

Introduced by Senator PadillaFebruary 20, 2013

An act to add Chapter 5.3 (commencing with Section 42280) to Part 3 of Division 30 of, and to repeal Section 42285 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 405, as introduced, Padilla. 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, on and after July 1, 2016, additionally impose these prohibitions and requirements on convenience food stores, foodmarts, and certain other specified stores.

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:

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

1 completed its intended end use and product life cycle.
2 Postconsumer recycled material does not include materials and
3 byproducts generated from, and commonly reused within, an
4 original manufacturing and fabrication process.

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

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

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

13 (2) Is accepted for recycling in curbside programs in a majority
14 of households that have access to curbside recycling programs in
15 the state.

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

19 (4) Has printed on the bag the name of the manufacturer, the
20 location (country) where the bag was manufactured, and the
21 minimum percentage of postconsumer content.

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

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

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

28 (2) “Reusable grocery bag” on and after July 1, 2016, means a
29 bag that meets the requirements of Section 42283.

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

32 (1) Manufactures reusable grocery bags for sale or distribution
33 to a store.

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

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

37 (f) (1) “Single-use carryout bag” means a bag made of plastic,
38 paper, or other material, that is provided by a store to a customer
39 at the point of sale and that is not a reusable grocery bag that meets
40 the requirements of Section 42283, on and after July 1, 2016, and

1 paragraph (1) of subdivision (d) of this section on or before June
2 30, 2016.

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

5 (A) A bag provided by a pharmacy pursuant to Chapter 9
6 (commencing with Section 4000) of Division 2 of the Business
7 and Professions Code to a customer purchasing a prescription
8 medication.

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

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

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

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

24 (3) Is a convenience food store, foodmart, or other entity that
25 is engaged in the retail sale of a limited line of goods, generally
26 including milk, bread, soda, and snack foods, and that holds a Type
27 20 or Type 21 license issued by the Department of Alcoholic
28 Beverage Control.

29

30 Article 2. Carryout Bag Regulation

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32 42281. (a) Except as provided in Section 42282, the
33 requirements of this section apply only to a store, as defined in
34 paragraph (1) or (2) of subdivision (g) of Section 42280.

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

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

1 (3) On and after July 1, 2016, a store shall only provide to a
2 customer a reusable grocery bag, as defined in paragraph (2) of
3 subdivision (d) of Section 42280, that meets the requirements of
4 Section 42283.

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

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

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

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

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

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

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

36
37 Article 3. Reusable Grocery Bags

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39 42283. (a) On and after July 1, 2016, a reusable grocery bag
40 shall meet all of the following requirements:

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

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

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

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

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

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

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

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

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

32 (2) In addition to the information required to be printed on the
33 bag or on a tag, pursuant to paragraph (3) of subdivision (a), all
34 of the following information shall be printed on the bag, or on a
35 tag that complies with that paragraph:

- 36 (A) A statement that the bag is a reusable bag and designed for
37 at least 125 uses.
- 38 (B) Instructions to return the bag to the store for recycling or
39 to another appropriate recycling location.

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

8 (d) (1) If a plastic reusable grocery bag producer is unable to
9 obtain sufficient amounts of postconsumer recycled material to
10 comply with this article within a reporting period because of
11 unavailability, the producer shall demonstrate to the department
12 the actions taken by that plastic reusable grocery bag producer to
13 find that postconsumer recycled material.

14 (2) A plastic reusable grocery bag producer making the
15 demonstration in paragraph (1) shall make a reasonable effort to
16 identify available supplies of postconsumer recycled material
17 before submitting a certification containing this information to the
18 department pursuant to Section 42284.

19 (3) A plastic reusable grocery bag producer that makes a
20 demonstration pursuant to paragraph (1) shall include the greatest
21 amount of postconsumer recycled material possible in the reusable
22 grocery bag, even if this amount is less than required by paragraph
23 (1) of subdivision (b) and shall indicate the percentage that is
24 postconsumer recycled material.

25 42284. (a) On or before January 1, 2016, and on January 1
26 every two years thereafter on a schedule and in a manner
27 determined by the department, a reusable grocery bag producer
28 shall submit a certification to the department for each type of
29 reusable grocery bag that is manufactured, imported, sold, or
30 distributed in the state and provided to a store for sale or
31 distribution that meets the requirements of Section 42283.

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

35 (c) The department shall provide a system to submit
36 certifications online.

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

- 1 (1) The name, location, and appropriate contact information of
2 a reusable grocery bag producer that is in compliance with this
3 article.
- 4 (2) The reusable grocery bags that are in compliance with this
5 article.
- 6 (e) The department shall establish a certification fee schedule
7 that will generate fee revenues sufficient to cover all of the
8 department’s costs to enforce this article. Fee revenues shall not
9 exceed the amount necessary to cover the department’s reasonable
10 costs to enforce this article.
- 11 (f) The department may inspect and audit a reusable bag
12 producer subject to this article with all costs associated with the
13 audit being paid for by the reusable grocery bag producer.
- 14 (g) The department may test any reusable bag manufactured by
15 a reusable bag producer and provided to a store for sale or
16 distribution for compliance with this article and the regulations
17 adopted pursuant to this article.
- 18 (h) The department may enter into an agreement with other state
19 entities that conduct inspections to provide necessary enforcement
20 of this article.
- 21 (i) Notwithstanding Section 42286, any violation of this article
22 shall be subject to an administrative civil penalty assessed by the
23 department in an amount not to exceed five hundred dollars (\$500)
24 for the first violation. A subsequent violation may be subject to
25 an increased penalty of up to five hundred dollars (\$500) per
26 violation, not to exceed five thousand dollars (\$5,000) per violation.
- 27 (j) The department shall deposit all certification fees paid
28 pursuant to this article into the Reusable Bag Account, which is
29 hereby created in the Integrated Waste Management Fund in the
30 State Treasury. The moneys deposited in the Reusable Bag Account
31 shall be expended by the department, upon appropriation by the
32 Legislature, to assist the department with its costs of implementing
33 this article.
- 34 (k) The department shall deposit all penalties collected pursuant
35 to subdivision (i) for a violation of this article into the Penalty
36 Subaccount, which is hereby created in the Reusable Bag Account.
37 The moneys in the Penalty Subaccount shall be expended by the
38 department, upon appropriation by the Legislature, to assist the
39 department with its costs of implementing this article.

1 Article 4. Reporting Requirements

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3 42285. (a) On or before January 1, 2017, the department shall
4 submit a report to the Legislature in accordance with Section 9795
5 of the Government Code, regarding the effectiveness of this chapter
6 and recommendations for statutory changes to increase
7 effectiveness, which shall include all of the following:

8 (1) A compilation of state cleanup data to evaluate pollution
9 reduction.

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

12 (3) An evaluation of the requirements for reusable bags specified
13 in Section 42283.

14 (4) Distribution of recycled paper bags.

15 (5) Number and type of violations.

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

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

22
23 Article 5. Enforcement

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25 42286. (a) A city, a county, a city and county, or the state may
26 impose civil liability in the amount of five hundred dollars (\$500)
27 for the first violation of this chapter, one thousand dollars (\$1,000)
28 for the second violation, and two thousand dollars (\$2,000) for the
29 third and subsequent violations.

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

36 (c) This section does not apply to a violation of Article 3
37 (commencing with Section 42283).

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