
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 1201 (Ting) - Solid waste: products: labeling: compostability and biodegradability

Version: August 18, 2021

Urgency: No

Hearing Date: August 23, 2021

Policy Vote: E.Q. 5 - 0

Mandate: No

Consultant: Ashley Ames

Bill Summary: This bill would expand content and labeling requirements for compostable plastic.

Fiscal Impact:

- Ongoing cost pressure of about \$120,000 annually (Integrated Waste Management Account [IWMA]) for the Department of Resource Recycling and Recovery (CalRecycle) to promulgate regulations if necessary.
- To the extent that CalRecycle is responsible for the implementation and enforcement of the provisions of this bill, it would result in additional costs of approximately \$125,000 annually (IWMA).

Background: California's labeling requirements for compostable plastic are designed to guarantee marketing claims are accurate and do not mislead consumers. Prior to the adoption of standards in 2004, misleading claims of biodegradability and compostability were common despite the fact plastic material did not break down in the environment and contaminated recyclable plastic waste when mixed.

The Legislature has enacted numerous bills intended to prevent misleading environmental marketing claims and ensure used materials are able to be properly managed. Efforts include banning the use of terms like "biodegradable" for plastic products and requiring plastics labeled "compostable" to meet widely accepted standards.

CalRecycle's 2010 Assessment of Compost and Mulch Infrastructure estimated that more than half of the state's compost is applied to agriculture lands, with a large fraction used in organic agriculture. Organic inputs, such as compost, that are suitable for use in organic production in California are required to meet USDA NOP standards and be registered as an Organic Input Material with the CDFA. The NOP standards specify what substances are suitable feedstocks for compost that can be applied to crops and soil in organic agricultural production. Currently, compostable plastic is not an allowable food waste and green waste input for compost.

Proposed Law: This bill would:

1. Repeal the definition of "plastic product" in existing law and replace certain references to "plastic product" in those and related provisions with "product," which the bill would define as a product designed to be associated with the recovery of desirable organic wastes that are collected for composting.

2. Prohibit a person from selling a product in California that is labeled with the term “compostable” or “home compostable” unless the product satisfies all of the following:
 - a. Has a certification from the Biodegradable Products Institute (BPI), the Compost manufacturing alliance, or another third-party certification entity that is approved by CalRecycle as specified, for meeting compostability and toxicity standards;
 - b. On and after January 1, 2026, is an allowable agricultural organic input under the requirements of the United States Department of Food and Agriculture (USDA) National Organic Program (NOP) that has been reviewed and approved by a USDA NOP-accredited certifying agent for use in organic crop and food production. The director may grant a five-year extension for complying with this requirement if has or will soon be:
 - i. Included on the National List of Allowed and Prohibited Substances for the NOP; or,
 - ii. Included as an allowable organic input for compost under federal law.
 - c. Does not have a total fluorine concentration of greater than 100 parts per million, unless the department adopts a different standard that it determines would more effectively limit the presence of perfluoroalkyl or polyfluoroalkyl substances (PFAS); and,
 - d. Is labeled in a manner that clearly distinguishes the product from a noncompostable product upon quick inspection by consumers and solid waste processing facilities, and, where possible, that includes the word “compostable,” an approved third-party certification mark, and the use of green or brown colors.
3. Authorize CalRecycle to adopt regulations for determining whether products comply with the requirements of this bill. In adopting regulations, CalRecycle may consider whether the regulations are consistent with product labeling requirements of other states, stakeholder input, and industry-standard guidelines.
4. Allow CalRecycle to include requirements that products are not designed, pigmented, or advertised in a manner that is misleading to consumers.

Related Legislation:

AB 2287 (Eggman, Chapter 281, Statutes of 2020) authorized the use of soil degradable agricultural mulch film that meets specified standards.

SB 1383 (Hueso, 2014) would have authorized the Director of CalRecycle to adopt a standard for plastic products that degrade in soil, as specified, and permits the sale of agricultural mulch film plastic that meets that standard. AB 1383 was vetoed by Governor Brown, who stated that the standard for biodegradable agricultural film plastic

was not yet finalized.

SB 567 (DeSaulnier, Chapter 594, Statutes of 2011) created the Plastic Products Law under the California Integrated Waste Management Act of 1989, to prohibit a plastic product from being sold that is labeled “compostable,” “home compostable,” or “marine biodegradable” unless the plastic meets certain ASTM standards or another standard that is subject to CalRecycle requirements.

SB 228 (DeSaulnier, Chapter 406, Statutes of 2010) required a compostable plastic bag manufacturer meeting certain standards to ensure that the compostable plastic bag is “readily and easily identifiable” (as defined in this bill) from other plastic bags, in a manner that is consistent with the Federal Trade Commission Guides for the Use of Environmental Marketing Claims.

AB 2147 (Harman, Chapter 349, Statutes of 2006) prohibited persons from selling plastic food and beverage containers labeled as “compostable,” “biodegradable,” “degradable,” or any form of those terms, unless the containers meet certain requirements.

SB 1749 (Karnette, Chapter 619, Statutes of 2004) prohibited persons from selling a plastic bag labeled as “compostable,” “biodegradable,” “degradable,” or any form of those terms, unless the plastic bag meets certain requirements.

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