
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 1276 (Carrillo) - Single-use foodware accessories and standard condiments

Version: August 16, 2021

Urgency: No

Hearing Date: August 23, 2021

Policy Vote: E.Q. 5 - 2, GOV. & F. 5 - 0

Mandate: Yes

Consultant: Ashley Ames

Bill Summary: This bill would expand and revise the existing prohibition on distributing single-use plastic straws, except upon request, to apply to all single-use foodware accessories and standard condiments.

Fiscal Impact:

- To the extent the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service associated with the requirement for cities and counties to authorize a local law enforcement agency to enforce the bill, unknown but potentially significant costs (General Fund) to reimburse local government claims made pursuant to existing statutory provisions.

Background: According to the California Coastal Commission, the primary source of marine debris is litter, and plastics are estimated to comprise 60 to 80 percent of all marine debris.

Most plastic marine debris exists as small plastic particles that are easily ingestible by marine life and birds. These debris accumulate in large formations at various locations in oceans around the world, including in the North Pacific Central Gyre, also known as the Great Pacific Garbage Patch. The gyre is estimated to be twice the size of Texas and contains six times as much plastic as plankton by weight.

In an effort to reduce plastic litter, some cities and states have begun to ban the use of certain types of plastics. Approximately 42 percent of the plastic ever produced was single-use packaging that is then discarded, according to a 2017 study published in the journal *Science Advances*. Following the adoption of bans by 127 cities and counties in California, SB 270 (Padilla, 2014) established California as the first state in the nation to ban single-use plastic bags at most grocery stores, retail stores with a pharmacy, convenience stores, food marts, and liquor stores. Instead, these stores can provide a reusable grocery bag or recycled paper bag to a customer if they charge at least 10 cents for the bag. Subsequently, California also banned the use of plastic straws at full service restaurants, unless requested by the customer (AB 1884, Calderon, 2018), and toiletries bottles of smaller than six ounces in hotels and motels (AB 1162, Kalra, 2019).

Several local governments have adopted ordinances prohibiting restaurants from distributing single-use or disposable foodware without a request by the customer, including the City of Los Angeles, the County of Los Angeles, the City of Berkeley, and the City of San Diego. The Clean Seas Lobbying Coalition wants to institute similar policies statewide.

Proposed Law: This bill would:

1. Expand the prohibition on food service facilities from distributing single-use plastic straws except upon request to include single-use foodware accessories or standard condiments, as specified.
2. Define terms used in the bill, including:
 - a. “Single-use food accessory” as any standard condiment in single-use packaging or single-use food service ware;
 - b. “Single-use food service ware” as specified single-use items provided alongside ready to-eat food, including utensils, chopsticks, napkins, condiment cups and packets, straws, stirrers, splash sticks, and cocktail sticks, which are designed for a single use; and
 - c. “Standard condiment” as relishes, spices, sauces, confections, or seasonings that require no additional preparation and that are usually used on a food item after preparation, including ketchup, mustard, mayonnaise, soy sauce, salsa, salt, pepper, sugar, and sugar substitutes.
3. Prohibit those items from being bundled or packaged in a way that prohibits the consumer from taking only the item desired.
4. Permit a food facility to ask a drive-through consumer, or a food facility located within a public airport to ask a walk-through consumer, if the consumer wants a single-use foodware accessory in specified circumstances.
5. Require a food facility using a third-party delivery platform to list on its menu the availability of single-use foodware accessories and standard condiments and only provide those items when requested, as provided.
6. On or before June 1, 2022, require 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 \$25 for each day of violation, not to exceed \$300 annually.
7. Exempt correctional institutions, health care facilities, residential care facilities, and public and private school cafeterias, as specified.

Related Legislation:

SB 54 (Allen, 2021) would prohibit producers of single-use, disposable packaging or single-use, disposal food service ware from offering for sale, selling, distributing, or importing in or into the state those products manufactured after January 1, 2032, unless it is recyclable or compostable. SB 54 is currently on the Senate Inactive File.

AB 962 (Kamlager, 2021) would authorize processors that are certified under California’s Bottle Bill program and approved by CalRecycle to handle reusable glass

beverage containers to satisfy statutory operation requirements by transferring the reusable beverage container to a CalRecycle-approved washer. AB 962 is set to be heard in this committee on June 29, 2021. This bill is pending before this committee.

AB 1371 (Friedman, 2021) would have prohibited online retailers from using single-use plastic packaging that consists of shipping envelopes, cushioning, or void fill to package or transport the products commencing January 1, 2023, for large online retailers and January 1, 2025, for small online retailers; prohibits manufacturers, retailers, producers, and other distributors from using expanded polystyrene packaging to package or transport products; and imposes various requirements to online retailers for the collection of plastic film and expanded polystyrene packaging. AB 1371 would have established the At-Store Recycling Program, which would have required operators of stores to establish an at-store recycling program for plastic carryout bags and durable plastic bags, as specified, and requires those bags to have certain information printed on them. AB 1371 was held on the Assembly Floor.

AB 161 (Ting, 2020) would have prohibited businesses from providing paper receipts to consumers except upon request. AB 161 was held in the Senate Appropriations Committee.

AB 793 (Ting, Chapter 115, Statutes of 2020) requires plastic beverage containers subject to the California Beverage Container Recycling and Litter Reduction Act to contain minimum amounts of postconsumer recycling plastic annually, beginning with 15 percent by 2022, and increasing to 35 percent by 2029 and 50 percent by 2030.

AB 1884 (Calderon, Chapter 576, Statutes of 2018) prohibited full service restaurants from providing a single-use plastic straw to a customer unless requested.

Staff Comments: The California Constitution requires the state to reimburse local agencies for the costs of new or expanded state mandated local programs. Because this bill would require local governments to authorize a local law enforcement agency to enforce the bill, Legislative Counsel says that it imposes a new state mandate. The measure states that if the Commission on State Mandates determines that the bill imposes a reimbursable mandate, then reimbursement must be made pursuant to existing statutory provisions.

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