

Pushing for Polluter Pays Legislation in the Golden State

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In California, less than 15 percent of single-use plastic is recycled. Local governments in the state spend more than \$420 million each year to clean up plastic and prevent it from entering waterways. Photo by [Lisa Risager](#).

In California, circular economy advocates look to British Columbia for inspiration on plastics regulation.

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“It’s going to be a gigantic fight.” Heidi Sanborn does not mince words when it comes to the challenge of addressing consumer packaging. The executive director of the National Stewardship Action Council, a US-based non-profit pushing for a circular economy, is on a

mission to slash the amount of single-use plastics that end up in California landfills and in ditches.

It's a big job. The United States is thought to discard 30 million tons — the equivalent weight of 300,000 Boeing 757s — of plastic each year. In California, less than 15 percent of single-use plastic is recycled. Local governments in the state spend more than \$420 million each year to clean up plastic and prevent it from entering waterways.

“It's horrendous,” says Sanborn.

One place she looks to for inspiration is Canada. For years now, she's been bringing legislators north to learn about Canadian approaches to recycling. That's because in 2009, the Canadian Council of Ministers of the Environment called on all provinces to adopt extended producer responsibility legislation, or EPR. EPR is an idea that came out of Europe in the early 1990s; it shifts responsibility for dealing with waste from the consumer to the producer.

In practical terms, here's how it works. Say you buy a pint of berries at the supermarket that come in a plastic box. You eat the berries and toss the box into your blue bin. In cities where EPR legislation does not exist, the municipality picks up the recycling, finds a market to recycle the plastic — an increasingly difficult task since 2018, when China stopped importing 4,000 shipping containers of US plastic per day — and then charges residents a fee for the service through city taxes. In places with EPR legislation, the manufacturer of the plastic berry box is responsible for those costs, not the consumer. Municipalities then either reinvest that money or reduce taxes.

British Columbia was the first province in Canada to introduce so-called “polluter pays” legislation for used paint in 1994. The law spurred paint producers to set up paint collection locations across the province. The system saw a major overhaul in 2004, when consumer packaging was added. At that time, the province set a target of recycling 75 percent of post-consumer waste.

Bob McDonald is director of the provincial EPR program, which makes producers entirely responsible for the cost and management of waste pick-up, sorting, and recycling. He says producers understand that expectations for the percentage of material recycled are going to increase steadily. “I would say we are a victim of our own success. A good portion of our time is spent trying to expand the program in a measured way. We're constantly being asked to do more, everything from mining tires to cigarette butts. Local governments really like it.”

McDonald says producers like it too. The program gives producer groups the ability to invest in local recycling infrastructure, for example, because they know that collecting a large volume of material will mean they get their money back. In 2014, Recycle BC put out a tender for collection and processing. McDonald says the consortium that won the contract

invested \$25 million into plastic sorting. That meant that a higher proportion of what ended up in blue bins was recycled, giving BC a large volume of plastic to work with. (The industry calls this feedstock.) “All that plastic, instead of going elsewhere — overseas, for example, or being hauled wherever — was starting to be processed more and more in BC.”

That success has caught the attention of neighbouring Alberta, the most recent provincial player to the EPR table, following Manitoba, Ontario, Quebec, and New Brunswick. In December 2021, Alberta passed Bill 83, the Environmental Protection and Enhancement Amendment Act, which lays the framework for provincial discussions around what products to include in EPR legislation and what oversight mechanisms will be needed.

For her part, Sanborn is looking to BC for guidance on a California program. She doesn't like everything she sees, but it's a start. “We also went to Toronto and saw some stuff there,” she says. “My hope is that California will cherry pick from the best programs that will work here with our infrastructure and our stake holders. They're all going to probably be a little bit different, and that's why if the industry wants harmony, they'd better get to it.”

In July 2021, Maine became the first US state to pass EPR legislation. Oregon followed suit in August. But Sanborn says in California there are thousands of manufacturers selling products packaged in “everything any designer cooked up and put on the free market and then mislabeled, confusing the consumer.”

That makes recycling programs more complicated. Consumers put things “in the wrong bin, thinking they're putting [them] in the right bin, and then their rates skyrocket and they're told it's not being recycled anyway, so they get super angry and frustrated. And rightfully so.”

Sen. Ben Allen introduced Senate Bill 54, the Plastic Pollution Producer Responsibility Act, in December 2020, and Sanborn is hopeful it will pass. The bill seeks to reduce the amount of disposable packaging thrown away in California by 75 percent. It would require producers of single-use packaging to shift to more sustainable options and only use packaging that is reusable, recyclable, or compostable. If it doesn't pass, there is also a ballot proposition about reducing plastic use that is set to go to voters in November.

Despite the forward momentum on packaging EPR, Sanborn is preparing for what she calls the biggest battle of her industry. “The companies will fight like hell here,” she says. “Because they know as we go, so goes the nation.”