
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2021 - 2022 Regular

Bill No: SB 1046
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Version: 3/14/2022
Urgency: No
Consultant: Genevieve M. Wong

Hearing Date: 3/28/2022
Fiscal: No

SUBJECT: Solid waste: precheckout bags

DIGEST: Prohibits, after an unspecified date, certain stores from providing a precheckout bag to a customer unless the bag is compostable or a recycled paper bag.

ANALYSIS:

Existing law:

- 1) Requires, under the Integrated Waste Management Act (IWMA), local governments divert at least 50% of solid waste from landfill disposal and establishes a statewide goal that 75% of solid waste be diverted from landfill disposal by 2020. (Public Resources Code (PRC) §§41780, 41780.01)
- 2) Prohibits a store from providing a single-use carryout bag to a customer at the point of sale unless it is a compostable bag under certain conditions, including that the compostable bag be sold at not less than \$0.10. (PRC §42283(a), (e))
- 3) Authorizes a store to provide a recycled paper bag for less than \$0.10. (PRC §42283(c))
- 4) Defines a “store” as a retail establishment that is any of the following:
 - a) A full-line, self-service retail store with gross annual sales of \$2,000,000 or more that sells a line of dry groceries, canned goods, or nonfood items, and some perishable items.
 - b) Has at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law and has a pharmacy.
 - c) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods and holds a certain type of alcohol license.
 - d) Is a convenience food store, foodmart, or other entity engaged in the retail sale of goods intended to be consumed off the premises and that holds a

certain type of alcohol license. (PRC §42280)

- 5) Authorizes a city, county, city and county, or state to impose civil liability on a person or entity that knowingly violates these provisions, or reasonably should have known that it violated these provisions in the amounts that increase as the of violations by that entity increase. (PRC §42285)

This bill:

- 1) Additionally prohibits the same stores, after an unspecified date, from providing a precheckout bag to a customer unless the bag is a recycled paper bag or meets already existing compostability content and labeling standards. Specifically, the compostability content and labeling standards are:
 - a) Any of the following:
 - i) ASTM Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities D6400, as published in 2019, and its revisions, as specified;
 - ii) ASTM Standard Specification for Labeling of End Items that Incorporates Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted in Municipal or Industrial Facilities D6868, as published in 2019, and its revisions as specified; or
 - iii) OK compost HOME certification, as specified.
 - b) Is readily and easily identifiable from other bags, as defined by existing law.
 - c) Has certification from a third-party certification entity, given that:
 - i) CalRecycle has approved a third-party certification entity for a standard specification pursuant to this section; and,
 - ii) CalRecycle has approved of that certification entity at least one year prior, and not before January 1, 2024.
 - d) On and after January 1, 2026, is an allowable organic input under the requirements of the United States Department of Food and Agriculture's (USDA) National Organic Program (NOP), as specified.
 - e) Does not contain perfluoroalkyl or polyfluoroalkyl substances (PFAS) above a specified limit.
 - f) Is labeled in a manner that distinguishes the product from a noncompostable product upon reasonable inspection by consumers and to help enable efficient processing by solid waste processing facilities.
 - g) Is designed to be associated with the recovery of desirable organic wastes.

- 2) Defines a “precheckout bag” as a bag provided to a customer before the customer reaches the point of sale, that is designed to protect a purchased item from damaging or contaminating other purchased items in a checkout bag, or to contain an unwrapped food item, such as, but not limited to, loose produce, meat or fish, nuts, grains, candy, and bakery goods. Does not include a bag used to prepackage items prior to its arrival to the store.

Background

- 1) *Waste management in California.* For three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through IWMA. Under IWMA, the state has established a statewide 75 percent source reduction, recycling, and composting goal and over the years the Legislature has enacted various laws relating to increasing the amount of waste that is diverted from landfills.

CalRecycle’s annual *State of Disposal and Recycling Report in California* provides information on how much material the state generates and how much of that material is landfilled, exported as recyclables, composted, anaerobically digested, mulched, recycled, or used for other purposes. Table 1 shows these numbers for 2019 and 2020.

	2019	2020	Net result
Total amount generated	77.5	77.4	decrease
Amount landfilled	42.6	40	decrease
Exported as recyclables	14.7	13.2	decrease
Composted, anaerobically digested, or mulched	9.3	9.8	increase
Recycled or source reduced	4.65	9.8	increase

Numbers shown are in million tons.

- 2) *Plastic bags in the waste stream.* According to United Nations Environmental Programme (UNEP), up to five trillion (5,000,000,000,000) plastic bags are used worldwide every year. While cigarette butts are the most common type of plastic waste, food wrappers, plastic bottles, plastic bottle caps, plastic grocery bags, plastic straws, and stirrers are the next most common items. According to its report *Advancing Sustainable Materials Management: Facts and Figures 2018*, the U.S. EPA found that the United States generated 4.2 million tons of plastic bags, sacks, and wraps in 2018. Of that amount, 3.04 million tons were landfilled, and 10% was recycled.
- 3) *Plastic Bag Ban.* In 2016, California voters approved Proposition 67, the statewide Single-Use Carryout Bag Ban (SB 270, Padilla, de Leon, Lara,

Chapter 850, Statutes of 2014). As a result, most grocery stores, retail stores with a pharmacy, convenience stores, food marts, and liquor stores are no longer able to provide single-use plastic carry-out bags to their customers. Instead, these stores may provide a reusable grocery bag or recycled paper bag to a customer at the point of sale for a charge of at least 10 cents. Since the bag ban went into effect, the number of plastic bags collected from state beaches during the annual Coastal Cleanup Days has dropped significantly from about 65,000 bags in 2010 to about 26,000 bags in 2017. In 2020, the number of plastic bags collected increased. Some think this is related to the temporary allowance of plastic bags in stores due to early concerns that people bringing their own grocery bags into stores might increase the spread of COVID-19.

- 4) *Compostable products*. Compostable products break down into their organic constituents under strict control of environmental factors including temperature, aeration, and nutrient concentration. Unlike biodegradable products, which simply means decomposable by action of living organisms, compostable means it must additionally break down into soil conditioning material (i.e. compost). There are different types and levels of sophistication of composting, ranging from at-home backyard static piles to industrial composting plants. Often, manufactured “compostable” products made from biobased materials do not break down as easily as food waste and require more industrial composting that can grind them down or use more extreme conditions to degrade material at a faster rate.

Many businesses, governments and individuals are designing or purchasing packaging, food service ware, and other products to be compostable as a means to reduce environmental impacts and conserve resources. However, not all “compostable” products provide the intended environmental benefits. The Oregon Department of Environmental Quality reviewed literature from 18 years of environmental life cycle assessments of compostable packaging and food service ware and found that, in the majority of comparisons, compostable materials had higher environmental impacts than both non-compostable materials, and than using compostable materials and treating them via recycling, landfilling, or incineration. One primary reason for this is the potential for higher burdens associated with producing the feedstocks used to make different types of compostable packaging. Another is that composting, unlike other end-of-life waste management alternatives such as recycling, is a relatively poor method of recovering nutrients or value embedded in human-made materials such as packaging.

Comments

- 1) *Purpose of Bill.* According to the author, “California has made great strides in reducing the GHG emissions produced by our waste streams. SB 1383’s composting goals sought to directly target emissions caused by a failure to divert organic waste from landfills. The ultimate objective of these organic waste diversion goals is to put that material to a better and higher use, while also removing the emissions created by the organic waste rotting away in landfills.

“A key strategy for reducing contamination from our compost waste streams, already under way thanks to 2014’s SB 270, is prohibiting stores from providing single-use plastic carryout bags at their point of sale. Three years after this bill passed, data showed that grocery bag litter had dropped by 72% and accounted for less than 1.5% of all litter. SB 1046 takes the next logical step by requiring the pre-checkout produce bags be reusable, recyclable, or compostable.

“These small pre-checkout bags many of us use while grocery shopping are not necessarily the bags that come to mind when you hear about plastics in our oceans and compost streams. But in the State of California, these innocuous produce bags tend to be thrown into the same bins as the fruit, vegetables, and meat we bring home in them from the store. This type of contamination not only leads to increased levels of microplastics in our compost waste stream, but it also leads to higher rates for consumers because the handling costs increase when compost waste streams are contaminated.

“Now that the time has come for SB 1383’s regulations to be implemented, it is vital that we provide local communities with the cleanest waste streams possible to ensure that we are diverting organic waste away from landfills in a manner that does not put the burden solely on the wallets of consumers. SB 1046 will decrease contamination in compost waste streams and provide consumers with convenient access to compostable pre-checkout bags by prohibiting the distribution of plastic pre-checkout produce bags unless they are reusable, recyclable, or compostable.”

- 2) *Reducing our usage of plastic.* According to a 2017 report by Closed Loop, only 7% of plastic bags accrued by US households is recycled through collection programs at grocery and big-box stores, and only three percent of non-retail bag film is collected for recycling. The rest winds up in landfills, or is littered and contributes to plastic pollution in the environment.

In addition to cleaning up the compost waste stream, this bill further reduces the overall amount of plastic bags by prohibiting stores from providing a “precheckout bag” unless it is a recycled paper bag or a bag that meets specified compostability standards. Under this bill, if a plastic precheckout bag is going to be used, it has to be compostable.

Related/Prior Legislation

AB 1201 (Ting, Chapter 504, Statutes 2021) expanded product-labeling requirements related to biodegradability and compostability from plastic products to all products and expanded content requirements for compostable products.

SOURCE: Californians Against Waste

SUPPORT:

350 Silicon Valley
American Forest & Paper Association

OPPOSITION:

None received

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