

**CALENDAR ITEM
C08**

A Statewide

05/23/13

S Statewide

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**CONSIDER SUPPORTING STATE LEGISLATION THAT WOULD PROHIBIT
STORES THAT HAVE A CERTAIN AMOUNT OF SALES OR RETAIL
FLOOR SPACE FROM PROVIDING SINGLE-USE CARRYOUT BAGS**

INTRODUCTION:

State Lands Commission (Commission) staff has been reviewing various legislative proposals introduced in the 2013-14 legislative session that involve lands under the Commission's jurisdiction. This report describes proposed legislation (SB 405 – Padilla) that would ban stores that have a certain amount of sales or retail floor space from providing single-use carryout bags to a customer at the point of sale on and after January 1, 2015, allow stores to make recycled content paper, compostable plastic (in some jurisdictions), or reusable bags available for purchase, and establish performance, safety, and labeling standards for bags permitted to be sold. Convenience stores must comply with these provisions by July 1, 2016.

LEGISLATIVE PROPOSAL:

SB 405 (Padilla): Solid waste: single-use carryout bags

SB 405 bans stores that have a certain amount of sales or retail floor space from providing single-use carryout bags beginning January 1, 2015, and allows these stores to make reusable bags that meet certain standards available to customers for sale. Convenience stores must comply with these provisions beginning on July 1, 2016. Notwithstanding, stores would be required to provide a customer participating in the California Special Supplemental Food Program for Women, Infants, and Children with a reusable grocery bag or recycled paper bag at no cost.

Beginning July 1, 2016, reusable bags sold in stores must meet specific performance and labeling standards, including the ability to withstand 125 uses, be machine washable or made from a material that can be cleaned and disinfected, and have printed on the bag, or on a tag attached to the bag that is not intended to be removed and in a manner visible to the consumer, the following information: 1) the name of the manufacturer; 2) the country where the bag was manufactured; 3) a recycling symbol or

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end-of-life management instructions; and, 4) the percentage of postconsumer recycled material, if any. Additionally, bags may not contain lead, cadmium, or any other heavy metal in toxic amounts. Reusable plastic bags must have 20% recycled content by July 1, 2017. If compostable bags are made available for purchase, the bag must meet the American Society for Testing and Materials Standard Specification for Compostable Plastics D6400, if in the local jurisdiction where the compostable bag is sold, both of the following requirements are met: 1) a majority of the residential households in the jurisdiction have access to curbside collection of foodwaste for composting; and 2) the governing authority for the jurisdiction has voted to allow stores in the jurisdiction to sell to a consumer a compostable bag at a cost not less than the actual cost of the bag.

Further, SB 405 would authorize the Department of Resources Recycling and Recovery (CalRecycle) to inspect and audit a reusable grocery bag producer, with all costs associated with the audit paid for by the bag producer, test reusable bags stores make available for sale, require producers to provide laboratory test results from independent accredited laboratories upon request, and enter into agreements with other state entities that conduct inspections to provide necessary enforcement of these authorities. Violators would be subject to an administrative civil penalty assessed by CalRecycle, who would deposit the penalty revenue into the Reusable Bag Account that CalRecycle may expend upon appropriation by the Legislature.

In regard to penalties for violating the ban on providing single-use carryout bags, SB 405 would allow cities, counties and the State to impose civil liability of up to \$500 for a first violation, \$1,000 for a second violation, and \$2,000 for a third or subsequent violation. Penalty revenue would be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General; whichever office brought the action.

Finally, CalRecycle would be required to submit a report to the Legislature by January 1, 2017, regarding implementation of the bill's provisions, including recommendations for statutory changes to increase effectiveness and further encourage the use of reusable grocery bags by customers and stores.

BACKGROUND:

Nineteen billion plastic bags are used in California every year, costing taxpayers approximately \$25 million annually to collect and dispose. Less than 5% of all single use plastic bags are recycled. Litter and marine debris from single use plastic bags pollute California's beaches, ocean, and other waterways, most of which involve state-owned sovereign land subject to the public trust. Plastic waste is the predominate form of marine debris, estimated to comprise 60-80% of all marine debris and 90% of all

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floating debris. Most plastic marine debris exists as small plastic particles. These plastic pieces are ingested by aquatic organisms and negatively affect hundreds of animal species worldwide.

Approximately fifty local jurisdictions in California have already passed ordinances banning single use bags, placing 33% of Californians under a single use bag ordinance. Banning single use bags statewide will significantly reduce plastic waste, reduce ocean pollution, and help maintain a healthy ecosystem. Given that the environmental hazards of single use plastic bags are well documented, staff believes the State should establish uniform standards for all of California.

OTHER PERTINENT INFORMATION:

Single-use bag ordinances are in place in numerous countries and major U.S. cities, including China, Denmark, Australia, Bangladesh, the United Kingdom, France, Rwanda, Somalia, Italy, Ireland, New York City, Seattle, and Washington, D.C. Altogether, 25% percent of the world's population now lives in areas with bans or fees on plastic bags.

The Commission has supported four similar bills in previous years, including adopting a resolution at their June 1, 2009 meeting in support of state legislation that would have significantly reduced litter and marine debris and encouraged the use of reusable shopping bags by taking measures such as placing a fee on single-use shopping bags.

SB 405 was approved by the Senate Environmental Quality Committee on April 17, 2013, and is currently on the Senate Appropriations Committee Suspense File.

The bill is supported by Azul, Bag It, Californians Against Waste, California Coastal Coalition, California Coastkeeper Alliance, City of Encinitas, City and County of San Francisco, Central Contra Costa County Solid Waste Authority, City of Sacramento, City of Sunnyvale, Clean Water Action/Clean Water Fund, Environment California, Environmental Working Group, Green Sangha, Heal the Bay, Long Beach Coalition for a Safe Environment, Los Angeles Waterkeeper, Monterey County Board of Supervisors, PlasticBagLaws.org, Planning and Conservation League, Plastic Pollution Coalition, Natural Resources Defense Council, Seventh Generation Advisors, Sierra Club, Surfrider Foundation, Team Marine, Santa Monica High School, Turtle Island Restoration Network, Team Marine – Santa Monica High School, Napa Valley CanDo Environment Group, and 5 Gyres Institute.

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The bill is opposed by Advance Polybag, Inc., American Forest & Paper Association, Crown Poly, Inc., Hilex Poly Inc., and Superbag.

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. Adopt a support position on SB 405 (Padilla).