

File No. 190417 Committee Item No. 4
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date July 8, 2019

Board of Supervisors Meeting Date _____

Cmte Board

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Completed by: Erica Major Date July 3, 2019
Completed by: Erica Major Date _____

1 [Environment Code - Checkout Bag Charge; Recyclable or Compostable Pre-Checkout Bags]

2
3 **Ordinance amending the Environment Code to raise the amount stores must charge for**
4 **checkout bags from 10 cents to 25 cents per bag; to require that pre-checkout bags**
5 **provided to customers before they reach the point of sale be recyclable or**
6 **compostable; and affirming the Planning Department's determination under the**
7 **California Environmental Quality Act.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Environmental Findings.

17 The Planning Department has determined that the actions contemplated in this
18 ordinance comply with the California Environmental Quality Act (California Public Resources
19 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
20 Supervisors in File No. 190417 and is incorporated herein by reference. The Board affirms
21 this determination.

22 Section 2. Findings.

23 (a) Americans use 100 billion plastic bags a year, which require 12 million barrels of
24 oil to manufacture. The average American family takes home almost 1,500 plastic shopping
25 bags each year. Each bag is used for an average of just 12 minutes. Only 1% of plastic bags

1 are recycled, meaning that the average family recycles only about 15 bags per year, and the
2 rest end up in landfills or littered.

3 (b) Stores often provide customers with plastic pre-checkout bags to package fruits,
4 vegetables, and other loose or bulky items while shopping, before reaching the checkout area.
5 These bags are typically clear in color, made from polyethylene or other plastic film, and are
6 extremely thin. They share many of the same physical qualities as single-use plastic carryout
7 bags no longer permitted in California, and are difficult to recycle or reuse.

8 (c) As recently as 2010, volunteers documented more than 65,000 plastic bags
9 littered along California beaches and rivers during annual coastal clean ups, accounting for
10 7.4% of all items littered, and ranking as the third most commonly collected item behind only
11 cigarette butts and fast food packaging.

12 (d) In 2007, San Francisco was among the first cities in the nation to prohibit stores
13 from providing single-use plastic checkout bags. In 2012, San Francisco added a mandatory
14 10-cent charge for other permitted checkout bag types, including recyclable paper,
15 compostable, and reusable bags.

16 (e) In August 2014, California became the first state in the nation to pass a bill,
17 Senate Bill 270, prohibiting stores from providing single-use plastic carryout bags to
18 customers at the point of sale. It also requires a 10-cent minimum charge for permitted types
19 of carryout bags provided at the point of sale.

20 (f) While SB 270 expressly occupies the field of regulation of reusable grocery,
21 single-use, and recycled paper carryout bags—and defines each type of bag as one provided
22 to a customer at the point of sale—the bill permits a municipality with an ordinance relating to
23 such bags to continue to enforce and implement that ordinance, if it was adopted before
24 September 1, 2014. SB 270 forbids municipalities from adopting amendments to such
25 ordinances that relate to these carryout bags, except to increase the amount a store shall

1 charge to an amount no less than 10 cents per bag. The bill does not address bags provided
2 to customers prior to the point of sale. After a referendum on the bill made it onto the 2016
3 statewide ballot, Californians voted in favor of its implementation by a 52 percent majority.

4 (g) SB 270 requires stores to use money collected from carryout bag charges only
5 for compliance costs, actual costs of providing recycled paper or reusable grocery bags, or
6 costs associated with a store's educational materials or educational campaign encouraging
7 use of reusable grocery bags.

8 (h) In 2016, with 40% of the population of the state of California covered by local
9 single-use plastic bag bans, coastal clean-up data for that year showed plastic grocery bag
10 litter had dropped by 66% and accounted for less than 2% of items littered.

11 (i) Based on a survey conducted by the Department of Environment in 2018, 43%
12 of surveyed retailers in San Francisco offer plastic reusable checkout bags, 51% offer
13 recyclable paper bags, and 6% offer both types.

14 (j) Numerous studies have demonstrated that charging for checkout bags results in
15 demonstrable behavior change, prompting more customers to use a reusable bag or bring
16 their own bag.

17 (k) After the 10-cent checkout bag charge went into effect in San Francisco, stores
18 surveyed by the Department of Environment noticed, on average, over 60% of customers
19 bringing their own bags.

20 (l) In 2002, Ireland increased its checkout bag fee from 15 to 22 cents per bag,
21 leading to an annual bag use decline from almost 350 per person, to 14 per person, by 2012.
22 Plastic bags now account for only 0.14% of litter in Ireland, as compared to 5% in 2002.

23 (m) Santa Cruz reports that its 25-cent checkout bag charge has resulted in
24 significant change among customers, with 90% of customers now bringing their own bags.
25

1 (n) To date, 11 cities and counties in California have mandated a checkout bag
2 charge higher than 10 cents per bag. San Francisco must join these municipalities to both
3 reduce plastics pollution and make strides towards becoming a zero-waste City.

4 (o) At the Global Climate Action Summit in September 2018, Mayor Breed
5 committed San Francisco to new waste reduction targets that will require the City to reduce
6 total waste generation by 15%, and cut waste sent to landfill by 50%, by 2030.

7
8 Section 3. Chapter 17 of the Environment Code is hereby amended by revising
9 Section 1702 to delete the subsection letter preceding each defined term, and also to add and
10 place in correct alphabetical sequence among the existing defined terms three new defined
11 terms, to read as follows:

12 **SEC. 1702. DEFINITIONS.**

13 “Compostable Pre-Checkout Bag” means a Pre-Checkout Bag that (1) is certified by and
14 labeled with the logo of the Biodegradable Product Institute (BPI) or other third party recognized by
15 the Department as meeting ASTM D6400 Standard Specifications for compostability; (2) has a
16 minimum 15-inch mouth width to fit most kitchen compost pails; (3) conforms to at least the minimum
17 State standards for manufacturers of compostable plastic bags (as set forth in Public Resources Code
18 Section 42355 et seq., and as amended), including those in Section 42357.5 regarding bag coloring and
19 labeling; and (4) meets all additional requirements the Department may set forth in a regulation
20 adopted after a public hearing preceded by at least 60 days' notice, based upon environmental benefit,
21 cost, and market availability.

22 * * * *

23 “Pre-Checkout Bag” means a bag provided to a customer before the customer reaches the
24 point of sale, that is designed to protect a purchased item from damaging or contaminating other
25 purchased items in a Checkout Bag, or to contain an unwrapped food item, such as but not limited to

1 loose produce, meat or fish, nuts, grains, candy, and bakery goods. Pre-Checkout Bag does not include
2 bags used to pre-package items outside of San Francisco.

3 * * * *

4 "Recyclable Paper Pre-Checkout Bag" means a paper Pre-Checkout Bag that (1) is 100%
5 recyclable, using the standards for San Francisco's available curbside recycling collection program;
6 (2) contains no old growth fiber; (3) contains a minimum of 40% post-consumer recycled content, but
7 the Department may modify this requirement for recycled content by regulation adopted after a public
8 hearing preceded by at least 60 days' notice, based upon environmental benefit, cost, and market
9 availability; (4) displays the word "Recyclable" in a highly visible manner on the outside of the bag,
10 and is labeled with the name of the manufacturer, the country where manufactured, and the percentage
11 of post-consumer recycled content, all in an easy-to-read size font; (5) is certified by and labeled with
12 the logo of the Biodegradable Product Institute (BPI) or other third party recognized by the
13 Department in meeting ASTM D6400 or ASTM D6868 Standard Specifications for compostability; and
14 (6) meets all other requirements the Department may set forth in a regulation adopted after a public
15 hearing preceded by at least 60 days' notice, based upon environmental benefit, cost, and market
16 availability.

17
18 Section 4. Chapter 17 of the Environment Code is hereby amended further by
19 adding Section 1703.1 and revising Section 1703.5, to read as follows:

20 **SEC. 1703.1. MANDATORY USE OF RECYCLABLE AND COMPOSTABLE PRE-**
21 **CHECKOUT BAGS.**

22 (a) Beginning July 1, 2020, all Stores shall provide only the following as Pre-Checkout
23 Bags to customers:

24 (1) Compostable Pre-Checkout Bags; and/or

25 (2) Recyclable Paper Pre-Checkout Bags.

1 **(b) Violation of the requirements set forth in subsection (a) shall subject a Store to penalties**
2 **set forth in Section 1705.**

3
4 **SEC. 1703.5. CHECKOUT BAG CHARGE.**

5 (a) Imposing a Checkout Bag Charge.

6 (1) Beginning ~~October 1, 2012~~ July 1, 2020, no Store shall provide a Recyclable
7 Paper Bag or Reusable Bag to a customer at the point of sale, unless the Store
8 charges the customer a Checkout Bag Charge of at least ~~ten cents (\$0.10)~~ \$0.25 per bag.

9 (2) Beginning ~~October 1, 2013~~ July 1, 2020, no Store, ~~including a Food~~
10 ~~Establishment~~, shall provide a Compostable Plastic Bag to a customer at the point of
11 sale, unless the Store charges the customer a Checkout Bag Charge of at least ~~ten~~
12 ~~cents (\$0.10)~~ \$0.25 per bag.

13 * * * *

14
15 Section 5. Effective and Operative Dates.

16 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
17 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
18 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
19 Mayor's veto of the ordinance.

20 (b) Section 4 of the ordinance, consisting of the addition of Section 1703.1 of the
21 Environment Code, and the revision of Section 1703.5 of the Environment Code, shall be
22 operative on July 1, 2020. The remainder of the ordinance shall be operative on its effective
23 date.

1 Section 6. Scope of Ordinance. Except as stated in the introductory language of
2 Section 3 of this ordinance, in enacting this ordinance, the Board of Supervisors intends to
3 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
4 punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that
5 are explicitly shown in this ordinance as additions, deletions, Board amendment additions,
6 and Board amendment deletions in accordance with the "Note" that appears under the official
7 title of the ordinance.

8
9 Section 7. No Conflict with Federal or State Law. Nothing in this ordinance shall be
10 interpreted or applied so as to create any requirement, power, or duty in conflict with any
11 federal or state law.

12
13 Section 8. Severability. If any section, subsection, sentence, clause, phrase, or word of
14 this ordinance, or any application thereof to any person or circumstance, is held to be invalid
15 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
16 affect the validity of the remaining portions or applications of the ordinance. The Board of
17 Supervisors hereby declares that it would have passed this ordinance and each and every
18 section, subsection, sentence, clause, phrase, and word not declared invalid or
19 unconstitutional without regard to whether any other portion of this ordinance or application
20 thereof would be subsequently declared invalid or unconstitutional.

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By:


24 NEHA GUPTA
25 Deputy City Attorney

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LEGISLATIVE DIGEST

[Environment Code - Checkout Bag Charge; Recyclable or Compostable Pre-Checkout Bags]

Ordinance amending the Environment Code to raise the amount stores must charge for checkout bags from 10 cents to 25 cents per bag; to require that pre-checkout bags provided to customers before they reach the point of sale be recyclable or compostable; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Since 2007, Chapter 17 of the Environment Code has required stores that provide checkout bags to customers to provide only recyclable paper bags, and/or compostable plastic bags, and/or reusable bags. Since 2012, Chapter 17 has also required stores to charge at least ten cents per recyclable paper or reusable checkout bag, and since 2013, required stores to charge at least ten cents per compostable plastic checkout bag, for bags provided to customers at the point of sale.

California Senate Bill 270, passed in 2014 and enacted by the voters in 2016 after a referendum, prohibits stores statewide from providing a single-use carryout bag to a customer at the point sale free of charge. Stores in California may only offer carryout bags at the point of sale that are reusable, made with recyclable paper, or compostable, and only for a charge not less than ten cents per bag. SB 270 expressly occupies the field of regulation of reusable grocery, single-use, and recycled paper carryout bags that stores provide to customers at the point of sale. It permits municipalities with laws regulating bags provided at the point of sale adopted prior to September 1, 2014 to continue enforcing and implementing such laws—but these municipalities may only amend their laws to increase the minimum amount stores must charge for acceptable carryout bags to an amount no less than ten cents per bag.

SB 270 also requires stores to use money collected from carryout bag charges only for costs associated with complying with the state law, actual costs of providing recycled paper or reusable grocery bags, or costs associated with a store's educational materials or educational campaign encouraging use of reusable grocery bags.

Amendments to Current Law

This ordinance would raise the amount San Francisco requires stores to charge for recyclable paper bags, and/or compostable plastic bags, and/or reusable bags, from a minimum of ten cents per bag to a minimum of 25 cents per bag.

FILE NO. 190417

This ordinance would also require stores that provide pre-checkout bags to customers before they reach the point of sale, that are designed to protect purchased items from one another in a checkout bag, or to contain unwrapped food or other loose items, to provide only compostable pre-checkout bags or recyclable paper pre-checkout bags.

These provisions would become operative on July 1, 2020.

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BOARD of SUPERVISORS



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TDD/TTY No. 554-5227

April 22, 2019

File No. 190417

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On April 16, 2019, Supervisor Brown introduced the following legislation:

File No. 190417

Ordinance amending the Environment Code to raise the amount stores must charge for checkout bags from 10 cents to 25 cents per bag; to require that pre-checkout bags provided to customers before they reach the point of sale be recyclable or compostable; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

Not defined as a project under CEQA Guidelines 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment. Any physical project would require environmental review.

joy
navarrete

Digitally signed by joy navarrete
DN: dc=org, dc=sfgov, dc=cityplanning,
ou=CityPlanning, ou=Environmental
Planning, cn=joy navarrete,
email=joy.navarrete@sfgov.org
Date: 2019.05.02 16:13:59 -0700

Senate Bill No. 270

CHAPTER 850

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

[Approved by Governor September 30, 2014. Filed with Secretary of State September 30, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 270, Padilla. Solid waste: single-use carryout bags.

(1) Existing law, until 2020, requires an operator of a store, as defined, to establish an at-store recycling program that provides to customers the opportunity to return clean plastic carryout bags to that store.

This bill, as of July 1, 2015, would prohibit stores that have a specified amount of sales in dollars or retail floor space from providing a single-use carryout bag to a customer, with specified exceptions. The bill would also prohibit those stores from selling or distributing a recycled paper bag at the point of sale unless the store makes that bag available for purchase for not less than \$0.10. The bill would also allow those stores, on or after July 1, 2015, to distribute compostable bags at the point of sale only in jurisdictions that meet specified requirements and at a cost of not less than \$0.10. The bill would require these stores to meet other specified requirements on and after July 1, 2015, regarding providing reusable grocery bags to customers, including distributing those bags only at a cost of not less than \$0.10. The bill would require all moneys collected pursuant to these provisions to be retained by the store and be used only for specified purposes.

The bill, on and after July 1, 2016, would additionally impose these prohibitions and requirements on convenience food stores, foodmarts, and entities engaged in the sale of a limited line of goods, or goods intended to be consumed off premises, and that hold a specified license with regard to alcoholic beverages.

The bill would allow a retail establishment to voluntarily comply with these requirements, if the retail establishment provides the department with irrevocable written notice. The bill would require the department to post on its Internet Web site, organized by county, the name and physical location of each retail establishment that has elected to comply with these requirements.

The bill would require the operator of a store that has a specified amount of sales in dollars or retail floor space and a retail establishment that voluntarily complies with the requirements of this bill to comply with the existing at-store recycling program requirements.

The bill would require, on and after July 1, 2015, a reusable grocery bag sold by certain stores to a customer at the point of sale to be made by a certified reusable grocery bag producer and to meet specified requirements with regard to the bag's durability, material, labeling, heavy metal content, and, with regard to reusable grocery bags made from plastic film on and after January 1, 2016, recycled material content. The bill would impose these requirements as of July 1, 2016, on the stores that are otherwise subject to the bill's requirements.

The bill would prohibit a producer of reusable grocery bags made from plastic film from selling or distributing those bags on and after July 1, 2015, unless the producer is certified by a 3rd-party certification entity, as specified. The bill would require a reusable grocery bag producer to provide proof of certification to the department. The bill would require the department to provide a system to receive proofs of certification online.

The department would be required to publish on its Internet Web site a list of reusable grocery bag producers that have submitted the required certification and their reusable grocery bags. The bill would require the department to establish an administrative certification fee schedule, which would require a reusable grocery bag producer providing proof to the department of certification or recertification to pay a fee. The bill would require that all moneys submitted to the department pursuant to these fee provisions be deposited into the Reusable Grocery Bag Fund, which would be established by the bill, and continuously appropriated for purposes of implementing these proof of certification and Internet Web site provisions, thereby making an appropriation. The bill would also require a reusable grocery bag producer to submit applicable certified test results to the department. The bill would authorize a person to object to a 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. The bill would require the court to determine if the reusable grocery bag producer is in compliance with the provisions of the bill and, based on the court's determination, would require the court to direct the department to either remove or retain the reusable grocery bag producer on its published Internet Web site list.

The bill would allow a city, county, or city and county, or the state to impose civil penalties on a person or entity that knows or reasonably should have known it is in violation of the bill's requirements. The bill would require these civil penalties to be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action, and would allow the penalties collected by the Attorney General to be expended by the Attorney General, upon appropriation by the Legislature, to enforce the bill's provisions.

The bill would declare that it occupies the whole field of the regulation of reusable grocery bags, single-use carryout bags, and recycled paper bags provided by a store and would prohibit a local public agency from enforcing or implementing an ordinance, resolution, regulation, or rule, or any

amendment thereto, adopted on or after September 1, 2014, relating to those bags, against a store, except as provided.

(2) The California Integrated Waste Management Act of 1989 creates the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account and continuously appropriates the funds deposited in the subaccount to the department for making loans for the purposes of the Recycling Market Development Revolving Loan Program. Existing law makes the provisions regarding the loan program, the creation of the subaccount, and expenditures from the subaccount inoperative on July 1, 2021, and repeals them as of January 1, 2022.

This bill would appropriate \$2,000,000 from the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account to the department for the purposes of providing loans for the creation and retention of jobs and economic activity in California for the manufacture and recycling of plastic reusable grocery bags that use recycled content. The bill would require a recipient of a loan to agree, as a condition of receiving the loan, to take specified actions.

(3) The bill would require the department, no later than March 1, 2018, to provide a status report to the Legislature on the implementation of the bill’s provisions.

Appropriation: yes.

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

SECTION 1. Chapter 5.3 (commencing with Section 42280) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 5.3. SINGLE-USE CARRYOUT BAGS

Article 1. Definitions

42280. (a) “Department” means the Department of Resources Recycling and Recovery.

(b) “Postconsumer recycled material” means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

(c) “Recycled paper bag” means a paper carryout bag provided by a store to a customer at the point of sale that meets all of the following requirements:

(1) (A) Except as provided in subparagraph (B), contains a minimum of 40 percent postconsumer recycled materials.

(B) An eight pound or smaller recycled paper bag shall contain a minimum of 20 percent postconsumer recycled material.

(2) Is accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in the state.

(3) Has printed on the bag the name of the manufacturer, the country where the bag was manufactured, and the minimum percentage of postconsumer content.

(d) “Reusable grocery bag” means a bag that is provided by a store to a customer at the point of sale that meets the requirements of Section 42281.

(e) (1) “Reusable grocery bag producer” means a person or entity that does any of the following:

(A) Manufactures reusable grocery bags for sale or distribution to a store.

(B) Imports reusable grocery bags into this state, for sale or distribution to a store.

(C) Sells or distributes reusable bags to a store.

(2) “Reusable grocery bag producer” does not include a store, with regard to a reusable grocery bag for which there is a manufacturer or importer, as specified in subparagraph (A) or (B) of paragraph (1).

(f) (1) “Single-use carryout bag” means a bag made of plastic, paper, or other material that is provided by a store to a customer at the point of sale and that is not a recycled paper bag or a reusable grocery bag that meets the requirements of Section 42281.

(2) A single-use carryout bag does not include either of the following:

(A) A bag provided by a pharmacy pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code to a customer purchasing a prescription medication.

(B) A nonhandled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag, a reusable grocery bag, or a compostable plastic bag.

(C) A bag provided to contain an unwrapped food item.

(D) A nonhandled bag that is designed to be placed over articles of clothing on a hanger.

(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.

(5) Is not otherwise subject to paragraph (1), (2), (3), or (4), if the retail establishment voluntarily agrees to comply with the requirements imposed upon a store pursuant to this chapter, irrevocably notifies the department of its intent to comply with the requirements imposed upon a store pursuant to this chapter, and complies with the requirements established pursuant to Section 42284.

Article 2. Reusable Grocery Bags

42281. (a) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, may sell or distribute a reusable grocery bag to a customer at the point of sale only if the reusable bag is made by a producer certified pursuant to this article to meet all of the following requirements:

(1) Has a handle and is designed for at least 125 uses, as provided in this article.

(2) Has a volume capacity of at least 15 liters.

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

(4) 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:

(A) The name of the manufacturer.

(B) The country where the bag was manufactured.

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

(D) If the bag is eligible for recycling in the state, instructions to return the bag to the store for recycling or to another appropriate recycling location. If recyclable in the state, the bag shall include the chasing arrows recycling symbol or the term “recyclable,” consistent with the Federal Trade Commission guidelines use of that term, as updated.

(5) Does not contain lead, cadmium, or any other toxic material that may pose a threat to public health. A reusable bag manufacturer may demonstrate compliance with this requirement by obtaining a no objection letter from the federal Food and Drug Administration. This requirement shall not affect any authority of the Department of Toxic Substances Control pursuant to Article 14 (commencing with Section 25251) of Chapter 6.5 of Division 20 of the Health and Safety Code and, notwithstanding subdivision (c) of Section 25257.1 of the Health and Safety Code, the reusable grocery bag shall not be considered as a product category already regulated or subject to regulation.

(6) Complies with Section 260.12 of Part 260 of Title 16 of the Code of Federal Regulations related to recyclable claims if the reusable grocery bag producer makes a claim that the reusable grocery bag is recyclable.

(b) (1) In addition to the requirements in subdivision (a), a reusable grocery bag made from plastic film shall meet all of the following requirements:

(A) On and after January 1, 2016, it shall be made from a minimum of 20 percent postconsumer recycled material.

(B) On and after January 1, 2020, it shall be made from a minimum of 40 percent postconsumer recycled material.

(C) It shall be recyclable in this state, and accepted for return at stores subject to the at-store recycling program (Chapter 5.1 (commencing with Section 42250)) for recycling.

(D) It shall have, in addition to the information required to be printed on the bag or on a tag, pursuant to paragraph (4) of subdivision (a), a statement that the bag is made partly or wholly from postconsumer recycled material and stating the postconsumer recycled material content percentage, as applicable.

(E) It shall be capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses and be at least 2.25 mils thick, measured according to the American Society of Testing and Materials (ASTM) Standard D6988-13.

(2) A reusable grocery bag made from plastic film that meets the specifications of the American Society of Testing and Materials (ASTM) International Standard Specification for Compostable Plastics D6400, as updated, is not required to meet the requirements of subparagraph (A) or (B) of paragraph (1), but shall be labeled in accordance with the applicable state law regarding compostable plastics.

(c) In addition to the requirements of subdivision (a), a reusable grocery bag that is not made of plastic film and that is made from any other natural or synthetic fabric, including, but not limited to, woven or nonwoven nylon, polypropylene, polyethylene-terephthalate, or Tyvek, shall satisfy all of the following:

(1) It shall be sewn.

(2) It shall be capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses.

(3) It shall have a minimum fabric weight of at least 80 grams per square meter.

(d) On and after July 1, 2016, a store as defined in paragraph (3), (4), or (5) of subdivision (g) of Section 42280, shall comply with the requirements of this section.

42281.5. On and after July 1, 2015, a producer of reusable grocery bags made from plastic film shall not sell or distribute a reusable grocery bag in this state unless the producer is certified by a third-party certification entity pursuant to Section 42282. A producer shall provide proof of certification to the department demonstrating that the reusable grocery bags produced by the producer comply with the provisions of this article. The proof of certification shall include all of the following:

(a) Names, locations, and contact information of all sources of postconsumer recycled material and suppliers of postconsumer recycled material.

(b) Quantity and dates of postconsumer recycled material purchases by the reusable grocery bag producer.

(c) How the postconsumer recycled material is obtained.

(d) Information demonstrating that the postconsumer recycled material is cleaned using appropriate washing equipment.

42282. (a) Commencing on or before July 1, 2015, the department shall accept from a reusable grocery bag producer proof of certification conducted by a third-party certification entity, submitted under penalty of perjury, for each type of reusable grocery bag that is manufactured, imported, sold, or distributed in the state and provided to a store for sale or distribution, at the point of sale, that meets all the applicable requirements of this article. The proof of certification shall be accompanied by a certification fee, established pursuant to Section 42282.1.

(b) A reusable grocery bag producer shall resubmit to the department proof of certification as described in subdivision (a) on a biennial basis. A reusable grocery bag producer shall provide the department with an updated proof of certification conducted by a third-party certification entity if any modification that is not solely aesthetic is made to a previously certified reusable bag. Failure to comply with this subdivision shall result in removal of the relevant information posted on the department's Internet Web site pursuant to paragraphs (1) and (2) of subdivision (e) for each reusable bag that lacks an updated proof of certification conducted by a third-party certification entity.

(c) A third-party certification entity shall be an independent, accredited (ISO/IEC 17025) laboratory. A third-party certification entity shall certify that the producer's reusable grocery bags meet the requirements of Section 44281.

(d) The department shall provide a system to receive proofs of certification online.

(e) On and after July 1, 2015, the department shall publish a list on its Internet Web site that includes all of the following:

(1) The name, location, and appropriate contact information of certified reusable grocery bag producers.

(2) The reusable grocery bags of producers that have provided the required certification.

(f) A reusable grocery bag producer shall submit applicable certified test results to the department confirming that the reusable grocery bag meets the requirements of this article for each type of reusable grocery bag that is manufactured, imported, sold, or distributed in the state and provided to a store for sale or distribution.

(1) A person may object to the certification of a reusable grocery bag producer pursuant to this section 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. The court shall determine if the reusable grocery bag producer is in compliance with the requirements of this article.

(2) A reusable grocery bag producer whose certification is being objected to pursuant to paragraph (1) shall be deemed in compliance with this article pending a determination by the court.

(3) Based on its determination, the court shall direct the department to remove the reusable grocery bag producer from, or retain the reusable grocery bag producer on, its list published pursuant to subdivision (e).

(4) If the court directs the department to remove a reusable grocery bag producer from its published list, the reusable grocery bag producer shall remain off of the published list for a period of one year from the date of the court's determination.

42282.1. (a) A reusable grocery bag producer shall submit the fee established pursuant to subdivision (b) to the department when providing proof of certification or recertification pursuant to Sections 42281.5 and 42282.

(b) The department shall establish an administrative certification fee schedule that will generate fee revenues sufficient to cover, but not exceed, the department's reasonable costs to implement this article. The department shall deposit all moneys submitted pursuant to this section into the Reusable Grocery Bag Fund, which is hereby established in the State Treasury. Notwithstanding Section 11340 of the Government Code, moneys in the fund are continuously appropriated, without regard to fiscal year, to the department for the purpose of implementing this article.

Article 3. Single-Use Carryout Bags

42283. (a) Except as provided in subdivision (e), on and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not provide a single-use carryout bag to a customer at the point of sale.

(b) (1) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not sell or distribute a reusable grocery bag at the point of sale except as provided in this subdivision.

(2) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, may make available for purchase at the point of sale a reusable grocery bag that meets the requirements of Section 42281.

(3) 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 available for purchase pursuant to paragraph (2) shall not sell the reusable grocery bag for less than ten cents (\$0.10) in order to ensure that the cost of providing a reusable grocery bag is not subsidized by a customer who does not require that bag.

(c) (1) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not sell or distribute a recycled paper bag except as provided in this subdivision.

(2) A store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, may make available for purchase a recycled paper bag. On and after July 1, 2015, the store shall not sell a recycled paper bag for less than ten cents (\$0.10) in order to ensure that the cost of providing a recycled paper bag is not subsidized by a consumer who does not require that bag.

(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.

(e) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, may distribute a compostable bag at the point of sale, if the compostable bag is provided to the consumer at the cost specified pursuant to paragraph (2), the compostable bag, at a minimum, meets the American Society for Testing and Materials (ASTM) International Standard Specification for Compostable Plastics D6400, as updated, and in the jurisdiction where the compostable bag is sold and in the jurisdiction where the store is located, both of the following requirements are met:

(1) A majority of the residential households in the jurisdiction have access to curbside collection of foodwaste for composting.

(2) The governing authority for the jurisdiction has voted to allow stores in the jurisdiction to sell to consumers at the point of sale a compostable bag at a cost not less than the actual cost of the bag, which the Legislature hereby finds to be not less than ten cents (\$0.10) per bag.

(f) A store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not require a customer to use, purchase, or accept a single-use carryout bag, recycled paper bag, compostable bag, or reusable grocery bag as a condition of sale of any product.

42283.5. On and after July 1, 2016, a store, as defined in paragraph (3), (4), or (5) of subdivision (g) of Section 42280, shall comply with the same requirements of Section 42283 that are imposed upon a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280.

42283.6. (a) The operator of a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280 that makes recycled paper or reusable grocery bags available at the point of sale, shall be subject to the provisions of the at-store recycling program (Chapter 5.1 (commencing with Section 42250)).

(b) A store that voluntarily agrees to comply with the provisions of this article pursuant to subdivision (g) of Section 42280, shall also comply with

the provisions of the at-store recycling program (Chapter 5.1 (commencing with Section 42250)).

42283.7. All moneys collected pursuant to this article shall be retained by the store and may be used only for the following purposes:

(a) Costs associated with complying with the requirements of this article.

(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.

42284. (a) A retail establishment not specifically required to comply with the requirements of this chapter is encouraged to reduce its distribution of single-use plastic carryout bags.

(b) Pursuant to the provisions of subdivision (g) of Section 42280, any retail establishment that is not a "store," that provides the department with the irrevocable written notice as specified in subdivision (c), shall be regulated as a "store" for the purposes of this chapter.

(c) The irrevocable written notice shall be dated and signed by an authorized representative of the retail establishment, and shall include the name and physical address of all retail locations covered by the notice. The department shall acknowledge receipt of the notice in writing and shall specify the date the retail establishment will be regulated as a "store," which shall not be less than 30 days after the date of the department's acknowledgment. The department shall post on its Internet Web site, organized by county, the name and physical location or locations of each retail establishment that has elected to be regulated as a "store."

Article 4. Enforcement

42285. (a) A city, a county, a city and county, or the state may impose civil liability on a person or entity that knowingly violated this chapter, or reasonably should have known that it violated this chapter, in the amount of one thousand dollars (\$1,000) per day for the first violation of this chapter, two thousand dollars (\$2,000) per day for the second violation, and five thousand dollars (\$5,000) per day for the third and subsequent violations.

(b) Any civil penalties collected pursuant to subdivision (a) shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action. The penalties collected pursuant to this section by the Attorney General may be expended by the Attorney General, upon appropriation by the Legislature, to enforce this chapter.

Article 5. Preemption

42287. (a) Except as provided in subdivision (c), this chapter is a matter of statewide interest and concern and is applicable uniformly throughout the state. Accordingly, this chapter occupies the whole field of regulation

of reusable grocery bags, single-use carryout bags, and recycled paper bags, as defined in this chapter, provided by a store, as defined in this chapter.

(b) On and after January 1, 2015, a city, 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 September 1, 2014, relating to reusable grocery bags, single-use carryout bags, or recycled paper bags, against a store, as defined in this chapter, unless expressly authorized by this chapter.

(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. Any amendments to that ordinance, resolution, regulation, or rule on or after January 1, 2015, shall be subject to subdivision (b), except the city, county, or other local public agency may adopt or amend an ordinance, resolution, regulation, or rule to increase the amount that a store shall charge with regard to a recycled paper bag, compostable bag, or reusable grocery bag to no less than the amount specified in Section 42283.

(2) A city, county, or other local public agency not covered by paragraph (1) that, before September 1, 2014, has passed a first reading of an ordinance or resolution expressing the intent to restrict single-use carryout bags and, before January 1, 2015, adopts an ordinance to restrict single-use carryout bags, may continue to enforce and implement the ordinance that was in effect before January 1, 2015.

Article 6. Financial Provisions

42288. (a) Notwithstanding Section 42023.2, the sum of two million dollars (\$2,000,000) is hereby appropriated from the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account to the department for the purposes of providing loans for the creation and retention of jobs and economic activity in this state for the manufacture and recycling of plastic reusable grocery bags that use recycled content, including postconsumer recycled material.

(b) The department may expend, if there are applicants eligible for funding from the Recycling Market Development Revolving Loan Subaccount, the funds appropriated pursuant to this section to provide loans for both of the following:

(1) Development and conversion of machinery and facilities for the manufacture of single-use plastic bags into machinery and facilities for the manufacturer of durable reusable grocery bags that, at a minimum, meet the requirements of Section 42281.

(2) Development of equipment for the manufacture of reusable grocery bags, that, at a minimum, meet the requirements of Section 42281.

(c) A recipient of a loan authorized by this section shall agree, as a condition of receiving the loan, to retain and retrain existing employees for the manufacturing of reusable grocery bags that, at a minimum, meet the requirements of Section 42281.

(d) Any moneys appropriated pursuant to this section not expended by the end of the 2015–16 fiscal year shall revert to the Recycling Market Development Revolving Loan Subaccount for expenditure pursuant to Article 3 (commencing with Section 42010) of Chapter 1.

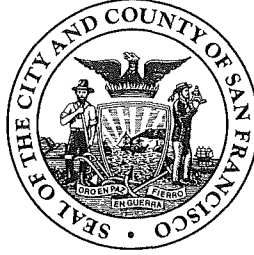
(e) Applicants for funding under this section may also apply for funding or benefits from other economic development programs for which they may be eligible, including, but not limited to, both of the following:

(1) An income tax credit, as described in Sections 17059.2 and 23689 of the Revenue and Taxation Code.

(2) A tax exemption pursuant to Section 6377.1 of the Revenue and Taxation Code.

SEC. 2. No later than March 1, 2018, the department, as a part of its reporting requirement pursuant to Section 40507 of the Public Resources Code, shall provide a status report on the implementation of Chapter 5.3 (commencing with Section 42280) of Part 3 of Division 30 of the Public Resources Code.

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

April 22, 2019

File No. 190417

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On April 16, 2019, Supervisor Brown introduced the following legislation:

File No. 190417

Ordinance amending the Environment Code to raise the amount stores must charge for checkout bags from 10 cents to 25 cents per bag; to require that pre-checkout bags provided to customers before they reach the point of sale be recyclable or compostable; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

BOARD of SUPERVISORS



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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Erica Major, Assistant Clerk
Land Use and Transportation Committee

DATE: April 22, 2019

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, which is being referred to the Small Business Commission for comment and recommendation.

File No. 190417

Ordinance amending the Environment Code to raise the amount stores must charge for checkout bags from 10 cents to 25 cents per bag; to require that pre-checkout bags provided to customers before they reach the point of sale be recyclable or compostable; and affirming the Planning Department's determination under the California Environmental Quality Act.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ **No Comment**

_____ **Recommendation Attached**

Chairperson, Small Business Commission

cc: Dominica Donovan

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
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SAN FRANCISCO

2019 APR 16 PM 2:07

BY [Signature] Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Brown

Subject:

Ordinance amending the Environment Code to raise the amount stores must charge for checkout bags from 10 cents to 25 cents per bag; and to require that pre-checkout bags provided to customers before they reach the point of sale be recyclable or compostable.

The text is listed:

See attached.

Signature of Sponsoring Supervisor:

[Signature]

For Clerk's Use Only