.
- Coordinated advocacy platform for stakeholders affected by extended producer responsibility (EPR) laws and related recycling and labeling requirements.



LEGAL UPDATE



CARTON RECYCLING UPDATE

- July 2025: Restored Recycling Symbol
 - Carton Council data submission accepted by CalRecycle
 - Cartons finally meet the 60/60 threshold
 - LVTP's 47% of counties served increased to 68% of counties served
- December 2025: Lost Recycling Symbol
 - Sacramento Recycling & Transfer Station Stops Sorting Cartons
 - Cartons drop below the 60/60 threshold
 - LVTP's 68% of counties served decreased to 53% of counties served
- April 2026: ReCB California Recycling Facility Opens
 - Carton End Market
 - Recycles 9,000 tons of cartons a year
 - Makes 9 million sq ft of roofing board per year
- June 2026: Recycling Symbol Restored Again
 - Carton Council data submission accepted by CalRecycle
 - Placer County, San Luis Obispo and Ukiah MRFs
 - Cartons again meet the 60/60 threshold
 - LVTP's 53% of counties served increased to 62% of counties served
- October 4, 2026: SB 343 recycling labeling restrictions begin, based on when product is manufactured or labeled, not sold.

Questions & Discussion

Katie Davey
Dairy Institute of California
(916) 441-6921
kdavey@dairyinstitute.org

Abby Taylor-Silva
Kahn, Soares & Conway, LLP
(831) 332-0584
ataylorsilva@ksclawyers.com

This presentation is for informational purposes only and does not constitute legal advice. The SB 54 regulations are complex and fact specific. Speak to your own business counsel or consult KSC for assistance.

