

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 1010 (Ashby)
Version: March 25, 2026
Hearing Date: April 21, 2026
Fiscal: Yes
Urgency: No
AM

SUBJECT

Solid waste: Refrigerant Stewardship and Recovery Act

DIGEST

This bill establishes an extended producer responsibility (EPR) or stewardship program for the collection, transportation, recycling, and the safe and proper management of certain household appliances containing refrigerants (covered products) in California, as provided.

EXECUTIVE SUMMARY

The Department of Toxic Substances and Control oversees the Certified Appliance Recycler (CAR) program, where certified recyclers remove certain materials¹ that require special handling for scrap metal from major appliances before they can be properly disposed.² EPA regulations and Section 608 of the federal Clean Air Act also provide for reclamation, recovery, and restrictions and requirements of refrigeration and air-conditioning equipment. (42 U.S.C. § 608.) Even though these provisions already exist, the author and sponsor of the bill argue that an EPR program is needed to ensure proper monitoring and recovery is occurring. This analysis will focus solely on the provisions of the bill in this Committee's jurisdiction, which includes issues under the dormant commerce clause, limitation on the access to public records, implications to antitrust and unfair business practice laws, and judicial enforcement. The bill is sponsored by the California Product Stewardship Council and supported by several environmental organizations. The bill is opposed by the Association of Home Appliance Manufacturers and the Recycled Materials Association. Should this bill pass out of this Committee, it will be referred to the Senate Environmental Quality Committee.

¹ These material include Chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and other non-CFC replacement refrigerants.

² DTSC, *Certified Appliance Recycler (CAR) Program*, available at <https://dtsc.ca.gov/certified-appliance-recycler-car-program/>.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Regulates the disposal, management, and recycling of solid waste under the California Integrated Waste Management Act of 1989 (IWMA). (Pub. Res. Code § 40000 et seq.)
 - a) Requires each state agency and each large state facility to divert at least 50 percent of all solid waste through source reduction, recycling, and composting activities. (Pub. Res. Code §§ 41784 & 41786.)
- 2) Establishes numerous EPR programs and stewardship programs in the state, including, carpet, mattresses, batteries, pharmaceutical and sharps waste, and single-use plastic and packaging. (Pub. Res. Code §§ 48700 et seq.; § 42420, §§ 42460 et seq., §§ 48631-48691, & §§ 42040 et seq.; Health & Saf. Code §§ 25214.8.10 - 25214.8.19)
- 3) Prohibits a solid waste facility from accepting for disposal any major appliance, vehicle, or other metallic discard which contains enough metal to be economically feasible to salvage as determined by the solid waste facility operator. (Pub. Res. Code § 42170.)
- 4) Prohibits a person from offering for sale or distribution, or otherwise entering into commerce in the state, bulk hydrofluorocarbons or bulk blends containing hydrofluorocarbons that exceed any of specified global warming potential limits. (Health & Saf. Code § 39735(b).)
- 5) Defines a “certified reclaimed refrigerant” as a refrigerant reclaimed by a refrigerant reclaimer certified by the U.S. Environmental Protection Agency (EPA) and containing no greater than 15 percent new hydrofluorocarbon refrigerant (Health & Saf. Code § 39735(a)(2).)

This bill:

- 1) Establishes the Refrigerant Stewardship and Recovery Act (Act).
- 2) Requires producers of covered products to join a producer responsibility organization (PRO).
 - a) Requires the governing body of a PRO to submit an application, by January 1, 2028, to the Department of Resources Recycling and Recovery (CalRecycle) describing how the producer responsibility organization meets the requirements of the Act to be approved as a PRO.

- 3) Requires CalRecycle to approve a producer responsibility organization that meets specified requirements by March 1, 2028.
 - a) Authorizes CalRecycle to approve additional PROs if CalRecycle determines that an additional PRO would be beneficial in satisfying the requirements of the Act.
- 4) Defines a “covered product” to include any of the following listed below:
 - a) a refrigerator;
 - b) a freezer;
 - c) a combination refrigerator-freezer;
 - d) a window air conditioner;
 - e) a portable air conditioner;
 - f) a dehumidifier;
 - g) a wine cooler or beverage cooler; and
 - h) any other consumer appliance designated by CalRecycle by regulation.
- 5) A “covered product” does not include any of the following listed below:
 - a) a product covered under the Electronic Waste Recycling Act of 2003;
 - b) a motor vehicle, trailer, vessel, or other equipment subject to separate state or federal refrigerant management requirements, as determined by CalRecycle; or
 - c) a product sold solely for industrial, commercial, or medical use and not intended for personal, family, or household use.
- 6) Requires the PRO to submit a plan to CalRecycle and makes the approved plan a public record, except that financial or sales data reported to CalRecycle by a PRO is not a public record.
- 7) Provides that an action taken by a producer or PRO is not a violation of the Cartwright Act (California’s primary antitrust law), the Unfair Practices Act, or the Unfair Competition Law if the action taken by a PRO is:
 - a) The creation, implementation, or management of a PRO plan approved or conditionally approved by CalRecycle and the determination of the types or quantities of covered products recycled or otherwise managed pursuant to the PRO plan.
 - b) The determination of the cost and structure of an approved PRO plan.
 - c) The establishment, administration, collection, or disbursement of a charge associated with funding the implementation of the Act.
- 8) Authorizes an administrative civil penalty up to the following amounts to be administratively imposed by CalRecycle on any person who is in violation of any provision of the Act: (a) \$10,000 per day; or \$50,000 per day if the violation is intentional or knowing.

- 9) Authorizes CalRecycle, after the time for judicial review has expired, to apply to the appropriate court for a judgment to collect any unpaid civil penalties or to enforce any other remedy provided by the Act.

COMMENTS

1. Stated need for the bill

The author writes:

Many of the household appliances we use every day – such as refrigerators, freezers, and air conditioners – contain refrigerants, which are gases used to absorb and release heat to keep our homes cool and our food fresh. However, when not properly handled at the end of their useful life, these refrigerants can escape into the atmosphere with serious climate consequences. Refrigerants are the fastest growing source of greenhouse gas emissions in California, with some gases having global warming potential hundreds to thousands of times greater than carbon dioxide. The impact of proper recovery is clear – for every 1,000 refrigerators responsibly recycled, emissions are reduced by the equivalent of removing 1,500 cars from the road for a year.

SB 1010 will help prevent the release of potent greenhouse gases and support responsible appliance management by establishing a manufacturer stewardship program. Under SB 1010, manufacturers will be responsible for developing and funding a statewide plan for the collection, transportation, and management of discarded appliances. Without a proper end-of-life appliance management system in place, these dangerous greenhouse gas emissions will continue to grow as more appliances reach the end of their useful life – undermining the climate progress we have worked so hard to achieve in California.

2. This bill establishes the Refrigerant Stewardship and Recovery Act,

This bill intends to address the difficulty and potential environmental and health and safety hazards of disposing of household appliances that contain refrigerants by establishing an EPR program. “Refrigerant” means a substance used in a cooling system to absorb and release heat, including, but not limited to, hydrofluorocarbons, hydrofluoroolefins, chlorofluorocarbons, hydrochlorofluorocarbons, hydrocarbons, compressor oils, capacitors, and any other substance designated by CalRecycle via regulation.

EPR “is an environmental policy approach that holds producers responsible for product management through the product’s lifecycle. EPR supports recycling and materials management goals that contribute to a circular economy and can also encourage

product design changes that minimize environmental impacts.”³ California currently has several statewide EPR programs overseen by CalRecycle, including for paint, carpet, mattresses, textiles, pharmaceutical and sharps waste, and plastic packaging, and single-use plastic items.⁴

The author and sponsor acknowledge that existing law requires removal of hazardous materials from discarded appliances prior to processing but argue that there is no statewide system to monitor and ensure that refrigerant recovery is occurring. They claim that refrigerants are routinely lost or released during appliance disposal, representing a significant and preventable source of greenhouse gas emissions and that tracking and accountability is needed to ensure the existing framework is functioning properly.

a) *The Dormant Commerce Clause*

Section 8 of Article I of the United States Constitution grants the United States Congress the power to regulate interstate commerce.⁵ The converse proposition – that states may not usurp Congress’s express power to regulate interstate commerce – is known as the Dormant Commerce Clause – “the [Commerce] Clause also contains a further, negative command, one effectively forbidding the enforcement of certain state economic regulations even when Congress has failed to legislate on the subject.”⁶ The United States Supreme Court recently affirmed that the dormant Commerce Clause generally does not prohibit a state from regulating commerce within its borders, even if the prohibition affects out-of-state sellers, unless the prohibition acts to discriminate against out-of-state interests for the benefit of in-state commerce.⁷ The Court has held that “[s]tate laws that ‘regulat[e] even-handedly [across all in-state and out-of-state businesses] to effectuate a legitimate local public interest...will be upheld unless the burden imposed upon such commerce is clearly excessive in relation to the putative local benefits.’ ”⁸ This bill’s provisions apply equally to producers who manufacture a covered product and who owns or is the licensee of the brand or trademark under which that covered product is sold, offered for sale, or distributed for sale in or into the state. As such, the bill does not favor in-state businesses over out-of-state businesses.

A statute may also violate the Dormant Commerce Clause, even if it "regulates even handedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental" and the burden imposed on commerce "is clearly excessive in relation to the putative local benefits" or substantially burdens interstate

³ *Extended Producer Responsibility (EPR)*, CalRecycle, <https://calrecycle.ca.gov/epr/>.

⁴ *Ibid.*

⁵ U.S. Const., art. I, § 8, cl. 3.

⁶ *National Pork Producers Council v. Ross* (2023) 143 S.Ct. 1142, 1152 (internal quotation marks and alterations omitted).

⁷ *Id.* at pp. 1152-1153.

⁸ *South Dakota v. Wayfair, Inc.* (2018) 138 S.Ct. 2080, 2091.

commerce.⁹ (*Pike v. Bruce Church, Inc.* (1970) 397 U.S. 137, 142.) As this bill's provisions are intended to address the environmental and health concerns posed by household appliances containing refrigerants, this bill would likely not be found to substantially burden interstate commerce in violation of the Dormant Commerce Clause.

b) Access to records

Access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Cod § 7921.000.) In 2004, the right of public access was enshrined in the California Constitution with the passage of Proposition 59 (Nov. 3, 2004, statewide general election),¹⁰ which amended the California Constitution to specifically protect the right of the public to access and obtain government records: "The people have the right of access to information concerning the conduct of the people's business, and therefore . . . the writings of public officials and agencies shall be open to public scrutiny." (Cal. Const., art. I, sec. 3 (b)(1).) In 2014, voters approved Proposition 42 (Jun. 3, 2014, statewide direct primary election)¹¹ to further increase public access to government records by requiring local agencies to comply with the CPRA and the Ralph M. Brown Act¹², and with any subsequent statutory enactment amending either act, as provided. (Cal. Const., art. I, sec. 3 (b)(7).) Under the CPRA, public records are open to inspection by the public at all times during the office hours of the agency, unless they are exempt from disclosure. (Gov. Cod § 7922.525.) A public record is defined as any writing containing information relating to the conduct of the public's business that is prepared, owned, used, or retained by any public agency regardless of physical form or characteristics. (Gov. Code § 7920.530.) There are several general categories of documents or information that are permissively exempt from disclosure under the CPRA essentially due to the character of the information. The exempt information can be withheld by the public agency with custody of the information, but it also may be disclosed if it is shown that the public's interest in disclosure outweighs the public's interest in non-disclosure of the information. (*CBS, Inc. v. Block* (1986) 42 Cal.3d 646, at 652.). Additionally, some records are prohibited from disclosure or are specifically stated to not be public records. (*see* Gov. Code § 7924.110(a).)

This bill expressly provides that an approved PRO plan is a public record under the CPRA; however, it exempts from disclosure financial or sales data reported to CalRecycle by the program operator. The bill authorizes CalRecycle to release financial or

⁹ *Pike v. Bruce Church, Inc.* (1970) 397 U.S. 137, 142; *National Pork Producers Council* supra at fn. 6 at pp. 1162-1163.

¹⁰ Prop. 59 was placed on the ballot by a unanimous vote of both houses of the Legislature. (SCA 1 (Burton, Ch. 1, Stats. 2004))

¹¹ Prop. 42 was placed on the ballot by a unanimous vote of both houses of the Legislature. (SCA 3 (Leno, Ch. 123, Stats. 2013))

¹² The Ralph M. Brown Act is the open meetings laws that applies to local agencies. (Gov. Code §§ 59450 et. seq.)

sales data in summary form only, so it cannot be attributable to a specific entity. As these provisions imposes a limitation on the public's right of access to a public record, the bill provides the following justification for the limitation: "It is in the best interest of the public to provide limited protection of certain financial and sales data of program participants in order to protect confidential business information and commercially sensitive data."

c) Antitrust immunity

As with most of the EPR schemes provided for in California law, this bill includes express exemptions from various laws regulating anticompetitive behavior and unfair competition and practices. The bill provides that certain activities engaged in by PROs, including the creation, implementation, management, cost assessments, and structuring of a stewardship plan and the establishment, administration, collection, or disbursement of a charge associated with funding the implementation of the Act are categorically exempt from being considered violations of the Cartwright Act (California's primary antitrust law), the Unfair Practices Act, or the Unfair Competition Law.

Concerns have been raised about the monopolistic possibilities inherent in stewardship programs, and strong government oversight is critical to ensure this regulatory scheme is operated in an evenhanded manner and results in the ambitious goals it sets out to accomplish. These laws are extremely important to ensuring consumers are protected and free and fair competition is fostered. Mitigating these concerns to an extent, the bill specifically provides that the exemptions do not apply to an agreement that does the following:

- fixes a price of or for covered products;
- fixes the output or production of covered products; or
- restricts the geographic area in which, or customers to whom, covered products will be sold.

This language is also similar to that found in other EPR programs.

d) Enforcement provisions

The bill authorizes CalRecycle to impose an administrative civil penalty on a producer, PRO, or importer manufacturer, distributor, or retailer that fails meet the requirements of the Act. The administrative civil penalty cannot exceed \$10,000 per day; however, if the violation is intentional or knowing the penalty cannot exceed \$50,000 per day. When assessing or reviewing the amount of a civil penalty to be imposed, the following is required to be considered:

- the nature and extent of the violation;

- the number and severity of the violation or violations;
- the economic effect of the penalty on the violator;
- whether the violator took good faith measures to comply with this article and the period of time over which these noncompliant actions were taken;
- the willfulness of the violator's misconduct;
- the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community; and
- any other factor that justice may require.

The bill specifies that the Administrative Adjudication Bill of Rights, as set forth in Article 6 (commencing with Section 11425.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, applies to hearings conducted under this chapter and mandates minimum due process. The bill authorizes CalRecycle, after the time for judicial review has expired, to apply to the appropriate court for a judgment to collect any unpaid civil penalties or to enforce any other remedy provided by the Act.

3. Stakeholder statements

A coalition of environmental organizations, including the sponsor California Product Stewardship Council, write in support stating:

Refrigerators, freezers, air conditioners, and other cooling appliances contain refrigerants, which are gases used to absorb and release heat. Many refrigerant substances, such as hydrofluorocarbons (HFCs), have global warming potentials that are hundreds to thousands of times greater than carbon dioxide.¹³ According to the California Air Resources Board, they are the fastest-growing source of greenhouse gas emissions both in California and globally.¹⁴

Federal mandates require proper management of refrigerants prior to disposal, but without a comprehensive statewide program, improper handling during the reuse and recycling processes can result in the release of these gases into the atmosphere, undermining California's climate progress. Simultaneously, there is no statewide program for safely recovering and managing the appliances that contain refrigerants. Even California's most robust voluntary recycling efforts have reached only a fraction of appliances at end-of-life.

While existing law, AB 1760 (Eastin, 1991), prohibits disposal/landfilling of metallic waste, such as large appliances, including refrigeration units, many units are not properly processed to recover all of the hazardous components, such as HFCs, compressor oils, capacitors, etc. These components must be removed by Certified

¹³ <https://ww2.arb.ca.gov/our-work/programs/stationary-hydrofluorocarbon-reduction-measures>.

¹⁴ <https://ww2.arb.ca.gov/our-work/programs/slcp/about>.

Appliance Recyclers (CAR) regulated by the Department of Toxic Substance Control (DTSC) under the CAR program. This is the classic “ban without a plan” situation that leaves the waste industry without funding for safe management to final disposition for covered products.

The bill is opposed by the Association of Home Appliance Manufacturers and the Recycled Materials Association.

The Association of Home Appliance Manufacturers writes:

[...] This legislation would wedge a new program into the current market-based system that already recycles nearly 80 percent of appliances and can be as high as 90 percent. There is no need for a new program and fee structure to interfere with and possibly diminish the current successful system that collects more than 78 percent of appliances.² The program proposed in SB 1010 would disrupt and complicate the current system for the recovery and add substantial costs for California consumers who purchase a new appliance. This recycling success story should not be encumbered by a new mandate. [...]

California and federal law already regulate the disposal and recycling of refrigerants. As SB 1010 notes, the US Environmental Protection Agency’s responsible appliance disposal standards (RAD) outlines standards for the proper recovery and reclamation or destruction of refrigerant and insulating foam as well as the safe disposal of hazardous waste products. Existing California law and the Air Resources Board’s Refrigerant Management Program (RMP) also regulates the management of refrigerants. Some appliances may be disposed of not using EPA’s RAD program and AHAM shares the concern with the illegal venting of refrigerant and disposal of insulating foam. Enforcement of existing laws and regulations is the state’s responsibility. Stricter enforcement will help deter illegal venting, not the establishment of an EPR program.

Additionally, the legislation only targets residential appliance manufacturers whose products are already subject to federal and state laws for the management of refrigerants. The proposal ignores the other residential and commercial products that contain refrigerants with equal to or greater Global Warming Potential (GWP) and does not provide evidence or legislative finding that household appliances containing refrigerant and insulating foam are subject to improper handling and disposal. [...]

The Recycled Materials Association writes in opposition stating:

These existing regulations have long governed the activities SB 1010 seeks to address. The bill itself acknowledges that it does not supersede CARB or the Department of Toxic Substances Control authority. Adding a new Producer Responsibility

Organization, eco-fees, and statewide stewardship plan is therefore redundant and risks conflicting with or undermining the current framework. [...]

SUPPORT

California Product Stewardship Council (sponsor)

7th Generation Advisors

Californians Against Waste

Center for Environmental Health

Circular Polymers

CleanEarth4kids.org

The Climate Center

The Watershed Project

Western Placer Waste Management Authority

OPPOSITION

Association of Home Appliance Manufacturers

Recycled Materials Association - West Coast Chapter

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation: *See Comment 2, above.*
