

Date of Hearing: April 6, 2026

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2253 (Boerner) – As Introduced February 19, 2026

SUBJECT: Solid waste: products: environmental marketing claims

SUMMARY: Requires that recycled content claims be based on the actual physical recycled content in a product without the use of credit-based mass balance accounting, including free allocation, “book and claim” accounting, or similar approaches that are not based on the actual physical recycled content in the product.

EXISTING LAW:

- 1) Defines “product” as including, but not limited to:
 - a) A consumer product, as specified;
 - b) A package or packaging component;
 - c) A bag, sack, wrap, or other thin plastic sheet film product; and,
 - d) A food or beverage container or container component, including straws, lids, and utensils. (Public Resources Code (PRC) 42356)
- 2) Defines “plastic food container product” as a product made from plastic that includes a tray, clamshell container, or other receptacle that is used, or intended to be used, to hold food. (PRC 42357.6)
- 3) Requires manufacturers or suppliers making environmental marketing claims relating to the recycled content of a plastic food container product to maintain information and documentation in support of that claim, including the recycled content for materials that have been recovered or otherwise diverted from the solid waste stream either during the manufacturing process (preconsumer) or after consumer use (postconsumer), and the recycled content claim conforms to the uniform standards for recycled content contained in the Federal Trade Commission Guides for the Use of Environmental Marketing Claims. (PRC 42357.6)
- 4) Requires a manufacturer or supplier to furnish the information and documentation to any member of the public upon request or to provide the information on its website. (PRC 42357.6)

THIS BILL:

- 1) Defines “postconsumer” as a material that would otherwise be destined for disposal, having completed its intended end use and product life cycle. Specifies that “postconsumer” does not include materials or byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.
- 2) Expands PRC 42357.6 to apply to all products, as defined.

- 3) Requires that recycled content claims be based on the actual physical recycled content in the product without the use of credit-based mass balance accounting, including free allocation, “book and claim” accounting, or similar approaches that are not based on the actual physical recycled content in the product.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Recycled content.** The United States has not developed significant markets for recycled content materials, including plastic. Historically, China has been the largest importer of recyclable materials. In an effort to improve the quality of the materials it accepts and to combat the country's significant environmental challenges, China established Operation National Sword in 2017, which included inspections of imported recyclable materials and a filing with the World Trade Organization indicating its intent to ban the import of 24 types of scrap, including polyethylene terephthalate (PET), high density polyethylene (HDPE), polyvinyl chloride (PVC), and polystyrene (PS) beginning January 1, 2018. In November 2017, China announced that imports of recyclable materials that are not banned will be required to include no more than 0.5 percent contamination.

Following China's actions, other Southeast Asian countries have enacted policies limiting or banning the importation of recyclable plastic materials. Last year, Malaysia and Vietnam implemented import restrictions. India and Thailand have also banned scrap plastic imports.

These limitations are important to reducing plastic pollution worldwide, as these countries have received low-quality mixed plastic waste that is challenging to recycle and has little to no scrap value. The plastic is sorted to remove the materials that can be easily recycled, and the rest is left to be burned or otherwise disposed. In countries with inadequate waste management systems, this can include being left on beaches or otherwise dumped into the environment, contributing to the ocean plastic pollution crisis. For the United States, this has significantly limited our recycling options for plastics.

In order to foster markets for recycled materials, the state has established recycled content requirements for various products. The Rigid Plastic Packaging Container (RPPC) Law requires that RPPCs contain at least 25% postconsumer material, have a recycling rate of 45%, be reusable or refillable, or be a source-reduced container. Plastic beverage containers subject to the state's Bottle Bill are required to contain a minimum of 25% postconsumer recycled plastic through 2029, and 50% on and after January 1, 2030. Statute requires that newsprint contain a minimum of 25% recycled content. Plastic trash bag manufacturers are required to ensure that the bags contain a quantity of postconsumer recycled content equal to 10% of the weight of the regulated bag or ensure that at least 30% of the weight of material used in all of its plastic products is postconsumer recycled content.

- 2) **Mass balance.** Generally, mass balance is a term used to describe chain of custody systems used in the industry to track materials through the production process. Mass balance is widely used to trace materials in supply chains where it is not feasible to physically separate materials. As one chemical producer describes it, “The mass balance approach supports positive environmental impact by substitution of conventional feedstock while not focusing on measurable content in the end product.” Book and claim is similar to mass balance, but

differs in that it does not follow the physical path of a material. Book and claim is more similar to a credit trading system where no amount of physical recycled content may be used in the production process at all, but a “credit” for the amount used elsewhere is claimed as recycled content.

The International Organization for Standardization (ISO) has developed standards to govern the use of mass balance claims. The current ISO standards include:

- Segregated model, which requires physical separation to track actual physical recycled content in a finished product.
 - Controlled blending model, which tracks controlled blending of physical recycled content to determine the actual physical recycled content in a finished product.
 - Rolling average percentage model, which uses the rolling average percentage to track physical recycled content, but allows for physical recycled content fluctuations in individual products. This method is currently used in numerous industries to calculate recycled content for finished products.
 - Proportional credit allocation, allows the use of credits for recycled input into the production process and allows for the allocation of that credit to be distributed proportionally to the various products produced. Fuels can be counted as recycled inputs under this standard.
 - Free credit allocation, allows the use of credits for recycled input into any part of the production process, whether or not any portion of recycled content is in the finished product.
 - Book and claim model, where the recycled content claim is completely decoupled from the physical product. This method is widely used in the renewable energy space, where renewable energy sources are supplied to the grid (booked) and customers downstream can “claim” the renewable energy even though no actual renewable electricity reached their home or business. Fuels can be counted as recycled inputs under this standard.
- 3) **Federal guidance.** Under federal law, unfair or deceptive acts or practices in or affecting commerce are declared unlawful. The Federal Trade Commission (FTC) has published guidelines (Green Guides) that help explain how the guidelines apply to environmental advertising and marketing, such as claims regarding degradability and recycling content.

While the Green Guides do not explicitly prohibit the use of mass balance claims, they do provide specific examples of how to apply the guidelines. Code of Federal Regulations 260.13 (d) specifies that recycling claims based on the “annual weighted average” (aka, rolling average) of recycled material purchased from the sources after accounting for loss during the production process are not deceptive. In 2023, the FTC began a process to revise the Green Guides and requested input from the US Environmental Protection Agency (USEPA). In its comment letter to the FTC, dated April 20, 2023, the USEPA states that it “does not recommend that the Green Guides promote the mass balance approach as it is not widely implemented or accepted worldwide.” The comment further states that the current weighted average calculation “allows a producer to buy a certain amount of recycled

material, but there is no requirement to use the recycled material. Allowing a producer to advertise that a product contains ‘recycled content’ based on the annual amount of recycled material purchased is deceptive. It would be clearer to focus on calculations that involve the actual amount of material used.” Efforts to revise the guidelines stalled after the change in administration in 2024.

4) **People v. Exxon Mobil Corp.** In 2024, the California Department of Justice (DOJ) filed suit against ExxonMobil and related plastic industry groups based on allegations that the industry has, and continues to, “mislead consumers by engaging in an aggressive campaign to deceive the public and perpetuate the myth that recycling will solve the crisis of plastic pollution.” According to the DOJ:

- The vast majority—92%—of plastic waste processed through ExxonMobil’s “advanced recycling” technology does not become recycled plastic, but rather primarily fuels;
- The plastics that are produced through ExxonMobil’s “advanced recycling” process contain so little plastic that they are effectively virgin plastics deceptively marketed as “circular” and sold at a premium;
- ExxonMobil’s “advanced recycling” process cannot handle large amounts of post-consumer plastic waste without risking the safety and performance of its equipment; and,
- Plastics produced through ExxonMobil’s “advanced recycling” program, in its best case scenario, will only account for less than one percent of its total virgin plastic production capacity, which continues to grow.

Sierra Club, Surfrider Foundation, Heal the Bay, and Baykeeper have also filed a lawsuit against the plastics industry raising similar issues. Both lawsuits are continuing to move through the legal process.

5) **This bill.** This bill is intended to ensure that the recycled content claims made by producers of products, as specified, accurately reflect the amount of postconsumer plastic in the finished product. This bill builds upon an existing requirement for plastic food containers by expanding it to other consumer products and specifying that recycled content claims must indicate the “actual physical recycled content” in the product. Updating these requirements at the state level is necessary to prevent deceptive recycling claims made by the plastics industry, which is especially important as the state implements ambitious new recycling and recycled content requirements.

6) **Author’s statement:**

AB 2253 ensures that consumers know whether the products they are purchasing actually contain recycled content. Currently, companies can utilize accounting to obscure the actual recycled content of their products. This practice of greenwashing means that Californians who think they are making better choices for the environment actually aren’t. And, Californians are not only being misled by these fraudulent claims, but are also paying more for the false belief they are doing good because of misleading claims. California has always been the leader in the nation in protecting consumers and the environment. Californians shouldn’t be bamboozled by these companies’ false marketing on products that are not

green. AB 2253 would protect consumers from deceptive recycled content claims by requiring companies that advertise recycled content in their products to maintain and make available written documentation proving the recycled material was diverted from the waste stream and demonstrate that their claims comply with the Federal Trade Commission standards.

- 7) **Suggested amendment.** While the intent of this bill is to prohibit misleading or deceptive claims regarding recycled content, the current language seems to inadvertently prohibit traditional recycling tracking systems like rolling percent average. In order to ensure that this bill prohibits deceptive accounting systems without hampering the state's existing recycling industry, the *committee may wish to amend the bill* to clarify that it permits accounting approaches used in traditional recycling processes, such as rolling average percentage, while prohibiting deceptive approaches, such as proportional credit allocation, nonproportional and free credit allocation, and book and claim model accounting, that are not based on the actual physical recycled content used in the manufacturing process of a product.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
 350 Sacramento
 Active San Gabriel Valley
 Ban SUP (Single Use Plastic)
 Beyond Plastics
 Breast Cancer Prevention Partners
 California Environmental Voters
 California Product Stewardship Council
 California State Association of Counties
 Californians Against Waste
 CALPIRG, California Public Interest Research Group
 Center for Environmental Health
 Clean Water Action
 Cleaneearth4kids.org
 Climate Action California
 Climate Reality Project, Orange County
 Day One
 Ecology Center
 Environmental Justice Communities Against Plastics
 Friends Committee on Legislation of California
 Global Alliance for Incinerator Alternatives (GAIA)
 Healing and Justice Center
 Indivisible CA: Statestrong
 Just Transition Alliance
 Just Zero
 League of California Cities
 Natural Resources Defense Council (NRDC)
 Nevada County Climate Action Now

Pacific Environment
Physicians for Social Responsibility - Los Angeles
Plastic Pollution Coalition
Purecycle Technologies, Inc.
Regen Monterey
Republic Services
Rural County Representatives of California (RCRC)
San Francisco Baykeeper
Save the Albatross Coalition
Surfrider Foundation
Sustainable Claremont
The Last Beach Cleanup
The Last Plastic Straw
The Story of Stuff Project
Valley Improvement Projects (VIP)
Wastenot
West Berkeley Alliance for Clean Air and Safe Jobs
Wishtoyo Foundation
Zero Waste Ithaca
Zero Waste San Diego

Opposition

Alliance for Automotive Innovation
Alliance for Chemical Distribution
American Apparel & Footwear Association
American Beverage Association
American Chemistry Council
American Cleaning Institute
American Composites Manufacturers Association
American Institute for Packaging and Environment (AMERIPEN)
Association of Home Appliance Manufacturers
Brea Chamber of Commerce
California Chamber of Commerce
California Food Producers
California Manufacturers & Technology Association
California Retailers Association
Carpet America Recovery Effort
Communications Cable & Connectivity Association
Consumer Brands Association
Corona Chamber of Commerce
Danville Area Chamber of Commerce
EPS Industry Alliance
Fontana Chamber of Commerce
Gateway Chambers Alliance
Glass Packaging Institute
Greater Bakersfield Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Household and Commercial Products Association

International Bottled Water Association
International Sleep Products Association
LA Canada Flintridge Chamber of Commerce
Lodi Chamber of Commerce
Long Beach Area Chamber of Commerce
Meat Institute
Mission Viejo Chamber of Commerce
Napa Chamber of Commerce
National Association of Printing Ink Manufacturers
National Confectioners Association
Norwalk Chamber of Commerce
Orange County Business Council
Palm Desert Area Chamber of Commerce
Personal Care Products Council
Pet Food Institute
Plastics Industry Association
Polyisocyanurate Insulation Manufacturers Association, the (PIMA)
Power Tool Institute
Printing United Alliance
San Juan Capistrano Chamber of Commerce
Santa Ana Chamber of Commerce
SNAC International
Spray Polyurethane Foam Alliance
The Adhesive and Sealant Council
The Toy Association
Torrance Area Chamber of Commerce
Tulare Chamber of Commerce
Vinyl Institute
Western Growers Association
Western Plastics Association
Yorba Linda Chamber of Commerce

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /