

AMENDED IN ASSEMBLY APRIL 14, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2138

Introduced by Assembly Member Chesbro

February 18, 2010

An act to add Part 9 (commencing with Section 49700) to Division 30 of the Public Resources Code, relating to product management.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as amended, Chesbro. Product management: single-use recyclable packaging containers.

The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery requires every rigid plastic packaging container, as defined, sold or offered for sale in this state, to generally meet one of specified criteria. Existing law requires the operator of a store to establish an at-store recycling program for plastic carryout bags, until January 1, 2013.

This bill would enact the Plastic Ocean Pollution Reduction, Recycling, and Composting Act and would prohibit a food provider, after July 1, 2011, but not after July 1, 2013, from distributing a disposable food service packaging or a single-use carryout bag, as defined, unless the packaging or bag ~~meet~~ *meets* the criteria for either compostable packaging or recyclable packaging. The bill would prohibit a food provider, on and after July 1, 2013, from distributing a disposable food service packaging or a single-use carryout bag to a consumer, unless the department determines the packaging or bag is recovered for composting or recovered for recycling at a rate of 25 percent or more.

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. Part 9 (commencing with Section ~~49700~~49750)
2 is added to Division 30 of the Public Resources Code, to read:

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4 PART 9. PRODUCT MANAGEMENT

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6 CHAPTER 1. DEFINITIONS

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8 CHAPTER 2. POWERS AND DUTIES

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10 CHAPTER 3. ENFORCEMENT AND PENALTIES

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12 CHAPTER 4. PLASTIC OCEAN POLLUTION REDUCTION,
13 RECYCLING AND COMPOSTING ACT

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15 Article 1. General Provisions

16
17 ~~49700.~~

18 49750. This chapter shall be known, and may be cited, as the
19 Plastic Ocean Pollution Reduction, Recycling, and Composting
20 Act.

21 49750.1. It is the intent of the Legislature, consistent with
22 recommendations in the Ocean Protection Council report
23 “Eliminating Land-based Discharges of Marine Debris in
24 California,” to designate responsibility and authority for reduction
25 of marine debris, plastic ocean pollution, and its sources to a state
26 agency.

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28 Article 2. Definitions

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30 49751. For the purposes of this chapter the following terms
31 have the following meanings, unless the context clearly requires
32 otherwise:

33 (a) “Compostable packaging” means a material that meets all
34 of the following criteria:

1 (1) The packaging distributed with food for in-store consumption
2 is accepted back for composting by the food provider.

3 (2) The packaging is accepted for composting in a residential
4 collection program available to at least 75 percent of the households
5 in the jurisdiction in which it is distributed, as determined by the
6 department.

7 (3) The packaging is made of a material that meets the American
8 Society for Testing and Materials (ASTM) Standard Specification
9 for Compostable Plastics D6400, as published in September 2004.
10 For purposes of this paragraph, an ASTM standard specification
11 does not include an ASTM Standard Guide, a Standard Practice,
12 or a Standard Test Method.

13 (b) “Department” means the Department of Resources Recycling
14 and Recovery.

15 (c) (1) “Disposable food service packaging” means single-use
16 disposable products used by a food provider for serving or
17 transporting prepared and ready-to-consume food or beverages.

18 (2) “Disposable food service packaging” includes, but is not
19 limited to, plates, cups, bowls, trays, and hinged or lidded
20 containers.

21 (3) “Disposable food service packaging” does not include such
22 single-use disposable items as straws, cup lids, or utensils, or
23 single-use disposable packaging for unprepared foods.

24 (d) “Food provider” means an establishment that provides
25 prepared food for public consumption on or off its premises and
26 includes, but is not limited to, a store, shop, sales outlet, restaurant,
27 grocery store, supermarket, delicatessen, catering truck, or vehicle.

28 (e) (1) “Prepared food” means ready-to-consume food or
29 beverage prepared on the food provider’s premises, using a cooking
30 or food preparation technique.

31 (2) “Prepared food” does not include raw uncooked meat, fish,
32 or eggs, unless the item is provided for consumption without further
33 food preparation.

34 (f) “Recyclable packaging” means a material that meets all of
35 the following criteria:

36 (1) The packaging distributed with food for in-store consumption
37 is accepted back for recycling by the food provider.

38 (2) The packaging is accepted for recycling in a residential
39 collection program available to at least 75 percent of the households

1 in the jurisdiction in which it is distributed, as determined by the
2 department.

3 (g) “Single-use carryout bag” means a carryout bag provided
4 by a ~~store~~ *food provider* to a customer *to contain prepared food*
5 at the point of sale.

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7 Article 3. Packaging Waste Reduction and Recycling
8 Responsibilities

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10 49752. (a) On and after July 1, 2011, until July 1, 2013, a food
11 provider shall not distribute a disposable food service packaging
12 or a single-use carryout bag to a consumer, unless the disposable
13 food service packaging or single-use carryout bag meets the criteria
14 for either compostable packaging or recyclable packaging.

15 (b) On and after July 1, 2013, a food provider shall not distribute
16 a disposable food service packaging or a single-use carryout bag
17 to a consumer, unless the department determines the disposable
18 food service packaging or single-use carryout bag is recovered for
19 composting or recovered for recycling at a rate of 25 percent or
20 more.

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