

Introduced by Senator Simitian

February 17, 2005

An act to add Part 3.7 (commencing with Section 71175) to Division 34 of the Public Resources Code, relating to ecological labeling.

LEGISLATIVE COUNSEL'S DIGEST

SB 369, as amended, Simitian. Ecological labeling.

Existing law provides labeling requirements for various products, including, but not limited to, prohibiting a person from selling a plastic bag that is labeled as "biodegradable," "compostable," "degradable," or as otherwise specified, unless, at the time of the sale, the plastic bag meets a current ASTM standard specification for the term used on the label.

This bill would require the California Environmental Protection Agency to establish a Commission on Ecological Labeling *and would require the commission to enter into a contract, using a competitive bid process, with a vendor, to award the Green Bear Eco-Label to a product or service that meets the criteria adopted by the commission or is subject to a determination by a specified panel of experts.*

The bill would require the commission to adopt criteria for awarding a label to a product or service and would specify a procedure for adopting and revising the criteria.

The bill would allow a producer or distributor to present a proposal or application to the ~~commission~~ *vendor* for an award of a label to a product or service. The bill would require the ~~commission to~~ *vendor to* convene an independent panel of experts to make certain findings based on the documentation submitted by the applicant and supporting market and environmental research criteria. The bill would require the

panel, upon receipt of a proposal or application, to prepare a preliminary finding of whether the product or service should be awarded a label, and would require the ~~commission~~ *vendor* to conduct a hearing regarding the finding made by the panel. The bill would require the ~~commission~~ *vendor* to award a label to a product or service, if the ~~commission~~ *vendor* determines the product or service meets or exceeds the environmental criteria adopted by the ~~commission~~ *vendor*.

The bill would provide that if a producer or distributor presents a proposal or application to the ~~commission~~ *vendor* for an award of a label to a product or service for which the commission has not adopted criteria, the ~~commission~~ *vendor* would be required to consult with the panel of experts, as specified, conduct a hearing, and award a label to a product or service, if the ~~commission~~ *vendor* determines the product or service has significantly less adverse environmental impacts than a competing product or service.

The bill would authorize the vendor to charge a fee to a producer or distributor who presents a proposal or application to the vendor for an award of a label to a product or service. The bill would require the commission to set the fee, as specified, and an additional 3% surcharge to cover the administrative costs of the commission.

The bill would authorize the vendor to expend the fee revenues, upon appropriation by the Legislature, to implement the contract.

The bill would require the vendor to forward the surcharge to the agency, for deposit in the Eco-Label Fund, which the bill would create in the State Treasury. The bill would authorize the agency to expend the revenues in the Eco-Label Fund, upon appropriation by the Legislature, for the commission's costs in implementing the act.

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

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

- 1 SECTION 1. Part 3.7 (commencing with Section 71175) is
- 2 added to Division 34 of the Public Resources Code, to read:

1 PART 3.7. GREEN BEAR ECO-LABEL ACT

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3 CHAPTER 1. LEGISLATIVE FINDINGS AND INTENT

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5 71175. The Legislature finds and declares all of the
6 following:

7 (a) Producers and distributors should be encouraged to
8 produce and distribute environmentally sound products,
9 including goods and services.

10 ~~(b) A producer or distributor who produces or distributes an~~
11 ~~environmentally sound product should inform consumers of the~~
12 ~~environmental features of these goods or services.~~

13 ~~(c) A product that is especially environmentally friendly~~
14 ~~should be awarded the Green Bear Eco-Label.~~

15 (b) *Market forces are excellent arbiters of consumer choice*
16 *when consumers have sufficient and accurate information upon*
17 *which to base their decisions.*

18 (c) *Polling indicates that a large percentage of consumers, if*
19 *given reliable information, will choose an environmentally*
20 *superior product over another similar product, even if the cost is*
21 *higher.*

22 (d) *There is much disinformation and false labeling of*
23 *products, so that consumers are generally confused as to which*
24 *product may be better or less damaging to the environment.*

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26 CHAPTER 2. DEFINITIONS

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28 71176. For purposes of this part, the following definitions
29 shall apply:

30 (a) "Agency" means the California Environmental Protection
31 Agency.

32 (b) "Commission" means the Commission on Ecological
33 Labeling established pursuant to Section 71177.

34 (c) "Label" means the Green Bear Eco-Label that may be
35 awarded by the ~~commission~~ vendor pursuant to this part.

36 (d) "Vendor" means the entity awarded a contract by the
37 Commission on Ecological Labeling pursuant to Section 71177.

1 CHAPTER 3. GREEN BEAR ECO-LABEL REQUIREMENTS

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3 ~~71177. The agency shall establish a Commission on~~
4 ~~Ecological Labeling to award the Green Bear Eco-Label to a~~
5 ~~product or service that meets the criteria adopted by the~~
6 ~~commission pursuant to Section 71178, or is subject to a~~
7 ~~determination made pursuant to Section 71180.~~

8 *71177. (a) The agency shall establish a Commission on*
9 *Ecological Labeling to prepare a request for a proposal to enter*
10 *into a contract with a vendor to award the Green Bear Eco-Label*
11 *pursuant to this part. The request for a proposal shall authorize*
12 *the vendor to charge a fee pursuant to Section 71181.*

13 *(b) Before issuing a request for a proposal pursuant to*
14 *subdivision (a), the commission shall develop performance*
15 *criteria for the vendor's implementation of the contract that shall*
16 *be annually achieved by the vendor.*

17 *(c) The commission shall enter into a contract pursuant to this*
18 *section using a competitive bid process, with either a profit or*
19 *not-for-profit entity, to award the Green Bear Eco-Label*
20 *pursuant to this part. The contract shall be for a term of five*
21 *years, except that the commission shall terminate the contract,*
22 *upon 90 days written notice, if the vendor does not achieve the*
23 *performance criteria developed pursuant to subdivision (b).*

24 ~~71178. (a) The commission shall, in consultation with~~
25 ~~nongovernmental environmental organizations, scientific,~~
26 ~~economic, standardization, consumer protection and health care~~
27 ~~institutions, and the Secretary of the Resources Agency, or their~~
28 ~~representatives institutions, adopt criteria pursuant to this section~~
29 ~~for awarding a label to a product or service.~~

30 (1) The criteria shall require the product or service to meet all
31 of the following requirements:

32 (A) Fully fulfill the same function as other products or
33 services having a similar use or purpose.

34 (B) Impose a smaller environmental burden than similar
35 products or services, during the product's or service's entire life
36 ~~cycle, taking raw materials, manufacture, use, and disposal into~~
37 *cycle, taking use of raw material, manufacture, product use, and*
38 *disposal into consideration.*

39 (C) Reduce environmental burdens in other ways, so as to
40 contribute significantly to environmental conservation without

1 greatly reducing the product's or service's suitability for use ~~and~~,
2 maintenance ~~of~~, *and* safety.

3 (2) The criteria shall encourage and recognize reduced
4 environmental impacts, and outline the environmental and
5 performance characteristics that a product or service is required
6 to meet to be awarded a label pursuant to this part.

7 (3) The criteria shall be ~~challenging~~, yet feasible.

8 (b) For each type of product or service for which criteria is
9 adopted, the commission shall establish a committee composed
10 of relevant stakeholder groups to ensure that all relevant
11 technical issues are addressed, the scientific validity of the
12 criteria is maintained, and the economic feasibility of the criteria
13 is taken into account.

14 (c) When adopting criteria pursuant to this section, the
15 commission shall do all of the following:

16 (1) Conduct research into the product's or service's life cycle
17 to outline environmental, technical, market, and economic
18 considerations associated with the product category.

19 (2) Issue a draft criteria that addresses the environmental
20 issues identified in the research.

21 (3) Provide a four to eight week period for public review of
22 the draft criteria and distribute the draft criteria directly to
23 stakeholders.

24 (4) Consider all comments submitted to the commission
25 during the review period conducted pursuant to paragraph (3) and
26 revise the criteria accordingly.

27 (5) After the review period is completed, publish the final
28 criteria.

29 (d) (1) The commission may revise any criteria adopted
30 pursuant to this section at any time if significant technical or
31 market developments occur that justify revising the criteria.

32 (2) The commission shall review the criteria adopted pursuant
33 to this section at least once every three years to ensure the criteria
34 continues to be relevant and stringent, and may reconfirm, revise,
35 or revoke the criteria in accordance with this part.

36 (3) When revising criteria pursuant to this subdivision, the
37 commission shall consult with the producer or distributor that
38 produces or distributes a product or service that has received a
39 label pursuant to this part and with any other interested party.

CHAPTER 4. ECO-LABEL AWARD PROCEDURE

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71179. (a) A producer or distributor may present a proposal or application to the ~~commission~~ *vendor* for an award of a label to a product or service.

(b) The ~~commission~~ *vendor* shall convene an independent panel of experts, which shall meet quarterly. The panel shall make any findings required pursuant to this part based on the documentation submitted by the applicant, and supporting market and environmental research. If a similar product or service has been certified previously, the panel shall require an applicants product or service to meet the established or equivalent criteria.

(c) Upon receipt of a proposal or application, the panel of experts shall prepare a preliminary finding of whether the product or service should be awarded a label, in accordance with the criteria adopted pursuant to Section 71178.

(d) The ~~commission~~ *vendor* shall conduct a hearing regarding the finding made by the panel pursuant to subdivision (c).

(e) After conducting a hearing pursuant to subdivision (d), the ~~commission~~ *vendor* shall award a label to a product or service, if the ~~commission~~ *vendor* determines the product or service meets or exceeds the environmental criteria specified in the criteria adopted pursuant to Section 71178.

71180. (a) If a producer or distributor presents a proposal or application to the ~~commission~~ *vendor* for an award of a label to a product or service for which the commission has not adopted criteria pursuant to Section 71178, the ~~commission~~ *vendor* shall consult with the panel of experts specified in subdivision (b) of Section ~~71189~~ 71179. The panel shall issue a finding to the ~~commission~~ *vendor* regarding whether the product or service has significantly less adverse environmental impacts than a competing product or service and should be awarded a label pursuant to this part.

(b) The ~~commission~~ *vendor* shall conduct a hearing regarding the finding made by the panel pursuant to subdivision (a).

(c) After conducting a hearing pursuant to subdivision (a), the ~~commission~~ *vendor* shall award a label to a product or service pursuant to this section, if the ~~commission~~ *vendor* determines the product or service has significantly less adverse environmental impacts than a competing product or service.

CHAPTER 5. FEES

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71181. (a) The vendor may charge a fee, in the amount specified by the commission to a producer or distributor who presents a proposal or application to the vendor for an award of a label to a product or service pursuant to Section 71179.

(b) The commission shall set the fee in amount that is sufficient to cover the vendor's costs to implement this part, including a reasonable profit margin, and an additional three per cent surcharge to cover the administrative costs of the commission. Except as provided in subdivision (c), the vendor may expend the fee revenues collected pursuant to this section to carry out the contract entered into with the commission.

(c) The vendor shall forward the surcharge to the agency, for deposit in the Eco-Label Fund, which is hereby created in the State Treasury. The revenues in the Eco-Label fund may be expended by the agency, upon appropriation by the Legislature, for the commission's costs in implementing this part.