

California State Senate

CITY CLERK'S OFFICE

ALEX PADILLA
SENATOR, 20TH DISTRICT

OCT 09 2013

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October 1, 2013

City of Lemoore
Attn: City Council
119 Fox St
Lemoore, CA 93245-2651

Dear Colleague,

I respectfully ask for your support of Senate Bill 405 which would phase out single-use plastic bags in California.

Each year in California, more than 13 billion single-use plastic bags are handed out by retailers. CalRecycle reports that only 3% of single-use plastic bags are actually recycled. The other 97% litter our streams, rivers and coastline, and endanger birds, marine life and wildlife. Plastic bags remain one of the top items found during annual beach cleanups.

Plastic bags also contribute to blight in our communities and clog local storm water systems. Because plastic bags take 1,000 years to degrade, their impacts are compounded every year. California local governments spend more than \$25 million each year to collect and bury plastic bag waste. And the plastic bags that do enter our recycling centers slow the sorting process and jam machinery.

Earlier this year, I introduced SB 405. This bill would enact a statewide phase out of single-use plastic bags in California. This legislation is supported by a broad coalition that includes grocers, environmentalists and many local governments.

Despite strong support, SB 405 fell 3 votes short of passage this year. I remain committed to this effort, but I need your help. SB 405 will face another vote early next year. Between now and then, I am respectfully asking you to put your city on record in support of SB 405. The City of Los Angeles took this step in June of this year and joined 80 other California cities and counties who support the phase out of single-use plastic bags in their communities.

Please join me in this effort. Attached, please find a sample resolution in support of SB 405, a copy of the bill, and a fact sheet with additional information. I look forward to working with you so that single-use plastic bags are soon phased out in our state.

Thank you for your time and consideration. Please feel free to contact me at (916) 651-4020 if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink that reads "Alex Padilla".

ALEX PADILLA
State Senator, 20th District



RESOLUTION

WHEREAS, each year in California more than 13 billion single-use plastic bags are handed out by retailers and only 3% of these bags are recycled; and

WHEREAS, plastic bags cause slow sorting and jam machinery at recycling centers costing California more than \$25 million dollars each year to collect and bury the plastic bag waste; and

WHEREAS, according to a study commissioned by the US Marine Debris Monitoring Program, plastic bags remain one of the top items found consistently during annual beach cleanups; and

WHEREAS, The Convention on Biological Diversity reports a total of 663 species have been affected by plastic marine pollution through entanglement or ingestion; and

WHEREAS, the United States Environmental Protection Agency finds that reducing the use of an item is one of the most effective ways to save our natural resources and protect the environment; and

WHEREAS, a third of Californians are subject to laws phasing out the use of single-use plastic bags; and

WHEREAS, State Senator Padilla has authored SB 405, which would prohibit grocery stores and large retailers from providing single-use bags to customers in 2015, and would expand that prohibition to convenience stores and food marts in 2016; and

WHEREAS, by prohibiting the free distribution of plastic bags, SB 405 would help eliminate a major source of pollution in California; and

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the _____ hereby SUPPORTS Senate Bill 405 (Padilla) that would prohibit grocery stores, large retailers, convenience stores, and food marts from providing free single-use plastic bags to consumers, and require those stores to have reusable bags available for purchase.

PRESENTED BY _____

SECONDED BY _____

Green Vets Los Angeles
GreenWaste Recovery
Heal the Bay
Humboldt County Board of Supervisors
Humboldt Waste Management Authority
LMV Productions
Los Angeles County Board of Supervisors
Los Angeles County Integrated Waste
Management Task Force
Napa Valley CanDo Environment Group
National Hispanic Environmental Council
Natural Resources Defense Council
Pacifica's Environmental Family
Planning and Conservation League
Plasticbaglaws.org
Republic Services
Santa Clara County Board of Supervisors
Save Our Shores
Seventh Generation Advisors
Sierra Club California
Surfrider Foundation
Team Marine – Santa Monica High School
The Northern California Recycling Association
Turtle Island Restoration Network
United Food & Commercial Workers Western
States Council
William C. Velazquez Institute
Zanker Road Resource Management

Senator Alex Padilla

Fact Sheet

SB 405 – PADILLA

Single-Use Bag Phase Out

(as amended 05/24/13)

Summary

SB 405 would phase out single-use plastic bags in California grocery stores, convenience stores, liquor stores, and pharmacies.

Background

Each year in California, more than 13 billion single-use plastic bags are handed out by retailers. According to the United States Environmental Protection Agency, 88% of plastic bags and sacks are not recycled. In California, only 3% are recycled, according to CalRecycle. Plastic bags cause litter, slow sorting and jam machinery at recycling centers costing California more than \$25 million dollars each year to collect and bury the plastic bag waste. According to a study commissioned by the US Marine Debris Monitoring Program, plastic bags remain one of the top items found consistently during annual beach cleanups.

Plastic bags are also harmful to the environment killing thousands of birds, turtles and other species. Most plastics do not degrade. Although they represent only 2.2% of waste stream in California, plastic waste is the predominate form of marine debris. Plastics are estimated to compose 60-80% of all marine debris and 90% of all floating debris worldwide.

Plastics not only entangle marine life, they are also ingested by marine life and birds. Most plastic marine debris exists as small plastic particles due to excessive UV radiation exposure and subsequent photo-degradation. The Convention on Biological Diversity reports a total of 663 species have been affected by plastic marine pollution through entanglement or ingestion.

The California Coastal Commission reports that “birds, fish and mammals often mistake plastic for food. Some birds even feed it to their young. With plastic filling their stomachs, animals have a false feeling of being full, and may die of starvation. Sea turtles mistake plastic bags for jellyfish, one of their favorite foods. Even grey whales have been found dead with plastic bags and sheeting in their stomachs.”

The Scripps Institution of Oceanography at UC San Diego found evidence of plastic waste in more than 9% of the stomachs of fish collected in the North Pacific Subtropical Gyre and estimate that fish who reside in the intermediate ocean depths ingest 12,000- to 24,000 tons of plastic per year.

According to the United States Environmental Protection Agency, reducing the use of an item is one of the most effective ways to save our natural resources and protect the environment. To date, many local jurisdictions in California have enacted ordinances. The ordinances vary with some requiring a charge for paper carry-out bags and others banning both single-use plastic and paper

carryout bags. These ordinances have both eliminated the costs associated with plastic bags as well as substantially reduced the volume and costs associated with paper bags in communities.

For example, San Francisco, Los Angeles County, San Jose, and San Luis Obispo County are already experiencing the benefits of reducing the use of plastic bags. After just one year of implementation of its bag ordinance, the City of San Jose is reporting 50% cleaner creeks. Los Angeles County is reporting a 95% reduction of all single-use bags distributed, including a 30% reduction of paper bags.

Existing Law

Section 42254 and 42257 of the Public Resources Code requires large grocery stores to establish a plastic bag recycling program and sunsets on January 1, 2020.

Current California law is silent on the reduction of single-use plastic bags.

This Bill

This bill would:

- prohibit a store, on and after January 1, 2015, from providing a *single-use carryout bag* (i.e., paper, plastic, or other material) to a customer at the point-of-sale. (§42283(a))
 - authorize a store, on and after July 1, 2016, to provide a *reusable grocery bag* (i.e., cloth or durable plastic) to a customer, which may be made available for purchase. (§42283(c)(1)).
 - authorize a store to make a *recyclable paper bag* available for purchase at the point of sale. (§42283(d)).
 - specifies standards for reusable grocery bags. (§42281)
- allows ordinances adopted prior to September 1, 2013 to continue to be enforced. (§42287 (b)).
 - prohibits any local agency from enforcing an ordinance related to single-use carryout bags after January 1, 2014. (§42287 (b))
 - allows local agencies to only amend the cost associated with the recyclable paper bag for existing ordinances (§42287 (c))
 - authorizes the California Department of Resources, Recycling, and Recovery to inspect and audit a reusable bag producer. (§42282 (a)).

Support

5 Gyres Institute
Azul
BagIt
Board of Supervisers
California Coastkeeper Alliance
California Coastal Coalition
California Resource Recovery Association
California State Lands Commission
Californians Against Waste
Central Contra Costa County Solid Waste Authority
City of El Cerrito
City of Long Beach
City of Palo Alto
City of Sacramento
City and County of San Francisco
City of Sunnyvale
City of San Francisco
Clean Water Action
Clean Water California
Contra Costa Clean Water Program
County of Los Angeles
County of San Mateo
Environment California
Greater San Fernando Valley Chamber of Commerce
Green Sangha

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE APRIL 2, 2013

SENATE BILL

No. 405

Introduced by Senator Padilla
(Coauthor: Senator Leno)

February 20, 2013

An act to add Chapter 5.3 (commencing with Section 42280) to Part 3 of Division 30 of, and to repeal Section 42285 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 405, as amended, Padilla. Solid waste: single-use carryout bags. Existing law, until January 1, 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.

With specified exceptions, this bill, as of January 1, 2015, would prohibit stores that have a specified amount of dollar sales or retail floor space from providing a single-use carryout bag to a customer. *The bill, on and after July 1, 2016, would additionally impose this prohibition on convenience food stores, foodmarts, and certain other specified stores.* The bill would require *all of* these stores to meet other specified requirements regarding providing recycled paper bags, compostable bags, or reusable grocery bags to customers.

~~The bill, on and after July 1, 2016, would additionally impose these prohibitions and requirements on convenience food stores, foodmarts, and certain other specified stores.~~

The bill would require a reusable grocery bag that a store is required to sell on and after July 1, 2016, to meet specified requirements. A

violation of that requirement and the requirements that would be imposed upon grocery bag producers to submit certain laboratory test results would be subject to an administrative civil penalty assessed by the Department of Resources Recycling and Recovery. 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 require the department, by January 1, 2017, to submit a report to the Legislature regarding the implementation of the bill's provisions. The bill would repeal this report requirement on January 1, 2018.

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. 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, on and after January 1, 2014, from enforcing or implementing an ordinance, resolution, regulation, or rule adopted on or after September 1, 2013, relating to those bags, 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, 2013, to continue to enforce and implement that ordinance, resolution, regulation, or rule, but would require any amendments to that ordinance, resolution, regulation, or rule to be subject to state preemption.

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

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

- 1 SECTION 1. Chapter 5.3 (commencing with Section 42280)
- 2 is added to Part 3 of Division 30 of the Public Resources Code, to
- 3 read:

CHAPTER 5.3. SINGLE-USE CARRYOUT BAGS

Article 1. Definitions

42280. For purposes of this chapter, the following definitions shall apply:

(a) "Department" means the Department of Resources Recycling and Recovery.

(b) "Postconsumer recycled material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

(c) "Recycled paper bag" means a paper carryout bag provided by a store to a customer at the point of sale that meets all of the following requirements:

(1) (A) Except as provided in subparagraph (B), contains a minimum of 40 percent postconsumer recycled materials.

(B) An eight pound or smaller recycled paper bag shall contain a minimum of 20 percent postconsumer recycled material.

(2) Is accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in the state.

(3) Has printed on the bag the name of the manufacturer, the country where the bag was manufactured, and the minimum percentage of postconsumer content.

(d) "Reusable grocery bag" on and after July 1, 2016, means a bag that meets the requirements of Section 42281.

(e) "Reusable grocery bag producer" means a person or entity that does any of the following:

(1) Manufactures reusable grocery bags for sale or distribution to a store.

(2) Imports reusable grocery bags into this state, for sale or distribution to a store.

(3) Sells or distributes reusable bags to a store.

(f) (1) "Single-use carryout bag" means a bag made of plastic, paper, or other material that is provided by a store to a customer at the point of sale and that is not a recycled paper bag or a reusable grocery bag that meets the requirements of Section 42281.

1 (2) A single-use carryout bag does not include either of the
2 following:

3 (A) A bag provided by a pharmacy pursuant to Chapter 9
4 (commencing with Section 4000) of Division 2 of the Business
5 and Professions Code to a customer purchasing a prescription
6 medication.

7 (B) A nonhandled bag used to protect a purchased item from
8 damaging or contaminating other purchased items when placed in
9 a recycled paper bag or reusable grocery bag.

10 (g) "Store" means a retail establishment that meets any of the
11 following requirements:

12 (1) A full-line, self-service retail store with gross annual sales
13 of two million dollars (\$2,000,000) or more, and that sells a line
14 of dry groceries, canned goods, or nonfood items, and some
15 perishable items.

16 (2) Has at least 10,000 square feet of retail space that generates
17 sales or use tax pursuant to the Bradley-Burns Uniform Local Sales
18 and Use Tax Law (Part 1.5 (commencing with Section 7200) of
19 Division 2 of the Revenue and Taxation Code) and has a pharmacy
20 licensed pursuant to Chapter 9 (commencing with Section 4000)
21 of Division 2 of the Business and Professions Code.

22 (3) Is a convenience food store, foodmart, or other entity that
23 is engaged in the retail sale of a limited line of goods, generally
24 including milk, bread, soda, and snack foods, and that holds a Type
25 20 or Type 21 license issued by the Department of Alcoholic
26 Beverage Control.

27

28 Article 2. Reusable Grocery Bags

29

30 42281. (a) On and after July 1, 2016, a reusable grocery bag
31 that is sold pursuant to subdivision (c) of Section ~~42282~~ 42283
32 shall meet all of the following requirements:

33 (1) (A) Be designed and manufactured to withstand, at a
34 minimum, 125 uses.

35 (B) For purposes of this paragraph, "125 uses" means the
36 capability of carrying a minimum of 22 pounds 125 times over a
37 distance of at least 175 feet.

38 (2) Is machine washable or made from a material that can be
39 cleaned and disinfected.

1 (3) Have printed on the bag, or on a tag attached to the bag that
2 is not intended to be removed, and in a manner visible to the
3 consumer the following information:

4 (A) The name of the manufacturer.

5 (B) The country where the bag was manufactured.

6 (C) A recycling symbol or end-of-life management instructions.

7 (D) The percentage of postconsumer recycled material, if any.

8 (4) Does not contain lead, cadmium, or any other heavy metal
9 in toxic amounts. This requirement shall not affect any authority
10 of the Department of Toxic Substances Control pursuant to Article
11 14 (commencing with Section 25251) of Chapter 6.5 of Division
12 20 of the Health and Safety Code and, notwithstanding subdivision
13 (c) of Section 25257.1 of the Health and Safety Code, the reusable
14 grocery bag shall not be considered as a product category already
15 regulated or subject to regulation.

16 (5) Complies with Section 260.12 of Part 260 of Title 16 of the
17 Code of Federal Regulations related to recyclable claims if the
18 reusable grocery bag producer makes a claim that the reusable
19 grocery bag is ~~recyclable~~ *recyclable*.

20 (b) In addition to the requirements in subdivision (a), a reusable
21 grocery bag made from plastic shall meet all of the following
22 requirements:

23 (1) On and after July 1, 2017, be made from a minimum of 20
24 percent postconsumer recycled material, except as provided in
25 subdivision (d).

26 (2) In addition to the information required to be printed on the
27 bag or on a tag, pursuant to paragraph (3) of subdivision (a), all
28 of the following information shall be printed on the bag, or on a
29 tag that complies with that paragraph:

30 (A) A statement that the bag is a reusable bag and designed for
31 at least 125 uses.

32 (B) Instructions to return the bag to the store for recycling or
33 to another appropriate recycling location.

34 (c) A plastic reusable grocery bag that also meets the
35 specifications of the American Society of Testing and Materials
36 (ASTM) Standard Specification for Compostable Plastics D6400,
37 as published in September 2004, is not required to meet the
38 requirements of paragraph (1) of subdivision (b), but shall be
39 labeled in accordance with the applicable state law regarding
40 compostable plastics.

1 (d) If a plastic reusable grocery bag producer is unable to obtain
2 sufficient amounts of postconsumer recycled material to comply
3 with this article because of unavailability, the producer shall
4 include the greatest amount of postconsumer recycled material
5 possible in the reusable grocery bag even if this amount is less
6 than required by paragraph (1) of subdivision (b) and shall indicate
7 the percentage that is postconsumer recycled material.

8 42282. (a) The department may inspect and audit a reusable
9 grocery bag producer subject to this article with all costs associated
10 with the audit being paid for by the reusable grocery bag producer.

11 (b) Upon request by the department, a reusable grocery bag
12 producer shall submit laboratory test results from independent,
13 accredited (ISO/IEC 17025) laboratories to the department
14 validating the reusable grocery bag meets the requirements of
15 Section 44281 for each type of reusable grocery bag that is
16 manufactured, imported, sold, or distributed in the state and
17 provided to a store for sale or distribution.

18 (c) The department may test any reusable grocery bag
19 manufactured by a reusable grocery bag producer and provided to
20 a store for sale or distribution for compliance with this article and
21 the regulations adopted pursuant to this article.

22 (d) The department may enter into an agreement with other state
23 entities that conduct inspections to provide necessary enforcement
24 of this article.

25 (e) Notwithstanding Section 42285, a violation of this article
26 shall be subject to an administrative civil penalty assessed by the
27 department in an amount not to exceed five hundred dollars (\$500)
28 for the first violation. A subsequent violation may be subject to
29 an increased penalty of up to five hundred dollars (\$500) per
30 violation, not to exceed five thousand dollars (\$5,000) per violation.

31 (f) The department shall deposit all penalties collected pursuant
32 to subdivision ~~(d)~~ (e) for a violation of this article into the Reusable
33 Bag Account, which is hereby created in the Integrated Waste
34 Management Fund. The moneys in the Reusable Bag Account
35 shall be expended by the department, upon appropriation by the
36 Legislature, to assist the department with its costs of implementing
37 this article.

Article 3. Single-Use Carryout Bags

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42283. (a) On and after January 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not provide a single-use carryout bag to a customer at the point of sale.

(b) On and after July 1, 2016, a store, as defined in paragraph (3) of subdivision (g) of Section 42280, shall not provide a single-use carryout bag to a customer at the point of sale.

(c) (1) On and after July 1, 2016, a store shall make available for purchase by a customer reusable grocery bags that meet the requirements of Section 42281.

(2) On and after July 1, 2016, a store shall not sell or distribute a reusable bag at the point of sale that does not meet the requirements of Section 42281.

(d) A store may make available for purchase at the point of sale a recycled paper bag.

(e) Notwithstanding any other law, on and after January 1, 2015, a store shall provide a customer participating in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code and a customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the Welfare and Institutions Code with a reusable grocery bag or a recycled paper bag at no cost at the point of sale.

(f) Notwithstanding subdivisions (a) and (b), a store may make available for purchase at the point of sale a compostable bag that, at a minimum, meets the American Society for Testing and Materials (ASTM) Standard Specification for Compostable Plastics D6400, if, in the jurisdiction where the compostable bag is sold, both of the following requirements are met:

(1) A majority of the residential households in the jurisdiction have access to curbside collection of foodwaste for composting.

(2) The governing authority for the jurisdiction has voted to allow stores in the jurisdiction to sell to a consumer at the point of sale a compostable bag at a cost not less than the actual cost of the bags.

1 Article 4. Reporting Requirements

2
3 ~~42284. (a) On or before January 1, 2017, the department shall~~
4 ~~submit a report to the Legislature in accordance with Section 9795~~
5 ~~of the Government Code regarding the effectiveness of this chapter~~
6 ~~and recommendations for statutory changes to increase~~
7 ~~effectiveness, which shall include all of the following:~~

8 ~~(1) A compilation of state cleanup data to evaluate pollution~~
9 ~~reduction.~~

10 ~~(2) Recommendations to further encourage the use of reusable~~
11 ~~grocery bags by customers and stores.~~

12 ~~(3) An evaluation of the requirements for reusable grocery bags~~
13 ~~specified in Section 42281.~~

14 ~~(4) Distribution of recycled paper bags.~~

15 ~~(5) Number and type of violations.~~

16 ~~(b) The department shall coordinate with other state and local~~
17 ~~agencies in compiling this report to maximize existing efforts and~~
18 ~~resources in the areas of litter reduction, water quality, and~~
19 ~~environmental protection.~~

20 ~~(c) Pursuant to Section 110231.5 of the Government Code, this~~
21 ~~section is repealed on January 1, 2018.~~

22
23 Article 5. Enforcement

24
25 Article 4. Enforcement

26
27 42285. (a) A city, a county, a city and county, or the state may
28 impose civil liability in the amount of five hundred dollars (\$500)
29 for the first violation of this chapter, one thousand dollars (\$1,000)
30 for the second violation, and two thousand dollars (\$2,000) for the
31 third and subsequent violations.

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

38 (c) The remedies provided by this section shall not be exclusive
39 and shall be in addition to the remedies that may be available

1 pursuant to Chapter 5 (commencing with Section 17200) of Part
2 of Division 7 of the Business and Professions Code.

3
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5

Article 5. Preemption

6 42287. (a) *Except as provided in subdivision (c), this chapter*
7 *is a matter of statewide interest and concern and is applicable*
8 *uniformly throughout the state. Accordingly, this chapter occupies*
9 *the whole field of regulation of reusable grocery bags, single-use*
10 *carryout bags, and recycled paper bags, as defined in this chapter.*

11 (b) *On and after January 1, 2014, a city, county, or other local*
12 *public agency shall not enforce against a store, as defined in*
13 *subdivision (g) of Section 42280, or otherwise implement, an*
14 *ordinance, resolution, regulation, or rule adopted on or after*
15 *September 1, 2013, relating to reusable grocery bags, single-use*
16 *carryout bags, or recycled paper bags, as defined in this chapter,*
17 *unless expressly authorized by this chapter.*

18 (c) *A city, county, or other local public agency that has adopted,*
19 *prior to September 1, 2013, an ordinance, resolution, regulation,*
20 *or rule relating to reusable grocery bags, single-use carryout bags,*
21 *or recycled paper bags may continue to enforce and implement*
22 *that ordinance, resolution, regulation, or rule that was in effect*
23 *before that date. Any amendments to that ordinance, resolution,*
24 *regulation, or rule on or after January 1, 2014, shall be subject*
25 *to subdivision (b), except a city, county, or other local public*
26 *agency may amend that ordinance, resolution, regulation, or rule*
27 *with regard to the amount that a store shall charge with regard*
28 *to a recycled paper bag.*

O