

SENATE RULES COMMITTEE

AB 1080

Office of Senate Floor Analyses

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THIRD READING

Bill No: AB 1080

Author: Gonzalez (D), Calderon (D), Friedman (D) and Ting (D), et al.

Amended: 8/14/19 in Senate

Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 7/3/19

AYES: Allen, Hill, Skinner, Stern, Wieckowski

NO VOTE RECORDED: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/30/19

AYES: Portantino, Bradford, Durazo, Hill, Wieckowski

NOES: Jones

NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 44-19, 5/30/19 - See last page for vote

SUBJECT: California Circular Economy and Plastic Pollution Reduction Act

SOURCE: Author

DIGEST: This bill requires the Department of Resources Recycling and Recovery (CalRecycle) to adopt regulations that would (1) require producers of single-use packaging and priority single-use plastic products to source reduce to the maximum extent possible and require, by 2030, that all single-use packaging and priority single-use plastic products be recyclable or compostable; (2) require producers to collectively achieve and maintain, by 2030, a statewide 75 percent reduction of waste generated by each of single-use packaging and priority single-use plastic products. This bill, commencing in 2024, subjects single-use plastic packaging, single-use poly lined paper packaging, and single-use poly lined paperboard packaging and priority single-use plastic products to specified progressing recycling rates.

ANALYSIS: Existing law establishes, under the Integrated Waste Management Act of 1989 (IWMA), a state recycling goal of 75 percent of solid waste generated to be diverted from landfill disposal through source reduction, recycling, and composting by 2020. Requires each state agency and each large state facility to divert at least 50 percent of all solid waste through source reduction, recycling, and composting activities. IWMA also requires a state agency and large state facility, for each office building of the state agency or large state facility, to provide adequate receptacles, signage, education, and staffing, and arrange for recycling services, as specified (PRC §§ 41780.01, 42921, 42924.5).

This bill:

- 1) Enacts the California Circular Economy and Plastic Pollution Reduction Act (Act).
- 2) Requires CalRecycle, by January 1, 2024, and in consultation with relevant state agencies with jurisdiction relevant to the Act and local jurisdictions and regional agencies charged with meeting waste diversion goals, to adopt regulations that would do the following:
 - a) Require producers of single-use packaging to source reduce single-use packaging to the maximum extent feasible and to ensure that by 2030 all single-use packaging manufactured on or after January 1, 2030, and offered for sale, sold, distributed, or imported in or into the California market is recyclable or compostable.
 - b) Require producers of priority single-use plastic products to source reduce the products to the maximum extent feasible and to ensure that by 2030 those products manufactured on or after January 1, 2030, and offered for sale, sold, distributed, or imported in or into the California market are recyclable or compostable.
 - c) Require products to collectively achieve and maintain a statewide 75 percent reduction of the waste generated from single-use packaging and priority single-use plastic products through source reduction, recycling, or composting.
- 3) Authorizes CalRecycle to identify single-use packaging or priority single-use plastic products that present unique challenges in complying with these requirements and authorizes CalRecycle to develop a plan to phase those packaging and products into the regulations.

- 4) Requires, before adopting the regulations, CalRecycle to finalize, before January 1, 2023, a scoping plan to achieve those recycling requirements and, as a part of the scoping plan, to conduct extensive outreach to stakeholders and local agencies, as specified; to evaluate the feasibility of employing specified regulatory measures; and identify opportunities that would further the purposes of the Act.
- 5) Requires a producer to annually report certain information to the department on the quantity, weight, volume, and type of single-use packaging and priority single-use plastic products offered for sale, sold, distributed, or imported in or into California by the producer and the quantity, weight, volume, and type of material source reduced by the producer.
- 6) Requires the regulations to include the following:
 - a) A mechanism for accounting the total statewide generation of single-use packaging and priority single-use plastic products to set a baseline amount for waste generation from these sources.
 - b) Direct source reduction measures of single-use packaging and priority single-use plastic products, as specified.
- 7) Requires CalRecycle to develop a checklist of source reduction measures and provides that a producer that complies with all applicable measures on the checklist is in compliance with the requirement to source reduce to the maximum extent feasible.
- 8) Requires CalRecycle to develop criteria to determine which types of single-use packaging or priority single-use plastic products are reusable, recyclable, or compostable.
- 9) Requires single-use plastic packaging, single-use poly lined paper packaging, and single-use poly lined paperboard packaging and priority single-use plastic products offered for sale, sold, distributed, or imported in or into the state by a producer to meet specified recycling rates and authorizes a producer to demonstrate compliance with the recycling rates by submitting to CalRecycle evidence that the packaging or product meets the applicable recycling rate threshold by referencing a recycling rate on a list maintained by CalRecycle.
- 10) Authorizes CalRecycle to issue a notice of violation to and impose an administrative civil penalty of up to \$50,000 per day on a producer not in

compliance with the act, but, before assessing a penalty, authorizes CalRecycle to require the producer to submit a corrective action plan.

Background

- 1) *Solid waste in California.* For three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through the IWMA. Under IWMA, the state has established a statewide 75 percent source reduction, recycling, and composting goal by 2020 and over the years the Legislature has enacted various laws relating to increasing the amount of waste that is diverted from landfills. According to CalRecycle's State of Disposal and Recycling in California 2017 Update, 42.7 million tons of material were disposed into landfills in 2016.
- 2) *Market challenges for recyclable materials.* The U.S. has not developed significant markets for recycled content materials, including plastic and mixed paper. Historically, China has been the largest importer of recycled materials. According to the International Solid Waste Association, China accepted 56 percent by weight of global recycled plastic exports. In California, approximately one third of recycled material is exported; and, until recently, 85 percent of the state's recycled mixed paper has been exported to China.

In 2017, China established Operation National Sword, which included additional inspections of imported recycled materials and a filing with the World Trade Organization indicating its intent to ban the import of 24 types of scrap, including mixed paper and paperboard, polyethylene terephthalate (PET), polyethylene (PE), polyvinyl chloride, and polystyrene (PS) beginning January 1, 2018. In November 2017, China announced that imports of recycled materials that are not banned will be required to include no more than 0.5% contamination.

In January of this year, China announced that it would be expanding its ban even further – to encompass 32 types of scraps for recycling and reuse, including post-consumer plastics such as shampoo and soda bottles. Many other Southeast Asian countries that the US has historically exported to have started to follow China's lead and implement their own ban on importing certain materials.

Comments

- 1) *Purpose of Bill.* According to the author, “Every day, single-use packaging and single-use plastic products in California generate tons of non-recyclable and non-compostable waste impacting our health, natural environment, and local governments.

“Plastic pollution starts with fossil fuel extraction to create plastic and affects individuals, communities, and ecosystems all along the supply chain – from when the products are manufactured, transported, and used to when they degrade and emit greenhouse gases or impact the environment as litter. Oil refineries, plastic manufacturers and incinerators tend to be located in disadvantaged communities, which then must bear the brunt of the associated health impacts from industry, such as higher asthma rates. With a planned 40-percent increase in plastic production over the decade, plastic production will account for 20 percent of global fossil fuel consumption unless we make major policy changes to significantly counter this.

“Unlike natural materials that decompose, nearly every piece of plastic ever produced still exists in our landfills or in the environment. As these items fragment into smaller particles, known as microplastics, they concentrate toxic chemicals and contaminate our food and drinking water sources. Exposure to these plastic and associated toxins has been linked to cancers, birth defects, impaired immunity, endocrine disruption, and other serious health problems.

“One way to reduce the production of plastics is to focus on its use in packaging. Packaging products are typically designed to be used just once and then discarded. They account for 42 percent of all non-fiber plastic produced.

“While the state and local communities in California have tried to reduce the burden from single-use packaging since the 1980s, taxpayers and local governments still spend over \$420 million annually in ongoing efforts to clean up and prevent litter in streets, storm drains, parks, and waterways. Not only is cleanup expensive, but it cannot keep pace with the production of single-use disposable items, which continues to grow exponentially.

“Existing recycling infrastructure can’t keep pace either, without new demand for the recycled content. Only 9 percent of plastic is recycled, and that percentage is dropping since the implementation of China’s National Sword and policies in other countries, which severely restricted the amount of foreign

waste these countries accept. These materials are now either piling up in recycling centers, being landfilled, or sent to illegal facilities in Southeast Asia where they are incinerated, or simply dumped in impoverished areas where it is never mitigated. California must reduce its amount of plastic waste as a result of these realities, and ensure what we do use has a recycling market.

“Eliminating non-reusable, non-recyclable and non-compostable products and reducing packaging is by far the most effective, and least expensive way to protect the health of young people, wildlife, and the environment.”

- 2) *The effect of National Sword on California recycling.* The shift in policy of the international markets have resulted in a major disruption in recycling commodities markets, a sign that California can no longer be primarily reliant on exports to manage its recyclable materials. As a result of these policies, more material is being stockpiled at solid waste facilities and recycling centers or disposed of in landfills. Because California has historically relied on being able to export a significant percentage of these materials, the state now has to figure out a new plan to manage these materials. Recycling requires markets to create new products for this material to close the loop. The new policies of other jurisdictions provide California with the opportunity to reduce waste, build infrastructure for the manufacture of recycled materials, and build domestic markets to successfully and responsibly manage its own recyclable materials.
- 3) *A comprehensive plan.* In recent years, the Legislature has addressed single-use plastic products, and its resulting waste, in piecemeal fashion. While this has proven successful in the past, with the decrease in the use of single-use plastic carryout bags, AB 1080 instead chooses a more holistic approach. This bill directs CalRecycle to examine single-use packaging and priority single-use plastic products across-the-board and develop an approach that would not only aid the state in meeting its 75 percent diversion goal but also result in the reduction of waste, a decrease in pollution; and its associated environmental impacts (like greenhouse gas emissions); and the creation of domestic markets for recyclable materials that will support the development of instate recycling infrastructure.
- 4) *Okay, but will it work?* AB 1080 is an ambitious bill. Opposition to the bill has questioned whether the holistic approach taken by AB 1080 is even feasible, calling the 75 percent reduction mandates unrealistic and overly-broad. Under AB 1080, CalRecycle will be required to develop a baseline for each producer,

based on information reported, to track the amount of source reduction that will be required by regulations, which will be based on the scoping plan. Does CalRecycle have the means to be able to track, for each producer, the different types of packaging and the materials that make up that packaging? CalRecycle is already responsible for implementing and maintaining reports for many of the state's waste programs, including the Rigid Plastic Packaging Container Program. For the Act to be successful, CalRecycle will have to develop a very thoughtful and precise process of gathering, processing, organizing, and maintaining the required reported information under the Act.

- 5) *Recyclability depends on a variety of factors.* Opposition to the bill has expressed concern over the provision that would subject certain items to meet specified recycling rates. Opposition has argued that there are many variables that affect the recycling rate, including end-markets and consumer behavior. Recycling rates cannot go up if there are no end-markets for the recyclable materials. To put the responsibility on the producers who, the opposition argues, have no control over recycling rates of their products is inappropriate.

If properly implemented, AB 1080 will help to develop those end-markets and result in the more sustainable manufacturing of products and packaging. The regulations adopted by CalRecycle, based on its scoping plan, will create a closed-loop system of products made out of recyclable material. AB 1080's comprehensive approach also factors in consumer behavior, addressed in CalRecycle's scoping plan and regulations. For example, in the scoping plan, CalRecycle is required to evaluate the feasibility of discouraging the litter or improper disposal of single-use packaging, products, or other materials likely to harm the environment or public health; and establish labeling requirements that would help consumers adequately sort and recycle the end of life products.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, CalRecycle estimates one-time costs of about \$10 million in 2020 and 2021 (Integrated Waste Management Account [IWMA]) to develop database systems that track and store product information and recycling rates and estimates ongoing administration and program implementation costs of about \$10 million annually (IWMA). Additionally, there are unknown but likely significant enforcement costs after 2024, likely in the tens of millions of dollars annually, to ensure compliance with this bill.

SUPPORT: (Verified 8/30/19)

Fiona Ma, California State Treasurer
350 Bay Area Action
350 Sacramento
350 Silicon Valley
Algalita Marine Research And Education
Alvarado Street Brewery
American Sustainable Business Council
Anna Kauffman, Inc.
As You Sow
Audubon California
Azul
Ban Single Use Plastic (SUP)
Bay Area Physicians for Social Responsibility
Blue Plate
Bon Appetit Management Company
Breast Cancer Prevention Partners
Bren School of Environmental Science & Management, University of California,
Santa Barbara
Brent Allen Outside
California Association of Environmental Health Administrators
California Coastal Commission
California Coastal Protection Network
California Coastkeeper Alliance
California Compost Coalition
California Interfaith Power & Light
California League of Conservation Voters
California Product Stewardship Council
California Releaf
California Resource Recovery Association
California State Association of Counties
California State Parks Foundation
California Teamsters Public Affairs Council
Californians Against Waste
CALPIRG, California Public Interest Research Group
Center For Biological Diversity
Center For Climate Change And Health
Center For Environmental Health
Center for Marine Biodiversity and Conservation, Scripps Institution of
Oceanography

Center For Oceanic Awareness, Research, And Education
Chicobag Company/To-Go Ware
Cigarette Butt Pollution Project
Cities of Alameda, Arcata, Carlsbad, Cloverdale, Concord, Culver City, Dana Point, Danville, Dana Point, Del Mar, El Cerrito, Fountain Valley, Half Moon Bay, Hayward, Hermosa Beach, Hesperia, Imperial Beach, Inglewood, Lakeport, Long Beach, Los Angeles, Livermore, Marina, Novato, Orinda, Pasadena, Placentia, Pleasanton, San Diego, San Luis Obispo, Santa Monica, Sebastopol, Thousand Oaks, and Torrance
Clean Water Action
Coastodian
Colorado Medical Waste, Inc.
Communications Workers of America District 9, AFL-CIO
Communications4Good
Communitas Financial Planning
Communities For Sustainable Monterey County
Community Environmental Council
Conscious Container
CR&R Environmental Services
Defenders of Wildlife
Democrats of Pasadena Foothills
Department of Ecology and Evolutionary Biology, University of Toronto, St. George
Dillon Beach Resort
Distance Learning Consulting
Dr. Bronner's
Dynamics of Inclusive Prosperity Initiative, Erasmus University, Rotterdam
Earthjustice
East Bay MUD
East Yard Communities For Environmental Justice
Eco Imprints
Ecology Center, Berkeley
Environment California
Environmental Defense Center
Environmental Justice Coalition For Water
Environmental Working Group
Eco-pliant
Environmental Health Department of Calaveras County
Erik Sklar and Samantha Murray, Fish and Game Commissioners
Feminists in Action Los Angeles

Friends Committee On Legislation Of California
Friends of The Earth U.S.
Friends of The LA River
Full Circle Environmental, Inc.
Full Cycle
GAIA
Global Eclipse
GoodLight Natural Candles
GOODONYA
GOODR
Green Retirement, Inc.
Green Valley Community Farm
Greenpeace USA
Guitarfish Music Festival
Harley Laguna Beach
Heal the Bay
Heirs to Our Oceans
Hillcrest Indivisible
Indivisible Alta-Pasadena
Indivisible California Green Team
Indivisible California: Statestrong
Indivisible Eagle Rock
Indivisible Media City-Burbank
Indivisible Ventura
Indivisible: South Bay LA
Inland Empire Disposal Association
Inland Ocean Coalition
Institute for Integrated Research in Materials, Environments and Society,
California State University, Long Beach
International Longshore & Warehouse Union Local 13
International Longshore & Warehouse Union Local 63
International Longshore & Warehouse Union Local 94
Joshua Tree Music Festival
Kasperorganics
Kite Music Productions/Flying Kite Motion Pictures
La Cooperativa Campesina De California
LA Hauler
Leadership & Strategy for Sustainable Systems
League of California Cities
League of Women Voters Of California

League To Save Lake Tahoe
Long Beach Environmental Alliance
Long Beach Gray Panthers
Los Angeles Waterkeeper
Lutheran Office of Public Policy, California
Lydia's Kind Foods, Inc.
Los Angeles Alliance for a New Economy (LAANE)
Latinos In Action
Los Angeles City Council
Los Angeles County Board of Supervisors, Faith Conley
Marine Mammal Center
Moneyvoice
MD Global
Microbiology and Environmental Toxicology Department, University of
California, Santa Cruz
Monterey Bay Aquarium
Monterey Regional Waste Management District
Napa Recycling and Waste Services
National Parks Conservation Association
National Stewardship Action Council
Natural Resources Defense Council
Northcoast Environmental Center
Northern California Recycling Association
Ocean Analytics
Ocean Conservancy
Oceana
Outdoor Outreach
Owl Post Calligraphy
Pacific Forest Trust
Pacific Grove Chamber
Pacoima Beautiful
Penn State Behrend
Pharmacists Planning Services, Inc.
Physicians for Social Responsibility, Los Angeles
Pier 23 Cafe Restaurant & Bar
Plastic Pollution Coalition
Ponce's Mexican Restaurant
Project Coyote
R3 Consulting Group, Inc.
Recology

Recycle Smart
Refill Madness, LLC
Republic Services - Western Region
Repurpose
ReThink Waste
Robin's Restaurants
Rooted In Resistance
Rose Foundation for Communities and the Environment
Rural County Representatives of California
San Diego 350
San Francisco Bay Area Physicians for Social Responsibility
San Francisco Bay Keeper
San Francisco Chamber of Commerce
San Francisco Department Of The Environment
San Francisco Wildlife Rescue and Yggdrasil Urban Wildlife Rescue of Oakland
Save Our Shores
Save the Bay
Sea Hugger
Sealegacy
SEIU California
Seventh Generation Advisors
Shafir Environmental
Shark Lock Bags
SIC Productions, Inc.
Sierra Club California
Sierra Leadership
Sierra Nevada Alliance
Tataki Restaurant Group
Six Rivers Brewery
Smart Planet Technologies
SoCal 350
Sonoma County Farm Trails
St. Francis Center
Steelys Drinkware
Stopwaste (ACWMA)
Surfrider Foundation
Sustain LA
Sustainable Coastlines Hawaii
Sustainable Environment Management Co.
Symbiosis Gathering

TDC Environmental, LLC
Teamsters Local Union No. 396
The 5 Gyres Institute
The Last Plastic Straw
The Little Chihuahua Mexican Restaurants
The Nature Conservancy
The River Project
The Story Of Stuff Project
The Trust For Public Land
The Watershed Project
TIGER!TIGER!
Tomra Systems ASA
Tonic Nightlife Group
Tree People
Tri-CED Community Recycling
Turtle Island Restoration Network
UPSTREAM
Valley Improvement Projects
Waste Busters, Inc.
Wholly H2O
WILDCOAST
Wishtoyo Chumash Foundation
Women's Voices For The Earth
Zero Waste Sonoma
Zero Waste USA
135 Individuals

OPPOSITION: (Verified 8/30/19)

Agricultural Council of California
Almond Alliance of California
American Bakers Association
American Chemistry Council
American Cleaning Institute
American Frozen Foods Institute
American Fuel & Petrochemical Manufacturers
American Institute for Packaging and Environment
Association of California Egg Farmers
California Association of Wheat Growers
California Association of Winegrape Growers
California Automatic Vendor's Council

California Bean Shippers Association
California Canning Peach Association
California Chamber of Commerce
California Citrus Mutual
California Farm Bureau Federation
California Food Producers
California Fresh Fruit Association
California Grain & Feed Association
California League of Food Producers
California Manufacturers & Technology Association
California Pear Growers Association
California Restaurant Association
California Retailers Association
California Seed Association
California State Floral Association
California Strawberry Commission
California Warehouse Association
Center for Baby and Adult Hygiene Products
Chemical Industry Council of California
Computing Technology Industry Association
Consumer Technology Association
Council for Responsible Nutrition
Distilled Spirits Council of The United States
EPS Industry Alliance
Flexible Packaging Association
Foodservice Packaging Institute
Grocery Manufacturers Association
Household and Commercial Products Association
Inda, Association of The Nonwoven Fabrics Industry
Issa - the Worldwide Cleaning Industry Association
National Confectioners Association
National Marine Manufacturers Association
Pacific Coast Producers
Pacific Egg & Poultry Association
Personal Care Products Council
Plastic Shipping Container Institute
Plastics Industry Association
Plumbing Manufacturers International
Product Management Alliance
Snac International

Styrene Information and Research Center
The Toy Association
Western Growers Association
Western Independent Refiners Association
Western Plastics Association
Western States Petroleum Association
Wine Institute

ASSEMBLY FLOOR: 44-19, 5/30/19

AYES: Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Eggman, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gloria, Gonzalez, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, McCarty, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Cunningham, Dahle, Flora, Fong, Frazier, Kiley, Lackey, Mathis, Medina, Melendez, Obernolte, Patterson, Quirk-Silva, Ramos, Salas, Voepel, Waldron

NO VOTE RECORDED: Aguiar-Curry, Arambula, Brough, Burke, Choi, Cooley, Cooper, Daly, Diep, Gallagher, Gipson, Gray, Grayson, Maienschein, Mayes, Rodriguez, Blanca Rubio

Prepared by: Genevieve M. Wong / E.Q. / (916) 651-4108
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**** END ****