



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-1335 Solid waste: food service packaging: state agencies, facilities, and property. (2017-2018)

SHARE THIS:  

Date Published: 09/20/2018 09:00 PM

Senate Bill No. 1335

CHAPTER 610

An act to add Chapter 6 (commencing with Section 42370) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

[Approved by Governor September 20, 2018. Filed with Secretary of State September 20, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1335, Allen. Solid waste: food service packaging: state agencies, facilities, and property.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally requires rigid plastic packaging containers, as defined, sold or offered for sale in this state to meet one of specified criteria.

This bill would enact the Sustainable Packaging for the State of California Act of 2018, which would prohibit 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 bill would require the department to publish and maintain on its Internet Web site that contains types of approved food service packaging that are reusable, recyclable, or compostable. The bill would exempt packaging acquired before its inclusion on the list, as specified. The bill would require the department to regularly, but no less than once every 5 years, evaluate the list of approved types of food service packaging and would authorize the department to add or remove types of food service packaging to or from the list based on whether the packaging is recyclable, reusable, or compostable. The bill would require, on or before January 1, 2021, the department to adopt, in consultation with specified state and local agencies, regulations for determining the types of food service packaging that are reusable, recyclable, or compostable, and would prescribe specified criteria for the Director of the Department of Resources Recycling and Recovery to consider in determining whether a type of food service packaging is 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 those regulations. By imposing additional duties on local governments, the bill would impose a state-mandated local program.

The bill would require a food service facility to provide to the department reasonable and timely access to contracts, invoices, and purchase orders that include information demonstrating whether the food service packaging material acquired by the food service facility is in compliance with the bill. The bill would require the Department of General Services or any state agency that is entering into a contract or agreement or amending an existing contract or agreement with a food service facility to ensure that the relevant contract or agreement conforms to any applicable provisions of the bill and would impose specified additional duties on the Department of General Services in relation to those contracts or agreements.

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 6 (commencing with Section 42370) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 6. Sustainable Packaging for the State of California Act of 2018

42370. This chapter shall be known, and may be cited, as the Sustainable Packaging for the State of California Act of 2018.

42370.1. For purposes of this chapter, the following terms have the following meanings:

(a) "Beverage container" has the same meaning as defined in Section 14505.

(b) "Food service facility" means an operation or business that is 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 and that stores, prepares, packages, serves, vends, or otherwise provides prepared food. "Food service facility" may include, but is not limited to, a cafeteria, commissary, restaurant, deli, store, shop, market, or mobile food unit.

(c) "Food service packaging" means a product used for serving or transporting prepared, ready-to-consume food or beverages, including, but not limited to, plates, cups, bowls, trays, and hinged or lidded containers. "Food service packaging" does not include beverage containers or single-use disposable items, such as straws, cup lids, plastic bags, and utensils, or single-use disposable packaging for unprepared foods.

(d) "Prepared food" means a food or beverage prepared for consumption on or off a food service facility's premises, using any cooking or food preparation technique. "Prepared food" does not include prepackaged, sealed food that is mass produced by a third party off the premises of the food service facility.

42370.2. (a) (1) On or before January 1, 2021, the department shall adopt regulations to establish a process, and develop criteria, for determining the types of food service packaging that are reusable, recyclable, or compostable.

(2) The department shall adopt the regulations in consultation with the Department of General Services, the Department of Rehabilitation, the Department of Parks and Recreation, the Ocean Protection Council, the Department of Toxic Substances Control, and any other appropriate state and local agencies.

(3) As part of the regulatory process, the department shall seek input and feedback from stakeholders, including, but not limited to, food service packaging manufacturers, environmental and public health organizations, and food service facilities.

(b) (1) The regulations adopted pursuant to subdivision (a) shall be used for determining the types of food service packaging that may be included on the list developed pursuant to Section 42370.3.

(2) The regulations shall also specify how the list shall be maintained and updated, in accordance with subdivision (b) of Section 42370.3.

(3) If determined practicable by the department, the department may establish a process to authorize regional use of food service packaging that is consistent with the requirements and considerations of this section.

(c) For purposes of determining if a type of food service packaging is reusable pursuant to subdivision (a), the director shall consider, at a minimum, all of the following criteria:

(1) Whether the packaging is conventionally disposed of after a single use.

(2) Whether the packaging is sufficiently durable and washable to allow for multiple uses.

(d) For purposes of determining if a type of food service packaging is recyclable pursuant to subdivision (a), the director shall consider, at a minimum, all of the following criteria:

(1) Whether the type of food service packaging 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 type of food service packaging is regularly collected, separated, and cleansed for recycling by recycling service providers.

(3) Whether the type of food service packaging is regularly sorted and aggregated into defined streams for recycling processes.

(4) Whether the type of food service packaging is regularly processed and reclaimed or recycled with commercial recycling processes.

(5) Whether the food service packaging material regularly becomes feedstock that is used in the production of new products.

(6) Whether the food service packaging material is recycled in sufficient quantity, and is of sufficient quality, to maintain a market value.

(e) For purposes of determining if a type of food service packaging is compostable pursuant to subdivision (a), the director shall consider, at a minimum, all of the following criteria:

(1) Whether the food service packaging 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 post-consumer food waste and food-soiled paper.

(2) Whether food service packaging 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 food service packaging is regularly collected and accepted for processing at public and private compost facilities.

(4) Whether the type of food service packaging 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.

(f) (1) In developing regulations pursuant to subdivision (a), the department may consult with local governments and representatives of the solid waste industry, recycling industry, the compost industry, and food service packaging manufacturers to determine if a type of food service packaging 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.

(g) In developing regulations pursuant to subdivision (a), the department may take into account potential impacts on litter, public health, and wildlife. In evaluating these impacts, the department may consider any of the following:

(1) Information on the volume of food service packaging litter obtained from state entities or organizations that regularly conduct litter cleanup activities.

(2) Litter reduction policies that would assist in compliance with the State Water Resources Control Board's Statewide Trash Policy and the Ocean Protection Council's Ocean Litter Prevention Strategy.

(3) Whether the Department of Toxic Substances Control has identified as a priority product a chemical used in the manufacture of a type of food service packaging pursuant to Chapter 55 (commencing with Section 69501) of Division 4.5 of Title 22 of the California Code of Regulations.

(4) Existing scientific information available from the United States Food and Drug Administration and the Office of Environmental Health Hazard Assessment pertaining to the specific chemical used in the manufacture of a type of food service packaging.

(5) Information on the impacts that improperly disposed of food service packaging may have on wildlife, as well as policy recommendations, including waste collection infrastructure improvements, that could be implemented at state facilities to reduce the impact on wildlife.

(h) The department may convene a stakeholder group to assist the department in implementing this section that consists of, but is not limited to, litter prevention organizations, environmental organizations, and trade associations representing food service packaging manufacturers or suppliers.

42370.3. (a) The department shall develop a list of approved types of food service packaging that may be used by food service facilities and publish the list on its Internet Web site within 90 days of the Office of Administrative Law approving the regulations

adopted by the department pursuant to Section 42370.2. The department shall only include on the list a type of food service packaging that is reusable, recyclable, or compostable, as determined by the regulations adopted by the department pursuant to Section 42370.2.

(b) The department shall regularly, but no less than once every five years, evaluate the list of approved types of food service packaging to determine whether each of the types of approved food service packaging is reusable, recyclable, or compostable. After evaluation, the department may amend the list to remove or add a type of food service packaging based on whether it is reusable, recyclable, or compostable. The department shall post any updates to the list on its Internet Web site.

(c) A manufacturer that seeks to have included on the list a type of food service packaging or material may be required by the department to submit data for purposes of the department's evaluation of whether to include the type of food service packaging or material on the list.

(d) Development of, publication of, and updates made to the list pursuant to this section are exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

42370.4. (a) On and after the date the list of approved types of food service packaging is published pursuant to Section 42370.3, and except as provided in subdivision (b), a food service facility shall not dispense prepared food using food service packaging unless the type of food service packaging is on that list.

(b) A food service facility may use food service packaging that is not on the list maintained and updated by the department pursuant to Section 42370.3 under any of the following circumstances:

(1) The food service facility possessed that specific inventory of food service packaging before the date the list was published.

(2) The food service facility possessed that specific inventory of food service packaging before the list maintained pursuant to Section 42370.3 was updated to remove the type of food service packaging and the type of food service packaging was on the list when the food service facility took possession of the food service packaging.

(3) The food service facility acquired that specific inventory of food service packaging pursuant to a contract entered into before the date the list was published.

(4) The food service facility acquired that specific inventory of food service packaging pursuant to a contract entered into before the list maintained pursuant to Section 42370.3 was updated to remove the type of food service packaging and the type of food service packaging was on the list when the food service facility entered into the contract.

(c) For a contract that is subject to this section and that is entered into, renewed, or updated after the date the list was published, the food service facility shall be responsible for ensuring that the food service packaging subject to the contract is in compliance with this section.

42370.5. (a) In order to ensure compliance with this chapter, a food service facility shall provide, upon request by the department, reasonable and timely access, as determined by the department, to contracts, invoices, and purchase orders between the food service facility and a food service packaging manufacturer or distributor that include information demonstrating whether the food service packaging material acquired by the food service facility is in compliance with this chapter.

(b) A food service facility shall maintain any record related to the requirements of this chapter for a minimum of five years, or another period of time as determined by the department.

(c) Records supplied to the department pursuant to this section that are, at the time of submission, claimed to be trade secrets, proprietary, or confidential shall be subject to Article 4 (commencing with Section 17041) of Chapter 1 of Division 7 of Title 14 of the California Code of Regulations, as applicable.

42370.6. (a) The Department of General Services or any state agency that is entering into a contract or agreement or amending an existing contract or agreement with a food service facility shall ensure that the relevant contract or agreement conforms to any applicable provisions of this chapter.

(b) The Department of General Services shall do all of the following:

(1) Publish, within 90 days of the date the list of approved types of food service packaging is published pursuant to Section 42370.3, the approved food service packaging types on its Internet Web site.

(2) Publish, within 90 days of the date the list of approved types of food service packaging is published pursuant to Section 42370.3, the requirements imposed on a food service facility under this chapter in the State Contracting Manual.

(3) Ensure that any new, modified, or renewed agreements, contracts, or procurement undertaken by a food service facility as part of a contract or agreement with the Department of General Services complies with the requirements of this chapter.

(4) When reasonably feasible, provide a food service facility with which it has a contract or agreement with resources to identify food service packaging suppliers, distributors, brokers, or manufacturers that sell the types of food service packaging approved pursuant to Section 42370.3.

(c) The Department of General Services shall take the appropriate steps, including, but not limited to, revising relevant state contracting and procurement rules and procedures, in order to fulfill the requirements of subdivision (b).

42370.7. This chapter does not preempt the authority of a city, county, or city and county to adopt and enforce additional takeout food packaging ordinances, regulations, or policies that are more restrictive than the applicable standards required by this chapter.

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.