

NEW LAW ON WASTE MANAGEMENT, EXTENDED LIABILITY OF THE PRODUCER AND PROMOTION OF RECYCLING

Today, Wednesday, June 1st, the Framework Law for the Management of Waste, Extended Liability of the Producer and Promotion of Recycling No. 20,920 (the “Law”) was published.

Purpose

The Law seeks to reduce the generation of waste and encourage its reuse, recycling and other types of recovery. With this end, it establishes the Extended Liability of the Producer (“REP” on account of its Spanish acronym), **making the producer liable for the waste generated by its products**, from its inception to its final recovery or elimination.

Scope of Application

The Law establishes various priority products, to which the REP system shall apply. These are:

- Lubricant oils;
- Electric and electronic devices;
- Containers and packaging;
- Tires; and
- Batteries

For purposes of the Law, a producer is defined a person that (i) sells a priority product for the first time in the national market; (ii) sells under his/her/its own brand a priority product acquired from a third party that is not the first distributor; or (ii) imports a priority product for its professional use.

Associated Obligations

The following are the main obligations this Law shall impose for producers:

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- Report the main aspects of its waste management to the Record of Emissions and Transference of Contaminants, on an annual basis.
- Organize and finance the collection, storage, transportation and treatment of priority products waste.
- Comply with the waste collection and recovery goals set for each category of product.
- Additional requirements that the Law enables the establishment of through supreme decree, include eco-design; certification, signage and labeling of products; deposit and reimbursement systems, among others.

Practical Importance

As an example, companies that sell products which are packaged and marketed under the company's own brand shall be considered as producers for purposes of the Law, even if they acquire the packaging from third parties.

Producers shall organize and finance the collection, storage, transportation and treatment of their products waste. In order to meet these requirements, a company may choose to comply individually or jointly with other producers, and may enter into agreements with municipalities and waste managers. Regardless of how they choose to fulfill their duties, all companies are required to file a 5-year management plan in order to comply with the obligations set forth by the Law.

Additionally, the collection and recovery goals set by supreme decree and the associated obligations related to labeling, marketing, prevention of waste generation and operation of waste management facilities, among others, shall be met. In order to ensure compliance with these goals, a security deposit, insurance or other guarantee must be established and maintained valid.

Establishment of collection and recovery goals

The collection and recovery goals shall be set through supreme decree. For establishing the latter, a period of public comment shall be considered, in order for any individual or corporate body to issue his/hers/its observations.

Any person who claims that a supreme decree does not comply with

the law and causes damage may file a claim before the Environmental Tribunal.

Enforcement and penalties

The Superintendency of the Environment will be charged with enforcement of the law, and will be authorized to impose penalties of up to 10,000 UTA (Unidades Tributarias Anuales, equivalent to approximately US\$ 8 million) taking into consideration the seriousness of the infraction.

Validity

The Law shall come into force once it is published in the Official Gazette. Notwithstanding the aforementioned, the obligations related to collection of waste and compliance with goals shall be subject to the enactment of the specific supreme decrees.

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