

AMENDED IN ASSEMBLY MARCH 26, 1998

AMENDED IN ASSEMBLY MARCH 9, 1998

AMENDED IN ASSEMBLY JUNE 23, 1997

AMENDED IN SENATE MAY 13, 1997

AMENDED IN SENATE MAY 5, 1997

AMENDED IN SENATE APRIL 14, 1997

**SENATE BILL**

**No. 698**

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**Introduced by Senator Rainey**

February 25, 1997

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An act to amend Sections 42290, 42291, 42292, 42293, and 42297 of, to add Sections 42290.5 and 42291.5 to, and to repeal Section 42298 of, the Public Resources Code, relating to solid waste, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 698, as amended, Rainey. Plastic trash bags.

Existing law, the California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, establishes an integrated waste management program.

The act requires every manufacturer that manufactures plastic trash bags of 0.75 mil or greater thickness to ensure that at least 30% of the materials used in those plastic bags is recycled plastic postconsumer material.

This bill would state legislative intent regarding the diversion of polyethylene from landfills.

The bill would for each calendar year commencing January 1, 1998, require each manufacturer of plastic trash bags equal to or greater than 0.70 mil thickness to ensure either that its trash bags intended for sale in this state contain a quantity of recycled plastic postconsumer material equal to at least 10% of the weight of the regulated bags, or that at least 30% of the weight of the material used in all of its plastic products intended for sale in this state is recycled plastic postconsumer material.

The bill would make conforming changes and prescribe related matters.

The bill would, until January 1, 2001, require the board, for every pound of postconsumer material purchased from a source of postconsumer material for use in the manufacture of plastic trash bags, to credit the manufacturer so certifying with having used 1.2 pounds of recycled plastic postconsumer material toward compliance with the certification requirements.

The bill would repeal provisions authorizing any manufacturer of plastic trash bags that received an exemption pursuant to former provisions exempting bags that use adhesive, heat-affixed straps, as prescribed, to petition the board for a variance from the requirements of the bill for the manufacture of those bags. *However, the bill would provide that any variance issued by the board on or before the effective date of the bill would remain in effect until December 31, 1998, and would exempt the variance holder from the requirements of the bill until that date.*

The bill would require the board, by October 1, 2001, to survey manufacturers subject to the bill, as prescribed.

*The bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



*The people of the State of California do enact as follows:*

1 SECTION 1. Section 42290 of the Public Resources  
2 Code is amended to read:

3 42290. For purposes of this chapter, the following  
4 terms have the following meaning:

5 (a) “Manufacturer” means a person who  
6 manufactures plastic trash bags for sale in this state.

7 (b) (1) “Plastic trash bag” means a bag that is  
8 manufactured for intended use as a container to hold,  
9 store, or transport materials to be discarded, composted,  
10 or recycled, including, but not limited to, garbage bags,  
11 composting bags, lawn and leaf bags, can-liner bags,  
12 kitchen bags, compactor bags, and recycling bags.

13 (2) A plastic trash bag does not include a grocery sack  
14 or any other bag that is manufactured for intended use as  
15 a container to hold, store, or transport food.

16 (3) A plastic trash bag does not include any plastic bag  
17 that is used for the purpose of containing either of the  
18 following wastes:

19 (A) “Hazardous waste,” as defined in Section 25117 of  
20 the Health and Safety Code.

21 (B) “Medical waste,” as defined in Section 117690 of  
22 the Health and Safety Code.

23 (c) “Postconsumer material” means a finished  
24 product that would normally be disposed of as solid waste,  
25 having completed its intended end-use and product life  
26 cycle. “Postconsumer material” does not include  
27 manufacturing and fabrication scrap.

28 (d) “Regulated bag” means a plastic trash bag of 0.70  
29 mil or greater thickness that is intended for sale in the  
30 state.

31 (e) “Wholesaler” means any person who purchases  
32 plastic trash bags from a manufacturer for resale in this  
33 state.

34 SEC. 2. Section 42290.5 is added to the Public  
35 Resources Code, to read:

36 42290.5. To encourage waste diversion of  
37 polyethylene from California landfills as well as to  
38 encourage California’s postconsumer market



1 development, it is the intent of the Legislature that any  
2 certification of postconsumer materials used for  
3 compliance with this chapter not be the same materials  
4 that are certified or used for compliance with any other  
5 state requirement or with any federal requirement that  
6 requires the use or reporting of postconsumer materials  
7 for plastic products.

8 SEC. 3. Section 42291 of the Public Resources Code is  
9 amended to read:

10 42291. (a) Until January 1, 1998, every manufacturer  
11 that manufactures plastic trash bags of 0.75 mil or greater  
12 thickness for sale in this state shall ensure that at least 30  
13 percent of the material used in those plastic trash bags is  
14 recycled plastic postconsumer material.

15 (b) (1) On and after January 1, 1998, the  
16 manufacturer's required use of recycled plastic  
17 postconsumer material shall be determined pursuant to  
18 paragraph (2). Compliance by a manufacturer with  
19 either alternative shall be deemed to be compliance with  
20 this subdivision.

21 (2) Every manufacturer of regulated bags shall do one  
22 of the following:

23 (A) Ensure that its plastic trash bags intended for sale  
24 in this state contain a quantity of recycled plastic  
25 postconsumer material equal to at least 10 percent of the  
26 weight of the regulated bags.

27 (B) Ensure that at least 30 percent of the weight of the  
28 material used in all of its plastic products intended for sale  
29 in this state is recycled plastic postconsumer material.

30 (3) Beginning March 1, 1999, and annually thereafter,  
31 every manufacturer subject to this subdivision shall  
32 certify to the board that it has used the required amount  
33 of recycled plastic postconsumer material annually in  
34 compliance with paragraph (2).

35 (c) Any certification of postconsumer materials used  
36 for compliance with this chapter shall not include any  
37 materials that are certified or used for compliance with  
38 any other state or federal requirement that requires the  
39 use or reporting of postconsumer materials for any plastic  
40 products.



1 (d) If any manufacturer subject to this section is  
2 unable to obtain sufficient amounts of recycled plastic  
3 postconsumer material to comply with this section within  
4 a reporting period because of unavailability or because  
5 the available material did not meet recycled plastic  
6 postconsumer material quality standards adopted by the  
7 board, the manufacturer shall certify that fact to the  
8 board. Each manufacturer making that certification shall  
9 make a reasonable effort to identify available supplies of  
10 material before submitting certification to the board.

11 *(e) The Legislature hereby finds and declares that*  
12 *although the changes made to this section by the act*  
13 *amending this section during the 1998 portion of the*  
14 *1997–98 Regular Session become effective after January*  
15 *1, 1998, it is the intent of the Legislature that the new*  
16 *requirements specified in subdivision (b) be effective as*  
17 *of January 1, 1998. The Legislature further finds that this*  
18 *change is requested by the manufacturers subject to this*  
19 *section and that the retroactive effect of these changes*  
20 *will not cause any hardship on any manufacturer subject*  
21 *to this section, or cause any manufacturer to be subject to*  
22 *regulatory action as a result of these changes, but rather,*  
23 *would instead have the effect of preventing hardship to*  
24 *the manufacturers regulated by this section.*

25 SEC. 4. Section 42291.5 is added to the Public  
26 Resources Code, to read:

27 42291.5. Until January 1, 2001, for each pound of  
28 recycled plastic postconsumer material purchased from  
29 a source of recycled plastic postconsumer material in this  
30 state for use in the manufacture of plastic trash bags, or  
31 other products manufactured with recycled plastic  
32 postconsumer material in compliance with this chapter,  
33 the board shall credit the manufacturer certifying  
34 pursuant to Section 42293 with having used 1.2 pounds of  
35 recycled plastic postconsumer material toward  
36 compliance with the requirements of Section 42291.

37 SEC. 5. Section 42292 of the Public Resources Code is  
38 amended to read:

39 42292. Each manufacturer shall obtain from its  
40 suppliers of recycled plastic postconsumer material for



1 use in the manufacture of plastic trash bags, or other  
2 products manufactured with recycled plastic  
3 postconsumer material in compliance with this chapter,  
4 a statement identifying the quantity, source location, and  
5 proximate prior usage of, and the actual postconsumer  
6 material content of, each shipment of recycled plastic  
7 postconsumer material purchased by the manufacturer,  
8 and any other information that the board, may, by  
9 regulation, require the manufacturer to obtain from its  
10 suppliers, for purposes of inclusion in the annual report  
11 required by Section 42293.

12 SEC. 6. Section 42293 of the Public Resources Code is  
13 amended to read:

14 42293. (a) On or before March 1, 1999, and annually  
15 thereafter, each manufacturer subject to this chapter  
16 shall submit a report to the board certifying that it has  
17 complied with Section 42291 during the preceding  
18 calendar year, certifying the name and physical location  
19 of each of its suppliers of recycled plastic postconsumer  
20 material for use in the manufacture of plastic trash bags,  
21 or other products manufactured with recycled plastic  
22 postconsumer material in compliance with this chapter,  
23 and containing the information obtained pursuant to  
24 Section 42292 and any other information that the board  
25 may require by regulation. Any manufacturer that  
26 processes its own recycled plastic postconsumer material  
27 shall certify to the board that it is the supplier of the  
28 material.

29 (b) On or before October 1, 2001, the board shall  
30 survey manufacturers subject to this section and,  
31 notwithstanding Section 7550.5 of the Government Code,  
32 report back to the Legislature. The survey shall do all of  
33 the following:

34 (1) Identify the name and physical location of  
35 suppliers certified by manufacturers pursuant to  
36 subdivision (a).

37 (2) Identify the quantity of recycled plastic  
38 postconsumer material provided by suppliers within the  
39 state and the quantity of the material provided by  
40 suppliers outside the state.



1 (3) Provide recommendations regarding recycled  
2 plastic postconsumer material content requirements  
3 based on the availability of that material.

4 (4) Identify gauge thickness of all regulated bags.

5 (5) Determine national production versus production  
6 of a separate line for California.

7 SEC. 7. Section 42297 of the Public Resources Code is  
8 amended to read:

9 42297. (a) The board may adopt such regulations as  
10 it determines are necessary to more specifically define  
11 terms for purposes of the chapter and to otherwise  
12 implement this chapter.

13 (b) Annually on or before July 1, the board shall  
14 publish a list of any suppliers, manufacturers, or  
15 wholesalers who have failed to comply with this chapter.

16 (c) (1) Any supplier, manufacturer, or wholesaler,  
17 and any of its divisions, subsidiaries, or successors, who  
18 fails to comply with this chapter, shall be ineligible for the  
19 award of any state contract or subcontract, or for the  
20 renewal, extension, or modification of an existing  
21 contract or subcontract, until the board determines that  
22 it is in compliance with this chapter.

23 (2) No state agency shall solicit offers from, award  
24 contracts to, or renew, extend, or modify a current  
25 contract or subcontract with, any supplier, manufacturer,  
26 or wholesaler, or any of its divisions, subsidiaries, or  
27 successors, who fails to comply with this chapter until the  
28 board determines that it is in compliance with this  
29 chapter.

30 SEC. 8. Section 42298 of the Public Resources Code is  
31 repealed.

32 *SEC. 9. Notwithstanding the repeal of Section 42298*  
33 *of the Public Resources Code, as provided in Section 8 of*  
34 *this act, any variance issued by the California Integrated*  
35 *Waste Management Board on or before the effective date*  
36 *of this act shall remain in effect until December 31, 1998,*  
37 *and, for purposes of that variance, the variance shall*  
38 *exempt the variance holder from the requirements of*  
39 *Chapter 5.4 (commencing with Section 42290) of Part 3*  
40 *of Division 30 of the Public Resources Code, as amended*



1 *by this act, until December 31, 1998. Nothing in Chapter*  
2 *5.4 (commencing with Section 42290) of Part 3 of Division*  
3 *30 of the Public Resources Code, or in any variance issued*  
4 *before the effective date of this act, shall be construed as*  
5 *allowing that variance to continue in effect after*  
6 *December 31, 1998.*

7 *SEC. 10. This act is an urgency statute necessary for*  
8 *the immediate preservation of the public peace, health,*  
9 *or safety within the meaning of Article IV of the*  
10 *Constitution and shall go into immediate effect. The facts*  
11 *constituting the necessity are:*

12 *In order to encourage at the earliest possible time the*  
13 *recycling of plastic postconsumer material, thereby*  
14 *conserving resources and protecting public health and*  
15 *safety and the environment, it is necessary that this act*  
16 *take effect immediately.*

