

AMENDED IN ASSEMBLY APRIL 17, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 904

Introduced by Assembly Member Feuer

February 22, 2007

An act to add Chapter 6.5 (commencing with Section 42390) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 904, as amended, Feuer. Recycling: food containers.

The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state, to generally meet one of specified criteria.

This bill would enact the Plastic and Marine Debris Reduction, Recycling, and Composting Act and would define terms for the purposes of that act. The bill would prohibit a *take-out* food provider, on and after ~~an unspecified date~~ *July 1, 2010*, from distributing ~~disposable~~ *single use* food service packaging to a consumer, unless the *single use* food service packaging is either compostable packaging or recyclable packaging. The bill would also prohibit a *take-out* food provider, after July 1, 2012, from distributing ~~disposable~~ *single use* food service packaging to a consumer, unless the *single use* food service packaging is also recovered for composting at a rate of 25% or more or is recovered for recycling at a rate of 25% or more.

This bill would provide for the imposition of ~~an unspecified~~ a civil penalty, *of not more than \$1,000 per day* upon a person violating these requirements.

The bill would require the board to publish annually a list setting forth any penalties that have been levied against a violator of this act.

This bill would require the board to deposit all penalties paid pursuant to the act into the Marine Debris Reduction Account, which the bill would create in the Integrated Waste Management Fund in the State Treasury. The bill would authorize the board to expend the moneys deposited in the account, upon appropriation by the Legislature, to provide public education and assist local governmental agencies in efforts to reduce plastic waste and marine debris, and for the board’s costs of 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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Plastic and packaging waste represents a significant and fast
- 4 growing component of the state’s waste stream. California disposes
- 5 of more than three million tons of plastic packaging waste annually.
- 6 Plastic is the fastest growing component of generated waste,
- 7 increasing from less than 5 percent in 1980 to more than 11 percent
- 8 in 2003.
- 9 (b) With the sole exception of plastic beverage containers
- 10 covered by the California Beverage Containers Recycling and
- 11 Litter Reduction Act, little of generated plastic is currently
- 12 recycled. Excluding beverage containers, less than 5 percent of
- 13 plastic packaging is currently recycled.
- 14 (c) Plastic, including, but not limited to, polystyrene, and
- 15 disposable food service packaging litter and the resulting marine
- 16 debris present more than an aesthetic problem, as this litter and
- 17 debris poses a danger to marine organisms through ingestion and
- 18 entanglement.
- 19 (d) This litter and marine debris also presents a serious and
- 20 growing threat to water quality, the beneficial uses of the waters
- 21 of the state, and recreational human use, and they threaten the
- 22 ability of California’s waters and the Pacific Ocean to sustain
- 23 aquatic life.
- 24 (e) The United States Environmental Protection Agency
- 25 estimates that upwards of 80 percent of marine debris originates

1 from land-based human activities, including littering and waste
2 disposal practices.

3 (f) Each year thousands of Californians volunteer countless
4 hours to cleanup plastic and disposable food service packaging
5 litter from public roadways, beaches, parks, and other areas of the
6 state.

7 (g) California's aquatic and marine environments are
8 increasingly threatened by the amount of plastic and disposable
9 food service packaging that is carried by stormwater runoff.

10 (h) Under a consent decree, a Total Maximum Daily Load
11 (TMDL) for trash is required to be developed for all impaired
12 waters within the state within the next decade. For example, the
13 TMDL for the Los Angeles River and Ballona Creek Watershed
14 requires that the amount of trash be reduced to zero to protect
15 beneficial uses.

16 (i) The costs to state agencies and local governments to comply
17 with existing TMDL requirements, pending TMDL requirements,
18 or the TMDL requirements yet to be developed, will run into
19 billions of dollars.

20 (j) Data collected during California's annual Coastal Cleanup
21 and the 1999 Pilot Litter Study by the Department of Conservation
22 indicate that plastic and disposable food service packaging
23 represent some of the most commonly littered items.

24 (k) Disposable food service packaging is used "on the go" when
25 access to trash and recycling receptacles is most limited. Plastics
26 generally can become inadvertent litter even if initially properly
27 discarded, and are carried by wind from uncovered trash cans and
28 dumpsters, vehicles, and solid waste facilities, including landfills.

29 (l) The benefits of reducing, recycling, and composting plastics
30 and disposable food service packaging will have a direct positive
31 impact on the California economy.

32 (m) A 1993 study by the California Research Bureau concluded
33 that ocean-dependent industries add \$17,000,300,000 and 370,000
34 jobs to California's economy, almost \$10 billion of which is
35 nonresident coastal-based tourism.

36 (n) Compounding the problem of plastic packaging waste is
37 that this material is nonbiodegradable, and litter prone (even when
38 properly disposed, lightweight plastic packaging can be blown
39 from trash cans, garbage trucks, and landfills).

1 (o) Nonbiodegradable plastic litter poses a real and growing
2 threat to water quality and the marine environment.

3 (p) *It is the intent of the Legislature, in adopting this act, to*
4 *increase the diversion of single use take-out food packaging while*
5 *reducing a primary source of permanent litter and marine debris.*

6 SEC. 2. Chapter 6.5 (commencing with Section 42390) is added
7 to Part 3 of Division 30 of the Public Resources Code, to read:

8
9 CHAPTER 6.5. PLASTIC AND MARINE DEBRIS REDUCTION,
10 RECYCLING, AND COMPOSTING ACT

11
12 Article 1. General Provisions

13
14 42390. This chapter shall be known and may be cited as the
15 Plastic and Marine Debris Reduction, Recycling, and Composting
16 Act.

17 42391. It is the intent of the Legislature, consistent with the
18 number one recommendation in the state funded report
19 “Eliminating Land-based Discharges of Marine Debris in
20 California,” to designate responsibility and authority for reduction
21 of marine debris and its sources to a state agency.

22
23 Article 2. Definitions

24
25 42392. For the purposes of this chapter, the following terms
26 have the following meanings:

27 (a) (1) ~~“Disposable~~ “*Single use* food service packaging” means
28 single-use disposable products used in the restaurant and food
29 service industry for serving or transporting prepared,
30 ready-to-consume food or beverages, including, but not limited
31 to, plates, cups, bowls, trays, and hinged or lidded containers.

32 (2) ~~“Disposable~~ “*Single use* food service packaging” does not
33 include any of the following:

34 (A) Single-use disposable items, including straws, cup lids, or
35 utensils.

36 (B) Single-use disposable packaging for unprepared foods.

37 (b) “Compostable Packaging” means a material that meets all
38 of the following criteria:

39 (1) The packaging is accepted back for composting by the food
40 provider.

1 (2) The packaging is accepted for composting in a residential
2 curbside collection program available to at least ~~75 percent~~ *one-half*
3 of the households in the city or the unincorporated area of the
4 county in which the food provider distributes the packaging.

5 (3) The packaging is made of a material that meets the
6 compostability standard in ASTM (American Society for Testing
7 Materials) 6400.

8 (4) On and after July 1, 2012, the packaging meets or exceeds
9 the recovery for composting goal specified in subdivision (b) of
10 Section 42393.

11 (c) ~~Food~~ *“Take-out food provider”* means any establishment
12 that provides prepared food for public consumption on or off its
13 premises, ~~including, but not limited to, a store, shop, sales outlet,~~
14 ~~restaurant, grocery store, supermarket, delicatessen, or catering~~
15 ~~truck or vehicle.~~ *including, but not limited to, a fast food*
16 *restaurant. “Take-out food provider” includes any establishment*
17 *that has a drive-up window for providing prepared food for the*
18 *public.*

19 *“Take-out food provider” does not include a grocery store or*
20 *other store whose primary business is not the sale of prepared*
21 *foods and that engages in the sale of unprepared foods.*

22 (d) *“Prepared food”* means any ready-to-consume food or
23 beverage prepared on the food provider’s premises, using any
24 cooking or food preparation technique. *“Prepared food”* does not
25 include any raw uncooked meat, fish, or eggs unless the food is
26 provided for consumption without further food preparation.

27 (e) *“Recyclable Packaging”* means a material that meets all of
28 the following criteria:

29 (1) The packaging is accepted back for recycling by the food
30 provider.

31 (2) The packaging is accepted for recycling in a residential
32 curbside collection program available to at least ~~75 percent~~ *one-half*
33 of the households in the city or the unincorporated area of the
34 county in which the food provider distributes the packaging.

35 (3) On and after July 1, 2012, *the* packaging meets or exceeds
36 the recovery for recycling goal specified in subdivision (b) of
37 Section 43293.

38
39 Article 3. Packaging Waste Reduction and Recycling
40 Responsibilities

1 ~~42393. (a) On and after January 1, _____, a food provider~~
2 ~~shall not distribute disposable food service packaging to a~~

3 *42393. (a) On and after July 1, 2010, a take-out food provider*
4 *shall not distribute single use food service packaging to a*
5 *consumer, unless the single use food service packaging is either*
6 *compostable packaging or recyclable packaging.*

7 (b) On and after July 1, 2012, in addition to the requirement of
8 ~~subdivision (a), a food provider shall not distribute disposable food~~
9 *subdivision (a), a take-out food provider shall not distribute single*
10 *use food service packaging to a consumer, unless the single use*
11 *food service packaging meets one of the following criteria:*

- 12 (1) The packaging is recovered for composting at a rate of 25
- 13 percent or more.
- 14 (2) The packaging is recovered for recycling at a rate of 25
- 15 percent or more.

16

17

Article 4. Penalties

18

19 ~~42395. (a) Any person violating this chapter is subject to a~~
20 ~~civil penalty of not more than _____ dollars (\$_____);~~ *civil penalty*
21 *of not more than one thousand dollars (\$1,000) for each day the*
22 *person is in violation of this chapter.*

23 (b) The total annual penalties assessed upon a violator of this
24 ~~chapter shall not exceed _____ dollars (\$_____);~~ *chapter shall not*
25 *exceed one hundred thousand dollars (\$100,000).*

26 ~~(e) On or before January 1, 2009, and on or before January 1~~

27 (c) *On or before July 1, 2011, and on or before July 1* annually
28 thereafter, the board shall annually publish a list setting forth any
29 penalties that have been levied against a violator of this chapter
30 in the preceding calendar year, for failure to comply with the
31 requirements of this chapter.

32 (d) The board shall deposit all penalties or fines paid pursuant
33 to this section into the Marine Debris Reduction Account, which
34 is hereby created in the Integrated Waste Management Fund in the
35 State Treasury. The moneys deposited in the Marine Debris
36 Reduction Account may be expended by the board, upon
37 appropriation by the Legislature, to provide public education and
38 assist local governmental agencies in efforts to reduce plastic waste

1 and marine debris, and for the board's costs of implementing this
2 chapter.

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