

# PPAI Product Responsibility Summit™

Understand  
Sustainability

# Extended Producer Responsibility (ERP) Policy Trends

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Extended Producer Responsibility for  
Packaging

Promotional Products Association  
International

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# Serlin Haley Background

- 20+ years in Environmental Policy engagement and analysis
- Political, legal and technical engagement
- Advising clients across industry sectors on the nexus between compliance and policy influence
- Lobbied on all 4 state EPR for packaging bills 2021-2022
- Our goal is to help you control your future where business and policy meet



# EPR Expansion Across the USA



- EPR isn't just for hard to manage products anymore!
  - E-waste
  - Paint
  - Thermostats & CFLs
  - Packaging!
- Projected growth 1-2 states per year





# EPR for Packaging

- Driving Goals

- Fund municipal recycling programs
- Drive greater recycling
- Force change in packaging types
- Force removal of toxic chemicals
- Move toward source reduction and reusable packaging
- Reduce plastics
- Fund environmental justice projects



# Packaging EPR States in Regulation

- Maine
  - Maine DEP run program with a Stewardship Organization contractor
  - Fund municipal Governments
- Oregon
  - Oregon DEQ driven program
  - Shared producer responsibility ~37% cost of the system
- Colorado
  - Industry run 100% producer funding and control to create the recycling system
- California
  - Source reduction and recycling program with PRO for compliance
  - Plastic mitigation funds



# California Packaging EPR

- **SB 54, Plastic Pollution Producer Responsibility Act**

- Creates PRO for all packaging and plastic food serviceware
- Needs assessment by CalRecycle or CalRecycle-chosen third-party
- \$500 million mitigation fund - \$5 billion over 10 years
- Requires all covered materials to be recyclable or compostable by 2032
- 25% source reduction and recycling rates on producers of plastic packaging
- January 2027: producers must be participating in a PRO





# Colorado EPR

- One PRO established initially – others possible after 2029
- Needs Assessment by a third-party chosen by PRO
- Minimum recyclables
- Three-cost scenarios for investment and recycling rates sent to legislature
- Must be completed by January 2024
- Strong PRO by 2023
- Producers pay for 100% of the net recycling service costs
- Advisory Board announced on Dec. 8, 2022
- **PRO Announced May 1, 2023 – CAA**
- **Plan due March 2024**



# Maine EPR

- **Effective Date/DEP Rulemaking:** must begin on or before Dec. 31, 2023. Requires at least 30 days for public comment on draft rules.
- **DEP PRO Contractor Selection and Contract:** per Maine RFP rules; might not be lowest bid.
- **PRO Program Plan:** submission, approval and implementation process/timelines not specified and are expected to be included in final rules from DEP.
- **Producer Annual Payments:** begins six months after effective date of a PRO contract.
- **Municipal Annual Rates and Reimbursements:** based on rules adopted by DEP.
- **Recycling Goals:** DEP determines with eco-modulation of producer fees for recyclable products, recycled content and reduced toxicity.
- **Timeline:** Rules done by 2025, PRO in 2026, producer fees late 2026, funds to municipalities in 2027.



# Oregon EPR

- **Effective date:** Jan. 1, 2022, and program changes will start in July 2025.
- **PRO Program Plan:** first due to DEQ no later than Mar. 31, 2024, and first implemented no later than July 1, 2025.
- **Uniform Statewide Recycling Collection List:** determined via DEQ rulemaking.
  - Local Government Acceptance List (curbside)
  - PRO Acceptance List (recycling depots)
- **Municipal Annual Rates, Reimbursements and Processor Fees:** determined via DEQ rulemaking.
- **Plastics Recycling Rate:** 25% by calendar year 2028, 50% by calendar year 2040, 70% by calendar year 2050. These rates can be adjusted by rule on or after Jan. 1, 2038, but they cannot be adjusted to be lower than 35% or higher than 70%.
- **Recycling Equity Study:** first study report due from DEQ no later than Sept. 15, 2024.



# Penalties

- Maine – Not specified in statute. Pending regulations likely to address
- Oregon - Civil penalty not to exceed \$1,000 per day for each day of the violation
- Colorado –
  - 1<sup>st</sup> violation \$5000 for the first day, \$1500 each additional day.
  - 2<sup>nd</sup> violation \$10,000 for the first day, \$3000 each additional day.
  - 3<sup>rd</sup> or more violation \$20,000 for the first day, \$6000 each additional day.
- California - Civil penalty not to exceed \$50,000 per day per violation



# What is Covered?

	California	Colorado	Maine	Oregon
Applicable to Product Packaging	Yes, unless a qualified “covered material” exemption can be claimed.	Yes, but only for containers sold/distributed or available to the end-user/consumer*	Yes, but only containers under the producer’s brand.	Yes, for both commercial and retail distribution and sale, but only if packaging is discarded or recycled within the State.
Relevant Exclusions?	None that are relevant	None that are relevant	None	None that are relevant
Potential Packaging Exemption via Regulatory Process	CalRecycle regulatory process to ID materials that present unique challenges in compliance.  Exemption from PRO if meeting specific recclng criteria (not residential collection, not separated, responsible end market, 65% recycling rate).	PRO proposed exemption for a material; Commission must determine it by rule.	DEP rulemaking to exclude certain packaging; rulemaking in process.	DEQ and ORS currently reviewing applications for exemptions and announcements Fall ‘23
Exemptions for Certain Producers	Gross annual sales <\$1m	Gross annual rev <\$5m  Use <1 metric ton of packaging	Gross annual revenue <\$5m for yrs 1-3  Gross annual sales <\$2m yrs 4-7  Distribute <1 metric ton of packaging into ME	Gross annual revenue <\$5m  Distribute <1 metric ton of packaging into OR  DEQ determined minimum market share

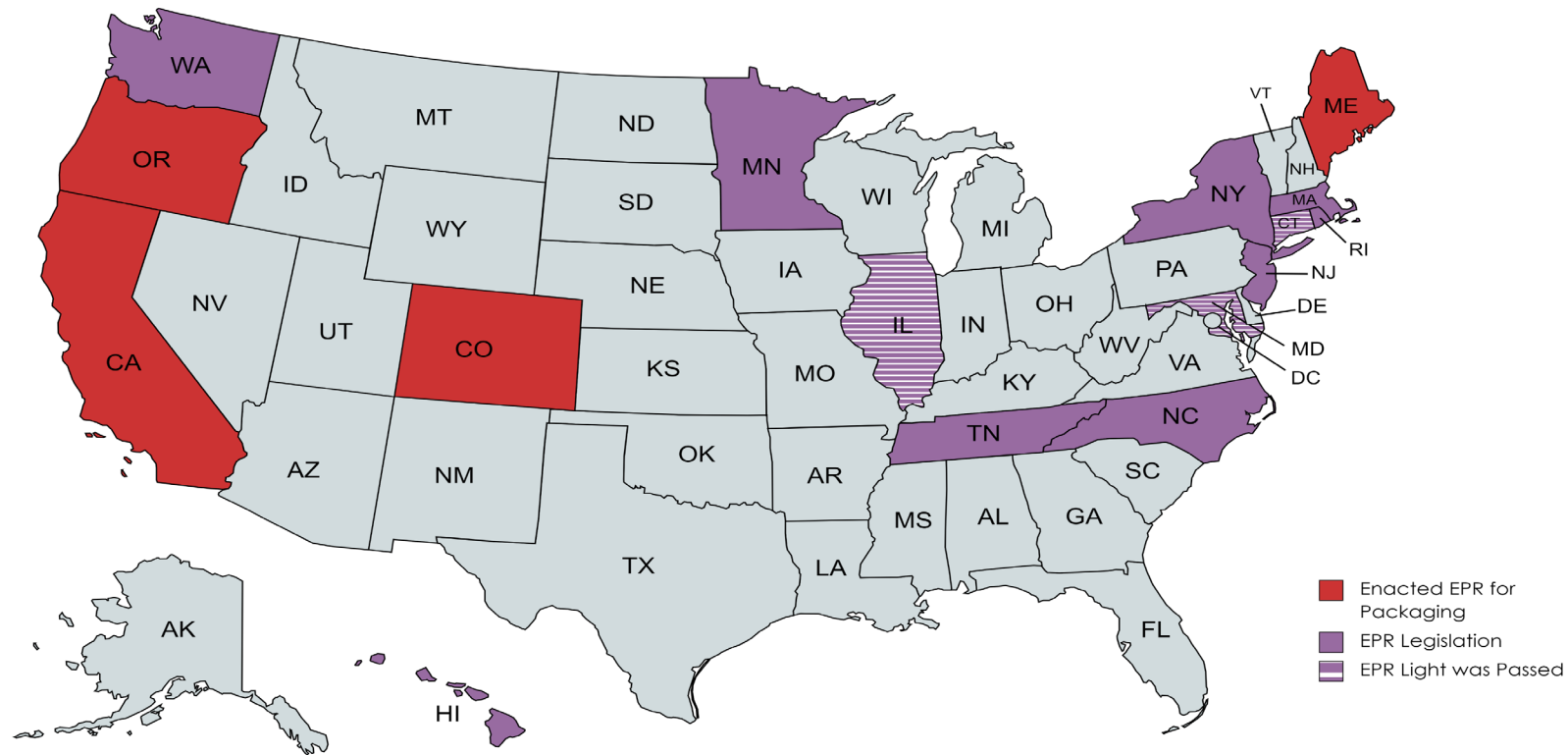


# 2023 Activity

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# 2023 Extended Producer Responsibility



# Maryland and Connecticut

## **Maryland- SB 222 / HB 284**

- Shared producer responsibility for cost
- Industry Model Bill
- Bill that passed – Needs Assessment, PRO and Advisory Council

## **Connecticut- H.6664**

- PCR for beverage containers, EPR and MIRA permitting – 25% PCR by 2027, 30% PCR by 2032
- STRONG Hauler Opposition to EPR
- Converted to Materials Innovation and Recycling Authority Dissolution and PCR Bill – became law



# New York and New Jersey

## **New York- S.4246 A/A.5322 A**

- Governor's Executive Budget Proposal
- Rates & Dates – Source Reduction, Recycled Content, Reuse
- 10%, 20%, 30%, 40%, 50% - plastic source reduction from years 3-12
- Advisory Council and Chemical Bans

**NY Needs Assessment funding in the Budget – RRS doing the work**

## **New Jersey- S.426/A1444**

- Rates and Dates
- Office of Inspector General
- Funding stipulated in statute
- Still pending



# Washington and Hawaii

## **Washington--H.1131/S.5154 – WRAP Act**

- EPR and Bottle Bill
- Hybrid with UTC Oversight
- PCR Rates
- Failed in the House, to be refiled in some fashion in 2024 (short year)

## **Hawaii—HB 1326**

- 70% Source Reduction Packaging to landfill
- Needs Assessment
- Advisory Council
- Department Led no PRO
- Died in Senate Ways and Means



# Illinois

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## SB 1555

- Creates the Statewide Recycling Needs Assessment
- Advisory Council
- By December 1, 2026



# Oregon

## SB 544

- Source Reduction to match SB 54 (California)
- Died in Senate Energy and Environment

## SB 123

- Started as a digital recycling label mandate
- Was amended to direct the PRO to create recommendations on digital recycling labeling
- Signed by the Governor





# Honorable Mention States

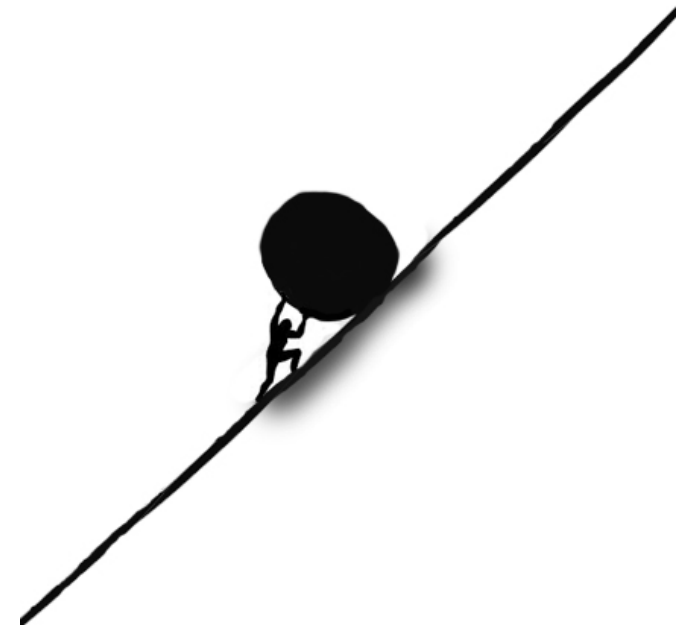
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- Minnesota
- Massachusetts
- Rhode Island
- Tennessee
- North Carolina



# The Future???

- 2023 ... The Year of The Needs Assessment
- 1-2 new states for EPR starting 2024
- Legislative Model Language and Consensus
- Source Reduction Bills
- PCR Bills
- Bottle Bills
- Labeling Bills
- Needs Assessment Bills
- Federal Solution?



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