

Senator Ben Allen, author of the legislation that drastically cuts plastic pollution in California, discusses how it came together—and what it means

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At the end of June, Governor Gavin Newsom signed SB 54, known as the plastics bill, which requires all packaging in the state to be recyclable or compostable by 2032.

This legislation also leads the nation in terms of holding manufacturers accountable for their waste by shifting the plastic pollution burden from consumers to the plastics industry. In fact, it will raise \$5 billion from industry members over 10 years, money that will reduce plastic pollution and help disadvantaged communities, which are impacted most by the damaging effects of plastic waste.

To help us understand the significance of this landmark legislation, we sat down with the bill's author, Senator Ben Allen (D-Santa Monica).

You have been working on plastic legislation for a very long time. Why do you believe it is so important?

There are several reasons. ... Beyond the obvious environmental damage caused by plastic pollution in our rivers, waterways, parks, and oceans, which get into our food stream and into our bodies, this issue also impacts us through increased costs to local government and ultimately to ratepayers as we struggle with ever increasing challenges of managing all of this waste—the disposal of all of this plastic. Regular Californians are being asked to pay more and more to put Band-Aids over this problem. Perhaps at the center of this is the problem of the absolute lack of accountability on the part of the producers. The producers had no responsibility associated with the end-use of their products, and yet they have the most control over the design and science of their products. The decisions they make can make a huge difference in determining the end-use of a product. These three are among many of the issues we've addressed with this new law.



Senator Ben Allen

How does the new law deal with those three areas?

It creates extended producer responsibility. The producers will be required to create organizations that will ensure their products and packaging meet aggressive rates and dates for waste reduction, recyclability, reusability, and compostability. If they aren't able to meet them, then their products are ultimately going to be banned from the market.

What are the rates and dates?

There are two major factors that we're looking at in terms of rates and dates. One of them is source reduction, which is actually something that nobody else in the world has implemented. It's more inchoate, but it basically calls for a percentage reduction of the amount of stuff that's being pushed out on the market. Within 10 years, we've got to have a 25% source reduction with regards to the amount of plastic covered material that's being introduced into the market. This process is going to be developed by CalRecycle, the department who oversees this area of work, along with stakeholders.

And then there are the recycling rates and dates: at least 30% on and after Jan. 1, 2028; 40% on and after Jan. 1, 2030, and 65% on and after Jan. 1, 2032. In addition, all covered material has to be compostable or recyclable within 10 years.

There's a lot more work to be done on related legislation, like the Bottle Bill reforms that are currently being discussed. What we find when we go to places like Canada, Oregon, Maine, is that they've got a better system for redeeming and collecting items like glass, for example,

that are highly recyclable but that contaminate the waste stream in our current single stream system and create a lot of challenges for our ability to get glass recycled. Glass also contaminates the plastics stream; it contaminates the paper stream. So one of the conversations moving forward is: How do we create more coherence for all the various items that are going into the waste stream? And that's going to be one of many upcoming challenges.

So future legislation that is being contemplated tries to make the whole recycling thing more efficient, but also adapt to the changes in how the plastic bill is changing the landscape?

Exactly. I should mention that there's also (Assemblymember) Laura Friedman's bill that has to do with e-commerce and more aggressive requirements about e-commerce packaging with regards to plastics.

So if I understand correctly, if there's 25% of reduction and of the remaining 75%, 2/3 are going to be recycled or composted, that means 75% less plastic pollution?

That's exactly what we're trying to do. And then, of course, within the bill are more aggressive opportunities as we try to push recycling/composting rates further. Up until now, this area of work has been an un-policed Wild West. I think one of the reasons why industry was ultimately willing and able to work with us is that they know they can do their work with so much less plastic—there's just been no requirement for them to do so. And in a weird way, just as we've seen in the automobile industry with regards to cleaner vehicles in the wake of the anti-smog measures taken in the '70s and '80s, the companies that want to do the right thing are going to be benefited by this bill.

One of the challenges with recycling is that you have to collect the materials, you have to create a market for the recycled materials, you have to create an end-use for the materials. We're requiring these items to actually be turned into real products down the line, not just allowing them to say that their items are technically recyclable. There's going to be more money and incentives associated with actually sorting the materials and getting cleaner plastic that will be actually recycled and turned into something new.

The goal here is that by pushing industry to have to ask these questions about their products, to force market creation and consideration of end-use, industry is going to get increasingly creative about every aspect of the supply chain, from production design to collection and sorting to recycling the product into something new.

Senator Ben Allen, author of the recently passed SB 54 'plastics bill'

So, if you have to actually pay the cost, you're going to change, just like if you don't have to clean up the kitchen, you don't mind making it a mess?

Exactly. Right now, the producers aren't being held responsible for their products that they push out to the market. We're going to hold them responsible with this bill.

Ultimately making all of this work has to do with basic dollars and cents. Is there a market for the material? You talk to the glass guys: They will buy any clean glass of any color. They need that glass cullet to make the next generation of glass bottles. The problem is that their glass is getting mixed up in the paper and in the plastic, becoming so expensive to separate.

Similarly, I just met with some folks who were doing lithium ion battery recycling. They're basically going to be solving the big problem with EVs, which is disposal. We all know we want more EVs out there to solve our climate challenges. Yet the two biggest problems are the moral dilemma associated with mining and then the end-use. Those two problems are wrapped up in each other because if you can actually figure out a way to separate out the valuable components and then get them reused in the next generation, then you don't have as much of a sourcing problem.

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How does that all come together when you have so many manufacturers in the plastics industry? And how do you determine who pays the \$5 billion that is going to be allocated?

There's a mechanism for paying for the \$5 billion: \$350 million comes from the producers every year, and then \$150 million from the resins manufacturers. And businesses will come together to form Producer Responsibility Organizations, just as they do in many other parts of the world. All of this is ultimately specified in the bill with the implementation governed by CalRecycle. There's going to be an advisory committee. It's been made up of stakeholders from the environmental community, environmental justice, local government, citizens groups, and they will be playing a role in approving the producer responsibility plans. Then ultimately, the Producer Responsibility Organizations will be held strictly accountable to the goals that they themselves have laid out and to the requirements that are laid out in the law. There will be mechanisms for corrective action if there's a sense that (producers are) trying in a good faith effort to meet the goals, but they're not able to meet them for whatever reason. But at the end of the day, CalRecycle has very serious fining power, \$50,000 per product per day. The industry has the opportunity, they know their products best, so if they can get together and come up with solutions that are truly meaningful, they're best placed to figure out how to help meet the goals laid out in the law. And then we're going to hold them accountable to meeting these solutions that they've come up with.

We learned a lot from the carpet bill. Heidi Sanborn and a lot of the folks who were tearing their hair out over the problems of the carpet recycling program have been very involved in helping to craft language that would give CalRecycle a lot more teeth in this law. So we will actually be able to hold (producers) accountable in ways that previous laws didn't. It's ultimately about ensuring that CalRecycle can step in more aggressively with fines, approval processes, etc. It's about the system you put in place for empowering CalRecycle to enforce the law more than had existed in these previous product stewardship programs.

One of the aspects of the bill that I heard repeatedly is a disproportionate amount of the \$5 billion over the next 10 years is going to disadvantaged communities. What's your criteria for that?

The language about disadvantaged communities came out of serious concerns that residents in those communities are typically bearing the biggest brunt associated with plastic pollution. They typically deal with the most litter, trash and pollution, and related particulate matter in their air and water. These are the communities that typically live in industrial zones where a lot of the trash is being collected, where the dumps are, where the recycling facilities are. And they were left with the burden and very little compensation to mitigate. So we're going to make sure that they have money to mitigate against the corrosive impacts of plastics pollution over the years.

As this bill has shifted so much of the responsibility for managing the system over to the producers, this cost shift will benefit cities tremendously. It's the cities who are left holding the bag under the current system, and cities have been forced to make tough choices as to whether to raise rates or shift resources away from other local priorities in order to manage this increasingly challenging system.

The second this bill was signed into law, there's all this buzz happening in the investment market, because now people know that California, the fifth largest economy in the world on its own, will now have this shift happening. And so already there are investments in greater composting systems, sorting systems, recycling, and more sustainable packaging of products. There are some young entrepreneurs that are working on an alternative to Styrofoam, where they'll use shrimp shells, cornstarch and vinegar. And apparently, they could transform a Styrofoam factory within two weeks to this new technology without a lot of a change in the equipment, and produce a foam that produces the same sort of benefit associated with making sure your new television shows up from Best Buy at your home without being dented. And yet you could take that foam and toss it into the Sacramento River and it'll be fully biodegraded within 15 years.

Do you see this bill going across the country? Do you think other states are going to be doing something very similar?

I'm hopeful that other states will join; I'm hopeful we can work together. We were just in Maine discussing this with legislators there; similar conversations are happening with Washington and Oregon. Maybe we could have a system whereby other states can adopt the California model similar to what we saw with the Clean Air Act and cars. An interesting possible threat or concern on this front is that the federal EPA is now being sued by several other states, because California's clean air rules have led to better standards for automobiles nationwide, regardless of whether those states have agreed to our clean air rules or not, because at the end of the day the automobile manufacturers say, "Hey, I don't want to produce two different cars for California and Alabama. I'm going to produce a car to meet the California Standard, and Alabama's clean air will be just a corollary benefit." Now, what's funny is a couple very ideological Republican Attorneys General are actually suing the EPA to challenge the Clean Air Act, because their argument is that it's raised costs.

So the Republican AGs are actually suing the EPA because their air has gotten cleaner thanks to California?

That's exactly what's going on. It's sad.

It's hard for me to believe that the senate and assembly would pass a bipartisan bill for the sun to rise every morning, let alone one to reduce single use plastics. In a time of extreme polarization, you were able to pass SB 54 with 67 to 2 in the assembly and 29 to 0 in the senate. How did you do it?

Thank you for the question, Jeff, and that's one of the things I'm most proud of, that we were able to bring together both sides at a moment when there's so much polarization. This is exactly what people want us to do—to come together, and actually come up with solutions, get things off the ballot, not force them to be legislators, and take care of it ourselves. So, the ballot measure that had qualified for the ballot made a big difference in creating the context for the negotiations.

Local government made a big difference at the end of the day. Local governments in red parts of the state and blue parts of the state have been coming to their legislators saying what a problem this (plastic pollution) is. And remember, a lot of legislators come out of local government. They have deep connections, roots and colleagues. So, for example, the rural counties played a major role in helping us. We talked deeply with them and I also think the fact that the California Chamber of Commerce had been so involved with the negotiations was very meaningful to the Republicans. While the Howard Jarvis Taxpayers Association did oppose the bill, the California Taxpayers Association did not. They recognized that we worked so that there wasn't any direct tax to regular folks, and they also recognized the cost associated with the current status quo, the fact that regular California ratepayers are paying so much more now to deal with this problem with no end in sight.

The bill provided reliability, it provided specificity. I think people from both sides in the legislature recognized the value of that versus the ballot measure. I think people wanted us to get this thing done and solved once and for all.

Do you want to call out five or six people that were instrumental in making this happen?

On the senate side, I want to thank Senator Bob Hertzberg, who was really helpful on the tactics at the end. With his experience as former Assembly Speaker and Majority Leader, he had an ability to help shepherd some of the more complicated negotiations through, involving the Governor and the Assembly leadership, so I'm really grateful for his tactical engagement and support.

On the assembly side, Assemblymember Luz Rivas. As the chair of her committee, she was initially disinclined to move the bill along, but she heard us, she worked with us, we worked through all of her issues, and ultimately she became a great champion for the bill and helped to jockey the bill on the assembly floor.

I want to thank my staffer, Tina Andolina, for jockeying this bill every step of the way. At every moment she was absolutely instrumental, and this would not have happened without her.

Then on the negotiator side, I want to thank Jennifer Fearing. She's a really strong lobbyist and was the lead negotiator on the environmental side.

On the business side, Adam Regele was a really fine negotiator for the California Chamber of Commerce, always kept an open mind, and really tried to work with us to work through our challenges while also working closely with the many many stakeholders who comprise the business community.

Heidi Sanborn from National Stewardship Action Council played a big role. She's fantastic. Part of what we've done here is really adopt the extended producers responsibility model and I think Heidi played a really important role in helping to acculturate and educate.

I also want to mention the signatories of the ballot measure: Michael Sangiacomo and his close associate Eric Potashner, Caryl Hart, and Linda Escalante, all of whom pushed to make the bill even stronger at the end. They really struggled with their decision to pull back the ballot measure, but I think they recognized at the end of the day that what we'd pulled together was a strong bill, and that it really met all of the core goals that the ballot measure had. Their involvement and their commitment to the ballot measure—and I think the business community saw how committed they were—helped to strengthen our hand and create the environment where we were able to land this deal.

Congratulations, Senator Allen. And thanks for talking with us.

