

**ASSEMBLY BILL**

**No. 158**

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**Introduced by Assembly Member Levine  
(Coauthors: Assembly Members Ammiano, Chesbro, and  
Lowenthal)**

January 22, 2013

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An act to add Chapter 5.3 (commencing with Section 42280) to Part 3 of Division 30 of, and to repeal Section 42289 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 158, as introduced, Levine. Solid waste: single-use carryout bags.

Existing law, until January 1, 2020, 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.

With specified exceptions, this bill would, as of January 1, 2015, prohibit stores that have a specified amount of dollar sales or retail floor space from providing a single-use carryout bag to a customer. The bill would require these stores to meet other specified requirements regarding providing recycled paper bags, compostable bags, or reusable bags to customers.

The bill would also require these stores, on and after January 1, 2020, to provide a plastic bag collection bin for their customers, for the purpose of collecting and recycling single-use plastic bags and reusable bags.

The bill would, on and after July 1, 2016, additionally impose these prohibitions and requirements on convenience food stores, foodmarts,

and certain other specified stores, except for the requirement to provide plastic bag collection bins.

The bill would, beginning January 1, 2016, require a reusable grocery bag producer to submit to the Department of Resources Recycling and Recovery a biennial certification, including a certification fee 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 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. The bill would require that moneys in the account be expended by the department, upon appropriation by the Legislature, to implement the 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, 2017, 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, 2018.

The bill would allow a city, county, or 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.

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 5.3 (commencing with Section 42280)  
2 is added to Part 3 of Division 30 of the Public Resources Code, to  
3 read:

1 CHAPTER 5.3. SINGLE-USE CARRYOUT BAGS

2  
3 Article 1. Definitions

4  
5 42280. For purposes of this chapter, the following definitions  
6 shall apply:

7 (a) “Department” means the Department of Resources Recycling  
8 and Recovery.

9 (b) “Postconsumer recycled material” means a material that  
10 would otherwise be destined for solid waste disposal, having  
11 completed its intended end use and product life cycle.  
12 Postconsumer recycled material does not include materials and  
13 byproducts generated from, and commonly reused within, an  
14 original manufacturing and fabrication process.

15 (c) “Recycled paper bag” means a paper carryout bag provided  
16 by a store to a customer at the point of sale that meets all of the  
17 following requirements:

18 (1) (A) Except as provided in subparagraph (B), the paper  
19 carryout bag contains a minimum of 40 percent postconsumer  
20 recycled materials.

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

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

26 (3) Is capable of composting, consistent with the timeline and  
27 specifications of the American Society of Testing and Materials  
28 (ASTM) Standard Specification for Compostable Plastics D6400.

29 (4) Has printed on the bag the name of the manufacturer, the  
30 location (country) where the bag was manufactured, and the  
31 minimum percentage of postconsumer content.

32 (d) (1) “Reusable grocery bag” on or before June 30, 2016,  
33 means either of the following:

34 (A) A bag made of cloth or other machine washable fabric that  
35 has handles.

36 (B) A durable plastic bag with handles that is at least 2.25 mils  
37 thick and specifically designed for multiple reuses.

38 (2) “Reusable grocery bag” on and after July 1, 2016, means a  
39 bag that meets the requirements of Section 42287.

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

3 (1) Manufactures reusable grocery bags for sale or distribution  
4 to a store.

5 (2) Imports reusable grocery bags into this state, for sale or  
6 distribution to a store.

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

8 (f) (1) “Single-use carryout bag” means a bag made of plastic,  
9 paper, or other material, that is provided by a store to a customer  
10 at the point of sale and that is not a reusable grocery bag that meets  
11 the requirements of Section 42287, on and after July 1, 2016, and  
12 paragraph (1) of subdivision (d) of this section on or before June  
13 30, 2016.

14 (2) A single-use carryout bag does not include either of the  
15 following:

16 (A) A bag provided by a pharmacy pursuant to Chapter 9  
17 (commencing with Section 4000) of Division 2 of the Business  
18 and Professions Code to a customer purchasing a prescription  
19 medication.

20 (B) A nonhandled bag used to protect a purchased item from  
21 damaging or contaminating other purchased items when placed in  
22 a recycled paper bag or reusable grocery bag.

23 (g) “Store” means a retail establishment that meets any of the  
24 following requirements:

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

29 (2) Has at least 10,000 square feet of retail space that generates  
30 sales or use tax pursuant to the Bradley-Burns Uniform Local Sales  
31 and Use Tax Law (Part 1.5 (commencing with Section 7200) of  
32 Division 2 of the Revenue and Taxation Code) and has a pharmacy  
33 licensed pursuant to Chapter 9 (commencing with Section 4000)  
34 of Division 2 of the Business and Professions Code.

35 (3) Is a convenience food store, foodmart, or other entity that  
36 is engaged in the retail sale of a limited line of goods, generally  
37 including milk, bread, soda, and snack foods, and that holds a Type  
38 20 or Type 21 license issued by the Department of Alcoholic  
39 Beverage Control.

1 Article 2. Carryout Bag Regulation

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3 42281. (a) Except as provided in Section 42282, the  
4 requirements of this section apply only to a store, as defined in  
5 paragraph (1) or (2) of subdivision (g) of Section 42280.

6 (b) (1) On and after January 1, 2015, a store shall not provide  
7 a single-use carryout bag to a customer at the point of sale, except  
8 as provided in this section.

9 (2) On January 1, 2015, until June 30, 2016, a store may provide  
10 to a customer a reusable grocery bag, as defined in paragraph (1)  
11 of subdivision (d) of Section 42280.

12 (3) On and after July 1, 2016, a store shall only provide to a  
13 customer a reusable grocery bag, as defined in paragraph (2) of  
14 subdivision (d) of Section 42280, that meets the requirements of  
15 Section 42287.

16 (c) A store shall make reusable grocery bags available for  
17 purchase by a customer.

18 (d) Notwithstanding any other law, on and after January 1, 2015,  
19 a store shall provide a customer participating in the California  
20 Special Supplemental Food Program for Women, Infants, and  
21 Children pursuant to Article 2 (commencing with Section 123275)  
22 of Chapter 1 of Part 2 of Division 106 of the Health and Safety  
23 Code and a customer participating in the Supplemental Food  
24 Program pursuant to Chapter 10 (commencing with Section 15500)  
25 of Part 3 of Division 9 of the Welfare and Institutions Code, with  
26 a reusable grocery bag or a recycled paper bag at no cost at the  
27 point of sale.

28 (e) Notwithstanding subdivision (b), a store may make available  
29 for purchase at the point of sale a recycled paper bag.

30 (f) Notwithstanding subdivision (b), a store may make available  
31 for purchase at the point of sale a compostable bag, that at a  
32 minimum meets the American Society for Testing and Materials  
33 (ASTM) Standard Specification for Compostable Plastics D6400,  
34 if both of the following requirements are met in the jurisdiction  
35 where the compostable bag is sold:

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

38 (2) The governing authority for the jurisdiction has voted to  
39 allow stores in the jurisdiction to sell to a consumer at the point

1 of sale a compostable bag at a cost not less than the actual cost of  
2 the bags.

3 42282. On and after July 1, 2016, a store, as defined in  
4 paragraph (3) of subdivision (g) of Section 42280, shall comply  
5 with the same requirements of this article that are imposed upon  
6 a store, as defined in paragraph (1) or (2) of subdivision (g) of  
7 Section 42880.

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Article 3. Plastic Bag Collection

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11 42283. (a) (1) On and after January 1, 2020, a store, as defined  
12 in paragraphs (1) and (2) of subdivision (g) of Section 42280, shall  
13 place a plastic bag collection bin at the store in a manner that is  
14 visible and easily accessible to the customer, and that is clearly  
15 marked to notify customers that the collection bin is available for  
16 the purpose of collection and recycling of plastic single-use  
17 carryout bags and plastic reusable bags.

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

21 (b) All plastic bags collected by the store shall be collected,  
22 transported, and recycled in a manner that does not conflict with  
23 the local jurisdiction’s source reduction and recycling element,  
24 pursuant to Chapter 2 (commencing with Section 41000) and  
25 Chapter 3 (commencing with Section 41300) of Part 2.

26

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Article 4. Reusable Grocery Bags

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29 42287. (a) On and after July 1, 2016, a reusable grocery bag  
30 shall meet all of the following requirements:

31 (1) (A) Be designed and manufactured to withstand, at a  
32 minimum, 125 uses.

33 (B) For purposes of this paragraph, “125 uses” means the  
34 capability of carrying a minimum of 22 pounds 125 times over a  
35 distance of at least 175 feet.

36 (2) Is machine washable or made from a material that can be  
37 cleaned and disinfected.

38 (3) Have printed on the bag, or on a tag attached to the bag that  
39 is not intended to be removed, and in a manner visible to the  
40 consumer the following information:

- 1 (A) The name of the manufacturer.
- 2 (B) The location (country) where the bag was manufactured.
- 3 (C) A recycling symbol or end-of-life management instructions.
- 4 (D) The percentage of postconsumer recycled material, if any.

5 (4) It shall not contain lead, cadmium, or any other heavy metal  
6 in toxic amounts. This requirement shall not affect any authority  
7 of the Department of Toxic Substances Control pursuant to Article  
8 14 (commencing with Section 25251) of Chapter 6.5 of Division  
9 20 of the Health and Safety Code and, notwithstanding subdivision  
10 (c) of Section 25257.1 of the Health and Safety Code, the reusable  
11 grocery bag shall not be considered as a product category already  
12 regulated or subject to regulation.

13 (5) If the reusable grocery bag producer makes a claim that it  
14 is recyclable, the producer shall demonstrate compliance with the  
15 regulations adopted by the Federal Trade Commission.

16 (b) In addition to the requirements in subdivision (a), a reusable  
17 grocery bag made from plastic shall meet all of the following  
18 requirements:

19 (1) On and after July 1, 2017, be made from a minimum of 20  
20 percent postconsumer recycled material, except as provided in  
21 subdivision (d).

22 (2) In addition to the information required to be printed on the  
23 bag or on a tag, pursuant to paragraph (3) of subdivision (a), all  
24 of the following information shall be printed on the bag, or on a  
25 tag that complies with that paragraph:

26 (A) A statement that the bag is a reusable bag and designed for  
27 at least 125 uses.

28 (B) Instructions to return the bag to the store for recycling or  
29 to another appropriate recycling location.

30 (c) A plastic reusable grocery bag that also meets the  
31 specifications of the American Society of Testing and Materials  
32 (ASTM) Standard Specification for Compostable Plastics D6400,  
33 as published in September 2004, is not required to meet the  
34 requirements of paragraph (1) of subdivision (b), but shall be  
35 labeled in accordance with the applicable state law regarding  
36 compostable plastics.

37 (d) (1) If a plastic reusable grocery bag producer is unable to  
38 obtain sufficient amounts of postconsumer recycled material to  
39 comply with this article within a reporting period because of  
40 unavailability, the producer shall demonstrate to the department

1 the actions taken by that plastic reusable grocery bag producer to  
2 find that postconsumer recycled material.

3 (2) A plastic reusable grocery bag producer making the  
4 demonstration in paragraph (1) shall make a reasonable effort to  
5 identify available supplies of postconsumer recycled material  
6 before submitting a certification containing this information to the  
7 department pursuant to Section 42288.

8 (3) A plastic reusable grocery bag producer that makes a  
9 demonstration pursuant to paragraph (1) shall include the greatest  
10 amount of postconsumer recycled material possible in the reusable  
11 grocery bag, even if this amount is less than required by paragraph  
12 (1) of subdivision (b) and shall indicate the percentage that is  
13 postconsumer recycled material.

14 42288. (a) On or before January 1, 2016, and on January 1  
15 every two years thereafter on a schedule and in a manner  
16 determined by the department, a reusable grocery bag producer  
17 shall submit a certification to the department for each type of  
18 reusable grocery bag that is manufactured, imported, sold, or  
19 distributed in the state and provided to a store for sale or  
20 distribution that meets the requirements of Section 42287.

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

24 (c) The department shall provide a system to submit  
25 certifications online.

26 (d) On and after July 1, 2016, the department shall publish a  
27 list on its Internet Web site that includes both of the following:

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

31 (2) The reusable grocery bags that are in compliance with this  
32 article.

33 (e) The department shall establish a certification fee schedule  
34 that will generate fee revenues sufficient to cover all of the  
35 department's costs to enforce this article. Fee revenues shall not  
36 exceed the amount necessary to cover the department's reasonable  
37 costs to enforce this article.

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

1 (g) The department may test any reusable bag manufactured by  
2 a reusable bag producer and provided to a store for sale or  
3 distribution for compliance with this article and the regulations  
4 adopted pursuant to this article.

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

8 (i) Notwithstanding Section 42289.5, any violation of this article  
9 shall be subject to an administrative civil penalty assessed by the  
10 department in an amount not to exceed five hundred dollars (\$500)  
11 for the first violation. A subsequent violation may be subject to  
12 an increased penalty of up to five hundred dollars (\$500) per  
13 violation, not to exceed five thousand dollars (\$5,000) per violation.

14 (j) The department shall deposit all certification fees paid  
15 pursuant to this article into the Reusable Bag Account, which is  
16 hereby created in the Integrated Waste Management Fund in the  
17 State Treasury. The moneys deposited in the Reusable Bag Account  
18 shall be expended by the department, upon appropriation by the  
19 Legislature, to assist the department with its costs of implementing  
20 this article.

21 (k) The department shall deposit all penalties collected pursuant  
22 to subdivision (i) for a violation of this article into the Penalty  
23 Subaccount, which is hereby created in the Reusable Bag Account.  
24 The moneys in the Penalty Subaccount shall be expended by the  
25 department, upon appropriation by the Legislature, to assist the  
26 department with its costs of implementing this article.

27  
28 Article 5. Reporting Requirements  
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30 42289. (a) On or before January 1, 2017, the department shall  
31 submit a report to the Legislature in accordance with Section 9795  
32 of the Government Code, regarding the effectiveness of this chapter  
33 and recommendations for statutory changes to increase  
34 effectiveness, which shall include all of the following:

35 (1) A compilation of state cleanup data to evaluate pollution  
36 reduction.

37 (2) Recommendations to further encourage the use of reusable  
38 grocery bags by customers and stores.

39 (3) An evaluation of the requirements for reusable bags specified  
40 in Section 42287.

1 (4) Distribution of recycled paper bags.

2 (5) Number and type of violations.

3 (b) The department shall coordinate with other state and local  
4 agencies in compiling this report to maximize existing efforts and  
5 resources in the areas of litter reduction, water quality, and  
6 environmental protection.

7 (c) Pursuant to Section 110231.5 of the Government Code, this  
8 section is repealed on January 1, 2018.

9

10 Article 6. Enforcement

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12 42289.5. (a) A city, a county, a city and county, or the state  
13 may impose civil liability in the amount of five hundred dollars  
14 (\$500) for the first violation of this chapter, one thousand dollars  
15 (\$1,000) for the second violation, and two thousand dollars  
16 (\$2,000) for the third and subsequent violations.

17 (b) Any civil penalties collected pursuant to subdivision (a)  
18 shall be paid to the office of the city attorney, city prosecutor,  
19 district attorney, or Attorney General, whichever office brought  
20 the action. The penalties collected pursuant to this section by the  
21 Attorney General may be expended by the Attorney General, upon  
22 appropriation by the Legislature, to enforce this chapter.

23 (c) This section does not apply to a violation of Article 4  
24 (commencing with Section 42287).