

ASSEMBLY BILL

No. 2670

Introduced by Committee on Natural Resources (Assembly Members Chesbro (Chair), Brownley, Dickinson, Halderman, Huffman, Monning, and Skinner)

March 5, 2012

An act to amend Sections 41770, 42301, 42649.1, and 42649.3 of, and to repeal Section 41751 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2670, as introduced, Committee on Natural Resources. Solid waste plans: recycling.

(1) The California Integrated Waste Management Act of 1989 requires each city, county, city and county, and regional agency, to develop an integrated waste management plan containing specified components, including a source reduction and recycling element. The countywide or regional plan is required to be reviewed, revised, and submitted to the Department of Resources Recycling and Recovery every 5 years. The revision is required to use a waste disposal characterization method developed by the department. The county plan is also required to include a summary of certain waste management problems facing the county.

This bill would repeal these requirements regarding the review, revision, and submission of the plan, the use of a waste disposal characterization method, and the inclusion of the summary.

(2) The act requires rigid plastic packaging containers that are sold or offered for sale in this state to meet, on average, one of specified criteria and defines terms for purposes of those requirements. One of

those criteria that a rigid plastic packaging container may meet to satisfy this requirement is that the container be source reduced. The act provides for the enforcement of these requirements by the department and provides that an entity making a false certification pursuant to those requirements is subject to a violation for fraud.

This bill would revise the definitions of the various terms used in the those requirements, including revising the definition of the term “source reduced” to impose new requirements, thereby imposing a state-mandated local program by changing the definition of a crime.

(3) The act requires a business, which is defined as a commercial or public entity, that generates more than 4 cubic yards of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more, to arrange for recycling services. Existing law also requires jurisdictions to implement a commercial solid waste recycling program meeting specified elements. Existing law defines the term “commercial solid waste” by reference to a specified regulation.

This bill would instead define commercial solid waste in statute to include all types of solid waste generated by a store, office, or other commercial or public entity source, including a business or a multifamily dwelling of 5 or more units, thereby imposing a state-mandated local program by imposing new requirements upon local jurisdictions.

(4) 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 specified reasons.

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 41751 of the Public Resources Code is
- 2 repealed.
- 3 ~~41751. The countywide integrated waste management plan~~
- 4 ~~shall include a summary of significant waste management problems~~
- 5 ~~facing the county or city and county. The plan shall provide an~~
- 6 ~~overview of the specific steps that will be taken by local agencies,~~
- 7 ~~acting independently and in concert, to achieve the purposes of~~
- 8 ~~this division. The plan shall contain a statement of the goals and~~

1 objectives set forth by the countywide task force created pursuant
2 to Chapter 1 (commencing with Section 40900).

3 SEC. 2. Section 41770 of the Public Resources Code is
4 amended to read:

5 ~~41770. (a) Each countywide or regional agency integrated~~
6 ~~waste management plan, and the elements thereof, shall be~~
7 ~~reviewed, revised, if necessary, and submitted to the board every~~
8 ~~five years in accordance with the schedule set forth under Chapter~~
9 ~~7 (commencing with Section 41800).~~

10 (b) ~~Any revisions to a countywide or regional agency integrated~~
11 ~~waste management plan, and the elements thereof, shall use a waste~~
12 ~~disposal characterization method that the board shall develop for~~
13 ~~the use of the city, county, city and county, or regional agency.~~
14 ~~The city, county, city and county, or regional agency shall conduct~~
15 ~~waste disposal characterization studies, as prescribed by the board,~~
16 ~~if it fails to meet the diversion requirements of Section 41780, at~~
17 ~~the time of the five-year revision of the source reduction and~~
18 ~~recycling element.~~

19 (e)

20 41770. The board may review and revise its regulations
21 governing the contents of revised source reduction and recycling
22 elements to reduce duplications in one or more components of
23 these revised elements.

24 SEC. 3. Section 42301 of the Public Resources Code is
25 amended to read:

26 42301. For purposes of this chapter, the following definitions
27 apply:

28 (a) “Container manufacturer” means a company or a successor
29 company that *manufactures and* sells any rigid plastic packaging
30 container subject to this chapter to a manufacturer that sells or
31 offers for sale in this state any product packaged in that container.

32 (b) “Curbside collection program” means a recycling program
33 that collects materials set out by households for collection at the
34 curb at intervals not less than every two weeks. “Curbside
35 collection program” does not include redemption centers, buyback
36 locations, drop-off programs, material recovery facilities, or plastic
37 recovery facilities.

38 (c) “Refillable package” means a rigid plastic packaging
39 container that ~~the board determines~~ is routinely returned to and
40 refilled by the product manufacturer *or its agent* at least five times

1 with the original product contained by the ~~package~~ rigid plastic
 2 packaging containers.

3 (d) “Reusable package” means a rigid plastic packaging
 4 container that ~~the board determines~~ is routinely reused by
 5 consumers at least five times to store the original product contained
 6 by the package.

7 (e) “Manufacturer” means the producer or generator of a product
 8 that is sold or offered for sale in the state and that is stored inside
 9 of a rigid plastic packaging container.

10 (f) “Rigid plastic packaging container” means ~~any a plastic~~
 11 ~~package~~ packaging container having a relatively inflexible finite
 12 shape or form, with a minimum capacity of eight fluid ounces or
 13 its equivalent volume and a maximum capacity of five fluid gallons
 14 or its equivalent volume, that is capable of maintaining its shape
 15 while holding other products, including, but not limited to, bottles,
 16 cartons, and other receptacles, for sale or distribution in the state.

17 (g) (1) “Postconsumer material” means a material that would
 18 otherwise be destined for solid waste disposal, having completed
 19 its intended end use and product lifecycle. ~~Postconsumer~~

20 (2) *Except as provided in paragraph (3), postconsumer material*
 21 *does not include materials and byproducts generated from, and*
 22 *commonly reused within, an original manufacturing and fabrication*
 23 *process.*

24 (3) *“Postconsumer material” includes finished plastic packaging*
 25 *that has been rejected by a container or product manufacturer,*
 26 *and that would be commonly disposed of, if the department*
 27 *determines the material is later used in a process that is other than*
 28 *an original manufacturing and fabrication process.*

29 (h) “Recycled” means a product or material that has been reused
 30 in the production of another product and has been diverted from
 31 disposal in a landfill.

32 (i) “Recycling rate” means the proportion, as measured by
 33 weight, volume, or number, of a rigid plastic packaging container
 34 sold or offered for sale in the state that is being recycled in a given
 35 calendar year, that is one of the following:

36 (1) A particular type of rigid plastic packaging container, such
 37 as a milk jug, soft drink container, or detergent bottle.

38 (2) A product-associated rigid plastic packaging container.

39 (3) A single resin type, as specified in Section 18015, of rigid
 40 plastic packaging container, notwithstanding the exemption of that

1 container from this chapter pursuant to subdivision (b), (c), or (d)
2 of Section 42340.

3 (j) (1) “Source reduced container” means ~~either of the~~
4 ~~following:~~ *a rigid plastic container for which the container weight*
5 *per unit or number of product uses has been reduced by 10 percent*
6 *when compared with one of the following:*

7 ~~(A) A rigid plastic packaging container for which the~~
8 ~~manufacturer seeks compliance as of January 1, 1995, whose~~
9 ~~package weight per unit or use of product has been reduced by 10~~
10 ~~percent when compared with the packaging used for that product~~
11 ~~by the manufacturer from January 1, 1990, to December 31, 1994.~~

12 ~~(B) A rigid plastic container for which the manufacturer seeks~~
13 ~~compliance after January 1, 1995, whose package weight per unit~~
14 ~~or use of product has been reduced by 10 percent when compared~~
15 ~~with one of the following:~~

16 ~~(i) The~~

17 ~~(A) The rigid plastic packaging container used for the product~~
18 ~~by the manufacturer on January 1, 1995.~~

19 ~~(ii) The~~

20 ~~(B) The rigid plastic packaging container used for that product~~
21 ~~by the product manufacturer over the course of the first full year~~
22 ~~of commerce in this state.~~

23 ~~(iii) The~~

24 ~~(C) A rigid plastic packaging container used in commerce that~~
25 ~~in this state during the same year for similar products in similar~~
26 ~~rigid plastic packaging containers by the product manufacturer~~
27 ~~whose containers have not been considered source reduced, or a~~
28 ~~particular type of rigid plastic packaging container that is used~~
29 ~~to hold a similar product by other product manufacturers, as~~
30 ~~determined by the department, whose containers have not been~~
31 ~~considered source reduced.~~

32 (2) A rigid plastic packaging container is not a source reduced
33 container for the purposes of this chapter if the packaging reduction
34 was achieved by any of the following:

35 (A) Substituting a different material type for a material that
36 previously constituted the principal material of the container.

37 (B) Increasing a container’s weight per unit or use of product
38 number of product uses after January 1, 1991.

1 (C) Packaging changes that adversely affect the potential for
2 the rigid plastic packaging container to be recycled or to be made
3 of postconsumer material.

4 (k) “Product-associated rigid plastic packaging container” means
5 a brand-specific, rigid plastic packaging *container* line that may
6 have one or more sizes, shapes, or designs and that is used in
7 conjunction with a particular generic product line.

8 (l) “PETE” means polyethylene terephthalate as specified in
9 subdivision (a) of Section 18015.

10 (m) “HDPE” means high-density polyethylene.

11 SEC. 4. Section 42649.1 of the Public Resources Code is
12 amended to read:

13 42649.1. For purposes of this chapter, the following ~~terms~~
14 ~~mean the following~~ *shall apply*:

15 (a) “Business” means a commercial or public entity, including,
16 but not limited to, a firm, partnership, proprietorship, joint stock
17 company, corporation, or association that is organized as a
18 for-profit or nonprofit entity, or a multifamily residential dwelling.

19 (b) “Commercial solid waste” ~~has the same meaning as defined~~
20 ~~in Section 17225.12 of Title 14 of the California Code of~~
21 ~~Regulations~~ *includes all types of solid waste generated by a store,*
22 *office, or other commercial or public entity source, including a*
23 *business or a multifamily dwelling of five or more units.*

24 (c) “Commercial waste generator” means a business subject to
25 subdivision (a) of Section 42649.2.

26 (d) “Self-hauler” means a business that hauls its own waste
27 rather than contracting for that service.

28 SEC. 5. Section 42649.3 of the Public Resources Code is
29 amended to read:

30 42649.3. (a) On and after July 1, 2012, each jurisdiction shall
31 implement a commercial solid waste recycling program appropriate
32 for that jurisdiction designed to divert commercial solid waste
33 from businesses subject to Section ~~42649.2~~ 42649.2, whether or
34 not the jurisdiction has met the requirements of Section 41780.

35 (b) If a jurisdiction already has a commercial solid waste
36 recycling program as one of its diversion elements that meets the
37 requirements of this section, it shall not be required to implement
38 a new or expanded commercial solid waste recycling program.

39 (c) The commercial solid waste recycling program shall be
40 directed at a commercial waste generator, as defined in subdivision

1 ~~(b)~~ (c) of Section 42649.1, and may include, but is not limited to,
2 any of the following:

3 (1) Implementing a mandatory commercial solid waste recycling
4 policy or ordinance.

5 (2) Requiring a mandatory commercial solid waste recycling
6 program through a franchise contract or agreement.

7 (3) Requiring all commercial solid waste to go through either
8 a source separated or mixed processing system that diverts material
9 from disposal.

10 (d) The commercial solid waste recycling program shall include
11 education, outreach to, and monitoring of, businesses. A
12 jurisdiction shall notify a business if the business is not in
13 compliance with Section 42649.2.

14 (e) The commercial solid waste recycling program may include
15 enforcement provisions that are consistent with a jurisdiction's
16 authority, including a structure for fines and penalties.

17 (f) The commercial solid waste recycling program may include
18 certification requirements for self-haulers.

19 (g) The department shall review a jurisdiction's compliance
20 with this section as part of the department's review required by
21 Section 41825. Each jurisdiction shall report the progress achieved
22 in implementing its commercial recycling program, including
23 education, outreach, identification, and monitoring, and if
24 applicable, enforcement efforts, by providing updates in the annual
25 report required by Section 41821.

26 (h) The department may also review whether a jurisdiction is
27 in compliance with this section at any time that the department
28 receives information that a jurisdiction has not implemented, or is
29 not making a good faith effort to implement, a commercial
30 recycling program.

31 (i) During its review pursuant to subdivision (g) or (h), the
32 department shall determine whether each jurisdiction has made a
33 good faith effort to implement its selected commercial recycling
34 program. For purposes of this section, "good faith effort" means
35 all reasonable and feasible efforts by a jurisdiction to implement
36 its commercial recycling program. During its review, the
37 department may include, but is not limited to, the following factors
38 in its evaluation of a jurisdiction's good faith effort:

39 (1) The extent to which businesses have complied with Section
40 42649.2, including information on the amount of disposal that is

1 being diverted from the businesses, if available, and on the number
2 of businesses that are subscribing to service.

3 (2) The recovery rate of the commercial waste from the material
4 recovery facilities that are utilized by the businesses, all
5 information, methods, and calculations, and any additional
6 performance data, as requested by the department from the material
7 recovery facilities pursuant to Section 18809.4 of Title 14 of the
8 California Code of Regulations.

9 (3) The extent to which the jurisdiction is conducting education
10 and outreach to businesses.

11 (4) The extent to which the jurisdiction is monitoring businesses,
12 and notifying those businesses that are out of compliance.

13 (5) The availability of markets for collected recyclables.

14 (6) Budgetary constraints.

15 (7) In the case of a rural jurisdiction, the effects of small
16 geographic size, low population density, or distance to markets.

17 SEC. 6. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 a local agency or school district has the authority to levy service
20 charges, fees, or assessments sufficient to pay for the program or
21 level of service mandated by this act or because costs that may be
22 incurred by a local agency or school district will be incurred
23 because this act creates a new crime or infraction, eliminates a
24 crime or infraction, or changes the penalty for a crime or infraction,
25 within the meaning of Section 17556 of the Government Code, or
26 changes the definition of a crime within the meaning of Section 6
27 of Article XIII B of the California Constitution.