Councilmember Dan Kalb

CITY OF OAKLAND
CITY HALL - ONE FRANK H. OGAWA PLAZA, 2ND FLOOR - OAKLAND - CALIFORNIA 94612

AGENDA MEMORANDUM

To: Rules & Legislation Committee

From: Council President Pro Tem Dan Kalb

Date: April 11, 2019

Subject: Resolution in Support of SB 54 (California Circular Economy and Plastic Pollution Reduction Act)

Colleagues on the City Council and Members of the Public,

I respectfully urge your support for the attached Resolution, which I have submitted with the attached Fact Sheet, text of the bill, and Senate Committee on Environmental Quality bill analysis:

~~RESOLUTION IN SUPPORT OF SENATE BILL 54 (ALLEN/SKINNER) THAT WOULD~~ REQUIRE THE DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY TO ADOPT REGULATIONS TO SOURCE REDUCE AND RECYCLE AT LEAST 75% OF SINGLE-USE PACKAGING AND PRODUCTS SOLD OR DISTRIBUTED IN CALIFORNIA BY 2030 AND REQUIRE MANUFACTURERS OF SINGLE-USE PLASTICS TO DEMONSTRATE CERTAIN RECYCLING RATES BY 2022 AND 2026.

The environmental and public health impacts of plastic pollution are devastating and the environmental externalities and public costs of cleaning up and mitigating plastic pollution are already staggering and continue to grow. Eliminating non-reusable, non-recyclable and non-compostable products and reducing packaging is by far the most effective, and least expensive way to protect the health of people, wildlife, and the environment. Many reliable and reusable alternatives already exist, and the positive results of their use have been proven.

This Resolution is consistent with Oakland's efforts to develop and implement a new and robust Energy and Climate Action Plan (ECAP) and become a more climate resilient city.

Respectfully submitted,

Dan Kalb

Dan Kalb, Council President Pro Tem

Approved as to Form and Legality

DRAFT

City Attorney's Office

FILED
OFFICE OF THE CITY CLERK
OAKLAND

19 APR 11 PM 4:00

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER DAN KALB

RESOLUTION IN SUPPORT OF SENATE BILL 54 (ALLEN/SKINNER) THAT WOULD REQUIRE THE DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY TO ADOPT REGULATIONS TO SOURCE REDUCE AND RECYCLE AT LEAST 75% OF SINGLE-USE PACKAGING AND PRODUCTS SOLD OR DISTRIBUTED IN CALIFORNIA BY 2030 AND REQUIRE MANUFACTURERS OF SINGLE-USE PLASTICS TO DEMONSTRATE CERTAIN RECYCLING RATES BY 2022 AND 2026.

WHEREAS, annual global production of plastic has reached 335 million tons and continues to rise. The United States alone discards 30 million tons each year. By 2050, plastic production will account for 20 percent of global fossil fuel consumption; and

WHEREAS, plastic pollution starts with fossil fuel extraction to create plastic and affects individuals, communities, and ecosystems all along the supply chain, from when the products are manufactured, transported, and used to when they degrade and emit greenhouse gases or impact the environment as litter; and

WHEREAS, oil refineries, plastic manufacturers and incinerators tend to be located in disadvantaged communities, which then must bear the brunt of the associated health impacts from industry, such as higher asthma rates;

WHEREAS, since plastic does not biodegrade but simply breaks down into smaller and smaller pieces, virtually every gram of plastic ever created continues to exist, mostly either in a landfill or as pollution in our environment. As plastic breaks down, it emits potent greenhouse gases; and

WHEREAS, the environmental and public health impacts of plastic pollution are devastating and the environmental externalities and public costs of cleaning up and mitigating plastic pollution are already staggering and continue to grow; and

WHEREAS, nearly every piece of plastic ever produced still exists in our landfills or in the environment, and evidence now shows that even our own food and drinking water sources are contaminated with plastic, called microplastics, including tap water, bottled water, table salt, and fish and shellfish from local California fish markets. A growing body of research is finding plastic and associated toxins throughout the food web, including in our blood, feces, and tissues. Exposure to these toxins has been

linked to cancers, birth defects, impaired immunity, endocrine disruption, and other ailments; and

WHEREAS, without action, projections estimate that by 2050 the mass of plastic pollution in the ocean will exceed the mass of fish. A study by the University of Exeter and Plymouth Marine Laboratory found plastics in the gut of every single sea turtle examined and in 90 percent of seabirds. Additionally, plastic negatively impacts marine ecosystems and wildlife, as demonstrated by countless seabirds, turtles, and marine mammals, including, but not limited to, whales and dolphins, dying from plastic ingestion or entanglement; and

WHEREAS, in California, less than 15 percent of single-use plastic is recycled, and the cost to recycle plastics exceeds the value of scrap plastic material. Local governments in California annually spend in excess of $420 million in ongoing efforts to clean up and prevent plastic and other litter from entering our rivers and streams and polluting San Francisco Bay, our beaches and oceans; and

WHEREAS, it is the policy goal of the state that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020. However, as of 2017, the state was only on track to reach 44 percent, falling far short of this important goal; and

WHEREAS, the European Union and other countries that are major purchasers of consumer goods are implementing comprehensive waste reduction frameworks which urge producers to share in the responsibility of reducing waste and designing products to be reusable, recyclable and/or compostable. As the fifth largest economy in the world, California has a responsibility to lead on solutions to the growing plastic pollution crisis; and

WHEREAS, eliminating non-reusable, non-recyclable and non-compostable products and reducing packaging is by far the most effective and least expensive way to protect the health of people, wildlife, and the environment. Many reliable and reusable alternatives already exist and the positive results of their use have been proven; and

WHEREAS, businesses selling products into California have a responsibility to ensure that their packaging and products are minimizing waste, including ensuring materials used are reusable, recyclable, or compostable. This responsibility includes paying for the cost of the negative externality of recovery for materials they sell in California; and

WHEREAS, Senate Bill (SB) 54 would:

1. Require the Department of Resources Recycling and Recovery (CalRecycle) to:
   (a) Source reduce, to the maximum extent feasible, single-use packaging and products;
   (b) Recycle, and require businesses to source reduce, at least 75 percent of single-use plastic packaging and products by 2030;
   (c) Require that all single-use packaging and products distributed or sold in California are recyclable or compostable on and after 2030;

(d) Develop incentives and policies to maximize and encourage in-state manufacturing using recycled material generated in California;
(e) Develop economic mechanisms to reduce the distribution of single-use packaging and products;
(f) Discourage, to the extent feasible, the litter, export, or improper disposal of single-use packaging, products, and other materials likely to harm the environment or public health in California or elsewhere in the world; and
(g) Prepare and approve a scoping plan for achieving the requirements noted above on or before January 1, 2021;

2. Require local governments, solid waste facilities, recycling facilities, and composting facilities to provide information requested by the department for purposes of developing that criteria;

3. Require a manufacturer of single-use plastic packaging or products sold or distributed in California to demonstrate a recycling rate of not less than 20% on and after January 1, 2022, and not less than 40% on and after January 1, 2026, as a condition of sale, and would authorize the department to impose a higher recycling rate as a condition of sale, as specified; and

WHEREAS, SB 54 is supported by nearly 150 organizations, groups and companies including StopWaste, Coastodian, Oceana, the Center for Biological Diversity, Service Employees International Union California, League of Women Voters of California, Sierra Club California, 350 Bay Area Action, and Dr. Bronner's; now, therefore be it

RESOLVED: That the Oakland City Council hereby endorses SB 54 and urges the California State Legislature and Governor Gavin Newsom to support its enactment into law.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST:_____
LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California

SB-54 California Circular Economy and Plastic Pollution Reduction Act. (2019-2020)

Date Published: 03/25/2019 02:00 PM

AMENDED IN SENATE MARCH 25, 2019

AMENDED IN SENATE MARCH 07, 2019

AMENDED IN SENATE FEBRUARY 25, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL No. 54

Introduced by Senators Allen, Skinner, Stern, and Wiener
(Principal coauthor: Assembly Member Gonzalez)

December 11, 2018

An act to add Chapter 3 (commencing with Section 42040) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 54, as amended, Allen. California Circular Economy and Plastic Pollution Reduction Act.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste, including, among other solid waste, single-use plastic straws.

The Sustainable Packaging for the State of California Act of 2018 prohibits a food service facility located in a state-owned facility, operating on or acting as a concessionaire on state property, or under contract to provide food service to a state agency from dispensing prepared food using a type of food service packaging unless the type of food service packaging is on a list that the department publishes and maintains on its internet website that contains types of approved food service packaging that are reusable, recyclable, or compostable.

Existing law makes a legislative declaration that it is the policy goal of the state that not less than 75% of solid waste generated be source reduced, recycled, or composted by 2020.

This bill would establish the California Circular Economy and Plastic Pollution Reduction Act, which would require the department, in consultation with the State Water Resources Control Board and the Ocean Protection Council, to adopt regulations to source reduce and recycle 75% of single-use packaging and products sold or distributed in California by 2030. The bill would require the department to adopt regulations to accomplish that requirement, including, among others, regulations to require businesses to source reduce, to the maximum extent feasible,

single-use packaging and products, to recycle, and require businesses to source reduce, at least 75% of single-use plastic packaging and products by 2030, and to require that all single-use packaging and products distributed or sold in California are recyclable or compostable on and after 2030. The bill would require the department, on or before January 1, 2021, to prepare and approve a scoping plan to set a baseline for and achieve those reduction and recycling requirements.

The bill would require the department to develop criteria to determine which types of single-use packaging or products are reusable, recyclable, or compostable. The bill would require local governments, solid waste facilities, recycling facilities, and composting facilities to provide information requested by the department for purposes of developing that criteria. By imposing additional duties on local governments, the bill would impose a state-mandated local program.

The bill would require a manufacturer of single-use plastic packaging or products sold or distributed in California to demonstrate a recycling rate of not less than 20% on and after January 1, 2022, and not less than 40% on and after January 1, 2026, as a condition of sale, and would authorize the department to impose a higher recycling rate as a condition of sale, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 3 (commencing with Section 42040) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 3. California Circular Economy and Plastic Pollution Reduction Act

42040. This chapter shall be known, and may be cited, as the California Circular Economy and Plastic Pollution Reduction Act.

42041. The Legislature finds and declares all of the following:

(a) Annual global production of plastic has reached 335 million tons and continues to rise. The United States alone discards 30 million tons each year. By 2050, plastic production will account for 20 percent of global fossil fuel consumption.

(b) Since plastic does not biodegrade, but simply breaks down into smaller and smaller pieces, virtually every gram of plastic ever created continues to exist, mostly either in a landfill or as pollution in our environment. As plastic breaks down, it emits potent greenhouse gases.

(c) Based on data from the United States Environmental Protection Agency, Institute of Scrap Recycling Industries trade statistics, and industry news source Resource Recycling, the national recycling rate for plastic is projected to sink from 9.1 percent in 2015 to 4.4 percent in 2018, and could drop to 2.9 percent in 2019. Even in California, less than 15 percent of single-use plastic is recycled, and the cost to recycle plastics exceeds the value of scrap plastic material.

(d) Before 2017, the United States was sending 4,000 shipping containers a day full of American waste to China every year, including two-thirds of California's recyclable materials. However, China has implemented the National Sword and Blue Sky policies, severely restricting the amount of contaminated and poorly sorted plastics it would accept. This shift in China's policy has resulted in the loss of markets for low-value plastic packaging that was previously considered recyclable. That material is now being landfilled or burned.

(e) The environmental and public health impacts of plastic pollution are devastating and the environmental externalities and public costs of cleaning up and mitigating plastic pollution are already staggering and continue to grow.

(f) Local governments in California annually spend in excess of $420 million in ongoing efforts to clean up and prevent plastic and other litter from entering our rivers and streams and polluting our beaches and oceans.

(g) Evidence now shows that even our own food and drinking water sources are contaminated with plastic, called microplastics, including tap water, bottled water, table salt, and fish and shellfish from local California fish markets. A growing body of research is finding plastic and associated toxins throughout the food web, including in our blood, feces, and tissues. Exposure to these toxins has been linked to cancers, birth defects, impaired immunity, endocrine disruption, and other ailments.

(h) Without action, projections estimate that by 2050 the mass of plastic pollution in the ocean will exceed the mass of fish. A study by the University of Exeter and Plymouth Marine Laboratory found plastics in the gut of every single sea turtle examined and in 90 percent of seabirds. Additionally, plastic negatively impacts marine ecosystems and wildlife, as demonstrated by countless seabirds, turtles, and marine mammals, including, but not limited to, whales and dolphins, dying from plastic ingestion or entanglement.

(i) It is the policy goal of the state that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020. However, as of 2017, the state was only on track to reach 44 percent, falling far short of this important goal.

(j) As the fifth largest economy in the world, California has a responsibility to lead on solutions to the growing plastic pollution crisis.

(k) Further, businesses selling products into California have a responsibility to ensure that their packaging and products are minimizing waste, including ensuring materials used are reusable, recyclable, or compostable. This responsibility includes paying for the cost of the negative externality of recovery for materials they sell in California.

42042. Consistent with the policy goal established in Section 41780.01, the department, in consultation with the State Water Resources Control Board and the Ocean Protection Council, shall adopt regulations to source reduce and recycle at least 75 percent of single-use packaging and products sold or distributed in California by 2030. In addition to any other regulations and policies the department deems necessary to accomplish this requirement, the department shall adopt regulations to do all of the following:

(a) Require businesses to source reduce, to the maximum extent feasible, single-use packaging and products. In addition to other mechanisms, source reduction shall include reducing excess packaging and transitioning single-use packaging and products to reusable packaging and products.

(b) Recycle, and require businesses to source reduce, at least 75 percent of single-use plastic packaging and products by 2030.

(c) Require that all single-use packaging and products distributed or sold in California are recyclable or compostable on and after 2030.

(d) Develop incentives and policies to maximize and encourage in-state manufacturing using recycled material generated in California.

(e) Develop economic mechanisms to reduce the distribution of single-use packaging and products.

(f) Discourage, to the extent feasible, the litter, export, or improper disposal of single-use packaging, products, and other materials likely to harm the environment or public health in California or elsewhere in the world.

42043. (a) The regulations adopted pursuant to Section 42042 may include, but are not limited to, regulations that do any of the following:

(1) Require notification of the department prior to the export of unprocessed plastic for recycling in a country that is not a member of the Organization for Economic Cooperation and Development.

(2) Establish labeling requirements for single-use packaging and products that pose a contamination or cost burden to California's waste reduction and recycling efforts.

(3) Adopt voluntary guidelines for manufacturers and retailers to reduce packaging waste, including through the creation of effective and convenient take-back opportunities, deposit systems, or similar mechanisms.

(4) Develop alternative compliance mechanisms for manufacturers and retailers, including market mechanisms that reduce the overall material usage across a company's product line or between multiple manufacturers of similar products.

(5) Include actions identified through the California Ocean Litter Prevention Strategy and the Statewide Microplastics Strategy.

(6) Identify priority single-use packaging and product materials for reduction actions.

(7) Establish criteria for the source reduction requirements specified in Section 42042, including reducing weight, volume, or quantity of single-use packaging or product material.

(8) Establish minimum postconsumer recycled content requirements for single-use packaging and products.

(b) (1) As part of the regulations adopted pursuant to Section 42042, the department shall establish a process for businesses to annually report all of the following information to the department:

(A) The quantity and type of packaging materials sold into California by the business.

(B) The quantity and type of material source reduced by the business annually.

(C) Any other data the department deems necessary to establish a baseline for waste generation and subsequent source reduction by a business.

(2) Any market sensitive data received by the department pursuant to this subdivision shall be held confidentially by the department.

(3) The department may create an online registration form to facilitate submitting reports pursuant to this subdivision.

(c) The regulations adopted pursuant to Section 42042 shall not impose restrictions on the production or sale of medical devices.

42044. (a) On or before January 1, 2021, the department shall prepare and approve a scoping plan, as that term is understood by the department, for achieving the requirements in Section 42042. The department shall consult with all relevant state agencies with jurisdiction over sources of waste, and local jurisdictions and regional agencies charged with meeting waste diversion goals.

(b) As part of the plan, the department shall do both of the following:

(1) Determine which products and packaging are considered single use for the purposes of this chapter. In making this determination, the department shall consider both of the following:

(A) Whether the packaging or product was conceived of, designed, or placed on the market to be conventionally disposed of after a single use.

(B) Whether the packaging or product was designed and intended to be durable or washable, allowing for multiple uses over the lifespan of the packaging or product.

(2) Establish an accounting of the total quantity of single-use packaging and products disposed of, generated, and used in the state, and set a baseline amount for the reduction and recycling requirements of Section 42042. To determine the amount of a source reduction requirement, the department shall establish a baseline using the last three years of packaging material sold by businesses into the State of California. For purposes of this chapter, source reduction shall not include replacing a recyclable material with a nonrecyclable material.

(c) The plan shall identify and make recommendations on direct reductions of single-use consumer goods, alternative compliance mechanisms, market-based compliance mechanisms, and potential monetary and nonmonetary incentives the department finds are necessary or desirable to facilitate the achievement of the requirements of Section 42042.

(d) In developing the plan, the department shall consider all relevant information on reduction programs in other states, localities, and nations, including, but not limited to, the European Union, India, Costa Rica, and Canada.

(e) The department shall evaluate the total potential costs and total potential economic and noneconomic benefits of the plan to California's economy, environment, and public health, using the best available economic models, diversion and reduction estimation techniques, and other scientific methods.

(f) The department shall conduct a series of public workshops throughout the state to give interested parties an opportunity to comment on the plan. The department may convene a stakeholder group to assist the department in developing the plan that consists of, but is not limited to, product and packaging manufacturers, retailers, environmental organizations, and trade associations.

(g) The department shall update its plan at least once every three years.

(h) After the requirements in Section 42042 are achieved, the department shall update the plan to ensure the requirements are maintained, and, if technologically feasible and cost effective, exceeded.

42045. (a) In adopting regulations pursuant to Section 42042, the department shall develop criteria to determine which types of single-use packaging or products are reusable, recyclable, or compostable.

(b) For purposes of determining if single-use packaging or products are recyclable, the director shall consider, at a minimum, all of the following criteria:

(1) Whether the single-use packaging or product is eligible to be labeled as "recyclable" in accordance with the uniform standards contained in Article 7 (commencing with Section 17580) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code.

(2) Whether the single-use packaging or product is regularly collected, separated, and cleansed for recycling by recycling service providers.

(3) Whether the single-use packaging or product is regularly sorted and aggregated into defined streams for recycling processes.

(4) Whether the single-use packaging or product is regularly processed and reclaimed or recycled with commercial recycling processes.

(5) Whether the single-use packaging or product material regularly becomes feedstock that is used in the production of new products.

(6) Whether the single-use packaging or product material is recycled in sufficient quantity, and is of sufficient quality, to maintain a market value.

(c) For purposes of determining if single-use packaging or products are compostable, the director shall consider, at a minimum, all of the following criteria:

(1) Whether the single-use packaging or product will, in a safe and timely manner, break down or otherwise become part of usable compost that can be composted in a public or private ~~aerobic~~ compost facility designed for and capable of processing postconsumer food waste and food-soiled paper.

(2) Whether the single-use packaging or product made from plastic is certified to meet the ASTM standard specification identified in either subparagraph (A) or (C) of paragraph (1) of subdivision (b) of Section 42356 and adopted in accordance with Section 42356.1, if applicable.

(3) Whether the single-use packaging or product is regularly collected and accepted for processing at public and private compost facilities.

(4) Whether the single-use packaging or product is eligible to be labeled as "compostable" in accordance with the uniform standards contained in Article 7 (commencing with Section 17580) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code.

(d) (1) In implementing this section, the department may consult with local governments and representatives of the solid waste industry, the recycling industry, the compost industry, and single-use product and packaging manufacturers to determine if a type of single-use packaging or product is recyclable, reusable, or compostable.

(2) Local governments, solid waste facilities, recycling facilities, and composting facilities shall provide information requested by the department pursuant to paragraph (1) to the department.

42046. (a) A manufacturer of single-use plastic packaging or products sold or distributed in California shall demonstrate a recycling rate of not less than 20 percent on and after January 1, 2022, and not less than 40 percent on and after January 1, 2026, as a condition of sale of single-use plastic packaging or products.

(b) Notwithstanding subdivision (a), the department may impose a higher recycling rate as a condition of sale of single-use plastic packaging or products by a manufacturer as needed to achieve the requirements established in Section 42042.

(c) For purposes of this section, "recycling rate" means the percentage, as measured by weight, volume, or number, of single-use plastic packaging or products sold or offered for sale in the state that is recycled in a year-long period, as determined by the department. Recycling rate may be measured by any of the following:

(1) A particular type of single-use packaging or product, such as a thermoformed or molded container, soft drink container, or detergent bottle.

(2) A product-associated item of packaging.

(3) A single resin type, as specified in Section 18015.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Senate Bill 54/ Assembly Bill 1080: Single-Use Packaging and Products

Senator Ben Allen and Assemblywoman Lorena Gonzalez
with Senator Skinner, Senator Wiener, Senator Stern, Assemblymember Friedman, Assemblymember Calderon and Assemblymember Ting

IN BRIEF

SB 54/AB 1080 will ensure California is on the forefront of reducing pollution from plastic packaging and products. The bills would set goals to reduce waste from single-use packaging and products and ensure the remaining items are effectively recycled.

BACKGROUND

Every day, single-use packaging and products in California generate tons of non-recyclable and non-compostable waste impacting our health, natural environment, and local governments.

Plastic pollution starts with fossil fuel extraction to create plastic and affects individuals, communities, and ecosystems all along the supply chain; from when the products are manufactured, transported, and used, to when they degrade and emit greenhouse gases or impact the environment as litter. Oil refineries, plastic manufacturers and incinerators tend to be located in disadvantaged communities, which then must bear the brunt of the associated health impacts from industry, such as higher asthma rates. With a planned 40-percent increase in plastic production over the next decade, plastic production will account for 20 percent of global fossil fuel consumption unless we make major policy changes to significantly counter this.

One way to reduce the production of plastics is to focus on its use in packaging. Packaging products are typically designed to be used just once and then discarded and they account for 42 percent of all non-fiber plastic produced.

Unlike natural materials that decompose, nearly every piece of plastic ever produced still exists in our landfills or in the environment. As these items fragment into smaller particles, known as microplastics, they concentrate toxic chemicals and contaminate our food and drinking water sources, ranging from bottled water to table salt to fish and agricultural soils. Exposure to these plastics and associated toxins has been linked to cancers, birth defects, impaired immunity, endocrine disruption and other serious health problems.

While the state and local communities in California have tried to reduce the burden from single-use packaging since the 1980s, taxpayers and local governments still spend over $420 million annually in ongoing efforts to clean up and prevent litter in streets, storm drains, parks and waterways. Not only is cleanup expensive, but it cannot keep pace with the production of single-use disposable items, which continues to grow exponentially.

Existing recycling infrastructure can't keep pace either. Less than 9 percent of plastic is recycled, and that percentage is dropping since the implementation of China's National Sword and policies in other countries, which severely restricted the amount of foreign waste these countries accept. These materials are now either piling up in recycling centers, being landfilled, or sent to illegal facilities in Southeast Asia where they are incinerated, or simply dumped in impoverished areas where it is never dealt with. California must reduce the amount of plastics as a result of these realities.

We can no longer afford to wait on this issue. This is why the European Union and other countries that are major purchasers of consumer goods are implementing comprehensive waste reduction frameworks which urge producers to share in the responsibility of reducing waste and designing products to be reusable, recyclable and/or compostable. As the world's fifth-largest economy, California has a responsibility to lead on solutions to the growing plastic pollution crisis.

SOLUTION

Eliminating non-reusable, non-recyclable and non-compostable products and reducing packaging is by far the most effective, and least expensive way to protect the health of people, wildlife, and the environment. Many reliable and reusable alternatives already exist and the positive results of their use have been proven.

SB 54/AB 1080 establish a comprehensive framework to address the pollution and waste crisis.

- Specifically, single-use plastic packaging and products sold or distributed in California must be reduced or recycled by 75 percent by 2030.
- All single-use packaging and products must be recyclable or compostable on and after 2030.
- As part of a shift towards a more circular economy, the bills also instructs CalRecycle to develop incentives and policies to encourage in-state manufacturing using recycled material generated in California.

CalRecycle will be given authority to adopt regulations to meet these goals, including developing criteria to determine which packaging material qualifies as recyclable or compostable.

SUPPORT

Algalita Marine Research and Education
Alvarado Street Brewery & Grill
American Sustainable Business Council
Audubon California
Azul
Breast Cancer Prevention Partners
California Cannabis Coalition
California Coastal Protection Network
California Coastkeeper Alliance
California Compost Coalition
California Interfaith Power & Light
California League of Conservation Voters
Californians Against Waste
California Product Stewardship Council
California ReLEAF
California Resource Recovery Association
California State Association of Counties
California State Parks Foundation
California Teamsters Public Affairs Council
CALPIRG
Center for Biological Diversity
Center For Environmental Health
Center for Oceanic Awareness, Research and Education
ChicoBag
Cigarette Butt Pollution Project
Clean Water Action
Coastodian
Colorado Medical Waste, Inc.
Communication Workers of America District 9, AFL- CIO
Communications4Good
Communitas Financial Planning
Community Environmental Council
Conscious Container
Council Member Paul Koretz, 5th District, City of Los Angeles
Council Member Mark West, City of Imperial Beach
Defenders of Wildlife
Distance Learning Consulting
Dr. Bronner's
East Yard Communities for Environmental Justice
Eco Imprints
Ecology Center
Environment California
Environmental Defense Center
Environmental Justice Coalition for Water
Environmental Working Group
Friends Committee on Legislation of California
Friends of the Los Angeles River
Full Circle Environmental, Inc.
Global Alliance for Incinerator Alternatives (GAIA)
GoodLight Natural Candles
Green Retirement, Inc.
Green Valley Community Farm
Greenpeace
Guitarfish Music Festival
Heal the Bay
Indivisible Ventura
Inland Empire Disposal Association
Inland Ocean Coalition
Joshua Tree Music Festival
Kasperorganics
Kern Refuse Disposal, Inc.
Kite Music Productions/Flying Kite Motion Pictures
La Cooperativa Campesina
LA Hauler
Latinos in Action
Leadreship & Strategy for Sustainable Systems
League of Women Voters of California
Long Beach Environmental Alliance
Long Beach Gray Panthers
Los Angeles Alliance for a New Economy (LAANE)
Los Angeles County Waste Management Association
Los Angeles Waterkeeper
Lutheran Office of Public Policy - California
Lydia's Kind Foods, Inc.
MD Global
MoneyVoice
Monterey Regional Waste Management District
Napa Recycling & Waste Services
National Parks Conservation Association
National Stewardship Action Council
Natural Resources Council of Maine
Natural Resources Defense Council
No Plastic Oceans
Northcoast Environmental Center
Northern California Recycling Association
Oceana
Outdoor Outreach
Owl Post Calligraphy
Pacific Forest Trust
Pacoima Beautiful
Pharmacists Planning Services, Inc.
Pier 23 Café Restaurant & Bar
Plastic Pollution Coalition
Ponce's Mexican Restaurant
UPSTREAM
R3 Consulting Group, Inc.
Recology
Refill Madness, LLC
Republic Services
Repurpose

ReThink Waste
San Francisco Baykeeper
San Francisco Department of the Environment
Save Our Shores
Sea Hugger
Service Employees International Union California
Seventh Generation Advisors
S. Groner Associates, Inc.
Shafir Environmental
Shizen & Tataki Restaurants
Sierra Club California
Sierra Leadreship
Smart Planet Technologies
Solid Waste Association of Orange County
St. Francis Center
Steelys Drinkware
StopWaste
Surfrider Foundation
Sustainable Environmental Management Co.
Sustain LA
Symbiosis Gathering
TDC Environmental, LLC
Teamsters Local Union No. 396
The 5 Gyres Institute
The River Project
The Story of Stuff Project
The Watershed Project
To-Go Ware
Tonic Nightlife Group
TreePeople
Tri-CED Community Recycling
Trust for Public Lands
Valley Improvement Projects
Waste Busters, Inc.
Wholly H2O
WILDCOAST
Wishtoyo Chumash Foundation
Women's Voices for Earth
Zero Waste Sonoma
Zero Waste USA
350 Bay Area Action
350 Silicon Valley

FOR MORE INFORMATION

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SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2019 - 2020 Regular

Bill No:	SB 54		
Author:	Allen, et al.		
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Urgency:	No	**Fiscal:**	Yes
Consultant:	Genevieve M. Wong		

SUBJECT: California Circular Economy and Plastic Pollution Reduction Act

DIGEST: Requires the Department of Resources Recycling and Recovery (CalRecycle), in consultation with the State Water Resources Control Board (SWRCB) and the Ocean Protection Council (OPC), to adopt regulations to source reduce and recycle at least 75% of single-use packaging and products sold or distributed in California by 2030, and requires CalRecycle to develop a scoping plan to achieve those requirements.

ANALYSIS:

Existing law:

1) Under the California Beverage Container Recycling and Litter Reduction Act of 1986, provides funding for beverage container recycling, litter prevention, and cleanup (PRC §§ 14500 et seq.).

2) Under the Integrated Waste Management Act of 1989 (IWMA), establishes a state recycling goal of 75% of solid waste generated to be diverted from landfill disposal through source reduction, recycling, and composting by 2020. 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).

3) Prohibits a person from selling a plastic bag or a plastic food or beverage container that is labeled as "compostable" or "marine degradable" unless that plastic bag or container meets American Society for Testing and Materials (ASTM) standards or a standard adopted by the Department of Resources Recycling and Recovery (PRC §§ 42357, 42359.6).

4) 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.).

This bill:

1) Enacts the California Circular Economy and Plastic Pollution Reduction Act.

2) Requires, CalRecycle, in consultation with the SWRCB and the OPC, to adopt regulations to source reduce and recycle at least 75 percent single-use packaging and products sold or distributed in the state by 2030, and requires CalRecycle to prepare, and update, a scoping plan to achieve those recycling requirements.

   a) More specifically, the regulations would, among other things:

      i) Recycle, and require businesses to source reduce, at least 75 percent of single-use plastic packaging and products by 2030.

      ii) Require all single-use packaging and products distributed or sold in the state be recyclable or compostable after 2030 (PRC § 42042(c)).

   b) The scoping plan, more specifically, requires CalRecycle to:

      i) Determine which products and packaging are considered single-use for these purposes in accordance with specified criteria.

      ii) Establish accounting of the total quantity of single-use packaging and products disposed of, generated, and used in the state, and set a baseline amount for the above-described regulations.

3) Requires CalRecycle to develop criteria to determine which types of single-use packaging or products are recyclable or compostable.

4) Requires CalRecycle to establish a process for businesses to annually report certain information to the department relating to the quantity and type of packaging materials sold by the business into the state and quantity and type of material source reduced by the business annually.

5) Requires, as a condition of sale of single-use plastic packaging or products in the state, a manufacturer of single-use plastic packaging or products sold or distributed in the state to demonstrate a recycling rate of not less than 20 percent on and after January 1, 2022, and not less than 40 percent on and after January 1, 2026.

6) Authorizes CalRecycle to adopt voluntary guidelines for manufacturers and retailers to reduce packaging waste, develop alternative compliance mechanisms for manufacturers and retailers, and establish minimum postconsumer recycled content requirements.

Background

1) *Solid waste in California.* For 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 California 2017 Update*, 42.7 million tons of material were disposed into landfills in 2016.

2) *Market challenges for recyclable materials.* The US has not developed significant markets for recycled content materials, including plastic and mixed paper. Historically, China has been the largest importer of recycled materials. According to the International Solid Waste Association, China accepted 56% by weight of global recycled plastic exports. In California, approximately one-third of recycled material is exported; and, until recently, 85% of the state's recycled mixed paper has been exported to China.

   In an effort to improve the quality of the materials it accepts and to combat the country's significant environmental challenges, China enacted Operation Green Fence in 2013, under which it increased inspections of imported bales of recyclables and returned bales that did not meet specified requirements at the exporters' expense. In 2017, China established Operation National Sword, which included additional inspections of imported recycled materials and a filing with the World Trade Organization (WTO) indicating its intent to ban the import of 24 types of scrap, including mixed paper and paperboard, polyethylene terephthalate (PET), polyethylene (PE), polyvinyl chloride (PVC), and polystyrene (PS) beginning January 1, 2018. In November 2017, China announced that imports of recycled materials that are not banned will be

required to include no more than 0.5% contamination.

In January of this year, the China announced that it would be expanding its ban even further – to encompass 32 types of scraps for recycling and reuse, including post-consumer plastics such as shampoo and soda bottles.

Earlier this month, the Indian government announced that it will ban scrap plastic imports, a move that threatens to further disrupt the state's recycling industry. It is presumed that these changes to policy took effect March 1, and, while the release did not specify the specific plastic resins that will be covered, it is speculated that the ban will apply to most plastics including PET, PE, PS, polypropylene (PS), and more. After China's implementation of National Sword policy, India became one of the top importers of US plastic. US year-end trade figures for 2018 show that India imported 294 million pounds of scrap plastic from the US in that year. That was up from 271 million pounds in 2017 and 203 million pounds in 2016.

3) *Plastic pollution.* Plastics are estimated to comprise 60-80% of all marine debris and 90% of all floating debris. According to the California Coastal Commission (Commission), the primary source of marine debris is urban runoff (i.e., litter). 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.

Due to the interplay of ocean currents, marine debris preferentially accumulates in certain areas throughout the ocean. According to Eriksen et al. (2014), 24 expeditions from 2007-2013 estimated that there are approximately 96,400 metric tons of floating plastic in the Northern Pacific Ocean. The North Pacific Central Gyre is the ultimate destination for much of the marine debris originating from the California coast. A study by the Algalita Marine Research Foundation found an average of more than 300,000 plastic pieces per square mile of the Gyre and that the mass of plastic was six times greater than zooplankton floating on the water's surface.

Most plastic marine debris exists as small plastic particles due to excessive UV radiation exposure and subsequent photo-degradation. 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. Last year, scientists at the Australian Research Council Centre of Excellence for Coral Reef Studies at James Cook University found that corals are also ingesting small plastic particles, which remain in

their small stomach cavities and impede their ability to consume and digest normal food.

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) have an affinity for, and can bind to, plastic particles where they enter and accumulate in the food chain.

California Coastal Cleanup Day was first organized by the Commission in 1985. The Commission continues to organize the event annually and track the items collected. According to the Commission, the top ten 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. Food wrappers and containers account for just over 10% of the material cleaned up.

In 2007, OPC adopted a resolution on "reducing and preventing marine debris." A year later, OPC released the Implementation Strategy for the [OPC] Resolution to Reduce and Prevent Ocean Litter, which established four broad objectives to reduce marine debris: 1) Reduce single-use packaging and promote sustainable alternatives; 2) Prevent and control litter and plastic debris; 3) Clean up and remove ocean litter; and, 4) Coordinate with other jurisdictions in the Pacific region.

In 2016, OPC, in partnership with the NOAA Marine Debris program, began updating its 2008 initiative, and on April 24, 2018, adopted the California Ocean Litter Prevention Strategy: Addressing Marine Debris from Source to Sea. The updated Strategy includes several actions that are carryover items from the 2008 effort and includes a producer take-back program for convenience food packaging (the second largest source of ocean litter behind cigarette butts), expanding the local bans on polystyrene food packaging, and supporting local efforts to impose fees on littering. The plan also focuses on three main priorities: land-based ocean litter, microplastics, and fishing and aquaculture gear. Source reduction is an important component in these goals and action items and is considered the most preferred way to reduce ocean litter because it decreases the amount of trash there is to control, clean up, and dispose.

4) *Economic impacts to California*. A National Oceanic and Atmospheric Administration Marine Debris Program economic study published in 2014 examined the costs of marine debris to Californians. The study focused on Orange County, and found that residents lose millions of dollars each year

avoiding littered, local beaches in favor of choosing cleaner beaches that are farther away and more costly to reach. In one scenario, the study found that reducing marine debris by just 25% would save Orange County residents $32 million in June-August; eliminating marine debris entirely would save an estimated $148 million.

A 2013 report produced for the Natural Resources Defense Council by Keir Associates estimates that Californians are shouldering $428 million annually to try to prevent litter from becoming marine debris that damages the environment, tourism, and other economic activities.

Comments

1) *Purpose of Bill.* According to the author, "Senate Bill 54 will reduce the amount of waste that burdens taxpayers and local governments, plagues human health, and pollutes our natural environment by decreasing single-use packaging and products sold in California and ensuring the remaining items are effectively composted and recycled.

"Roughly two-thirds of all plastic ever produced has been released into the environment and remains there in some form, either in our landfills or polluting our coast and ocean, and our streets, parks, streams, and rivers. These items fragment into smaller particles, known as microplastics, concentrating toxic chemicals and contaminate our food and drinking water sources. Exposure to these plastics and associated toxins has been linked to cancers, birth defects, impaired immunity, endocrine disruption and other serious health problems. Additionally, plastic negatively impacts marine ecosystems and wildlife as seabirds, turtles, marine mammals, whales and dolphins die from ingestion or entanglement.

"Though the state and communities in California have been focusing efforts on reducing the burden from single-use packaging since the 1980s, taxpayers and local governments still spend over $420 million annually in ongoing efforts to clean up and prevent litter in streets, storm drains, parks and waterways. Existing recycling infrastructure cannot keep pace with the continued exponential growth in single use waste. Less than 9 percent of plastic is recycled, and that number is dropping since the implementation of China's National Sword policy, which severely restricts the amount of foreign waste China accepts. The cost of recycling exceeds the scrap value of the plastic material so the markets for plastic packaging that were previously considered recyclable have been lost. Experts agree that upstream reduction of [the] single use waste upstream is the most effective and least expensive way to protect

human, wildlife, and environmental health. SB 54 would be an important step by significantly reducing California's reliance on single-use packaging and products."

2) *The effect of National Sword on California recycling*. The shift in policy of the international markets have resulted in a major disruption in recycling commodities markets, a sign that California can no longer be primarily reliant on exports to manage its recyclable materials. As a result of these policies, more material is being stockpiled at solid waste facilities and recycling centers or disposed of in landfills. Because California has historically relied on being able to export a significant percentage of these materials, the state now has to figure out a new plan to manage these materials.

   Recycling requires markets to create new products for this material to close the loop. The new policies of other jurisdictions provide California with the opportunity to reduce waste, build infrastructure for the manufacture of recycled materials, and build domestic markets to successfully and responsibly manage its own recyclable materials.

3) *A comprehensive plan*. In recent years, the Legislature has addressed single-use plastic products, and its resulting waste, in piecemeal fashion. While this has proven successful in the past, with the decrease in the use of single-use plastic carryout bags and the use of straws in restaurants, SB 54 instead chooses a more holistic approach. The bill directs CalRecycle to examine single-use packaging and products across-the-board and develop an approach that would not only aid the state in meeting its 75 percent diversion goal but also result in the reduction of waste, decrease in pollution, and its associated environmental impacts (like greenhouse gas emissions), creation of domestic markets for recyclable materials (thereby helping to address the National Sword crisis), and support the development of instate recycling infrastructure. The bill provides CalRecycle with a variety of tools to achieve these goals.

4) *Who is the manufacturer?* SB 54 would require a manufacturer of single-use plastic packaging or products sold or distributed in the state to demonstrate threshold recycling rates as a condition of selling the packaging or products in the state. In some instances, the manufacturer of a particular single-use plastic packaging or product may not be the entity that is responsible for the distribution of that packaging or product into the state.

   As this bill moves forward, the author will need to clearly define which party will be considered the "manufacturer" for purposes of demonstrating the minimum recycling rate threshold if the manufacturer does not directly sell or

distribute the packaging or product in the state.

5) *An oversight.* When determining if single-use packaging or products are compostable, SB 54 requires CalRecycle to consider specified criteria, including whether the single-use packaging or product will breakdown or otherwise become part of usable compost that can be composted in a public or private aerobic compost facility. The language inadvertently leaves out the option of an anaerobic compost facility.

   As this bill moves forward, the author has agreed to amend the language to be inclusive of an anaerobic compost facility.

Related/Prior Legislation

AB 1080 (Gonzalez, 2019) is identical to this bill and is currently referred to the Assembly Committee on Natural Resources.

SB 1335 (Allen, Chapter 610, Statutes of 2018) prohibits a state food service facility from dispensing prepared food using type of food service packaging unless the packaging is on a specified list maintained by the CalRecycle and has been determined to be reusable, recyclable, or compostable.

AB 2921 (Low, 2017) would enact the Expanded Polystyrene Food Service Packaging Recovery and Recycling Act, which would create an extended producer responsibility program for expanded polystyrene food service packaging manufacturers and polystyrene resin producers. AB 2921 was held in the Assembly Committee on Natural Resources.

SB 705 (Dodd, 2017) would have banned certain food providers, by January 1, 2020, and all food vendors by January 1, 2022, from dispensing prepared food in expanded polystyrene food service containers. SB 705 proposed to authorize a city or county to grant exemptions to this prohibition due to economic hardship and to authorize a city or county to impose civil liability if an entity knowingly violated the prohibition. SB 705 failed on the Senate floor.

SOURCE: Author

SUPPORT:

350 Silicon Valley
Algalita Marine Research and Education
Alvarado Street Brewery
Audubon California

Breast Cancer Prevention Partners
California Cannabis Coalition
California Coastal Protection Network
California Coastkeeper Alliance
California Compost Coalition
California Interfaith Power & Light
California League of Conservation Voters
California League of Conservation Voters
California Product Stewardship Council (CPSC)
California ReLeaf
California Resource Recovery Association
California State Association of Counties
California State Parks Foundation
California Teamsters Public Affairs Council
Californians Against Waste
CALPIRG
Center for Biological Diversity
Cigarette Butt Pollution Project
Coastodian
Colorado Medical Waste, Inc.
Communications Workers of America District 9, AFL-CIO
Community Environmental Council
Defenders of Wildlife
Environment California
Environmental Defense Center
Environmental Working Group
Friends Committee on Legislation of CA
Full Circle Environmental, Inc.
Green Valley Community Farm
Greenpeace
Heal the Bay
Latinos in Action
Long Beach Environmental Alliance
Long Beach Gray Panthers
Los Angeles Alliance for a New Economy (LAANE)
Los Angeles Waterkeeper
National Parks Conservation Association
National Stewardship Action Council (NSAC
Natural Resource Defense Council (NRDC)
Natural Resources Council of Maine
No Plastic Oceans
Oceana

Pacific Forest Trust
Plastic Pollution Coalition
Recology, Inc.
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RethinkWaste
Save Our Shores
Seventh Generation Advisors
Shizen and Tataki Restaurants
Sierra Club California
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Stopwaste
Surfrider Foundation
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TDC Environmental, LLC
Teamsters Local Union No. 396
The 5 Gyres Institute
The Center For Oceanic Awareness, Research, and Education (COARE)
The River Project
The Story of Stuff Project
The Trust for Public Land
The Watershed Project
Tonic Nightlife Group
TreePeople
Tri-City Economic Development Corporation
UPSTREAM
Wholly H2O
WILDCOAST
Wishtoyo Chumash Foundation
Zero Waste USA

OPPOSITION:

American Chemistry Council
AMERIPEN
California Chamber of Commerce

California Grocers Association
Grocery Manufacturers Association
Household and Commercial Products Association
Plastics Industry Association

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