

AMENDED IN ASSEMBLY MAY 7, 2013

AMENDED IN ASSEMBLY APRIL 19, 2013

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 521

Introduced by Assembly Member Stone
(Principal coauthor: Senator Hueso)

February 20, 2013

An act to add Chapter 20.5 (commencing with Section 42985) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 521, as amended, Stone. Recycling: marine plastic pollution.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state to generally meet one of specified criteria.

This bill would require the department, by June 1, 2014, in coordination with the Ocean Protection Council and the State Water Resources Control Board, to adopt regulations to implement the bill. The department would be required, by July 1, 2014, in consultation with the council and the state water board, to adopt a list that specifies those items, or categories of items, that the department finds are the major sources of marine plastic pollution and, therefore, would be a covered item for purposes of the bill, and to revise the list, as specified.

The department would be required to notify the producer of a covered item, and no later than 6 months after receiving that notification, the producer of that covered item would be required to design and submit

to the department a plan to reduce the producer's proportion of the marine plastic pollution caused by that covered item for review and approval by the department. The bill would authorize one or more producers of a covered item to designate a producer responsibility organization to act as its agent to develop and implement the plan. The bill would require the plan to specify the measures to meet the marine plastic pollution reduction targets that the producer of the covered item would be required to achieve, as specified in the regulations, and would require the measures to include utilization of innovative product design, the recovery, collection, or recycling of the covered item, or a combination of those measures. The department would be required to recover the cost of reviewing and approving the marine plastic pollution reduction plan by requiring the producer to pay a fee to the department, which the department would be required to set in an amount equivalent to the department's costs of implementing the bill. The bill would establish the Marine Plastic Pollution Prevention Subaccount in the Integrated Waste Management Fund, would require the department to deposit the fees into that subaccount, and would authorize the department to expend those fees, upon appropriation by the Legislature, to cover the department's costs to implement the bill.

The bill would authorize the department to impose a civil penalty administratively on a producer that is in violation of the bill. The bill would establish the Marine Plastic Pollution Penalty Subaccount in the Integrated Waste Management Fund, and would require the collected civil penalties to be deposited in the Marine Plastic Pollution Penalty Subaccount for expenditure by the department, upon appropriation by the Legislature, to cover the department's costs to enforce the bill.

The bill would authorize a producer, in lieu of submitting a marine plastic pollution reduction plan to the department, to voluntarily elect to pay an *annual* alternative compliance fee to the department, which the department would be required to set in a specified amount and revise periodically. The department would be required to deposit the alternative compliance fees in the Marine Plastic Pollution Fund, which the bill would establish in the State Treasury. The department would be authorized to expend the moneys in the fund, upon appropriation by the Legislature, in a specified manner, for innovative product design for the covered item and for recovery, collection, and recycling programs to prevent the marine plastic pollution caused by the covered item.

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 20.5 (commencing with Section 42985)
2 is added to Part 3 of Division 30 of the Public Resources Code, to
3 read:

4
5 CHAPTER 20.5. MARINE PLASTIC POLLUTION

6
7 Article 1. Definitions

8
9 42985. For purposes of this chapter, the following terms have
10 the following meanings:

11 (a) “Council” means the Ocean Protection Council.

12 (b) “Covered item” or “category of covered items” means a
13 source of marine plastic pollution listed by the department pursuant
14 to Section 42985.2.

15 (c) “Marine plastic pollution” means plastic that is found in
16 rivers, streams, riparian habitats, beaches, and the marine
17 environment.

18 (d) “Producer” means one of the following:

19 (1) A person that manufactures a covered item and sells, offers
20 for sale, distributes, or uses that covered item in a commercial
21 enterprise under the person’s own brand.

22 (2) If there is no person that meets the conditions of paragraph
23 (1) with regard to that covered item, the producer is the owner or
24 licensee of a trademark under which the covered item is sold,
25 distributed, or used in a commercial enterprise in the state, whether
26 or not the trademark is registered.

27 (3) If there is no person that meets the conditions of paragraphs
28 (1) or (2) with regard to that covered item, the producer is the
29 person that imports the covered item into the state for sale,
30 distribution, or use in a commercial enterprise.

31 (e) “Producer responsibility organization” means an organization
32 designated by a group of producers to act as an agent on behalf of
33 each producer to develop and operate a marine plastic pollution
34 reduction plan for covered items.

35 (f) (1) “Recovery” means retrieval or diversion from disposal
36 or from a transformation facility, for the purpose of recycling,
37 reuse, or composting.

38 (2) Recovery does not include transformation.

1 (g) (1) “Transformation” means the conversion, combustion,
 2 or other processing of solid waste by incineration, pyrolysis,
 3 destructive distillation, or gasification, or to chemically or
 4 biologically process solid waste, for the purposes of volume
 5 reduction, synthetic fuel production, or energy recovery.

6 (2) Transformation does not include anaerobic digestion or
 7 composting.

8

9

Article 2. Covered Items

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11 42985.1. (a) On or before June 1, 2014, the department, in
 12 coordination with the council and the state water board, shall adopt
 13 regulations for the implementation of this chapter.

14 (b) The regulations shall include, but are not limited to,
 15 procedures for the identification and listing of covered items and
 16 categories of covered items, requirements for the contents, review,
 17 and approval of marine plastic pollution reduction plans submitted
 18 pursuant to Article 3 (commencing with Section 42985.5), and
 19 procedures for the calculation of the amount and collection of the
 20 alternative compliance fee specified in Article 4 (commencing
 21 with Section 42985.8).

22 (c) (1) The regulations shall establish marine plastic pollution
 23 reduction targets for a producer of a covered item to achieve in
 24 implementing a marine plastic pollution reduction plan.

25 (2) In establishing those targets, the department shall determine
 26 the proportion of pollution reduction of a covered item in the state
 27 that each producer is required to achieve based, in part, on the
 28 producer’s total sales of the covered item in the state.

29 (3) In setting the reduction targets, the department shall use as
 30 its goals an overall reduction in the amount of marine plastic
 31 pollution from land-based sources by 75 percent in the year 2020
 32 and 95 percent by 2025, as compared to the baseline amount on
 33 June 1, 2014. The departments shall establish the baseline using
 34 the best available information against which the reduction targets
 35 can be measured.

36 42985.2. (a) On or before July 1, 2014, the department shall,
 37 in consultation with the council and the state water board, adopt
 38 a list that specifies those items, or categories of items, that the
 39 department finds are the major sources of marine plastic pollution

1 in the state. An item that is listed pursuant to this section is a
2 covered item for purposes of this chapter.

3 (b) The department shall adopt the list specified in subdivision
4 (a) using the best data that is available as of July 1, 2014, and is
5 not required to conduct any additional studies or research for
6 purposes of adopting that list.

7 (c) The department may exclude an item from the list adopted
8 pursuant to this section if the department determines the item is
9 subject to effective marine plastic pollution prevention policies.

10 (d) The department shall revise the list adopted pursuant to
11 subdivision (a) as additional studies or research are made available
12 to the department.

13 42985.3. The department shall notify the producer of a covered
14 item listed pursuant to Section 42985.2 in accordance with the
15 regulations adopted by the department.

16 42985.4. One or more producers may designate a producer
17 responsibility organization to act as its agent to develop and
18 implement a marine plastic pollution reduction plan for a covered
19 item pursuant to Article 3 (commencing with Section 42985.5).

20

21 Article 3. Marine Plastic Pollution Reduction Plan

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23 42985.5. Except as provided in Article 4 (commencing with
24 Section 42985.8), no later than six months after receiving a
25 notification pursuant to Section 42985.3, the producer, or a
26 producer responsibility organization appointed by a producer, of
27 that covered item shall design and submit to the department a plan
28 to reduce the marine plastic pollution caused by that covered item,
29 which shall include both of the following:

30 (a) Measures to meet the producer's marine plastic pollution
31 reduction targets, as calculated pursuant to the regulations adopted
32 pursuant to Section 42985.1, which shall include utilization of
33 innovative product design, the recovery, collection, or recycling
34 of the covered item, or any one or combination of these measures.

35 (b) Measures for monitoring, measuring, assessing, and reporting
36 on the progress made towards the marine plastic pollution reduction
37 targets specified in the regulations.

38 42985.6. (a) The department, in consultation with the council
39 and the state water board, shall review the marine plastic pollution
40 reduction plan required to be prepared pursuant to Section 42985.5

1 and shall determine whether the plan is likely to meet the plan's
2 goals and plastic pollution reduction targets. If the department
3 determines the plan is likely to meet the plan's goals and plastic
4 pollution reduction targets, the plan shall be deemed approved by
5 the department. If the department determines the plan is not likely
6 to meet those goals and targets, the department ~~may~~ shall require
7 the marine plastic pollution reduction plan to be revised, pursuant
8 to the regulations adopted by the department.

9 (b) The department shall recover the cost of reviewing and
10 approving the marine plastic pollution reduction plan by requiring
11 a producer to pay a fee to the department. The department shall
12 set the fee in an amount equivalent to the department's costs of
13 implementing this chapter, with regard to that producer.

14 (c) The Marine Plastic Pollution Prevention Subaccount is
15 hereby established in the Integrated Waste Management Fund.
16 The department shall deposit the fees collected pursuant to this
17 section into the Marine Plastic Pollution Prevention Subaccount
18 and may expend those fees, upon appropriation by the Legislature,
19 to cover the department's costs to implement this chapter.

20 (d) The department shall periodically review the progress of a
21 producer in implementing, and meeting the targets specified in,
22 the producer's marine plastic pollution reduction plan.

23 42985.7. (a) A civil penalty of up to the following amounts
24 may be administratively imposed by the department on a producer
25 who is in violation of this chapter:

26 (1) One thousand dollars (\$1,000) per day per violation.

27 (2) Ten thousand dollars (\$10,000) per day per violation if the
28 violation is intentional, knowing, or negligent.

29 (b) The Marine Plastic Pollution Penalty Subaccount is hereby
30 established in the Integrated Waste Management Fund.

31 (c) All civil penalties collected pursuant to this chapter shall be
32 deposited in the Marine Plastic Pollution Penalty Subaccount and
33 may be expended by the department, upon appropriation by the
34 Legislature, to cover the department's costs to enforce this chapter.

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36 Article 4. Alternative Compliance Program

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38 42985.8. (a) In lieu of submitting a marine plastic pollution
39 reduction plan to the department pursuant to Article 3 (commencing

1 with Section 42985.5), a producer may voluntarily elect to pay an
2 *annual* alternative compliance fee to the department.

3 (b) The department shall set the amount of the *annual* alternative
4 compliance fee in the regulations adopted pursuant to Section
5 42985.2, which shall be no greater than the amount that the
6 producer would expend in complying with the requirements of
7 Article 3 (commencing with Section 42985.5). The department
8 shall periodically revise the amount of the alternative compliance
9 fee.

10 (c) The department shall deposit the alternative compliance fees
11 in the Marine Plastic Pollution Fund, which is hereby established
12 in the State Treasury. The department may expend the moneys in
13 the fund, upon appropriation by the Legislature, for both of the
14 following purposes, in the manner specified in subdivision (d):

15 (1) Innovative product design for the covered item.

16 (2) Recovery, collection, and recycling programs to prevent
17 marine plastic pollution caused by the covered item.

18 (d) The department may expend the funds in the Marine Plastic
19 Pollution Fund by directly expending those funds, by transferring
20 those funds to other state agencies, or by providing grants to local
21 governments or other entities deemed eligible by the department,
22 including, but not limited to, nongovernmental organizations and
23 conservation corps.