

AMENDED IN SENATE APRIL 26, 2010

AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1454

Introduced by Senator DeSaulnier

February 19, 2010

An act to repeal Chapter 5.8 (commencing with Section 42359) of, and to repeal and add Chapter 5.7 (commencing with Section 42355) of, Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

SB 1454, as amended, DeSaulnier. Recycling: plastic products.

Existing law prohibits a person from selling a plastic bag or a plastic food or beverage container that is labeled as "compostable" or "marine degradable" unless that plastic bag or container meets certain American Society for Testing and Materials (ASTM) standard specifications or a standard adopted by the Department of Resources Recycling and Recovery. Existing law prohibits the sale of a plastic bag or plastic food or beverage container that is labeled as "biodegradable," "degradable," "decomposable," or as otherwise specified. Existing law provides for the imposition of a civil penalty for a violation of these prohibitions.

This bill would repeal those prohibitions and would instead prohibit the sale of a plastic product, as defined, labeled as "compostable" or "marine degradable" unless it meets those ASTM standard specifications or a standard adopted by the department. The bill would prohibit the sale of a plastic product that is labeled as "biodegradable," "degradable," "decomposable," or as otherwise specified. The bill would provide for the imposition of a civil penalty for a violation of those prohibitions.

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

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

SECTION 1. Chapter 5.7 (commencing with Section 42355) of Part 3 of Division 30 of the Public Resources Code is repealed.

SEC. 2. Chapter 5.7 (commencing with Section 42355) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 5.7. PLASTIC PRODUCTS

42355. The Legislature finds and declares that it is the public policy of the state that environmental marketing claims, whether explicit or implied, should be substantiated by competent and reliable evidence to prevent deceiving or misleading consumers about the environmental impact of plastic products. For consumers to have accurate and useful information about the environmental impact of plastic products, environmental marketing claims should adhere to uniform and recognized standards, including those standard specifications established by the American Society for Testing and Materials.

42356. For purposes of this chapter, the following definitions apply:

(a) "ASTM" means the American Society for Testing and Materials.

(b) (1) "ASTM standard specification" means one of the following:

(A) The ASTM Standard Specification for Compostable Plastics D6400, as published in September 2004, except as provided in subdivision (c) of Section 42356.1.

(B) The ASTM Standard Specification for Non-Floating Biodegradable Plastics in the Marine Environment D7081, as published in August 2005, except as provided in subdivision (c) of Section 42356.1.

(C) The ASTM Standard Specification for Biodegradable Plastics Used as Coatings on Paper and Other Compostable Substrates D6868, as published in August 2003, except as specified in subdivision (c) of Section 42356.1.

(2) “ASTM standard specification” does not include an ASTM Standard Guide, a Standard Practice, or a Standard Test Method.

(c) “Department” means the Department of Resources Recycling and Recovery.

(d) “Manufacturer” means a person, firm, association, partnership, or corporation that produces a plastic product.

(e) “Plastic product” means a product made of plastic, whether alone or in combination with other material, including, but not limited to, paperboard. A plastic product includes, but is not limited to, ~~all~~ any of the following:

(1) (A) A consumer product.

(B) For purposes of this paragraph, “consumer product” means a product or part of a product that is used, bought, or leased for use by a person for any purpose.

(2) A package or a packaging component.

(3) A bag, sack, wrap, or other thin plastic sheet film product.

(4) A food or beverage container or a container component, including, but not limited to, a straw, lid, or utensil.

(f) “Supplier” means a person who does one or more of the following:

(1) Sells, offers for sale, or offers for promotional purposes, a plastic product that is used.

(2) Takes title to a plastic product, produced either domestically or in a foreign country, that is purchased for resale or promotional purposes.

42356.1. (a) If an ASTM standard specification specified in paragraph (1) of subdivision (b) of Section 42356 is subsequently revised, the department shall review the new ASTM standard specification as follows:

(1) If the department determines that the new standard is more stringent and more protective of the public health, safety, and the environment, and is reflective of and consistent with state policies and programs, the department may adopt the new standard.

(2) If the department determines that the new standard is not as stringent and does not protect the public health, safety, and the environment, and is not reflective of and consistent with state policies and programs, the department shall not adopt the new standard.

(b) If the ASTM, or any other entity, develops a new standard specification or other applicable standard for any of the terms

1 prohibited under subdivision (a) of Section 42357, the department
2 may review the new standard and, if the department determines
3 that the new standard for the prohibited term is more stringent and
4 more protective of the public health, safety, and the environment,
5 and is reflective of and consistent with state policies and programs,
6 the department may make a recommendation to the Legislature.

7 (c) Compliance with a standard adopted pursuant to paragraph
8 (1) of subdivision (a) shall be deemed to be in compliance with
9 this chapter.

10 42357. (a) (1) A person shall not sell a plastic product in this
11 state that is labeled with the term “compostable” or “marine
12 degradable” unless, at the time of sale, the plastic product meets
13 the applicable ASTM standard specification, as specified in
14 paragraph (1) of subdivision (b) of Section 42356.

15 (2) Compliance with only a section or a portion of a section of
16 an applicable ASTM standard specification does not constitute
17 compliance with paragraph (1).

18 (b) Except as provided in subdivision (a), a person shall not sell
19 a plastic product in this state that is labeled with the term
20 “biodegradable,” “degradable,” or “decomposable,” or any form
21 of those terms, or in any way imply that the plastic product will
22 break down, fragment, biodegrade, or decompose in a landfill or
23 other environment.

24 (c) A manufacturer or supplier, upon the request of a member
25 of the public, shall submit to that member, within 90 days of the
26 request, information and documentation demonstrating compliance
27 with this chapter, in a format that is easy to understand and
28 scientifically accurate.

29 42358. (a) A city, a county, or the state may impose civil
30 liability in the amount of five hundred dollars (\$500) for the first
31 violation of this chapter, one thousand dollars (\$1,000) for the
32 second violation, and two thousand dollars (\$2,000) for the third
33 and any subsequent violation.

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

1 (c) The remedies provided by this section are not exclusive and
2 are in addition to the remedies that may be available pursuant to
3 Sections 17200 to 17210, inclusive, of the Business and Professions
4 Code.

5 (d) Any costs incurred by a state agency in carrying out this
6 chapter shall be recoverable by the Attorney General, upon the
7 request of the agency, from the liable person or persons.

8 SEC. 3. Chapter 5.8 (commencing with Section 42359) of Part
9 3 of Division 30 of the Public Resources Code is repealed.