

AMENDED IN SENATE JUNE 19, 2008

AMENDED IN SENATE JUNE 17, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1972

Introduced by Assembly Member DeSaulnier

February 14, 2008

An act to amend Sections 42356, 42357, 42359.5, and 42359.6 of, and to add Sections 42356.1 and 42359.7 to, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1972, as amended, DeSaulnier. Solid waste: plastic bags: food and beverage containers.

(1) Existing law prohibits a person from selling a plastic bag that is labeled as "compostable," "biodegradable," "degradable," or as otherwise specified unless, at the time of sale the bag meets a current American Society for Testing and Materials (ASTM) standard specification for the term used on the label.

This bill would, instead, prohibit the sale of a plastic bag that is labeled as "compostable" or "marine degradable," unless that bag meets the ASTM Standard Specification for Compostable Plastics D6400, the ASTM Standard Specification for Non-Floating Biodegradable Plastics in the Marine Environment D7801, or a standard adopted by the California Integrated Waste Management Board, as specified. The bill also would prohibit the sale of a plastic bag that is labeled as "biodegradable," "degradable," "decomposable," or as otherwise specified.

(2) Existing law prohibits a person from selling a plastic food or beverage container that is labeled as “biodegradable,” “compostable,” “degradable,” or as otherwise specified, unless, at the time of sale, the container meets the ASTM Standard Specification for Compostable Plastics D6400-04.

This bill would, instead, prohibit the sale of a food or beverage container, as defined, that is labeled as “compostable” or “marine degradable,” unless that container meets a specified ASTM standard specification or a standard adopted by the California Integrated Waste Management Board, as specified. The bill also would prohibit the sale of a food or beverage container that is labeled as “biodegradable,” “degradable,” “decomposable,” or as otherwise specified.

(3) This bill, for purposes of the provisions relating to labeling plastic bags and food and beverage containers, would require the board to review revisions of specified ASTM standard specifications and would authorize the board, *in some cases, to adopt those standards. The bill would authorize the board* to review new ASTM standard specifications and other specified standards, and in certain circumstances, to ~~adopt those standards~~ *make a recommendation to the Legislature.*

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) Littered plastic bags and plastic containers have caused and
- 4 continue to cause significant environmental harm and have
- 5 burdened local governments with significant environmental cleanup
- 6 costs.
- 7 (b) It is the intent of the Legislature to ensure that environmental
- 8 marketing claims, including claims of biodegradation, do not lead
- 9 to an increase in environmental harm associated with plastic bag
- 10 and plastic container litter by providing consumers with a false
- 11 belief that certain bags and containers are less harmful to the
- 12 environment if littered.
- 13 (c) The ability of a plastic bag or a plastic container to
- 14 biodegrade is a function of both the physical and chemical makeup
- 15 of the bag or the container as well as the environmental conditions
- 16 that the bag or container is subjected to.

1 (d) Use of the term “degradable,” “biodegradable,”
2 “decomposable,” or other like terms on plastic bags and plastic
3 containers is inherently misleading unless the claim includes a
4 thorough disclaimer providing necessary qualifying details
5 including, but not limited to, the environments and timeframes in
6 which the claimed action will take place.

7 (e) Given the complex nature of biodegradation and the fact
8 that most plastic bags and plastic containers will travel through
9 multiple environments from the time of manufacture to the time
10 of final disposition, and given the intrinsic constraints of marketing
11 claims, including the space on the packaging container or bag,
12 there is no reasonable ability for plastic bag and plastic container
13 manufacturers to provide an adequate disclaimer qualifying the
14 use of these and like terms without relying on an established
15 scientific standard specification for the action claimed.

16 (f) Given these and other constraints, and the significant
17 environmental harm that is caused by plastic bag and container
18 litter, the use of these terms must be prohibited unless, or until
19 such time as, there is a standard for the term claimed that has been
20 approved by the Legislature.

21 SEC. 2. Section 42356 of the Public Resources Code is
22 amended to read:

23 42356. For purposes of this chapter, the following definitions
24 apply:

25 (a) “ASTM” means the American Society for Testing and
26 Materials.

27 (b) (1) “ASTM standard specification” means one of the
28 following:

29 (A) The ASTM Standard Specification for Compostable Plastics
30 D6400, as published in September 2004, except as provided in
31 subdivision (c) of Section 42356.1.

32 (B) The ASTM Standard Specification for Non-Floating
33 Biodegradable Plastics in the Marine Environment D7081, as
34 published in August 2005, except as provided in subdivision (c)
35 of Section 42356.1.

36 (2) “ASTM standard specification” does not include an ASTM
37 Standard Guide, a Standard Practice, or a Standard Test Method.

38 (c) “Manufacturer” means a person, firm, association,
39 partnership, or corporation that produces a plastic bag.

1 (d) “Supplier” means a person who does one or more of the
2 following:

3 (1) Sells, offers for sale, or offers for promotional purposes, a
4 plastic bag that is used by a person to contain a product.

5 (2) Takes title to a plastic bag produced either domestically or
6 in a foreign country, that is purchased for resale or promotional
7 purposes.

8 SEC. 3. Section 42356.1 is added to the Public Resources Code,
9 to read:

10 42356.1. (a) If an ASTM standard specification specified in
11 paragraph (1) of subdivision (b) of Section 42356 is subsequently
12 revised, the board shall review the new ASTM standard
13 specification as follows:

14 (1) If the board determines that the new standard is more
15 stringent and more protective of the public health, safety, and the
16 environment, and is reflective of and consistent with state policies
17 and programs, the board may adopt the new standard.

18 (2) If the board determines that the new standard is not as
19 stringent and does not protect the public health, safety, and the
20 environment, and is not reflective of and consistent with state
21 policies and programs, the board shall not adopt the new standard.

22 (b) If the ASTM, or any other entity, develops a new ~~ASTM~~
23 standard specification or other applicable standard for any of the
24 terms prohibited under subdivision (a) of Section 42357, the board
25 may review the new standard and, if the board determines that the
26 new standard for the prohibited term is more stringent and more
27 protective of the public health, safety, and the environment, and
28 is reflective of and consistent with state policies and programs,
29 the board may ~~adopt that standard~~ *make a recommendation to the*
30 *Legislature.*

31 (c) Compliance with a standard adopted pursuant to paragraph
32 (1) of subdivision (a) ~~or subdivision (b)~~ shall be deemed to be in
33 compliance with this chapter.

34 SEC. 4. Section 42357 of the Public Resources Code is
35 amended to read:

36 42357. (a) (1) A person shall not sell a plastic bag in this state
37 that is labeled with the term “compostable” or “marine degradable,”
38 unless, at the time of sale, the plastic bag meets the applicable
39 ASTM standard specification, as specified in paragraph (1) of
40 subdivision (b) of Section 42356.

1 (2) Compliance with only a section or a portion of a section of
2 an applicable ASTM standard specification does not constitute
3 compliance with paragraph (1).

4 (b) Except as provided in subdivision (a), a person shall not sell
5 a plastic bag in this state that is labeled with the term
6 “biodegradable,” “degradable,” or “decomposable,” or any form
7 of those terms, or in any way imply that the bag will break down,
8 fragment, biodegrade, or decompose in a landfill or other
9 environment.

10 (c) A manufacturer or supplier, upon the request of a member
11 of the public, shall submit to that member, within 90 days of the
12 request, information and documentation demonstrating compliance
13 with this chapter, in a format that is easy to understand and
14 scientifically accurate.

15 SEC. 5. Section 42359.5 of the Public Resources Code is
16 amended to read:

17 42359.5. For purposes of this chapter, the following definitions
18 apply:

19 (a) “ASTM” means the American Society for Testing and
20 Materials.

21 (b) “ASTM standard specification” means one of the following:

22 (1) The ASTM Standard Specification for Compostable Plastics
23 D6400, as published in September 2004, except as specified in
24 subdivision (c) of Section 42359.7.

25 (2) The ASTM Standard Specification for Non-Floating
26 Biodegradable Plastics in the Marine Environment D7081, as
27 published in August 2005, except as specified in subdivision (c)
28 of Section 42359.7.

29 (3) The ASTM Standard Specification for Biodegradable Plastics
30 Used as Coatings on Paper and Other Compostable Substrates
31 D6868, as published in August 2003, except as specified in
32 subdivision (c) of Section 42359.7.

33 (c) “Food or beverage container” means a product that contains
34 food or drink items, or utensils, for retail sale and is composed of
35 one or more of the following:

36 (1) Plastic.

37 (2) Paper with plastic coatings.

38 (3) Paper with plastic modifiers.

39 (4) Molded fiber.

1 (d) “Manufacturer” means a person, firm, association,
2 partnership, or corporation that produces a food or beverage
3 container.

4 (e) “Supplier” means a person who does one or more of the
5 following:

6 (1) Sells, offers for sale, or offers for promotional purposes, a
7 food or beverage container that is used by a person to contain a
8 product.

9 (2) Takes title to a food or beverage container produced either
10 domestically or in a foreign country, that is purchased for resale
11 or promotional purposes.

12 SEC. 6. Section 42359.6 of the Public Resources Code is
13 amended to read:

14 42359.6. (a) (1) A person shall not sell a food or beverage
15 container in this state that is labeled with the term “compostable”
16 or “marine degradable,” unless, at the time of sale, the food or
17 beverage container meets the applicable ASTM standard
18 specification, as specified in subdivision (b) of Section 42359.5.

19 (2) Compliance with only a section or a portion of a section of
20 an applicable ASTM standard specification does not constitute
21 compliance with paragraph (1).

22 (b) Except as provided in subdivision (a), a person shall not sell
23 a food or beverage container in this state that is labeled with the
24 term “biodegradable,” “degradable,” or “decomposable,” or any
25 form of those terms, or in any way imply that the food or beverage
26 container will break down, fragment, biodegrade, or decompose
27 in a landfill or other environment.

28 (c) A manufacturer or supplier, upon the request of a member
29 of the public, shall submit to that member, within 90 days of the
30 request, information and documentation demonstrating compliance
31 with this chapter, in a format that is easy to understand and
32 scientifically accurate.

33 SEC. 7. Section 42359.7 is added to the Public Resources Code,
34 to read:

35 42359.7. (a) If an ASTM standard specification specified in
36 subdivision (b) of Section 42359.5 is subsequently revised, the
37 board shall review the new ASTM standard specification as
38 follows:

39 (1) If the board determines that the new standard is more
40 stringent and more protective of the public health, safety, and the

1 environment, and is reflective of and consistent with state policies
2 and programs, the board may adopt the new standard.

3 (2) If the board determines that the new standard is not as
4 stringent and does not protect the public health, safety, and the
5 environment, and is not reflective of and consistent with state
6 policies and programs, the board shall not adopt the new standard.

7 (b) If the ASTM, or any other entity, develops a new ~~ASTM~~
8 standard specification, or another applicable standard, for any of
9 the terms prohibited under subdivision (a) of Section 42359.6, the
10 board may review the new standard and, if the board determines
11 that the new standard for that prohibited term is more stringent
12 and more protective of the public health, safety, and the
13 environment, and is reflective of and consistent with state policies
14 and programs, the board may ~~adopt that standard~~ *make a*
15 *recommendation to the Legislature.*

16 (c) Compliance with a standard adopted pursuant to paragraph
17 (1) of subdivision (a) ~~or subdivision (b)~~ shall be deemed to be in
18 compliance with this chapter.