

BILL NO: SB 270
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AMENDED: August 21, 2014
FISCAL: Yes **HEARING DATE:** August 29, 2014
URGENCY: No **CONSULTANT:** Joanne Roy

SUMMARY:

- 1) Under the At-Store Recycling Program (Public Resources Code §42250 et seq.) (part of the California Integrated Waste Management Act of 1989):
 - a) Requires operators of stores, defined as supermarkets and stores over 10,000 square feet that includes a pharmacy, to establish an at-store recycling program. Under the program:
 - i) Plastic bags provided by the store must include a label encouraging customers to return the bag to the store for recycling.
 - ii) Clearly labeled and easily accessible recycling bins for plastic bags must be provided.
 - iii) All plastic bags collected must be recycled in a manner consistent with the local jurisdiction's recycling plan.
 - iv) The store must maintain records relating to the program for at least three years and must make the records available to the local jurisdiction or the Department of Resources Recovery and Recycling (CalRecycle) upon request.
 - v) The operator of the store must make reusable bags available to customers.

- b) Requires plastic carryout bag manufacturers to develop educational materials to encourage reducing and recycling of plastic carryout bags and make those materials available to stores.
 - c) Allows cities and counties to adopt, implement, and enforce local laws related to local curbside or drop-off recycling programs.
 - d) Authorizes a city, county, or the state to levy fines for stores in violation of this law.
 - e) Defines "reusable bag" as a bag with handles and made of either cloth or durable plastic. Requires a reusable bag made of plastic to be at least 2.25 mils thick and specifically designed for multiple uses.
 - f) Sunsets the above provisions on January 1, 2020.
- 2) Establishes the Toxics in Packaging Prevention Act, which:
- a) Prohibits a person from offering for sale or for promotional purposes in this state a product in a package that includes a regulated metal in the package itself or in a packaging component if the regulated metal has been intentionally introduced into the package or packaging component during manufacturing or distribution.
 - b) Defines "regulated metal" as lead, mercury, cadmium, or hexavalent chromium.
 - c) Defines "package" as any container, produced either domestically or in a foreign country that provides a means of marketing, protecting, or handling a product from its point of manufacture to its sale or transfer to a consumer, including a unit package, an intermediate package, or a shipping container. "Package" also includes unsealed receptacles, including carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags (including single-use carryout bags), and tubs.
 - d) Excludes reusable bags from the definition of "package."
- 3) Establishes the Recycling Market Development Revolving Loan Program to provide low-interest loans to businesses within one of the state's Recycled

Market Development Zones (RMDZ) for the purchase of equipment and other relevant business costs.

This bill:

1) Defines terms in the bill, including:

- a) "Recycled paper bag" as a paper carryout bag provided by a store to a customer at the point of sale and contains a minimum of 40% postconsumer recycled materials. For a bag with the capacity to hold eight pounds or less, the bag must contain at least 20% postconsumer recycled materials. A recycled paper bag must be accepted for recycling in a majority of households in curbside recycling programs in the state, as well as have specified information printed on the bag.
- b) "Reusable grocery bag" as, on and after July 1, 2016, a bag that meets requirements specified in 2) below.
- c) "Single-use carryout bag" as a bag made of plastic, paper, or other material that is provided by a store to a customer at the point of sale. Exempts from this definition specified bags, including a bag provided by a pharmacy for a prescription purchase, a nonhandled bag used to protect an item from damaging or contaminating other items when placed in a recycled paper bag or reusable grocery bag, and a dry-cleaning or garment bag.
- d) "Store" as a full-line self-service retail store with gross annual sales of at least \$2 million and sells a line of dry grocery, canned goods, or nonfood items and some perishables (a typical grocery store); has at least 10,000 square feet of retail space and a pharmacy; or, a convenience food store or foodmart. Includes in the definition of store any other retail establishment that voluntarily agrees to comply with the requirements of the bill.

2) Beginning July 1, 2015, requires that a reusable grocery bag be able to be used a minimum of 125 times, as specified; can be cleaned; have specified information visible on the bag; cannot contain lead, cadmium, or any other toxic material that may pose a threat to public health; and, must be consistent with federal regulations related to recyclable claims if the bag producer claims the bag is recyclable.

- 3) Establishes certification requirements for producers of reusable bags and suppliers of postconsumer recycled content.
- 4) Prohibits stores from making single-use carryout bags available at the point of sale on the following timeline:
 - a) On and after January 1, 2015, at either a grocery store or retailer with at least 10,000 square feet of retail space and a pharmacy.
 - b) On and after July 1, 2016, at a convenience food store and foodmart.
- 5) Authorizes a store to make available a reusable grocery bag or recycled paper bag at the point of sale. Requires that these bags may not be sold to a consumer for less than \$0.10.
- 6) Requires that all moneys collected by stores pursuant to the bill be retained at the store and be used for costs associated with complying with the bill; actual costs of providing recycled paper bags and reusable grocery bags; and, costs associated with a store's educational materials or educational campaign encouraging the use of reusable bags.
- 7) Requires a store to provide a reusable bag or recycled paper bag at no charge to any customer using California Special Supplemental Food Program for Women, Infants and Children benefits, CalFresh benefits (federally known as Supplemental Nutrition Assistance Program [SNAP] benefits), California Food Assistance Program benefits, or cash aid benefits.
- 8) Authorizes stores that are not included in the bill to voluntarily participate in the bill's requirements by submitting an irrevocable written notice to CalRecycle containing specified information.
- 9) Authorizes a city, county, city and county, or the state to impose civil liability of \$1,000 for the first violation of the proposed law, \$2,000 for the second violation, and \$5,000 for each subsequent violation. Collected penalties must be paid to whichever agency brought the action.
- 10) Preempts local ordinances adopted on or after September 1, 2014, relating to reusable grocery bags, single-use carryout bags, or recycled paper bags.

- 11) Appropriates \$2 million from the Recycled Market Development Revolving Loan Subaccount for loans for the creation and retention of jobs and economic activity in the state for the manufacture and recycling of plastic reusable grocery bags that use recycled content. Requires recipients of a loan to retain and retrain existing employees for the manufacturing of reusable grocery bags that meet the requirements of the bill. Specifies that any funds not expended by the end of the 2015-16 fiscal year revert back to the Subaccount.

COMMENTS:

- 1) Purpose of Bill. The author states, “California uses an estimated 14 billion single-use plastic bags a year. According to CalRecycle, less than five percent of single-use plastic bags are recycled. Plastic bags cause litter, slow sorting and jam machinery at recycling centers costing California more than an estimated \$25 million each year to collect and bury the plastic bag waste. By banning plastic bags on a statewide level, the amount of litter and plastic marine debris caused by plastic bags can be significantly reduced.”
- 2) Background. Plastic bags and plastic film together represent 2.2% of the waste stream, and every year California taxpayers spend \$25 million disposing of the 19 billion plastic bags used annually. Although plastic represents a relatively small fraction of the overall waste stream in California, plastic waste is the predominate form of marine debris. Plastics are estimated to compose 60-80% of all marine debris and 90% of all floating debris. According to the California Coastal Commission, the primary source of marine debris is urban runoff, of which lightweight plastic bags and plastic film are particularly susceptible. Due to the interplay of ocean currents, marine debris preferentially accumulates in certain areas throughout the ocean. The North Pacific Central Gyre is the ultimate destination for much of the marine debris originating from the California coast. A study by the Algalita Marine Research Foundation found an average of more than 300,000 plastic pieces per square mile of the Gyre and that the mass of plastic was six times greater than zooplankton floating on the water’s surface.

Most plastic marine debris exists as small plastic particles due to excessive UV radiation exposure and subsequent photo-degradation. These plastic pieces are ingested by aquatic organisms and have already negatively affected over 250 animal species worldwide. In addition, hydrophobic chemicals present in the ocean in trace amounts (e.g., from contaminated runoff and oil

and chemical spills) have an affinity for, and can bind to, plastic particles and may also enter and accumulate in the food chain through the same mechanism.

- 3) Should Slightly Thicker Plastic Bags Be Considered “Reusable” Bags? This bill allows a bag made from plastic film be considered “reusable” if it is “capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses and be at least 2.25 mils thick...” (SB 270 as amended August 21, 2014, Page 8, lines 6-9).

A plastic bag with a 2.25 mils thickness has a slightly thicker plastic film than a single-use bag and currently is typically provided by a retail/department store at the point of purchase such as See’s Candy or Fleet Feet. It is questionable whether most people would consider such bags as “reusable” in the same, general sense as a cloth bag. Will consumers actually reuse these slightly thicker bags at least 125 times or will these bags be treated more like single-use bags? Will these types of bags change consumer habits and result in litter reduction? Will these slightly thicker plastic bags satisfy the goal of the bill, which is to reduce plastic bag litter and marine debris?

- 4) Why Are Paper Bags in This Bill? SB 270 mandates a fee on paper bags at the point of sale. Paper bags do not pose the same threats to the marine environment. Also, unlike plastic bags, paper bags are more commonly recycled and contain recycled content. If the goal of this bill is to reduce plastic marine debris, why are paper bags included?
- 5) Local Bag Ordinances. Approximately 100 local governments throughout California have adopted ordinances banning plastic bags such as San Francisco, San Jose, Long Beach, Los Angeles County, Santa Clara County, and Alameda County. Many of these cities and counties also require stores to charge a fee for a paper carryout bag, and a few have banned both single-use plastic and paper carryout bags. Some local ordinances allow the money generated by bag purchases and retained by stores to be used only for the stores’ costs of compliance, actual costs of providing recyclable paper carryout bags, or costs for educational materials/campaigns encouraging the use of reusable bags.

This bill does not pre-empt existing ordinances; however, it does provide uniformity moving forward by pre-empting local ordinances adopted after

September 1, 2014.

- 6) Recycling Market Development Revolving Loan Subaccount. CalRecycle provides money in this subaccount as a source of financing to recycling-based businesses, non-profit organizations, and public entities for the purpose of increasing the diversion of non-hazardous solid waste from California landfills and to promote market demand for secondary and postconsumer materials. Types of projects typically funded include machinery and equipment, working capital, real estate purchase (maximum of \$1 million), real estate improvement, and refinancing of onerous debt that results in increased diversion. The fund balance of this subaccount generally fluctuates between \$3-9 million; the beginning balance for fiscal year 2014-15 was \$3.3 million. This bill appropriates \$2 million to provide loans for the creation and retention of jobs and economic activity in California for the manufacture and recycling of plastic reusable grocery bags that use recycled content.
- 7) Related and Past Legislation. SB 405 (Padilla) in the current Session is substantially similar to SB 270. Generally, SB 405 prohibited grocery stores from providing single-use plastic bags to consumers and requires stores to make reusable bags available for purchase by customers. SB 405 died on the Senate Floor.

SB 700 (Wolk) in the current Session would have required retail establishments, as defined, to collect a fee of 5 cents for every single-use carryout bag provided to a customer. The bill requires that the fees be available for grants to cities and counties for local parks and local programs that reduce and cleanup litter. This bill was held in the Senate Appropriations Committee.

AB 158 (Levine) in the current Session is substantially similar to SB 270. Generally, this bill prohibits grocery stores from providing single-use plastic bags to customers and requires stores to make reusable bags available for purchase by customers. AB 158 did not contain a minimum fee for reusable bags. This bill was moved to the Assembly inactive file by the author.

SB 1219 (Wolk), Chapter 384, Statutes of 2012, extended the sunset of the At-Store Recycling Program requirements from January 1, 2013 to January 1, 2020 and repealed the provisions preempting local regulatory action related to the at-store recycling program requirements.

SB 1106 (Strickland) of 2012 prohibits the manufacture, distribution, and sale of reusable bags without a warning label that both specifies the need for reusable bags to be cleaned and disinfected between uses and outlines the health risks associated with not cleaning or disinfecting reusable bags between uses. SB 1106 failed in the Senate Environmental Quality Committee April 23, 2012 (2-5).

AB 298 (Brownley) of 2012, would have generally prohibited stores from providing single-use plastic bags to customers, required stores to make reusable grocery bags, as defined, available for purchase by customers, and created standards for reusable bags. AB 298 was held on the Senate Appropriations Committee suspense file.

AB 1834 (Brownley) of 2012 would have defined “reusable bag” for purposes of the At-Store Recycling Program Law and would have specified that on and after July 1, 2013, the definition of what is a reusable bag under this bill will become operative. Between January 1, 2013 until June 30, 2013, the current At-Store Recycling Program Law would have remained operative. This bill would have become operative only if SB 1219 (Wolk) became law. AB 1834 was placed on the Senate inactive file and died on the Senate floor.

SB 915 (Calderon) of 2011 sets plastic bag reduction and recycled content goals. A hearing in the Senate Environmental Quality Committee was canceled at the request of the author.

AB 2138 (Chesbro) of 2010 would have established recycling and composting requirements for take-out food packaging, including bags. AB 2138 was held on the Assembly Appropriations Committee suspense file.

AB 1998 (Brownley) of 2010 would have repealed the at-store recycling program and instead prohibited stores from providing a single-use plastic carryout bag to a customer and required stores to provide reusable bags for purchase or recycled paper bags for a fee. AB 1998 failed in the Senate on August 31, 2010 (14-21).

SB 531 (DeSaulnier) of 2009 would have required manufacturers of plastic carryout bags to consult with various entities, including the California Integrated Waste Management Board (CIWMB), when developing specified educational materials to encourage the reduced use or recycling of those bags,

and authorized CIWMB to modify those materials. SB 531 was held in Assembly Natural Resources Committee without further action.

AB 68 (Brownley) of 2009 and AB 87 (Davis) of 2009 both would have required a 25-cent fee on the distribution of single-use carryout bags. Both bills were held in the Assembly Appropriations Committee.

AB 2058 (Levine) of 2007 would have prohibited the free dispensing of carryout plastic bags by a store to its customers, unless the store can demonstrate to CIWMB that 70% of the plastic bags it dispensed had been diverted from the waste stream. AB 2058 was held in Senate Appropriations Committee.

SOURCE: Author

SUPPORT: None on file

OPPOSITION: None on file