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OFFICE OF THE CITY CLERK
OAKLAND

2009 FEB 19 PM 4:25
Date:

CITY OF OAKLAND

BILL ANALYSIS



March 5, 2009

Bill Number: AB 68

Bill Author: Brownley

DEPARTMENT INFORMATION

Contact: Wanda Redic

Department: Public Works Agency

Telephone: 238-6808 **FAX #:** 238-7286

E-mail: wredic@oaklandnet.com

RECOMMENDED POSITION: SUPPORT

Summary of the Bill

Effective July 1, 2010, this Bill would require a store providing a single-use carryout bag to a customer to charge a fee of not less than twenty-five cents (\$0.25) per bag at the point of sale by adding Chapter 5.3 "Single-use Carry Out Bags" to Part 3 Division 30 of the Public Resources Code. The Bill would establish a Bag Pollution Fund in the State Treasury and require stores to remit the single-use carryout bag fees, less a specified amount, to the State Board of Equalization (BOE) for deposit into the fund. The fee would not be subject to sales tax and must be itemized on customer receipts. Customers participating in the California Special Supplemental Food Program for Women, Infants, and Children (WIC) and in the State Department of Social Services Food Stamp Program would be exempt from paying this fee.

This Bill differs from AB 87 in that it establishes new legislation (Chapter 5.3) separate and apart from the existing plastic bag recycling law (Chapter 5.1 "At Store Recycling Program"). Under AB 68, stores may keep ten cents (\$.10) per green single-use carryout bag, which is a compostable carryout bag or single-use carryout bag having a minimum of 40% post-consumer recycled content material, compared to seven cents (\$.07) under AB 87. AB 68 limits payments to jurisdictions to 80% of the fund balance on a per capita distribution formula. State agencies receive a maximum of 10% for administrative costs split equally between the BOE and the Natural Resources Agency with the remaining 10% of the fund allocated equally between the Natural Resources Agency, the California Integrated Waste Management Board, and the California Environmental Protection Agency.

Single-use carryout bags are defined in this Bill as bags that are not reusable. Reusable bags are defined as those that are made of cloth or other machine washable fabric, and are designed and manufactured for multiple re-use. AB 68 would apply to supermarkets, and to businesses that have over 10,000 square feet of retail space that generate sales or use tax and have a pharmacy as currently defined by the At Store Recycling Program. This Bill would add convenience food

Item: _____

Rules & Legislation Comte
March 5, 2009

stores or food marts primarily engaged in retailing a limited line of goods regularly found in a grocery store, and having a total size of 10,000 square feet or more.

Consistent with existing law, AB 68 would require administration and enforcement by the California Integrated Waste Management Board (Board) and the Natural Resources Agency (Agency). The BOE would administer the collection of the fees imposed on those bags. AB 68 would require 80% of the moneys in the fund, upon appropriation by the Legislature, be expended by the Board for block grants to cities and counties for programs related to single-use carryout bags and reusable bag giveaway programs. The other 20% would be retained by the State for administering the provisions of the Bill, and for developing pollution abatement and cleanup programs related to the use of single-use carryout bags. Using the retained funds, the State would be required by AB 68 to perform an audit and a report with recommendations of the effectiveness of this program on or before January 1, 2012. Recommendations may include at a minimum, expanding the definition of stores subject to this law and increasing the fee imposed.

AB 68 would require, prior to January 1, 2013, that stores be allowed to retain not more than five cents (\$0.05) of the fee for each single-use bag and not more than ten cents (\$0.10) per green carryout bag. After January 1, 2013, the retention amount would be set by the Department of Conservation based on their determination of the store's compliance cost. The store would be allowed to use its portion of the fee to recover its costs associated with collection and remittance of the fee to the BOE, development of in-store educational materials encouraging customers to use reusable bags, providing reusable bags as donations to community and non-profit organizations and any costs associated with the use of single-use carryout bags.

Cities and counties would not be eligible for grant funds if the jurisdiction prohibits the use of all single-use carryout bags, including green carryout bags, and no fees are collected within the jurisdiction. Cities and counties would also be prohibited from adopting, implementing, or enforcing an ordinance, resolution, regulation, or rule to impose a single-use carryout bag fee upon a store that is in compliance with this legislation. However, cities and counties would be allowed to prohibit the use, import, sale, or distribution of any plastic, paper, or compostable carryout bag.

Positive Factors for Oakland

In light of the litigation that prevented the City of Oakland from enacting its own ordinance banning certain types of single-use bags, this legislation is timely and supportive. Public Works Agency staff has engaged local retailers in encouraging their customers to use reusable bags, and has provided reusable bags through a variety of means over the past 18 months. The City is positioned to take advantage of these block grant funds as they become available to implement on-going programs that will ensure all its citizens will have access to reusable bags and

education particularly for some of its low-income residents who can ill afford to shoulder the additional cost of single-use carryout bags at the cash register.

The City should be particularly supportive of this effort because it targets all single-use carryout bags and provides funding for a wide variety of activities designed to abate single-use carryout bags ranging from cleanup activities to bag give away programs to public service announcements. Single-use carryout bags make a significant contribution to litter and marine debris, and are a wasteful use of natural resources. AB68 would help mitigate these negative environmental impacts.

Negative Factors for Oakland

This type of legislation may present a hardship for some affected Oakland retailers that have no corporate support to address the requirements. Staff time may be required to provide technical assistance to affected businesses that request the City's assistance with compliance.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

- Critical (top priority for City lobbyist, city position required ASAP)**
- Very Important (priority for City lobbyist, city position necessary)**
- Somewhat Important (City position desirable if time and resources are available)**
- Minimal or None (do not review with City Council, position not required)**

Known support:

Californians Against Waste

Known Opposition:

No known opposition

Attach bill text and state/federal legislative committee analysis, if available.

Respectfully Submitted,



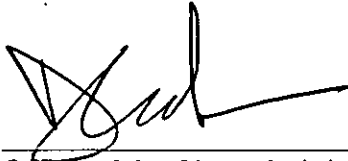
Raul Godinez II, P.E.
Director, Public Works Agency

Reviewed by:
Brooke A. Levin, Assistant Director

Reviewed by:
Susan Kattchee, Environmental Services Manager

Prepared by:
Wanda Redic, Recycling Specialist
Environmental Services Division

Approved for Forwarding to
Rules Committee



Office of the City Administrator

Item: _____
Rules & Legislation Comte.
March 5, 2009

CITY OF OAKLAND

BILL ANALYSIS



Date: March 5, 2009

Bill Number: AB 87

Bill Author: Davis

DEPARTMENT INFORMATION

Contact: Wanda Redic

Department: Public Works Agency

Telephone: 238-6808 **FAX #:** 238-7286

E-mail: wredic@oaklandnet.com

RECOMMENDED POSITION: SUPPORT

Summary of the Bill

Effective July 1, 2010, this Bill would amend Chapter 5.1 "At Store Recycling Program," and rename it "Single-use Carry Out Bags." AB 87 would require a store providing a single-use carryout bag to a customer to charge a fee of not less than twenty-five cents (\$0.25) per bag at the point of sale. The fee is not subject to sales tax and must be itemized on customer receipts. Customers participating in the California Special Supplemental Food Program for Women, Infants, and Children (WIC) and in the State Department of Social Services Food Stamp Program are exempt from paying this fee.

Although this Bill is similar to AB 68, incorporating most of the same language, there are a few differences. Under AB 87, stores may keep seven cents (\$0.07) of the fee per green single-use carryout bag, which is a compostable carryout bag or single-use carryout bag having a minimum of 40% post-consumer recycled content material, while under AB 68, stores may keep ten cents (\$.10). AB87 would make available 92% of the Bag Pollution fund for payments to local jurisdictions, while AB 68 limits the jurisdictions' payments to 80% of the fund balance.

Single-use carryout bags are defined in this Bill as bags that are not reusable. A reusable bag is defined as a bag with handles that is specifically designed and manufactured for multiple reuse, and which is made of cloth or other machine washable fabric, or of durable plastic and with handles that are at least 2.25 mils thick. AB 87 would apply to supermarkets, and to businesses that have over 10,000 square feet of retail space that generate sales or use tax and has a pharmacy, which are currently covered by the existing At Store Recycling Program. This Bill would add a chain of convenience food stores or food marts primarily engaged in retailing a limited line of goods regularly found in a grocery store and having a total size of 10,000 square feet or more.

The Bill would require the California Integrated Waste Management Board (Board) to administer and enforce the single-use carryout bag provisions, and the State Board of Equalization (BOE) to

Item: _____
Rules & Legislation Comte.
March 5, 2009

administer and collect the fees imposed on those bags and to deposit them in the Bag Pollution Fund. AB 87 would require 92% of the moneys in the fund, upon appropriation by the Legislature, be expended by the Board for block grants to cities and counties for programs related to single-use carryout bags and reusable bag giveaway programs. The other 8% would be retained by the State for administering the provisions of the Bill, and for developing pollution abatement and cleanup programs related to the use of single-use carryout bags.

Cities and counties that prohibit the use of all single-use carryout bags, including green carryout bags and where no fees are collected within the jurisdiction are not eligible for block grant funds. Cities and counties are also prohibited from adopting, implementing, or enforcing an ordinance, resolution, regulation, or rule upon a store in compliance with this law, or do any of the following:

- 1) Requiring stores to collect, transport or recycle plastic carryout bags;
- 2) Imposing a single-use carryout bag fee;
- 3) Requiring additional auditing or reporting.

However, cities and counties may enact any legislation within their jurisdictions governing curbside or drop-off recycling programs operated by its contractor for such services including any action related to fees for these programs. This legislation does not affect any contract, franchise or other agreement regarding the collection or recycling of solid waste or household hazardous waste.

Positive Factors for Oakland

In light of the litigation that prevented the City of Oakland from enacting its own ordinance banning certain types of single-use bags, this legislation is timely and supportive. Public Works Agency staff has engaged local retailers in encouraging their customers to use reusable bags, and has provided reusable bags through a variety of means over the past 18 months. The City is positioned to take advantage of these block grant funds as they become available to implement on-going programs that will ensure all its citizens will have access to reusable bags and education particularly for some of its low-income residents who can ill afford to shoulder the additional cost of single-use carryout bags at the cash register.

The City should be particularly supportive of this effort because it targets all single-use carryout bags and provides funding for a wide variety of activities designed to abate single-use carryout bags ranging from cleanup activities to bag give away programs to public service announcements. Single-use carryout bags make a significant contribution to litter and marine debris, and are a wasteful use of natural resources. AB87 would help mitigate these negative environmental impacts.

Negative Factors for Oakland

This type of legislation may present a hardship for some affected Oakland retailers that have no corporate support to address the requirements. Staff time may be required to provide technical assistance to affected businesses that request the City's assistance with compliance.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

- Critical** (top priority for City lobbyist, city position required ASAP)
- Very Important** (priority for City lobbyist, city position necessary)
- Somewhat Important** (City position desirable if time and resources are available)
- Minimal or** **None** (do not review with City Council, position not required)

Known support:

Californians Against Waste
Los Angeles County

Known Opposition:

No known opposition

Attach bill text and state/federal legislative committee analysis, if available.

Respectfully Submitted,



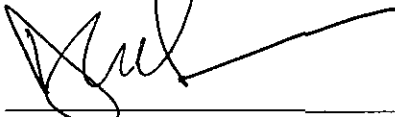
Raul Godinez II, PE
Director, Public Works Agency

Reviewed by:
Brooke A. Levin, Assistant Director

Reviewed by:
Susan Kattchee, Environmental Services Manager

Prepared by:
Wanda Redic, Recycling Specialist
Environmental Services Division

Approved for forwarding to
Rules Committee



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CURRENT BILL STATUS

MEASURE : A.B. No. 68
AUTHOR(S) : Brownley.
TOPIC : Solid waste: single-use carryout bags.
HOUSE LOCATION : ASM

TYPE OF BILL :

- Active
- Non-Urgency
- Non-Appropriations
- Majority Vote Required
- Non-State-Mandated Local Program
- Fiscal
- Non-Tax Levy

LAST HIST. ACT. DATE: 02/05/2009
LAST HIST. ACTION : Referred to Com. on NAT. RES.

TITLE : An act to add Chapter 5.3 (commencing with Section 42280) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 68
AUTHOR : Brownley
TOPIC : Solid waste: single-use carryout bags.

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY

2009
Feb. 5 Referred to Com. on NAT. RES.
2008
Dec. 16 Read first time.
Dec. 15 From printer. May be heard in committee January 14.
Dec. 12 Introduced. To print.

ASSEMBLY BILL

No. 68

Introduced by Assembly Member Brownley

December 12, 2008

An act to add Chapter 5.3 (commencing with Section 42280) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 68, as introduced, Brownley. Solid waste: single-use carryout bags.

Existing law requires an operator of a store, as defined, to establish an at-store recycling program that provides to customers the opportunity to return clean plastic carryout bags to that store. Existing law imposes various requirements on at-store recycling programs, including requiring a store to maintain records describing the collection, transport, and recycling of plastic carryout bags collected by the store.

Under existing law, the California Integrated Waste Management Board (board) administers laws related to waste management. Existing law establishes in the Natural Resources Agency (agency) the Department of Conservation, which, among other things, administers laws related to beverage container recycling.

This bill would, on and after July 1, 2011, prohibit a store, as defined, from providing a single-use carryout bag to a customer unless the store charges a fee of not less than \$0.25 per bag at the point of sale. The bill would exempt certain customers from paying the fee. The bill would establish the Bag Pollution Fund in the State Treasury and would require a store to remit the single-use carryout bag fees, less a specified amount, to the State Board of Equalization for deposit in that fund.

The bill would require the agency and the board to administer and enforce the single-use carryout bag provisions and would require the State Board of Equalization to administer the collection of the fees imposed on those bags.

The moneys in the fund would be required to be expended, upon appropriation by the Legislature, in a specified order of priority, by the board for grants to cities and counties for programs related to single-use carryout bags and reusable bag giveaway programs, by the State Board of Equalization to reimburse its costs associated with collecting the fees, by the agency and board for purposes of implementing the above provisions, and by the board, in consultation with specified state agencies, to develop and implement specified programs related to single-use carryout bags.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Single-use carryout bags provided by stores impose hidden
4 costs on consumers, local governments, the state, taxpayers, and
5 the environment.

6 (b) Litter from plastic carryout bags poses a significant burden
7 to California's economy and a serious threat to our marine
8 ecosystem. It is estimated that Californians consume 19 billion
9 plastic carryout bags per year. However, according to the California
10 Integrated Waste Management Board, the recycling rate for these
11 bags is less than five percent and it currently costs the state
12 twenty-five million dollars (\$25,000,000) annually to landfill
13 discarded plastic bags. Public agencies in California also spend
14 more than three hundred million dollars (\$300,000,000) annually
15 in litter cleanup.

16 (c) Despite past efforts to control ocean litter, the quantity of
17 trash in the coastal and ocean environment is increasing
18 dramatically worldwide. It is estimated that 60 to 80 percent of all
19 marine debris, and 90 percent of floating debris is plastic. It may
20 take hundreds of years for this plastic to break down and some
21 plastics never truly biodegrade in the marine environment. Streams
22 and storm drains carry plastic bags to the ocean where they are

1 frequently mistaken as food by marine life. Over 267 species
2 worldwide have been impacted by plastic litter such as plastic bags
3 through entanglement or ingestion.

4 (d) Requiring stores to end the subsidy of single-use carryout
5 bags and charge their full economic and environmental costs will
6 provide consumers with an appropriate market signal to make
7 informed decisions regarding carryout bag reduction and reuse
8 options.

9 (c) Requiring stores to charge and remit a fee for the distribution
10 of single-use carryout bags will help the state and local
11 governments to offset the environmental and social costs of
12 single-use carryout bags.

13 (f) There is a need for a long-term shift away from litter control
14 and waste management and towards pollution prevention and
15 sustainable materials in the development of consumer products.

16 (g) Green chemistry, material science, and sustainable design
17 offer a new approach to solving environmental damage caused by
18 single-use carryout bags.

19 (h) The imposition of the fees pursuant to Section 42281 of the
20 Public Resources Code would not result in the imposition of a tax
21 within the meaning of Article XIII A of the California Constitution
22 because the amount and nature of the fee have a fair and reasonable
23 relationship to the environmental, public health, and societal
24 burdens imposed by the use of single-use carryout bags, and there
25 is a sufficient nexus between the fees imposed and the use of those
26 fees to support programs to prevent the litter of single-use carryout
27 bags, to clean up the litter caused by single-use carryout bags, and
28 to encourage the reduction of the use of single-use carryout bags.

29 (i) (1) There is a clear nexus between the type and amount of
30 the fees imposed pursuant to this act and the environmental, public
31 health, and societal costs resulting from single-use carryout bags.

32 (2) It is the intent of the Legislature that the fees that are
33 imposed pursuant to Section 42281 of the Public Resources Code
34 be consistent with *Sinclair Paint Co. v. State Bd. of Equalization*
35 (1997) 15 Cal.4th 866.

36 SEC. 2. Chapter 5.3 (commencing with Section 42280) is added
37 to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 5.3. SINGLE-USE CARRYOUT BAGS

Article 1. Definitions

42280. For purposes of this chapter, the following definitions shall apply:

(a) "Agency" means the Natural Resources Agency.

(b) "Bag Pollution Cleanup Fee" means the fee imposed pursuant to Section 42281.

(c) "Board" means the California Integrated Waste Management Board.

(d) "Cal-EPA" means the California Environmental Protection Agency.

(e) "Fund" means the Bag Pollution Fund, established pursuant to subdivision (a) of Section 42285.

(f) (1) "Green carryout bag" means a single-use carryout bag that is provided by a store to a customer at the point of sale and meets all of the following requirements:

(A) Is composed of at least 40 percent post-consumer recycled content material.

(B) Is accepted in curbside recycling programs serving at least 80 percent of households in the state.

(C) Is capable of composting within 180 days, as determined by the board.

(2) "Green carryout bag" does not include a reusable bag.

(g) "Reusable bag" means a reusable bag that is made of cloth or other machine washable fabric that is specifically designed and manufactured for multiple reuse.

(h) "Single-use carryout bag" means a single-use carryout bag that is provided by a store to a customer at the point of sale and that is not a reusable bag and includes a "biodegradable" or "compostable" carryout bag meeting the requirements specified in Section 42357.

(i) "State board" means the State Board of Equalization.

(j) "Store" means a retail establishment that provides single-use carryout bags or green carryout bags to its customers as a result of the sale of a product and that meets any of the following requirements:

(1) Meets the definition of a "supermarket" in Section 14526.5.

1 (2) Has over 10,000 square feet of retail space that generates
2 sales or use tax pursuant to the Bradley-Burns Uniform Local Sales
3 and Use Tax Law (Part 1.5 (commencing with Section 7200) of
4 Division 2 of the Revenue and Taxation Code) and has a pharmacy
5 licensed pursuant to Chapter 9 (commencing with Section 4000)
6 of Division 2 of the Business and Professions Code.

7 (3) Is a convenience food store or foodmart primarily engaged
8 in retailing a limited line of goods that generally includes milk,
9 bread, soda, and snacks, and has a total combined square footage
10 of 10,000 square feet or more.

11
12 Article 2. Bag Pollution Cleanup Fee

13
14 42281. (a) Except as provided in Section 42283, on and after
15 July 1, 2010, a store shall not provide a single-use carryout bag,
16 including a green carryout bag, to a customer at the point of sale,
17 unless the store charges the customer not less than twenty-five
18 cents (\$0.25) per bag.

19 (b) The amount charged pursuant to paragraph (1) of subdivision
20 (a) shall not be subject to sales tax, shall be separately stated on
21 the receipt provided to the customer at the time of sale, and shall
22 be identified as the Bag Pollution Cleanup Fee.

23 (c) (1) A store charging a fee pursuant to subdivision (a) may
24 retain a portion of the fee, as specified in paragraph (2), in an
25 amount necessary to reimburse the store's costs associated with
26 complying with this chapter, in accordance with Section 42284.5.
27 The store shall remit the remainder of the fee to the state board
28 pursuant to Section 42284.

29 (2) (A) Before January 1, 2013, a store may retain not more
30 than five cents (\$0.05) of the fee for each single-use carryout bag
31 that is not a green carryout bag. For a single-use carryout bag that
32 is a green carryout bag, a store may retain not more than ten cents
33 (\$0.10) of the fee for each bag.

34 (B) On and after January 1, 2013, a store may retain an amount
35 established by the department, based on the department's
36 determination of the costs of complying with Section 42284.5.

37 (d) Any other transaction fee charged by a store in relation to
38 providing a single-use carryout bag shall be identified separately
39 from the Bag Pollution Cleanup Fee.

1 42283. The fee imposed pursuant to Section 42281 shall not
2 be charged to either of the following:

3 (a) A customer participating in the California Special
4 Supplemental Food Program for Women, Infants, and Children
5 (Article 2 (commencing with Section 123275) of Chapter 1 of Part
6 2 of Division 106 of the Health and Safety Code).

7 (b) A customer participating in the State Department of Social
8 Services Food Stamp Program.

9 42284. A store that collects the Bag Pollution Cleanup Fee
10 pursuant to Section 42281 shall calculate the amount of money
11 collected and, after deducting the amount specified in subdivision
12 (c) of Section 42281, shall, in accordance with Section 42288,
13 remit the remainder to the state board for deposit into the fund.

14 42284.5. A store charging a fee pursuant to Section 42281 shall
15 use the amount of the fee retained pursuant to subdivision (c) of
16 Section 42281 for all of the following:

17 (a) Reimbursement of the store's costs associated with the
18 collection and remittance of the fee pursuant to Sections 42281
19 and 42284.

20 (b) The development of in-store educational materials for
21 distribution to customers encouraging the use of reusable bags.

22 (c) The development and implementation of an educational
23 campaign encouraging the use of reusable bags, including, but not
24 limited to, public service announcements.

25 (d) Reimbursement of the store's costs associated with providing
26 reusable bags to customers participating in programs described in
27 subdivisions (a) and (b) of Section 42283.

28 (e) Reimbursement of the store's costs associated with providing
29 reusable bags as donations to community organizations, nonprofit
30 organizations, and other similar entities.

31 (f) Reimbursement of the store's costs associated with the use
32 of single-use carryout bags.

33 42285. (a) The Bag Pollution Fund is hereby established in
34 the State Treasury. All fees collected by the state board pursuant
35 to this chapter shall be deposited in the fund.

36 (b) The moneys in the fund shall be expended, upon
37 appropriation by the Legislature in the annual Budget Act, in the
38 manner and in the order of priority as follows:

1 (1) (A) By the board, 80 percent of the moneys in the fund, for
2 grants to cities and counties, on a per capita basis, for the following
3 purposes:

4 (i) Establishing and maintaining local programs to control
5 pollution from single-use carryout bags, including those programs
6 in partnership with nonprofit community-based organizations, for
7 purposes of litter cleanup activities.

8 (ii) Source reduction efforts to help implement zero waste
9 programs, litter prevention programs, and litter prevention
10 education and outreach programs related to single-use carryout
11 bags.

12 (iii) Mitigation projects relating to stormwater pollution caused
13 by single use carryout bag, including devices to prevent single-use
14 carryout bag litter from entering storm drain systems.

15 (iv) Reusable bag giveaway programs, including those targeting
16 low-income residents.

17 (B) Except as provided in subparagraph (C), the amount for
18 which a city or a county is eligible shall be based on the total
19 population of the incorporated area of the city or the total
20 unincorporated area of the county, whichever is applicable.

21 (C) If a city or county prohibits the use of all single-use carryout
22 bags, including green carryout bags, and no fees are collected
23 pursuant to Section 42281 within that jurisdiction, that city or
24 county shall not be eligible for grant funds pursuant to this
25 paragraph.

26 (2) No more than 5 percent of the funds shall be expended by
27 the state board, to reimburse the state board's costs of administering
28 Section 42288.

29 (3) No more than 5 percent shall be expended by the agency
30 and the board, for purposes of administering the requirements of
31 this chapter.

32 (4) The remainder of the moneys in the funds shall be allocated
33 on an equal basis to the agency, the board, and Cal-EPA for the
34 purposes of Section 42287 and 42287.1.

35 42286. (a) The Legislature finds and declares that imposing
36 a single-use carryout bag fee upon a store is a matter of statewide
37 interest and concern.

38 (b) Unless expressly authorized by this chapter, a city, county,
39 or other public agency shall not adopt, implement, or enforce an
40 ordinance, resolution, regulation, or rule to impose a single-use

1 carryout bag fee upon a store that is in compliance with this
2 chapter.

3 (c) This chapter does not preempt a city or county from
4 prohibiting the use, import, sale, or distribution of any plastic,
5 paper, or compostable carryout bag.

6

7

Article 3. Program and Report

8

9 42287. The board shall, in consultation with Cal-EPA, the State
10 Water Resources Control Board, and the Department of Toxic
11 Substances Control, develop and implement programs to encourage
12 and support pollution prevention, abatement and cleanup,
13 enforcement, green chemistry, water quality protection and cleanup,
14 and environmental and public education and outreach related to
15 the use of single-use carryout bags.

16 42287.1. On or before January 1, 2012, the board, in
17 consultation with Cal-EPA, shall submit a report to the Legislature
18 regarding the effectiveness of this chapter, the report shall also
19 include recommendations to further encourage the use of reusable
20 bags by consumers and retailers and to reduce the consumption of
21 single-use bags, including at a minimum, both of the following:

22 (a) Expanding the definition of stores that are subject to this
23 chapter to all other stores and retail establishments distributing
24 single-use bags, including the retail establishments specified in
25 subdivision (b) of Section 42251.

26 (b) Increasing the fee imposed pursuant to Section 42281 to
27 increase the effectiveness of this chapter.

28

29

Article 4. Administration and Enforcement

30

31 42288. (a) The state board shall administer and collect the Bag
32 Pollution Cleanup Fee pursuant to the Fee Collection Procedures
33 Law (Part 30 (commencing with Section 55001) of Division 2 of
34 the Revenue and Taxation Code).

35 (b) The state board may adopt rules and regulations to carry out
36 this article, including, but not limited to, provisions governing
37 collections, reporting, refunds, and appeals.

38 (c) The Bag Pollution Cleanup Fee shall be due and payable
39 quarterly on or before the 25th day of the month following each
40 calendar quarter. Payments shall be accompanied by a form, as

1 prescribed by the state board, including, but not limited to,
2 electronic media.

3 (d) The state board may require the payment of the fee for other
4 than quarterly periods.

5 42288.5. Except as otherwise provided by this chapter, the
6 agency and the board shall administer and enforce this chapter.

O

CURRENT BILL STATUS

MEASURE : A.B. No. 87
AUTHOR(S) : Davis.
TOPIC : Single-use carryout bags: environmental effects:
mitigation.
HOUSE LOCATION : ASM

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 02/05/2009
LAST HIST. ACTION : Referred to Com. on NAT. RES.

TITLE : An act to amend Sections 42250, 42251, 42252, 42253, and 42254 of, to amend the heading of Chapter 5.1 (commencing with Section 42250) of Part 3 of Division 30 of, to add Sections 42252.5 and 42252.7 to, and to repeal and add Sections 42256 and 42257 of, the Public Resources Code, relating to single-use carryout bags.

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 87
AUTHOR : Davis
TOPIC : Single-use carryout bags: environmental effects: mitigation.

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY

2009
Feb. 5 Referred to Com. on NAT. RES.
Jan. 6 From printer. May be heard in committee February 5.
Jan. 5 Read first time. To print.

ASSEMBLY BILL

No. 87

Introduced by Assembly Member Davis

January 5, 2009

An act to amend Sections 42250, 42251, 42252, 42253, and 42254 of, to amend the heading of Chapter 5.1 (commencing with Section 42250) of Part 3 of Division 30 of, to add Sections 42252.5 and 42252.7 to, and to repeal and add Sections 42256 and 42257 of, the Public Resources Code, relating to single-use carryout bags.

LEGISLATIVE COUNSEL'S DIGEST

AB 87, as introduced, Davis. Single-use carryout bags: environmental effects: mitigation.

Existing law requires an operator of a store, as defined, to establish an at-store recycling program that provides to customers the opportunity to return clean plastic carryout bags to that store. Existing law imposes various requirements on at-store recycling programs, including requiring a store to maintain records describing the collection, transport, and recycling of plastic carryout bags collected by the store.

Existing law requires the manufacturer of plastic carryout bags to develop educational materials to encourage the reducing, reusing, and recycling of plastic bags and make those materials available to stores required to comply with the program.

This bill would prohibit, on and after July 1, 2010, a store, as defined, from providing a single-use carryout bag, including a green carryout bag, to a customer unless the store charges a fee of not less than \$0.25 per bag at the point of sale. The bill would exempt certain customers from paying the fee. The bill would establish the Bag Pollution Fund in the State Treasury and, by January 31, 2011, would require a store

that collects the single-use carryout bag fees to remit the fees, less a specified amount to be used as required, to the State Board of Equalization for deposit in that fund, and do so on a quarterly basis thereafter.

This bill would instead require the manufacturer of a single-use carryout bag to develop educational materials to encourage the reducing, reusing, and recycling of single-use bags and make those materials available to stores required to comply with the program.

The bill would require moneys in the fund, upon appropriation by the Legislature, to be expended by the board as specified, including, but not limited to, administrative costs, developing and implementing programs to encourage and support mitigating the environmental effects of single-use carryout bags, and payments to cities and counties for activities to reduce and prevent single-use carryout bag litter and the environmental impacts of single-use carryout bags.

The bill would require the board to administer and enforce the single-use carryout bag provisions and would require the State Board of Equalization to administer and collect the fees imposed on those bags. The bill would require to submit a biennial report to the Legislative the board, in coordination with other state agencies and stakeholders, on the effectiveness of the program and recommendations to further encourage the use of reusable bags.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) Single-use carryout bags provided by stores impose hidden
4 costs on consumers, local governments, the state, taxpayers, and
5 the environment.
6 (b) Litter from plastic carryout bags poses a significant burden
7 to California's economy and a serious threat to the marine
8 ecosystem. It is estimated that Californians consume 19 billion
9 plastic carryout bags per year. However, according to the California
10 Integrated Waste Management Board, the recycling rate for these
11 bags is less than 5 percent. Public agencies in California also spend
12 more than three hundred seventy-five million dollars

1 (\$375,000,000) annually in litter cleanup, and plastic carryout bags
2 contribute disproportionately to the litter stream.

3 (c) Despite past efforts to control marine debris, the quantity of
4 trash in the coastal and ocean environment is increasing
5 dramatically worldwide. It is estimated that 60 to 80 percent of all
6 marine debris, and 90 percent of floating debris is plastic. It may
7 take hundreds of years for this plastic to break down and some
8 plastics never truly biodegrade in the marine environment. Streams
9 and storm drains carry plastic bags to the ocean where they are
10 frequently mistaken as food by marine life. Over 267 species
11 worldwide have been impacted by plastic litter such as plastic bags
12 through entanglement or ingestion.

13 (d) On February 8, 2007, the California Ocean Protection
14 Council adopted a comprehensive resolution on marine debris
15 calling for statewide action targeting the reduction of single-use
16 plastic packaging, including plastic carryout bags. The council
17 adopted an implementation strategy for this resolution, which in
18 part calls for instituting a statewide fee on single-use plastic grocery
19 bags, with the collected fees utilized to help fund litter abatement
20 and stormwater capture, and reduce the incidence of litter.

21 (e) Over 15 countries and over 40 U.S. states and cities have
22 either taken action or have proposed to take action on plastic
23 carryout bags in the form of bans or point-of-purchase fees.

24 (f) While paper bags are recyclable and degrade in the
25 environment, they are not an acceptable alternative to plastic since
26 the production and transport of paper bags leads to significantly
27 *greater water pollution and air emissions, including greenhouse*
28 *gas emissions.*

29 (g) Carryout bags marketed as “biodegradable” or
30 “compostable” are also not a viable alternative because these bags
31 have not proven to biodegrade in the marine environment, are only
32 able to biodegrade under specific conditions found in certain
33 industrial composting facilities that are not widely available
34 throughout the state, and will not reduce the litter problem since
35 they have the same characteristics as plastic bags.

36 (h) It is the intent of the Legislature to encourage the use of
37 reusable bags by consumers to reduce the consumption of
38 single-use bags, such as conventional plastic, paper, and
39 biodegradable or compostable plastic bags.

1 (i) The fees imposed pursuant to Section 42252.5 of the Public
 2 Resources Code will mitigate the environmental, public health,
 3 and other public-financed impacts caused by the use of single-use
 4 bags by offsetting the costs of programs to prevent and reduce the
 5 littering and environmental impacts of single-use carryout bags
 6 and encouraging the reduction of the use of single-use carryout
 7 bags.

8 (j) Requiring stores to end the subsidy of single-use carryout
 9 bags and charge their full economic and environmental costs will
 10 provide consumers with an appropriate market signal to make
 11 informed decisions regarding carryout bag reduction and reuse
 12 options.

13 (k) Requiring stores to charge and remit a fee for the distribution
 14 of single-use carryout bags will help the state and local
 15 governments to offset the environmental and social costs of
 16 single-use carryout bags.

17 (l) The imposition of the fee pursuant to Section 42252.5 of the
 18 Public Resources Code would not result in the imposition of a tax
 19 within the meaning of Article XIII A of the California Constitution
 20 because the amount and nature of the fee have a fair and reasonable
 21 relationship to the environmental, public health, and societal
 22 burdens imposed by the use of single-use carryout bags, and there
 23 is a sufficient nexus between the fees imposed and the use of those
 24 fees to support programs to prevent the litter of single-use carryout
 25 bags, reduce the environmental impacts of single-use carryout
 26 bags, and encourage the reduction of the use of single-use carryout
 27 bags.

28 (m) (1) There is a clear nexus between the type and amount of
 29 the fees imposed pursuant to this act and the environmental, public
 30 health, and societal costs resulting from single-use carryout bags.

31 (2) It is the intent of the Legislature that the fees that are
 32 imposed pursuant to Section 42252.5 of the Public Resources Code
 33 be consistent with *Sinclair Paint Co. v. State Bd. of Equalization*
 34 (1997) 15 Cal.4th 866.

35 SEC. 2. The heading of Chapter 5.1 (commencing with Section
 36 42250) of Part 3 of Division 30 of the Public Resources Code is
 37 amended to read:

38
 39 CHAPTER 5.1. ~~AT-STORE RECYCLING PROGRAM~~ SINGLE-USE
 40 CARRYOUT BAGS

1 SEC. 3. Section 42250 of the Public Resources Code is
2 amended to read:

3 42250. For purposes of this chapter, the following definitions
4 shall apply:

5 (a) *"Biodegradable or compostable bag"* means a carryout bag
6 provided by a store to a customer at the point of sale that is
7 certified and labeled as meeting the current American Society for
8 Testing and Materials (ASTM) Standard Specification pursuant
9 to Chapter 5.7 (commencing with Section 42355).

10 (b) (1) *"Green carryout bag"* means a single-use carryout bag
11 that is provided by a store to a customer at the point of sale and
12 meets all of the following requirements:

13 (A) *Is composed of at least 40 percent post-consumer recycled*
14 *content material.*

15 (B) *Is accepted in curbside recycling programs serving at least*
16 *80 percent of households in the state.*

17 (C) *Is capable of composting within 180 days, as determined*
18 *by the board.*

19 (2) *"Green carryout bag"* does not include a reusable bag.

20 ~~(a)~~

21 (c) *"Manufacturer"* means the producer of a ~~plastic~~ *single-use*
22 *carryout bag sold to a store.*

23 ~~(b)~~

24 (d) *"Operator"* means a person in control of, or having daily
25 responsibility for, the daily operation of a store, which may include,
26 but is not limited to, the owner of the store.

27 (e) *"Paper carryout bag"* means a paper carryout bag provided
28 by a store to a customer at the point of sale that is not a reusable
29 bag as defined in subdivision (g).

30 ~~(e)~~

31 (f) *"Plastic carryout bag"* means a plastic carryout bag provided
32 by a store to a customer at the point of sale that is not a reusable
33 bag as defined in subdivision (g).

34 ~~(d)~~

35 (g) *"Reusable bag"* means either of the following:

36 (1) A bag made of cloth or other machine washable fabric that
37 has handles.

38 (2) A durable plastic bag with handles that is at least 2.25 mils
39 thick and is specifically designed and manufactured for multiple
40 reuse.

1 (h) "Single-use carryout bag" means a carryout bag provided
2 by the store to a customer at the point of sale that is not a reusable
3 bag as defined in subdivision (g), and includes biodegradable or
4 compostable bags.

5 (e)

6 (i) "Store" means a retail establishment that provides ~~plastic~~
7 single-use carryout bags to its customers as a result of the sale of
8 a product and that meets ~~either~~ any of the following requirements:

9 (1) ~~Meet~~ Meets the definition of a "supermarket" as found in
10 Section 14526.5.

11 (2) Has over 10,000 square feet of retail space that generates
12 sales or use tax pursuant to the Bradley-Burns Uniform Local Sales
13 and Use Tax Law (Part 1.5 (commencing with Section 7200) of
14 Division 2 of the Revenue and Taxation Code) and has a pharmacy
15 licensed pursuant to Chapter 9 (commencing with Section 4000)
16 of Division 2 of the Business and Professions Code.

17 (3) Is a chain of convenience food stores primarily engaged in
18 retailing a limited line of goods that includes milk, bread, soda,
19 and snacks, with a total combined square footage of 10,000 square
20 feet or more within the state.

21 SEC. 4. Section 42251 of the Public Resources Code is
22 amended to read:

23 42251. (a) The operator of a store that provides plastic
24 carryout bags to customers shall establish an at-store plastic
25 carryout bag recycling program pursuant to this chapter that
26 provides an opportunity for a customer of the store to return to the
27 store clean plastic carryout bags.

28 (b) A retail establishment that does not meet the definition of a
29 store, as specified in Section 42250, and that provides plastic
30 carryout bags to customers at the point of sale may also adopt an
31 at-store recycling program, as specified in this chapter.

32 SEC. 5. Section 42252 of the Public Resources Code is
33 amended to read:

34 42252. An at-store plastic carryout bag recycling program
35 provided by the operator of a store shall include all of the
36 following:

37 (a) A plastic carryout bag provided by the store shall have
38 printed or displayed on the bag, in a manner visible to a consumer,
39 the words "PLEASE RETURN TO A PARTICIPATING STORE
40 FOR RECYCLING."

1 (b) A plastic carryout bag collection bin shall be placed at each
2 store and shall be visible, easily accessible to the consumer, and
3 clearly marked that the collection bin is available for the purpose
4 of collecting and recycling plastic carryout bags.

5 (c) All plastic bags collected by the store shall be collected,
6 transported, and recycled in a manner that does not conflict with
7 the local jurisdiction's source reduction and recycling element,
8 pursuant to Chapter 2 (commencing with Section 41000) and
9 Chapter 3 (commencing with Section 41300) of Part 2.

10 (d) The store shall maintain records describing the collection,
11 transport, and recycling of plastic bags collected for a minimum
12 of three years and shall make the records available to the board or
13 the local jurisdiction, upon request, to demonstrate compliance
14 with this chapter.

15 (e) The operator of the ~~a~~ store shall make reusable bags available
16 to customers within the store, which may be purchased and used
17 in lieu of using a ~~plastic carryout bag or paper bag~~ *single-use*
18 *carryout bag*. This subdivision is not applicable to a retail
19 establishment specified pursuant to subdivision (b) of Section
20 42251.

21 SEC. 6. Section 42252.5 is added to the Public Resources Code,
22 to read:

23 42252.5. (a) Except as provided in subdivision (f), on and after
24 July 1, 2010, a store shall not provide a single-use carryout bag,
25 including a green carryout bag, to a customer at the point of sale,
26 unless the store charges the customer not less than twenty-five
27 cents (\$0.25) per bag.

28 (b) The amount charged pursuant to subdivision (a) shall not
29 be subject to sales tax; shall be separately stated on the receipt
30 provided to the customer at the time of sale, and shall be identified
31 as the Bag Pollution Cleanup Fee.

32 (c) (1) A store charging a fee pursuant to subdivision (a) may
33 retain a portion of the fee, as specified in subdivision (d). The store
34 shall remit the remainder of the fee to the State Board of
35 Equalization pursuant to Section 42252.7.

36 (2) A store shall coordinate with its host jurisdiction in
37 expending any revenue retained pursuant to this subdivision.

38 (3) A store shall not retain more than five cents (\$0.05) of the
39 fee for each single-use carryout bag that is not a green carryout
40 bag. For a single-use carryout bag that is a green carryout bag, a

1 store shall not retain more than seven cents (\$0.07) of the fee for
2 each bag.

3 (d) A store charging a fee pursuant to this section shall use the
4 amount of the fee retained pursuant to subdivision (c) for all of
5 the following:

6 (1) Reimbursement of the store's costs associated with the
7 collection and remittance of the fee.

8 (2) The development of in-store educational materials for
9 distribution to customers encouraging the use of reusable bags.

10 (3) The development and implementation of an educational
11 campaign encouraging the use of reusable bags, including, but not
12 limited to, public service announcements.

13 (4) Reimbursement of the store's costs associated with providing
14 reusable bags to customers or as donations to community
15 organizations, nonprofit organizations, and other similar entities.

16 (5) Reimbursement of the store's costs associated with the
17 purchase of single-use carryout bags.

18 (e) Any other transaction fee charged by a store in relation to
19 providing a single-use carryout bag shall be identified separately
20 from the Bag Pollution Cleanup Fee.

21 (f) The fee imposed pursuant to this section shall not be charged
22 to either of the following:

23 (1) A customer participating in the California Special
24 Supplemental Food Program for Women, Infants, and Children
25 (Article 2 (commencing with Section 123275) of Chapter 1 of Part
26 2 of Division 106 of the Health and Safety Code).

27 (2) A customer participating in the State Department of Social
28 Services Food Stamp Program.

29 SEC. 7. Section 42252.7 is added to the Public Resources Code,
30 to read:

31 42252.7. (a) The Bag Pollution Fund is hereby established in
32 the State Treasury. All fees collected by the State Board of
33 Equalization pursuant to this chapter shall be deposited in the fund.
34 By January 31, 2011, and quarterly thereafter, a store that collects
35 the Bag Pollution Cleanup Fee pursuant to subdivision (a) of
36 Section 42252.5 shall calculate the amount of moneys collected
37 and shall remit the moneys to the State Board of Equalization for
38 deposit into the Bag Pollution Fund, less funds retained by the
39 store pursuant to subdivision (c) of Section 42252.5.

1 (b) The moneys in the Bag Pollution Fund shall be expended
2 by the board, upon appropriation by the Legislature, for the
3 following purposes:

4 (1) The board shall expend no more than 3 percent of the
5 revenue deposited into the Bag Pollution Fund for reimbursement
6 of the board's costs for administration, collection, enforcement,
7 and auditing requirements associated with this chapter, as well as
8 making refunds associated with the chapter.

9 (2) *The board shall, in consultation with the California*
10 *Environmental Protection Agency, the State Water Resources*
11 *Control Board, and the Department of Toxic Substances Control,*
12 *expend no more than 5 percent of the revenue deposited into the*
13 *Bag Pollution Fund to develop and implement programs related*
14 *to the use of single-use carryout bags to encourage and support*
15 *pollution prevention, abatement and cleanup, enforcement, green*
16 *chemistry, water quality protection and cleanup, and environmental*
17 *and public education and outreach.*

18 (3) The board shall expend the remaining moneys for payments
19 to counties and cities, on a per capita basis, for the following
20 activities to prevent and reduce the litter and environmental impacts
21 of single-use carryout bags:

22 (A) To establish and maintain local programs, including those
23 in partnership with nonprofit community-based organizations, for
24 *purposes of litter cleanup activities, source reduction and recycling*
25 *efforts, educational and litter prevention programs, and other*
26 *programs to mitigate the environmental impacts of single-use*
27 *carryout bags.*

28 (B) Mitigation projects relating to stormwater pollution,
29 including devices to prevent single-use carryout bag litter from
30 entering storm drain systems.

31 (C) Reusable bag giveaway programs, including those targeting
32 low-income residents.

33 (c) To receive these funds, a city, county, or city and county
34 shall fill out and return a funding request form to the board. The
35 form shall specify the activities to prevent and reduce the litter
36 and environmental impacts of single-use carryout bags for which
37 the funds will be used. Jurisdictions may also jointly fill out a
38 funding request for the purposes of pooling their funds.

39 (d) The board shall annually prepare and distribute a funding
40 request form to each city, county, or city and county. The form

1 shall specify the amount of funds for which the jurisdiction is
2 eligible. The form shall not exceed four double-sided pages in
3 length, and may be submitted electronically. If a city, county, or
4 city and county submits the funding request form and the board
5 deems that the proposed projects meet the funding purposes
6 specified in subdivision (b), the board shall distribute the funds
7 on a per capita basis as defined in subdivision (e). If a city, county,
8 or city and county does not return the funding request form within
9 120 days of receipt of the form from the board, the city, county,
10 or city and county is not eligible to receive the funds for that
11 funding cycle.

12 (e) For the purposes of this section, per capita population shall
13 be based on the total population of the incorporated area of a city
14 and the unincorporated area of a county.

15 (f) The revenues deposited in the Bag Pollution Fund that are
16 generated from the fee imposed pursuant to this chapter shall not
17 be expended for activities unrelated to the prevention or reduction
18 of litter or the environmental impacts of single-use carryout bags.

19 (g) If a city, county, or city and county prohibits the use of all
20 single-use carryout bags, including green carryout bags, and no
21 fees are collected pursuant to Section 42252.5 within that
22 jurisdiction, that city, county, or city and county shall not be
23 eligible for grant funds pursuant to this section.

24 SEC. 8. Section 42253 of the Public Resources Code is
25 amended to read:

26 42253. The manufacturer of a ~~plastic~~ *single-use* carryout bag
27 shall develop educational materials to encourage the reducing,
28 reusing, and recycling ~~plastic~~ *single-use carryout* bags and shall
29 make those materials available to stores required to comply with
30 this chapter.

31 SEC. 9. Section 42254 of the Public Resources Code is
32 amended to read:

33 42254. (a) The Legislature finds and declares that all of these
34 are matters of statewide interest and concern:

35 (1) Requiring a store to collect, transport, or recycle plastic
36 carryout bags.

37 (2) Imposing a plastic carryout bag fee upon a store.

38 (3) Requiring a store to conduct auditing or reporting with regard
39 to plastic carryout bags.

1 (b) Unless expressly authorized by this chapter, a city, county,
2 or other public agency shall not adopt, implement, or enforce an
3 ordinance, resolution, regulation, or rule to do any of the following:

4 (1) Require a store that is in compliance with this chapter to
5 collect, transport, or recycle plastic carryout bags.

6 (2) Impose a ~~plastic~~ *single-use* carryout bag fee upon a store
7 that is in compliance with this chapter.

8 (3) Require auditing or reporting requirements that are in
9 addition to what is required by subdivision (d) of Section 42252,
10 upon a store that is in compliance with this chapter.

11 (c) This section does not prohibit the adoption, implementation,
12 or enforcement of any local ordinance, resolution, regulation, or
13 rule governing curbside or drop off recycling programs operated
14 by, or pursuant to a contract with, a city, county, or other public
15 agency, including any action relating to fees for these programs.

16 (d) This section does not affect any contract, franchise, permit,
17 license, or other arrangement regarding the collection or recycling
18 of solid waste or household hazardous waste.

19 SEC. 10. Section 42256 of the Public Resources Code is
20 repealed.

21 ~~42256. This chapter shall become operative on July 1, 2007.~~

22 SEC. 11. Section 42256 is added to the Public Resources Code,
23 to read:

24 42256. On or before January 1, 2012, and biennially thereafter,
25 the board, in coordination with the State Water Resources Control
26 Board, the State Air Resources Board, the regional water quality
27 control boards and stakeholders, shall submit a report to the
28 Legislature regarding the effectiveness of this chapter. The report
29 shall also include recommendations to further encourage the use
30 of reusable bags by consumers and retailers and to reduce the
31 consumption of single-use carryout bags, including, at a minimum,
32 the following:

33 (a) Expanding the definition of stores that are subject to this
34 chapter to all other stores and retail establishments distributing
35 single-use carryout bags, including the retail establishments
36 specified pursuant to subdivision (b) of Section 42251.

37 (b) Increasing the fee imposed pursuant to Section 42252.5 to
38 increase this chapter's effectiveness.

39 SEC. 12. Section 42257 of the Public Resources Code is
40 repealed.

1 ~~42257. This chapter shall remain in effect only until January~~
2 ~~1, 2013, and as of that date is repealed, unless a later enacted~~
3 ~~statute, that is enacted before January 1, 2013, deletes or extends~~
4 ~~that date.~~

5 SEC. 13. Section 42257 is added to the Public Resources Code,
6 to read:

7 42257. (a) Except as otherwise provided by this chapter, the
8 board shall administer and enforce this chapter.

9 (b) The State Board of Equalization shall administer and collect
10 the Bag Pollution Cleanup Fee pursuant to the Fee Collection
11 Procedures Law (Part 30 (commencing with Section 55001) of
12 Division 2 of the Revenue and Taxation Code).

13 (c) The State Board of Equalization may adopt rules and
14 regulations to carry out this chapter, including, but not limited to,
15 provisions governing collections, reporting, refunds, and appeals.

16 (d) (1) The Bag Pollution Cleanup Fee shall be due and payable
17 quarterly on or before the 25th day of the month following each
18 calendar quarter.

19 (2) Payments shall be accompanied by a form, as prescribed by
20 the State Board of Equalization, including, but not limited to,
21 electronic media.

22 (e) The State Board of Equalization may require the payment
23 of the fee for other than quarterly periods.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

Patrick Tano
City Attorney

2009 FEB 19 PM 4:28 RESOLUTION No. _____ C.M.S.

RESOLUTION IN SUPPORT OF ASSEMBLY BILL (AB) 68 (BROWNLEY) AND ASSEMBLY BILL (AB) 87 (DAVIS) – SOLID WASTE: SINGLE USE CARRYOUT BAGS, WHICH WOULD REQUIRE ON OR AFTER JULY 1, 2010, A STORE PROVIDING PLASTIC CARRYOUT BAGS TO CUSTOMERS TO CHARGE NOT LESS THAN \$0.25 PER BAG.

WHEREAS, in 2006 the Council passed Resolution #79775 C.M.S., adopting a Waste Reduction and Recycling Strategic Plan to achieve a 75% solid waste diversion goal by 2010; and

WHEREAS, in 2006 through Resolution #79774 C.M.S., the City Council assumed a leadership role in advocating waste reduction principles for materials management by adopting a Zero Waste goal for year 2020; and

WHEREAS, both AB 68 (Brownley) and AB 87 (Davis) would provide economic incentives for retailers and consumers to reduce the use of single-use carryout bags; and

WHEREAS, both AB 68 (Brownley) and AB 87 (Davis) would provide funding for implementation of waterway cleanup, litter abatement, and waste reduction programs by cities; and

WHEREAS, both AB 68 (Brownley) and AB 87 (Davis) would provide funding to the California Integrated Waste Management Board administering and enforcing the single-use carryout bag provisions; therefore be it

RESOLVED: that the City of Oakland declares its support for AB 68 (Brownley) and AB 87 (Davis); and be it

FURTHER RESOLVED: that the City Council hereby directs the City Administrator to advocate for enacting both AB 68 (Brownley) and AB 87 (Davis) with the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID and PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California