

AMENDED IN SENATE JUNE 20, 2011

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 837

Introduced by Assembly Member Nestande

February 17, 2011

An act to add Chapter 5.9 (commencing with Section 42360) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 837, as amended, Nestande. Solid waste: plastic food ~~and beverage~~ containers.

Existing law requires rigid plastic packaging containers sold or offered for sale in this state to meet specified criteria, including, but not limited to, that the container be made from 25% postconsumer material. 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 the sale, the container meets the ASTM standard specification for compostable plastics, as specified, for the term used on the label.

This bill would define terms and would prohibit a manufacturer or supplier from selling a plastic food ~~or beverage~~ container in this state that is advertised with a specific recycled content amount unless the manufacturer or supplier is able to provide certification of the stated recycled content in a format that is easy to understand and ~~scientifically~~ accurate. A manufacturer or supplier would be required to provide this information within 90 days from the date of a request by a member of

the public or state agency *or to post a link to a document on its Internet Web site containing this information.*

The bill would authorize ~~a city, a county, or~~ the state to impose civil liability for a violation of the bill’s requirements and would require the penalties collected by the Attorney General to be expended by the Attorney General, upon appropriation by the Legislature, to enforce the above prohibition.

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. Chapter 5.9 (commencing with Section 42360)
2 is added to Part 3 of Division 30 of the Public Resources Code, to
3 read:

4
5 CHAPTER 5.9. PLASTIC FOOD ~~OR BEVERAGE~~ CONTAINER
6 RECYCLED CONTENT
7

8 42360. The Legislature finds and declares that it is the public
9 policy of the state that environmental marketing claims, whether
10 explicit or implied, should be substantiated by competent and
11 reliable evidence to prevent deceiving or misleading consumers
12 about the recycled content of plastic food ~~or beverage~~ containers.

13 42361. For purposes of this chapter, the following definitions
14 apply:

15 (a) “Advertise” means an advertisement, promotional material
16 posted on the Internet, or any other sales or promotional material
17 made available to the public.

18 ~~(a) “Plastic food or beverage~~

19 (b) “Plastic food container” means a plastic package, including,
20 but not limited to, a bottle, carton, clamshell container, or other
21 receptacle, for sale or distribution in the state, that meets both of
22 the following conditions:

- 23 (1) Is intended to be used to contain food ~~or drink~~ items.
- 24 (2) Has a relatively inflexible finite shape or form.

25 ~~(b)~~

26 (c) “Manufacturer” means a person, firm, association,
27 partnership, or corporation that produces a plastic food ~~or beverage~~
28 container.

1 ~~(e)~~
2 (d) “Postconsumer material” has the same meaning as defined
3 in Section 42301.

4 ~~(d)~~
5 (e) “Postindustrial material” means a material generated by an
6 original manufacturing and fabrication process.

7 ~~(e)~~
8 (f) “Recycled content” means the total amount of postconsumer
9 material and postindustrial material in a plastic food ~~or beverage~~
10 container, expressed as a percentage of the total amount of material
11 in that plastic container.

12 ~~(f)~~
13 (g) “Sale” means a sale that is not a retail sale, as defined in
14 Section 6007 of the Revenue and Taxation Code.

15 ~~(g)~~
16 (h) “Supplier” means a person who purchases plastic food ~~or~~
17 ~~beverage~~ containers for sale or distribution in this state.

18 42362. (a) A manufacturer or supplier shall not sell a plastic
19 food ~~or beverage~~ container in this state that is advertised with a
20 specific recycled content amount unless the manufacturer or
21 supplier is able to provide certification of that claim in a format
22 that is easy to understand and ~~scientifically~~ accurate.

23 (b) A manufacturer or supplier, upon the request of a member
24 of the public or a state agency, shall submit to that member or state
25 agency, within 90 days of the request, information and
26 documentation demonstrating compliance with subdivision (a).

27 (c) *A manufacturer or supplier is in compliance with this section*
28 *if it provides a link to a document on its Internet Web site*
29 *containing the certification information and documentation*
30 *required pursuant to subdivision (a).*

31 42363. (a) ~~A city, a county, or the~~ *The* state may impose civil
32 liability in the amount of five hundred dollars (\$500) for the first
33 violation of this chapter, one thousand dollars (\$1,000) for the
34 second violation of this chapter, and two thousand dollars (\$2,000)
35 for the third and any subsequent violation of this chapter.

36 (b) Civil penalties collected pursuant to subdivision (a) shall be
37 ~~paid to the office of the city attorney, city prosecutor, district~~
38 ~~attorney, or Attorney General, whichever office brought the action.~~
39 *paid to the Attorney General.* The penalties collected pursuant to
40 this section by the Attorney General may be expended by the

1 Attorney General, upon appropriation by the Legislature, to enforce
2 this chapter.

3 (c) The remedies provided by this section are not exclusive and
4 are in addition to the remedies that may be available pursuant to
5 Chapter 5 (commencing with Section 17200) of Part 2 of Division
6 7 of the Business and Professions Code.

7 (d) Costs incurred by a state agency in carrying out this chapter
8 shall be recoverable by the Attorney General, upon the request of
9 the state agency, from the liable person or persons.

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