

AMENDED IN SENATE MARCH 20, 2003

SENATE BILL

No. 204

Introduced by Senators Perata, Alpert, Kuehl, and Romero

~~(Coauthor: Assembly Member Harman)~~

(Coauthors: Assembly Members Hancock, Harman, Longville, and Steinberg)

February 13, 2003

An act to add Chapter 11 (commencing with Section 42580) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 204, as amended, Perata. Solid waste: personal care products: recycling.

Existing law requires the California Integrated Waste Management Board to administer state programs to recycle plastic trash bags, plastic packaging containers, waste tires, newsprint, and other specified materials.

This bill would require the board to provide grants to local agencies, as defined, for the purposes of funding programs for the recycling and diversion from landfill disposal of personal care products. The bill would define a "personal care product" to mean a disposable product composed of plastic and paper materials that is worn by a person of any age for the purpose of capturing human waste.

The bill would require every person who purchases a personal care product from a retail seller to pay the seller a diversion and recycling fee of \$0.0025 per personal care product. The bill would require the retail seller to charge the purchaser the amount of the diversion and recycling fee at the time of sale and to remit to the board on a quarterly

schedule the collected fees, for deposit in the Personal Care Product Recycling Account.

The bill would establish the Personal Care Product Recycling Account in the Integrated Waste Management Fund and would continuously appropriate the funds in the account to the board for expenditure by the board to provide to eligible local agencies grants for the recycling and diversion from landfill disposal of personal care products.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Chapter 11 (commencing with Section 42580)
2 is added to Part 3 of Division 30 of the Public Resources Code, to
3 read:

4
5 CHAPTER 11. PERSONAL CARE PRODUCT RECYCLING

6
7 42580. The Legislature finds and declares all of the
8 following:

9 (a) Local agencies have made great strides in recent years in
10 their efforts to meet the requirement of a 50 percent rate of
11 diversion from the waste stream. However, many are still working
12 to meet this requirement and some are seeking to reach a 75 percent
13 rate of diversion.

14 (b) Local agencies continue to face difficulty in funding their
15 responsibilities, including their responsibility to divert materials
16 from the waste stream. The current downturn in the economy and
17 the state budget crisis has increased these difficulties.

18 (c) Personal care products represent a substantial portion of the
19 materials that still are disposed of in landfills without a significant
20 effort to divert the materials. It is estimated that personal care
21 products represent somewhere between one and one-half and 3
22 percent of the materials disposed of in landfills in California. This
23 means that personal care products are among the largest single
24 product disposed of in landfills in California. Some components
25 of personal care products can take up to 500 years to degrade.
26 According to the United States Environmental Protection Agency,
27 nearly 20 billion disposable personal care products containing 5



1 million tons of untreated human waste are disposed of in United
2 States landfills each year.

3 42581. For the purposes of this chapter, the following terms
4 have the following meanings, unless the context clearly requires
5 otherwise:

6 (a) “Account” means the Personal Care Product Recycling
7 Account established under subdivision (a) of Section 42582 in the
8 Integrated Waste Management Fund.

9 (b) “Diversion and recycling fee” means the fee imposed upon
10 the sale of a personal care product pursuant to subdivision (b) of
11 Section ~~42852~~ 42582.

12 (c) “Local agency” means any city, county, city and county,
13 district, regional agency as defined in Section 40181, or other
14 agency of local government that provides or regulates solid waste
15 handling services.

16 (d) “Personal care product” means a disposable product
17 composed of plastic and paper materials that is worn by a person
18 of any age for the purpose of capturing human waste. “Personal
19 care product” does not include a feminine hygiene product.

20 (e) “Retail seller” means a retail establishment that offers the
21 sale of personal care products to consumers, including, but not
22 limited to, for household or institutional use.

23 42582. (a) The Personal Care Product Recycling Account is
24 hereby established in the Integrated Waste Management Fund.
25 Notwithstanding Section 13340 of the Government Code, all
26 funds in the account are hereby continuously appropriated to the
27 board, without regard to fiscal years, for expenditure by the board
28 to implement Sections 42585 and 42584.

29 (b) (1) Every person who purchases from a retail seller a
30 personal care product shall pay to that seller a diversion and
31 recycling fee of one-fourth cent (\$0.0025) per personal care
32 product.

33 (2) The retail seller shall charge the purchaser the amount of the
34 diversion and recycling fee as a charge that is separate from, and
35 not included in, any other fee, charge, or other amount paid by the
36 purchaser.

37 (3) The retail seller shall collect the diversion and recycling fee
38 from the purchaser at the time of sale and shall remit the diversion
39 and recycling fees collected to the board on a quarterly schedule
40 for deposit in the Personal Care Product Recycling Account.

1 42583. The board shall expend the money in the account to
2 provide grants to eligible local agencies for the purpose of funding
3 programs for the recycling and diversion from landfill disposal of
4 personal care products. A recycling and diversion program that
5 receives a grant shall meet all of the following conditions:

6 ~~(a) Require the collection and separation of personal care~~
7 ~~products from the waste stream in the following amounts:~~

8 ~~(1) Thirty percent or more during the first year of operation.~~

9 ~~(2) Fifty percent or more during the second year of operation.~~

10 ~~(3) Eighty percent or more during the third and any subsequent~~
11 ~~year of operation.~~

12 *(a) Meet eligibility requirements adopted by the board in*
13 *consultation with local agencies and waste haulers.*

14 (b) Require the separation of personal care products from the
15 waste stream at either the point of waste collection or at a facility
16 established for the purpose of sorting and separating materials that
17 would otherwise be disposed of in a landfill.

18 ~~(c) Provide for collection at residences and institutions.~~

19 ~~(d)~~

20 (c) Require the materials collected and separated to be
21 processed so that human waste is in a condition that allows
22 treatment by the local entity's sewage treatment facilities or allows
23 marketing to businesses that can use the byproduct in the course
24 of their business in conformity with all laws and regulations
25 covering the use of human waste byproducts.

26 ~~(e)~~

27 (d) Require the materials collected and separated to be
28 processed so that the plastic and paper will be of a quality and type
29 that may be used in the manufacturing of new products and that
30 meets all applicable laws relating to the use of recycled plastic and
31 paper.

32 42584. (a) The board shall set the amount of a grant provided
33 to a local agency as a percentage of the actual cost of implementing
34 a local agency's recycling and diversion program, ~~so that all~~
35 ~~qualified applicants receive an equitable share of the total funds~~
36 ~~available in the account.~~

37 (b) Before awarding a grant to a local agency pursuant to this
38 chapter, the board shall require the local agency to certify that both
39 of the following are true:

1 ~~(1) In each of the immediately preceding three years, the local~~
2 ~~agency has met, or has been within 5 percentage points of meeting,~~
3 ~~the 50 percent solid waste diversion requirement in Section 41780.~~

4 *(1) The local agency is in compliance with the diversion*
5 *requirements of Section 41780, as determined by the board.*

6 *(2) The local agency has in operation a program for diversion*
7 *and recycling of personal care products that meets the*
8 *requirements of Section 42583, or demonstrates it will have that*
9 *program in operation within three- six months of the date that the*
10 *board approves the issuance of the grant.*

11 42585. The Legislature finds and declares that the imposition
12 of the fee pursuant to Section ~~42852~~ 42582 would not result in the
13 imposition of a tax within the meaning of Article XIII A of the
14 California Constitution, because the amount and nature of the fee
15 has a fair and reasonable relationship to the adverse environmental
16 burdens imposed by the disposal of those products and there is a
17 sufficient nexus between the fees imposed and the use of those fees
18 to support the diversion of these products from landfills.

