

Memorandum

Date: March 5, 2014
To: Dennis Bozanich, Legislative Coordinator
From: Carlyle A. Johnston, Project Leader
Subject: SB 270: Single-Use Plastic Bag Ban
CC: Mark Schleich, Deputy Director
Leslie Wells, Program Manager



SB 270 is a bill that would enact a statewide single-use plastic bag ban. This bill is very similar to the Board directed local single-use plastic bag ban ordinance for which an EIR has recently been completed. Currently, staff is holding the Final EIR until a clear indication is given on the future of this statewide bill.

Here is a summary of some of the differences between SB 270 (as amended February 5, 2014) and the locally proposed ordinance:

1. **Timing** – Under SB 270, implementation could occur 8 to 14 months later
 - a. The statewide measure would impact **larger businesses** (those with sales in excess of \$2 million per year) in July 2015 as opposed to November 2014 with the local ordinance.
 - b. **Smaller businesses** (those with annual sales less than \$2 million per year) would be impacted by SB 270 in July 2016 as opposed to May 2015 with the local ordinance.
 - c. By request of the Board of Supervisors, an **alternative implementation schedule** for the locally proposed ordinance with a delay of one year for the northern portion of Santa Barbara County was requested and reviewed by the EIR. If chosen by the Board, the implementation of this alternative schedule would occur for small businesses after the schedule set forth by SB 270.
2. **Enforcement** – The locally proposed ordinance directs the Department of Public Works to be the agency primarily responsible for enforcement. SB 270 has the State Department of Resources Recycling and Recovery as the primary responsible agency, but does state that a local agency “may” impose civil penalties.
3. **Reusable bags are defined in greater detail** in SB 270 than in the local ordinance.

4. **Reporting** – there is no reporting requirement in SB 270. The locally proposed ordinance contains a requirement for affected businesses to submit annual reports to the Public Works Department regarding paper bag sales and efforts to encourage the use of reusable bags for three years after implementation.

Additional Comments – Staff believes that the passage of SB 270 and the tabling of the locally proposed ordinance could result in cost savings to the County:

1. Reduction of consultant and staff costs associated with finalization and implementation of the local ordinance
2. Local outreach and education costs, such as public events, affected-business outreach, and a media campaign, would be reduced through a statewide effort
3. Local enforcement responsibilities and related staff time costs would be reduced

SOURCE: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB270

LEGISLATIVE COUNSEL'S DIGEST - SB 270

AMENDED IN ASSEMBLY FEBRUARY 06, 2014

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

SENATE BILL

No. 270

Introduced by-Senators Padilla, De León, and Lara

February 14, 2013

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

SB 270, as amended, Padilla. Solid waste: single-use carryout bags.

(1) Existing law, until 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.

This bill, as of July 1, 2015, would prohibit stores that have a specified amount of sales in dollars or retail floor space from providing a single-use carryout bag to a customer, with specified exceptions. The bill would also prohibit a store from selling or distributing a recycled paper bag at the point of sale unless the store makes that bag available for purchase for not less than \$0.10. The bill would also allow such a store, on or after July 1, 2015, to distribute compostable bags at the point of sale only in jurisdictions that meet specified requirements and at a cost of not less than \$0.10. The bill would require these stores to meet other specified requirements on and after July 1, 2015, regarding providing reusable grocery bags to customers, including distributing those bags only at a cost of not less than \$0.10.

The bill, on and after July 1, 2016, would additionally impose these prohibitions and requirements on convenience food stores, foodmarts, and entities engaged in the sale of a limited line of goods, or goods intended to be consumed off premises, and that hold a specified license with regard to alcoholic beverages.

The bill would allow a retail establishment to voluntarily comply with these requirements, if the retail establishment notifies the department and pays a registration fee established by the department.

The bill would require the operator of a store that has a specified amount of sales in dollars or retail floor space, in addition to complying with existing requirements, to establish an at-store recycling program that provides an opportunity for customers to return to the store clean polyethylene, polypropylene, and polyethylene terephthalate bags, including requiring those bags that are provided by the store to display a specified notice and providing for the placement of collection bins in a specified manner.

The bill would require certain stores selling a reusable grocery bag on and after July 1, 2015, to a customer at the point of sale to meet specified requirements with regard to the bag's durability, material, labeling, heavy metal content, and, with regard to reusable grocery bags made from plastic on and after January 1, 2016, recycled material content. The bill would impose these requirements as of July 1, 2016, on the stores that are otherwise subject to the bill's requirements.

The bill would prohibit a producer of reusable grocery bags made from specified plastics from selling or distributing those bags on and after January 1, 2016, unless the producer is certified by the Department of Resources Recycling and Recovery. The bill would require the application for certification to include specified information that verifies the incorporation of clean postconsumer recycled material. The bill would also authorize a supplier of postconsumer recycled material to a producer of those bags to apply to the department for certification as a supplier of material. The bill would specify a procedure for a person to submit a written request to the department objecting to approval of a certification and for the holding of a hearing regarding that approval.

The department would be authorized to suspend or revoke a certification under specified circumstances and would be required to publish on its Internet Web site a list of certified reusable grocery bag producers and suppliers and reusable grocery bags that comply with the requirements of the bill. The bill would require the department to establish a certification fee schedule to cover the department's costs to implement these requirements, which a reusable grocery bag producer or supplier applying for certification would be required to pay. The bill would also require a reusable grocery bag producer to submit specified laboratory test results to the department.

A violation of these requirements would be subject to an administrative civil penalty assessed by the department. The department would be required to deposit these penalties into the Reusable Bag Account, which would be created in the Integrated Waste Management Fund, for expenditure by the department, upon appropriation by the Legislature, to implement those requirements.

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 as specified. 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. The bill would provide that these remedies are not exclusive, as specified.

The bill would declare that it occupies the whole field of the regulation of reusable grocery bags, single-use carryout bags, and recycled paper bags and would prohibit a local public agency from enforcing or implementing an ordinance, resolution, regulation, or rule adopted on or after September 1, 2014, relating to those bags, against a store unless expressly authorized. The bill would allow a local public agency that has adopted such an ordinance, resolution, regulation, or rule prior to September 1, 2014, to continue to enforce and implement that ordinance, resolution, regulation, or rule, and would preempt any amendments to that ordinance, resolution, regulation, or rule, except that the bill would allow a local public agency to adopt or amend an ordinance, resolution, regulation, or rule setting a price for a recycled paper bag, compostable bag, or reusable grocery bag.

(2) The California Integrated Waste Management Act of 1989 creates the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account and continuously appropriates the funds deposited in the subaccount to the department for making loans for the purposes of the Recycling Market Development Revolving Loan Program. Existing law makes the provisions regarding the loan program, the creation of the subaccount, and expenditures therefrom inoperative on July 1, 2021, and repeals them as of January 1, 2022.

This bill would appropriate \$2,000,000 from the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account to the department for the purposes of providing loans and grants for the creation and retention of jobs and economic activity in California for the manufacture and recycling of plastic reusable grocery bags that use recycled content. The bill would require a recipient of a grant to agree, as a condition of receiving a grant, to take specified actions.

March 10, 2014

State Senator Ricardo Lara, Senate District 33
CAPITOL OFFICE
State Capitol, Room 5050
Sacramento, CA 95814

RE: SB 270 (Padilla, De León, Lara) – Solid Waste: Single-Use Carryout Bags
As Introduced to the Assembly on February 14th, 2014 – SUPPORT

Dear Senator Lara:

On behalf of the County of Santa Barbara, I write to express our support for SB 270, by Senators Padilla, De León, and Lara. This bill would significantly reduce single-use plastic bag consumption in the State of California and allow for convenient access for California residents to recycle any plastic bags still distributed. In addition, SB 270 promotes the use of recyclable and reusable bags in an attempt to increase conservation of resources.

As of March 4th 2014, 99 jurisdictions have a single-use plastic bag ban in place. Included in this statistic are the local Cities of Santa Barbara, Carpinteria, and Ojai. In 2013, the County of Santa Barbara Board of Supervisors directed staff to initiate an EIR for a single-use plastic bag ban in the unincorporated area.

With many other communities across the State considering similar single-use plastic bag bans, it is clear that this is a policy with a broad base of support. The Santa Barbara County Board of Supervisors believes that SB 270 would give clarity and consistency to jurisdictions across the state and could also result in a reduction of both costs and administration related to education and enforcement of this policy.

It is for these reasons that we support SB 270 and respectfully request your “AYE” vote. Should you have any questions related to this issue, please contact my Deputy Director of Public Works, Mark Schleich at (805) 882-3603.

Sincerely,

Supervisor Steve Lavagnino
Chair of the Board of Supervisors

cc: Senator Kevin De León, Senate District 22
Senator Alex Padilla, Senate District 20
Members of the Assembly Appropriations Committee
Senator Hannah-Beth Jackson, 19th Senate District
Assembly Member Das Williams, 37th Assembly District
Assembly Member Katcho Achadjian, 35th Assembly District
Members of the Santa Barbara County Board of Supervisors
Monica Miller, Governmental Advocates