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CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1998

Introduced by Assembly Member Brownley

(Principal coauthor: Senator Leno)

(Coauthors: Assembly Members Ammiano, Chesbro, De León, Evans, Feuer, Hill, Bonnie Lowenthal, Nava, John A. Pérez, Ruskin, Skinner, Torlakson, and Yamada)

(Coauthors: Senators DeSaulnier, Hancock, Liu, Lowenthal, 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, *and to repeal Sections 42254 and 42285 of*, the Public Resources Code, relating to solid waste, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

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

Existing

(1) *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repealed on January 1, 2013. *Existing law prohibits a city, county, or other local public agency from taking specified regulatory actions with regard to the recycling of plastic carryout bags.*

~~This bill would repeal those at-store recycling program requirements on January 1, 2012, and would instead, on and after January 1, 2012, prohibit certain types of stores, as defined, from repeal, on January 1, 2011, the provision preempting local regulatory action. The bill would, as of January 1, 2012, prohibit stores that have a specified amount of sales or retail floor space from providing a single-use carryout bag to a customer. The bill would, on and after July 1, 2013, prohibit convenience food stores, foodmarts, and certain specified stores from providing a single-use carryout bag to a customer. The bill would require both types of these stores, as of January 1, 2011, from January 1, 2012, until June 30, 2013, to provide a specified type of reusable bag and after July 1, 2013, to make only provide reusable bags that meet certain criteria. The bill would require these stores to make reusable bags available for purchase and would allow certain stores to provide reusable bags to customers at no cost. The bill would require a store, on and after July 1, 2013, to only provide reusable bags, as defined, and The bill would allow a store, on and after January 1, 2013, to provide reusable bags to customers at no cost only when combined with a time limited store promotional program. The bill also would require authorize a store, as of January 1, 2011, to make available for sale provide recycled paper bags at a reasonable cost, but not less than \$0.05. The bill would exempt the sale of specified bags by certain stores from the above prohibition and requirements. The, but would require the store to charge the consumer, on and after January 1, 2012, the actual average cost of the recycled paper bag.~~

~~The bill would require these stores, on and after January 1, 2012, to provide a plastic collection bin for its customers, for the purpose of collecting and recycling single-use plastic bags and reusable bags.~~

~~The bill would, on and after July 1, 2013, additionally impose these prohibitions and requirements on convenience food stores, foodmarts, and certain other specified stores.~~

~~The bill would, beginning January 1, 2013, require a reusable grocery bag manufacturer producer to obtain a biennial certification from submit to the Department of Resources Recycling and Recovery by submitting a biennial certification, including a certification fee and a certification that its established by the department, that certifies that each type of reusable grocery bag that is imported, manufactured, sold or distributed~~

in the state and provided to a store for sale or distribution meets specified requirements. The bill would specify administrative civil penalties for a person that violates the above requirements. The bill would require the department to deposit the certification fees into the Reusable Bag Account, which would be established by the bill in the Integrated Waste Management Fund, and to deposit the penalties and fines collected into the Penalty Subaccount, which would be established by the bill in the account. The bill would provide require that moneys in the account and the subaccount be expended by the department, upon appropriation by the Legislature, to implement the above certification requirements. A violation of these certification requirements would be subject to an administrative civil penalty assessed by the department. The department would be required to deposit these penalties into the Penalty Subaccount, which the bill would create in the Reusable Bag Account, for expenditure by the department, upon appropriation by the Legislature, to implement the certification requirements.

The bill would require the department, by January 1, 2015, to submit a report to the Legislature regarding the implementation of the bill's provisions. The bill would repeal this report requirement on January 1, 2016.

This bill would, as of January 1, 2011, preempt local regulations on the use and sales of reusable bags, single-use carryout bags, recycled paper bags, or other specified bags at stores, as defined.

The bill would allow a city, county, city and county or the state to impose civil penalties for a violation of the bill's requirements, except for the certification requirements. The bill would require these civil penalties to be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action, and would allow the penalties collected by the Attorney General to be expended by the Attorney General, upon appropriation by the Legislature, to enforce the bill's provisions.

(2) The California Integrated Waste Management Act of 1989 creates the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account and continuously appropriates the funds deposited in the subaccount to the department for making loans for the purposes of the Recycling Market Development Revolving Loan Program. Existing law makes the provisions regarding the loan program, the creation of the subaccount, and expenditures therefrom inoperative on July 1, 2011, and repeals them as of January 1, 2012.

This bill would appropriate \$2,000,000 from the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account to the department for the purposes of providing loans and grants for the creation and retention of jobs and economic activity in the manufacture and recycling of plastic bags that use recycled content.

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

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

1 SECTION 1. Section 42254 of the Public Resources Code is
2 repealed.

3 ~~42254. (a) The Legislature finds and declares that all of these~~
4 ~~are matters of statewide interest and concern:~~

5 ~~(1) Requiring a store to collect, transport, or recycle plastic~~
6 ~~carryout bags.~~

7 ~~(2) Imposing a plastic carryout bag fee upon a store.~~

8 ~~(3) Requiring a store to conduct auditing or reporting with regard~~
9 ~~to plastic carryout bags.~~

10 ~~(b) Unless expressly authorized by this chapter, a city, county,~~
11 ~~or other public agency shall not adopt, implement, or enforce an~~
12 ~~ordinance, resolution, regulation, or rule to do any of the following:~~

13 ~~(1) Require a store that is in compliance with this chapter to~~
14 ~~collect, transport, or recycle plastic carryout bags.~~

15 ~~(2) Impose a plastic carryout bag fee upon a store that is in~~
16 ~~compliance with this chapter.~~

17 ~~(3) Require auditing or reporting requirements that are in~~
18 ~~addition to what is required by subdivision (d) of Section 42252,~~
19 ~~upon a store that is in compliance with this chapter.~~

20 ~~(c) This section does not prohibit the adoption, implementation,~~
21 ~~or enforcement of any local ordinance, resolution, regulation, or~~
22 ~~rule governing curbside or drop-off recycling programs operated~~
23 ~~by, or pursuant to a contract with, a city, county, or other public~~
24 ~~agency, including any action relating to fees for these programs.~~

25 ~~(d) This section does not affect any contract, franchise, permit,~~
26 ~~license, or other arrangement regarding the collection or recycling~~
27 ~~of solid waste or household hazardous waste.~~

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

1 ~~(a) The prohibition imposed by this act, pursuant to Section~~
2 ~~42281 of the Public Resources Code, is necessary to reduce the~~
3 ~~environmental, public health, economic, and societal costs resulting~~
4 ~~from the production, use, and discard of single-use plastic carryout~~
5 ~~bags.~~

6 ~~(b) Despite local and state efforts to minimize land-based~~
7 ~~sources of pollution, and increasing efforts worldwide to protect~~
8 ~~water quality, the quantity of plastic pollution in the world's aquatic~~
9 ~~environments is increasing.~~

10 ~~(c) Recycled content paper carryout bags, while not without~~
11 ~~their impacts, when made with 40 percent or more postconsumer~~
12 ~~content, are a high value recyclable collected in every curbside~~
13 ~~and community recycling program in California.~~

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

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

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

35 ~~(g) In the United States, and in California, many cities have~~
36 ~~already introduced or enacted bans on single-use carryout bags~~
37 ~~creating a patchwork of rules and regulations governing the use~~
38 ~~and disposal of these bags.~~

39 ~~(h) The Legislature finds and declares that environmental and~~
40 ~~economic costs posed by single-use bags are of statewide interest~~

1 and concern and that the state should take action to substantially
2 reduce the use of plastic and other single-use bags.

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

5 42257. This chapter shall remain in effect only until January
6 1, 2012, and as of that date is repealed, unless a later enacted
7 statute, that is enacted before January 1, 2012, deletes or extends
8 that date.

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

11
12 CHAPTER 5.3. SINGLE-USE CARRYOUT BAGS

13
14 Article 1. Definitions

15
16 42280. For purposes of this chapter, the following definitions
17 shall apply:

18 (a) "Department" means the Department of Resources Recycling
19 and Recovery.

20 (b) "Recycled paper bag" means a paper carryout bag provided
21 by a store to a customer at the point of sale that meets all of the
22 following requirements:

23 (1) Contains a minimum of 40 percent postconsumer recycled
24 content.

25 (2) Is accepted for recycling in curbside programs in a majority
26 of households that have access to curbside recycling programs in
27 the state.

28 (3) Is capable of composting, consistent with the timeline and
29 specifications of the American Society of Testing and Materials
30 (ASTM) Standard Specification for Compostable Plastics D6400,
31 as published in September 2004.

32 (4) Has printed on the bag the name of the manufacturer, the
33 location (country) where the bag was manufactured, and the
34 percentage of postconsumer content.

35 (e) (1) Until a standard is established and enforceable by the
36 department, "reusable bag" means a bag that meets both of the
37 following requirements:

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

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

4 ~~(ii) The requirements of clause (i) shall not affect any authority~~
5 ~~of the Department of Toxic Substances Control pursuant to Article~~
6 ~~14 (commencing with Section 25251) of Chapter 6.5 of Division~~
7 ~~20 of the Health and Safety Code and, notwithstanding subdivision~~
8 ~~(c) of Section 25257.1 of the Health and Safety Code, shall not be~~
9 ~~considered as a product category already regulated or subject to~~
10 ~~regulation.~~

11 ~~(2) By January 1, 2013, the department shall establish standards~~
12 ~~in regulations that define “reusable bag,” using the standards~~
13 ~~specified in paragraph (1), and any additional durability, material~~
14 ~~content, or labeling requirements. Labeling requirements shall, at~~
15 ~~a minimum, require reusable bags to be imprinted, in a manner~~
16 ~~sufficient to be identifiable and readable, with both of the~~
17 ~~following:~~

18 ~~(A) The name of the reusable bag producer.~~

19 ~~(B) The reusable bag seal or logo, as determined by the~~
20 ~~department, showing compliance with the minimum standards.~~

21 ~~(d) “Reusable bag producer” means either of the following:~~

22 ~~(1) A person or entity that manufactures a reusable bag.~~

23 ~~(2) A person or entity that initially sells or offers for sale or~~
24 ~~distribution a reusable bag in California.~~

25 ~~(e) (1) “Single-use carryout bag” means a bag made of plastic,~~
26 ~~paper, or other material that is provided by a store to a customer~~
27 ~~at the point of sale and that is not a reusable bag, as defined in~~
28 ~~subdivision (c).~~

29 ~~(2) A single-use carryout bag does not include either of the~~
30 ~~following:~~

31 ~~(A) A bag provided by a pharmacy to a customer purchasing~~
32 ~~prescription medication.~~

33 ~~(B) A nonhandled bag used to protect a purchased item from~~
34 ~~damaging or contaminating other purchased items when placed in~~
35 ~~a recycled paper bag or reusable bag.~~

36 ~~(f) “Store” means a retail establishment that meets any of the~~
37 ~~following requirements:~~

38 ~~(1) Meets the definition of a “supermarket” in Section 14526.5.~~

39 ~~(2) Has over 10,000 square feet of retail space that generates~~
40 ~~sales or use tax pursuant to the Bradley-Burns Uniform Local Sales~~

1 and Use Tax Law (Part 1.5 (commencing with Section 7200) of
2 Division 2 of the Revenue and Taxation Code) and has a pharmacy
3 licensed pursuant to Chapter 9 (commencing with Section 4000)
4 of Division 2 of the Business and Professions Code.

5 (3) Is a convenience food store, foodmart, or other entity
6 engaged in the retail sale of a limited line of goods that generally
7 includes milk, bread, soda, and snack foods with a Type 20 or 21
8 license issued by the Department of Alcoholic Beverage Control.

9

10 Article 2. Carryout Bag Regulation

11

12 42281. (a) (1) On and after January 1, 2012, a store, as defined
13 in paragraph (1) or (2) of subdivision (f) of Section 42280, shall
14 not provide a single-use carryout bag to a customer at the point of
15 sale.

16 (2) On and after July 1, 2013, a store, as defined in paragraph
17 (1) or (2) of subdivision (f) of Section 42280, shall only provide
18 reusable bags, as defined by subdivision (c) of Section 42280, that
19 meet the requirements of this chapter and standards established
20 by the department.

21 (b) A store shall make reusable bags available for purchase by
22 a customer. A store, as defined in paragraph (1) or (2) of
23 subdivision (f) of Section 42280, may provide reusable bags to
24 customers at no cost.

25 (c) Notwithstanding any other law, a store may provide a
26 customer participating in the California Special Supplemental Food
27 Program for Women, Infants, and Children pursuant to Article 2
28 (commencing with Section 123275) of Chapter 1 of Part 2 of
29 Division 106 of the Health and Safety Code with a reusable bag
30 or a recycled paper bag at no cost.

31 (d) Notwithstanding the requirements of subdivision (a), a store
32 shall make available for sale to a consumer at the point of sale a
33 recycled paper bag at a reasonable cost, but not less than five cents
34 (\$0.05), except as provided in subdivision (e).

35 (e) Notwithstanding subdivision (a), because the City and
36 County of San Francisco provides residents with curbside collection
37 of foodwaste for composting, and has encouraged stores to stock
38 compostable plastic bags to facilitate participation in that program,
39 a store in the City and County of San Francisco may sell to a
40 consumer at the point of sale a compostable plastic bag meeting

1 the American Society for Testing and Materials (ASTM) Standard
2 Specification for Compostable Plastics D6400, as published in
3 September 2004, at a cost not less than five cents (\$.05).

4 ~~42282. Beginning July 1, 2013, a store as defined in paragraph~~
5 ~~(3) of subdivision (f) of Section 42280 shall comply with the~~
6 ~~provisions of this article.~~

7 ~~42283. (a) On or after January 1, 2013, and on or before~~
8 ~~January 1 every two years thereafter, a reusable bag producer that~~
9 ~~sells, distributes, or makes a reusable bag available to a store in~~
10 ~~California, shall submit a certification to the department that each~~
11 ~~reusable bag meets the requirements of subdivision (c) of Section~~
12 ~~42280 and associated standards issued by the department.~~

13 ~~(b) A reusable bag producer shall submit a fee to the department~~
14 ~~with each certification pursuant to Section 42284.~~

15 ~~(c) The department shall provide a system to submit~~
16 ~~certifications online.~~

17 ~~(d) The department shall publish a list on its Internet Web site~~
18 ~~that includes:~~

19 ~~(1) The name, location, and appropriate contact information of~~
20 ~~a reusable bag producer in compliance with this chapter.~~

21 ~~(2) The reusable bag product or products in compliance with~~
22 ~~this chapter.~~

23 ~~42284. (a) The fee for the initial certification of a reusable bag~~
24 ~~producer, as defined in subdivision (d) of Section 42280, shall not~~
25 ~~exceed ten thousand dollars (\$10,000) per reusable bag producer,~~
26 ~~as determined by the department. In establishing the initial fee,~~
27 ~~consideration by the department shall include, but not be limited~~
28 ~~to, if provided by a reusable bag producer, the annual sales revenue~~
29 ~~of a participating reusable bag producer, the number of employees~~
30 ~~of the participating reusable bag producer, and the number of~~
31 ~~reusable bag products to be submitted for certification by the~~
32 ~~participating reusable bag producer.~~

33 ~~(b) The fee for biennial certification thereafter shall be two~~
34 ~~thousand dollars (\$2,000). The department may adjust the biennial~~
35 ~~certification fee, not to exceed three thousand dollars (\$3,000) per~~
36 ~~certification, if the department determines that additional fees are~~
37 ~~necessary to support implementation of this chapter. Notification~~
38 ~~of any fee increases shall be provided to certified producers and~~
39 ~~posted on the department's Internet Web site 60 days in advance~~
40 ~~of the fee increase.~~

1 (e) ~~The fees in this section shall not exceed the amount necessary~~
2 ~~to cover the department’s reasonable costs associated with the~~
3 ~~implementation of this chapter.~~

4 ~~42285. (a) The department may inspect and audit any entity~~
5 ~~subject to this chapter.~~

6 ~~(b) On or after July 1, 2013, the department may test any~~
7 ~~reusable bag manufactured by a reusable bag producer and provided~~
8 ~~to a store for sale or distribution for compliance with this chapter~~
9 ~~and associated regulations.~~

10 ~~(c) The department may enter into an agreement with other state~~
11 ~~entities that conduct inspections to provide necessary enforcement~~
12 ~~of this chapter.~~

13 ~~42286. (a) Any violation of Section 42281 shall be subject to~~
14 ~~an administrative civil penalty assessed by the department in an~~
15 ~~amount not to exceed five hundred dollars (\$500) for the first~~
16 ~~violation. Subsequent violations may be increased by up to five~~
17 ~~hundred dollars (\$500) per violation, not to exceed five thousand~~
18 ~~dollars (\$5,000) per violation.~~

19 ~~(b) Any violation of Section 42283, or any submission of false~~
20 ~~or misleading information to the department, shall be subject to~~
21 ~~an administrative civil penalty assessed by the department of up~~
22 ~~to fifty thousand dollars (\$50,000) per violation, not to exceed an~~
23 ~~annual total of one hundred fifty thousand dollars (\$150,000).~~

24 ~~(c) The department shall publish a list on its Internet Web site~~
25 ~~of any fines or penalties that have been levied against a violator~~
26 ~~of this section for failure to comply with the requirements of this~~
27 ~~chapter.~~

28 ~~42287. (a) The department shall deposit all certification fees~~
29 ~~paid pursuant to this article into the Reusable Bag Account, which~~
30 ~~is hereby created in the Integrated Waste Management Fund in the~~
31 ~~State Treasury. The moneys deposited in the Reusable Bag Account~~
32 ~~shall be expended by the department, upon appropriation by the~~
33 ~~Legislature, to assist the department with its costs of implementing~~
34 ~~this chapter.~~

35 ~~(b) The department shall deposit all penalties and fines collected~~
36 ~~pursuant to this article into the Penalty Subaccount, which is hereby~~
37 ~~created in the Reusable Bag Account, and shall be expended by~~
38 ~~the department, upon appropriation by the Legislature, to assist~~
39 ~~the department with its costs of implementing this chapter.~~

1 ~~42288. The department may adopt regulations that are~~
2 ~~reasonable and necessary to implement this chapter.~~

3
4 Article 3. Preemption
5

6 ~~42289. This chapter is a matter of statewide interest and~~
7 ~~concern and is applicable uniformly throughout the state.~~
8 ~~Accordingly, this chapter occupies the whole field of regulation~~
9 ~~of reusable bags, single-use carryout bags, recycled paper bags,~~
10 ~~or any other bag referred to in this chapter. No city, county, or~~
11 ~~other local public agency may enforce or implement any existing~~
12 ~~or new ordinance, resolution, regulation, or rule on any store as~~
13 ~~defined by this chapter relating to reusable bags, single-use carryout~~
14 ~~bags, recycled paper bags, or any other bag referred to in this~~
15 ~~chapter unless expressly authorized by this division.~~

16 *42280. For purposes of this chapter, the following definitions*
17 *shall apply:*

18 *(a) "Department" means the Department of Resources*
19 *Recycling and Recovery.*

20 *(b) "Postconsumer recycled material" means a material that*
21 *would otherwise be destined for solid waste disposal, having*
22 *completed its intended end use and product life cycle.*
23 *Postconsumer recycled material does not include materials and*
24 *byproducts generated from, and commonly reused within, an*
25 *original manufacturing and fabrication process.*

26 *(c) "Recycled paper bag" means a paper carryout bag provided*
27 *by a store to a customer at the point of sale that meets all of the*
28 *following requirements:*

29 *(1) (A) Except as provided in subparagraph (B), the paper*
30 *carryout bag contains a minimum of 40 percent postconsumer*
31 *recycled materials.*

32 *(B) An eight pound or smaller recycled paper bag shall contain*
33 *a minimum of 20 percent postconsumer recycled material.*

34 *(2) Is accepted for recycling in curbside programs in a majority*
35 *of households that have access to curbside recycling programs in*
36 *the state.*

37 *(3) Is capable of composting, consistent with the timeline and*
38 *specifications of the American Society of Testing and Materials*
39 *(ASTM) Standard Specification for Compostable Plastics D6400,*
40 *as published in September 2004.*

1 (4) *Has printed on the bag the name of the manufacturer, the*
2 *location (country) where the bag was manufactured, and the*
3 *minimum percentage of postconsumer content.*

4 (d) (1) *“Reusable grocery bag” on or before June 30, 2013,*
5 *means either of the following:*

6 (A) *A bag made of cloth or other machine washable fabric that*
7 *has handles.*

8 (B) *A durable plastic bag with handles that is at least 2.25 mills*
9 *thick and specifically designed for multiple reuses.*

10 (2) *“Reusable grocery bag” on and after July 1, 2013, means*
11 *a bag that meets the requirements of Section 42287.*

12 (e) *“Reusable grocery bag producer” means a person or entity*
13 *that does any of the following:*

14 (1) *Manufactures reusable grocery bags for sale or distribution*
15 *to a store.*

16 (2) *Imports reusable grocery bags into this state, for sale or*
17 *distribution to a store.*

18 (3) *Sells or distributes reusable bags to a store.*

19 (f) (1) *“Single-use carryout bag” means a bag made of plastic,*
20 *paper, or other material, that is provided by a store to a customer*
21 *at the point of sale and that is not a reusable grocery bag that*
22 *meets the requirements of Section 42287.*

23 (2) *A single-use carryout bag does not include either of the*
24 *following:*

25 (A) *A bag provided by a pharmacy pursuant to Chapter 9*
26 *(commencing with Section 4000) of Division 2 of the Business and*
27 *Professions Code to a customer purchasing a prescription*
28 *medication.*

29 (B) *A nonhandled bag used to protect a purchased item from*
30 *damaging or contaminating other purchased items when placed*
31 *in a recycled paper bag or reusable bag.*

32 (g) *“Store” means a retail establishment that meets any of the*
33 *following requirements:*

34 (1) *A full-line, self-service retail store with gross annual sales*
35 *of two million dollars (\$2,000,000), or more, and which sells a*
36 *line of dry grocery, canned goods, or nonfood items and some*
37 *perishable items.*

38 (2) *Has over 10,000 square feet of retail space that generates*
39 *sales or use tax pursuant to the Bradley-Burns Uniform Local*
40 *Sales and Use Tax Law (Part 1.5 (commencing with Section 7200))*

1 of Division 2 of the Revenue and Taxation Code) and has a
2 pharmacy licensed pursuant to Chapter 9 (commencing with
3 Section 4000) of Division 2 of the Business and Professions Code.

4 (3) Is a convenience food store, foodmart, or other entity
5 engaged in the retail sale of a limited line of goods that generally
6 includes milk, bread, soda, and snack foods with a Type 20 or 21
7 license issued by the Department of Alcoholic Beverage Control.

8
9 Article 2. Carryout Bag Regulation

10
11 42281. (a) Except as provided in Section 42282, the
12 requirements of this section apply only to a store, as defined in
13 paragraph (1) or (2) of subdivision (f) of Section 42280.

14 (b) (1) On and after January 1, 2012, a store shall not provide
15 a single-use carryout bag to a customer at the point of sale, except
16 as provided in this section.

17 (2) On January 1, 2012, until June 30, 2013, a store shall only
18 provide to a customer a reusable grocery bag, as defined in
19 paragraph (1) of subdivision (d) of Section 42280.

20 (3) On and after July 1, 2013, a store shall only provide to a
21 customer a reusable grocery bag, as defined in paragraph (2) of
22 subdivision (d) of Section 42280, that meets the requirements of
23 Section 42287.

24 (c) (1) A store shall make reusable bags available for purchase
25 by a customer.

26 (2) (A) A store may provide reusable bags to customers at no
27 cost, until December 31, 2012.

28 (B) On and after January 1, 2013, a store may provide reusable
29 bags to customers at no cost only when combined with a
30 time-limited store promotional program.

31 (d) Notwithstanding any other law, on and after July 1, 2013,
32 a store shall provide a customer participating in the California
33 Special Supplemental Food Program for Women, Infants, and
34 Children pursuant to Article 2 (commencing with Section 123275)
35 of Chapter 1 of Part 2 of Division 106 of the Health and Safety
36 Code and a customer participating in the Supplemental Food
37 Program pursuant to Chapter 10 (commencing with Section 15500)
38 of Part 3 of Division 9 of the Welfare and Institutions Code, with
39 a reusable bag or a recycled paper bag at no cost at the point of
40 sale.

1 (e) Notwithstanding subdivision (b), a store may provide to a
2 customer at the point of sale a recycled paper bag in accordance
3 with paragraph (4) of subdivision (f), except as provided in
4 subdivision (d).

5 (f) (1) The Legislature finds that the current hidden cost of
6 single use plastic and paper bags to consumers, in the form of
7 higher grocery costs, exceeds four hundred million dollars
8 (\$400,000,000) annually.

9 (2) The Legislature finds that this existing and unnecessary
10 consumer cost can be significantly reduced by encouraging both
11 stores and consumers to reduce and reuse shopping bags.

12 (3) The Legislature finds that the current practice of hiding the
13 cost of single-use bags results in consumers who currently bring
14 their own bags having to subsidize costs for those consumers that
15 accept single use bags.

16 (4) On and after January 1, 2012, if a consumer requests an
17 available recycled paper bag pursuant to this section, then the
18 store shall charge the consumer, except as provided in subdivision
19 (d), the actual average cost of the recycled paper bag provided to
20 the consumer, rounded to the nearest penny.

21 (g) Notwithstanding subdivision (b), a retailer may sell to a
22 consumer at the point of sale a compostable bag, that at a minimum
23 meets the American Society for Testing and Materials (ASTM)
24 Standard Specification for Compostable Plastics D6400, as
25 published in September 2004, at a cost not less than the actual
26 cost of the bags, if both of the following requirements are met in
27 the jurisdiction where the compostable bag is sold:

28 (1) A majority of the residential households in the jurisdiction
29 have access to curbside collection of foodwaste for composting.

30 (2) The governing authority for the jurisdiction has voted to
31 allow retailers in the jurisdiction to sell to a consumer at the point
32 of sale a compostable bag at a cost not less than the actual cost
33 of the bags.

34 42282. On and after July 1, 2013, a store as defined in
35 paragraph (3) of subdivision (g) of Section 42280, shall comply
36 with the same requirements of this article that are imposed upon
37 a store, as defined in paragraph (1) or (2) of subdivision (f) of
38 Section 42880.

1 *Article 3. Plastic Bag Collection and Reporting Requirements*

2
3 42283. (a) (1) *On and after January 1, 2012, a store, as*
4 *defined in paragraph (1) and (2) of subdivision (g) of Section*
5 *42280 shall place a plastic bag collection bin at the store in a*
6 *manner that is visible and easily accessible to the customer, and*
7 *that is clearly marked to notify customers that the collection bin*
8 *is available for the purpose of collection and recycling of plastic*
9 *single-use carryout bags and plastic reusable bags.*

10 (2) *The requirement of this subdivision shall apply to a store*
11 *notwithstanding that the store is prohibited from providing*
12 *single-use carryout bags to its customers.*

13 (b) *All plastic bags collected by the store shall be collected,*
14 *transported, and recycled in a manner that does not conflict with*
15 *the local jurisdiction's source reduction and recycling element,*
16 *pursuant to Chapter 2 (commencing with Section 41000) and*
17 *Chapter 3 (commencing with Section 41300) of Part 2.*

18 42285. (a) *On or before January 1, 2015, the department shall*
19 *submit a report to the Legislature in accordance with Section 9795*
20 *of the Government Code, regarding the effectiveness of this chapter*
21 *and recommendations for statutory changes to increase*
22 *effectiveness, which shall include all of the following:*

23 (1) *A compilation of state cleanup data to evaluate pollution*
24 *reduction.*

25 (2) *Recommendations to further encourage the use of reusable*
26 *bags by customers and retailers.*

27 (3) *An evaluation of the requirements for reusable bags specified*
28 *in Section 42287.*

29 (b) *The department shall coordinate with other state and local*
30 *agencies in compiling this report to maximize existing efforts and*
31 *resources in the areas of litter reduction, water quality, and*
32 *environmental protection.*

33 (c) *Pursuant to Section 110231.5 of the Government Code, this*
34 *section is repealed on January 1, 2016.*

35
36 *Article 4. Reusable Grocery Bags*

37
38 42287. (a) *On and after July 1, 2013, a reusable grocery bag*
39 *shall meet all of the following requirements:*

- 1 (1) (A) *Be designed and manufactured to withstand, at a*
2 *minimum, 100 uses.*
- 3 (B) *For purposes of this paragraph, “uses” means the capability*
4 *of carrying a minimum of 22 pounds 100 times over a distance of*
5 *at least 175 feet.*
- 6 (2) *Be made from a material that can be cleaned and disinfected.*
- 7 (3) *Have printed on the bag, or on a tag attached to the bag*
8 *that is not intended to be removed, and in a manner visible to the*
9 *consumer the following information:*
- 10 (A) *The name of the manufacturer.*
- 11 (B) *The location (country) where the bag was manufactured.*
- 12 (C) *A recycling symbol or end-of-life management instructions.*
- 13 (D) *The percentage of postconsumer recycled material, if any.*
- 14 (4) *It shall not contain lead, cadmium, or any other heavy metal*
15 *in toxic amounts. This requirement shall not affect any authority*
16 *of the Department of Toxic Substances Control pursuant to Article*
17 *14 (commencing with Section 25251) of Chapter 6.5 of Division*
18 *20 of the Health and Safety Code and, notwithstanding subdivision*
19 *(c) of Section 25257.1 of the Health and Safety Code, the reusable*
20 *grocery bag shall not be considered as a product category already*
21 *regulated or subject to regulation.*
- 22 (5) *If the reusable grocery bag makes a claim that it is*
23 *recyclable, the producer shall demonstrate compliance with the*
24 *regulations adopted by the Federal Trade Commission.*
- 25 (b) *In addition to the requirements in subdivision (a), a reusable*
26 *grocery bag made from plastic shall meet all of the following*
27 *requirements:*
- 28 (1) *On and after July 1, 2014, be made from a minimum of 20*
29 *percent postconsumer recycled material, except as provided in*
30 *subdivision (d).*
- 31 (2) *In addition to the information required to be printed on the*
32 *bag or on a tag, pursuant to paragraph (3) of subdivision (a), all*
33 *of the following information shall be printed on the bag, or on a*
34 *tag that complies with that paragraph:*
- 35 (A) *A statement that the bag is a reusable bag and designed for*
36 *at least 100 uses.*
- 37 (B) *Instructions to return the bag to the store for recycling or*
38 *to another appropriate recycling location.*
- 39 (c) *A plastic reusable grocery bag that also meets the*
40 *specifications of the American Society of Testing and Materials*

1 (ASTM) Standard Specification for Compostable Plastics D6400,
2 as published in September 2004, is not required to meet the
3 requirements of paragraph (1) of subdivision (b) , but shall be
4 labeled in accordance with the applicable state law regarding
5 compostable plastics.

6 (d) (1) If a plastic reusable grocery bag producer is unable to
7 obtain sufficient amounts of postconsumer recycled material to
8 comply with this article within a reporting period because of
9 unavailability, the producer shall demonstrate to the department
10 the actions taken by that plastic reusable grocery bag producer
11 to find that postconsumer recycled material.

12 (2) A plastic reusable grocery bag producer making the
13 demonstration in paragraph (1) shall make a reasonable effort to
14 identify available supplies of postconsumer recycled material
15 before submitting a certification containing this information to
16 the department pursuant to Section 42288.

17 (3) A plastic reusable grocery bag producer shall include the
18 greatest amount of postconsumer recycled material possible in the
19 reusable grocery bag, even if this amount is less than required by
20 paragraph (1) of subdivision (b) and shall indicate the percentage
21 that is postconsumer recycled material.

22 42288. (a) On or before January 1, 2013, and on January 1
23 every two years thereafter on a schedule and in a manner
24 determined by the department, a reusable grocery bag producer
25 shall submit a certification to the department for each type of
26 reusable grocery bag that is manufactured, imported, sold, or
27 distributed in the state and provided to a store for sale or
28 distribution that meets the requirements of Section 42287.

29 (b) A reusable grocery bag producer shall submit a fee, as
30 established pursuant to subdivision (e), to the department with
31 each certification submitted.

32 (c) The department shall provide a system to submit
33 certifications online.

34 (d) On and after July 1, 2013, the department shall publish a
35 list on its Internet Web site that includes both of the following:

36 (1) The name, location, and appropriate contact information
37 of a reusable grocery bag producer that is in compliance with this
38 article.

39 (2) The reusable grocery bags that are in compliance with this
40 article.

1 (e) The department shall establish a certification fee schedule
 2 that will generate fee revenues sufficient to cover all of the
 3 department’s costs to enforce this article. Fee revenues shall not
 4 exceed the amount necessary to cover the department’s reasonable
 5 costs to enforce this article.

6 (f) The department may inspect and audit a reusable bag
 7 producer subject to this article with all costs associated with the
 8 audit being paid for by the reusable grocery bag producer.

9 (g) The department may test any reusable bag manufactured
 10 by a reusable bag producer and provided to a store for sale or
 11 distribution for compliance with this article and the regulations
 12 adopted pursuant to this article.

13 (h) The department may enter into an agreement with other
 14 state entities that conduct inspections to provide necessary
 15 enforcement of this article.

16 (i) Notwithstanding Section 42993, any violation of this article
 17 shall be subject to an administrative civil penalty assessed by the
 18 department in an amount not to exceed five hundred dollars (\$500)
 19 for the first violation. A subsequent violation may be subject to an
 20 increased penalty of up to five hundred dollars (\$500) per
 21 violation, not to exceed five thousand dollars (\$5,000) per
 22 violation.

23 (j) The department shall deposit all certification fees paid
 24 pursuant to this article into the Reusable Bag Account, which is
 25 hereby created in the Integrated Waste Management Fund in the
 26 State Treasury. The moneys deposited in the Reusable Bag Account
 27 shall be expended by the department, upon appropriation by the
 28 Legislature, to assist the department with its costs of implementing
 29 this article.

30 (k) The department shall deposit all penalties collected pursuant
 31 to subdivision (i) for a violation of this article into the Penalty
 32 Subaccount, which is hereby created in the Reusable Bag Account,
 33 and shall be expended by the department, upon appropriation by
 34 the Legislature, to assist the department with its costs of
 35 implementing this article.

36

37 Article 5. Financial Provisions

38

39 42290. (a) Notwithstanding Section 42023.2, the sum of two
 40 million dollars (\$2,000,000) is hereby appropriated from the

1 *Recycling Market Development Revolving Loan Subaccount in the*
2 *Integrated Waste Management Account to the department for the*
3 *purposes of providing loans and grants for the creation and*
4 *retention of jobs and economic activity in the manufacture and*
5 *recycling of plastic bags that use recycled content, including*
6 *postconsumer recycled material.*

7 *(b) The department shall expend the funds appropriated*
8 *pursuant to this section to provide loans and grants for any of the*
9 *following:*

10 *(1) Development and conversion of machinery and facilities for*
11 *the manufacture of single-use plastic bags into machinery and*
12 *facilities for the manufacturer of durable reusable bags that, at a*
13 *minimum, meet the requirements of Section 42287.*

14 *(2) Development of equipment for the manufacture of reusable*
15 *bags, that, at a minimum, meet the requirements of Section 42287.*

16 *(3) Development of equipment for the processing of*
17 *postconsumer plastic bags and film into a recycled material*
18 *suitable for use in the manufacture of new reusable bags that, at*
19 *a minimum, meet the requirements of Section 42287.*

20

21

Article 6. Preemption

22

23 *42292. This chapter is a matter of statewide interest and*
24 *concern and is applicable uniformly throughout the state.*
25 *Accordingly, this chapter occupies the whole field of regulation*
26 *of reusable bags, single-use carryout bags, recycled paper bags,*
27 *or any other bag referred to in this chapter. A city, county, city*
28 *and county, or other local public agency shall not enforce or*
29 *implement against any store, as defined by this chapter, any*
30 *existing or new ordinance, resolution, regulation, or rule relating*
31 *to reusable bags, single-use carryout bags, recycled paper bags,*
32 *or any other bag referred to in this chapter unless expressly*
33 *authorized by this division.*

34

35

Article 7. Enforcement

36

37 *42293. (a) A city, a county, a city and county, or the state may*
38 *impose civil liability in the amount of five hundred dollars (\$500)*
39 *for the first violation of this chapter, one thousand dollars (\$1,000)*

1 *for the second violation, and two thousand dollars (\$2,000) for*
2 *the third and subsequent violations.*

3 *(b) Any civil penalties collected pursuant to subdivision (a)*
4 *shall be paid to the office of the city attorney, city prosecutor,*
5 *district attorney, or Attorney General, whichever office brought*
6 *the action. The penalties collected pursuant to this section by the*
7 *Attorney General may be expended by the Attorney General, upon*
8 *appropriation by the Legislature, to enforce this chapter.*

9 *(c) This section does not apply to a violation of Article 4*
10 *(commencing with Section 42287).*

O