

# **CALIFORNIA RECYCLING AND PLASTIC POLLUTION REDUCTION ACT OF 2020**

## **SEC.1. Title.**

This measure shall be known and may be cited as the “California Recycling and Plastic Pollution Reduction Act of 2020.”

## **SEC.2. Findings and Declarations**

The People of the State of California find and declare all of the following:

- (a) Annual global production of plastic has reached 335 million tons and continues to rise. Global plastic production is projected to more than triple by 2050, accounting for 20 percent of all fossil fuel consumption.
- (b) Without action, projections estimate that by 2050 the mass of plastic pollution in the ocean will exceed the mass of fish. Researchers have found deadly levels of plastic pollution in the guts of birds, sea turtles, and marine mammals, including whales and dolphins.
- (c) Local taxpayers in California annually spend in excess of four hundred twenty million dollars (\$420,000,000) in ongoing efforts to clean up and prevent plastic and other litter from entering our rivers and streams and polluting our beaches and oceans.
- (d) California’s commitment to recycling has created 125,000 jobs and provides the raw materials necessary to support manufacturing businesses.
- (e) As the fifth largest economy in the world and a historic source of innovation, California has a responsibility to lead on solutions to the growing plastic pollution crisis and waste reduction generally.
- (f) Plastics and microplastic elements are increasingly found in streams, rivers and coastal ecosystems degrading habitat conditions for wildlife and contaminating fish, plants and other organisms. Plastic particles have also been found in tap water, bottled water, table salt, and fish and shellfish from local California fish markets.
- (g) Further, businesses selling products into California have a responsibility to minimize waste and ensure their products and packaging are reusable, recyclable, or compostable and do not enter the environment.

## **SEC.3. Purpose and Intent.**

It is the intent of the People of the State of California to do all of the following with this measure:

- (a) Reduce plastic production and pollution and its impacts on the state’s ocean, coastal and freshwater environments and our reliance on fossil fuels.
- (b) Reduce the cost to local governments, ratepayers, and the state to achieve the state’s recycling and composting goals and recycle and compost waste generated in the state.
- (c) Develop long term incentives to support recycling, composting, reuse, and remanufacturing infrastructure.

- (d) Support projects that increase the use of recycled materials in the production of fiber, plastic, and glass products and packaging.
- (e) Recycle food scraps, yard trimmings and other organic waste, recover edible food for human consumption, and increase the production and use of compost to improve the health and climate resilience of soils and food systems.
- (f) Mitigate and abate the impacts of plastic pollution, resource extraction, solid waste disposal, and litter on the state's natural environment and communities.
- (g) Restore and protect streams, rivers, beaches and coastal environments impacted by plastics, microplastics and other toxic materials.
- (h) Support non-profit and educational organizations working to reduce waste.

**SEC. 4. Chapter 3 (Commencing with Section 42040) is added to Part 3 of Division 30 of the Public Resources Code, to read:**

42040 For purposes of this Section, the following definitions apply:

- (a) "California Plastic Pollution Reduction Fee" means the fee imposed pursuant to Section 42042(a)(1).
- (b) "Expanded polystyrene food service container" means a container made primarily of expanded polystyrene and used in the restaurant and food service industry for serving or transporting prepared, ready-to-consume food or beverages, including, but not limited to, plates, cups, bowls, trays, and hinged containers. "Expanded polystyrene food service container" does not include packaging for unprepared foods.
- (c) "Food vendor" means an establishment that provides prepared food for public consumption on or off its premises, and includes, but is not limited to, a store, shop, sales outlet, restaurant, grocery store, supermarket, delicatessen, catering truck or vehicle, any other person who prepares prepared food, and any organization, group, or individual that provides food as part of its services.
- (d) "Packaging" means the material used for the containment, protection, handling, delivery, or presentation of goods by the producer for the user or consumer, ranging from raw materials to processed goods. Packaging includes, but is not limited to, all of the following:
  - (1) Sales packaging or primary packaging intended to constitute a sales unit to the consumer at point of purchase and most closely contains the product, food, or beverage.
  - (2) Grouped packaging or secondary packaging intended to brand or display the product.
  - (3) Transport packaging or tertiary packaging intended to protect the product during transport.
- (e) "Priority single-use products" means single-use food service ware, including plates, bowls, cups, utensils, stirrers, and straws.
- (f) (1) "Producer" means the person who manufactures the plastic packaging or priority single-use products under that person's own name or brand or who sells or offers for sale the product.
  - (2) If there is no person who is the producer of the single-use packaging or priority single-use products for purposes of subparagraph (1), the producer is the person who imports the single-use packaging or priority single-use product as the owner or licensee

of a trademark or brand under which the single-use packaging or priority single-use product is sold or distributed in the state.

(3) If there is no person who is the producer for purposes of subparagraphs (1) and (2), the producer is the person or company that offers for sale, sells, or distributes the single-use packaging or priority single-use product in the state.

(g) “Single-use packaging” means the packaging of a product when the packaging is routinely recycled, disposed of, or discarded after its contents have been used or unpackaged, and typically not refilled by the producer.

42041(a) The California Department of Resources Recycling and Recovery (CalRecycle), in consultation with the California Environmental Protection Agency, the California Natural Resources Agency, and the Ocean Protection Council, shall adopt regulations to require manufacturers, distributors, and retailers of products and packaging sold, or offered for sale, in the State of California to do all of the following:

(1) Require product packaging to be reusable, recyclable, or compostable by 2030. CalRecycle shall, by regulation, define the terms reusable, recyclable, or compostable for purposes of this Section.

(2) Reduce packaging that CalRecycle determines to be unnecessary for the delivery of a product or food item.

(3) Where CalRecycle determines alternatives exist, minimize or eliminate the use of virgin, fossil-fueled derived plastic in the production of products that are routinely disposed of after a single use.

(4) Maximize, where CalRecycle deems appropriate, the use of recycled content in the production of products and packaging.

(5) Establish mechanisms for convenient consumer access to recycling, including but not limited to retailer takeback programs and deposits.

(6) Include labeling and marketing requirements to support the proper sorting of discarded materials at the end of their useful lives.

(7) Prohibit the distribution of an expanded polystyrene food service container by a food vendor.

(8) Require producers to source reduce, by weight and number, single-use plastic packaging and priority single-use plastic products to the maximum extent possible, as CalRecycle deems appropriate.

(b) In the developing the regulations pursuant to (a), CalRecycle shall ensure all of the follow:

(1) By the year 2023, the amount of California-generated waste that is disposed or enters the environment shall be reduced by 20 percent compared to 2020 levels, as determined by CalRecycle.

(2) By the year 2025, the amount of California-generated waste that is disposed or enters the environment shall be reduced by 40 percent compared to 2020 levels, as determined by CalRecycle.

(3) By the year 2030, the amount of California-generated waste that is disposed or enters the environment shall be reduced by 80 percent compared to 2020 levels, as determined by CalRecycle.

(4) Manufacturers, distributors, and retailers of products sold, or offered for sale, in the State of California, shall submit data that CalRecycle deems appropriate to carrying out this chapter and shall be responsible for proving compliance with these mandates

(c) If CalRecycle determines at any point that a product or package cannot comply with this chapter due to health and safety reasons, because it is unsafe to recycle, or presents unique challenges and has no alternatives, the department may exempt that packaging or product from this chapter.

42042(a)(1) CalRecycle shall establish by January 1, 2022, and a producer shall pay, a California Plastic Pollution Reduction Fee, as determined by CalRecycle. Such fee shall not exceed one cent (\$0.01) per plastic product or component of packaging, including plastic-coated paper and paperboard.

(2) When determining the amount by product material type, CalRecycle shall consider, the net cost of recycling of this type of product or packaging, the recycling rate of the this type of product or packaging, the recycled content, and the carbon intensity required to manufacture and distribute this type of product or packaging. CalRecycle may update the amount of the fee regularly.

(3) A producer shall remit the fee assessed pursuant to this subdivision to CalRecycle for deposit into the California Plastic Pollution Reduction Fund, which is hereby created in the State Treasury. The revenue from the fee shall be tracked separately by CalRecycle and shall not be used activities other than those described in this subdivision.

(4) The amount of the California Plastic Pollution Reduction Fee shall be paid by the manufacturer, distributor, or retailer of a product or packaging type and shall not be passed on to consumers as a separate item on a receipt or invoice.

(5) By regulation, CalRecycle shall establish the schedule on which the fee is to be paid by a producer.

(6) By regulation, CalRecycle shall establish administrative penalties for non-compliance with this section.

(7) CalRecycle shall develop, and regularly update, a Plastic Pollution Reduction Fee Investment Plan to use the revenue from the California Plastic Pollution Reduction Fee to do all of the following:

(A) Reduce the cost to local governments and ratepayers to recycle and compost the waste generated in the state and educate residents.

(B) Reduce the cost to the state of achieving its recycling and composting goals.

(C) Develop long term incentives to support mechanical recycling, composting, reuse, and remanufacturing infrastructure.

(D) Support programs and projects that increase the use of recycled materials in the production of fiber, plastic, and glass products and packaging.

(E) Recycle food scraps, yard trimmings and other organic waste, recover edible food for human consumption, and increase the production and use of compost to improve the health and climate resilience of soils and food systems.

(F) Mitigate and abate the impacts of plastic pollution, resource extraction, solid waste disposal, and litter on the state's natural environment and communities.

(G) Support non-profit and educational organizations working to reduce waste.

(H) Dedicate an amount not less than 30 percent of generated revenues to the Department of Fish and Wildlife, the Wildlife Conservation Board, the State Coastal Conservancy, the Ocean Protection Council and California State Parks to restore, recover, and protect coastal ecosystems including streams, rivers, beaches and coastal waters. Funds allocated pursuant to this paragraph shall be used to increase and enhance activities to reduce the impacts of plastics on rivers, streams, beaches and coastal ecosystems and not replace allocation of other funding provided for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife, the Wildlife Conservation Board, the State Coastal Conservancy, the Ocean Protection Council, and California State Parks for these purposes shall not be reduced below the levels provided in the Budget Act of 2019 (Chapter 23 and 55 of the Statutes of 2019).

(8) CalRecycle shall not expend more than 5 percent of the revenue from the California Plastic Pollution Reduction Fee on administrative costs.

#### **SEC.5. Effective Date.**

This Act shall take effect upon approval by the voters of the California Recycling and Plastic Pollution Reduction Act of 2020 as provided in Article II, Sec. 10 of the California Constitution.

#### **SEC. 6. Severability.**

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivisions, paragraph, clause, sentence, phrase, word, and application not declared invalid.