ASSEMBLY BILL   No. 2321

Introduced by Assembly Members Smyth and Gordon

February 24, 2012

An act to amend Sections 42301 and 42340 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 2321, as introduced, Smyth. Plastic packaging containers: compostable.

Existing law requires rigid plastic packaging containers, as defined, that are sold or offered for sale in this state to meet specified criteria, including, but not limited to, that the container be made from 25% postconsumer material, and provides for the enforcement of these requirements by the Department of Resources Recycling and Recovery. Certain classes of rigid plastic packaging containers are exempt from those requirements. Existing law, as of January 1, 2013, prohibits the sale of a plastic product, as defined, labeled as "compostable," "home compostable," or "marine degradable" unless it meets certain ASTM standard specifications, or other certain requirements.

This bill would define the term "compostable rigid plastic packaging container" as a rigid plastic packaging container that is labeled with the term "compostable" and is in compliance with those labeling requirements. The bill would additionally exempt compostable rigid plastic packaging from those material requirements.

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

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

1   SECTION 1. Section 42301 of the Public Resources Code is
2 amended to read:
3   42301. For purposes of this chapter, the following definitions
4 apply:
5   *(a) "Compostable rigid plastic packaging container" means a*
6 *rigid plastic packaging container that is labeled with the term*
7 *"compostable" and is in compliance with Chapter 5.7*
8 *(commencing with Section 42355).*
9   ~~(a)~~
10   *(b)* "Container manufacturer" means a company or a successor
11 company that sells any rigid plastic packaging container subject
12 to this chapter to a manufacturer that sells or offers for sale in this
13 state ~~any~~ *a* product packaged in that container.
14   ~~(b)~~
15   *(c)* "Curbside collection program" means a recycling program
16 that collects materials set out by households for collection at the
17 curb at intervals not less than every two weeks. "Curbside
18 collection program" does not include redemption centers, buyback
19 locations, drop-off programs, material recovery facilities, or plastic
20 recovery facilities.
21   ~~(c)~~
22   *(d)* "Refillable package" means a rigid plastic packaging
23 container that the ~~board~~ *department* determines is routinely returned
24 to and refilled by the product manufacturer at least five times with
25 the original product contained by the package.
26   ~~(d)~~
27   *(e)* "Reusable package" means a rigid plastic packaging
28 container that the ~~board~~ *department* determines is routinely reused
29 by consumers at least five times to store the original product
30 contained by the package.
31   ~~(e)~~
32   *(f)* "Manufacturer" means the producer or generator of a product
33 that is sold or offered for sale in the state and that is stored inside
34 of a rigid plastic packaging container.
35   ~~(f)~~
36   *(g)* "Rigid plastic packaging container" means ~~any~~ *a* plastic
37 package having a relatively inflexible finite shape or form, with a
38 minimum capacity of eight fluid ounces or its equivalent volume

1 and a maximum capacity of five fluid gallons or its equivalent
2 volume, that is capable of maintaining its shape while holding
3 other products, including, but not limited to, bottles, cartons, and
4 other receptacles, for sale or distribution in the state.

5 ~~(g)~~

6 *(h)* "Postconsumer material" means a material that would
7 otherwise be destined for solid waste disposal, having completed
8 its intended end use and product lifecycle. Postconsumer material
9 does not include materials and byproducts generated from, and
10 commonly reused within, an original manufacturing and fabrication
11 process.

12 ~~(h)~~

13 *(i)* "Recycled" means a product or material that has been reused
14 in the production of another product and has been diverted from
15 disposal in a landfill.

16 ~~(i)~~

17 *(j)* "Recycling rate" means the proportion, as measured by
18 weight, volume, or number, of a rigid plastic packaging container
19 sold or offered for sale in the state that is being recycled in a given
20 calendar year, that is one of the following:

21 (1) A particular type of rigid plastic packaging container, such
22 as a milk jug, soft drink container, or detergent bottle.

23 (2) A product-associated rigid plastic packaging container.

24 (3) A single resin type, as specified in Section 18015, of rigid
25 plastic packaging container, notwithstanding the exemption of that
26 container from this chapter pursuant to subdivision (b), (c), ~~or~~ (d)*,*
27 *or (e)* of Section 42340.

28 ~~(j) (1) "Source reduced container" means either of the~~
29 ~~following:~~

30 ~~(A) A rigid plastic packaging container for which the~~
31 ~~manufacturer seeks compliance as of January 1, 1995, whose~~
32 ~~package weight per unit or use of product has been reduced by 10~~
33 ~~percent when compared with the packaging used for that product~~
34 ~~by the manufacturer from January 1, 1990, to December 31, 1994.~~

35 ~~(B) A~~

36 *(k) "Source reduced container" means a* rigid plastic container
37 for which the manufacturer seeks compliance after January 1,
38 1995, whose package weight per unit or use of product has been
39 reduced by 10 percent when compared with one of the following:

40 ~~(i)~~

1   *(A)* The packaging used for the product by the manufacturer on
2 January 1, 1995.
3   ~~(ii)~~
4   *(B)* The packaging used for that product by the manufacturer
5 over the course of the first full year of commerce in this state.
6   ~~(iii)~~
7   *(C)* The packaging used in commerce that same year for similar
8 products whose containers have not been considered source
9 reduced.
10   (2) A rigid plastic packaging container is not a source reduced
11 container for the purposes of this chapter if the packaging reduction
12 was achieved by any of the following:
13   (A) Substituting a different material type for a material that
14 previously constituted the principal material of the container.
15   (B) Increasing a container's weight per unit or use of product
16 after January 1, 1991.
17   (C) Packaging changes that adversely affect the potential for
18 the rigid plastic packaging container to be recycled or to be made
19 of postconsumer material.
20   ~~(k)~~
21   *(l)* "Product-associated rigid plastic packaging container" means
22 a brand-specific, rigid plastic packaging line that may have one or
23 more sizes, shapes, or designs and that is used in conjunction with
24 a particular generic product line.
25   ~~(l)~~
26   *(m)* "PETE" means polyethylene terephthalate as specified in
27 subdivision (a) of Section 18015.
28   ~~(m)~~
29   *(n)* "HDPE" means high-density polyethylene.
30   SEC. 2.   Section 42340 of the Public Resources Code is
31 amended to read:
32   42340.   The following rigid plastic packaging containers are
33 exempt from this chapter:
34   (a) Rigid plastic packaging containers produced in or out of the
35 state ~~which~~ *that* are destined for shipment to other destinations
36 outside the state and ~~which~~ *that* remain with the products upon
37 that shipment.
38   (b) Rigid plastic packaging containers ~~which~~ *that* contain drugs,
39 medical devices, cosmetics, food, medical food, or infant formula

1 as defined by the Federal Food, Drug and Cosmetic Act (21 U.S.C.
2 Sec. 301 et seq.).
3   (c) Rigid plastic packaging containers ~~which~~ *that* contain toxic
4 or hazardous products regulated by the Federal Insecticide,
5 Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).
6   (d) Rigid plastic packaging containers ~~which~~ *that* are
7 manufactured for use in the shipment of hazardous materials and
8 are prohibited from being manufactured with used material by
9 federal packaging material specifications set forth in Sections
10 178.509 and 178.522 of Title 49 of the Code of Federal
11 Regulations, or are subject to testing standards set forth in Sections
12 178.600 to 178.609, inclusive, of Title 49 of the Code of Federal
13 Regulations, or to which recommendations of the United Nations
14 on the transport of dangerous goods are applicable.
15   *(e) Compostable rigid plastic packaging containers.*

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