



The Muwekma Ohlone Tribal Chairwoman

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MEMORANDUM

To: Members of the Senate Committee on Environmental Quality
From: Muwekma Ohlone Tribe of the San Francisco Bay
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SUBJ: **Threats Posed by SB 707 (Responsible Textile Recovery Act of 2024) to Small Collectors and Tribal Textile Collection/Reuse Programs — Recommended Amendments to Protect Tribal Land Stewardship and Existing Operators**

This memorandum respectfully requests that the Committee examine the structure of SB 707 (Chapter 864, Statutes of 2024) as adopted and advance targeted amendments. As currently written, the statute's single Producer Responsibility Organization (PRO) model creates significant risks of consolidation that threaten small independent collectors and, in particular, Tribal governments and tribally controlled entities already operating textile collection, reuse, and related waste-management programs as part of governmental land stewardship strategies. The law should be amended to accommodate, protect, and actively support this work.

SB 707 establishes California's first extended producer responsibility program for apparel and textile articles. It requires producers to join a statewide PRO that develops and implements a plan for the collection, transportation, repair, sorting, recycling, and safe management of covered products. The PRO controls authorized collectors, collection-site networks, performance standards, and the flow of producer fees. CalRecycle oversees the program, with regulations to take effect no earlier than July 1, 2028, and full plan implementation targeted around 2030. The statute emphasizes repair and reuse, landfill diversion, and the reduction of environmental and environmental-justice impacts. These goals are sound. The implementation architecture, however, concentrates operational control in a single PRO without adequate safeguards for existing smaller-scale and sovereign operators.

The Threat to Small Collectors and Tribal Participants

The single-PRO design creates structural pressures toward consolidation:

- The PRO determines who qualifies as an "authorized collector" and where collection sites are located. Density and convenience requirements, combined with centralized contracting, favor large commercial operators able to meet scale and reporting demands.
- Independent and community-based collectors risk being excluded from the formal network, losing access to material flows, or being undercut by PRO-subsidized sites.
- Funding flows through the PRO. Operators outside the approved network have limited ability to capture the new revenue stream created by producer fees.
- Performance metrics and eco-modulated fees are likely to prioritize volume and recyclability metrics that disadvantage smaller, reuse-oriented programs.

These dynamics are especially acute for Tribal governments and tribally controlled entities. Many Tribes already conduct textile collection and reuse as part of land stewardship, cultural continuity, economic development, and environmental management on or near ancestral territories. SB 707 contains no recognition of Tribal sovereignty, no inventory requirement for existing Tribal programs, no non-displacement protections, and no mechanism requiring the PRO to partner with Tribal governments. As a result, Tribal programs that prioritize reuse and place-based stewardship can be regulated out of independent existence or relegated to the margins of a commercial system they do not control.

This outcome would be inconsistent with the statute's own stated intent to emphasize reuse and to minimize environmental-justice impacts. It would also conflict with California's broader policy direction of recognizing Tribal governments as partners in environmental stewardship.

Recommended Amendments

The Committee should advance legislation (or support trailer/clean-up language) that amends Chapter 20.5 of the Public Resources Code to include the following protections and affirmative requirements:

- 1. Sovereignty and Non-Preemption Clause**

Explicitly state that nothing in the chapter shall be construed to regulate, restrict, or displace the authority of a California Native American tribe, or an entity controlled by or chartered by such a tribe, to establish, operate, or expand textile collection, reuse, repair, or recycling programs as part of its governmental functions or land stewardship strategies. The chapter shall not diminish Tribal sovereignty.

- 2. Definitional Protections**

Amend definitions of "authorized collector," "collection site," and related terms to expressly include programs operated by California Native American tribes or tribally controlled entities. Clarify that Tribal governments are not "producers" when conducting governmental or stewardship activities.

- 3. Non-Displacement and Inventory Requirements**

Require the PRO's needs assessment and stewardship plan to inventory existing Tribal collection and reuse programs. Prohibit the PRO from designating exclusive collection territories or preferred-contractor arrangements that displace an existing Tribal program without the Tribe's free, prior, and informed consent.

- 4. Right of First Refusal / Preferential Contracting in Aboriginal Territory**

Mandate that, before establishing or contracting for collection sites or services within a Tribe's aboriginal territory, the PRO must first offer the local Tribal government the opportunity to operate those programs under contract. Provide a defined period for the Tribe to accept, negotiate, or decline. If the Tribe elects to participate, the PRO must enter into a contract on terms no less favorable than those offered to other authorized collectors, with appropriate capacity-building support. Tribal-operated volumes shall count fully toward the PRO's density and performance standards in that territory.

5. Mandatory Government-to-Government Consultation

Require CalRecycle and the PRO to conduct meaningful consultation with California Native American tribes (using the established state definition that includes both federally recognized and non-federally recognized tribes traditionally and culturally affiliated with the area) before PRO approval, plan approval or substantial amendment, adoption of regulations, and establishment of performance standards affecting collection infrastructure.

6. Plan Content and Approval Conditions

Require every stewardship plan to include specific provisions addressing Tribal territories, outreach to interested Tribes, and the structure of preferential contracting opportunities. Condition CalRecycle approval of the plan on demonstrated good-faith offers and consultation.

7. Funding and Capacity Supports

Authorize and encourage the PRO to provide capacity grants, multi-year contracts, and infrastructure support to Tribal programs. Ensure that Tribal operators can retain appropriate control over materials designated for cultural, educational, or high-value reuse purposes while still participating in the broader system.

These amendments can be drafted to remain opt-in for Tribes (preserving sovereignty) while creating clear, enforceable duties on the PRO and CalRecycle.

SB 707 creates an important framework for textile recovery, but its current architecture risks sidelining the very reuse-oriented and community-based operators that best advance the law's stated goals. Tribal governments engaged in land stewardship occupy a distinct sovereign and practical position that the statute currently ignores. Targeted amendments of the type outlined above would protect existing programs, create structured partnership opportunities within aboriginal territories, and strengthen rather than undermine California's circular-economy and environmental-justice objectives.

We respectfully urge the Committee to schedule consideration of these issues and to work with Tribal governments, small collectors, and other stakeholders on corrective legislation. I am available to provide additional analysis, proposed statutory language, or testimony as the Committee may find useful.

DRAFT LEGISLATIVE TEXT

SECTION 1. Section 42984.05 of the Public Resources Code is amended to read:

42984.05. (a) The intent of this chapter is to establish a statewide extended producer responsibility program for apparel and textile articles that emphasizes repair and reuse, and minimizes generation of hazardous waste, generation of greenhouse gases, environmental impacts, environmental justice impacts, and public health impacts.

(b) Due to distinct market elements associated with the textile and apparel industry that can utilize direct-to-consumer transactions from an overseas manufacturer to a consumer, the provisions of this chapter associated with online marketplaces are intended to be unique to this sector.

(c) It is further the intent of the Legislature that this chapter recognize and support the existing and ongoing textile collection, reuse, repair, and waste-management programs operated by California Native American tribes as part of their governmental functions and land stewardship strategies, and that the producer responsibility organization and the department shall not displace or undermine those programs.

SEC. 2. Section 42984.3 of the Public Resources Code is amended to add the following definitions in alphabetical order, and to renumber existing subdivisions as necessary:

() “Aboriginal territory” means the geographic area identified by a California Native American tribe as its traditional or aboriginal territory, or the area with which the tribe is traditionally and culturally affiliated, as documented by the tribe or by the Native American Heritage Commission.

() “California Native American tribe” has the same meaning as defined in Section 21073 of the Public Resources Code.

() “Tribal government” means the governing body of a California Native American tribe, or an entity wholly owned or controlled by, or chartered by, a California Native American tribe for the purpose of conducting governmental or land-stewardship functions.

() “Tribal textile program” means a program that does any of the following: textile collection, reuse, repair, sorting, and/or recycling; and is operated by a Tribal government as part of its governmental functions or land stewardship strategies.

In the definition of “authorized collector,” add: “Authorized collector” includes a Tribal government or Tribal textile program that has entered into an agreement with a PRO pursuant to Section 42984.28.

SEC. 3. Section 42984.28 is added to the Public Resources Code, to read:

42984.28. (a) Nothing in this chapter shall be construed to apply to, regulate, restrict, or displace the authority of a Tribal government to establish, operate, expand, or maintain a Tribal textile program. This chapter shall not diminish, impair, or preempt the sovereignty of any California Native American tribe.

(b) A Tribal government is not a “producer” under this chapter solely by reason of operating a Tribal textile program.

(c) The department and any PRO shall not designate exclusive collection territories, preferred-contractor arrangements, or performance standards that have the effect of displacing an existing Tribal textile program without the free, prior, and informed consent of the affected Tribal government.

SEC. 4. Section 42984.29 is added to the Public Resources Code, to read:

42984.29. (a) Before a PRO establishes, contracts for, or authorizes any new or expanded collection site or collection service within the aboriginal territory of a California Native American tribe, the PRO shall provide written notice to the Tribal government and offer the Tribal government a right of first refusal to operate the collection program under contract with the PRO.

(b) The notice and offer required by subdivision (a) shall include proposed contract terms that are no less favorable, in the aggregate, than terms offered or provided to other authorized collectors for comparable services, and may include additional capacity-building or infrastructure support appropriate to the governmental and land-stewardship character of the program.

(c) The Tribal government shall have not less than 90 days, and may request up to 180 days, from receipt of the notice to accept the offer, decline the offer, or enter into good-faith negotiations. If the Tribal government accepts or reaches agreement, the PRO shall enter into the contract.

(d) If the Tribal government declines the offer in writing or does not respond after the expiration of the negotiation period, the PRO may proceed with other authorized collectors in that portion of the aboriginal territory, provided that the PRO does not site competing free collection points that undercut an existing Tribal textile program without the Tribal government’s consent.

(e) Volumes collected by a Tribal textile program under a contract entered pursuant to this section shall count fully toward the PRO’s convenience, density, and performance standards in the relevant geographic area.

(f) A Tribal government that operates a Tribal textile program may retain ownership or control of materials designated by the Tribe for cultural, educational, ceremonial, or high-value reuse purposes, while directing other collected materials into the PRO system as agreed in the contract.

SEC. 5. Section 42984.30 is added to the Public Resources Code, to read:

42984.30. (a) The department and any PRO shall engage in government-to-government consultation with California Native American tribes that are traditionally and culturally affiliated with geographic areas affected by the program, consistent with the principles of meaningful consultation under Section 21080.3.1, before any of the following:

- (1) Approval of a PRO under this chapter.
- (2) Approval or substantial amendment of a producer responsibility plan.
- (3) Adoption or amendment of regulations implementing this chapter.
- (4) Establishment or revision of performance standards that affect collection infrastructure or authorized collectors.

(b) Consultation under this section shall include discussion of existing Tribal textile programs, aboriginal territories, and opportunities for preferential contracting pursuant to Section 42984.29.

SEC. 6. Section 42984.6 of the Public Resources Code is amended to require that the initial and subsequent needs assessments include an inventory of existing Tribal textile programs and an assessment of opportunities for partnership with Tribal governments within their aboriginal territories.

SEC. 7. Section 42984.8 of the Public Resources Code is amended to require that every producer responsibility plan submitted for approval include all of the following:

- (a) An identification of aboriginal territories of California Native American tribes that have requested inclusion or that are traditionally and culturally affiliated with areas covered by the plan.
- (b) A description of outreach conducted to those Tribal governments.
- (c) Specific provisions implementing the right of first refusal and contracting requirements of Section 42984.29.
- (d) Evidence of good-faith offers made pursuant to Section 42984.29, or documentation that no Tribal government elected to participate after notice and opportunity.
- (e) A description of how Tribal textile programs will be supported through capacity grants, multi-year contracts, or infrastructure assistance, where the Tribal government elects to participate.

The department shall not approve a plan that fails to substantially comply with this section.

SEC. 8. Section 42984.31 is added to the Public Resources Code, to read:

42984.31. A PRO may provide capacity-building grants, multi-year contracts, technical assistance, and infrastructure support to Tribal textile programs. Such support shall not require the Tribal government to become a fee-paying member of the PRO or to subordinate its governmental or land-stewardship authority.

SEC. 9. This act shall be known, and may be cited, as the Tribal Textile Stewardship Protection Act of 2026.

SEC. 10. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Notes on the Draft

- New sections are numbered sequentially after the existing chapter for clarity; final numbering would be adjusted by Legislative Counsel.
- The language is deliberately opt-in for Tribes while creating enforceable duties on the PRO and CalRecycle.
- “California Native American tribe” tracks existing Public Resources Code usage and includes both federally recognized and non-federally recognized tribes.
- The right-of-first-refusal mechanism is time-bound and commercially reasonable to reduce litigation risk while still providing meaningful protection.
- Plan-approval conditions give CalRecycle a clear enforcement tool.

This text can be introduced as a stand-alone bill or as amendments to a clean-up or trailer measure.