

ASSEMBLY BILL

No. 2336

Introduced by Assembly Member Mansoor

February 24, 2012

An act to amend Section 42357 of, and to add Section 42357.2 to, the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 2336, as introduced, Mansoor. Plastic products: labeling.

(1) Existing law, as of January 1, 2013, prohibits the sale of a plastic product, including plastic bags, labeled as “compostable,” “home compostable,” or “marine degradable” unless it meets certain specifications, certifications, or a standard adopted by the Department of Resources Recycling and Recovery. Existing law also prohibits the sale of a plastic product that is labeled as “biodegradable,” “degradable,” “decomposable,” or as otherwise specified, and imposes certain labeling requirements upon a manufacturer of a compostable plastic bag. Prior to January 1, 2013, existing law imposed those prohibitions on plastic bags and plastic food or beverage containers. Existing law provides for the imposition of a civil penalty for a violation of those prohibitions.

This bill would prohibit a person from being subject to an enforcement action pursuant to the provisions regulating the labeling of plastic products on and after January 1, 2013, or plastic bags before that date, if the person manufacturing the plastic product submits an action plan to the department, city, or county and the plan is approved, as specified. The bill would provide that the action plan may allow the sale of a plastic product that is not in compliance until a date specified in the action plan. The bill would require the department, city, or county to approve the action plan within a specified time and the person would

be required to agree to comply with the labeling requirements on or after the date specified in the action plan.

The person submitting the plan would be required to include a fee to reimburse the department, city, or county for its reasonable costs in reviewing the action plan. The department would be authorized to expend the fees, upon appropriation by the Legislature, to implement this section.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 42357 of the Public Resources Code, as
2 added by Section 1 of Chapter 594 of the Statutes of 2011, is
3 amended to read:

4 42357. (a) (1) Except as provided in paragraph (3) and Section
5 42357.2, a person shall not sell a plastic product in this state that
6 is labeled with the term “compostable,” “home compostable,” or
7 “marine degradable” unless, at the time of sale, the plastic product
8 meets the applicable ASTM standard specification, as specified
9 in paragraph (1) of subdivision (b) of Section 42356 or the Vincotte
10 OK Compost HOME certification, as provided in paragraph (4).

11 (2) Compliance with only a section or a portion of a section of
12 an applicable ASTM standard specification does not constitute
13 compliance with paragraph (1).

14 (3) Notwithstanding paragraph (1), a person may sell a plastic
15 product in this state that is labeled with a qualified claim for a term
16 specified in paragraph (1), if the plastic product meets the relevant
17 standard adopted by the department pursuant to Section 42356.2.

18 (4) (A) A plastic product shall not be labeled with the term
19 “home compostable” unless the manufacturer of that plastic product
20 holds a Vincotte OK Compost HOME certificate of conformity
21 with regard to that product, except as provided in subparagraph
22 (B) or (C).

1 (B) Notwithstanding paragraph (1), if the ASTM adopts a
2 standard specification for the term “home compostable” on or
3 before January 1, 2016, and the department determines that the
4 ASTM standard specification is at least equal to, or more stringent
5 than, the OK Compost HOME certification, a plastic product
6 labeled with the term “home compostable” shall meet that ASTM
7 standard specification. The department may also take the actions
8 specified in Section 42356.1 with regard to an ASTM standard for
9 home compostability.

10 (C) If the department adopts a standard pursuant to Section
11 42356.2, a plastic product labeled with the term “home
12 compostable” shall meet that standard and not the standard
13 specified in subparagraph (A) or (B).

14 (b) Except as provided in subdivision (a) *and Section 42357.2*,
15 a person shall not sell a plastic product in this state that is labeled
16 with the term “biodegradable,” “degradable,” or “decomposable,”
17 or any form of those terms, or in any way imply that the plastic
18 product will break down, fragment, biodegrade, or decompose in
19 a landfill or other environment.

20 (c) A manufacturer or supplier, upon the request of a member
21 of the public, shall submit to that member, within 90 days of the
22 request, information and documentation demonstrating compliance
23 with this chapter, in a format that is easy to understand and
24 scientifically accurate.

25 (d) A product that is in compliance with this chapter shall not,
26 solely as a result of that compliance, be deemed to be in compliance
27 with any other applicable marketing requirement or guideline
28 established under state law or by the Federal Trade Commission.

29 SEC. 2. Section 42357.2 is added to the Public Resources Code,
30 to read:

31 42357.2. (a) A person shall not be subject to an enforcement
32 action pursuant to this chapter, or former Chapter 5.7 (commencing
33 with Section 42355), as it read on January 1, 2012, if the person
34 submits an action plan to the department, city, or county that is
35 approved pursuant to this section. The action plan may allow the
36 sale of a plastic product that is not in compliance with this chapter,
37 or former Chapter 5.7 (commencing with Section 42355), as it
38 read on January 1, 2012, until a date specified in the action plan.

1 (b) The department, city, or county shall approve the action
2 plan, or give a reason for its disapproval, within 60 days after the
3 plan is submitted.

4 (c) A person shall agree to comply with the requirements
5 imposed pursuant to this chapter with regard to all plastic products
6 manufactured on or after the date specified in the action plan.

7 (d) Notwithstanding subdivision (a) and Section 42357, a person
8 who fails to comply with an approved action plan may be subject
9 to enforcement action pursuant to this chapter or former Chapter
10 5.7 (commencing with Section 42355), as it read on January 1,
11 2012.

12 (e) A person submitting an action plan shall include a fee to
13 reimburse the department, city, or county for its reasonable costs
14 in reviewing the action plan, in the amount set by that agency
15 reviewing the action plan. The department may expend the fees
16 collected by the department pursuant to this subdivision, upon
17 appropriation by the Legislature, to implement this section.

18 SEC. 3. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 a local agency or school district has the authority to levy service
21 charges, fees, or assessments sufficient to pay for the program or
22 level of service mandated by this act, within the meaning of Section
23 17556 of the Government Code.

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