

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 586

Introduced by Assembly Member Koretz

February 18, 2003

~~An act to add Chapter 2 (commencing with Section 68055.10) to, and to add a heading as Chapter 1 (commencing with Section 68055) to, Title 7.9, of the Government Code, relating to solid waste. An act to add Chapter 5.3 (commencing with Section 42250) and Chapter 20 (commencing with Section 42970) to Part 3 of Division 7 of the Public Resources Code, relating to solid waste.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 586, as amended, Koretz. ~~Tobacco-related~~ *Litter and marine debris: tobacco-related waste.*

Existing

(1) *The California Integrated Waste Management Act of 1989 establishes an integrated waste management program and establishes requirements for the recycling and reuse of various products, including metallic discards, compost, plastic packaging containers, and newsprint. Existing law requires every manufacturer that manufactures specified plastic trash bags to ensure that at least 10% of the weight of the regulated bags, or that at least 30% of the weight of the material used, in all of its plastic products intended for sale in this state is recycled plastic postconsumer material.*

This bill would enact the Litter and Marine Debris Reduction and Recycling Act, and would define terms, including defining the term "litter and marine debris" as meaning disposable cups and disposable

bags, or parts thereof, that are improperly discarded by an individual or carried by the wind or water into the environment.

The bill would require every retail seller who sells or provides a disposable bag or disposable cup in this state to pay a litter reduction and recycling fee to the State Board of Equalization for each disposable bag or disposable cup sold or provided to a retail consumer, except as specified. The bill would set the amount of the fee as \$0.02 for every disposable bag or disposable cup that contains less than 40% postconsumer recycled content.

The bill would require the fees imposed by the bill to be paid to the State Board of Equalization and deposited in the Litter and Marine Debris Reduction and Recycling Fund, which the bill would create in the State Treasury. The bill would require the waste board to administer the fund and would prohibit the revenues deposited in the fund that derive from the fees from being expended for an activity that is unrelated to the mitigation of, or the prevention of, litter and marine debris. The bill would authorize the moneys in the fund to be expended, upon appropriation by the Legislature, in a specified manner for activities and grants regarding the diversion, collection, recycling, or proper disposal of litter and marine debris, of which the waste board would be authorized to expend 40% of the revenues annually deposited in the fund, the Department of Transportation would be authorized to expend 10% of those revenues, and the California Coastal Commission would be authorized to expend 25% of those revenues. The bill would also require 10% of the revenues to be expended to fund a cooperative agreement entered into between “Keep California Beautiful” and the Department of Parks and Recreation, the Department of Transportation, and the California Coastal Commission. The bill would also authorize the waste board to expend the amount of funds necessary to conduct and publish, not later than January 1 of every other year, a semiannual litter and marine debris study. The bill would authorize the waste board, the State Board of Equalization, and the Treasurer to expend the revenues in the fund to pay for the administrative costs of implementing the act, but not to exceed 5% of the total of revenues annually deposited in the fund.

The bill would require an entity that receives money from the fund to provide specified information annually to the board regarding the amount and types of litter and marine debris removed.

(2) Existing law prohibits the smoking of tobacco in various public places.



This bill would prohibit any person, firm, or corporation from displaying or making available ashtrays or other receptacles designed for tobacco-related waste for use on the premises where smoking is prohibited by law, except under specified circumstances. It would also require any person, firm, or corporation that maintains an area where smoking is permitted by law to provide one or more receptacles for tobacco-related waste for use on the premises.

The bill would provide that a violation of ~~the above~~ *these* provisions would constitute an infraction punishable by specified fines. The creation of new crimes would impose a state-mandated local program.

The

(3) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. A heading is added as Chapter 1 (commencing~~
2 *SECTION 1. Chapter 5.3 (commencing with Section 42250)*
3 *is added to Part 3 of Division 7 of the Public Resources Code, to*
4 *read:*

5
6 *CHAPTER 5.3. LITTER AND MARINE DEBRIS REDUCTION AND*
7 *RECYCLING ACT*

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10 *Article 1. General Provisions and Definitions*
11 *42250. (a) The Legislature finds and declares all of the*
12 *following:*

13 *(1) Each year thousands of Californians volunteer countless*
14 *hours to cleanup disposable bag and disposable cup litter from*
15 *public roadways, beaches, parks, and other areas of the state.*

16 *(2) Disposable bag and disposable cup litter and the resulting*
17 *marine debris present more than an aesthetic problem, as this litter*
18 *and debris poses a danger to marine organisms through ingestion*



1 *and entanglement. This litter and marine debris present a serious*
2 *and growing threat to water quality, the beneficial uses of the*
3 *waters of the state, and recreational human use, as well as*
4 *threatening the ability of California's waters and the Pacific*
5 *Ocean to sustain aquatic life. The United States Environmental*
6 *Protection Agency estimates that upwards of 80 percent of marine*
7 *debris originates from land-based human activities including*
8 *littering and waste disposal practices.*

9 (3) *Stormwater runoff represents the primary means for*
10 *transporting disposable bag and disposable cup litter and this*
11 *resulting debris into California's aquatic and marine*
12 *environments. Under a consent decree, a Total Maximum Daily*
13 *Load (TMDL) for trash is required to be developed for all impaired*
14 *waters within the state within the next 12 years. The TMDL for the*
15 *Los Angeles River and Ballona Creek Watershed require that the*
16 *amount of trash be drastically reduced to protect beneficial uses.*
17 *The costs to state agencies and local governments to comply with*
18 *existing TMDL requirements, pending TMDL requirements, or the*
19 *TMDL requirements yet to be developed, will run into the billions*
20 *of dollars.*

21 (4) *Data collected during California's annual Coastal Cleanup*
22 *and the 1999 Pilot Litter Study by the Department of Conservation*
23 *indicates that disposable bags and disposable cups represent some*
24 *of the most commonly littered items. Disposable cups are used "on*
25 *the go" when access to trash and recycling receptacles is most*
26 *limited. Disposable bags are commonly littered and, even if*
27 *properly discarded, can and are carried by wind from uncovered*
28 *trash cans and dumpsters, vehicles, and solid waste facilities,*
29 *including landfills.*

30 (5) *Over 520,000 tons of disposable bags and disposable cups*
31 *were used in California in 2000 and less than 50 tons were*
32 *recovered for recycling, according to data from the United States*
33 *Environmental Protection Agency. Disposal costs for disposable*
34 *bags and disposable cups to the state exceed fifty-one million*
35 *dollars (\$51,000,000) annually.*

36 (6) *The benefits of diverting, reducing, and cleaning up*
37 *disposable bag and disposable cup litter have a direct impact on*
38 *the California economy. A 1993 study by the California Research*
39 *Bureau concluded that ocean-dependent industries add seventeen*
40 *billion three hundred thousand dollars (\$17,000,300,000) and*



1 370,000 jobs to California's economy, almost ten billion dollars
2 (\$10,000,000,000) of which is nonresident coastal-based tourism.

3 (7) All funds collected pursuant to this chapter will be used for
4 the purposes of reducing, cleaning up, and recycling disposable
5 bag and disposable cup litter and the resulting marine debris.

6 (b) The Legislature finds and declares that the imposition of the
7 fee on plastic bags and cups pursuant to Section 42252 would not
8 result in the imposition of a tax within the meaning of Article XIII
9 A of the California Constitution, because the amount and nature
10 of the fee has a fair and reasonable relationship to the adverse
11 environmental burdens imposed by the disposal and littering of
12 disposable bags and disposable cups, and there is a sufficient
13 nexus between the fees imposed and the use of those fees to support
14 programs that divert, recycle, and reduce the litter and marine
15 debris stemming from the use of these products.

16 (c) This chapter shall be known as, and may be cited as, the
17 "Litter and Marine Debris Reduction and Recycling Act."

18 42251. For purposes of this chapter the following definitions
19 apply:

20 (a) (1) "Disposable bag" means a bag intended for use by the
21 public to carry away or protect goods, including, but not limited
22 to, grocery sacks, dry cleaning bags, take out food bags, retail
23 bags, membership or wholesaler bags, and service station bags.

24 (2) Notwithstanding paragraph (1), "disposable bag" does not
25 include an exempt bag.

26 (3) "Exempt bag" means a bag that would otherwise be subject
27 to this chapter, but meets one of the following criteria:

28 (A) The bag is solely used to contain a product with no other
29 packaging, including, but not limited to, bulk grains, fruit, nuts,
30 vegetables, or other food products.

31 (B) The bag is used to contain ice, if no other product is
32 otherwise contained in the packaging.

33 (C) The bag is specifically designed for at least 1,000 reuses.

34 (b) (1) "Disposable cup" means a plastic, paper, or
35 poly-coated paper cup intended for use by the public to carry away
36 or protect drinks or foods, including, but not limited to, coffee
37 cups, take out drink cups, to go cups, fountain cups, frozen yogurt
38 cups, ice cream cups, soup cups, and side dish cups.

39 (2) Notwithstanding paragraph (1), "disposable cup" does not
40 include an exempt cup.



1 (3) "Exempt cup" means a cup that would otherwise be subject
2 to this chapter, but meets one of the following criteria:

3 (A) The cup is solely used to contain water, is offered free to
4 customers, and holds no more than four ounces.

5 (B) The cup is specifically designed for at least 1,000 reuses, if
6 the retail seller provides a discount or incentive to support each
7 reuse.

8 (c) "Fund" means the Litter and Marine Debris Reduction and
9 Recycling Fund established pursuant to Section 42253.

10 (d) "Litter and marine debris" means disposable cups and
11 disposable bags, or parts thereof, that are improperly discarded by
12 an individual or carried by the wind or water into the environment.

13 (e) "Litter reduction and recycling fee" means the fee imposed
14 pursuant to Section 42252.

15 (f) "Postconsumer recycling content" means the amount of
16 postconsumer material, as defined in subdivision (c) of Section
17 42290, of a disposable bag or disposable cup.

18 (g) "Retail seller" means a person who sells, or offers for sale,
19 in a retail sale, as defined in Section 6007 of the Revenue and
20 Taxation Code, a product in a disposable bag or disposable cup.
21 "Retail seller" includes, but is not limited to, a retail food facility,
22 as defined in Section 113785 of the Health and Safety Code, a
23 service station, as defined in Section 13650 of the Business and
24 Professions Code, a convenience or department store, or any other
25 location that provides or offers the goods in the manner specified
26 in paragraph (1) of subdivision (a) or paragraph (1) of subdivision
27 (b).

28

29

Article 2. Fee

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31 42252. (a) On and after January 1, 2004, except as provided
32 in subdivision (c) a retail seller who sells or provides a disposable
33 bag or disposable cup in this state shall pay a litter reduction and
34 recycling fee to the State Board of Equalization for all disposable
35 bags and disposable cups sold or provided to retail consumers.

36 (b) The amount of the litter reduction and recycling fee paid by
37 a retail seller shall be two cents (\$0.02) for a disposable bag and
38 two cents (\$0.02) for a disposable cup that contains less than 40
39 percent postconsumer recycled content.



1 (c) A retail seller is not required to pay a litter reduction and
2 recycling fee for any of the following:

3 (1) A disposable bag or a disposable cup that contains more
4 than 40 percent postconsumer recycled content.

5 (2) A disposable cup that is an exempt cup, as defined in
6 paragraph (3) of subdivision (b) of Section 42251.

7 (3) A disposable bag that is an exempt bag, as defined in
8 paragraph (3) of subdivision (a) of Section 42251.

9 42253. (a) A retail seller may charge a retail consumer the
10 amount of the litter reduction and recycling fee as a charge that is
11 separate from, and not included in, any other fee, charge, or other
12 amount paid by the retail purchaser.

13 (b) A retail seller shall pay all amounts required to be paid to
14 the state under this article to the State Board of Equalization in the
15 form of a remittance that is payable to that board and is separate
16 from the remittance of any other fee. The State Board of
17 Equalization shall transmit the payments to the Treasurer, for
18 deposit in the Litter and Marine Debris Reduction and Recycling
19 Fund, which is hereby created in the State Treasury.

20 (c) The board shall administer the fund, which shall be
21 expended in accordance with Section 42254. The revenues
22 deposited in the fund that derive from the fee imposed pursuant to
23 this article may not be expended for an activity that is unrelated to
24 the mitigation of, or the prevention of, litter and marine debris.

25 (d) A retail seller shall keep a record of the number of
26 disposable bags, exempt bags, disposable cups, and exempt cups
27 the retail seller has purchased, been provided with, or otherwise
28 acquired, and a record of the amount of fee paid on disposable
29 bags and cups subject to the litter reduction and recycling fee that
30 are provided to, or sold to, retail consumers on a quarterly basis.
31 The retail seller shall keep these records in the same manner as,
32 and for a similar time, as any other record required by the State
33 Board of Equalization with regard to the payment of sales taxes.

34

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Article 3. Fund

36 42254. The moneys in the fund may be expended, upon
37 appropriation by the Legislature, in the following manner for the
38 following purposes:

39 (a) (1) The board may expend 40 percent of the revenues
40 annually deposited in the fund to provide block grants to local



1 governments to establish and maintain local programs that
2 provide for the reduction, diversion, cleanup, and recycling of
3 litter and marine debris, including for devices to prevent litter and
4 marine debris from entering storm drain systems.

5 (2) The board shall administer the block grants authorized by
6 this subdivision. The board may provide the block grants in an
7 amount of five thousand dollars (\$5,000) to cities and ten thousand
8 dollars (\$10,000) for payments to counties, or the board may
9 determine the amount of the block grants by calculating the
10 amount on a per capita basis of a city or county, and may pay
11 whichever amount is greater, for the programs specified in
12 paragraph (1).

13 (b) The Department of Transportation may expend 10 percent
14 of the revenues annually deposited in the fund for all of the
15 following programs, with regard to the diversion, collection,
16 recycling, or proper disposal of litter and marine debris:

17 (1) To support the Adopt-A-Highway program.

18 (2) To conduct other activities to divert, collect, recycle, or
19 properly dispose of litter and marine debris.

20 (3) To provide grants to nonprofit agencies that collect or
21 coordinate the collection of litter and marine debris.

22 (c) The California Coastal Commission may expend 25 percent
23 of the revenues annually deposited in the fund for all of the
24 following programs, with regard to the diversion, collection,
25 recycling, or proper disposal of litter and marine debris:

26 (1) The California Coastal Commission Adopt-A-Beach
27 program.

28 (2) The California State Park Adopt-A-Park program.

29 (3) The community conservation corps.

30 (4) Keep California Beautiful.

31 (5) To provide grants to nonprofit agencies that collect or
32 coordinate the collection of disposable bag and disposable cup
33 litter and resulting marine debris.

34 (d) Ten percent of the revenues annually deposited in the fund
35 shall be expended to fund a cooperative agreement with "Keep
36 California Beautiful" and the Department of Parks and
37 Recreation, the Department of Transportation, and the California
38 Coastal Commission, in conjunction with local governments, to
39 establish and conduct an ongoing statewide public information
40 program to educate the public on the hazards and composition of



1 litter and marine debris and on the need to increase the recycling
2 of disposable bags and disposable cups.

3 (e) The board may expend the amount of revenue in the fund
4 that is necessary to conduct and publish, not later than January 1
5 of every other year, a semiannual litter and marine debris study,
6 with specific attention paid to the contribution to all litter and
7 marine debris by disposable bags and disposable cups. The report
8 shall identify litter and marine debris by the types of materials by
9 composition and the types of items by use, and shall quantify both
10 of these by their location on land, on and along roads and
11 highways, along and in streams or rivers, along and in lakes, along
12 beaches, along or in harbors and estuaries, and in the Pacific
13 Ocean. The report shall include data from grantees and all
14 agencies receiving funds under this chapter regarding local and
15 agency specific litter and marine debris cleanup and removal
16 efforts.

17 (f) The board, the State Board of Equalization, and the
18 Treasurer may expend the revenues in the fund to pay for the
19 administrative costs of implementing this chapter. The total
20 amount authorized for expenditure pursuant to this subdivision
21 shall not exceed 5 percent of the total amount of revenues annually
22 deposited in the fund.

23 42255. An entity that receives money from the fund pursuant
24 to this article shall provide information to the board that quantifies
25 the amount and types of litter and marine debris removed, the
26 amount of labor used, including both volunteer and paid, and the
27 locations or geographic area from which the litter or marine debris
28 is recovered. The information shall be provided on or before the
29 November 15 of the 12-month period ending September 31 for the
30 revenues deposited in the fund annually, or on the date otherwise
31 specified by the board.

32 42256. (a) This chapter does not create a guarantee of a
33 continuing level of support, or other obligation on the part of the
34 state, the board, or an agency of the state, to pay a specified
35 amount to any local nonprofit organization, community
36 conservation corps, or statewide nonprofit agency.

37 (b) This chapter does not require or create an obligation that
38 payments made pursuant to this chapter to a local nonprofit
39 organization, community conservation corps, or statewide



1 nonprofit agency in any given fiscal year at the same or greater
2 level.

3 SEC. 2. Chapter 20 (commencing with Section 42970) is
4 added to Part 3 of Division 7 of the Public Resources Code, to
5 read:

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CHAPTER 20. TOBACCO RELATED WASTE RECEPTACLES

Article 1. Findings

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12 42970. The Legislature finds and declares all of the following:

13 (a) In the annual coastal cleanup days held every September in
14 California, cigarette butts are always the most common item
15 collected. In 2000, volunteers collected 229,928 cigarette butts
16 from California beaches in a three-hour period. Laws established
17 to protect Californians from the deadly effects of second-hand
18 smoke have increased the number of cigarettes consumed outside.
19 Mostly under the impression that cigarette butts are harmless,
20 smokers typically discard their plastic cigarette butts by littering,
21 exacerbating the problem of cigarette waste in marine debris.

22 (b) Cigarette butts are made of a plastic called cellulose
23 acetate. More than just unsightly contaminants, plastics in our
24 oceans kill countless thousands of marine animals. Degradation
25 of cigarette butts can take decades. Worldwide, several trillion
26 cigarette butts are littered every year. Cigarette filters can be found
27 in the stomachs of fish, birds, whales, and other marine creatures.
28 Every year thousands of animals die because they repeatedly
29 mistake cigarette butts and other plastics for food, permanently
30 filling their stomachs and causing death by starvation. Toxic
31 chemicals trapped in cigarette filters are transferred into the
32 bodies of the marine animals, thus entering the food chain.

33 (c) The Legislature intends to curb the quantity of cigarette
34 butts that are littered and that become marine debris.

35

Article 2. Tobacco Waste Receptacles

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38 42971. (a) Except as provided in subdivisions (b), (c), and
39 (d), no person, firm, or corporation may display or make available



1 ashtrays or other receptacles designed for tobacco-related waste
2 for use on the premises where smoking is prohibited by law.

3 (b) A receptacle for tobacco-related waste may be placed
4 within five feet of a boundary or public entry into an area where
5 smoking is not permitted.

6 (c) A person, firm, or corporation that maintains an area where
7 smoking is permitted by law shall provide one or more receptacles
8 for tobacco-related waste for use on the premises.

9 (d) Ashtrays may be sold or distributed to the public on
10 premises where smoking is prohibited, but only for use in areas
11 where smoking is not prohibited.

12 42972. (a) A person, firm, or corporation that violates this
13 chapter is guilty of an infraction, and upon conviction is subject
14 to punishment by a fine of two hundred fifty dollars (\$250) for a
15 first conviction, five hundred dollars (\$500) for a second
16 conviction in connection with a violation at the same location
17 within a five-year period, and one thousand dollars (\$1,000) for
18 a third or subsequent conviction in connection with a violation at
19 the same location within a five-year period.

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution. with Section 68055) of Title 7.9 of the Government
29 Code, to read:

30
31 CHAPTER 1.— LITTER

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33 SEC. 2.— Chapter 2 (commencing with Section 68055.10) is
34 added to Title 7.9 of the Government Code, to read:

35
36 CHAPTER 2.— TOBACCO-RELATED WASTE

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38 68055.10.— (a) Except as provided in subdivisions (b) and (d),
39 no person, firm, or corporation shall display or make available



1 ashtrays or other receptacles designed for tobacco-related waste
2 for use on the premises where smoking is prohibited by law.

3 (b) Notwithstanding subdivision (a), a receptacle for
4 tobacco-related waste may be placed within five feet of a door
5 available for public entry onto the premises.

6 (c) Any person, firm, or corporation that maintains an area
7 where smoking is permitted by law shall provide one or more
8 receptacles for tobacco-related waste for use on the premises.

9 (d) Notwithstanding subdivision (a), ashtrays may be sold or
10 distributed to the public on premises where smoking is prohibited
11 but only for use in areas where smoking is not prohibited.

12 68055.11.— Any person, firm, or corporation that violates this
13 chapter is guilty of an infraction, and upon conviction is subject to
14 punishment by a fine of two hundred fifty dollars (\$250) for a first
15 conviction, five hundred dollars (\$500) for a second conviction in
16 connection with a violation at the same location within a five-year
17 period, and one thousand dollars (\$1,000) for a third or subsequent
18 conviction in connection with a violation at the same location
19 within a five-year period.

20 SEC. 3.— No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

