

Packaging and EPR in the United States: the responsibility that can also fall on Italian wineries

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Seven US states already enforce Extended Producer Responsibility laws on packaging, and Italian wineries selling in those markets can qualify as producers. The article explains who must comply, which materials count, how exemptions work and why heavy glass bottles cost more. Penalties are steep, though states have yet to apply them.

“My company doesn’t produce anything industrially, it holds production permits. Why should Extended Producer Responsibility concern me?” The answer to this question emerged clearly in the recent webinar organized by Sovos

ShipCompliant (with the participation of Andrea Nappi, the president of the National Association of Beverage Importers, NABI), and it is a blunt “it concerns you, and how.”

EPR, Extended Producer Responsibility, is a regulatory framework that transfers to producers the financial responsibility for managing the packaging material placed on the market. **Put differently: those who package and ship pay part of the costs of collecting and disposing of that packaging.** Simple in principle, anything but simple in application, and this is where the wine sector, historically fond of heavy bottles as a synonym for quality, risks being caught unprepared.

In the United States there is no single federal regulatory framework, at least for now: **seven states already have active EPR laws (Washington, Oregon, California, Colorado, Minnesota, Maryland and Maine)** and each develops them through two distinct paths: state legislation and, subsequently, a rulemaking process through which the competent agency defines the operational rules and selects the Producer Responsibility Organization (PRO) tasked with administering the program. Maine, which legislated first in July 2021, is today the furthest along in implementation.

The key figure in this whole complex system is the Circular Action Alliance (CAA), the nonprofit organization, led by a committee of producers, with which most producers register to manage their obligations state by state. **Among the brands already signed up are names such as McDonald's, Ikea, L'Oréal, Ferrero, Amazon and Coca-Cola: a detail that says a lot about how cross-sector the scope of EPR has become, well beyond beverage alcohol.**

But who is really a “producer”? Here comes the point that most directly concerns Italian wineries with export ambitions. **EPR regulation does not define “producer” in the traditional sense of the term: it can be the brand owner, the importer, the**

exclusive licensee or the distributor, depending on the state and the specific configuration of that brand.

And above all, the obligation is triggered not by where the wine is physically bottled, but by where it is sold to the final consumer. **An Italian winery with no production presence in California can still fall, for that state, within the definition of “producer” for EPR purposes.**

Determining one’s position therefore requires an analysis brand by brand, answering a few precise questions: **where is the brand produced? Who makes the first sale in the state?** Where is the trademark holder based? Is the product imported into the United States? Is there an applicable exemption?

The exemptions in particular deserve attention, because they are often narrower than they seem. **Four of the seven states, California, Colorado, Minnesota and Oregon, provide a B2B exemption,** typically applicable to components used in manufacturing or to materials for transport to the distributor, such as pallets and food wrap, with the exception of California, where the latter still fall under the obligation.

Then there are de minimis exemptions, calculated on tonnage or revenue: below certain thresholds, which vary from state to state and are subject to change, a company can be exempted from paying fees. **Beware, however: the registration and reporting obligation remains active, because it is precisely that reporting that proves the right to the exemption.**

Among the packaging materials covered are cardboard boxes and dividers, capsules, screw caps, cork and, with important differences from state to state, the bottle itself. **Glass falls under EPR regulations in Colorado and Maryland, but not in Maine or Oregon.** A discrepancy that forces producers into detailed work.

And this is where EPR directly intersects the packaging choices of the wine sector: a heavy bottle, which for decades has communicated quality and prestige, today entails significantly higher EPR fees than a light bottle, owing to the principle of eco-modulation whereby easily recyclable materials pay less, and those complex to process pay more. It comes as no surprise that more and more producers are reviewing their approach: lightening of glass, labels compatible with separation during recycling, reduction of mixed materials in secondary packaging.

Penalties exist, but have not been applied (not yet)

The penalties provided for non-compliance are not symbolic: **they reach \$25,000 per day in Oregon, \$10,000 in Colorado and up to \$50,000 in California for certain producers**, with states also holding the power, in the most extreme cases, to block sales. The good news, if it can be called that, is that to date no state has yet imposed penalties: Oregon has so far limited itself to sending reminders to registered producers.

But the flexibility shown so far in enforcement must not be mistaken for an absence of obligation: many of these regulations have been in force for some time, and **the invitation, not even all that veiled, is to act now, before the tolerance phase runs out.**

For Italian wineries looking at the American market, in short, EPR is no longer a detail for logistics staff: **it is a variable that enters packaging decisions, the costs of entering a new state, the very choice of where and how to sell.** And as often happens with regulations made in the USA, the real challenge is not the rule itself, but its fragmented nature: seven states, seven approaches, and the certainty that others will be added.

Key points

1. **Seven US states already have active EPR packaging laws,** with more expected to follow.
2. **Italian wineries can count as producers based on the place of sale** rather than the place of bottling.
3. **Heavy glass bottles attract higher EPR fees than lighter,** easily recyclable alternatives.
4. **Exemptions exist, yet registration and reporting remain required** to prove eligibility.
5. **Penalties reach \$50,000 per day** in California, and acting early is advised.