

Publications

New State Laws Require Businesses to Take Increasing Responsibility for Packaging Waste

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In today's rapidly evolving regulatory landscape, companies must stay ahead of emerging state-level environmental regulations that are reshaping the responsibilities of manufacturers, distributors, brand owners, and retailers. The absence of comprehensive federal standards has led states to implement their own stringent laws, particularly in the realm of product stewardship and environmental impact. From restrictions on PFAS in consumer products to "greenwashing" laws that target environmental marketing and labeling claims, companies face a growing patchwork of state-specific requirements governing product design, packaging, and environmental impact disclosures.

One of the most significant developments in this area is the rise of Extended Producer Responsibility (EPR) laws for packaging materials. These laws, currently adopted in seven states, shift the costs of end-of-life management and recycling from consumers and municipalities to the producers who introduce certain covered products into their state. This shift not only aims to promote sustainable packaging design and increased recycling but also imposes new obligations on companies involved in manufacturing, importing, distributing, or retailing packaged goods.

This client alert provides crucial information on the expanding landscape of packaging EPR laws and their implications for your business. Understanding and complying with these laws is essential to avoid penalties, manage costs, and maintain market access. Having a proactive compliance strategy is important as these packaging EPR regulations continue to evolve.

1. What are EPR laws?

EPR laws are designed to improve end-of-life management for certain wastes and shift the responsibility (or costs) to producers. EPR laws are not new but previously have been targeted – covering specific products or industries such as paint, batteries, pharmaceuticals, mercury switches, etc. The latest EPR trend is much broader – covering all packaging materials regardless of the product within. Packaging EPR

laws can also apply more broadly to manufacturers, distributors, brand owners, and retailers. They generally do so by requiring producers of covered packaging materials to join a state-approved organization and contribute funds relative to the amount of covered packaging materials introduced into the state. That organization is then responsible for providing recycling services or reimbursing municipal recycling entities. The goals largely remain the same with other EPR laws – to encourage more sustainable design, increased recycling/composting of packaging, and to shift costs traditionally borne by municipalities, and consumers back to producers.

For manufacturers, distributors, brand owners, and retailers, this means:

- You may be required to register as a “producer” in one or more states and join a state-approved Producer Responsibility Organization (PRO).
- You may be required to submit data (e.g., weight/volume of packaging introduced, material types) and pay fees or share in recycling program costs.
- Non-compliance carries risk of penalties (some States contemplate tens of thousands of dollars per day) and may impact your ability to sell within the state.
- Because multiple states have different laws, each with their own deadlines and criteria, having a compliance strategy now is important to avoid surprise costs or loss of market access.

2. Key Differences Across States

Currently there are seven states with packaging EPR statutes in the books: **California, Oregon, Washington, Colorado, Minnesota, Maine, and Maryland**. Although the statutes are similar, each state has key differences in definitions and exemptions which change who the (and what) the law covers. Each state also has its own timeline for when producers must register with a PRO, submit packaging data, and begin paying fees. States are also in the process of amending their statutes and issuing draft regulations.

For example, Maine, one of the first states to pass a packaging EPR law, recently amended its legislation during the summer of 2025. This amendment made a significant change to the scope of the state’s program. Prior to the amendment, it applied to any and all packaging material used in the state – including packaging used in the upstream distribution of components and materials used to produce the end-consumer products. The latest amendment reduced the scope to only packaging for a product when it is received by a consumer, defined as a family residence, school, or local government. Consumers no longer include manufacturers of products who receive packaged components since that packaging will not make it to the consumer residence. This limitation is one followed in some but not all EPR states.

Therefore, it is crucial that an organization with activities in multiple states analyzes each independently and stays up to date on legislative amendments and issuance of regulations.

3. Recommended Next Steps

Given the variability and rapid pace of change in the packaging EPR landscape, we recommend the following steps for compliance:

- **Understand your product/packaging footprint:** Identify the states in which your products (including packaging) are introduced, sold, distributed or shipped. Determine whether you are regulated (e.g., a “producer”) under any of the applicable state laws.
- **Review packaging materials:** Determine volumes, weights, material types (plastic, paper, glass, etc.), packaging design (single-use, refillable, compostable, reusable) and whether they fall under any “covered materials” definition or an exemption in each state.
- **Identify state-specific thresholds and deadlines:** For each state in which you sell/distribute, note whether registration, reporting, fee payment or other obligations apply and when they apply.
- **Budget for fees and internal compliance costs:** Packaging EPR programs key requirement is the payment of fees based on weight or material types of covered packaging.
- **Develop a compliance calendar:** Assign a lead person or team within your compliance/supply chain group to complete registrations, lead data management for reporting deadlines, and track state laws and any amendments thereto.
- **Engage your upstream and downstream partners:** Seek out potential cost sharing agreements or other terms to minimize packaging or replace with alternatives.
- **Monitor for EPR expansion:** More states are likely to adopt packaging EPR laws. Staying ahead of developments can give you strategic advantage.

4. Why act now (and what happens if you don't)

- The deadline to register with a PRO has already passed in several states and data reporting and fee payments will soon pass.
- Failure to register and join a PRO, report required data, or pay fees may result in enforcement actions by the state.
- Because packaging EPR programs tie fees to packaging weight/material, early action gives you opportunity to optimize packaging and reduce costs.

5. How Vorys can help

Our team is ready to assist with:

- Reviewing whether your packaging falls under one or more state packaging EPR laws and whether you qualify as a “producer” under those laws.
- Advising on applicable deadlines, PRO registrations, reporting obligations, fee liability and risk exposure.
- Supporting internal data gathering (packaging volumes, material types, weight, supply-chain logistics) and preparing for registration or reporting.
- Monitoring upcoming state legislation and helping you anticipate expansion of packaging EPR laws in other state.

The information provided here is general in nature and does not constitute legal advice.