



August 9, 2024

Senator Anna Caballero  
Chair, Senate Appropriations Committee  
State Capitol, 412  
Sacramento, CA 95814

**Subject: AB 863 (Aguiar-Curry) Oppose Unless Amended**

Dear Chair Caballero,

The California Retailers Association (Cal Retailers) writes to express our opposition to AB 863 (Aguiar Curry), legislation proposing to create a sweeping and complex new flooring stewardship program at CalRecycle while terminating the carpet stewardship program that has been successfully operating for the past twelve years.

More importantly, AB 863 was “gutted and amended” on June 10th. While it was heard by both the Environmental Quality and Judiciary Committees, members of both committees expressed concern that AB 863 had not been properly vetted with stakeholders and that meetings should be held during the summer recess to discuss substantive amendments to the bill. To date we have had limited communications with the author and her staff and, while we have relayed our concerns and amendment requests, have not received confirmation that our requests will be taken. We have outlined our requests below.

Without good faith efforts to consider our requests and to incorporate these amendments into the bill, we remain opposed. We ask that this bill be held in Appropriations as there is not much time left in this year’s legislative session and this complex issue requires continued conversations with stakeholders into the Fall to determine what is needed to assist carpet recycling in California so that it works for everyone including the environment and consumers.

**CRA Requested Amendments**

1. Add explicit language that excludes area rugs in the definition of carpet as the current Carpet America Recovery Effort (CARE) program includes. *e.g. “Carpet means a wall-to-wall floor or stair covering” or “shaped to fit a particular room”*
2. Exclusion of rubber mats from resilient flooring

**Additional Concerns with the Bill**

**Loss of Pricing Transparency, Increased Product Costs on Consumers and Loss of Jobs**

AB 863 will result in a total loss of transparency on fees associated with the carpet recycling program as retailers will not have a way to validate the cost passed from manufacturers to retailers and a way to confirm if the cost is being evenly distributed. Carpet will be impacted at a higher rate if the new recycling program applies to carpet and pad with significant risk to the product category as these fees will increase the cost to the customer for both the carpet and pad. This increase in cost will expedite the decline of product consumption and production, which will have an immediate impact on jobs related to producing and selling carpet and pad. Carpet sales declined approximately 50% in California versus the rest of the country with the introduction of the California's Carpet Stewardship Act (AB 2398) in 2010 that led to the establishment of the CARE Program. Carpet pad is already made of approximately 90% recycled content and is 100% recyclable with extremely high recycle rates on pad.

## **Fiscal Impacts:**

As drafted, AB 863 would impose significant costs to CalRecycle by implementing a new program similar in scope to SB 707, the Responsible Textile Recovery Act of 2023. This committee, in analyzing SB 707 stated:

*“Unknown ongoing costs, possibly in the millions of dollars annually (special fund), for the Department of Resources Recycling and Recovery (CalRecycle) to implement and administer the EPR program that would be established by this bill. CalRecycle notes that the initial fund source is not identified, and a loan would be required.”*

Assembly bill 863 could have similar fiscal consequences by establishing a brand-new program for carpet and other flooring.

Additionally, based on the initial findings of an economic study undertaken by an independent research consulting firm, AB 863 could add significant costs to the state, local governments and schools due to the increased carpet cost for building and remodel projects. In 2025 alone, the state's direct purchasing cost of flooring products is expected to increase by a minimum of 20 percent, while indirect spending is expected to increase up to 56 percent. The estimated state fiscal impact could increase to \$9 million in this first year of compliance efforts alone. The actual effect is likely much more significant due to the limits of current information. The ongoing costs to the state will undoubtedly be higher and indefinitely increase yearly.

AB 863 proposes the establishment of a Producer Responsible Organization (PRO) which could significantly increase the costs of administering recycling programs compared to the existing or other models. Logic and reason dictate that we should wait to see the progress in implementing SB 54 and other programs and learn from their successes and/or failures regarding the PRO model for carpet.

Cal Retailers is the only statewide trade association representing all segments of the retail industry including general merchandise, department stores, mass merchandisers, on-line marketplaces, restaurants, convenience stores, supermarkets and grocery stores, chain drug and specialty retail such as auto, vision, jewelry, hardware, and home stores. Cal Retailers works on behalf of California's retail industry, a driving force of California's economy.

The retail industry is committed to environmentally sustainable and responsible practices and is participating in California EPRs including SB 54, the Plastic Pollution Prevention and Packaging Producer Responsibility Act, which is currently in the formal rulemaking phase. Cal Retailers' President and CEO Rachel Michelin is an appointee of the SB 54 Advisory Board and serves on the board of the new SB 54 Producer Responsibility Organization furthering the retail industry's commitment environmental sustainability.

Rather than rush to pass a complex, costly, and poorly considered flooring recycling program without the input of stakeholders, Cal Retailers respectfully asks AB 863 be held in Appropriations this session so that there is more time for stakeholders to collaborate to determine what may be needed to assist recycling in California so that it works for everyone including the environment and California consumers.

Sincerely,



Sarah Pollo Moo

Legislative and Policy Advocate

Cc: Assembly Majority Leader Cecilia Aguiar-Curry  
Members, Senate Appropriations Committee  
Mark McKenzie, Chief Consultant, Senate Appropriations Committee