
THIRD READING

Bill No: SB 54
Author: Allen (D), Stern (D) and Wiener (D), et al.
Amended: 2/25/21
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-1, 4/26/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Bates
NO VOTE RECORDED: Dahle

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Plastic Pollution Producer Responsibility Act

SOURCE: Author

DIGEST: This bill prohibits 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.

ANALYSIS:

Existing law:

- 1) Establishes, under the Integrated Waste Management Act of 1989 (IWMA), a state recycling goal of 75% of solid waste generated to be diverted from landfill disposal through source reduction, recycling, and composting. Requires each state agency and each large state facility to divert at least 50% of all solid waste through source reduction, recycling, and composting activities. IWMA also requires a state agency and large stage facility, for each office building of the state agency or large state facility, to provide adequate receptacles, signage, education, and staffing, and arrange for recycling services, as specified. (PRC §§ 41780.01, 42921, 42924.5)

- 2) 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 CalRecycle and has been determined to be reusable, recyclable, or compostable. (PRC §§ 42370 et seq.)
- 3) Requires “full service restaurants” to only provide single-use plastic straws upon request. (PRC §42271)

This bill, the Plastic Pollution Producer Responsibility Act, prohibits producers of single-use, disposable packaging or single-use, disposable food service ware products from offering for sale, selling, distributing, or importing in or into the state those packaging or products unless they are recyclable or compostable. Applies this prohibition to packaging or products that are manufactured on or after January 1, 2032.

Background

- 1) *Solid waste in California.* For over three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through the IWMA. Under IWMA, the state has established a statewide 75 percent source reduction, recycling, and composting goal by 2020 and over the years the Legislature has enacted various laws relating to increasing the amount of waste that is diverted from landfills. According to CalRecycle’s State of Disposal and Recycling in for Calendar Year 2019, published February 12, 2021, 42.2 million tons of material were disposed into landfills in 2019.

According to CalRecycle’s report, an estimated 28.9 million tons of waste were recycled or diverted in California in 2019, resulting in a statewide recycling rate of 37%, down from 40% in 2018, and a peak of 50% in 2014. Based on these trends, it is unlikely that the state will meet its diversion goals.

- 2) *Market challenges for recyclable materials.* The U.S. has not developed significant markets for recyclable content materials, including plastic and mixed paper. Historically, China was the largest importer of recyclable materials. In California, approximately one third of recyclable material is exported; and, until recently, 85 percent of the state's recyclable mixed paper has been exported to China. China used to be where the world sent their recyclable material, but beginning in 2017, the county began significantly restricting the types of materials and levels of contamination that would be accepted. However,

effective January 1 of this year, China has announced that it would no longer be accepting all waste imports. Before this year's blanket waste ban, China accepted 32 types of scraps for recycling and reuse and limited contamination levels of those materials to 0.5 percent. The initial ban left waste-exporting countries such as the U.S. scrambling to find alternative destinations, including Southeast Asian nations like Thailand, Vietnam, and Indonesia, which quickly became overwhelmed by the volume of refuse received. Soon after, those countries began to impose their own bans and restrictions on waste imports. Without a global market to send these "recyclable" materials, the contents of many recycling bins are being sent to landfills.

Further, many types of packaging and products add to the complex recycling issue by being a combination of materials such as aluminum layered with different plastics to make baby and pet-food pouches. These "hybrid" items are difficult to recycle, if at all.

- 3) *The cost of plastic pollution.* Nearly every piece of plastic begins as a fossil fuel. New plastic, known as "virgin" material, is less expensive than recycled plastic and weak oil prices have widened the gap. The economic slowdown of the COVID-19 pandemic has punctured demand for oil, which, in turn has cut the price of new plastic. Since COVID-19, even beverage bottles made of recycled plastic, the most commonly recycled plastic item, have become less viable since the recycled plastic to make them is 83% to 93% more expensive than new bottle-grade plastic, according to the report. Since 1950, the world has created 6.3 billion tons of plastic waste, 91% of which has never been recycled, according to *The Plastic Pandemic*, a Reuters Report. Most is hard to recycle.

Environmental costs. Plastic, most of which does not decompose, is a significant driver of climate change. The manufacture of four plastic bottles alone releases the equivalent greenhouse gas emissions of driving one mile in a car, according to the World Economic Forum. The United States burns six times more plastic than it recycles, according to research in April 2019 by Jan Dell, a chemical engineer and former vice chair of the U.S. Federal climate committee.

According to the report, *Plastic & Climate: The Hidden Costs of a Plastic Planet*, greenhouse gases are emitted at each stage of the plastic lifecycle: 1) fossil fuel extraction and transport, 2) plastic refining and manufacture, 3) managing plastic waste, and 4) its ongoing impact to oceans, waterways, and landscape. According to the report, greenhouse gas emissions from the plastic

lifecycle threaten the ability of the global community to meet carbon emission targets. In 2019, the production and incineration of plastic will have added more than 850 million metric tons of greenhouse gases into the atmosphere, which is equal to the emissions from 189 five-hundred megawatt coal power plants.

Plastic is primarily landfilled, recycled, or incinerated – each of which produces varying amounts of greenhouse gas emissions. Landfilling emits the least greenhouse gas emissions on an absolute level, although it presents significant other risks. Recycling has a moderate emissions profile but displaces new virgin plastic on the market, making it advantageous from an emissions perspective. Incineration leads to extremely high emissions and is the primary driver of emissions for plastic waste management. Further, plastic packaging represents about 40% of plastic demand. It is estimated that in 2015, incineration of plastic packaging totaled 16 million metric tons of carbon dioxide equivalents.

Some, however, argue that other packaging products can cause more emissions than plastics; because plastic is light, it is indispensable for the world's consumers and can help reduce emissions. Some say that it is upon the governments to improve waste management infrastructure.

Health costs. In addition to environmental impacts, there is increasing concern on the impacts that plastic has on human health. According to the report *Plastic & Health: The Hidden Cost of a Plastic Planet*, plastic poses distinct risks to human health at every stage of its lifecycle. This includes the extraction and transport of fossil feedstocks for plastic; the refining and production of plastic resins and additives; consumer products and packaging; toxic releases from plastic waste management; fragmenting and microplastics; additional exposure to plastic additives as plastic degrades; and ongoing environmental exposures by contaminating and accumulating in food chain through agricultural soils, terrestrial and aquatic food chains, and water supply.

The report recognizes, however, that there are gaps in knowledge that prevent researchers from being able to fully evaluate the health impacts of plastic. These include not knowing exactly what chemicals are in plastic and its production processes; limited research into the impacts and movement of plastic and microplastics through terrestrial environments, marine ecosystems, and food chains; and limited understanding of the impacts of microfibers and other plastic microparticles that are increasingly being documented in human

tissues.

4) *California Recycling and Plastic Pollution Reduction Act of 2020*. In December 2019, a ballot initiative, the California Recycling and Plastic Pollution Reduction Act of 2020, was filed with the California Attorney General's office. If approved by the voters, the initiative would require CalRecycle, in consultation with other agencies, to adopt regulations that reduce the use of single-use plastic packaging and foodware, including:

- Requiring producers to ensure that single-use plastic packaging and foodware is recyclable, reusable, refillable, or compostable by 2030;
- Requiring producers to reduce or eliminate single-use plastic packaging or foodware that CalRecycle determines is unnecessary for product or food item delivery;
- Require producers to reduce the amount of single-use packaging and foodware sold in California by at least 25 percent by 2030;
- Requiring producers to use recycled content and renewable materials in the production of single-use plastic packaging and foodware;
- Establishing “mechanisms for convenient consumer access to recycling,” including take-back programs and deposits;
- Establishing and enforcing labeling standards to support the sorting of discarded single-use plastic packaging and foodware; and
- Prohibiting food vendors from distributing expanded polystyrene food service containers.

The ballot initiative would also enact a fee, the California Plastic Pollution Reduction Fee, on single-use plastic packaging and foodware, to be determined by CalRecycle. Revenue from the fee would be distributed to CalRecycle, the Natural Resources Agency, and local governments. In order to be placed on the ballot, a certain number of verified voter signatures must be collected. The initiative is currently in the process of signature verification.

Comments

1) *Purpose of Bill*. According to the author, “Every day, single-use packaging and food serveware such as forks, spoons, cups, and lids generate tons of non-recyclable and non-compostable waste with impacts on public health, the natural environment, and city and county budgets. Prior to 2017, exporting material overseas had allowed cities and counties to keep it out of landfills and even generate revenue to help local government budgets. Since then, however,

cities and counties have struggled to manage the mounting waste. A survey released this year by the League of California Cities found more than seven out of 10 cities anticipate having to increase waste collection rates by as much as 20 percent to cover the cost of managing the additional waste.

“The European Union and other major purchasers of consumer goods are implementing comprehensive frameworks for producers to share responsibility for reducing waste and designing packaging and products to be reusable, recyclable, and/or compostable. As the world’s fifth-largest economy, California must take the lead on finding a solutions to the growing plastic pollution crisis.

“SB 54 will ensure California is on the forefront of reducing pollution and the ratepayer costs associated with single-use, disposable packaging and food serviceware. The bill will set waste-reduction and recycling goals and establish a framework for packaging producers to keep the most problematic disposable items out of our environment. These actions will help local governments save millions of dollars in disposal costs.”

- 2) *Scope of bill is unclear.* The title of the Act is the “Plastic Pollution Producer Responsibility Act,” however, the prohibition would apply to all material types that are not recyclable or compostable.
- 3) *The return of single-use during a pandemic.* The COVID-19 pandemic has significantly altered people’s lives. To curb community spread of COVID-19, indoor dining stopped for almost a year, leading to many restaurants only providing takeout or delivery. This led to the increased distribution of single-use utensils and to-go containers. Those in the plastics industry began touting the necessity of single-use plastic as a safety issue. For over a year now, grocery stores stopped allowing customers to bring in their own reusable bags, instead automatically providing each customer with new paper or plastic bags. People also turned to the convenience and safety of online shopping, with companies such as Amazon offering 2-day (or less) shipping. Almost anything can be delivered to a person’s doorstep with a click of a button, each time with its own packaging – either a cardboard box or plastic-like shipping pouch. As the entire world continues to navigate through the pandemic, it should be done in a sustainable manner – making sure that addressing one problem does not create another.

4) *Senate Bill 54, take two.* In 2019, identical bills Senate Bill 54 (Allen, 2019) and Assembly Bill 1080 (Gonzalez, 2019) were introduced. Similar to this bill, those bills were aimed at reducing the amount of materials that end up in our landfills. The bills had three main components:

- Required producers of single-use packaging or priority single-use products to (1) source reduce the packaging and priority products to the maximum extent possible, (2) ensure that the packaging and priority products manufactured on or after January 1, 2032, that are sold, distributed, or imported into the state are recyclable or compostable, and (3) ensure that the packaging or priority products are compostable or recyclable.
- Required producers of such products to meet certain recycling rates.
- Required CalRecycle to adopt regulations to implement these requirements and to achieve, by 2032, a statewide 75% reduction of the waste generated from single-use packaging and priority single-use products through source reduction, recycling, or composting.

Stakeholder concerns with prior bill. To the extent that this bill, as it develops and might incorporate similar provisions, the author will likely encounter similar concerns from the 2019 version.

5) *Fill in the blank.* This bill, in its current version, lays out a general restriction on packaging and food service ware. More specificity is needed for it to become an implementable bill. To achieve the goals of this proposal and give stakeholders enough direction to know what would be required of them if this bill is enacted, the author will need to consider, at a minimum, all of the following:

- *CalRecycle's role.* Clear parameters of authority under the legislation are necessary for the benefit of both stakeholders and CalRecycle.
- *Definition of:* producer, single-use, disposable, packaging, food service ware, and recyclable. Clear definitions are necessary to know who and what will be subject to the bill's provisions.
- *Realistic timeframes.* Whether the scope is all material or just plastic, the author shall ensure that realistic timeframes, given the scope of the bill, are incorporated.
- *Market availability.* As pointed out by stakeholder groups, recycling depends on markets and the lack of those reliable end markets for recyclable materials makes recycling more challenging.

- *Enforcement.* What enforcement mechanisms will be used? If through fines, how much are the fines? Will fines be imposed based on time of noncompliance? Will extent of noncompliance be a factor? Assuming that CalRecycle will be the enforcement agency, as it was with SB 54 (2019), clear direction will have to be given to the department on enforcement.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 5/11/21)

350 Bay Area Action

350 Sacramento

350 Silicon Valley

Active San Gabriel Valley

Azul

California Alliance of Nurses for Healthy Environments

California Catholic Conference

California League of Conservation Voters

CALPRIG Students

CALPRIG, California Public Interest Research Group

Center for Biological Diversity

City of Carlsbad

City of El Segundo

City of Pleasanton

City of Santa Monica

Elders Climate Action, NorCal and SoCal Chapters

Environment California

Environmental Working Group

Friends Committee on Legislation of California

Heal the Bay

Indivisible California Statestrong

Los Angeles County Democratic Party

Northern California Recycling Association

Plastic Oceans International

Plastic Pollution Coalition

Save Our Shores

Seventh Generation Advisors

Sierra Club California

Silicon Valley Democratic Club

South Bay Cities Council of Governments

The 5 Gyres Institute

The Center for Oceanic Awareness, Research, and Education
Tomra North America, INC.
Trinity Respecting Earth and Environment
Upstream
Wholly H2o
Wishtoyo Chumash Foundation
Zero Waste USA

OPPOSITION: (Verified 5/11/21)

Air Conditioning, Heating and Refrigeration Institute
American Bakers Association
American Chemistry Council
American Cleaning Institute
American Forest & Paper Association
American Institute for Packaging and Environment
Auto Care Association
California Chamber of Commerce
California Farm Bureau
California Food Producers
California Manufacturers & Technology Association
California Restaurant Association
Californians for Recycling and the Environment
CAWA
Chemical Industry Council of California
Council for Responsible Nutrition
Dart Container Corporation
Flexible Packaging Association
Foodservice Packaging Institute
Household and Commercial Products Association
National Aerosol Association
National Confectioners Association
Personal Care Products Council
Pet Food Institute
Plastics Industry Association
Western Aerosol Information Bureau

Western Growers Association
Western Plastics Association

Prepared by: Genevieve M. Wong / E.Q. / (916) 651-4108
5/12/21 15:14:49

****** END ******