

ASSEMBLY THIRD READING
AB 1201 (Ting, et al.)
As Amended April 5, 2021
Majority vote

SUMMARY

Establishes content and labeling requirements for compostable plastic.

Major Provisions

- 1) Prohibits the sale of a plastic product labeled with the term "compostable," "home compostable," or "soil degradable" unless the product meets all of the following requirements:
 - a) Meets the appropriate ASTM Test Method for compostability;
 - b) Has certification from a third party approved by the Director of CalRecycle, as specified, for meeting compostability and toxicity standards;
 - c) Is an allowable organic input under the requirements of the National Organic Program and the Department of Food and Agriculture's Organic Input Material Program;
 - d) Does not include intentionally added perfluoroalkyl substances; and,
 - e) Is labeled in a manner that clearly distinguishes the product from a noncompostable or nonbiodegradable product upon quick inspection by consumers and solid waste processing facilities and, where possible, that include the word "compostable," an approved third-party certification mark, and the use of green or brown colors.
- 2) Authorizes CalRecycle to adopt regulations for plastic product labeling to ensure that plastic products labeled "compostable" or "home compostable" are clearly distinguishable from noncompostable products upon quick inspection by consumers and solid waste processing facilities. In adopting regulations, CalRecycle may consider the plastic product labeling requirements of other states to maximize consistency with those requirements, when possible.

COMMENTS

Compostable plastic standards. California's labeling requirements for compostable plastic were crafted to ensure that environmental marketing claims are accurate and do not mislead consumers. Prior to the state adopting standards in 2004, plastic with misleading claims of biodegradability and compostability were widely marketed to consumers, even though the material does not break down in the environment. These materials are also not recyclable and are instead a contaminant when mixed with recyclable plastic waste. The Legislature has enacted numerous bills that attempt to prevent misleading environmental marketing claims and ensure that the materials we use can be properly managed, including banning the use of terms like "biodegradable" for plastic products and requiring plastics labeled "compostable" to meet widely accepted standards for compostability.

ASTM has adopted over 12,000 voluntary standards for a wide range of materials, products, systems, and services. ASTM standards include two for compostable plastics. For plastics designed to be composted in industrial compost facilities (D6400) and for paper and other products coated in plastic or other polymers designed to be composted in industrial compost facilities (D6868) the standards provide consistency and clarity for consumers and producers who want to ensure that their products are compostable. The standards are imperfect. Composting technology has advanced since the adoption of the standards and material is processed more quickly, so thicker compostable items, like utensils, often have to be removed from the finished compost and landfilled. Composting is designed to manage organic waste, like yard clippings and leaves, and is not the ideal management option for plastic waste.

Federal law. Unfair or deceptive acts or practices in or affecting commerce are illegal under federal law. The Federal Trade Commission (FTC) publishes the Green Guides to explain how the law applies to environmental labeling, advertising, and marketing, including the use of labels such as "degradable," "biodegradable," or "compostable."

PFAS. PFAS are a class of chemicals characterized by highly stable carbon-fluorine bonds that are used to make fluoropolymer coatings and products that resist heat, oil, stains, grease, and water. These coatings can be used in everything from clothing to food packaging. PFAS are a concern because they do not break down in the environment, can move through soils and contaminate waterways, and the bioaccumulate in fish and wildlife, which is why they are also known as "forever chemicals." The Centers for Disease Control (CDC) includes testing for PFAS in its *National Report on Human Exposure to Environmental Chemicals*, which includes biomonitoring data gathered since 1999 on participants in the National Health and Nutrition Examination Survey. The CDC scientists found PFAS in "nearly all" of the participants tested, indicating widespread exposure to PFAS in the United States population.

According to the Department of Toxic Substances Control (DTSC), PFAS have the potential to cause or contribute to significant and widespread adverse impacts to sensitive subpopulations, including fetuses, infants, young children, and workers; to environmentally sensitive habitats; and, to threatened and endangered species. DTSC states that exposure to PFAS can lead to adverse health impacts to humans. When humans are exposed through food, drinking water, or inhalation, the chemicals remain in the body for a long time. Continued exposure causes the levels to increase until they may suffer from adverse health effects. DTSC also notes that studies indicate that PFAS can cause reproductive, developmental, tumors, and liver, kidney, and immunological effects in animals. In humans, the most consistent finding is a small increase in serum cholesterol levels, with more limited findings related to infant birth weight, immune system function, cancer, and thyroid hormone disruptions.

This bill. Even with the existing compostability standards, the majority of compostable plastic material is sorted out and landfilled. Lack of clear labeling and the potential for the material to include toxic compounds like PFAS make it challenging for processors to identify what can be safely included in compost feedstock. Misleading product labels damage composting facilities' ability to ensure that their feedstock will break down properly and be available for resale to end users. It is critical that plastic that is labeled compostable meet the standards necessary to ensure it's safe to include in compost.

This bill is intended to remove the barriers faced by compost producers and enable products that are labeled compostable to truly be compostable. This bill will also prevent manufacturers from

intentionally adding PFAS and other known harmful chemicals to food packaging that is compostable.

According to the Author

AB 1201 ensures that California's compost stream is safe from harmful chemicals and that what is labeled as compostable actually is compostable. A majority of compostable packaging is currently sorted then disposed of in landfills. Californians are paying higher costs for their food to come in compostable containers and even more for their waste collector to sort these erroneously marked materials, only to end up in the landfill rather than a compost facility. This practice also results in higher environmental costs. It's crucial that claims of compostability reflect the realities of the infrastructure where these products are managed and that we do not allow harmful "forever chemicals" to impact our health through the compost process.

Arguments in Support

A coalition of supporters state that, "certain plastics currently labeled as "compostable" or "biodegradable" can contain PFAS. When such plastic is composted, the PFAS contaminates the compost, can be absorbed by plants and food crops grown in the compost-treated soil, and can ultimately make their way up the food chain, impacting humans. To ensure the safety of our food chain and our environment, we must keep PFAS out of the compost we use to grow our food and eliminate their use in products wherever possible."

Arguments in Opposition

None on file

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) The cost for CalRecycle to develop the content and labeling requirements depend on whether the department opts to develop guidelines or go through the rulemaking process. The development of guidelines is likely absorbable within existing resources, however, if CalRecycle chooses to develop regulations, costs are likely in the range of \$100,000 to \$200,000 over a one-year to two-year period (special fund).
- 2) If CalRecycle is responsible for the implementation and enforcement of the bill, about an additional \$125,000 per year would be necessary (special fund).

VOTES

ASM NATURAL RESOURCES: 10-0-1

YES: Luz Rivas, Flora, Chau, Friedman, Cristina Garcia, Mathis, Muratsuchi, Seyarto, Stone, Wood

ABS, ABST OR NV: McCarty

ASM APPROPRIATIONS: 16-0-0

YES: Lorena Gonzalez, Bigelow, Calderon, Carrillo, Chau, Megan Dahle, Davies, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

UPDATED

VERSION: April 5, 2021

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