



DEPARTMENT OF
PUBLIC WORKS

OFFICE OF THE DIRECTOR

CITY OF SACRAMENTO
CALIFORNIA

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June 20, 1991

Law and Legislation Committee
Sacramento, California

HONORABLE MEMBERS IN SESSION:

SUBJECT: RECOMMENDATION TO SUPPORT AB 1423 (GOTCH) RELATING TO POST-CONSUMER
CONTENT IN GLASS, STEEL, AND ALUMINUM CONTAINERS

SUMMARY

Assembly Bill 1423 by Michael Gotch (D-San Diego) would require manufacturers of glass, steel, bi-metal, and aluminum containers to include minimum percentages of recycled content in the manufacture of their containers. It is recommended that the Law and Legislation Committee declare the City's support for AB 1423.

BACKGROUND

Under current law, every city and county in California is required to reduce its waste stream by 25 percent by 1995 and by 50 percent by the year 2000. The development of stable markets for collected material is essential to the success of the City's recycling efforts. Assembly Bill 1423 will help to "close the loop" on packaging waste. This legislation would require manufacturers of glass, steel, bi-metal, and aluminum containers to use minimum percentages of recycled content in their products.

AB 1423 would establish the following minimum standards:

Type of Container	Effective Date		
	1/1/93	1/1/96	1/1/99
Flint Glass	25%	35%	45%
Green, Amber, and Mixed Color	40%	50%	60%
Steel and Bi-metal	35%	60%	85%
Aluminum	60%	75%	90%

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This legislation will enhance the City's ability to market the materials collected in our recycling programs. AB 1423 is supported by the League of California Cities, Californians Against Waste, and the Solid Waste Association of North America.

FINANCIAL IMPACT

There is no direct financial impact on the City as a result of supporting AB 1423.

POLICY CONSIDERATIONS

It is the policy of the City Council to support waste reduction and recycling legislation.

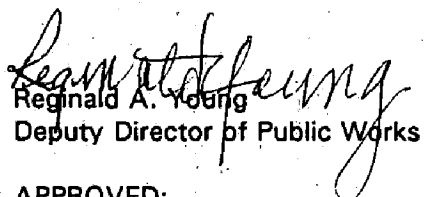
MBE/WBE

There are no goods or services being purchased in conjunction with this report.

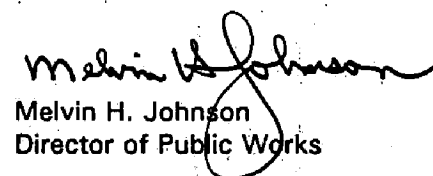
RECOMMENDATION

It is recommended that the Law and Legislation Committee declare the City's support for Assembly Bill 1423 (Gotch) relating to post-consumer content in glass, steel, bi-metal, and aluminum containers.

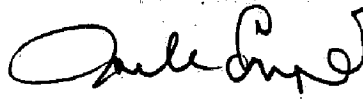
Respectfully submitted,


Reginald A. Young
Deputy Director of Public Works

APPROVED:


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RECOMMENDATION APPROVED:


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449-6281

June 20, 1991
ALL DISTRICTS

AMENDED IN ASSEMBLY MAY 30, 1991

AMENDED IN ASSEMBLY MAY 8, 1991

CALIFORNIA LEGISLATURE—1991-92 REGULAR SESSION

ASSEMBLY BILL

No. 1423

**Introduced by Assembly Members Gotch, Chacon,
Friedman, Hayden, Lempert, Peace, and Speier**

March 7, 1991

An act to amend Sections 14513.2, 14513.3, and 14549 of, and to add Division 12.10 (commencing with Section 20000) to, the Public Resources Code, relating to recycled solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1423, as amended, Gotch. Rigid packaging: postconsumer material content.

(1) Existing law requires each glass container manufacturer to use a specified minimum percentage of California postfilled glass in the manufacturing of glass food, drink, or beverage containers, and to report to the Department of Conservation each month, beginning October 1, 1991, the amount of total sales of new glass containers and the percentage of California postfilled glass used in the manufacturing of those new containers.

This bill would limit those provisions to glass wine container manufacturers, as defined, and make related changes. The bill would require each flint and colored glass container manufacturer to use specified amounts of postconsumer glass in the manufacturing of rigid glass containers. The bill would require each steel, bi-metal, and aluminum rigid container manufacturer to use specified amounts of postconsumer and scrap material in the manufacturing of rigid containers. The bill would provide for increasing percentages of postconsumer and scrap material on and after specified dates and would

authorize the department to grant a reduction or waiver from the bill's requirements if it makes a *in* specified finding *circumstances*. The bill would require every rigid container manufacturer to submit a report to the department on or before April 1, 1992, and every 3 months year thereafter, certifying specified information.

The bill would require the department to conduct a study, commencing July 1, 1992, and to report to the Legislature by July 1, 1993, concerning requiring higher levels of postconsumer materials.

The bill would require the department to refer to the Attorney General, for prosecution for fraud, the provider of any false or misleading certification, and would make any person who violates the bill's requirements guilty of an infraction and punishable by a fine of not more than \$1,000, hereby imposing a state-mandated local program by creating a new crime. The bill would also authorize the department to assess civil penalties for a violation of the bill's requirements. The bill would require the department to deposit all fines and penalties in the Rigid Container Account, which this bill would create in the California Beverage Container Recycling Fund in the State Treasury and the bill would authorize the funds in the account to be expended by the department only upon appropriation by the Legislature.

(2) 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 no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14513.2 of the Public Resources
2 Code is amended to read:

3 14513.2. "Glass wine container manufacturer" means
4 a person who manufactures commercial containers
5 which will be filled with wine, as defined in Section 23007

1 of the Business and Professions Code, whose principal
2 component part or parts consist of virgin glass, postfilled
3 glass, or any combination of both, for sale in California or
4 for export to other states or countries.

5 SEC. 2. Section 14513.3 of the Public Resources Code
6 is amended to read:

7 14513.3. "Glass wine container" means any container
8 which will be filled with wine, as defined in Section 23007
9 of the Business and Professions Code, whose principal
10 component part or parts consist of virgin glass, postfilled
11 glass, or any combination of both, in which any wine is
12 sold or offered for sale in California.

13 SEC. 3. Section 14549 of the Public Resources Code is
14 amended to read:

15 14549. (a) Every glass wine container manufacturer
16 shall report to the department each month, by a method
17 as determined by the department, beginning October 1,
18 1991, the amount of total tons of new glass wine
19 containers made or sold in California by that glass wine
20 container manufacturer and the tons of California
21 postfilled glass used in the manufacturing of those new
22 containers.

23 (b) Each glass wine container manufacturer shall use
24 the following minimum percentages of postfilled glass in
25 the manufacturing of their glass containers:

- 26 (1) Fifteen percent on and after January 1, 1992.
27 (2) Twenty-five percent on and after January 1, 1993.
28 (3) Thirty-five percent on and after January 1, 1996.
29 (4) Forty-five percent on and after January 1, 1999.
30 (5) Fifty-five percent on and after January 1, 2002.
31 (6) Except as provided in subdivision (c) or (d), 65
32 percent on and after January 1, 2005.

33 (c) If the department determines that glass wine
34 container manufacturers cannot achieve the minimum
35 percentage of postfilled glass required to be used in the
36 manufacture of glass wine containers pursuant to
37 subdivision (b) because of a lack of available cullet, the
38 department may reduce the 65 percent amount to that
39 amount it determines to be the maximum feasible
40 amount which can be achieved by glass wine container

1 manufacturers.

2 (d) A glass wine container manufacturer may seek a
3 reduction or waiver of the minimum postfilled glass
4 percentage required to be used in the manufacture of
5 glass wine containers pursuant to subdivision (b). The
6 department may grant a reduction or waiver of the
7 percentage requirements if it finds and determines that
8 it is technologically infeasible for the glass wine container
9 manufacturer to achieve the percentage requirements.

10 SEC. 4. Division 12.10 (commencing with Section
11 20000) is added to the Public Resources Code, to read:

12
13 DIVISION 12.10. GLASS, METAL, AND ALUMINUM
14 RIGID CONTAINERS

15 CHAPTER 1. LEGISLATIVE FINDINGS

16
17 20000. The Legislature finds and declares all of the
18 following:

19 (a) Californians purchase over 4 million tons of
20 products each year that are sold in glass, steel, bi-metal,
21 and aluminum rigid containers.

22 (b) The California Integrated Waste Management Act
23 of 1989 (Division 30 (commencing with Section 40000))
24 requires cities and counties to cut their waste in half by
25 the year 2000 through source reduction, recycling, and
26 composting.

27 (c) Recycling used rigid containers saves landfill
28 space, reduces energy consumption, and preserves
29 natural resources. Specific benefits can be derived from
30 separating used rigid containers from solid waste and by
31 then using the diverted materials to produce new
32 containers *and other useful products*.

33 (d) The success of the state's waste reduction program
34 depends upon the existence of stable, in-state markets
35 which will utilize the expanding amount of postconsumer
36 materials which are being separated from the waste
37 stream for recycling purposes.

38 (e) State has required several types of products to
39 use increasing levels of postconsumer recycled materials

1 including newsprint, glass containers, and plastic trash
2 bags.

3 (f) Food and beverage container manufacturers
4 currently publicize the recycled content of a variety of
5 packaging types, including glass, aluminum, and steel
6 containers. The recycled content and recyclability of
7 various container types has become an effective
8 marketing tool for the promotion and sale of these
9 products.

10 (g) The increasing use of postconsumer recycled
11 materials in rigid containers demonstrates the
12 technological and economic feasibility of incorporating
13 recycled materials into new packaging containers.

14 (h) It is therefore the intent of the Legislature to spur
15 markets for materials collected for recycling by requiring
16 all manufacturers to utilize increasing amounts of
17 postconsumer recycled material in their glass, steel,
18 bi-metal, and aluminum rigid containers.

19
20 CHAPTER 2. DEFINITIONS

21 20001. For purposes of this division, the following
22 definitions apply:

23 (a) "Aluminum container" means any rigid container
24 made from aluminum in which any product is sold or
25 offered for sale in the state.

26 (b) "Bi-metal container" means a steel container with
27 an aluminum top, including, but not limited to,
28 carbonated beverage containers *in which any product is*
29 *sold or offered for sale in the state.*

30 (c) "Colored" means green, brown, blue, mixed, or
31 other colored glass.

32 (d) "Department" means the Department of
33 Conservation.

34 (e) "Flint" means clear glass.

35 (f) "Glass container" means any rigid container
36 consisting of glass, in which any product is sold or offered
37 for sale in the state. "Glass container" includes flint,
38 green, amber, and mixed color containers.

39 (g) "Postconsumer material" means finished
40

1 product which would normally be disposed of as solid
2 waste, having completed its intended end-use and
3 product lifecycle. "Postconsumer material" does not
4 include manufacturing and fabrication scrap.

5 (h) "Rigid container" means any packaging product
6 sold, offered for sale, or manufactured in this state that is
7 capable of maintaining its shape while holding, storing,
8 covering, or containing other products, including, but not
9 limited to, food and drink packaging material, and
0 beverage containers, as defined in Division 12.1
1 (commencing with Section 14500).

2 (i) "Rigid container manufacturer" means a person or
3 persons who sells, offers for sale, or manufactures rigid
4 containers in this state.

5 (j) "Rigid container type" means a flint glass
6 container, amber glass container, green glass container,
7 mixed color glass container, steel container, bi-metal
8 container, or aluminum container.

9 (k) "Steel container" means any rigid container
0 consisting primarily of pig iron or ferrous scrap, in which
1 any product is sold or offered for sale in the state. "Steel
2 container" includes both tin coated and tin free
3 containers.

4 CHAPTER 3. MINIMUM CONTENT REQUIREMENTS

5 20005. (a) Except as provided in Sections 14549 and
6 20010, each flint glass container manufacturer shall use
7 the following minimum percentages of postconsumer
8 glass in the manufacturing of their glass food, drink, or
9 beverage containers:

- 0 (1) Fifteen percent on and after January 1, 1992.
- 1 (2) Twenty-five percent on and after January 1, 1993.
- 2 (3) Thirty-five percent on and after January 1, 1996.
- 3 (4) Forty-five percent on and after January 1, 1999.
- 4 (5) Fifty-five percent on and after January 1, 2002.
- 5 (6) Except as provided in subdivision (b), 65 percent
6 on and after January 1, 2005.

7 (b) If the department determines that the flint glass
8 container manufacturer cannot achieve the minimum

1 percentage of postconsumer glass required to be used in
2 the manufacture of glass food, drink, or beverage
3 containers pursuant to paragraph (6) of subdivision (a)
4 because of a lack of available cullet, the department may
5 reduce the 65 percent amount to that amount it
6 determines to be the maximum feasible amount which
7 can be achieved by glass container manufacturers.

8 20006. (a) Except as provided in Sections 14549 and
9 20010, each colored glass container manufacturer shall
10 use the following minimum percentages of postconsumer
11 glass in the manufacturing of their glass food, drink, or
12 beverage containers:

- 13 (1) Fifteen percent on and after January 1, 1992.
- 14 (2) Forty percent on and after January 1, 1993.
- 15 (3) Fifty percent on and after January 1, 1996.
- 16 (4) Sixty percent on and after January 1, 1999.
- 17 (5) Except as provided in subdivision (b), 65 percent
18 on and after January 1, 2002.

19 (b) If the department determines that the colored
20 glass container manufacturer cannot achieve the
21 minimum percentage of postconsumer glass required to
22 be used in the manufacture of glass food, drink, or
23 beverage containers pursuant to paragraph (5) of
24 subdivision (a) because of a lack of available cullet, the
25 department may reduce the 65 percent amount to that
26 amount it determines to be the maximum feasible
27 amount which can be achieved by glass container
28 manufacturers.

29 20007. Except as provided in Section 20010, each steel
30 and bi-metal rigid container manufacturer shall use the
31 following minimum percentages of postconsumer
32 material in the manufacturing of rigid containers:

33 (a) On and after January 1, 1993, until December 31,
34 1995, the manufacturer shall use not less than 25 percent
35 postconsumer and scrap material, with not less than 10
36 percent of the rigid container's total weight consisting of
37 postconsumer material.

38 (b) On and after January 1, 1996, the manufacturer
39 shall use not less than 25 percent postconsumer and scrap
40 material, with not less than 15 percent of the rigid

1 container's total weight consisting of postconsumer
2 material.

3 20008. Except as provided in Section 20010, each
4 aluminum rigid container manufacturer shall use the
5 following minimum percentages of postconsumer
6 material in the manufacturing of rigid containers:

7 (a) On and after January 1, 1993, until December 31,
8 1995, the manufacturer shall use not less than 60 percent
9 postconsumer and scrap material, with not less than 40
10 percent of the rigid container's total weight consisting of
11 postconsumer material.

12 (b) On and after January 1, 1996, the manufacturer
13 shall use not less than 70 percent postconsumer and scrap
14 material, with not less than 50 percent of the rigid
15 container's total weight consisting of postconsumer
16 material.

17 20009. (a) The department shall conduct a study,
18 commencing July 1, 1992, to determine if the minimum
19 content requirements specified in Sections 20005, 20006,
20 20007, and 20008 are sufficient to absorb the increasing
21 supply of recycled materials entering the market and to
22 maximize the amount of rigid containers diverted from
23 the state's waste stream and remanufactured into new
24 products. The study shall analyze the technological and
25 economic feasibility of using higher levels of
26 postconsumer material for each rigid container type than
27 the percentages listed in Sections 20005, 20006, and 20007.

28 (b) On or before July 1, 1993, the department shall
29 report to the Legislature the results of the study
30 conducted pursuant to subdivision (a). The report shall
31 include recommendations, *if warranted*, for legislation
32 on higher minimum content requirements for rigid
33 container types sufficient to fulfill the intent of this
34 division.

35 20010. (a) *The department shall exempt any rigid
36 container from the postconsumer material content
37 requirements of Sections 20005, 20006, 20007, and 20008 if
38 a manufacturer certifies to the department that the
39 part of rigid packaging container cannot meet the
40 postconsumer material requirements of those sections*

1 *because of applicable provisions of the United States*
2 *Food, Drug and Cosmetic Act, the Federal Insecticide,*
3 *Fungicide, and Rodenticide Act, or any other state or*
4 *federal law or regulation.*

5 (b) The department may grant a reduction or waiver
6 from the minimum postconsumer material percentage
7 requirements of Sections 20005, 20006, 20007, and 20008
8 for rigid containers if the department determines that is
9 is technologically infeasible for the rigid container
10 manufacturer to achieve the percentage requirements.

11 20011. Except as specified in Section 20010, no rigid
12 container shall be sold, offered for sale, or manufactured
13 in this state that fails to meet the requirements of
14 Sections 20005, 20006, 20007, and 20008.

15 20012. *If the postconsumer material used in the*
16 *manufacture of any rigid container type has an average*
17 *scrap value that exceeds the cost of recycling as*
18 *determined by the department pursuant to Section*
19 *14575, that rigid container type is exempt from this*
20 *division.*

21 22 CHAPTER 4. REPORTING AND CERTIFICATION OF USE 23

24 20015. On or before April 1, 1992, and once every
25 ~~three months~~ year thereafter, every rigid container
26 manufacturer shall submit a report to the department, by
27 a method determined by the department, certifying for
28 each rigid container type, the total tons of rigid
29 containers sold, offered for sale, or manufactured, in this
30 state during the previous ~~three months~~ year, and the
31 total tons of postconsumer material obtained for use in
32 the manufacture of each rigid container type during the
33 previous ~~three months~~ year. The portion of
34 postconsumer materials which have been diverted from
35 the state's waste stream shall be included in the report.

36 20016. Each rigid container manufacturer who
37 submits a report pursuant to Section 20015 may be
38 audited by the board to ensure that the report is accurate.

CHAPTER 5. PENALTIES

1
2
3 20020. If any rigid container manufacturer provides
4 the department with a false or misleading certification of
5 postconsumer material content pursuant to Section
6 20015, the department, within 30 days of making this
7 determination, shall refer the false or misleading
8 certification to the Attorney General for prosecution for
9 fraud.

10 20021. Any person who violates this division is guilty
11 of an infraction punishable by a fine of not more than ten
12 thousand dollars (\$10,000).

13 20022. In addition to the penalty specified in Section
14 20021, anyone who violates this division may be assessed
15 a civil penalty by the department of not more than ten
16 thousand dollars (\$10,000) for each violation.

17 20023. The department shall deposit all penalties or
18 fines paid pursuant to this section into the Rigid
19 Container Account, which is hereby created in the
20 California Beverage Container Recycling Fund in the
21 State Treasury. The money deposited in the Rigid
22 Container Account as the result of penalties paid for
23 violations of this division may be expended by the
24 department only upon appropriation by the Legislature.

25 SEC. 5. No reimbursement is required by this act
26 pursuant to Section 6 of Article XIII B of the California
27 Constitution because the only costs which may be
28 incurred by a local agency or school district will be
29 incurred because this act creates a new crime or
30 infraction, changes the definition of a crime or infraction,
31 changes the penalty for a crime or infraction, or
32 eliminates a crime or infraction. Notwithstanding Section
33 17580 of the Government Code, unless otherwise
34 specified in this act, the provisions of this act shall become
35 operative on the same date that the act takes effect
36 pursuant to the California Constitution.