

AMENDED IN ASSEMBLY APRIL 9, 2013  
AMENDED IN ASSEMBLY MARCH 20, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 158**

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

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 amended, 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, *as of January 1, 2015*, 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; *and* compostable bags; ~~or reusable bags~~ to customers. *The bill would require these stores to make reusable grocery bags available to customers.*

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.

The bill, *beginning January 1, 2016*, would, ~~beginning January 1, 2016~~, require ~~a reusable grocery bag producer bags~~ 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 that are sold or provided to a store by a reusable grocery bag producer meet~~ specified requirements. The bill would require the department to deposit ~~the certification fees all penalties collected for violations of these requirements~~ 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 these~~ 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. *The bill would provide that these remedies are not exclusive, as specified.*

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:

4  
5 CHAPTER 5.3. SINGLE-USE CARRYOUT BAGS

6  
7 Article 1. Definitions

8  
9 42280. For purposes of this chapter, the following definitions  
10 shall apply:

11 (a) "Department" means the Department of Resources Recycling  
12 and Recovery.

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

19 (c) "Recycled paper bag" means a paper carryout bag provided  
20 by a store to a customer at the point of sale that meets all of the  
21 following requirements:

22 (1) ~~(A) Except as provided in subparagraph (B), the paper~~  
23 ~~carryout bag contains~~ *Contains* a minimum of 40 percent  
24 postconsumer recycled materials, *except as provided in*  
25 *subparagraph (B).*

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

28 (2) Is accepted for recycling in curbside programs in a majority  
29 of households that have access to curbside recycling programs in  
30 the state.

31 ~~(3) Is capable of composting, consistent with the timeline and~~  
32 ~~specifications of the American Society of Testing and Materials~~  
33 ~~(ASTM) Standard Specification for Compostable Plastics D6400.~~

34 ~~(4)~~  
35 (3) Has printed on the bag the name of the manufacturer, the  
36 location (country) where the bag was manufactured, and the  
37 minimum percentage of postconsumer content.

- 1 (d) (1) “Reusable grocery bag” on or before June 30, 2016,  
2 means either of the following:
- 3 (A) A bag made of cloth or other machine washable fabric that  
4 has handles.
- 5 (B) A durable plastic bag with handles that is at least 2.25 mils  
6 thick and specifically designed for multiple reuses.
- 7 (2) “Reusable grocery bag” on and after July 1, 2016, means a  
8 bag that meets the requirements of Section 42287.
- 9 (e) “Reusable grocery bag producer” means a person or entity  
10 that does any of the following:
- 11 (1) Manufactures reusable grocery bags for sale or distribution  
12 to a store.
- 13 (2) Imports reusable grocery bags into this state, for sale or  
14 distribution to a store.
- 15 (3) Sells or distributes reusable bags to a store.
- 16 (f) (1) “Single-use carryout bag” means a bag made of plastic,  
17 paper, or other material, that is provided by a store to a customer  
18 at the point of sale and that is not *a recycled paper bag or a*  
19 *reusable grocery bag that meets the requirements of Section 42287,*  
20 *on and after July 1, 2016, and paragraph (1) of subdivision (d) of*  
21 *this section on or before June 30, 2016 subdivision (b) of Section*  
22 *42287.*
- 23 (2) A single-use carryout bag does not include either of the  
24 following:
- 25 (A) A bag provided by a pharmacy pursuant to Chapter 9  
26 (commencing with Section 4000) of Division 2 of the Business  
27 and Professions Code to a customer purchasing a prescription  
28 medication.
- 29 (B) A nonhandled bag used to protect a purchased item from  
30 damaging or contaminating other purchased items when placed in  
31 a recycled paper bag or reusable grocery bag.
- 32 (g) “Store” means a retail establishment that meets any of the  
33 following requirements:
- 34 (1) A full-line, self-service retail store with gross annual sales  
35 of two million dollars (\$2,000,000), or more, and ~~which~~ *that* sells  
36 a line of dry grocery items, canned goods, or nonfood items, and  
37 some perishable items.
- 38 (2) Has at least 10,000 square feet of retail space that generates  
39 sales or use tax pursuant to the Bradley-Burns Uniform Local Sales  
40 and Use Tax Law (Part 1.5 (commencing with Section 7200) of

1 Division 2 of the Revenue and Taxation Code) and has a pharmacy  
2 licensed pursuant to Chapter 9 (commencing with Section 4000)  
3 of Division 2 of the Business and Professions Code.

4 (3) Is a convenience food store, foodmart, or other entity that  
5 is engaged in the retail sale of a limited line of goods, generally  
6 including milk, bread, soda, and snack foods, and that holds a Type  
7 20 or Type 21 license issued by the Department of Alcoholic  
8 Beverage Control.

9

10 Article 2. Carryout ~~Bag Regulation~~ *Bags*

11

12 42281. (a) ~~Except as provided in Section 42282, (1) On or~~  
13 ~~before June 30, 2016,~~ the requirements of this section *shall* apply  
14 only to a store, ~~as that is~~ defined in paragraph (1) or (2) of  
15 subdivision (g) of Section 42280.

16 (2) *On and after July 1, 2016, the requirements of this section*  
17 *shall apply to a store, as defined in subdivision (g) of Section*  
18 *42280.*

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

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

25 (3) On and after July 1, 2016, a store shall only provide to a  
26 customer *at the point of sale* a reusable grocery bag, as defined in  
27 paragraph (2) of subdivision (d) of Section 42280, that meets the  
28 requirements of Section 42287.

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

31 (d) *Notwithstanding subdivision (b), a store may make available*  
32 *for purchase at the point of sale a recycled paper bag.*

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

39 (1) *A majority of the residential households in the jurisdiction*  
40 *have access to curbside collection of food waste for composting.*

1 (2) *The governing authority for the jurisdiction has voted to*  
 2 *allow stores in the jurisdiction to sell to a consumer at the point*  
 3 *of sale a compostable bag at a cost not less than the actual cost*  
 4 *of the bag.*

5 ~~(d)~~

6 (f) Notwithstanding any other law, on and after January 1, 2015,  
 7 a store shall provide a customer participating in the California  
 8 Special Supplemental Food Program for Women, Infants, and  
 9 Children pursuant to Article 2 (commencing with Section 123275)  
 10 of Chapter 1 of Part 2 of Division 106 of the Health and Safety  
 11 Code and a customer participating in the Supplemental Food  
 12 Program pursuant to Chapter 10 (commencing with Section 15500)  
 13 of Part 3 of Division 9 of the Welfare and Institutions Code, with  
 14 a reusable grocery bag or a recycled paper bag at no cost at the  
 15 point of sale.

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

18 ~~(f) Notwithstanding subdivision (b), a store may make available~~  
 19 ~~for purchase at the point of sale a compostable bag, that at a~~  
 20 ~~minimum meets the American Society for Testing and Materials~~  
 21 ~~(ASTM) Standard Specification for Compostable Plastics D6400,~~  
 22 ~~if both of the following requirements are met in the jurisdiction~~  
 23 ~~where the compostable bag is sold:~~

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

26 ~~(2) The governing authority for the jurisdiction has voted to~~  
 27 ~~allow stores in the jurisdiction to sell to a consumer at the point~~  
 28 ~~of sale a compostable bag at a cost not less than the actual cost of~~  
 29 ~~the bags.~~

30 ~~42282. On and after July 1, 2016, a store, as defined in~~  
 31 ~~paragraph (3) of subdivision (g) of Section 42280, shall comply~~  
 32 ~~with the same requirements of this article that are imposed upon~~  
 33 ~~a store, as defined in paragraph (1) or (2) of subdivision (g) of~~  
 34 ~~Section 42880.~~

35

### 36 Article 3. Reusable Grocery Bags

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38 42287. (a) On and after July 1, 2016, a reusable grocery bag  
 39 *sold or provided to a store by a reusable grocery bag producer*

1 *for purposes of this chapter* shall meet all of the following  
2 requirements:

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

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

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

10 (3) ~~Have~~*Has* printed on the bag, or on a tag attached to the bag  
11 that is not intended to be removed, and in a manner visible to the  
12 consumer the following information:

13 (A) The name of the manufacturer.

14 (B) The location (country) where the bag was manufactured.

15 (C) ~~A—The appropriate~~ recycling symbol or end-of-life  
16 management instructions.

17 (D) The percentage of postconsumer recycled material, if any.

18 (4) ~~It shall~~*Does* not contain lead, cadmium, or any other heavy  
19 metal in toxic amounts. This requirement shall not affect any  
20 authority of the Department of Toxic Substances Control pursuant  
21 to Article 14 (commencing with Section 25251) of Chapter 6.5 of  
22 Division 20 of the Health and Safety Code and, notwithstanding  
23 subdivision (c) of Section 25257.1 of the Health and Safety Code,  
24 the reusable grocery bag shall not be considered as a product  
25 category already regulated or subject to regulation.

26 (5) If the reusable grocery bag producer makes a claim that it  
27 is recyclable, the producer shall ~~demonstrate compliance with the~~  
28 ~~regulations adopted by the Federal Trade Commission~~ *comply with*  
29 *the requirements of Part 260 of Title 16 of the Code of Federal*  
30 *Regulations relating to environmental marketing claims.*

31 (b) In addition to the requirements in subdivision (a), a reusable  
32 grocery bag made from plastic shall meet ~~all~~ *both* of the following  
33 requirements:

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

37 (2) In addition to the information required to be printed on the  
38 bag or on a tag, pursuant to paragraph (3) of subdivision (a), all  
39 of the following information shall be printed on the bag, or on a  
40 tag that complies with that paragraph:

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

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

5 ~~(c) A plastic reusable grocery bag that also meets the~~  
6 ~~specifications of the American Society of Testing and Materials~~  
7 ~~(ASTM) Standard Specification for Compostable Plastics D6400,~~  
8 ~~as published in September 2004, is not required to meet the~~  
9 ~~requirements of paragraph (1) of subdivision (b), but shall be~~  
10 ~~labeled in accordance with the applicable state law regarding~~  
11 ~~compostable plastics.~~

12 ~~(d)~~

13 (c) (1) If, *after making a reasonable effort to identify*  
14 *postconsumer recycled material*, a plastic reusable grocery bag  
15 producer is unable to obtain sufficient amounts of postconsumer  
16 recycled material to comply with this article ~~within a reporting~~  
17 ~~period~~ because of unavailability, *upon the request of the*  
18 *department*, the producer shall demonstrate to the department the  
19 actions taken by that plastic reusable grocery bag producer to find  
20 that postconsumer recycled material.

21 ~~(2) A plastic reusable grocery bag producer making the~~  
22 ~~demonstration in paragraph (1) shall make a reasonable effort to~~  
23 ~~identify available supplies of postconsumer recycled material~~  
24 ~~before submitting a certification containing this information to the~~  
25 ~~department pursuant to Section 42288.~~

26 ~~(3)~~

27 (2) A plastic reusable grocery bag producer ~~that makes a~~  
28 ~~demonstration pursuant~~ *subject* to paragraph (1) shall include the  
29 greatest amount of postconsumer recycled material possible in the  
30 reusable grocery bag, even if this amount is less than required by  
31 paragraph (1) of subdivision (b) and shall indicate the percentage  
32 that is postconsumer recycled material.

33 ~~42288. (a) On or before January 1, 2016, and on January 1~~  
34 ~~every two years thereafter on a schedule and in a manner~~  
35 ~~determined by the department, a reusable grocery bag producer~~  
36 ~~shall submit a certification to the department for each type of~~  
37 ~~reusable grocery bag that is manufactured, imported, sold, or~~  
38 ~~distributed in the state and provided to a store for sale or~~  
39 ~~distribution that meets the requirements of Section 42287.~~

1 ~~(b) A reusable grocery bag producer shall submit a fee, as~~  
2 ~~established pursuant to subdivision (e), to the department with~~  
3 ~~each certification submitted.~~

4 ~~(c) The department shall provide a system to submit~~  
5 ~~certifications online.~~

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

8 ~~(1) The name, location, and appropriate contact information of~~  
9 ~~a reusable grocery bag producer that is in compliance with this~~  
10 ~~article.~~

11 ~~(2) The reusable grocery bags that are in compliance with this~~  
12 ~~article.~~

13 ~~(e) The department shall establish a certification fee schedule~~  
14 ~~that will generate fee revenues sufficient to cover all of the~~  
15 ~~department's costs to enforce this article. Fee revenues shall not~~  
16 ~~exceed the amount necessary to cover the department's reasonable~~  
17 ~~costs to enforce this article.~~

18 ~~(f)~~

19 42288. (a) The department may inspect and audit a reusable  
20 *grocery* bag producer subject to this article, with all costs  
21 associated with the *inspection or* audit being paid for by the  
22 reusable grocery bag producer.

23 ~~(g)~~

24 (b) The department may test any reusable *grocery* bag  
25 manufactured by a reusable *grocery* bag producer and provided  
26 to a store for sale or distribution for compliance with this article  
27 and the regulations adopted pursuant to this article. *All costs*  
28 *associated with the test shall be paid for by the reusable grocery*  
29 *bag producer.*

30 ~~(h)~~

31 (c) The department may enter into an agreement with other state  
32 entities that conduct inspections to provide necessary enforcement  
33 of this article.

34 ~~(i)~~

35 (d) Notwithstanding Section 42289.5, ~~any~~ a violation of this  
36 article *by a reusable grocery bag producer* shall be subject to an  
37 administrative civil penalty assessed by the department in an  
38 amount not to exceed five hundred dollars (\$500) for the first  
39 violation. A subsequent violation may be subject to an increased

1 penalty of up to five hundred dollars (\$500) per violation, not to  
2 exceed five thousand dollars (\$5,000) per violation.

3 (j)

4 (e) The department shall deposit all ~~certification fees~~ *penalties*  
5 paid pursuant to this article into the Reusable Bag Account, which  
6 is hereby created in the Integrated Waste Management Fund in the  
7 State Treasury. The moneys deposited in the Reusable Bag Account  
8 shall be expended by the department, upon appropriation by the  
9 Legislature, to assist the department with its costs of implementing  
10 this article.

11 ~~(k) The department shall deposit all penalties collected pursuant~~  
12 ~~to subdivision (i) for a violation of this article into the Penalty~~  
13 ~~Subaccount, which is hereby created in the Reusable Bag Account.~~  
14 ~~The moneys in the Penalty Subaccount shall be expended by the~~  
15 ~~department, upon appropriation by the Legislature, to assist the~~  
16 ~~department with its costs of implementing this article.~~

17  
18 Article 4. Reporting Requirements

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20 42289. (a) On or before January 1, 2017, the department shall  
21 submit a report to the Legislature in accordance with Section 9795  
22 of the Government Code, regarding the effectiveness of this chapter  
23 and recommendations for statutory changes to increase  
24 effectiveness, which shall include all of the following:

25 (1) A compilation of state cleanup data to evaluate pollution  
26 reduction.

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

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

31 (4) Distribution of recycled paper bags.

32 (5) Number and type of violations.

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

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

Article 5. Enforcement

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

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

(c) ~~This section does~~ *Subdivisions (a) and (b) shall not apply to a violation of Article 3 (commencing with Section 42287).*

(d) *This chapter shall not be exclusive and shall not limit the ability of a city, county, city and county, or the state to pursue enforcement pursuant to Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.*