



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

I-2

For the meeting of: January 17, 2017

Date: January 10, 2017

To: Board of Supervisors

From: Amy S. Nilsen, County Administrative Officer *AN*

Subject: Plastic Bag Ban Update

RECOMMENDATION(S):

That the Board of Supervisors receive a staff report on implementation of the state wide single-use plastic bag ban.

SOURCE OF FUNDING: Not applicable.

DISCUSSION:

On Sept. 30, 2014 the Governor signed into law Senate Bill (SB) 270 (Padilla) which was intended to impose a statewide ban on plastic bags in two tiers, with the ban effective for grocery stores and pharmacies in July 2015 and for convenience and liquor stores by July 2016. Following passage of SB 270, opponents of a statewide ban began collecting signatures for a referendum on the bag bill. On Dec. 29, 2014, more than 800,000 signatures were submitted to the Secretary of State's office. This resulted in a delay of nearly two years in the statewide law due to the referendum.

SB 270 had a phased implementation on the ban of single-use plastic bags and requirement for stores to charge customers at the point of sale for recycled paper bags and reusable grocery bags. When Proposition

Prepared by Cheryl Dillingham

CAO Approval *Kathia Hayes*

REVIEW:

Auditor \_\_\_\_\_ County Counsel \_\_\_\_\_ Human Resources \_\_\_\_\_ Other \_\_\_\_\_

TYPE OF ITEM:

- Consent
- Departmental
- Public Hearing
- Other

PREVIOUS ACTION/REFERRAL:

Board Order No. M-1, C-6

Meeting of: 1/6/2015, 1/27/2015

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor *Wilson* Seconded by Supervisor *Fennell*  
 Ayes *Wilson, Fennell, Sundberg, Bohm, Bass*  
 Nays \_\_\_\_\_  
 Abstain \_\_\_\_\_  
 Absent \_\_\_\_\_

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: *January 17, 2017*  
 By: *Kathy Hayes*  
 Kathy Hayes, Clerk of the Board

67 passed on Nov. 8, 2016 the law became effective as originally written. Due to the delay created by the referendum the bag ban became effective for all impacted stores the day after the election on Nov. 9, 2016. This took many shoppers and small store operators by surprise.

Approximately 80 stores in the unincorporated area of Humboldt County were impacted by the new legislation. Most grocery stores, retail stores with a pharmacy, convenience stores, food marts, and liquor stores are now prohibited from providing customers single-use plastic or paper carryout bags but are permitted to sell recycled paper bags and certified reusable bags for not less than 10 cents. The 10 cent fee is waived for low-income individuals who pay with a state benefit card. These stores can still offer thin plastic bags for bulk goods, produce and other items.

To help provide some clarity on this complex piece of legislation attached are some frequently asked questions on SB 270 from CalRecycle. Additionally county staff has reviewed SB 270 for impacts to the county and to determine county roles and responsibilities. Below are some highlights:

- There is some loss of local control, while the bill does not pre-empt existing ordinances it does however pre-empt any new local ordinances. This is from the legislation “A 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 Sept. 1, 2014, relating to reusable grocery bags, single-use carryout bags, or recycled paper bags ...”
- This is state legislation and per the legislation the county may impose civil liabilities. However, the county is not mandated to enforce the plastic bag ban.
- Humboldt Waste Management Authority has no jurisdictional authority to enforce the new statewide single use carryout bag ban.
- According to the Legislative Analyst’s Office review of the measure the only impact to local governments is possible minor savings from reduced litter cleanup and waste management costs.
- CalRecycle is responsible for ensuring that bag manufacturers meet the new reusable plastic bag requirements. Certified manufacturers are posted on their web site.

County staff has been contacted by Zero Waste Humboldt and they are offering to help stores and shoppers adjust to the new plastic bag ban law. Attached is a report that they prepared that describes implementation of the plastic bag ban and their plans to initiate a program of assistance and information for local stores. Additionally there is a Solid Waste Local Task Force (LTF) composed of solid waste staff members from the county and seven cities. The LTF will most likely discuss who will be responsible for education and enforcement of SB 270 to help with coordination and communication county wide.

As is the case with all new legislation the state and local jurisdictions are working on the associated regulations and implementation of Proposition 67 and this takes time. Presently staff is not seeking policy direction from your Board regarding the county role in the implementation of the new statewide single-use plastic bag ban. Staff may return at a later date with an update depending on the state’s final implementation of the law.

#### FINANCIAL IMPACT:

There is no financial impact to hearing the oral report. Some topics discussed may have a positive or negative financial impact on the county. This action supports the Board’s strategic framework, priorities for new initiatives, by making a proactive decision to be an effective voice for the community in areas outside traditional mandates through advancing local interests in natural resource discussions.

OTHER AGENCY INVOLVEMENT:

State of California and Humboldt Waste Management Authority

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Board discretion.

ATTACHMENTS:

Attachment 1 – Frequently Asked Questions from CalRecycle

Attachment 2 – Zero Waste Humboldt Local Implementation of California’s Plastic Bag Ban Law

## ATTACHMENT 1

### SB 270 Frequently Asked Questions from



#### Questions About Stores and Charges for Grocery Bags

##### **Does my retail store meet the definition of "Store" according to the new law?**

The definition of "Store" may not precisely describe your type of business or store inventory.

CalRecycle does not have enforcement authority over the provisions in SB 270 (Public Resources Code sections 42280-42288); and is thus unable to provide interpretations or advice concerning the definitions or requirements in the statute. Please consult your attorney, the local governmental entity (city or county) where the reusable grocery bags are sold, or contact the Attorney General's Public Inquiry Unit at (916) 322-3360 for further assistance.

##### **How much will it cost to purchase a grocery bag?**

Stores are required to charge at least 10 cents for each recycled paper bag or reusable grocery bag sold to a customer at the point of sale. Reusable bags sold today may be made of canvas, hemp, or various types of plastic materials. Prices for these bags vary. There is no charge if you bring your own bag. Some stores will provide a credit (usually about 5 cents) toward your purchase if you use your own bag.

##### **What types of stores are affected by the bag ban?**

- Grocery Stores: Full-line, self-service retail stores with gross annual sales of at least \$2 million that sell a line of dry groceries, canned goods, or nonfood items, and some perishable items.
- Large Retail Stores with a Pharmacy: Stores that have at least 10,000 square feet of retail space and a pharmacy and that generate sales or use tax.
- Convenience Stores, Food Marts, or Liquor Stores: Stores engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods, and that hold a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.
- Volunteer Stores: Retail establishments not included in this list that voluntarily agree to comply with the requirements of the statute.

##### **If I have a payment card or voucher issued by the California Special Supplemental Food Program for Women, Infants, and Children or an electronic benefit transfer card issued pursuant to Section 10072 of the Welfare and Institutions Code, do I have to pay for a bag?**

No. Stores are required to provide a reusable grocery bag or a recycled paper bag free of charge to customers using one of the above payment methods.

##### **Is the new fee on reusable grocery bags subject to sales and use tax?**

For questions regarding tax issues related to the new bag fee and reusable grocery bags, please contact the Board of Equalization Taxpayer Information Section at (800) 400-7115.

##### **Are there single-use bags NOT covered by the new law?**

Yes. Bags used by pharmacies for prescriptions; bags used to protect a purchased item from damage or contamination, such as bags used for fruits and vegetables; and bags used to contain unwrapped food items like bulk foods are some examples of single-use bags not covered by the new law. In addition, bags without handles that are designed to be placed over articles of clothing on a hanger are not covered under the new law.

##### **Will there be a grace period before stores start charging for recycled paper bags and reusable grocery bags?**

When Governor Brown signed SB 270 in 2014, the effective dates of the bill's statutory requirements would have allowed a grace period prior to the onset of the law's ban on distribution of single-use plastic bags and requirement for stores to charge customers at the point of sale for recycled paper bags and reusable grocery bags. However, when the referendum qualified for the November 2016 ballot, implementation of SB 270 was suspended. Proposition 67 passed and the law is in effect as originally written.

## Questions About Certification of Reusable Grocery Bags

### What is CalRecycle's role in implementing the new law?

CalRecycle is required to publish on its website a list of producers that have submitted the required certification for each type of their reusable grocery bags sold in the state. The law also requires, among other things, that CalRecycle establish an administrative certification fee schedule to cover the Department's costs.

### Will there be a rulemaking process?

Yes. CalRecycle is taking steps to initiate the regulatory process to develop a certification fee schedule for bag producers, as required by the law. To be apprised of these proceedings and to learn about future opportunities to participate and register public comments, please sign up for the [Reusable Grocery Bag Certification \(SB 270\) Listserv](#) or send inquiries to [SB270@calrecycle.ca.gov](mailto:SB270@calrecycle.ca.gov).

### Who certifies that reusable bags meet the standards specified in the law?

Reusable grocery bag producers are required to provide CalRecycle with third-party certification by an independent, accredited [ISO/IEC 17025](#) laboratory, demonstrating their bags meet the new requirements.

### How will the posting of the certifications work?

Producers are required to submit proof of third-party certification via CalRecycle's online database, the [Reusable Grocery Bag Reporting System \(RGBRS\)](#). CalRecycle will post a continuously updated list of [Certified Reusable Bag Producers](#) as proofs of certification and supporting documents are received. Retailers subject to the ban are responsible for ensuring the bags they sell comply with the certification requirements.

### How frequently must bags be certified?

The law requires bag producers to certify reusable grocery bags on a biennial basis (every other year).

### Do all reusable bags have to be certified?

The statute has certification requirements ([PRC 42281](#), [42281.5](#) and [42282](#)) for different types of reusable grocery bags.

### Who handles complaints and enforcement of the new bag ban law?

A city, county, or the state may impose civil liability on a person or entity that knowingly violates this law. Consumers who wish to report a violation of the law may contact the office of their local city or county or the Attorney General's Office. In addition, a person may object to the 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, as allowed by [PRC Section 42282](#).

### Can CalRecycle tell me if my store is in compliance with SB 270?

While CalRecycle can provide general information regarding the provisions of SB 270, the Department is unable to provide legal advice or guidance to bag producers, stores, or the public. If program participants have questions regarding legal or compliance issues, they are encouraged to seek legal counsel.

### How can I learn more about this law and the bag certification requirements?

More information is available at the following link: [SB 270 \(Padilla, Chapter 850, Statutes of 2014\)](#).

## ATTACHMENT 2



### Plastic Bag Law Implementation

LOCAL IMPLEMENTATION OF CALIFORNIA'S  
PLASTIC BAG BAN LAW, SB 270  
(12/15/16 Update)

- 80+ stores in Humboldt County's unincorporated areas are in at least one of the store categories required to comply with the new law. Many stores prepared in advance and are already in compliance. Some stores are getting ready to comply with the new system while others are out of compliance.
- Many Humboldt County shoppers have already used reusable shopping and takeout bags for decades. Many local shoppers are learning to adopt the new habit of reusable bags for shopping or restaurant food takeout. Single use bags were introduced to shoppers in the 1970's. Prior to then, stores put shoppers' purchases in paper bags.
- To assist Humboldt stores and shoppers adjusting to the new system of reusable bags Zero Waste Humboldt will initiate a program of assistance and information tailored for local stores and a multimedia public education campaign in January 2017.
- **What are the benefits of the new reusable bag law?**  
The many hidden costs to local government and environmental quality will be greatly reduced. Single use plastic bags (film plastics) have caused problems for Humboldt County's street storm drains, wildlife, highway litter, and recycling operations for 40 years. There are no local manufacturers that recycle film plastic to make their products. Nationwide and in Humboldt County, only about 3% of plastic bags are actually recycled, and due to contamination, much of these bags are disposed.
- **Why is there a 10 cent charge for paper and reusable bags?**  
Remember that single-use plastic bags were never really free. Stores rolled the cost they paid per plastic bag into the price of groceries, meaning that even people who bring their own bags to the store were paying for other shoppers' plastic bags. The 10 cent charge will:
  - Offset the greater cost of paper and reusable bags for the grocers/retailers.
  - Ensure that customers who bring their own bags don't have to supplement the cost of other shoppers' use of the wasteful single-use bags anymore.
  - Encourage waste prevention through the use of reusable bags.

To learn more, email [contact@zerowastehumboldt.org](mailto:contact@zerowastehumboldt.org) and stay tuned for more information about plastic bags and waste prevention strategies in Humboldt County. Californians Against Waste also has useful information at: <http://www.cawrecycles.org/faq-on-bag-bans>