

AMENDED IN ASSEMBLY APRIL 20, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1998

Introduced by Assembly Member Brownley

(Principal coauthor: Senator Leno)

**(Coauthors: Assembly Members Ammiano, Chesbro, DeLeon
De Leon, Evans, Feuer, Hill, Bonnie Lowenthal, Nava, Ruskin,
Skinner, Torlakson, and Yamada)**

(Coauthors: Senators DeSaulnier and Pavley)

February 17, 2010

An act to amend Section 42257 of, and to add Chapter 5.3 (commencing with Section 42280) to Part 3 of Division 30 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1998, as amended, Brownley. Solid waste: single-use carryout bags.

Existing law requires an operator of a store, as defined, to establish an at-store recycling program that provides to customers the opportunity to return clean plastic carryout bags to that store. This requirement is repealed on January 1, 2013.

This bill would ~~instead make~~ *repeal* those at-store recycling program requirements ~~inoperative on July 1, 2011, would repeal them on January 1, 2012,~~ and would instead, on and after January 1, 2012, prohibit a store, as defined, from providing a single-use carryout bag to a customer.

The bill would require the department, on or before January 1, 2015, to submit to the Legislature a report regarding the effectiveness of the

bill’s provisions and recommendations to further encourage the use of reusable bags. The requirement for submitting the report would become inoperative on January 1, 2019.

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) The prohibition imposed by this act, pursuant to Section
4 42281 of the Public Resources Code, is necessary for the
5 environmental, public health, and societal burdens imposed by ~~the~~
6 ~~use of~~ single-use plastic carryout bags.

7 (b) Despite global treaties to prevent dumping at sea and
8 minimize land-based sources of pollution, and increasing efforts
9 worldwide to protect water quality, the quantity of marine debris
10 in the world’s oceans is increasing.

11 (c) Despite recycling and voluntary solutions to control pollution
12 from plastic bags in California, only 5 percent of plastic carryout
13 bags are recycled and the rest either take up valuable landfill space
14 or are discarded in the environment.

15 (d) The North Pacific Gyre in the Pacific Ocean is home to
16 ~~largest garbage dump of plastic trash, now estimated to be the size~~
17 *the largest accumulation of plastic pollution, now estimated to be*
18 *the size* of the United States and is increasing rapidly.

19 (e) According to the California Coastal Commission, the
20 majority of marine debris is composed of plastic materials; 60 to
21 80 percent overall and 90 percent of floating debris is plastic.

22 (f) It is estimated that at least 267 species of wildlife have been
23 threatened by marine debris through ingestion or entanglement,
24 including sea turtles, fish, marine mammals, and various species
25 of sea birds.

26 (g) Paper bags made from virgin materials are not ~~sustainable~~
27 *environmentally sound* alternatives to plastic carryout bags because
28 the production of these types of bags contributes to deforestation,
29 natural resource depletion, greenhouse gas emissions, and
30 ~~additional~~ waterborne wastes.

31 ~~(h) Though paper carryout bags that contain no old-growth fiber~~
32 ~~and that contain a minimum of 40 percent postconsumer recycled~~

1 content are 100-percent recyclable and have fewer negative impacts
2 than virgin paper bags, paper bags are not sustainable alternatives
3 to plastic carryout bags, because the

4 ~~(h) Though recycled content paper carryout bags are recyclable
5 and have fewer negative impacts than virgin paper bags, recycled
6 content paper carryout bags are not environmentally sound
7 alternatives to plastic carryout bags, because the production of
8 these types of bags contributes to deforestation, greenhouse gas
9 emissions, and additional waterborne wastes. greenhouse gas
10 emissions and waterborne wastes.~~

11 ~~(i) Plastics made from bio-based sources that are marketed as
12 “compostable” or “biodegradable” are not—sustainable
13 environmentally sound alternatives to plastic carryout bags because
14 they have not been shown to degrade in aquatic environments and
15 require conditions only available in composting facilities to rapidly
16 break down into constituents that assimilate back into the
17 environment. Most Californians lack access to composting facilities
18 capable of accepting compostable plastic bags.~~

19 ~~(j) With the exception of the City and County of San Francisco,
20 the City of Oakland, and a few other communities, these
21 composting facilities are not typically available to local
22 jurisdictions and compostable plastic in communities without
23 commercial composting would be disposed of as waste.~~

24 ~~(k)~~

25 ~~(j) On September 18, 2006, the West Coast Governor’s
26 Agreement on Ocean Health was signed by Governor
27 Schwarzenegger of California, Governor Kulongoski of Oregon,
28 and Governor Gregoire of Washington to address the challenges
29 of the Pacific coast’s declining health and to establish its protection
30 as a regional priority.~~

31 ~~(t)~~

32 ~~(k) On February 8, 2007, the California Ocean Protection
33 Council approved a resolution to call for statewide action to reduce
34 the amount of land-based sources of marine debris and the resulting
35 implementation strategy was adopted by the Ocean Protection
36 Council in November 2008, which called for aggressive actions
37 to reduce the use of single-use plastic products, including plastic
38 bags.~~

39 ~~(m)~~

1 (l) On World Oceans Day 2009, the Under-Secretary General
2 and Executive Director of the United Nations Environmental
3 Programme called for an outright ban or rapid phaseout of thin
4 film plastic carryout bags worldwide.

5 (n)
6 (m) In the United States, and in California, many cities have
7 already enacted bans, or are seriously considering banning plastic
8 single-use bags.

9 (o)
10 (n) The Legislature finds and declares that proliferation of these
11 bans should be of statewide interest and concern and that the state
12 should take action regulating the use of plastic and paper single-use
13 bags.

14 SEC. 2. Section 42257 of the Public Resources Code is
15 amended to read:

16 42257. This chapter shall remain operative only until ~~July 1,~~
17 ~~2011, and as of January 1, 2012, is repealed, unless a later~~ *January*
18 *1, 2012, and as of that date is repealed, unless a later* enacted
19 statute, that is enacted before January 1, 2012, deletes or extends
20 that date.

21 SEC. 3. Chapter 5.3 (commencing with Section 42280) is added
22 to Part 3 of Division 30 of the Public Resources Code, to read:

23
24 CHAPTER 5.3. SINGLE-USE CARRYOUT BAGS

25
26 Article 1. Definitions

27
28 42280. For purposes of this chapter, the following definitions
29 shall apply:

30 (a) “Department” means the Department of Resources Recycling
31 and Recovery.

32 (b) “Reusable bag” means a bag that meets both of the following
33 requirements:

34 (1) Is designed and manufactured for at least 100 uses.

35 (2) (A) Is made of a washable material that does not contain
36 lead or any other heavy metal in a toxic amount, as determined by
37 the department.

38 (B) The requirement of subparagraph (A) shall not affect any
39 authority of the Department of Toxic Substances Control pursuant
40 to Article 14 (commencing with Section 25251) of Chapter 6.5 of

1 Division 20 of the Health and Safety Code and notwithstanding
2 subdivision (c) of Section 25257.1 of the Health and Safety Code,
3 shall not be considered as a product category already regulated or
4 subject to regulation.

5 (c) “Single-use carryout bag” means a bag that meets all of the
6 following conditions:

- 7 (1) Is designed for one or more uses, but fewer than 100 uses.
- 8 (2) Is made of plastic, paper, or other material.
- 9 (3) Is provided by a store to a customer at the point of sale.

10 (d) “Store” means a retail establishment that provides single-use
11 carryout bags to its customers as a result of the sale of a product
12 and that meets any of the following requirements:

- 13 (1) Meets the definition of a “supermarket” in Section 14526.5.
- 14 (2) Has over 10,000 square feet of retail space that generates
15 sales or use tax pursuant to the Bradley-Burns Uniform Local Sales
16 and Use Tax Law (Part 1.5 (commencing with Section 7200) of
17 Division 2 of the Revenue and Taxation Code) and has a pharmacy
18 licensed pursuant to Chapter 9 (commencing with Section 4000)
19 of Division 2 of the Business and Professions Code.
- 20 (3) Is a convenience food store or foodmart engaged in retailing
21 a limited line of goods that generally includes milk, bread, soda,
22 and snacks.

23

24 Article 2. Carryout Bag Regulation

25

26 42281. (a) On and after January 1, 2012, a store shall not
27 provide a single-use carryout bag to a customer at the point of sale.

28 (b) A store shall make reusable bags available for purchase by
29 a customer.

30

31 Article 3. Report and Administration

32

33 42282. (a) On or before January 1, 2015, the department shall
34 submit a report to the Legislature regarding the effectiveness of
35 this chapter. The report shall also include recommendations to
36 further encourage the use of reusable bags by consumers and
37 retailers and to reduce the consumption of single-use carryout
38 bags, including at a minimum, expanding the definition of stores
39 that are subject to this chapter to all other stores and retail
40 establishments distributing single-use bags.

1 (b) The requirement for submitting a report imposed under
2 subdivision (a) is inoperative on January 1, 2019, pursuant to
3 Section 10231.5 of the Government Code.

4 (c) A report to be submitted pursuant to subdivision (a) shall
5 be submitted in compliance with Section 9895 of the Government
6 Code.

7 42283. The department shall administer and enforce this
8 chapter.