

Assembly Bill No. 1851

CHAPTER 821

An act to amend Section 42291 of, and to add, repeal, and add Section 42298 of, the Public Resources Code, relating to solid waste.

[Approved by Governor October 12, 1995. Filed
with Secretary of State October 13, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1851, Sher. Solid waste: trash bags.

Existing law, the California Integrated Waste Management Act of 1989, requires on and after January 1, 1995, that every manufacturer that manufactures plastic trash bags of 0.75 mil or greater thickness for sale in this state to ensure that at least 30% of the material used in those plastic trash bags is recycled plastic postconsumer material.

This bill would instead require, on and after January 1, 1996, every manufacturer that manufactures those plastic trash bags to ensure that at least 20%, and on and after January 1, 1997, at least 30% of the material used in those plastic trash bags is recycled plastic postconsumer material. The bill would exempt from that requirement, until January 1, 1997, plastic trash bags that use adhesive, heat-affixed straps attached to the bag during the manufacturing process if the manufacturer of the plastic trash bags manufactured bags of that type prior to January 1, 1995. The bill would prescribe the procedure by which any manufacturer of plastic trash bags that receives that exemption may thereafter petition the California Integrated Waste Management Board for a variance from those recycled content requirements that would become effective on and after January 1, 1997.

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

SECTION 1. Section 42291 of the Public Resources Code is amended to read:

42291. (a) Every manufacturer that manufactures plastic trash bags of 1.0 mil or greater thickness for sale in this state shall ensure that at least 10 percent of the material used in those plastic trash bags is recycled plastic postconsumer material.

(b) (1) On and after January 1, 1996, every manufacturer that manufactures plastic trash bags of 0.75 mil or greater thickness for sale in this state shall ensure that at least 20 percent of the material used in those plastic trash bags is recycled plastic postconsumer material.

(2) On and after January 1, 1997, every manufacturer that manufactures plastic trash bags of 0.75 mil or greater thickness for sale in this state shall ensure that at least 30 percent of the material used in those plastic trash bags is recycled plastic postconsumer material.

(3) If any manufacturer is unable to obtain sufficient amounts of recycled plastic postconsumer material to comply with this subdivision within a reporting period because of unavailability or because the available material did not meet recycled plastic postconsumer material quality standards adopted by the board, the manufacturer shall certify that fact to the board.

SEC. 2. Section 42298 is added to the Public Resources Code, to read:

42298. (a) This chapter does not apply to plastic trash bags that use adhesive, heat-affixed straps attached to the bag during the manufacturing process if the manufacturer of the plastic trash bags manufactured bags of that type prior to January 1, 1995.

(b) Any manufacturer of plastic trash bags that are exempt from this chapter until January 1, 1997, may petition for a variance pursuant to successor Section 42298 prior to January 1, 1997, by a date specified by the board, which would become operative January 1, 1997.

(c) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1997, deletes or extends that date.

SEC. 3. Section 42298 is added to the Public Resources Code, to read:

42298. (a) Any manufacturer of plastic trash bags that received an exemption pursuant to former Section 42298, as that section read immediately prior to January 1, 1997, may petition the board for a variance from the requirements of this chapter for the manufacture of those bags.

(b) Upon receipt of a petition pursuant to subdivision (a), the board shall do all of the following:

(1) Issue a public notice of the board's intent to hold a public hearing for purposes of considering the petition for a variance.

(2) Hold a public hearing to allow the petitioner, and any other interested parties, to comment on the petition for a variance. At the hearing, the board shall review, and enter into the record, any evidence presented that relates to the variance, including, but not limited to, any evidence that shows that the petitioner does or does not meet the requirements of this chapter due to technological considerations.

(3) If, after holding the public hearing, the board determines, based upon substantial evidence in the record, that the variance should be granted, the board shall grant the variance. The board may impose conditions on the variance that require the petitioner to



comply with some or all of the requirements of this chapter, based upon the board's determination of the ability of a petitioner to comply.

(4) The board shall review any variance granted pursuant to this section at least once every two years to determine whether the variance should be maintained, modified, or revoked.

(5) The board may charge only those fees that are necessary and reasonable to cover its costs in processing a petition for variance pursuant to this section.

(c) This section shall become operative on January 1, 1997.

