

SB 270 Report to the Legislature

Implementation Update and Policy Considerations for Management of Reusable Grocery Bags in California



California Department of Resources Recycling and Recovery

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The work product contained in this report is the culmination of past and continued consultation between CalRecycle staff and all of the aforementioned stakeholders.

Executive Summary

The statewide Single-Use Carryout Bag Ban (SB 270) was signed into law by Governor Edmund G. Brown Jr. in the fall of 2014. Shortly thereafter the law was suspended by a referendum and did not go into effect until voters approved it as Proposition 67 in November 2016. As directed by the Legislature, this report provides an update on the status of SB 270's implementation and CalRecycle's evaluation of what is needed to improve the program.

Under [SB 270 \(Padilla, Chapter 850, Statutes of 2014\)](#), a "store," as defined, is prohibited from distributing single-use carryout bags. Under the law, stores may sell reusable grocery bags, recycled paper bags, or compostable bags to customers at the point of sale. Stores must apply a minimum 10-cent charge for each type of bag, provided the bags are certified as compliant with the law's requirements. Stores must ensure reusable bags provided are certified in accordance with the standards established by SB 270. Reusable grocery bag producers must pay an administrative certification fee and submit proof of certification on a biennial basis to CalRecycle for each type of reusable bag offered for sale in the state. CalRecycle is required to post a list of certified reusable grocery bags and producers on its website.

During the program's first year of operation, CalRecycle performed the following tasks:

- Accepted third-party proofs of certification for reusable grocery bags from producers using the Reusable Grocery Bag Reporting System
- Posted its List of Certified Reusable Grocery Bags and Producers
- Conducted a voluntary bag usage survey
- Held an informal workshop to develop regulatory text
- Initiated the rulemaking process to establish the administrative certification fee schedule, clarify administrative procedures, and institute a completeness review for proofs of certification.

Through this process, CalRecycle identified several ambiguities in statute that hinder effective implementation of SB 270. These issues cannot be resolved via the regulatory process. Therefore, CalRecycle recommends four statutory revisions to clarify statute and improve implementation of the law. In addition, CalRecycle recommends consideration of additional policies to further enhance the program and assist in achieving the intent of SB 270. The recommendations are summarized below and described in more detail in the "Analysis and Recommendations" section.

Clarify the Definition of "Store"

SB 270 defines a store as a retail establishment that meets one of five conditions outlined in statute. CalRecycle estimates there are approximately 26,000 grocery, liquor, and convenience stores statewide that clearly meet the definition of store under SB 270. However, the definition does not provide adequate specificity to determine

whether other types of stores are subject to SB 270. Specifically, stores that primarily sell nongrocery items—including clothing, hardware, and sporting goods stores—often sell a limited supply of snacks. It is not clear whether these types of stores fall under the definition of store in SB 270. There are approximately 14,000 clothing, hardware, and sporting goods stores in California that may sell a limited supply of snacks. Clarifying the definition of “store” in SB 270 would eliminate confusion and better define the universe of retailers that must comply with the law.

Clarify How Collection of Reusable Grocery Bags Made from Plastic Film for Recycling Intersects with the At-Store Recycling Program

Due to inconsistencies between statute established by SB 270 and pre-existing statute for the At-Store Recycling Program established by AB 2449 (Levine, Chapter 845, Statutes of 2006), it is not clear whether stores must retain At-Store recycling bins for the collection of reusable grocery bags. As a result, some stores are removing collection bins for grocery bags. Statute should be clarified to ensure stores continue to collect reusable grocery bags for recycling.

Clarify the Term “Recyclable in this State” as It Applies to Reusable Grocery Bags Made from Plastic Film

SB 270 specifies reusable grocery bags must be “recyclable in this state.” However it is not clear what criteria the Legislature intended to be considered when determining whether a bag meets this standard. As a result, this requirement is difficult to certify and enforce. Providing guidance in statute as to the criteria that should be considered in order to determine “recyclable in this state” would improve certification and enforcement of SB 270.

Clarify the Number of Bags Specified Customers May Receive Without Charge

SB 270 specifies that stores must provide a reusable grocery bag or recycled paper bag at no cost to customers paying via the Women, Infants, and Children (WIC) Program or with electronic benefit transfer (EBT) cards. In some instances, stores have interpreted this provision to require that only a single bag be offered at no charge for qualifying customers. The Attorney General’s Office has published guidance on its website to indicate that stores should provide more than one bag at no charge to qualifying customers. Consistent with this guidance, clarification in statute will eliminate ambiguity.

Future Policies to Consider to Enhance SB 270

Reporting Requirements

Given the limited reporting required under SB 270, it may be difficult to determine the effectiveness of the bill. SB 270 does not require stores to report bag sales information or require stores to report on the use of funds collected from consumers for bags. Without bag sales information, there are no reliable data regarding trends in bag use and reuse. In addition, the lack of reporting makes it difficult to determine whether

provisions of the bill are being appropriately implemented. For instance, SB 270 limits stores to using funds collected from consumers for costs associated with complying with the requirements SB 270, actual costs of providing recycled paper bags or reusable grocery bags, and costs associated with educational campaigns encouraging the use of reusable grocery bags.

New statutory requirements for reporting by stores on bag fee expenditures will assist in demonstrating compliance with the direction set forth in SB 270. Adding reporting requirements in statute for the total sales volumes of compostable, recycled paper, and reusable grocery bags will allow for analyzing the impact of SB 270.

Consider Fee Increase and Expand the Scope if Needed

CalRecycle recommends the Legislature consider increasing the minimum fee for recycled paper and reusable plastic grocery bags distributed at point of sale. SB 270 currently requires a 10 cent minimum charge per bag. A higher fee may allow for improved quality of reusable grocery bags. In addition, a higher fee may more effectively motivate consumers to increase reuse of bags and avoid the fee.

Expand Minimum Content Requirements to Local Ordinances

Local ordinances adopted prior to the passage of SB 270 are not subject to the minimum postconsumer recycled content requirements of SB 270. Specifically, SB 270 requires that reusable grocery bags consist of 20 percent minimum recycled content, with this standard rising to 40 percent beginning January 1, 2020.

CalRecycle recommends the Legislature consider expanding the minimum recycled content standards to reusable grocery bags made from plastic film sold in stores under local ordinances. This would result in additional demand for recycled plastic film feedstock and reinforce the plastic film recycling market.

Other Recommendations

CalRecycle has identified four statutory changes to assist in implementing the program. These statutory changes include fixing a typo, clarifying a specified term, narrowly limiting reusable grocery bag certification requirements, and limiting fabric weight requirements.

Analysis and Recommendations

Statutory Revisions Needed to Clarify Current Provisions

While SB 270 implementation is still relatively new, it is already apparent that statutory changes would improve the program. Challenges in interpreting specific sections of the law and potential solutions to address these challenges are described below. The following recommendations require changes in statute and cannot be addressed through the rulemaking process.

1. Clarify the Definition of “Store”

It is not clear if the Legislature intended the single-use bag ban to apply only to grocery, liquor, and convenience stores, or whether the intent was to apply the requirements of SB 270 to a broader universe of stores. Specifically, it is not clear whether the definition applies to stores that sell primarily clothing, sporting goods, bait and tackle, automotive parts, and home improvement supplies, and also sell a limited supply of beverages and snacks.

Per Public Resources Code (PRC) Section 42280(g):

“Store” means a retail establishment that meets any of the following requirements:

- (1) A full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000) or more that sells a line of dry groceries, canned goods, or nonfood items, and some perishable items.*
- (2) Has at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.*
- (3) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.*
- (4) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of goods intended to be consumed off the premises, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.*

As currently defined in statute, a “store” under SB 270 can be interpreted to mean a large variety of retailers. There are approximately 26,000 grocery, liquor, and convenience stores statewide that clearly fall under the definition of store for SB 270.

There are an additional 14,000 clothing, hardware, and sporting goods stores that may sell a limited supply of snacks and beverages. ¹

Subsection 1 of the SB 270 definition of “store” appears to be a modified definition of “supermarket” from the Beverage Container Recycling and Litter Reduction Act of 1986 (as amended in 1989). However, the definition of “store” in SB 270 includes both the words “retail establishment” and “retail store” and does not include the word “supermarket,” which has been a source of confusion for retailers attempting to determine whether they are subject to the single-use bag ban.

For comparison, the statutory definition of “store” used in the At-Store Recycling Program and the statutory definition of “supermarket” from the Beverage Container Recycling Program are provided below:

At-Store Recycling Program – “Store” – PRC Section 42250(e):

“Store” means a retail establishment that provides plastic carryout bags to its customers as a result of the sale of a product and that meets either of the following requirements:

- (1) Meet the definition of a “supermarket” as found in Section 14526.5.*
- (2) Has over 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.*

Beverage Container Recycling Program – “Supermarket” – PRC Section 14526.5:

“Supermarket” means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items. For purposes of determining which dealers are supermarkets, the Department shall use the annual updates of the Progressive Grocer Marketing Guidebook and any computer printouts developed in conjunction with the guidebook

Grocery stores are the predominant type of retail establishment captured under both the At-Store Recycling and Beverage Container Recycling Programs. Unlike the definitions above, the existing definition of “store” under SB 270 allows for a broader interpretation encompassing a variety of nongrocery retailers.

¹ Data was collected from the Employment Development Department’s quarterly census using the North American Industry Classification System (NAICS).
<http://www.labormarketinfo.edd.ca.gov/qcew/qcew-select.asp>

Recommendation: CalRecycle recommends clarifying the universe of stores subject to the requirements of SB 270. If the intent of the Legislature was for PRC 42280 (g)(1) to apply the ban only to stores selling primarily groceries, CalRecycle recommends that the definition be modified to include the term “supermarket” as follows:

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

However, if the intent of the Legislature was for the law to apply to a larger universe of retail stores (e.g. hardware, sporting goods, and department stores), the statute should be further clarified by expanding the definition of “store” to include “retail establishments,” similar to that used by many city and county ordinances as follows:

“Retail Establishment” means any commercial establishment that sells perishable or nonperishable goods including, but not limited to, clothing, food, and personal items directly to the Customer. Retail Establishment does not include public eating establishments.

2. Clarify How Collection of Reusable Grocery Bags Made from Plastic Film for Recycling Intersects with the At-Store Recycling Program

Due to ambiguities between SB 270 and the At-Store Recycling Program, it is not clear whether stores selling only reusable bags made from plastic film (pursuant to SB 270) must continue to collect those bags at the store (pursuant to the At-Store Recycling Program).

The At-Store Recycling Program predates SB 270. It requires stores to have a plastic bag collection bin if the store provides “plastic carryout bags.” It also requires stores to offer “reusable bags” for sale in lieu of plastic carryout bags. This statute could be interpreted to imply that reusable plastic bags are not considered plastic carry out bags, and therefore reusable plastic bags are not required to be collected at a store under the program.

Since SB 270 no longer allows stores to offer single-use plastic bags and requires stores to limit plastic bags to those that are reusable, some stores have inferred that they do not need to offer collection bins for reusable plastic bags.

However, SB 270 also specifically requires that reusable plastic bags be accepted for return at stores subject to the At-Store Recycling Program (PRC 42281(b)(1)(C)). This implies that the Legislature intended for stores to continue to offer collection bins under the At-Store Recycling Program for the collection of reusable plastic bags.

In order to ensure the collection of reusable grocery bags made from plastic film will continue and to ensure compliance requirements are clear, these ambiguities must be addressed.

Recommendation: If it is the intent of the Legislature that stores subject to SB 270 participate in the At-Store Recycling Program, then one of the following statutory changes should be made (1) revise the At-Store Recycling Program to include the collection of reusable grocery bags made from plastic film, or (2) allow the At-Store Recycling Program to sunset on January 1, 2020 and add a requirement for stores subject to SB 270 to take back reusable grocery bags made from plastic film.

3. Clarify the Term “Recyclable in this State”

SB 270 requires reusable grocery bags made from plastic film to be recyclable consistent with requirements in the Code of Federal Regulations (CFR) Section 260.12(a) of Part 260 of Title 16) (PRC Section 42281(a)(6)). SB 270 further requires reusable grocery bags made from plastic film to be “recyclable in the state” (PRC Section 42281(b)(1)).

While reference to the CFR provides some guidance regarding which bags can be labeled recyclable, it is not clear what specific requirements plastic bags must satisfy for the purposes of determining whether the bags are “recyclable in this state.”

Section 260.12(a) of Part 260 of Title 16 of the CFR

It is deceptive to misrepresent, directly or by implication, that a product or package is recyclable. A product or package should not be marketed as recyclable unless it can be collected, separated, or otherwise recovered from the waste stream through an established recycling program for reuse or use in manufacturing or assembling another item.

While bags may be collected, separated, and included in a recycling program in some areas of California, it is not clear that bags are being collected in all areas. As discussed previously, it is not clear whether SB 270 requires stores to collect postconsumer reusable grocery bags made from plastic film. Further, while some jurisdictions in California may allow residents to place reusable grocery bags made from plastic film in curbside bins, many jurisdictions prohibit their inclusion due to tighter restrictions on recycled plastic bales and contamination issues.

Similarly, it is not clear whether collected bags are being used in the manufacturing of another item. SB 270 includes two provisions that enhance long-term viable end markets for recycled plastic film grocery bags. SB 270 requires the distribution of higher quality reusable plastic film grocery bags and prescribes minimum postconsumer recycled material requirements for plastic film grocery bags. However, these two provisions may not, on their own, create a market demand strong enough to ensure bags in California are used in the manufacturing of new products.

Additionally, global plastic markets, which historically have been the primary market for plastic film scrap, are significantly challenged by recent restrictive policies. For instance, China’s implementation of its National Sword policy severely restricts contamination

levels in plastic bales, limiting this market. While over time there may be increased investment in recycling infrastructure for plastic film in California, currently there are fewer markets for recycling plastic film.

Thus, it is not clear whether these bags meet the requirements to be labeled recyclable under CFR Section 260.12(a) of Part 260 of Title 16, including meeting requirements for being collected, sorted, or otherwise recovered from the waste stream, and whether once collected these bags are used for manufacturing other products.

Additionally, it is not clear if the Legislature intended to require that all steps in the recycling process, including remanufacturing of products, occur in California in order for reusable grocery bags made from plastic film to be considered recyclable in the state. At present, there are limited recycling facilities located in the state accepting postconsumer plastic film products.

Recommendation: The Legislature may wish to clarify its intent and provide guidance to enforcement entities, CalRecycle, and stakeholders that will enable them to determine whether a reusable grocery bag made from plastic film is “recyclable in this state.”

4. Clarify the Number of Bags a Women, Infant, and Children Program (WIC Program) Customer may Receive at No Charge

SB 270 included a provision specifying that a customer paying via the Women, Infants, and Children (WIC) Program or with an electronic benefit transfer (EBT) card must be provided a reusable grocery bag at no charge. Some stores have narrowly interpreted the law as requiring stores to offer a single bag at no charge to such customers. While other stores have interpreted the law to exempt WIC and EBT-paying customers from incurring a fee for any number of bags.

Per PRC Section 42283(d):

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

Different interpretations of this language imply a need for additional clarification. The Attorney General’s Office released an information sheet on March 8, 2018 stating that stores must provide more than one free reusable grocery bag or recycled paper bag to

customers paying for their items with EBT cards or WIC cards or vouchers.² Statutory language codifying the Attorney General Office’s interpretation would eliminate any remaining ambiguity.

Recommendation: CalRecycle recommends revising the language in PRC Section 42283(d) to clarify the number of reusable bags that must be offered to WIC and EBT-paying customers at no charge.

Future Policy Options to Enhance the Program

In addition to statutory revisions needed to assist in clarifying SB 270, CalRecycle identified policy options that could be considered if additional actions are needed to improve the management of reusable grocery bags in the state.

1. Establish Enforceable Reporting Requirements for Stores

SB 270 did not include reporting requirements for stores subject to the law. Without reporting requirements, information is not available to determine whether consumer fees are being appropriately expended or to analyze the impact of the program.

Mandated reporting would provide transparency and allow the public to determine whether stores are properly spending bag fees collected from consumers, in accordance with the following allowable cost criteria established by SB 270 (PRC Section 42283.7):

- a) *Costs associated with compliance*
- b) *Actual costs of providing recycled paper bags or reusable grocery bags*
- c) *Costs associated with a store’s educational materials or educational campaign encouraging the use of reusable grocery bags.*

Many city and county grocery bag ordinances include recordkeeping and reporting requirements for stores, including Los Angeles City and County, Alameda County, Santa Clara County, Monterey City and County, San Mateo County, and Sacramento City and County. Stores subject to these local ordinances have demonstrated an ability to report the information required to assess the program’s implementation, management, and success.

Reporting of bag usage data would also help CalRecycle evaluate trends in consumer behavior and estimate volumes of bags distributed in California. Data collected by CalRecycle, in a one-time limited survey, indicate there has been a reduction in the number of plastic and paper bags distributed by stores (see Appendix B). Large grocery stores and retail stores with pharmacies also reported that a significant percentage of consumers did not purchase a bag. This limited information may suggest that consumers are reusing grocery bags or opting to carry out items without a bag. More

² <https://oag.ca.gov/sites/all/files/agweb/pdfs/consumers/bag-ban-english.pdf>

robust information on bag sales and use in the state would inform future discussions on the impact of the SB 270 program and whether additional policies are warranted.

Recommendation: Establish enforceable annual reporting requirements for stores for the following information:

1. Number of recycled paper bags and reusable grocery bags sold
2. Number of transactions where customers have and have not purchased bags at the point of sale
3. Number of free recycled paper bags and reusable grocery bags provided to WIC or EBT-paying customers
4. Total amount of monies collected for providing recycled paper bags and reusable grocery bags and how the money was used
5. Summary of efforts undertaken to promote the use of reusable grocery bags by customers

2. Increase Bag Fee to Further Incentivize Reuse of Reusable Grocery Bags

Although the law permits stores to charge a higher fee, a majority of stores charge the minimum 10-cent fee per reusable bag. CalRecycle reviewed ordinances from cities and counties in California that are not subject to SB 270, and found that several had increased or set reusable grocery bag and recycled paper bag fees at 25 cents. Examples of such jurisdictions include San Mateo County, Gonzales, and Mountain View.

Charging consumers a higher fee can provide multiple benefits. If a reusable grocery bag costs more, a customer is more likely to reuse it in order to save money and bag producers will have more incentive to increase the durability of the bag. In addition, a portion of the higher bag fee could be used to fund the development of test methods that accurately verify recycled content amounts in plastic film products or as reimbursements to further incentivize in-state production of reusable grocery bags made with postconsumer recycled material content diverted from California landfills.

Recommendation: Consider increasing the fee for reusable grocery bags made from plastic film after 2021, if the Legislature determines it is necessary to further promote and incentivize reuse. CalRecycle recommends dedicating a portion of the revenue generated from a fee increase to research on methods to validate postconsumer recycled material claims and for programs to improve California's recycling and manufacturing infrastructure.

3. Apply Consistent Recycled Content Requirements to Reusable Grocery Bags made from Plastic Film Sold in Stores Under Local Ordinances

SB 270 includes a 20 percent recycled content requirement for reusable bags, and a 40 percent recycled content requirement beginning January 1, 2020. Stores that were

subject to a local ordinance banning the distribution of single-use bags, prior to January 1, 2015, were exempted from the requirements of SB 270. Of the approximately 150 local ordinances exempted from SB 270, CalRecycle is not aware of any that include a minimum recycled content requirement for plastic film bags. Expanding the recycled content requirement to reusable grocery bags sold by stores that are exempt from SB 270 would create additional demand for recycled plastic film feedstock and could further support the economic viability of plastic film recycling.

Following the 2020 enactment of the minimum 40 percent recycled content requirement for reusable grocery bags made from plastic film, CalRecycle will be able to evaluate whether there is a sufficient supply of recycled plastic film feedstock available for manufacturing reusable plastic bags.

Recommendation: After 2020, the status of the global plastic film market can be assessed and policymakers could consider extending the minimum recycled content requirements to reusable grocery bags made from plastic film sold in stores under local ordinances that are currently exempt from SB 270.

Other Recommendations

In addition to the recommendations listed above, CalRecycle identified the following sections that would benefit from clarification in statute:

- Correct a typo in PRC 42282(c), amending the reference from 44281 to 42281
- Clarify that the term “appropriate washing” in PRC 42281.5(d) does not narrowly refer to washing with water and does include the dry wash method and any other state of the art method used by recycling facilities
- Limit the certification requirements to reusable grocery bags made from plastic film and nonwoven polypropylene since these bags are not as durable as their woven fabric counterparts
- Limit the fabric weight requirement in PRC 42281(c)(3) to nonwoven polypropylene because fabric weight varies depending on material type. A requirement for durability of fabric bags is already included in PRC 42281(c)(2)

Early Implementation (2016-2017)

CalRecycle began early implementation activities for SB 270 in mid-2016 by developing the Reusable Grocery Bag Reporting System, fielding stakeholder inquiries, collecting bag usage data, and initiating rulemaking activities.

Reusable Grocery Bag Reporting System (RGBRS) Certification Database

The Reusable Grocery Bag Reporting System (RGBRS) is the online database CalRecycle developed for reusable grocery bag producers to submit reusable grocery bag proof of certification documentation online. The database went live and was available to reusable grocery bag producers to submit certifications on November 9, 2016, the day the law went into effect. To date, 51 reusable grocery bag producers have submitted certification documents for 152 reusable grocery bags (119 reusable plastic film and 33 grocery bags made from another material). A List of Certified Reusable Grocery Bags and Producers is posted on CalRecycle’s public website.

Public and Stakeholder Inquiries

In its first year of implementation, CalRecycle received more than 400 unique communications regarding bag certification requirements, statutory definitions, and enforcement of SB 270. Communications were sorted into 10 topical categories and the distribution of questions received is presented in Figure 1.

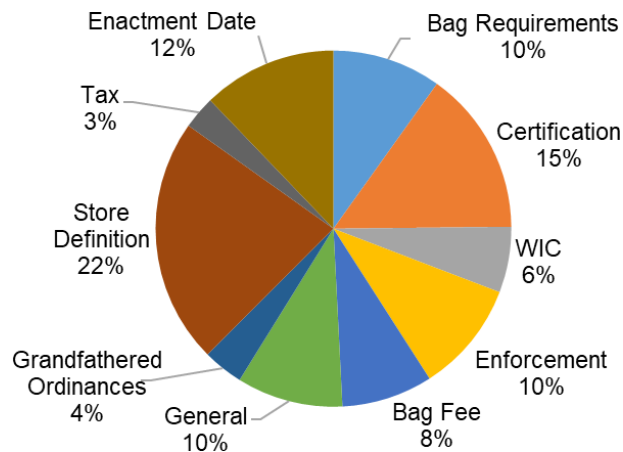


Figure 1. Distribution of SB 270-related public inquiries.

A large number of inquiries were received regarding topics that fall beyond CalRecycle’s statutory authority to interpret, including the definition of “store,” requirements for jurisdictions under grandfathered ordinances, the number of bags that must be provided to WIC and EBT-paying customers, taxation of bags, and how verification of postconsumer recycled material requirements will be evaluated and enforced.

CalRecycle collaborated with the Attorney General's Office to develop a set of frequently asked questions to provide responses to stakeholder inquiries.³ However, neither CalRecycle nor the Attorney General's Office are able to provide legal advice to reusable grocery bag producers or retailers attempting to ensure they are in compliance, which has been a source of frustration for producers and retailers.

Through the rulemaking process (see page 18 for details), CalRecycle intends to develop a certification fee schedule, clarify administrative procedures for submitting proofs of certification, implement a completeness review, and provide guidance on what constitutes an "aesthetic change" and a different "type of reusable grocery bag." Stakeholders may bring up additional issues during the regulatory proceedings that can be clarified by CalRecycle. However, any issues that fall outside of CalRecycle's authority will need to be addressed by the Legislature or through enforcement determinations.

Enforcement Activities

SB 270 assigns enforcement authority to the Attorney General's Office and local governments. In addition, PRC Section 42282(f) outlines a procedure for registering a complaint regarding a reusable grocery bag producers' proof of certification. Any person may file a complaint to challenge proofs of certification directly with a superior court. The court shall determine whether a reusable grocery bag producer is in compliance with the requirements of SB 270 and, based on that determination, the court shall direct CalRecycle to either remove the producer's name from, or retain the producer's name on, the List of Certified Reusable Grocery Bags and Producers. To date, CalRecycle has not received direction to remove a producer from this list.

CalRecycle is aware of two entities that have undertaken efforts related to enforcement. First, in November 2017, Californians Against Waste sent letters to reusable grocery bag producers informing them that they believed their reusable grocery bag(s) were not compliant with the law. Second, in December 2017, the Coalition to Enforce SB 270 filed a complaint with the Los Angeles Superior Court alleging that only five or six reusable grocery bag producers were compliant and that over 40 producers and their bags were noncompliant with the law. In response to these actions, eleven companies removed themselves from the RGBRS database.

Data on Usage of Reusable Grocery Bags and Recycled Paper Bags

As discussed, there are no reporting requirements under SB 270 for stores to provide data to CalRecycle regarding bag usage or bag sales. In lieu of a statutory mandate, Senator Padilla published a letter in the Senate Daily Journal in 2014 stating:

³ See Appendix C for Frequently Asked Questions.

“...I wish to express that the status report compiled by California’s Department of Resources Recycling and Recovery (CalRecycle), as prescribed in Section 2 of Chapter 5.3 in the bill, can and should include data which tracks the use of reusable grocery bags and paper bags after the implementation of this bill. It is also my intent that stores provide data to CalRecycle regarding the number of transactions where customers have and have not purchased bags at the point of sale.”

In response, CalRecycle sent a letter requesting data on bag usage, including the sale of reusable grocery and recycled paper bags, to 64 corporate offices covering 6,565 stores statewide (see Appendix B). Complete or partial responses were received that capture bag usage or transactions data at 3,203 stores, which represents a 49 percent response rate. In addition to the low overall response rate, another limitation of the survey is that it only captured information on the number of transactions with customers purchasing or not purchasing bags from 1,405 stores, or 21 percent of those surveyed. As shown in Figure 2, in 86 percent of transactions customers did not purchase a bag, in 11 percent of transactions customers purchased a reusable grocery bag made from plastic film, and in 3 percent of transactions customers purchased a recycled paper bag.

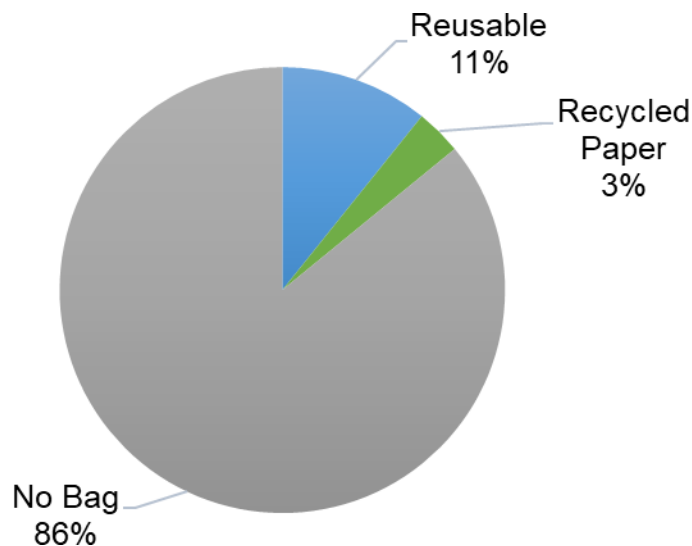


Figure 2. Percentage of customers purchasing or not purchasing bags at the point of sale.

The survey obtained data for 1,500 stores on both the distribution of single-use carryout bags prior to SB 270 and the sale of reusable grocery and recycled paper bags after SB 270 went into effect:

- Over a six-month period of time prior to SB 270 going into effect (January 1 – June 30, 2016), nearly 435 million single-use plastic bags and 116 million paper bags were distributed to customers free of charge.
- Over a six-month period of time after SB 270 went into effect (January 1 – June 30, 2017), 66 million reusable grocery bags and 45 million recycled paper bags were sold to customers.

Six months after SB 270 went into effect there was an 85 percent reduction in the number of plastic bags and a 61 percent reduction in the number of paper bags provided to customers. However, the data includes information on the distribution and sale of bags from stores that are subject to SB 270 and stores that are exempt from SB 270 because they are subject to a local ordinance. While the data indicates there has been a reduction in the number of bags provided by stores to consumers, CalRecycle was not able to determine how much of the reduction is attributable to SB 270 versus local ordinances.

CalRecycle's survey did not request data from stores on reusable grocery bags or recycled paper bags that were provided free of charge to customers using payment cards issued by the California Special Supplemental Food Program or the Welfare and Institutions Code. However, data submitted by one grocery chain revealed that approximately 33 percent of reusable grocery bags it provided to consumers were distributed free of charge.

Bag Litter Cleanup Data

One driving force behind the adoption of local ordinances banning single-use bags has been a desire to reduce litter and marine debris. The Ocean Conservancy hosts the International Coastal Cleanup Day, which provides a source of data on marine debris over a 10-year time period. Prior to implementation of a majority of local bag ban ordinances in California, 8–10 percent of littered items collected in the state were plastic or paper bags. In 2017, after the adoption of approximately 150 local ordinances and SB 270 going into effect, only 3.87 percent of items collected during the Coastal Cleanup Day were plastic or paper bags.⁴ Figure 3 shows the percentage of litter attributed to plastic and paper bags in California and Los Angeles County from 2008 to 2017. Note that the City of Los Angeles adopted a bag ban ordinance in 2013.

⁴ Ocean Conservancy. Trash Information and Data for Education and Solutions. Accessed January 1, 2018. <http://www.coastalcleanupdata.org/>

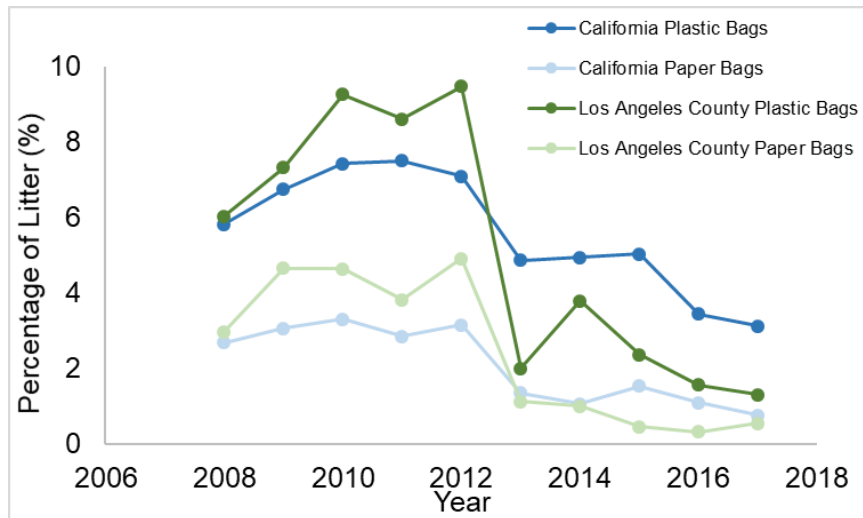


Figure 3. Plastic and paper bags littered in California and Los Angeles County as a percentage of littered items between the years of 2008 to 2017.⁵

⁵ Ocean Conservancy. Trash Information and Data for Education and Solutions. Accessed January 1, 2018. <http://www.coastalcleanupdata.org/>

SB 270 Rulemaking

Regulation Development and Timeline

CalRecycle is undertaking the rulemaking process for SB 270 to:

- Clarify the administrative procedures to submit reusable grocery bag proofs of certification
- Establish a method to calculate the biennial administrative certification fee that reusable grocery bag producers will pay when submitting proofs of certification
- Define terms such as “aesthetic change” and “type of reusable grocery bag”
- Establish procedures for CalRecycle to conduct a completeness review of certification submittals.

Figure 4 contains the anticipated timeline for CalRecycle to complete the rulemaking process.

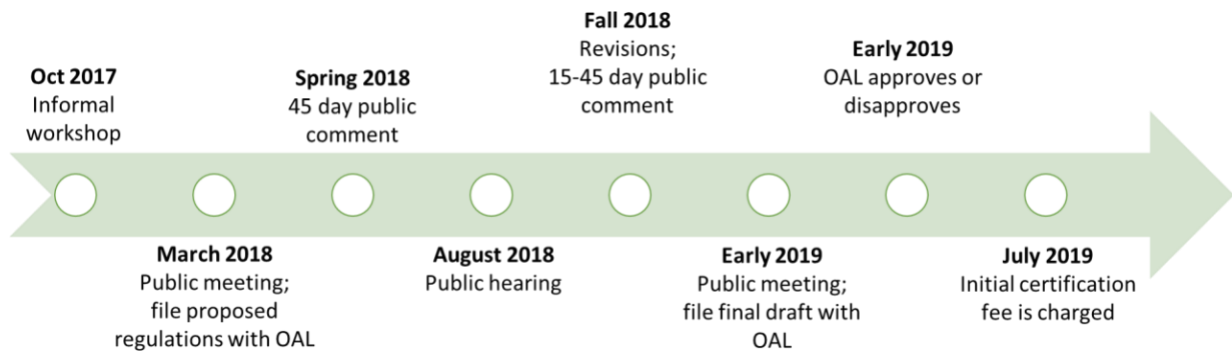


Figure 4. Estimated timeline for SB 270 Rulemaking.

Appendix A: Pathway to and Overview of the Law

The Pathway to SB 270

Between 2007 and 2014, California witnessed a proliferation of cities and counties enacting bag ban ordinances, particularly in highly populated and coastal areas dealing with litter and marine debris problems. For example, in Los Angeles County local and state governments spend tens of millions of dollars each year on litter prevention, cleanup, and enforcement. Los Angeles County estimates that plastic bag litter constitutes as much as 25 percent of its litter stream.^{6, 7} The state's first local bag ordinance was passed by the City and County of San Francisco in 2007. Known as the Checkout Bag Ordinance, it initially applied to all retail establishments and was subsequently expanded to include all food establishments (including pickup and takeout). The ordinance includes a 40 percent postconsumer recycled content requirement for paper bags and fines for violations range from \$100-\$500.

When SB 270 was moving through the legislature in 2014, more than 120 local bag ordinances had been adopted in California. SB 270 shared many similarities with the local ordinances in that it included reusable grocery bag performance and labeling requirements. However, SB 270 is unique in that it contains a \$2 million loan appropriation from the CalRecycle Recycling Market Development Zone Fund for California plastic bag manufacturers to re-tool and re-train their workforce and it includes postconsumer recycled content requirements for reusable grocery bags made from plastic film. Shortly after SB 270 was signed into law, the plastic bag industry qualified a referendum (Proposition 67) for the 2016 General Election which put implementation of SB 270 on hold pending the outcome of the election. The voters passed Proposition 67 and SB 270 went into effect on November 9, 2016.

Local Ordinance Performance and Reporting Requirements

Many of the local ordinances adopted by cities and counties have similar reusable grocery bag performance requirements as those contained in SB 270. However, the major difference between local ordinances and the statewide law is that SB 270 includes a minimum percent of postconsumer recycled material to be used in reusable grocery bags made from plastic film, while the ordinances do not. The similar provisions

⁶ Los Angeles County Municipal Storm Water Permit (Order 01-182) Individual Annual Report Form. Rep. no. NPDES No. CAS 004001. Los Angeles County Department of Public Works, Aug. 2013.

⁷ City of Los Angeles. 18 June 2004. Characterization of Urban Litter. Prepared by: Ad Hoc Committee on Los Angeles River and Watershed Protection Division. Los Angeles, CA.

for reusable grocery bags contained in both SB 270 and most local ordinances include the following requirements:

- Capable of carrying 22 pounds, 125 times, over a distance of at least 175 feet
- Has a minimum volume of 15 liters
- Has a handle
- If made of plastic, has a minimum thickness of 2.25 mils
- Machine washable or is made of a material that can be cleaned or disinfected
- Does not contain lead, cadmium or any other heavy metal in toxic amounts
- Has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer, the location (country) where the bag was manufactured, and a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts

The local bag ordinances that have reporting requirements share many similarities: all require the number of reusable grocery bags and/or recycled paper bags sold to be recorded. The stores are also typically required to keep the records on site for three years and must make the records available for inspection during regular business hours. Additionally, the ordinances in Los Angeles City and County, Sacramento City and County, Pasadena City, and Santa Barbara City require stores to report the amount of money collected from paper bag sales. Several ordinances require stores to provide a summary of efforts the store has taken to promote reusable grocery bag use, although this is not a common requirement. Figure A-1 is a map that shows areas of the state subject to a local ordinance and the areas that are subject to SB 270.

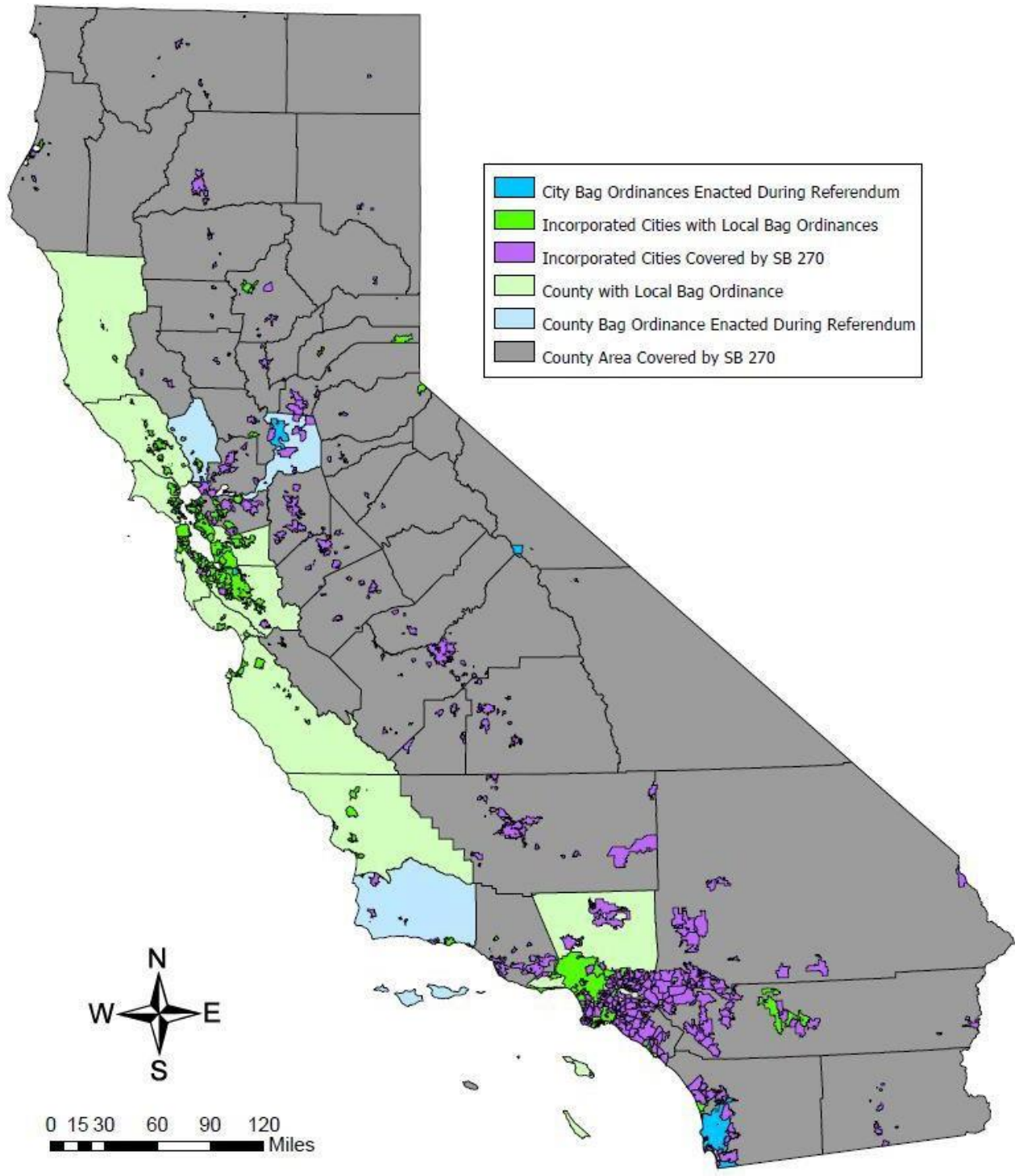


Figure A-1. Map of local ordinances and jurisdictions under SB 270 requirements.

Main Provisions of SB 270

Under SB 270, “stores” as defined are prohibited from distributing or offering for sale single-use plastic carryout bags and must sell reusable grocery bags for a minimum of 10 cents each. A store may only use proceeds from bag sales for specified purposes, including: costs to comply with the law, costs of providing recycled paper and reusable grocery bags, and costs for educational materials or campaigns encouraging use of reusable grocery bags.

Reusable grocery bag producers must submit proofs of certification on a biennial basis to CalRecycle for each type of reusable grocery bag offered for sale. Reusable grocery bags must meet multiple requirements validated by a third-party certification entity. Recycled paper bags must meet several requirements laid out in the statutory definition, including minimum postconsumer recycled content and labeling requirements, and must be accepted for recycling in curbside programs. CalRecycle posts a list on its website of reusable grocery bag producers who have submitted proofs of certification documentation. Stores are not required to report sales of reusable grocery bags or recycled paper bags to CalRecycle.

SB 270 assigns enforcement authority to the Attorney General’s Office and local governments. Pursuant to the law, any person may file a complaint regarding a reusable grocery bag certification directly to a superior court. If the court finds that a certification is deficient, the court must order CalRecycle to remove the reusable grocery bag producer’s name from the list of certified producers posted on its website.

Requirements for Recycled Paper Bags

The three requirements for recycled paper bags are:

- Must contain postconsumer recycled materials (40 percent unless the bag has a capacity of 8 lbs. or less);
- Must be accepted for recycling in curbside programs where accessible; and
- Must have printed on the bag all of the following: the manufacturer’s name, country where the bag was made, and minimum percentage of postconsumer content printed on the bag.

Recycled paper bag manufacturers are not required to provide proof of certification to CalRecycle to validate recycled content claims or to confirm labeling requirements have been met.

Proof of Certification Requirements for Reusable Grocery Bags

SB 270 requires reusable grocery bag producers (defined as manufacturers and distributors) to provide CalRecycle with proof of certification, under penalty of perjury, for each type of reusable grocery bag it sells or distributes in the state. The proof of certification must be conducted by a third-party certification entity, which is further

defined in statute to mean an International Organization for Standardization or International Electrotechnical Commission (ISO/IEC) 17025 certified laboratory. In addition, a reusable grocery bag producer must biennially submit a fee to CalRecycle with its certification documents and provide certification for reusable grocery bags that undergo non-aesthetic changes.

Requirements for Specific Types of Bags

Performance and Recycled Content Requirements for Plastic Film Bags

SB 270 includes multiple performance, content, and labeling requirements for reusable grocery bags made from plastic film (e.g. high-density and low-density polyethylene).

In accordance with the PRC, a reusable grocery bag made from plastic film must meet all of the following requirements (Sections 42281 and 42281.5 of the PRC):

Performance and Labeling Requirements

- Has a handle
- Is designed for at least 125 uses
- Has a volume capacity of at least 15 liters
- Is capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses
- Is at least 2.25 mils thick measured according to the American Society of Testing and Materials Standard D6988-13
- Is machine washable or made from a material that can be cleaned and disinfected
- Has printed on the bag, or on a tag attached to the bag that is not intended to be removed, and in a manner visible to the consumer, all of the following information:
 - The name of the manufacturer
 - The country where the bag was manufactured
 - A statement that the bag is a reusable bag and designed for at least 125 uses
 - Instructions for recycling
- Does not contain lead, cadmium, or any other toxic material that may pose a threat to public health
- Is recyclable in the state and accepted for return at stores subject to the At-Store Recycling Program (Section 42250 of the PRC)
- Complies with Section 260.12 of Part 260 of Title 16 of the Code of Federal Regulations related to recyclable claims

Recycled Content Requirements

- Is made from a minimum of 20 percent postconsumer recycled material after January 1, 2016
- Is made from a minimum of 40 percent postconsumer recycled material after January 1, 2020
- A statement that the bag is made partly or wholly from postconsumer recycled material and the percentage of postconsumer recycled material content;
- Has postconsumer recycled material content information, including:
 - Names, locations, and contact information of all sources of postconsumer recycled material and suppliers of postconsumer recycled material
 - Quantity and dates of postconsumer recycled material purchases by the reusable grocery bag producer
 - How the postconsumer recycled material is obtained
 - Information demonstrating that the postconsumer recycled material is cleaned using appropriate washing equipment

Requirements for Other Reusable Grocery Bags (Woven, Nonwoven, Tyvek)

Reusable grocery bags in this category type include natural or synthetic fabric, woven or nonwoven nylon, polypropylene, polyethylene terephthalate, or Tyvek. These bags must submit proof of certification to CalRecycle and meet the following requirements:

- Shall be sewn
- Capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses
- Must have a minimum fabric weight of 80 grams per square meter.

Requirements for Compostable Bags

The law provides that compostable plastic film bags may be distributed by stores if the bag meets the American Society of Testing and Materials (ASTM) International Standard D6400 (as updated) and is labeled in accordance with applicable state law. The most recent version of ASTM D6400—*Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal and Industrial Facilities*—was updated in 2012. ASTM D6400 specifies the disintegration and biodegradation performance requirements for labeling compostable plastic products, which must be demonstrated per the protocols published in ASTM Test Method D5338. The standard specifically requires that a compostable plastic test specimen demonstrate 90 percent biodegradation (conversion to carbon dioxide) after 180 days and stipulates that disintegration is satisfactory if there are neither readily distinguishable pieces of plastic in the final compost product nor significant amounts of the plastic test specimen observed during screening. ASTM D6400 further requires that plant growth is not

inhibited and there can be no release of regulated metals or hazardous substances during decomposition of the plastic material. No reusable grocery bag producers have submitted certification documents for a compostable bag.

Exemptions

Single-use carryout bags do not include:

- Bags provided by a pharmacy to a customer purchasing a prescription medication
- A bag containing an unwrapped food item
- A bag without a handle used to protect a purchased item that is placed in a reusable grocery bag
- A bag designed to be placed over clothing on a hanger.

Grandfather Preemption—Bag Ordinances

SB 270 included a grandfather clause in order to allow cities and counties to continue managing and enforcing the requirements established by adoption of local bag ordinances, provided that future amendments to the ordinances were limited to increasing the amount a store could charge for bags. Specifically, the law states:

PRC Section 42287(c) (1) A city, county, or other local public agency that has adopted, before September 1, 2014, an ordinance, resolution, regulation, or rule relating to reusable grocery bags, single-use carryout bags, or recycled paper bags may continue to enforce and implement that ordinance, resolution, regulation, or rule that was in effect before that date.

Penalty

A civil liability and fine may be imposed by a city, county, or the state for knowingly violating the law as follows: first violation \$1,000 per day, second violation \$2,000 per day, and \$5,000 per day for the third and subsequent violations.

Appendix B: Bag Usage Data

This appendix contains a copy of the letter CalRecycle sent to stores requesting data on the distribution of single-use bags to consumers prior to SB 270 and data on the sales of reusable and recycled paper bags after SB 270 went into effect. A copy of the survey questions sent to stores, a list of the stores surveyed, and the aggregated data obtained is also included.

Bag Usage Data Request Letter

October 5, 2017

To whom this may concern,

The California Department of Resources Recycling and Recovery (CalRecycle or the Department) is currently implementing its statutory responsibilities following the enactment of SB 270 (Padilla, 2014, codified at PRC Sections 42280 – 42288), which was upheld by the passage of Proposition 67 in November 2016. As part of its responsibilities, the Department is required to provide the California State Legislature with a status report on its activities and the impacts of the ban on single-use carryout bags by March 1, 2018.

Senator Padilla, author of SB 270, specifically requested CalRecycle include in its report to the Legislature “data which tracks the use of reusable grocery bags and paper bags after the implementation of the bill” and to include data from stores “regarding the number of transactions where customers have and have not purchased bags at the point of sale”.⁸

To fulfill this request, CalRecycle is requesting the following information by **November 30, 2017**. The attached survey requests the following information:

- Total number of *single-use plastic carryout bags* provided to customers free of charge at point of sale from January 1, 2016 through June 30, 2016
- Total number of *paper bags* provided to customers free of charge at point of sale from January 1, 2016 through June 30, 2016
- The total number of *recycled paper bags* sold to customers from January 1, 2017 through June 30, 2017
- The total number of *reusable plastic bags* sold to customers from January 1, 2017 through June 30, 2017
- Total number of transactions that customers *did not purchase reusable grocery bags*, from January 1, 2017 through June 30, 2017

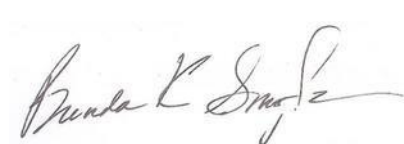
⁸ See the Senate Daily Journal, page 3: <ftp://www.leginfo.ca.gov/pub/senate-journal/sen-journal-0x-20140830-5017.PDF>

Please use the attached survey to respond, and send data to:
SB270@CalRecycle.ca.gov

Thank you for your timely attention to this request. CalRecycle understands that this information may be considered confidential and thus will report aggregated, non-store specific data, although it may publish the names of stores that did and did not respond to this request for information. If you consider any of the data provided via this request confidential, proprietary, or a trade secret, please clearly identify the specific data to which one or more of these protections applies and describe in detail why the data is confidential, proprietary, or a trade secret. If you do not identify data as such, CalRecycle may conduct its own review to determine confidentiality but may also treat all data as public information.

If you have any questions or need assistance, please contact Paulina Kolic at (916) 341-6258 or SB270@CalRecycle.ca.gov. You may also be interested in the upcoming workshop on October 25 regarding SB 270 Reusable Grocery Bag Certification Regulations; information on this can be found at <http://www.calrecycle.ca.gov/Laws/Rulemaking/GroceryBags/default.htm>.

Sincerely,



Brenda K. Smyth
Branch Chief
Statewide Technical and Analytical Resources Branch
California Department of Resources Recycling and Recovery (CalRecycle)

cc: California Grocers Association
California Retailers Association

CalRecycle Grocery Bag Survey

Instructions: Please indicate the corresponding number of bags in the boxes below. One value can be used for all California affiliated stores. Please indicate which store chains are included in the count.

CalRecycle understands that this information may be considered confidential and thus will report aggregated, non-store specific data. If you consider any of the data provided via this request confidential, proprietary, or a trade secret, please clearly identify the specific data to which one or more of these protections applies and describe in detail why the data is confidential, proprietary, or a trade secret. If you do not identify data as such, CalRecycle may conduct its own review to determine confidentiality but may also treat all data as public information

Please return to CalRecycle by November 30, 2017.

		Jan. 1 - Jun. 30, 2016	Jan. 1 - Jun. 30, 2017
Number of single-use carryout bags provided to customers	Plastic		
	Paper		
Number of reusable plastic bags sold			
Number of recycled paper bags sold			
Number of transactions with customers purchasing reusable plastic bags			
Number of transactions with customers purchasing recycled paper bags			
Number of transactions with customers NOT purchasing reusable or paper bags			

Number of stores included: _____

Names of stores included in above data:

- 1 _____
- 2 _____
- 3 _____
- 4 _____
- 5 _____
- 6 _____
- 7 _____
- 8 _____
- 9 _____
- 10 _____

Please email your completed form to
 SB270@CalRecycle.ca.gov.
 For questions, please contact
 Paulina Kolic at (916) 341-6258.

List of Corporate Offices that Received a Data Request

1. Albertsons*
2. Aldi Food Store*
3. Bristol Farms Market*
4. Costco Wholesale*
5. CVS Corporation*
6. El Super*
7. Gelson's Market*
8. Holiday Market and Sav Mor*
9. Kroger*
10. Lion Market*
11. Northgate Gonzalez Market*
12. Raley's*
13. Rite Aid Corporation*
14. Seafood City Supermarket*
15. Stater Bros Markets*
16. Super A Food Market*
17. Super King Market*
18. The Save Mart Companies*
19. Trader Joe's Market*
20. United Market*
21. Vallarta Supermarket*
22. Winco Foods*
23. 99 Cents Only Stores
24. 99 Ranch Market
25. Arteagas Food Center
26. Barons Market
27. Big Lots!, Inc.
28. Big Saver Foods
29. Buy Low Market
30. California Super Market
31. Cardenas Market
32. Chavez Supermarket
33. Cost Less Market
34. Dollar General Corporation
35. Dollar Tree, Inc.
36. El Sol Market
37. Grocery Outlet
38. H Mart
39. Island Pacific Supermarket
40. Jensen's Finest Foods
41. Jimbo's Naturally
42. JONS Marketplace
43. La Perla Tapatía
44. La Superior Supermercado
45. Lunardi's Super Market
46. Marukai Market
47. Mar-Val Food Store
48. Mi Pueblo Food Center
49. Mitsuwa Marketplace
50. Mollie Stones Market
51. Mother's Market & Kitchen
52. New Leaf Community Market
53. Nugget Market
54. Numero Uno Market
55. R N Market
56. Rio Ranch Market
57. Sam's Club
58. Smart & Final
59. Sprouts Farmers Market
60. Superior Grocers
61. Target
62. Walgreens
63. Walmart
64. Whole Foods Market

*Indicates data were provided

Bag Usage Survey Data

The purpose of CalRecycle’s data collection efforts was to compare distribution rates for single-use carryout bags with sales rates for reusable grocery bags and recycled paper bags, and to identify the amount of transactions with customers purchasing or not purchasing bags after SB 270 went into effect. As shown in Table B-1, CalRecycle was able to obtain data for 1,500 stores on the distribution of single-use carryout bags prior to SB 270 and the sale of reusable grocery and recycled paper bags after SB 270 went into effect.

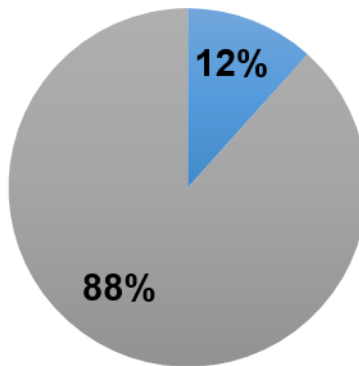
Table B-1. Total number and mass of single-use plastic and paper bags distributed from January 1 to June 30, 2016, and the sale of reusable plastic bags and recycled paper bags from January 1 to June 30, 2017.^{9,10}

Description	Voluntarily Reported Number of bags (millions)	Estimated Mass (grams)	Estimated Total mass (tons)
Bags Distributed Prior to SB 270: Jan 1-Jun 30, 2016 Single-use bags	435	7	3,081
Bags Distributed Prior to SB 270: Jan 1-Jun 30, 2016 Paper bags	116	52	6,044
Bags Sold After SB 270 Went into Effect: Jan 1-Jun 30, 2017 Reusable plastic bags	66	24	1,601
Bags Sold After SB 270 Went into Effect: Jan 1-Jun 30, 2017 Recycled paper bags	45	52	2,358

As shown in Figure B-1, CalRecycle obtained data for 2,293 stores on the number of transactions with customers purchasing or not purchasing bags.

⁹ Greene, J. "Life Cycle Assessment of Reusable and Single-use Plastic Bags in California", California State University Chico Research Foundation. January 2011.

¹⁰ The mass of a reusable bag was determined by taking the average mass of eight different types of reusable grocery bags that are provided at the point of sale.

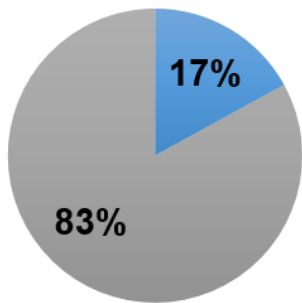


■ Reusable or Recycled Paper
 ■ No Bag

Figure B-1. Percentage of customers purchasing or not purchasing bags at the point of sale (number of stores = 2,293).

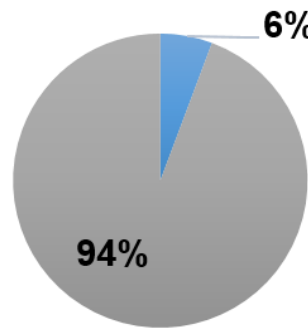
As shown in Figure B-2, the survey data revealed that the percentage of transactions with no bags purchased was significantly higher in pharmacy-type stores than in grocery stores.

Grocery Stores



■ Reusable or Recycled Paper
 ■ No Bag

Pharmacy-type Stores



■ Reusable or Recycled Paper
 ■ No Bag

Figure B-2. Percentage of customers purchasing or not purchasing bags at the point of sale for grocery stores (left) and pharmacy-type stores (right).

Appendix C: Frequently Asked Questions

These Frequently Asked Questions were prepared jointly by the Attorney General's Office and CalRecycle and have been posted on CalRecycle's website to assist stakeholders in understanding the law:

The information in these FAQs is provided as a courtesy only; please refer to the statute for the full requirements of the law.

1. Questions About Stores and Charges for Grocery Bags

What are the basic requirements of California's ban on single-use carryout bags?

The single-use carryout bag ban has many requirements and some exceptions. In general, the law prohibits most grocery stores, large retail stores with a pharmacy, and convenience stores that sell food and that hold a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control from providing their customers with bags designed for a single-use only, unless the bags are made with recycled paper. Instead, stores must provide customers with reusable grocery bags or with recycled paper bags and must charge at least 10 cents for each bag.

When does the single-use carryout bag ban take effect?

The law is in effect now. The law's effective dates of July 1, 2015 and July 1, 2016 were temporarily suspended when the single-use carryout bag ban was put on the November 2016 ballot as Proposition 67. Once Proposition 67 passed, the law went into effect as originally written.

What types of stores are subject to the single-use carryout bag ban?

The types of stores to which the bag ban applies can be found at [Section 42280\(g\)](#) of the Public Resources Code (PRC), which defines "Store" for purposes of the bag ban. Generally speaking, the bag ban covers:

- 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 that have at least 10,000 square feet of retail space and that generate sales or use tax.
- Convenience stores, food marts, or liquor stores that are 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.

If you are uncertain whether a particular business meets the definition of “store” after reviewing PRC Section 42280(g), we recommend that you consult an attorney.

What kind of bags does the single-use carryout bag ban prohibit?

Although the law often is described as a “plastic bag ban,” it does not prohibit the distribution of all plastic bags. Rather, unless an exception applies, the ban applies to “single-use carryout bags.” Single-use carryout bags are defined as any bag made out of plastic, paper, or other material, unless the bag is made out of recycled paper or certified as a reusable grocery bag. In general, covered stores may not distribute any bag that is **not** a certified reusable grocery bag or recycled paper bag at a point of sale.

Are there any exceptions to the requirement that stores subject to the single-use carryout bag ban sell only reusable grocery bags or recycled paper bags?

Yes. Examples include bags used by pharmacies for prescriptions, bags without handles used to protect a purchased item from damage or contamination, and bags used to contain unwrapped food items like bulk foods are not banned. In addition, bags without handles that are designed to be placed over articles of clothing on a hanger, such as dry cleaning bags, are not banned by the new law.

What if a store would like to sell compostable plastic bags?

Under [Section 42283](#) of the statute, stores may sell compostable plastic bags if they are located in a jurisdiction where the majority of residential households have access to curbside collection for composting and where the local government has voted to allow the sale of compostable bags to consumers. These bags must meet the specifications of the American Society of Testing and Materials International Standard Specification for Compostable Plastics D6400. Additionally, any store may sell compostable plastic bags that meet the requirements set out in section 42281 of the statute for compostable reusable plastic bags. Stores must charge at least 10 cents per compostable bag.

How much do stores have to charge for a reusable grocery bag or a recycled paper bag?

Stores must charge at least 10 cents per bag. They may charge more than that, but they cannot charge less. The fee is to ensure that the cost of providing grocery bags is not subsidized by customers who bring their own bags or otherwise do not require bags.

Who keeps the proceeds from the sale of reusable grocery bags and recycled paper bags?

The stores that sell the bags keep the money and must use it to cover the costs of providing the bags, complying with the bag ban, or encouraging the use of reusable grocery bags through educational materials or an educational campaign.

Who can answer questions about the application of tax to bags?

The Board of Equalization can answer tax-related questions about bags. Its toll-free number is 1-800-400-7115. Additional contact information is available on its [website](#).

Can stores require their customers to purchase reusable grocery bags or recycled paper bags?

No. Stores may not require their customers to use, purchase, or accept any kind of bag.

If I am using a WIC payment card or voucher or an EBT card to pay, 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 these payment methods.

Can stores subject to the single-use bag ban sell or distribute ANY grocery bag as long as it is reusable?

No. Stores may only sell or distribute reusable grocery bags made by producers that have been certified by a third-party certification entity to sell reusable grocery bags in California. Additionally, the bags must meet certain requirements to be considered a “reusable grocery bag.” See [this page](#) for information about certification.

2. Questions About Certification of Reusable Grocery Bags and Recycled Paper Bags

Do reusable bags have to be certified?

Yes. All reusable grocery bags must be certified as meeting requirements set out in the [statute](#). The requirements vary based upon the kind of material used to make the bags. In general, a reusable grocery bag must:

- Have a handle and be designed for at least 125 uses;
- Have a volume capacity of at least 15 liters (about 4 gallons);
- Be machine washable or capable of being cleaned and disinfected; and
- Have the manufacturer’s name, country, and a statement that the bag is a reusable bag designed for at least 125 uses printed on the bag or on a tag, as well as recycling instructions if the bag is recyclable.

Additional requirements apply to reusable grocery bags made out of plastic film. For instance, reusable grocery bags made from plastic film must now be made with a minimum of 20 percent postconsumer recycled material (this minimum increases to 40 percent in 2020), must be recyclable, and must be at least 2.25 mils thick. Please see the [statute](#) for full requirements.

How frequently must reusable grocery bags be certified?

Bag producers must resubmit proofs of certifications for reusable grocery bags every two years.

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.

Where should bag producers submit proof of third-party certification of their reusable grocery bags?

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. Stores subject to the ban are responsible for ensuring the bags they sell are properly certified.

Can a person challenge a reusable grocery bag producer's certification?

Yes. 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.

Is there a certification requirement for recycled paper bags?

No, but recycled paper bags still must meet requirements set out in the statute. Specifically, a recycled paper bag must:

- Contain at least 40 percent postconsumer recycled material for bags rated above eight pounds, and at least 20 percent postconsumer recycled material for bags rated at eight pounds or smaller;
- Be accepted for recycling in curbside programs in a majority of households with access to curbside recycling programs in California; and
- Have printed on the bag the name of the manufacturer, country where the bag was manufactured, and the minimum percentage of postconsumer content.

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. CalRecycle cannot provide interpretations of the law or advice about its applicability. If you are unsure if the law applies to you, please consult an attorney.

Will there be a rulemaking process?

Yes. CalRecycle is taking steps to initiate the regulatory process in the first quarter of 2018 to develop a certification fee schedule for bag producers, as required by the law. For more information on rulemaking, please visit the [SB 270 Rulemaking Webpage](#). 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.

3. Questions About Enforcement

Who enforces the single-use carryout bag ban?

Cities, counties, and the State of California enforce the bag ban.

Where can I report violations of the single-use carryout bag ban?

You can report violations to the California Attorney General's Office using its [on-line reporting form](#), or to the local District Attorney, City Attorney, or City Prosecutor's office where the violation occurred.

What are the penalties for violating the single-use carryout bag ban?

A store or producer of reusable grocery bags that violates the law may be fined \$1,000 per day for the first violation, \$2,000 per day for the second violation, and \$5,000 per day for the third and subsequent violations.

What if my city or county has its own bag ban?

Every store in California that is subject to the statewide single-use-carryout bag ban must comply with its requirements, regardless of where the store is located. If the store is located in a city or county that has its own bag ordinance, however, the store may need to comply with the local requirements as well.

A list of cities and counties that have adopted bag ordinances is available at this [page](#). This page may not contain every local jurisdiction in California with an ordinance that restricts or prohibits the use of certain bags. Further, some of the ordinances listed on this page may be preempted by the statewide ban. You should check with your local city or county authority to verify whether your city or county has its own bag ban ordinance that is in effect.

Where can I learn how cities and counties verify that reusable bags meet certification requirements?

Here are a few examples:

- [County of Los Angeles Bag Compliance website](#)
- [City of San Francisco Reusable Bag Requirements](#)

More Questions?

Contact SB270@calrecycle.ca.gov

Complaints: <https://oag.ca.gov/contact/consumer-complaint-against-business-or-compan>