

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 1276 (Carrillo) – As Amended March 17, 2021

SUBJECT: Single-use food accessories and service ware.

SUMMARY: Expands and revises the statute that prohibits the distribution of single-use plastic straws, except upon request, to apply to all single-use food accessories and food service ware distributed by food facilities or third-party food delivery platforms (platform). Beginning January 1, 2023, requires full service restaurants to provide reusable food service ware, except as specified.

EXISTING LAW:

- 1) Under the federal Marine Plastic Pollution Research and Control Act of 1987, prohibits the at-sea disposal of plastic and other solid materials for all navigable waters within the United States. The law also requires the US Environmental Protection Agency (US EPA), the National Oceanic and Atmospheric Administration, and the US Coast Guard to jointly conduct a public education program on the marine environment.
- 2) Under the federal Clean Water Act, requires the state to identify a list of impaired water-bodies and develop and implement Total Maximum Daily Loads for impaired water bodies.
- 3) Under the Porter Cologne Water Quality Control Act, regulates discharges of pollutants in stormwater and urban runoff by regulating, through the National Pollution Discharge Elimination System, industrial discharges and discharges through the municipal storm drain systems.
- 4) Under the Integrated Waste Management Act, requires that local governments divert at least 50% of solid waste from landfill disposal and establishes a statewide goal that 75% of solid waste be diverted from landfill disposal by 2020.
 - a) Prohibits a full-service restaurant from providing a single-use plastic straw to a consumer unless requested by the consumer. Subjects the first and second violation to a notice of violation and each subsequent violation to an infraction and a fine of \$25 for each day the full-service restaurant is in violation. Limits the fine to no more than \$300 annually.
 - b) Prohibits a state food service facility from dispensing prepared food using a type of food service packaging unless the packaging is on a specified list maintained by the Department of Resources Recycling and Recovery (CalRecycle) and has been determined to be reusable, recyclable, or compostable.

THIS BILL:

- 1) Expands the prohibition on food service facilities from distributing single-use plastic straws except upon request to include platforms and all single-use food accessories.

- 2) Defines terms used in the bill, including:
 - a) “Full-service restaurant” as an establishment with the primary business of serving food, where food may be consumed on the premises;
 - b) “Single-use food accessory” as any standard condiment in single-use packaging or single-use food service ware; and,
 - c) “Single-use food service ware” as all types of single-use items provided alongside ready to-eat food served or delivered in single-use bags, plates, containers, or cups, including, but not limited to, utensils, chopsticks, napkins, condiment cups and packets, straws, stirrers, splash sticks, and cocktail sticks, which are designed for a single use.
- 3) Requires platforms to provide each of its ready-to-eat food vendors with the option to customize the vendor’s menu on the online food-ordering platform, with a list of the single-use food accessories offered by the vendor. If a consumer does not select any single-use food accessories, no single-use food accessory shall be provided.
- 4) If a ready-to-eat food vendor chooses not to customize its menu, the platform shall post the following statement next to their menu: “This restaurant has not listed single-use food accessories on its menu.”
- 5) States that the requirement to provide single-use food accessories only upon request does not prevent a local government from adopting or implementing an ordinance or rule that would further restrict a food facility, platform, or full service restaurant from providing single-use food accessories to a consumer.
- 6) Beginning January 1, 2023, requires full-service restaurants to provide reusable food service ware and prohibits them from providing single-use food service ware to a consumer dining on the premises if the restaurant has dishwashing capacity, as specified.
- 7) Authorizes a full-service restaurant to provide single-use food service ware to consumers dining on the premises under the following conditions:
 - a) The restaurant has limited dishwashing capacity;
 - b) The single-use food service ware is necessary to accommodate a consumer with a disability;
 - c) The single-use food service ware is provided to a consumer upon request to carry out leftover ready-to-eat food after dining onsite;
 - d) A public health state of emergency has been declared; or,
 - e) If the single-use food service ware is a disposable paper food wrapper, foil wrapper, paper napkin, straw, or paper tray or plate liner that is of a type and form accepted by local municipal recycling and composting programs.

- 8) On or before June 1, 2022, requires local governments to authorize an enforcement agency to enforce the bill's requirements. Establishes that the first and second violations of this chapter result in a notice of violation, and any subsequent violations constitute infractions punishable by a fine of \$100 for each day of violation, not to exceed \$300 annually.
- 9) Exempts correctional institutions, health care facilities, and residential care facilities, as specified.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

The COVID-19 pandemic has increased takeout and food delivery, which restaurants are relying upon to stay afloat. However, the use of disposable food accessories like plastic forks, spoons, and knives has led to a rise in single-use plastics and waste. AB 1276 is an important step to significantly reduce plastic waste that pollutes our oceans, harms marine life, harms our environment, and hurts low income communities of color, while simultaneously providing financial savings to restaurants and local governments. This bill will build on California's existing efforts to combat waste from single-use items by ensuring food and beverage accessories are provided only upon request to customers.

- 2) **California's waste management goals.** An estimated 35 million tons of waste are disposed of in California's landfills annually. CalRecycle is tasked with diverting at least 75% of solid waste from landfills statewide by 2020. Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000. AB 341 (Chesbro), Chapter 476, Statutes of 2011, requires commercial waste generators, including multi-family dwellings, to arrange for recycling services for the material they generate and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste generated by businesses out of the landfill. A follow up bill, AB 1826 (Chesbro), Chapter 727, Statutes of 2014, requires generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material to keep the material out of the landfill. California's recent recycling rate, which reached 50% in 2014, dropped to 37% in 2019.
- 3) **Plastic production.** While the conversation around plastic has focused on its end of life, plastic pollution starts with fossil fuel extraction, and continues through manufacturing, transportation, usage, and finally disposal. Hundreds of petrochemical facilities throughout the United States create the pellets used in the production of plastic products. About 14% of oil is used in petrochemical manufacturing, a precursor to producing plastic. By 2050, it is predicted to account for 50% of oil and gas demand growth. California ranks third in the nation in oil refining capacity; our 17 refineries have a combined capacity of nearly 2 million barrels per day. Oil drilling and refining disproportionately impact low-income communities of color. In the United States, about 56% of the people who live within three kilometers of a large commercial hazardous waste facility are people of color. In California, that figure soars to 81%. In the Los Angeles area, over 580,000 people live within five blocks of an active oil or gas well. Every step in the production of plastic, from extraction to manufacturing, impacts air and water quality and human health.

- 4) **Ocean plastic pollution.** Plastics are estimated to comprise 60-80% of all marine debris and 90% of all floating debris. By 2050, by weight there will be more plastic than fish in the ocean if we keep producing (and failing to properly manage) plastics at predicted rates, according to *The New Plastics Economy: Rethinking the Future of Plastics*, a January 2016 report by the World Economic Forum.

California Coastal Cleanup Day was first organized by the California Coastal Commission in 1985. The Coastal Commission continues to organize the event annually and track the items collected. According to the Coastal Commission, the top 10 items collected since 1984 are cigarette butts; food wrappers and containers; caps and lids; bags; cups, plates, and utensils; straws; glass bottles; plastic bottles; cans; and, construction material.

Ocean plastic pollution is driven by ocean currents and accumulates in certain areas throughout the ocean. The North Pacific Central Gyre is the ultimate destination for much of the marine debris originating from the California coast. However, plastic generated in California pollutes oceans across the globe, as bales of plastic collected for recycling are exported for processing and recycling. The plastic with value is collected and recycled, and the rest is discarded or incinerated. In countries with inadequate waste management systems, this plastic enters waterways and flows to the ocean. Approximately 150 million metric tons of plastic is already circulating in the marine environment and an estimated 8 million metric tons enter the oceans annually.

Most plastic marine debris exists as small plastic particles due to excessive UV radiation exposure and subsequent photo-degradation. Expanded polystyrene breaks down more rapidly into these smaller particles than rigid plastics. These plastic pieces are confused with small fish, plankton, or krill and ingested by birds and marine animals. Over 600 marine animal species have been negatively affected by ingesting plastic worldwide.

In addition to the physical impacts of plastic pollution, hydrophobic chemicals present in the ocean in trace amounts (e.g., from contaminated runoff and oil and chemical spills) bind to plastic particles where they enter and accumulate in the food chain.

- 5) **This bill.** Controlling plastic pollution involves source reduction in addition to proper end-of-life management. This bill is intended to reduce the amount of single-use food ware used in California, which has the combined benefits of source reducing the amount of waste generated and potentially reducing the amount of single-use food ware that is littered or otherwise improperly managed.
- 6) **Suggested amendments.** The *committee may wish to amend the bill* to specify that only the single-use food accessories selected by the consumer on a third-party platform shall be provided and correct drafting errors. Additionally, this bill establishes penalties in the amount of \$100 for the third and subsequent violations, but caps the total annual penalties at \$300. This cap should be high enough to act as a deterrent. The *committee may wish to amend the bill* to increase the annual penalty cap to \$1,000.

REGISTERED SUPPORT / OPPOSITION:**Support**

Agromin
Alliance of Nurses for Healthy Environments, California Chapter
Azul
Cafe Aquatica
California Coastkeeper Alliance
California Compost Coalition
California Interfaith Power & Light
California League of Conservation Voters
California Product Stewardship Council
California Reuse Collective
Californians Against Waste
CALPIRG
Center for Biological Diversity
Center for Environmental Health
ChicoEco, Inc, DBA ChicoBag Company
City and County of San Francisco
Clean Water Action
Community Environmental Council
Compost Manufacturing Alliance
County of Marin
Courage California
Ecology Center
Elders Climate Action, NorCal and SoCal Chapters
Friends Committee on Legislation of California
Goodwerks
Green Mary
Green Valley Community Farm
GreenTown Los Altos
Habits of Waste
Heal the Bay
League to Save Lake Tahoe
Marin Sanitary Service
Muuse
Napa Recycling and Waste Services
National Stewardship Action Council
Natural Resources Defense Council
Northern California Recycling Association
Ocean Conservancy
Orange County Coastkeeper
Plastic Oceans International
Plastic Pollution Coalition
Race to Zero Waste
Rainbow Grocery Cooperative, Inc.
Recology
Resource Renewal Institute

RethinkWaste
Santa Barbara Channelkeeper
Save Our Shores
Sea Hugger
Seventh Generation Advisors
Shizen and Tataki Restaurants
Sierra Club California
Sierra Nevada Brewing Company
Sonoma County Waste Management Agency
Surfrider Foundation
Sustain LA
Sustainable St. Helena
The 5 Gyres Institute
The Bay Foundation, Los Angeles CA
The Center for Oceanic Awareness, Research, and Education
The Refill Shoppe
The Story of Stuff Project
The Trust for Public Land
Upstream
Wisdom Supply Co.
Wishtoyo Chumash Foundation
Zanker Recycling
Zero Waste USA

Opposition

None on file

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /