

ASSEMBLY THIRD READING
AB 1276 (Carrillo and Lorena Gonzalez)
As Amended May 27, 2021
Majority vote

SUMMARY

Expands and revises statute regarding the by-request-only distribution of single-use plastic straws to apply to all single-use standard condiments and food serviceware distributed by food facilities or third-party food delivery platforms (platforms).

Major Provisions

- 1) 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 for selection by the consumer. 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."
- 2) Prohibits food facilities and platforms from providing single-use food accessories to consumers except upon request. Allows food facilities to ask drive-through customers if the accessory is necessary for the consumer to consume ready-to-eat food, to prevent spills, or to safely transport ready-to-eat food.
- 3) Authorizes food facilities to make unwrapped single-use food accessories available to a consumer using refillable self-service dispensers and encourages the use of bulk dispensers for condiments.
- 4) 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.
- 5) On or before June 1, 2022, requires a city, county, or city and county to authorize an enforcement agency to enforce the bill's requirements. Provides first and second violations result in a notice of violation, and any subsequent violations constitute infractions punishable by a fine of \$25 for each day of violation, not to exceed \$300 annually.
- 6) Exempts correctional institutions, health care facilities public and private schools and residential care facilities from the provisions of the bill.
- 7) Defines terms used in the bill, including:
 - a) "Single-use food accessory" as any standard condiment in single-use packaging or single-use food serviceware.
 - b) "Single-use food serviceware" as utensils, chopsticks, napkins, condiment cups and packets, straws, stirrers, splash sticks, and cocktail sticks provided alongside ready to-eat food.

- c) "Food facility" as defined in Section 113757 of the Health and Safety Code as an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption at the retail level (whether or not there is a charge for the food), which includes, among other things, commissaries, mobile food facilities, fisherman's markets and catering operations.

COMMENTS

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.

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.

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.

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.

According to the Author

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.

Arguments in Support

A coalition of supporters of this bill state, "experts agree that upstream reduction of unnecessary packaging is by far the most efficient and cost-effective way to protect resources and communities, and help California reach its waste reduction and climate goals. Reducing unnecessary food service ware is a simple solution and a win-win for reducing waste in the first place, saving businesses money, and relieving recyclers, composters and local governments from the complications and costs associated with it."

Arguments in Opposition

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force states that it, "...agrees the bill would reduce single-use plastic waste but opposes the bill unless it is amended to include language requiring the State to be responsible for enforcement or provide funding to local governments for local enforcement of the prohibition and requirements. Local governments often do not have the additional capacity for unfunded state mandates, implementation of the requirements would be inadequately supported, prescribing failure of implementation of the law. The state ought to adequately fund requirements it imposes on local governments."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, this bill has unknown, potentially reimbursable local costs associated with the requirement for cities and counties to authorize a local law enforcement agency to enforce the bill (General Fund).

VOTES

ASM NATURAL RESOURCES: 8-0-3

YES: Luz Rivas, Chau, Friedman, Cristina Garcia, McCarty, Muratsuchi, Stone, Wood

ABS, ABST OR NV: Flora, Mathis, Seyarto

ASM APPROPRIATIONS: 12-4-0

YES: Lorena Gonzalez, Calderon, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

NO: Bigelow, Megan Dahle, Davies, Fong

UPDATED

VERSION: May 27, 2021

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FN: 0000792