

# California's plastic law puts beauty and fashion on red alert

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August 4, 2022

Fashion will need to rethink everything from e-commerce packaging to how clothes are displayed in store, while beauty packaging will need to become refillable or compostable — or actually, verifiably recyclable — in a sweeping new California Bill restricting single-use plastics that has potential to be extended across the US.

Fashion and beauty have a lot of work to do to get ready, says Heidi Sanborn, founder and executive director of the National Stewardship Action Council (NSAC) who was involved in drafting the bill. The law will force changes in all packaging, from e-commerce to the single-use polybags used to transport clothes from manufacturer to distributor, as well as plastic films and niche forms of packaging like collar stays, which will need to be replaced with reusable versions or have systems redesigned to eliminate them entirely.

After taking on big industries like pharmaceuticals and getting them to be responsible for needles and packaging, Sanborn says fashion is next. "They are extremely wasteful, and they are in the crosshairs," she says. The bill is getting attention outside California, she adds, and she expects some states to pursue similar legislation, although she wouldn't disclose which. "It's up to the authors of the bills to make it public when they are ready."

The beauty industry will need to take significant action. All packaging — for cosmetics, skincare, lotions, shampoos and more — will need to either be made with a higher percentage of recycled plastic and also be recyclable (according to criteria established by the California legislature last year), be compostable or come in a refillable packaging system. Some brands have begun experimenting with refillable products, but they are far from a mainstream reality. That means the aesthetics or design functions of plastic packaging are likely to change, because many plastics are almost, but not quite, recyclable.

"One thing that pulls down the recycling rate for those types of plastics is contamination in the waste stream from other plastics and the design of those materials. Really highly coloured plastics are harder to recycle, the way you label them, things like that," says Anja Brandon, US plastics policy analyst for the nonprofit Ocean Conservancy.

Passed in June, Senate Bill 54 (SB 54) is the most sweeping plastics legislation in the US, targeting one of the consumer goods industry's dirtiest secrets: plastic, which in theory can be recycled, rarely is. Scientists have estimated that 9 per cent of all the plastic ever made has been recycled. It comes in too many different forms, with different compositions and additives, optimised for short-term application and not for a second life. Even when plastic is

technically recyclable, its success is limited by a variety of factors and conditions such as regional recycling practices, misleading symbols and the state of the plastic that gets discarded.

**SB 54** will require producers that sell, distribute or import into California — impacting all products that reach customers in the state — to reduce single-use plastic packaging by at least 25 per cent by 2032, 10 per cent of which cannot be simply replaced with another material, meaning total packaging must be reduced. The other landmark feature of the legislation is who foots the bill for what needs to happen for it to work as intended: companies that put single-use packaging into the market must take on the financial responsibility of its full lifecycle, including costs associated with improving infrastructure to ensure recyclable products actually get recycled. Plastic resin manufacturers selling materials covered by the law will be required to pay into the newly-created California Plastic Pollution Mitigation Fund, and the bill authorises the California Department of Resources Recycling and Recovery to impose penalties, capped at \$50,000 per day per violation, on companies that don't comply; those fines would be put into another fund, the Circular Economy Penalty Account. The bill also establishes a producer responsibility organisation, “which is like a big nonprofit all of these producers will essentially join into”, Brandon explains. “This organisation becomes kind of like the compliance mechanism to accomplish all of these mandates in the bill.”

For some critics and advocates, the bill places too much emphasis on improving the recycling system and not enough on shifting away from single-use products altogether, which they'd rather see be replaced by refill and reuse systems instead. Still, it is the most aggressive legislation of its kind.

“It feels like a very bright spot in a dark time,” says Mia Davis, VP of sustainability and impact at clean beauty retailer Credo and a supporter of the bill. “I'm not saying it's perfect, but it feels like there's a lot of very strong thinking that is based in reality in this bill. I think it is something we should be proud of, watch and hopefully emulate in other states.”

## **Reduce and reuse before recycling**

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Certain types of packaging will demand bigger changes. Makeup cases, for example, will need to be either refillable or compostable, says NSAC's Sanborn, unless companies are going to take the packaging back and be responsible for recycling it. Product samples will be another challenge: it's virtually impossible to make recyclable versions of the single-use sachets that are so ubiquitous in the beauty industry today.

“One low hanging fruit and a really great opportunity for early investments is in reuse and refill infrastructure and technology,” says Brandon. “It will take a bit of time and transition for industry to figure out how to really use that system, but I think consumers are ready for it.

I think there's interest, and I think financially it will make sense for a lot of products. We are paying to ship water around. Water is incredibly heavy and really expensive to ship.”

There are some players out there ready to help brands reconfigure their operations to eliminate some of the key uses of single-use plastics. California-based company Returnity has seen an accelerating increase in interest from brands looking for alternatives to single-use packaging, says CEO Mike Newman. While brands were already exploring reusable options, he says, “What it has done is to add energy and urgency to that effort. While retailers may have initially prioritised ‘easy to start’ projects that let them release press releases around their reuse initiatives, regulations like SB 54 are driving them to refocus on programmes that are more deeply integrated, cost effective — and scalable.”

California-based Boox — which CEO Matt Semmelhack says is on track to ship 1.3 million Boox boxes in 2022 compared to approximately 100,000 in inaugural year 2021 — launched a new service “almost directly pointed at SB54”, says Semmelhack. It invites brands to return both the Boox shipper and the interior packing material for reuse. “In time, this will lead to e-comm brands switching to reusables not just for the outer shipper like Boox, but also any interior packaging materials, garment bags, etc.”

Reorienting a business towards reuse is also more likely to avoid unintended consequences, such as “manufacturers finding other raw source materials — like chopping down trees — to meet the guidelines to the letter of the law,” he says. “We’re going to need to accelerate the transition to a circular economy, not just give an ‘out’ by making things more recyclable or more compostable.”

Refill and reuse systems can also reap dividends for the business, he adds. “Brands are able to make the returns process an additional post-purchase offline touch point that leads to sales, retention, loyalty, etc. — all those critical things direct-to-consumer brands are after.”

## **Building momentum**

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Brands already focused on plastics reduction welcome the bill. Everlane says it has eliminated 90 per cent of virgin and single-use plastic from its supply chain, by shifting to recycled-plastic polybags and recycled fibres in its apparel, among other changes, and Katina Boutis, the brand’s sustainability director, says they are working on the rest. “We’re hopeful that Senate Bill 54 will support us in developing solutions for the last 10 per cent of our goal, namely trims and elastane, by spurring much-needed innovation in recyclability,” she says. “Much of the remaining virgin plastic in these areas requires material innovations that are not currently available at scale.”

Some companies have already found alternatives or ways to avoid some common waste-generating products. Hailey Bieber’s beauty brand Rhode, which launched in June, doesn’t offer samples, according to CMO Claudia Allwood, who says they’re holding out until there’s

a better, “responsible” way to offer them.

Credo switched away from all single-use plastics in 2020, including sample packets as well as other items including sheet masks. “That item could last for hundreds of years, even though we only use it for seconds,” says Davis. They now have a travel size jar made from upcycled, plastic-free materials that they invite customers in to refill when they’re looking to try a new product. But, Davis says, the quest for a sustainable way to sample products is about more than the material itself.

“We don't even have good data on their return on investment. We've been told that we have to do it for discovery, that we have to do it for the customer to know that there's newness. Why can't we think of another way to do that? Why can't we talk to the customer in a more tailored or concierge way? Why can't we do refillable?” she says.

That’s the kind of ambitious, sweeping impact that proponents hope will come from the bill. They want to not only reduce the impacts of single-use packaging, but to spark a rethink of single-use culture overall, from individual consumer mindsets to corporate operations to public infrastructure. Recycling works best when the plastic coming in is as uniform as possible — the opposite of what brands tend to look for in packaging, the main venue they have for communicating their brand and differentiating their offerings, says Brandon. That’s why she sees opportunity for new ideas and innovation.

“Little-known fact, industry is really good at selling things to us. So, I think there's going to be a lot of really unique and innovative ideas.”