

**Law and Legislation  
Committee Report**

915 I Street, 1<sup>st</sup> Floor

[www.CityofSacramento.org](http://www.CityofSacramento.org)

**Meeting Date:** May 28, 2013

**Report Type:** Staff report

**Title:** Report on Draft Reusable Bag Ordinance in the City of Sacramento

**Location:** Citywide

**Issue:** The proposed reusable bag ordinance would prohibit certain stores in the City from distributing single-use plastic bags, and requires a minimum \$.10 fee on recycled paper bags and reusable bags. The intent of the proposed ordinance is to mitigate environmental impacts associated with single-use plastic bags and encourage consumers to use reusable shopping bags.

**Recommendation:** Review and forward the draft Reusable Bag Ordinance to the City Council for consideration.

**Contact:** Steve Harriman, Integrated Waste General Manager, (916) 808-4949

**Presenter:** Steve Harriman, Integrated Waste General Manager, (916) 808-4949

**Department:** General Services

**Division:** Recycling and Solid Waste

**Dept ID:** 13001700

**Attachments:**

- 01 Draft Reusable Bag Ordinance
- 02 Text of SB405
- 03 SB405 Support Letter from the City of Sacramento

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Submitted By: Steve Harriman, Integrated Waste General Manager, (916) 808-4949

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## Description/Analysis

**Issue:** On February 19, 2013, the Law and Legislation committee directed staff to engage stakeholders and develop a draft ordinance for consideration by the City Council that would encourage consumers to use reusable shopping bags instead of single-use plastic and paper shopping bags. On March 20 and April 1, 2013, staff convened workshops that were attended by representatives from several environmental organizations, trade associations and members of the public to discuss the elements of a reusable bag ordinance. Attachment 1 includes the draft reusable bag ordinance that was developed collaboratively with City staff and stakeholders.

There is currently proposed legislation moving through the State Legislature, SB 405 (Padilla), that contains similar requirements to the City's proposed reusable bag ordinance. The text of SB 405 is included in Attachment 2, and the City's letter of support is included in Attachment 3. If SB 405 is enacted prior to the adoption of the proposed reusable bag ordinance, staff will review the language in the State law and provide a recommendation to Council on how to proceed.

**Policy Considerations:** The proposed reusable bag ordinance is consistent with the City Council's goal in the Sustainability Master plan to reduce consumption by working to reduce the use of disposable, toxic, or non-renewable materials within the City limits. An ordinance would also support the City's Climate Action Plan goal to achieve 75 percent diversion of solid waste by 2020, and work towards becoming a "zero waste" community by 2040.

Finally, an ordinance would be consistent with the following General Plan language:

U 5.1.14. Recycled Materials for Goods Packaging. The City shall support state legislation calling for the use of recycled materials and smaller packaging of retail goods and require that retail establishments use recycled material for goods packaging in lieu of plastic bags.

**Economic Impacts:** The proposed ordinance will have no impact on job creation in the Sacramento region.

**Environmental Considerations:** The primary environmental considerations associated with single-use plastic bags are that they: 1) contribute to litter and marine debris; 2) do not biodegrade; 3) are rarely recycled (<5%); 4) are difficult to handle at recycling and material recovery facilities; 5) are a major source of wind-blown debris at transfer stations and landfills; and 6) are a petroleum product that contributes to U.S. dependence on foreign oil and climate change. Plastic bags also snag on trees and fences, and end up in bodies of water. The California Coastal Commission estimates that as much as 80% of all marine debris is plastic. With regard to plastic bags in particular, the Ocean Conservancy estimates that plastic bags kill 1 million seabirds and 100,000 other animals worldwide each year.

**California Environmental Quality Act (CEQA):** Staff recommends the City engage a consultant to prepare an initial study of the draft reusable bag ordinance. The initial study should be based substantially on existing reports and documents, such as Environmental Impact Reports (EIRs) adopted by the Counties of Mendocino and Los Angeles, and the

City of San Jose. If the initial study supports a determination that the adoption of the ordinance would not have a significant effect on the environment, the City should circulate and adopt a negative declaration. If the City concludes for other reasons that an EIR should be circulated, the initial study would provide a substantial foundation for an EIR.

**Sustainability:** See Policy and Environmental Considerations above.

**Commission/Committee Action:** Not Applicable

**Rationale for Recommendation:** Plastic bags have become an increasingly significant environmental problem throughout the United States. Approximately 51 plastic bag ban ordinances covering 72 cities and counties have been adopted in California, and more jurisdictions are currently in the process of developing ordinances.

**Financial Considerations:** The cost estimates for implementation of the reusable bag ordinance include: 1) for CEQA compliance, a range of \$20,000 for a negative declaration to \$100,000 for an Environmental Impact Report; and 2) \$100,000 for Code Enforcement staff to regulate stores covered by the ordinance for a period of 18 months to 2 years. The funding source is not identified at this time. Potential funding sources include General Fund, 11% Utility Tax, Sacramento Regional Solid Waste Authority franchise fees, revenue from the sale of commingled recyclables, and grant funds.

**Emerging Small Business Development (ESBD):** No goods or services are being purchased as a result of this report.

**Attachment 01**

**ORDINANCE NO. 2013-**

Adopted by the Sacramento City Council

[Date Adopted]

**AN ORDINANCE ADDING CHAPTER 5.154 TO THE SACRAMENTO CITY CODE,  
RELATING TO THE REDUCTION OF SINGLE-USE PLASTIC AND PAPER BAGS**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Chapter 5.154 is added to the Sacramento City Code to read as follows:

**Chapter 5.154 REDUCTION OF SINGLE-USE PLASTIC AND PAPER BAGS**

**5.154.010 Legislative findings and intent.**

A. It is the intent of the city in enacting this chapter to reduce the use of single-use plastic bags and paper bags, and encourage the use of reusable bags by consumers and retailers.

B. California retailers distribute approximately 19 billion single-use plastic bags every year, equating to roughly 522 bags per person. It is estimated that less than five percent of these bags are recycled. These bags end up in landfills, rivers, bays, the ocean, and other natural environments. These bags can break down into small pieces that contaminate soils and waterways and that can be ingested by marine life, causing suffocation and the leeching of toxic materials into the water.

C. Due to their light weight, single-use plastic bags can easily become caught in the wind, contributing to litter and visual blight. Cleaning up these bags is challenging as they snag on trees and fences and become stuck in other places where they are difficult to retrieve.

D. While the city accepts single-use plastic bags as part of its curbside recycling program, handling these bags at the city's recycling centers is cumbersome. The bags clog and slow sorting machines. On average, the city must shut down its sorting machinery six times per day to remove tangled bags, resulting in additional cost to the city and the city's ratepayers.

E. By enacting this chapter, the city is mitigating the negative environmental and public health impacts resulting from the use of single-use plastic bags, reducing litter and visual blight caused by these bags, and minimizing the cost and inconvenience of handling single-use plastic bags at the city's recycling centers.

**5.154.020 Definitions.**

As used in this chapter, the following definitions apply:

“City manager” means the city manager or his or her designee.

“Customer” means any person purchasing goods from a store.

“Postconsumer recycled material” means material that is recycled after completing its intended end use and product-life cycle. Postconsumer recycled material does not include materials and by-product generated from, and commonly reused within, an original manufacturing and fabrication process.

“Single-use plastic bag” means any bag made of plastic derived from either petroleum or a biologically-based source, such as corn or other plant sources, which is provided to a customer at the point of sale. The term includes compostable and biodegradable bags. The term does not include reusable bags or bags without handles provided to a customer to:

1. Transport produce, bulk food, or meat from a produce, bulk food, or meat department within a store to the point of sale;
2. Hold a prescription medication dispensed from a pharmacy; or
3. Segregate food or merchandise that could be damaged or that could damage or contaminate other food or merchandise when placed together in one bag.

“Recycled paper bag” means a paper carryout bag that:

1. Is 100% recyclable;
2. Contains a minimum of 40% postconsumer recycled material;
3. Is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400, as amended from time to time;
4. Displays the name of the manufacturer, the country where the bag was manufactured, and the percentage of postconsumer content the bag contains; and
5. Indicates that it is recyclable in a highly visible manner on the outside of the bag.

“Recyclable” means material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product.

“Reusable bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements:

1. Is made of cloth, washable woven fabric, or other durable material that is at least 2.25 mils thick;
2. Is machine washable or capable of being cleaned and disinfected;
3. Is capable of carrying a minimum of 22 pounds over a distance of at least 175 feet, 125 times;
4. Has a minimum volume capacity of 15 liters;
5. Does not contain lead, cadmium, or any other heavy metal in toxic amounts, as defined by applicable state and federal regulations for packaging or reusable bags; and
6. Has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer; the country where the bag was manufactured; a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts; and the percentage of postconsumer recycled materials used, if any.

“Store” means any of the following retail establishments located within the city:

1. A supermarket, defined as a full-line, self-service retail store with gross annual sales of \$2,000,000, or more, and which sells a line of dry grocery, canned goods, or nonfood items and perishable items;
2. A store of 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 that has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code; or
3. A convenience food store, foodmart, or other entity that is engaged in the retail sale of a limited line of goods, including milk, bread, soda, and snack foods, and that holds a Type 20 or 21 license issued by the Department of Alcoholic Beverage Control.

#### **5.154.030 Ban on single-use plastic bags.**

Stores shall not provide a single-use plastic bag to any customer.

#### **5.154.040 Permitted bags.**

Stores shall make available to customers only recycled paper bags or reusable bags for the purpose of carrying away goods or other materials from the point of sale, subject to the terms of this chapter. Nothing in this chapter prohibits customers from using bags of any type that they bring to the store themselves or from carrying away goods that are not placed in a bag in lieu of using bags provided by the store.

#### **5.154.050 Store charge for recycled paper bags and reusable bags.**

- A. Stores shall charge a minimum of ten cents for each recycled paper bag or reusable bag provided to customers at the point of sale. Stores shall not reimburse or credit a customer any portion of the fee, except as otherwise provided in this section.
- B. Notwithstanding subsection A, a store may provide a reusable bag, free of charge, to any customer during a limited-time, in-store promotional event. Such events shall not exceed a total of 60 days within any consecutive 12-month period.
- C. Notwithstanding subsections A and B, stores shall provide, free of charge, either reusable bags or recycled paper bags or both, at the store’s option, to any customer participating in either the California Special Supplement 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 California Health and Safety Code, or the Supplemental Food Program pursuant to Chapter 10 (commencing with section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code.
- D. Stores shall indicate on the customer receipt the number of recycled paper bags and reusable bags provided and the total amount charged for the bags.

#### **5.154.060 Recordkeeping and inspection.**

Stores shall keep complete and accurate records, for a minimum of three years from the date of sale, of the total number of recycled paper bags and reusable bags provided and

the total amount of monies collected for providing recycled paper bags. Upon request by the city, each store shall make these records available for inspection by the city, at no cost, during regular business hours. Each store shall make the records available at the store's retail establishment unless the city agrees to an alternative location or method of review. A responsible agent or officer of the store shall confirm that the information provided is accurate and complete. Providing false or incomplete information to the city is a violation of this section.

**5.154.070 Violations.**

- A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to chapter 1.28.
- B. Violations of this chapter are hereby declared to be a public nuisance.
- C. Any person who violates a provision of this chapter is liable for civil penalties of not less than \$250.00 or more than \$25,000.00 for each day the violation continues.
- D. Any person who violates a provision of this chapter is guilty of an infraction.
- E. All remedies prescribed under this chapter are cumulative and the election of one or more remedies does not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

**5.154.080 Operative date.**

This chapter becomes effective January 1, 2015.

## Attachment 2

AMENDED IN SENATE APRIL 02, 2013

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

SENATE BILL

No. 405

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Introduced by Senator Padilla

February 20, 2013

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An act to add Chapter 5.3 (commencing with Section 42280) to Part 3 of Division 30 of, and to repeal Section 42285 of, the Public Resources Code, relating to solid waste.

### LEGISLATIVE COUNSEL'S DIGEST

SB 405, as amended, Padilla. Solid waste: single-use carryout bags.

Existing law, until January 1, 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.

With specified exceptions, this bill, *as of January 1, 2015*, would, ~~as of January 1, 2015~~, prohibit stores that have a specified amount of dollar sales or retail floor space from providing a single-use carryout bag to a customer. The bill would require these stores to meet other specified requirements regarding providing recycled paper bags, compostable bags, or reusable *grocery* bags to customers.

The bill, *on and after July 1, 2016*, would, ~~on and after July 1, 2016~~, additionally impose these prohibitions and requirements on convenience food stores, foodmarts, and certain other specified stores.

The bill would, ~~beginning January 1, 2016~~, require a reusable grocery ~~bag producer to submit to the Department of Resources Recycling and Recovery a biennial certification, including a certification fee established by the department, that certifies that each type of reusable grocery bag that is imported, manufactured, sold, or distributed in the state and provided to a store for sale or distribution meets~~ bag that a store is required to sell on and after July 1, 2016, to meet specified requirements. ~~The bill would require the department to deposit the certification fees into the Reusable Bag Account, which would be established by the bill in the Integrated Waste Management Fund. The bill would require that moneys in the account be expended by the department, upon appropriation by the Legislature, to implement the certification requirements.~~ A violation of ~~these certification requirements that requirement and the requirements that would be imposed upon grocery bag producers to submit certain laboratory test results~~ would be subject to an administrative civil penalty assessed by the ~~department~~ Department of Resources Recycling and Recovery. The department would be required to deposit these penalties into the ~~Penalty Subaccount, Reusable Bag Account~~, which ~~the bill~~ would ~~create in the Reusable Bag Account~~ be created in the Integrated Waste Management Fund, for expenditure by the department, upon appropriation by the Legislature, to implement ~~the certification~~ those requirements.

The bill would require the department, by January 1, 2017, to submit a report to the Legislature regarding the implementation of the bill's provisions. The bill would repeal this report requirement on January 1, 2018.

The bill would allow a city, county, or city and county, or the state to impose civil penalties for a violation of the bill's requirements, ~~except for the certification 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 provide that these remedies are not exclusive, as specified.*

## DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: NO

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## BILL TEXT

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.

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

- (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), ~~the paper carryout bag~~ 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) Is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard Specification for Compostable Plastics D6400.~~
  - ~~(4)~~
  - (3) Has printed on the bag the name of the manufacturer, the ~~location (country)~~ *country* where the bag was manufactured, and the minimum percentage of postconsumer content.
  - ~~(d)(1) "Reusable grocery bag" on or before June 30, 2016, means either of the following:  
(A) A bag made of cloth or other machine washable fabric that has handles.  
(B) A durable plastic bag with handles that is at least 2.25 mils thick and specifically designed for multiple reuses.~~
  - ~~(2)~~
  - (d) "Reusable grocery bag" on and after July 1, 2016, means a bag that meets the requirements of Section ~~42283~~ *42281*.
- (e) "Reusable grocery bag producer" means a person or entity that does any of the following:
  - (1) Manufactures reusable grocery bags for sale or distribution to a store.
  - (2) Imports reusable grocery bags into this state, for sale or distribution to a store.
  - (3) Sells or distributes reusable bags to a store.
- (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 42283, on and after July 1, 2016, and paragraph (1) of subdivision (d) of this section on or before June 30, 2016* ~~42283, on and after July 1, 2016, and paragraph (1) of subdivision (d) of this section on or before June 30, 2016~~ *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 or reusable grocery bag.

(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, and ~~which~~ *that* sells a line of dry ~~grocery~~ *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.

## ~~2. Carryout Bag Regulation 42281.~~

~~(a) Except as provided in Section 42282, the requirements of this section apply only to a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280.~~

~~(b)(1) On and after January 1, 2015, a store shall not provide a single-use carryout bag to a customer at the point of sale, except as provided in this section.~~

~~(2) On January 1, 2015, until June 30, 2016, a store may provide to a customer a reusable grocery bag, as defined in paragraph (1) of subdivision (d) of Section 42280.~~

~~(3) On and after July 1, 2016, a store shall only provide to a customer a reusable grocery bag, as defined in paragraph (2) of subdivision (d) of Section 42280, that meets the requirements of Section 42283.~~

~~(c) A store shall make reusable grocery bags available for purchase by a customer.~~

~~(d) Notwithstanding any other law, on and after January 1, 2015, a store shall provide a customer participating in 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 and a customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the Welfare and Institutions Code, with a reusable grocery bag or a recycled paper bag at no cost at the point of sale.~~

~~(e) Notwithstanding subdivision (b), a store may make available for purchase at the point of sale a recycled paper bag.~~

~~(f) Notwithstanding subdivision (b), a store may make available for purchase at the point of sale a compostable bag, that, at a minimum, meets the American Society for Testing and Materials (ASTM) Standard Specification for Compostable Plastics D6400, if both of the following requirements are met in the jurisdiction where the compostable bag is sold:~~

~~(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 a consumer at the point of sale a compostable bag at a cost not less than the actual cost of the bags.~~

~~42282.~~

~~On and after July 1, 2016, a store, as defined in paragraph (3) of subdivision (g) of Section 42280, shall comply with the same requirements of this article that are imposed upon a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42880.~~

## **Article 2. Reusable Grocery Bags**

### ~~42283.~~ **42281.**

(a) On and after July 1, 2016, a reusable grocery bag *that is sold pursuant to subdivision (c) of Section 42282* shall meet all of the following requirements:

(1) (A) Be designed and manufactured to withstand, at a minimum, 125 uses.

(B) For purposes of this paragraph, “125 uses” means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet.

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

(3) 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:

(A) The name of the manufacturer.

(B) The ~~location (country)~~ *country* where the bag was manufactured.

(C) A recycling symbol or end-of-life management instructions.

(D) The percentage of postconsumer recycled material, if any.

(4) ~~It shall~~ *Does* not contain lead, cadmium, or any other heavy metal in toxic amounts. 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.

~~(5) If the reusable grocery bag producer makes a claim that it is recyclable, the producer shall demonstrate compliance with the regulations adopted by the Federal Trade Commission. 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) In addition to the requirements in subdivision (a), a reusable grocery bag made from plastic shall meet all of the following requirements:

(1) On and after July 1, 2017, be made from a minimum of 20 percent postconsumer recycled material, except as provided in subdivision (d).

(2) In addition to the information required to be printed on the bag or on a tag, pursuant to paragraph (3) of subdivision (a), all of the following information shall be printed on the bag, or on a tag that complies with that paragraph:

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

(B) Instructions to return the bag to the store for recycling or to another appropriate recycling location.

(c) A plastic reusable grocery bag that also meets the specifications of the American Society of Testing and Materials (ASTM) Standard Specification for Compostable Plastics D6400, as published in September 2004, is not required to meet the requirements of paragraph (1) of subdivision (b), but shall be labeled in accordance with the applicable state law regarding compostable plastics.

(d) ~~(+)~~ If a plastic reusable grocery bag producer is unable to obtain sufficient amounts of postconsumer recycled material to comply with this article ~~within a reporting period~~ because of unavailability, the producer shall ~~demonstrate to the department the actions taken by that plastic reusable grocery bag producer to find that postconsumer recycled material include the greatest amount of postconsumer recycled material possible in the reusable grocery bag even if this amount is less than required by paragraph (1) of subdivision (b) and shall indicate the percentage that is postconsumer recycled material.~~

~~(2) A plastic reusable grocery bag producer making the demonstration in paragraph (1) shall make a reasonable effort to identify available supplies of postconsumer recycled material before submitting a certification containing this information to the department pursuant to Section 42284.~~

~~(3) A plastic reusable grocery bag producer that makes a demonstration pursuant to paragraph (1) shall include the greatest amount of postconsumer recycled material possible in the reusable grocery bag, even if this amount is less than required by paragraph (1) of subdivision (b) and shall indicate the percentage that is postconsumer recycled material.~~  
~~42284.~~

~~(a) On or before January 1, 2016, and on January 1 every two years thereafter on a schedule and in a manner determined by the department, a reusable grocery bag producer shall submit a certification to the department 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 that meets the requirements of Section 42283.~~

~~(b) A reusable grocery bag producer shall submit a fee, as established pursuant to subdivision (e), to the department with each certification submitted.~~

~~(c) The department shall provide a system to submit certifications online.~~

~~(d) On and after July 1, 2016, the department shall publish a list on its Internet Web site that includes both of the following:~~

~~(1) The name, location, and appropriate contact information of a reusable grocery bag producer that is in compliance with this article.~~

~~(2) The reusable grocery bags that are in compliance with this article.~~

~~(e) The department shall establish a certification fee schedule that will generate fee revenues sufficient to cover all of the department's costs to enforce this article. Fee revenues shall not exceed the amount necessary to cover the department's reasonable costs to enforce this article.~~

~~(f)~~

~~42282.~~

(a) The department may inspect and audit a reusable *grocery* bag producer subject to this article with all costs associated with the audit being paid for by the reusable grocery bag producer.

(b) Upon request by the department, a reusable grocery bag producer shall submit laboratory test results from independent, accredited (ISO/IEC 17025) laboratories to the department validating the reusable grocery bag meets the requirements of Section 44281 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.

~~(g)~~

(c) The department may test any reusable *grocery* bag manufactured by a reusable *grocery* bag producer and provided to a store for sale or distribution for compliance with this article and the regulations adopted pursuant to this article.

~~(h)~~

(d) The department may enter into an agreement with other state entities that conduct inspections to provide necessary enforcement of this article.

~~(i)~~

(e) Notwithstanding Section ~~42286~~ 42285, any a violation of this article shall be subject to an administrative civil penalty assessed by the department in an amount not to exceed five hundred dollars (\$500) for the first violation. A subsequent violation may be

subject to an increased penalty of up to five hundred dollars (\$500) per violation, not to exceed five thousand dollars (\$5,000) per violation.

~~(j) The department shall deposit all certification fees paid pursuant to this article into the Reusable Bag Account, which is hereby created in the Integrated Waste Management Fund in the State Treasury. The moneys deposited in the Reusable Bag Account shall be expended by the department, upon appropriation by the Legislature, to assist the department with its costs of implementing this article.~~

~~(k)~~

(f) The department shall deposit all penalties collected pursuant to subdivision ~~(i)~~ (d) for a violation of this article into the ~~Penalty Subaccount~~ Reusable Bag Account, which is hereby created in the ~~Reusable Bag Account~~ Integrated Waste Management Fund. The moneys in the ~~Penalty Subaccount~~ Reusable Bag Account shall be expended by the department, upon appropriation by the Legislature, to assist the department with its costs of implementing this article.

### **Article 3. Single-Use Carryout Bags**

#### **42283.**

(a) On and after January 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) On and after July 1, 2016, a store, as defined in paragraph (3) of subdivision (g) of Section 42280, shall not provide a single-use carryout bag to a customer at the point of sale.

(c) (1) On and after July 1, 2016, a store shall make available for purchase by a customer reusable grocery bags that meet the requirements of Section 42281.

(2) On and after July 1, 2016, a store shall not sell or distribute a reusable bag at the point of sale that does not meet the requirements of Section 42281.

(d) A store may make available for purchase at the point of sale a recycled paper bag.

(e) Notwithstanding any other law, on and after January 1, 2015, a store shall provide a customer participating in 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 and a customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the Welfare and Institutions Code with a reusable grocery bag or a recycled paper bag at no cost at the point of sale.

(f) Notwithstanding subdivisions (a) and (b), a store may make available for purchase at the point of sale a compostable bag that, at a minimum, meets the American Society for Testing and Materials (ASTM) Standard Specification for Compostable Plastics D6400, if, in the 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.

(2) The governing authority for the jurisdiction has voted to allow stores in the jurisdiction to sell to a consumer at the point of sale a compostable bag at a cost not less than the actual cost of the bags.

### **Article 4. Reporting Requirements**

#### **42285.42284.**

(a) On or before January 1, 2017, the department shall submit a report to the Legislature in accordance with Section 9795 of the Government Code, regarding the effectiveness of this chapter and recommendations for statutory changes to increase effectiveness, which shall include all of the following:

(1) A compilation of state cleanup data to evaluate pollution reduction.

(2) Recommendations to further encourage the use of reusable grocery bags by customers and stores.

(3) An evaluation of the requirements for reusable *grocery* bags specified in Section ~~42283~~ 42281.

(4) Distribution of recycled paper bags.

(5) Number and type of violations.

(b) The department shall coordinate with other state and local agencies in compiling this report to maximize existing efforts and resources in the areas of litter reduction, water quality, and environmental protection.

(c) Pursuant to Section 110231.5 of the Government Code, this section is repealed on January 1, 2018.

### **Article 5. Enforcement**

#### **42286.42285.**

(a) A city, a county, a city and county, or the state may impose civil liability in the amount of five hundred dollars (\$500) for the first violation of this chapter, one thousand dollars (\$1,000) for the second violation, and two thousand dollars (\$2,000) 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.

(c) ~~This section does not apply to a violation of Article 3 (commencing with Section 42283).~~ *The remedies provided by this section shall not be exclusive and shall be in addition to the remedies that may be available pursuant to Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.*

## Attachment 3

OFFICE OF THE MAYOR

KEVIN JOHNSON  
MAYOR



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### CITY OF SACRAMENTO CALIFORNIA

Senator Jerry Hill, Chair  
Senate Environmental Quality Committee  
California State Capitol  
Sacramento, CA 95814  
**Via Fax: (916) 322-3519**

#### **Re: SB 405 (Padilla) Single-Use Carryout Bags Bill - Support**

Dear Senator Hill,

The City of Sacramento would like to express its strong support for Senate Bill 405 (Padilla), which will reduce plastic pollution and waste by restricting single-use plastic carryout bags along with paper bags. The City is currently drafting a similar ordinance and we support a statewide solution to this ongoing issue that affects our community, our rivers and our operations. Our materials recovery facility in the City of Sacramento shuts down at an average of six times daily to remove plastic bags and film stuck in the gears of its machinery. This results in an estimated cost of roughly \$100,000 annually for this one facility alone. In addition to the cleanup and stormwater management related costs of plastic bag litter, it puts our natural resources at risk.

Plastic bags are a costly, environmentally damaging, and easily preventable source of litter and pollution. Light and aerodynamic, plastic bags are uniquely litter-prone even when properly disposed of, and pose a serious threat to the riparian and marine environment and wildlife. When they are no longer visible to the naked eye, plastic bags have degraded into tiny particles that absorb toxins and contaminate our food chain, water and soil quality.

There is no free bag. Single-use plastic bags are costly to both consumers and taxpayers. The more than 14 billion single-use plastic bags distributed by California grocers cost roughly \$250 million annually. The costs of these one-time use products are passed on to consumers in the form of higher prices.

Californian taxpayers pay a second time. The cleanup, disposal, and nuisance management of single-use plastic bags costs local governments and the state between \$33 and \$103 million annually.

Over 60 local governments, including the County of Los Angeles, San Jose, San Luis Obispo County, San Francisco, and Long Beach, have already adopted a ban on plastic bags. The results from these existing policies demonstrate both environmental and economic success, and public support. We support extending this solution statewide.

The economic and environmental costs of single-use plastic bags simply outweigh any short-term benefit. Phasing out single-use plastic bags will reduce plastic pollution and the costs associated with it.

Sincerely,

Kevin Johnson  
MAYOR

cc: Members of the Senate Environmental Quality Committee