
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2021 - 2022 Regular

Bill No: SB 1256
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Version: 3/10/2022
Urgency: No
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Hearing Date: 3/28/2022
Fiscal: No

SUBJECT: Waste management: disposable propane cylinders

DIGEST: Prohibits the sale of disposable propane cylinders, as defined, on and after January 1, 2028, and would make the violation of this provision subject to specified civil penalties.

ANALYSIS:

Existing law:

- 1) Under the Integrated Waste Management Act of 1989 (IWMA), requires that 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) §§ 41780.01, 42921)
- 2) Establishes procedures for managing hazardous waste as Universal waste. (California Code of Regulations (CCR) Title 22, Division 4.5, Chapter 23)
- 3) Defines a "household hazardous waste (HHW)" as hazardous waste generated incidental to owning or maintaining a place of residence, but does not include waste generated in the course of operating a business at a residence. (HSC § 25218.1(e))
- 4) Establishes that counties and cities will provide services for the collection of HHW and that the state will provide an expedited and streamlined regulatory structure to facilitate the collection of HHW. (HSC § 25218)
- 5) Prohibits, on and after January 1, 2006, a person from selling, offering to sell, or distributing for promotional purposes, in this state, a mercury-added thermostat unless the mercury-added thermostat meets specified criteria. (Health & Safety Code (HSC) § 25214.8.2)

- 6) Prohibits specified stores from providing single-use carryout bags to a customer at the point of sale and makes a violation of this provision subject to specified civil penalties. (PRC § § 42283, 42285)

This bill:

- 1) Defines “disposable propane cylinder” to mean a nonrefillable propane canister, weighing approximately two pounds when filled with propane, with a designation of “DOT 39” from the United States Department of Transportation.
- 2) Prohibits the sale of disposable propane cylinders on and after January 1, 2028.
- 3) Provides that a city attorney or county counsel may impose civil liability on a person who violates this provision in the amount of five hundred dollar (\$500) per day for the first violation, one thousand dollars (\$1,000) per day for a second violation, and two thousand dollars (\$2,000) per day for the third and subsequent violations.
- 4) Requires any civil penalties collected pursuant to these provisions be paid to the office of the city attorney or county counsel, whichever office brought the action.

Background

- 1) *Solid waste in California.* For over three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through the IWMA. Under IWMA, the state has established a statewide 75 percent source reduction, recycling, and composting goal by 2020 and over the years the Legislature has enacted various laws relating to increasing the amount of waste that is diverted from landfills. According to CalRecycle's State of Disposal and Recycling in for Calendar Year 2019, published February 12, 2021, 42.2 million tons of material were disposed into landfills in 2019.

According to CalRecycle's report, an estimated 28.9 million tons of waste were recycled or diverted in California in 2019, resulting in a statewide recycling rate of 37%, down from 40% in 2018, and a peak of 50% in 2014.

- 2) *Universal waste.* Universal wastes are hazardous wastes that are widely produced by households and many different types of businesses. Universal

wastes include cathode ray tubes from televisions and computers, batteries, fluorescent lamps, mercury thermostats, and other mercury containing equipment, and other electronic devices. The hazardous waste regulations identify seven categories of hazardous wastes that can be managed as universal wastes. Any item that falls within one of these waste streams can be handled, transported, and recycled following the simple requirements set forth in the universal waste regulations versus the more stringent requirements for hazardous waste.

- 3) *Household hazardous waste (HHW) disposal.* At the local level, certified local agencies, known as Certified Unified Program Agencies (CUPAs), are responsible for developing local programs to collect, recycle, or properly dispose of HHW. The California Environmental Protection Agency (CalEPA) oversees the 81 CUPAs, and the statewide implementation of the Unified Program, which protects Californians from hazardous waste and hazardous materials by ensuring consistency throughout the state regarding the implementation of administrative requirements, permits, inspections, and enforcement at the local regulatory level. California Hazardous Waste Law provides several management requirements for HHW generators and establishes a streamlined permitting process for HHW collection facilities.
- 4) *Household Hazardous Waste Grants.* The Household Hazardous Waste grants are primarily competitive grants made available by CalRecycle to help local governments establish or expand HHW collection programs. California cities, counties, and local agencies, including Indian reservations and Rancherias, with direct responsibility for HHW management are eligible to apply.
- 5) *Disposable Propane Cylinders.* Disposable propane cylinders are single-use, such as one-pound propane cylinders, typically used in camping stoves, portable heaters, lanterns, portable showers, tailgating grills, boat engines, scooters, lawn care equipment, insect foggers, and welding equipment. It is estimated that between 40-60 million disposable one-pound propane cylinders are sold in the United States every year. As California accounts for roughly 10% of the population, it is estimated that over 4 million disposable one-pound propane cylinders are sold into California each year. The current price for a disposable one-pound propane cylinder filled with gas averages about \$5.00 each.

Refillable one-pound propane cylinders are also sold in California and nationally, however, sales information or market share for these products is unknown. The current retail price for empty refillable one-pound propane

cylinders is about \$13.99 each, with the average retail price to refill cylinders is about \$2.00 each (consumer must go to a refill location). The initial retail price for exchange model of one-pound propane cylinder (filled with gas) is \$21.99, with the refilled cylinder under the exchange model price at \$11.99 each.

- 6) *Proper Disposal is Expensive.* Under existing law, a consumer is permitted to dispose of an empty propane tank or cylinder in the curbside trash or recycling bin. However, if a propane tank or cylinder is not empty then it must be brought to a HHW facility. In most instances, however, it is impossible to know whether a cylinder is completely empty.

Cylinders received at HHW facilities are typically placed into 55-gallon drums, then transported to recycling/processing facilities where the cylinders are off-gassed to ensure no residual gas remains in the cylinder. Once empty, they are punctured and then crushed, baled, and then sent to the recycled metals market.

These safety measures, employed to avoid the risk of explosion that could cause injury to personnel or damage to infrastructure, contributes to the cost of collecting and recycling these cylinders. According to data provided by the author, the transportation and recycling/processing cost of a disposable propane cylinder is approximately \$3.00.

Based on CalRecycle data, it is estimated that only a quarter of the approximately four million disposable propane cylinders sold in California are recovered through HHW operations. Calculating in the cost of transporting and processing for these items, local governments, using ratepayer funds, are likely spending upwards of \$3 million per year to handle this relatively small waste stream. The majority of the remaining three million or more disposable propane cylinders end up in landfills.

- 7) *Improper Disposal can Wreak Havoc.* According to a May 23, 2019, article from Waste 360, a waste, recycling, and organics industry trade association, “Small, disposable propane tanks are convenient commodities, but they are a safety and economic nightmare for materials recovery facilities (MRFs), landfills and parks, causing fires and explosions when tanks leak or get punctured... Disposable propane cylinders exploded at a Kent County, Mich., MRF in June 2016 and again in June 2017. “In 2016, it cost over \$68,000 from one tank, and a worker was knocked off the baler,” says Darwin Baas, Kent County Public Works director. “We receive dozens a week. When they are tipped on the floor, they are often covered by paper and old corrugated cardboard and easy to miss. They get punctured in the baler. They cause

chemical damage and fire, and when the fire is put out, they cause water damage.”

- 8) *Transition from Single-Use Propane Cylinders to Refillable.* According to a December 21, 2020, report from the Statewide Commission on Recycling Markets and Curbside Recycling:

“Single-use 1 lb. propane cylinders are a threat to human and environmental health. When “empty,” single-use cylinders often still contain a small amount of gas, posing a danger to sanitation workers due to risk of explosion and resulting fires. Because of the high hazard level, this waste stream is very costly to manage and dispose of properly. Ironically, 80% of the purchase price is for the single-use packaging, the steel cylinder, which is the main culprit of the disposal issue.

“Every year in North America, 40 million single-use 1 lb. propane cylinders are used, with an estimated of over four million in California alone. Because of limited disposal options, the empty cylinders are often disposed of improperly in landfills, dumpsters, household trash or recycling bins, campsites, on the roadside or in recycling containers and can cause explosions...

“Made of hot rolled steel, these cylinders have very high GHG impacts with an estimated 11 million lbs of GHG emissions avoided if CA moved to refillables only. All other sizes of propane cylinders have been made refillable for decades including BBQ size 5 gallon and the 20-gallon size used on forklifts. The public is trained to refill BBQ tanks and can do the same with 1lbs in California, but when the cost of the 1lb has been externalized onto local governments via HHW programs when the refillables now exist and are sold and refilled in California, we believe the sale of disposables should be banned in short order.

- 9) *Refillable Campaigns.* In light of the disposal problems of these products, some governments, businesses and environmental nonprofits have begun pushing alternatives to disposable cylinders. One such effort, Refuel Your Fun (RFYF), was developed by the California Product Stewardship Council (CPSC) in 2015 using CalRecycle HHW grants to transition communities to choose reusable cylinders over their single-use counterparts. The campaign works to educate the public about the advantages of using reusable propane cylinders as compared to the disadvantages of the single-use cylinders noted earlier. This is accomplished through a variety of methods including conducting outreach/exchange events to get more reusables into circulation. To date,

CalRecycle has awarded 33 grants (approximately \$2.5 million in funds) throughout the state that have focused on refillable propane cylinders.

- 10) *Availability of Refillables.* According to data provided by the sponsor, since the introduction of refillable propane cylinders in 2013, approximately 380,000 have been sold in California, this number represents a doubling in just the last two years. The bill sponsor states that the current refillable tank manufacturing capacity stands at approximately one million per year. While the current estimate of demand for disposables is around four million per year, arguably, consumers demand would drop once they transition to refillable cylinders, as these products have a ten-year lifespan.

For refillables to work, consumers need access to cylinders where they are likely to use them. According to the sponsors of this proposal, there are at least 419 locations across the state that sell/or refill one-pound propane cylinders. U-Haul is now selling and refilling propane cylinders statewide at most stores that have propane. Sports Basement, an outdoors products chain in the San Francisco Bay area, is other retailer joining the effort. It buys refillable cylinders from FlameKing and sells them at its stores. And it also exchanges empty cylinders for filled ones. The company has exchanged more than 5,500 canisters since 2017. Sports Basement also has sold more than 10,000 of them since 2017, representing double the number of reusable canisters than disposable ones it sells.

Comments

- 1) *Purpose of Bill.* According to the author, “California can do much better when it comes to reusing and refilling products and disposing of materials, often hazardous materials, that are often discarded haphazardly. SB 1256 would ban single-use 1 pound propane cylinders and help California to transition to reusable cylinders that can help consumers save money and help improve our environment. Currently, most propane cylinders end up in the trash. Those that are not empty should be taken to household hazardous waste facilities. However, these facilities are often not easily accessible. Due to the costs and handling involved, even those canisters that are properly disposed take a significant diversion of financial resources from facilities, which are typically funded by local governments.

“These propane cylinders place a great burden on our municipalities, park systems, and material recovery facilities. It is time to transition away from single-use products that harm our environment, pose a threat to the safety of

workers, and end up in our landfills. SB 1256 would result in more reusable propane cylinders for consumers to refill which will lead to a cleaner and safer California.”

- 2) *A Problematic Waste Stream.* Disposable propane cylinders are a problematic waste stream. The current purchase price of these cylinders does not cover the management cost of its waste stream. To date, the disposal costs of these product has been born by local governments, who then pass along the costs to ratepayers through higher fees. Further, the improper disposal of these products can pose occupational and facility safety issues.

Over the years, the state has dealt with problematic consumer products in various ways – through producer-funded take-back programs, product labeling requirements, visible deposit fees, and, in some instances, product sales bans. SB 1256 would ban the sale of disposable propane cylinders beginning January 1, 2028, providing a five-year window for consumers, retailers, and propane cylinder exchange programs to transition to refillable cylinders.

The key question before the committee is whether the disposal costs and safety-related concerns associated with these products warrants a product ban or whether another approach is more appropriate, such as requiring a disposal fee or establishing a product stewardship program.

Should the committee decide to advance this proposal, it may wish consider directing the author to continue to work with stakeholders and committee staff to flesh out a number of items, including:

- *Oversight.* Should there be an oversight/enforcement role for CalRecycle or DTSC?
- *Labeling.* Is an interim labeling requirement needed to instruct consumers about proper disposal?
- *Market availability.* Will there be enough access to refillable products in five-years’ time? Can manufacturers make the transition in that timeframe?
- *Education and Outreach Campaign.* Is an education and outreach provision needed to ensure a consumers and retailers are informed about the impending ban and transition to refillables?
- *Definition.* Further refinement of the definition of “disposable propane cylinder” may be needed to ensure only the intended products are captured.

DOUBLE REFERRAL:

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Judiciary Committee.

Related/Prior Legislation

SB 54 (Allen) prohibits producers of single-use, disposable packaging or single-use, disposal food service ware producers from offering for sale, selling, distributing, or importing in or into the state those products manufactured after January 1, 2032, unless it is recyclable or compostable. This bill is pending in the Assembly.

SB 212 (Jackson, Chapter 1004, Statutes of 2018) requires entities that sell drugs or sharps in the state to individually, or with other entities, develop and implement a statewide home-generated drug stewardship plan, or a home-generated sharps waste stewardship plan, or both, for the collection and proper disposal of home-generated drug and sharps waste. Requires CalRecycle to oversee and enforce each stewardship plan.

AB 2347 (Ruskin, Chapter 572, Statutes of 2008) establishes California's Mercury Thermostat Collection Act of 2008 to require thermostat manufacturers to establish a collection and recycling program for out-of-service mercury-added thermostats.

AB 1125 (Pavley, Chapter 572, Statutes of 2005) enacts the Rechargeable Battery Recycling Act of 2006, and requires retailers of rechargeable batteries, by July 1, 2006, to establish a system for accepting rechargeable batteries for reuse, recycling, or proper disposal.

AB 2901 (Pavley, Chapter 891, Statutes of 2004) enacts the Cell Phone Recycling Act of 2004 and requires all retailers of cellular telephone to have in place a system for the collection, reuse and recycling of cell phones, requires DTSC to provide information on cell phone recycling.

AB 1369 (Pavley, Chapter 626, Statutes of 2004) prohibits the sale, offer for sale or promotional distribution of mercury-added thermostats in this state, beginning January 1, 2006, unless the mercury-added thermostat meets specified criteria.

SOURCE: California Product Stewardship Council

SUPPORT:

California Product Stewardship Council
Republic Services INC.

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: According to the California Product Stewardship (CPSC), “Local, state, and national parks have long struggled with the impacts of improperly disposed single-use 1lb propane cylinders. A 2019 article from Waste 360 reported that the Yosemite National Park collects between 20,000 and 25,000 tanks a year and trucks them more than two hours away to a facility that processes low-grade hazardous waste. One of Yosemite’s sustainability initiatives is focused on reducing improper disposal of propane tanks by promoting use of refillable tanks. As a result, the only cylinders available for purchase inside of Yosemite are refillable...SB 1256 would ban the sale of disposable 1lb propane cylinders in California beginning January 1, 2028. This system will operate much like existing exchange refilling infrastructure...Banning the sale of disposable propane tanks will move consumers to a more sustainable option.”

ARGUMENTS IN OPPOSITION:

None received

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