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


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 This requirement is repealed on January 1, 2013.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.


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

SECTION 1. The Legislature finds and declares all of the following:

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

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

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

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

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

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

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

(h) Though paper carryout bags that contain no old-growth fiber and that contain a minimum of 40 percent postconsumer recycled
content are 100 percent recyclable and have fewer negative impacts than virgin paper bags, paper bags are not sustainable alternatives to plastic carryout bags, because the

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

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

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

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

(l) On February 8, 2007, the California Ocean Protection Council approved a resolution to call for statewide action to reduce the amount of land-based sources of marine debris and the resulting implementation strategy was adopted by the Ocean Protection Council in November 2008, which called for aggressive actions to reduce the use of single-use plastic products, including plastic bags.
On World Oceans Day 2009, the Under-Secretary General and Executive Director of the United Nations Environmental Programme called for an outright ban or rapid phaseout of thin film plastic carryout bags worldwide.

In the United States, and in California, many cities have already enacted bans, or are seriously considering banning plastic single-use bags.

The Legislature finds and declares that proliferation of these bans should be of statewide interest and concern and that the state should take action regulating the use of plastic and paper single-use bags.

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

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

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

Chapter 5.3. Single-use Carryout Bags

Article 1. Definitions

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

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

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

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

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

(B) The requirement of subparagraph (A) shall not affect any authority of the Department of Toxic Substances Control pursuant to Article 14 (commencing with Section 25251) of Chapter 6.5 of Part 3 of Division 30 of the Public Resources Code.
Division 20 of the Health and Safety Code and notwithstanding subdivision (c) of Section 25257.1 of the Health and Safety Code, shall not be considered as a product category already regulated or subject to regulation.

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

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

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

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

Article 2. Carryout Bag Regulation

42281. (a) On and after January 1, 2012, a store shall not provide a single-use carryout bag to a customer at the point of sale.
(b) A store shall make reusable bags available for purchase by a customer.

Article 3. Report and Administration

42282. (a) On or before January 1, 2015, the department shall submit a report to the Legislature regarding the effectiveness of this chapter. The report shall also include recommendations to further encourage the use of reusable bags by consumers and retailers and to reduce the consumption of single-use carryout bags, including at a minimum, expanding the definition of stores that are subject to this chapter to all other stores and retail establishments distributing single-use bags.
(b) The requirement for submitting a report imposed under subdivision (a) is inoperative on January 1, 2019, pursuant to Section 10231.5 of the Government Code.

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

42283. The department shall administer and enforce this chapter.