

The art of the plastics deal

P politico.com/newsletters/the-long-game/2022/06/28/the-art-of-the-plastics-deal-00042765

PERFECT, MEET GOOD — The plastics crisis has gotten lawmakers' attention in state capitals across the country. Now it's pragmatists versus idealists as the sausage gets made.

It's a banner year for "extended producer responsibility" bills, which set targets for reducing and recycling products, and task industry-backed groups with meeting them and raising the necessary funds. Legislation to reduce plastic packaging waste in particular is at a record high, with 20-odd measures introduced across the country, according to the Product Stewardship Institute, a nonprofit that advocates for EPR.

There's a fundamental split in many states between groups arguing that industry needs to be at the table and those who don't trust it to govern itself.

One make-or-break battle is in California, where a ballot initiative to tax plastic, ban Styrofoam and set recycling targets has scared industry enough to get them to negotiate a compromise bill. They're close to an agreement with environmental groups on a bill that would set up an EPR program — and require plastics manufacturers and producers to pay \$5 billion over 10 years for environmental cleanup.

Plastics companies don't necessarily love the deal, but they dislike direct regulation even more. Dow Inc. donated \$10 million last week to oppose the ballot initiative and Dart Container Corp. put in another \$1 million. Some environmentalists, meanwhile, see the fact that some industry is okay with EPR as reason enough to be skeptical.

"Their whole business model is based on lying to the consumer, specifically about the recyclability of their products," said **Jane Williams**, executive director of California Communities Against Toxics. "Why would you trust those guys to regulate themselves?"

Another big sticking point is the role of "advanced recycling," a common plank in EPR bills. It's a broad term that refers to breaking down plastic through heat or chemicals and making it into new plastic. Environmental and environmental justice groups express concern about where the processing facilities will be located — and are wary of industry support for the concept.

Broad packaging and paper EPR bills in New York failed to gain traction this year as groups split. Some environmental groups were supportive of a compromise. Others took a hard line and called for definite, statutory mandates on recycled content and other metrics to reduce waste. They also raised the alarm as the American Chemistry Council backed the allowance and limited regulation of "advanced recycling."

The result: no new laws.

"It's a shame," said state **Sen. Todd Kaminsky** (D-Long Island). "We've managed to do nothing, while the packaging people put on their curbs and think is going to be recycled is actually going to a landfill."

A bill that Colorado Gov. Jared Polis signed into law this month addressed the advanced recycling question by excluding fuel production or waste-to-energy facilities from the EPR system. Still, environmental justice advocates wanted limits to the use of toxic chemicals in packaging — something that did not get into the bill.

Colorado became the third state after Maine and Oregon to get an EPR system on the books through legislation. The new law had the support of local recycling groups and big-name brands like the American Beverage Association, the World Wildlife Fund, Walmart and Nestle.

"There was tension," said **Kate Bailey**, policy and research director at Eco-Cycle Inc. "These are not groups that typically work together. Some of what you see coming up across the country were exactly some of the things we grappled with — the role of advanced recycling, toxic chemicals in packaging, could we include recycling or reduction targets — some of those things we worked through out here."

These tensions are resolvable, in the view of EPR advocates.

"This is totally doable if everyone comes together, so that's why it's so disappointing to see so many normally aligned groups backbiting," said **Heidi Sanborn**, founder and executive director of the National Stewardship Action Council, who's helping negotiate the California bill. "They're in search of the perfect. We can wait to get everything we want, but that has led to getting nothing."

The sponsor, state Sen. Ben Allen (D-Santa Monica), says he's "confident" about the deal, which will face its first committee hearing today. It needs to pass the Legislature by Thursday to meet the deadline for the initiative proponents to remove their measure from the November ballot.