

COMMITTEE STAFF SUMMARY FOR MARCH 21, 2016

12A. UPDATES: MARINE DEBRIS**Today's Item****Information** ☒**Direction** ☒

Update on topics previously before the Committee: Marine Debris

Summary of Previous/Future Actions

- Informational presentations on marine debris Mar 21, 2016; MRC, Los Alamitos
- FGC approved MRC recommendation Apr 13-14, 2016; Santa Rosa
- **Today's update Jul 21, 2016; MRC, Petaluma**

Background

FGC referred this topic to the MRC in Feb 2016 to discuss concerns over marine debris and plastic pollution in California's coastal waters and ocean ecosystem. The FGC previously discussed several issues that fall under this broad topic, ranging from *land-based* activities to *ocean-based* activities leading to *floating* or *submerged* marine debris. This includes plastics originating from land, and several ocean-based activities such as lost gear associated with fishing and shellfish aquaculture. These all have the potential to harm to marine wildlife through ingestion, entanglement, or habitat disruption.

In Mar 2016, the MRC received informational briefings from three invited speakers on marine debris and plastic pollution and discussed actions and opportunities at local, state and federal levels. Based on discussion, the MRC recommended and FGC approved staff to coordinate with the California Ocean Protection Council (OPC) regarding possible efforts to jointly address marine debris (e.g., interagency workgroup or a possible multi-stakeholder workshop to share ideas). Today provides an opportunity to hear an update on this effort and a range of other current marine debris issues.

1. OPC update: Today, Holly Wyer from OPC will provide an overview of initial planning for a process to update the 2008 multi-agency [OPC Implementation Strategy for the 2007 OPC Resolution to Reduce and Prevent Ocean Litter](#) (exhibits 1 and 2). The update is envisioned to highlight progress and expand NGO and public stakeholder involvement opportunities. In relation to FGC's interest, Ms. Wyer will highlight efforts to engage and coordinate with FGC as well as NOAA's Marine Debris Program.
2. Plastics bag ban status and new referendum: The first statewide ban on single-use plastic bags in grocery stores, passed under SB 270 by the Legislature in 2014 (Exhibit 3), reflects alignment with OPC goals reflected in its resolution and strategy noted above. However, the new state law was stayed due to qualifying of a voters' referendum by opponents of the ban. Staff will briefly highlight the "California Plastic Bag Ban Referendum", Proposition 67, which will be on the Nov 8, 2016 ballot in California as a veto referendum that would overturn or uphold the legislation banning plastic bags under SB 270.
3. Lost fishing gear: Efforts to reduce frequency of whale entanglement in fishing gear are continuing through industry best management practices, as well as introduction of SB 1287 by Senator McGuire, which would facilitate retrieval of lost or abandoned Dungeness crab traps through a DFW-established retrieval permit program.

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4. Managing debris from state water bottom leases for aquaculture: As reported at Jun 2016 FGC meeting, DFW staff will be working with growers and the public to identify categories for best management practices in future regulations. DFW is targeting Nov for MRC update. Mr. Richard James, Tomales Bay Resident, is approved to give a brief presentation on the topic.

Significant Public Comments (N/A)**Recommendation**

1. Receive input on ways that FGC might engage in addressing marine debris concerns, including possible coordination with other agencies, or with collaborative efforts underway such as efforts to reduce risk of whale entanglements from fishing gear.
2. Consider a staff update on Proposition 67 at the Oct FGC meeting (prior to Nov ballot vote)
3. Participate to the extent feasible with OPC update to the 2008 implementation plan

Exhibits

1. [California OPC Resolution on Reducing and Preventing Marine Debris, dated Feb 8, 2007](#)
2. Link: http://www.opc.ca.gov/webmaster/ftp/pdf/opc_ocean_litter_final_strategy.pdf
3. ["Ballotpedia" overview of California Plastic Bag Ban Referendum, Proposition 67 \(2016\)](#)
4. [SB 270 \(2014\) Solid waste single-use carryout bags - Bill Text](#)

Committee Direction/Recommendation (N/A)

**Resolution of the California Ocean Protection Council
On Reducing and Preventing Marine Debris**

February 8, 2007

WHEREAS, since the 1970's, marine debris has been widely recognized as a threat to the marine environment; and

WHEREAS, despite global treaties to prevent dumping at sea and minimize land-based sources, and increasing efforts worldwide to protect water quality, the quantity of marine debris in the world's oceans is increasing; and

WHEREAS, the problem of plastic marine debris is increasing in California and the North Pacific Gyre, where densities of micro-plastics have tripled during the last decade; and

WHEREAS, on September 18, 2006, the West Coast Governor's Agreement (Washington, Oregon and California) on Ocean Health was created to address challenges to the declining health of the shared coastal ocean; and

WHEREAS, 60 to 80 percent of all marine debris and 90 percent of floating debris is plastic; and

WHEREAS, the U.S. Department of Commerce estimates that 80 percent of marine debris comes from land-based sources; and

WHEREAS, plastic lasts hundreds of years or longer in the environment without biodegrading; and

WHEREAS, by ingestion, entrapment and entanglement, plastic harms hundreds of wildlife species, some of which are threatened or endangered species under California or federal law; and

WHEREAS, plastic attracts other organisms that can float to distant habitats and become harmful invasive species; and

WHEREAS, plastic and other debris litters our beaches, and represents a threat to California's \$46 billion ocean-dependent, tourism-oriented economy and in certain circumstances may pose a public health threat; and

WHEREAS, California state and local agencies spend millions of dollars per year in litter collection; and

WHEREAS, plastics can contain potentially harmful constituents such as phthalates, bisphenol A, styrene, vinyl chloride and flame retardants. Research is being conducted to determine whether water leaches these constituents out of plastic products, presenting a threat to the health of humans and wildlife; and

WHEREAS, small plastic items, such as bottle caps, food wrappers and polystyrene pieces, are some of the most abundant items polluting our beaches. In 2005, 61,117 bottle caps were collected during California's Coastal Cleanup Day; and

WHEREAS, thermoplastic resin pellets (commonly called “nurdles”), plastic powders, and production scrap, all of which are mistaken as food by marine life, are a significant source of beach pollution. One survey conducted in the summer of 1998 estimated that over 100 million nurdles were polluting Orange County beaches alone – this represented over 98 percent of all of the pollution collected in terms of abundance and 17 percent in terms of weight; and

WHEREAS, the U.S. Department of Commerce estimates that ocean-based sources constitute 20 percent of plastic marine debris, including lost and abandoned fishing gear that can be dangerous to wildlife, boaters and divers. Since May 2006, the California Derelict Fishing Gear Removal Project has removed nearly 10 tons of gear from waters around the California Channel Islands.

NOW, THEREFORE, the California Ocean Protection Council (OPC) hereby:

RESOLVES to call attention to this problem by widely distributing this resolution; and

FURTHER RESOLVES to identify the following top priority solutions from the June 2006 Plan of Action prepared by the Plastic Debris Project:

1. *Reduce the sources of plastic marine debris* – The California Redemption Value Program (CRV) has proven to be enormously successful at diverting over 60 percent of aluminum, glass and certain plastic containers to recycling centers. Placing a value on these items has assured that the majority get collected. The state should look closely at extending the CRV or similar Extended Producer Responsibility programs to include other plastics commonly found in marine debris. The state should also make changes to the recycling “processing fee” to encourage greater recycling of all forms of plastic containers. The Marine Debris Steering Committee (“Committee”) established by this Resolution shall, by December 1, 2007, propose a plan for implementing this CRV expansion and increase of processing fees, the goals to be achieved by not later than 2015.
2. *Increase enforcement of anti-litter laws generally, and enforcement of laws to eliminate pollution by plastic resin pellets (nurdles)* – Litter enters the marine environment when waste materials are deliberately or negligently discarded. Increased enforcement will not only reduce littering directly, it will send a strong message to the public that littering is not an acceptable social behavior. With respect to plastic resin pellets, best management practices should be encouraged to eliminate the discharge of pellets into the marine environment. By not later than December 1, 2007, the Committee shall prepare a plan to set targets for the reduction of nurdles, including handling and transport regulation and related enforcement provisions, with such targets to be achieved by not later than 2009.
3. *Seek innovative methods to reduce plastic waste* – In cooperation with the Department of Conservation (DOC), the Department of Toxic Substances Control (DTSC) and the California Integrated Waste Management Board (CIWMB), OPC will investigate and support plastic packaging alternatives that biodegrade in the marine environment, that contain no potentially toxic materials and that reduce the amount of plastic debris commonly found in the marine environment. Staff is directed to report back to OPC on progress at the June 2007 meeting.

4. *Continue and expand watershed-based cleanups* – Regular cleanups in trash-prone coastal areas reduce marine debris impacts and promote environmental stewardship. In 2006, volunteers at California’s Coastal Cleanup Day collected nearly a million pounds of trash and recyclables. OPC supports the continuation and expansion of the watershed and beach cleanups currently run by the state, local governments and non-profit organizations.
5. *Increase the availability of trash, recycling and cigarette butt receptacles at public places, schools, and commercial establishments statewide* – Litter associated with convenience food and beverage items and discarded cigarette butts is a widely recognized problem in California. Adequate trash and recycling receptacles at both public places and commercial establishments would help mitigate this problem. Entities charged with trash maintenance should assess the adequacy of their trash and recycling collection services. Where necessary, these entities should increase the availability of these services, including recycling services at schools. Cigarette butt receptacles should also be available in public locations, including beaches, parks and marinas, and outside bars and clubs. All waste receptacles should be covered to prevent overflow spillage, windblown debris and removal by birds and other wildlife.
6. *Promote environmental education and outreach on the impacts of plastic debris and litter prevention* – The California Department of Transportation (Caltrans) operates an innovative statewide trash reduction campaign called “Don’t Trash California.” OPC will work to coordinate with Caltrans, DOC and other state and local entities to promote a consistent “Don’t Trash California” message. OPC will also work with the California Environmental Protection Agency (CalEPA) Education and the Environment Initiative to promote marine debris reeducation education in schools. Staff is directed to report back to OPC on progress at the June 2007 meeting. OPC staff shall also support actions by other state agencies to enforce existing anti-litter laws (e.g., highway anti-litter laws, Clean Water Act total maximum daily loads for trash), and to promote fundamental state policy changes to prioritize the issue of marine debris reduction (e.g., the State Water Board’s inclusion of prioritization of plastic debris as an amendment to the Ocean Plan.)
7. *Coordinate a Marine Debris Steering Committee* – OPC staff shall chair a Marine Debris Steering Committee to implement the recommendations of this Resolution. The Steering Committee shall include the California Integrated Waste Management Board, Department of Conservation, Department of Toxic Substances Control, Coastal Commission, and State Water Resources Control Board. The Steering Committee shall report at every OPC meeting.
8. *Coordinate a Regional Effort* – The OPC shall expeditiously work with parties to the West Coast Governors’ Agreement on Ocean Health, and invite the participation of British Columbia, Hawaii and Baja California, to create, by January 1, 2008, coast-wide goals for marine debris reduction, with such goals to be achieved by not later than 2018. The OPC shall propose to this coalition to:
 - a. Set joint litter target reductions of plastic single-use fast-food and convenience market packaging and containers;
 - b. Set joint derelict fishing gear litter target reductions and site cleanup targets;

- c. Consider relevant European Union chemical legislation restricting the marketing and use of harmful plastic materials and additives, including phthalates, bisphenol-A, styrene, perfluorooctanoic acid, vinyl chloride, nonylphenols, and alkylphenols; and
- d. Jointly address handling requirements and related enforcement regulations for pre-production plastic resin pellets.

The OPC shall report to the public on progress of the formation of this coalition at its next OPC meeting.

- 9. *Reduce Single-Use Plastic Packaging* – The Marine Debris Steering Committee, working with other appropriate agencies shall, by June 1, 2008, propose a statewide plan to reduce to a targeted amount the use of plastic single-use fast-food and convenience market packaging and containers, with such plan to be achieved by not later than 2015.
- 10. *Remove Derelict Fishing Gear* – The Marine Debris Steering Committee (Committee) shall by December 1, 2007 propose a plan for achieving target reductions of derelict fishing gear, with such targets to be achieved by not later than 2015.
- 11. *Ban Toxic Plastic Packaging* – The Committee shall by December 1, 2007, prepare a plan for the phased ban of the most toxic types of plastic packaging. The plan shall address materials including styrene, bisphenol-A, perfluorooctanoic acid, vinyl chloride, nonylphenols, and alkylphenols, with such plan to be achieved by not later than 2015. OPC staff shall also identify and publicly report on OPC or Resources Agency funds, if any, that will be directed to DTSC for marine debris toxicity data and research.
- 12. *Advance Environmental Education* – OPC staff shall include on the next OPC meeting agenda a state presentation about the Environmental Education Initiative.
- 13. *Prepare an Education Plan* – By December 1, 2007 OPC staff shall prepare a report that incorporates:
 - a. Recommendations for how the OPC could work with CalEPA, the Office of Education and the Environment, the Ocean Communicators Alliance (“Thank You Ocean” campaign), and other state partners to assist with an inventory of “environmental education” requirements in any ocean-related state permit requirements, enforcement actions or administrative decisions; and
 - b. Recommendations for how the OPC could work with CalEPA and the Office of Education and the Environment, and other state partners, to assist in the development of an inventory of K-12 ocean-related environmental education programs, including funding sources.

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California Plastic Bag Ban Referendum, Proposition 67 (2016)

The **California Plastic Bag Ban Referendum** will be on the November 8, 2016, ballot in California as a veto referendum.

A **"yes"** vote is a vote in favor of upholding or ratifying the contested legislation banning plastic bags that was enacted by the California State Legislature under the name Senate Bill 270.

A **"no"** vote is a vote in favor of overturning Senate Bill 270.

If the measure is approved by the state's voters, it would:^{[1][2]}

- Ratify Senate Bill 270 (2014).
- Prohibit large grocery stores and pharmacies from providing plastic single-use carryout bags and ban small grocery stores, convenience stores and liquor stores from doing so the following year.
- Allow single-use plastic bags for meat, bread, produce, bulk food and perishable items.
- Mandate stores to charge 10 cents for recycled, compostable and reusable grocery bags.
- Exempt consumers using a payment card or voucher issued by the California Special Supplemental Food Program from being charged for bags.
- Provide \$2 million to state plastic bag manufacturers for the purpose of helping them retain jobs and transition to making thicker, multi-use, recycled plastic bags.

The American Progressive Bag Alliance, an opponent of the measure, is leading the campaign to repeal SB 270.^[3]

Text of measure

Official summary:^[4]

“ If signed by the required number of registered voters and timely filed with the Secretary of State, this petition will place on the statewide ballot a challenge to a state law previously approved by the Legislature and the Governor. The challenged law must then be approved by a majority of voters at the next statewide election to go into effect. The law prohibits grocery and certain other retail stores from providing single-use bags but permits sale of recycled paper bags and reusable bags.^[5] ”

Background

Local ordinances

In 2007, San Francisco became the first jurisdiction in California to ban single-use plastic bags. Since then, 108 ordinances banning single-use plastic bags have been approved in the state, covering 137 county or local jurisdictions. Los Angeles, the largest city in California and second largest in the United States, banned single-use plastic bags and placed a 10 cent charge on paper bags. The city's ordinance went into effect on January 1, 2014, for large businesses and on July 1, 2014, for small businesses.^[6]

There were initiative attempts to overturn local single-use plastic bag bans in Walnut Creek, Huntington Creek and Camph...

California Plastic Bag Ban Referendum



Election date

November 8, 2016

Topic

Business regulation and Environment

Status

On the ballot

Type **Origin**

Referendum Citizens

Voting on Business Regulation



Ballot Measures

By state

By year

Not on ballot

Local [show]



SB-270 Solid waste: single-use carryout bags. (2013-2014)

Senate Bill No. 270

CHAPTER 850

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, and making an appropriation therefor.

[Approved by Governor September 30, 2014. Filed with Secretary of State
September 30, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 270, Padilla. Solid waste: single-use carryout bags.

(1) Existing law, until 2020, 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.

This bill, as of July 1, 2015, would prohibit stores that have a specified amount of sales in dollars or retail floor space from providing a single-use carryout bag to a customer, with specified exceptions. The bill would also prohibit those stores from selling or distributing a recycled paper bag at the point of sale unless the store makes that bag available for purchase for not less than \$0.10. The bill would also allow those stores, on or after July 1, 2015, to distribute compostable bags at the point of sale only in jurisdictions that meet specified requirements and at a cost of not less than \$0.10. The bill would require these stores to meet other specified requirements on and after July 1, 2015, regarding providing reusable grocery bags to customers, including distributing those bags only at a cost of not less than \$0.10. The bill would require all moneys collected pursuant to these provisions to be retained by the store and be used only for specified purposes.

The bill, on and after July 1, 2016, would additionally impose these prohibitions and requirements on convenience food stores, foodmarts, and entities engaged in the sale of a limited line of goods, or goods intended to be consumed off premises, and that hold a specified license with regard to alcoholic beverages.

The bill would allow a retail establishment to voluntarily comply with these requirements, if the retail establishment provides the department with irrevocable written notice. The bill would require the department to post on its Internet Web site, organized by county, the name and physical location of each retail establishment that has elected to comply with these requirements.

The bill would require the operator of a store that has a specified amount of sales in dollars or retail floor space and a retail establishment that voluntarily complies with the requirements of this bill to comply with the existing at-store recycling program requirements.

The bill would require, on and after July 1, 2015, a reusable grocery bag sold by certain stores to a customer at the point of sale to be made by a certified reusable grocery bag producer and to meet specified requirements with regard to the bag's durability, material, labeling, heavy metal content, and, with regard to reusable grocery bags made from plastic film on and after January 1, 2016, recycled material content. The bill would impose these requirements as of July 1, 2016, on the stores that are otherwise subject to the bill's requirements.

The bill would prohibit a producer of reusable grocery bags made from plastic film from selling or distributing those bags on and after July 1, 2015, unless the producer is certified by a 3rd-party certification entity, as

specified. The bill would require a reusable grocery bag producer to provide proof of certification to the department. The bill would require the department to provide a system to receive proofs of certification online.

The department would be required to publish on its Internet Web site a list of reusable grocery bag producers that have submitted the required certification and their reusable grocery bags. The bill would require the department to establish an administrative certification fee schedule, which would require a reusable grocery bag producer providing proof to the department of certification or recertification to pay a fee. The bill would require that all moneys submitted to the department pursuant to these fee provisions be deposited into the Reusable Grocery Bag Fund, which would be established by the bill, and continuously appropriated for purposes of implementing these proof of certification and Internet Web site provisions, thereby making an appropriation. The bill would also require a reusable grocery bag producer to submit applicable certified test results to the department. The bill would authorize a person to object to a certification of a reusable grocery bag producer by filing an action for review of that certification in the superior court of a county that has jurisdiction over the reusable grocery bag producer. The bill would require the court to determine if the reusable grocery bag producer is in compliance with the provisions of the bill and, based on the court's determination, would require the court to direct the department to either remove or retain the reusable grocery bag producer on its published Internet Web site list.

The bill would allow a city, county, or city and county, or the state to impose civil penalties on a person or entity that knows or reasonably should have known it is in violation of the bill's requirements. The bill would require these civil penalties to be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action, and would allow the penalties collected by the Attorney General to be expended by the Attorney General, upon appropriation by the Legislature, to enforce the bill's provisions.

The bill would declare that it occupies the whole field of the regulation of reusable grocery bags, single-use carryout bags, and recycled paper bags provided by a store and would prohibit a local public agency from enforcing or implementing an ordinance, resolution, regulation, or rule, or any amendment thereto, adopted on or after September 1, 2014, relating to those bags, against a store, except as provided.

(2) The California Integrated Waste Management Act of 1989 creates the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account and continuously appropriates the funds deposited in the subaccount to the department for making loans for the purposes of the Recycling Market Development Revolving Loan Program. Existing law makes the provisions regarding the loan program, the creation of the subaccount, and expenditures from the subaccount inoperative on July 1, 2021, and repeals them as of January 1, 2022.

This bill would appropriate \$2,000,000 from the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account to the department for the purposes of providing loans for the creation and retention of jobs and economic activity in California for the manufacture and recycling of plastic reusable grocery bags that use recycled content. The bill would require a recipient of a loan to agree, as a condition of receiving the loan, to take specified actions.

(3) The bill would require the department, no later than March 1, 2018, to provide a status report to the Legislature on the implementation of the bill's provisions.

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

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

SECTION 1. Chapter 5.3 (commencing with Section 42280) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 5.3. Single-Use Carryout Bags **Article 1. Definitions**

42280. (a) "Department" means the Department of Resources Recycling and Recovery.

(b) "Postconsumer recycled material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

(c) "Recycled paper bag" means a paper carryout bag provided by a store to a customer at the point of sale that

meets all of the following requirements:

(1) (A) Except as provided in subparagraph (B), contains a minimum of 40 percent postconsumer recycled materials.

(B) An eight pound or smaller recycled paper bag shall contain a minimum of 20 percent postconsumer recycled material.

(2) Is accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in the state.

(3) Has printed on the bag the name of the manufacturer, the country where the bag was manufactured, and the minimum percentage of postconsumer content.

(d) "Reusable grocery bag" means a bag that is provided by a store to a customer at the point of sale that meets the requirements of Section 42281.

(e) (1) "Reusable grocery bag producer" means a person or entity that does any of the following:

(A) Manufactures reusable grocery bags for sale or distribution to a store.

(B) Imports reusable grocery bags into this state, for sale or distribution to a store.

(C) Sells or distributes reusable bags to a store.

(2) "Reusable grocery bag producer" does not include a store, with regard to a reusable grocery bag for which there is a manufacturer or importer, as specified in subparagraph (A) or (B) of paragraph (1).

(f) (1) "Single-use carryout bag" means a bag made of plastic, paper, or other material that is provided by a store to a customer at the point of sale and that is not a recycled paper bag or a reusable grocery bag that meets the requirements of Section 42281.

(2) A single-use carryout bag does not include either of the following:

(A) A bag provided by a pharmacy pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code to a customer purchasing a prescription medication.

(B) A nonhandled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag, a reusable grocery bag, or a compostable plastic bag.

(C) A bag provided to contain an unwrapped food item.

(D) A nonhandled bag that is designed to be placed over articles of clothing on a hanger.

(g) "Store" means a retail establishment that meets any of the following requirements:

(1) A full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000) or more that sells a line of dry groceries, canned goods, or nonfood items, and some perishable items.

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

(3) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.

(4) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of goods intended to be consumed off the premises, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.

(5) Is not otherwise subject to paragraph (1), (2), (3), or (4), if the retail establishment voluntarily agrees to comply with the requirements imposed upon a store pursuant to this chapter, irrevocably notifies the department of its intent to comply with the requirements imposed upon a store pursuant to this chapter, and complies with the requirements established pursuant to Section 42284.

Article 2. Reusable Grocery Bags

42281. (a) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, may sell or distribute a reusable grocery bag to a customer at the point of sale only if the reusable bag is made by a producer certified pursuant to this article to meet all of the following requirements:

(1) Has a handle and is designed for at least 125 uses, as provided in this article.

(2) Has a volume capacity of at least 15 liters.

(3) Is machine washable or made from a material that can be cleaned and disinfected.

(4) Has 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, all of the following information:

(A) The name of the manufacturer.

(B) The country where the bag was manufactured.

(C) A statement that the bag is a reusable bag and designed for at least 125 uses.

(D) If the bag is eligible for recycling in the state, instructions to return the bag to the store for recycling or to another appropriate recycling location. If recyclable in the state, the bag shall include the chasing arrows recycling symbol or the term "recyclable," consistent with the Federal Trade Commission guidelines use of that term, as updated.

(5) Does not contain lead, cadmium, or any other toxic material that may pose a threat to public health. A reusable bag manufacturer may demonstrate compliance with this requirement by obtaining a no objection letter from the federal Food and Drug Administration. This requirement shall not affect any authority of the Department of Toxic Substances Control pursuant to Article 14 (commencing with Section 25251) of Chapter 6.5 of Division 20 of the Health and Safety Code and, notwithstanding subdivision (c) of Section 25257.1 of the Health and Safety Code, the reusable grocery bag shall not be considered as a product category already regulated or subject to regulation.

(6) Complies with Section 260.12 of Part 260 of Title 16 of the Code of Federal Regulations related to recyclable claims if the reusable grocery bag producer makes a claim that the reusable grocery bag is recyclable.

(b) (1) In addition to the requirements in subdivision (a), a reusable grocery bag made from plastic film shall meet all of the following requirements:

(A) On and after January 1, 2016, it shall be made from a minimum of 20 percent postconsumer recycled material.

(B) On and after January 1, 2020, it shall be made from a minimum of 40 percent postconsumer recycled material.

(C) It shall be recyclable in this state, and accepted for return at stores subject to the at-store recycling program (Chapter 5.1 (commencing with Section 42250)) for recycling.

(D) It shall have, in addition to the information required to be printed on the bag or on a tag, pursuant to paragraph (4) of subdivision (a), a statement that the bag is made partly or wholly from postconsumer recycled material and stating the postconsumer recycled material content percentage, as applicable.

(E) It shall be capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses and be at least 2.25 mils thick, measured according to the American Society of Testing and Materials (ASTM) Standard D6988-13.

(2) A reusable grocery bag made from plastic film that meets the specifications of the American Society of Testing and Materials (ASTM) International Standard Specification for Compostable Plastics D6400, as updated, is not required to meet the requirements of subparagraph (A) or (B) of paragraph (1), but shall be labeled in accordance with the applicable state law regarding compostable plastics.

(c) In addition to the requirements of subdivision (a), a reusable grocery bag that is not made of plastic film and that is made from any other natural or synthetic fabric, including, but not limited to, woven or nonwoven nylon, polypropylene, polyethylene-terephthalate, or Tyvek, shall satisfy all of the following:

(1) It shall be sewn.

(2) It shall be capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses.

(3) It shall have a minimum fabric weight of at least 80 grams per square meter.

(d) On and after July 1, 2016, a store as defined in paragraph (3), (4), or (5) of subdivision (g) of Section 42280, shall comply with the requirements of this section.

42281.5. On and after July 1, 2015, a producer of reusable grocery bags made from plastic film shall not sell or distribute a reusable grocery bag in this state unless the producer is certified by a third-party certification entity pursuant to Section 42282. A producer shall provide proof of certification to the department demonstrating that the reusable grocery bags produced by the producer comply with the provisions of this article. The proof of certification shall include all of the following:

(a) Names, locations, and contact information of all sources of postconsumer recycled material and suppliers of postconsumer recycled material.

(b) Quantity and dates of postconsumer recycled material purchases by the reusable grocery bag producer.

(c) How the postconsumer recycled material is obtained.

(d) Information demonstrating that the postconsumer recycled material is cleaned using appropriate washing equipment.

42282. (a) Commencing on or before July 1, 2015, the department shall accept from a reusable grocery bag producer proof of certification conducted by a third-party certification entity, submitted under penalty of perjury, for each type of reusable grocery bag that is manufactured, imported, sold, or distributed in the state and provided to a store for sale or distribution, at the point of sale, that meets all the applicable requirements of this article. The proof of certification shall be accompanied by a certification fee, established pursuant to Section 42282.1.

(b) A reusable grocery bag producer shall resubmit to the department proof of certification as described in subdivision (a) on a biennial basis. A reusable grocery bag producer shall provide the department with an updated proof of certification conducted by a third-party certification entity if any modification that is not solely aesthetic is made to a previously certified reusable bag. Failure to comply with this subdivision shall result in removal of the relevant information posted on the department's Internet Web site pursuant to paragraphs (1) and (2) of subdivision (e) for each reusable bag that lacks an updated proof of certification conducted by a third-party certification entity.

(c) A third-party certification entity shall be an independent, accredited (ISO/IEC 17025) laboratory. A third-party certification entity shall certify that the producer's reusable grocery bags meet the requirements of Section 44281.

(d) The department shall provide a system to receive proofs of certification online.

(e) On and after July 1, 2015, the department shall publish a list on its Internet Web site that includes all of the following:

(1) The name, location, and appropriate contact information of certified reusable grocery bag producers.

(2) The reusable grocery bags of producers that have provided the required certification.

(f) A reusable grocery bag producer shall submit applicable certified test results to the department confirming that the reusable grocery bag meets the requirements of this article for each type of reusable grocery bag that is manufactured, imported, sold, or distributed in the state and provided to a store for sale or distribution.

(1) A person may object to the certification of a reusable grocery bag producer pursuant to this section by filing an action for review of that certification in the superior court of a county that has jurisdiction over the reusable grocery bag producer. The court shall determine if the reusable grocery bag producer is in compliance with the requirements of this article.

(2) A reusable grocery bag producer whose certification is being objected to pursuant to paragraph (1) shall be deemed in compliance with this article pending a determination by the court.

(3) Based on its determination, the court shall direct the department to remove the reusable grocery bag producer from, or retain the reusable grocery bag producer on, its list published pursuant to subdivision (e).

(4) If the court directs the department to remove a reusable grocery bag producer from its published list, the reusable grocery bag producer shall remain off of the published list for a period of one year from the date of the court's determination.

42282.1. (a) A reusable grocery bag producer shall submit the fee established pursuant to subdivision (b) to the department when providing proof of certification or recertification pursuant to Sections 42281.5 and 42282.

(b) The department shall establish an administrative certification fee schedule that will generate fee revenues sufficient to cover, but not exceed, the department's reasonable costs to implement this article. The department shall deposit all moneys submitted pursuant to this section into the Reusable Grocery Bag Fund, which is hereby established in the State Treasury. Notwithstanding Section 11340 of the Government Code, moneys in the fund are continuously appropriated, without regard to fiscal year, to the department for the purpose of implementing this article.

Article 3. Single-Use Carryout Bags

42283. (a) Except as provided in subdivision (e), on and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not provide a single-use carryout bag to a customer at the point of sale.

(b) (1) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not sell or distribute a reusable grocery bag at the point of sale except as provided in this subdivision.

(2) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, may make available for purchase at the point of sale a reusable grocery bag that meets the requirements of Section 42281.

(3) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, that makes reusable grocery bags available for purchase pursuant to paragraph (2) shall not sell the reusable grocery bag for less than ten cents (\$0.10) in order to ensure that the cost of providing a reusable grocery bag is not subsidized by a customer who does not require that bag.

(c) (1) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not sell or distribute a recycled paper bag except as provided in this subdivision.

(2) A store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, may make available for purchase a recycled paper bag. On and after July 1, 2015, the store shall not sell a recycled paper bag for less than ten cents (\$0.10) in order to ensure that the cost of providing a recycled paper bag is not subsidized by a consumer who does not require that bag.

(d) Notwithstanding any other law, on and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, that makes reusable grocery bags or recycled paper bags available for purchase at the point of sale shall provide a reusable grocery bag or a recycled paper bag at no cost at the point of sale to a customer using a payment card or voucher issued by the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code or an electronic benefit transfer card issued pursuant to Section 10072 of the Welfare and Institutions Code.

(e) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, may distribute a compostable bag at the point of sale, if the compostable bag is provided to the consumer at the cost specified pursuant to paragraph (2), the compostable bag, at a minimum, meets the American Society for Testing and Materials (ASTM) International Standard Specification for Compostable Plastics D6400, as updated, and in the jurisdiction where the compostable bag is sold and in the jurisdiction where the store is located, 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.

(2) The governing authority for the jurisdiction has voted to allow stores in the jurisdiction to sell to consumers

at the point of sale a compostable bag at a cost not less than the actual cost of the bag, which the Legislature hereby finds to be not less than ten cents (\$.10) per bag.

(f) A store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not require a customer to use, purchase, or accept a single-use carryout bag, recycled paper bag, compostable bag, or reusable grocery bag as a condition of sale of any product.

42283.5. On and after July 1, 2016, a store, as defined in paragraph (3), (4), or (5) of subdivision (g) of Section 42280, shall comply with the same requirements of Section 42283 that are imposed upon a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280.

42283.6. (a) The operator of a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280 that makes recycled paper or reusable grocery bags available at the point of sale, shall be subject to the provisions of the at-store recycling program (Chapter 5.1 (commencing with Section 42250)).

(b) A store that voluntarily agrees to comply with the provisions of this article pursuant to subdivision (g) of Section 42280, shall also comply with the provisions of the at-store recycling program (Chapter 5.1 (commencing with Section 42250)).

42283.7. All moneys collected pursuant to this article shall be retained by the store and may be used only for the following purposes:

(a) Costs associated with complying with the requirements of this article.

(b) Actual costs of providing recycled paper bags or reusable grocery bags.

(c) Costs associated with a store's educational materials or educational campaign encouraging the use of reusable grocery bags.

42284. (a) A retail establishment not specifically required to comply with the requirements of this chapter is encouraged to reduce its distribution of single-use plastic carryout bags.

(b) Pursuant to the provisions of subdivision (g) of Section 42280, any retail establishment that is not a "store," that provides the department with the irrevocable written notice as specified in subdivision (c), shall be regulated as a "store" for the purposes of this chapter.

(c) The irrevocable written notice shall be dated and signed by an authorized representative of the retail establishment, and shall include the name and physical address of all retail locations covered by the notice. The department shall acknowledge receipt of the notice in writing and shall specify the date the retail establishment will be regulated as a "store," which shall not be less than 30 days after the date of the department's acknowledgment. The department shall post on its Internet Web site, organized by county, the name and physical location or locations of each retail establishment that has elected to be regulated as a "store."

Article 4. Enforcement

42285. (a) A city, a county, a city and county, or the state may impose civil liability on a person or entity that knowingly violated this chapter, or reasonably should have known that it violated this chapter, in the amount of one thousand dollars (\$1,000) per day for the first violation of this chapter, two thousand dollars (\$2,000) per day for the second violation, and five thousand dollars (\$5,000) per day for the third and subsequent violations.

(b) Any civil penalties collected pursuant to subdivision (a) shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action. The penalties collected pursuant to this section by the Attorney General may be expended by the Attorney General, upon appropriation by the Legislature, to enforce this chapter.

Article 5. Preemption

42287. (a) Except as provided in subdivision (c), this chapter is a matter of statewide interest and concern and is applicable uniformly throughout the state. Accordingly, this chapter occupies the whole field of regulation of reusable grocery bags, single-use carryout bags, and recycled paper bags, as defined in this chapter, provided by a store, as defined in this chapter.

(b) On and after January 1, 2015, a city, county, or other local public agency shall not enforce, or otherwise

implement, an ordinance, resolution, regulation, or rule, or any amendment thereto, adopted on or after September 1, 2014, relating to reusable grocery bags, single-use carryout bags, or recycled paper bags, against a store, as defined in this chapter, unless expressly authorized by this chapter.

(c) (1) A city, county, or other local public agency that has adopted, before September 1, 2014, an ordinance, resolution, regulation, or rule relating to reusable grocery bags, single-use carryout bags, or recycled paper bags may continue to enforce and implement that ordinance, resolution, regulation, or rule that was in effect before that date. Any amendments to that ordinance, resolution, regulation, or rule on or after January 1, 2015, shall be subject to subdivision (b), except the city, county, or other local public agency may adopt or amend an ordinance, resolution, regulation, or rule to increase the amount that a store shall charge with regard to a recycled paper bag, compostable bag, or reusable grocery bag to no less than the amount specified in Section 42283.

(2) A city, county, or other local public agency not covered by paragraph (1) that, before September 1, 2014, has passed a first reading of an ordinance or resolution expressing the intent to restrict single-use carryout bags and, before January 1, 2015, adopts an ordinance to restrict single-use carryout bags, may continue to enforce and implement the ordinance that was in effect before January 1, 2015.

Article 6. Financial Provisions

42288. (a) Notwithstanding Section 42023.2, the sum of two million dollars (\$2,000,000) is hereby appropriated from the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account to the department for the purposes of providing loans for the creation and retention of jobs and economic activity in this state for the manufacture and recycling of plastic reusable grocery bags that use recycled content, including postconsumer recycled material.

(b) The department may expend, if there are applicants eligible for funding from the Recycling Market Development Revolving Loan Subaccount, the funds appropriated pursuant to this section to provide loans for both of the following:

(1) Development and conversion of machinery and facilities for the manufacture of single-use plastic bags into machinery and facilities for the manufacturer of durable reusable grocery bags that, at a minimum, meet the requirements of Section 42281.

(2) Development of equipment for the manufacture of reusable grocery bags, that, at a minimum, meet the requirements of Section 42281.

(c) A recipient of a loan authorized by this section shall agree, as a condition of receiving the loan, to retain and retrain existing employees for the manufacturing of reusable grocery bags that, at a minimum, meet the requirements of Section 42281.

(d) Any moneys appropriated pursuant to this section not expended by the end of the 2015–16 fiscal year shall revert to the Recycling Market Development Revolving Loan Subaccount for expenditure pursuant to Article 3 (commencing with Section 42010) of Chapter 1.

(e) Applicants for funding under this section may also apply for funding or benefits from other economic development programs for which they may be eligible, including, but not limited to, both of the following:

(1) An income tax credit, as described in Sections 17059.2 and 23689 of the Revenue and Taxation Code.

(2) A tax exemption pursuant to Section 6377.1 of the Revenue and Taxation Code.

SEC. 2. No later than March 1, 2018, the department, as a part of its reporting requirement pursuant to Section 40507 of the Public Resources Code, shall provide a status report on the implementation of Chapter 5.3 (commencing with Section 42280) of Part 3 of Division 30 of the Public Resources Code.