

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

---

DATE: September 13, 2018

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso   
Chief Legislative Analyst Council File No: 18-0002-S104  
Assignment No: 18-08-0793

SUBJECT: Resolution to Support SB 1335 (Allen): Sustainable Packaging for the State of California Act of 2018

CLA RECOMMENDATION: Adopt Resolution (Koretz-Bonin) to include in the City's 2017-2018 State Legislative Program SUPPORT for SB 1335 (Allen), which would require all food service packaging provided at California state parks, beaches, and facilities to be reusable, recyclable, or compostable by January 1, 2021.

## SUMMARY

On August 08, 2018, the Resolution (Koretz-Bonin) was introduced in support of SB 1335 (Allen) that would enact the Sustainable Package for the State of California Act of 2018 to limit the type of food service packaging used in state-owned facilities to those on an approved list developed and maintained by the California Department of Resources Recycling and Recovery (CalRecycle). The resolution states that disposable food service packaging that fails to be captured for recycling or composting often makes its way into the natural environment where plastic packaging breaks into microplastics that are ingested by fish and other marine life. With reusable, recyclable, and compostable alternatives easily available and affordable, there is no reason to continue using plastic materials like Styrofoam that are destined to pile up in landfills and pollute public space.

The Resolution recommends support for SB 1335 (Allen) which would require all food service packaging provided at California state parks, beaches, and facilities to be reusable, recyclable, or compostable by January 1, 2021.

## BACKGROUND

According to the Ocean Protection Council (OPC), marine debris is a persistent and growing problem worldwide that significantly impacts the health and beauty of the ocean and beaches. This issue poses serious threats to marine wildlife, as well as human health and welfare. It is estimated that approximately 80% of marine debris comes from land-based sources, with food and beverage packaging making up the largest component of that debris. Once in the marine environment, litter can damage habitats, harm wildlife through entanglement and ingestion, and have negative economic impacts on coastal communities.

SB 1335 calls on the state to take action to phase out single-use food packaging at state facilities to reduce the amount of this litter prone material spoiling California beaches and parks. This bill would enact the Sustainable Packaging for the State of California Act of 2018, which would prohibit a food service facility located in a state-owned facility from dispensing prepared food using a type of food service packaging

that is not on an approved list developed and maintained by CalRecycle. Food service packaging refers to a product used for serving or transporting prepared, ready-to-consume food or beverages, including but not limited to plates, cups, bowls, trays, and hinged or lidded containers.

This bill would require CalRecycle to publish a list of approved food service packaging on its website no later than June 1, 2020. Additionally, this bill would require CalRecycle to regularly, but no less frequently than every five years, evaluate the list of approved food service packaging and add or remove types of food service packaging to or from the list based on whether the packaging is among other factors, recyclable or compostable. This bill would exempt packaging acquired before its inclusion on the list. Before removing a type of food service packaging from the list, CalRecycle shall consider whether there are cost-effective alternatives available for the material of which the food service packaging is composed. It is important to note that this bill would not preempt the authority of a local jurisdiction to adopt and enforce additional single-use take-out food packaging ordinances, regulations, or policies that are more restrictive.

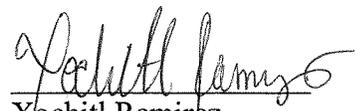
There are over 40 organizations that have expressed support for SB 1335 including the California Association of Local Conservation Corps, Los Angeles County Solid Waste Management Committee, and Californians Against Waste. Those opposed to SB 1335 argue that it would hurt California manufacturers, increase costs for state agencies and restaurants, and arbitrarily pick winners and losers in the marketplace by creating a list of approved types of food service packaging. Those opposed to SB 1335 include the California Chamber of Commerce, Los Angeles County Business Federation, and the California Restaurant Association among others.

#### DEPARTMENTS NOTIFIED

Bureau of Sanitation

#### BILL STATUS

02/16/18	Introduced
03/01/18	Referred to Environmental Quality Committee
04/25/18	Read a second time and amended
05/07/18	Re-referred to Appropriations Committee
06/11/18	Referred to Natural Resources Committee
08/21/18	Read a second time and amended
08/31/18	Passed in Senate. Ordered to Assembly

  
Xochitl Ramirez  
Analyst

SMT:xr

Attachment: 1. Resolution

2. SB 1335 (Allen)

RESOLUTION RULES, ELECTIONS, INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, disposable plastic food service packaging makes up a disproportionately large share of non-recyclable waste, continues to grow at an unsustainable rate, and has been the second-most common category of litter found during California Coastal Clean-Up days since record-keeping began in 1989; and

WHEREAS, disposable food service packaging that fails to be captured for recycling or composting often makes its way into the natural environment where plastic packaging breaks into microplastics that are ingested by fish and other marine life; and

WHEREAS, a recent study by UC Davis surveying fish and shellfish sold at local fish markets found that a quarter of the fish and a third of the shellfish intended for human consumption contained microplastics; and

WHEREAS, these tiny plastic pieces have also made their way into the worldwide supply of drinking water, according to a 2017 study by Orb Media and the University of Minnesota School of Public Health which found microplastics in 80% of human drinking water all around the world – from New York to New Delhi; and

WHEREAS, with reusable, recyclable, and compostable alternatives easily available and affordable, there is no reason to continue using plastic materials like Styrofoam that are destined to pile up in our landfills and pollute our public space; and

WHEREAS, Senator Ben Allen has introduced State Bill 1335, which will require all food service packaging provided at state parks, beaches, and facilities to be reusable, recyclable, or compostable by 2021; and

WHEREAS, SB 1335 would ensure that food service vendors have easy access to information about acceptable materials by requiring CalRecycle to publish a public list of all acceptable material types on its website; and

WHEREAS, stemming the stream of non-sustainable food service packing is a necessary step in beginning to address the global environmental health crisis of plastic pollution and assist California in meeting its goal of diverting 75% of waste from landfills by 2020; and

WHEREAS, the City of Los Angeles has, through its Environmentally Preferred Purchasing Policy and by banning single-use grocery bags citywide as well as banning the use of polystyrene food containers in its facilities, established itself as a leader in supporting sustainable packaging efforts.

**NOW, THEREFORE, BE IT RESOLVED**, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2017-2018 State Legislative Program SUPPORT for SB 1335 (Allen), which will require all food service packaging provided at California state parks, beaches, and facilities to be reusable, recyclable, or compostable by 2021.

PRESENTED BY:

\_\_\_\_\_  
PAUL KORETZ  
Councilmember, 5<sup>th</sup> District

SECONDED BY: \_\_\_\_\_

AUG 08 2018

AMENDED IN ASSEMBLY AUGUST 21, 2018

AMENDED IN ASSEMBLY JULY 2, 2018

AMENDED IN SENATE MAY 7, 2018

AMENDED IN SENATE APRIL 25, 2018

**SENATE BILL**

**No. 1335**

---

**Introduced by Senator Allen  
(Principal coauthor: Senator Hill)  
(Coauthor: Senator Stern)**

(Coauthors: Assembly Members Bloom and Friedman)

February 16, 2018

---

An act to add Chapter 6 (commencing with Section 42370) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1335, as amended, Allen. Solid waste: food service packaging: state agencies, facilities, and property.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally requires rigid plastic packaging containers, as defined, sold or offered for sale in this state to meet one of specified criteria.

This bill would enact the Sustainable Packaging for the State of California Act of 2018, which would prohibit a food service facility located in a state-owned facility, *operating on or* acting as a concessionaire on state property, or under contract to provide food service to a state agency, on and after January 1, 2021, from dispensing prepared food using a type of food service packaging unless the type of food service packaging is on a list that the bill would require the department to publish and maintain on its Internet Web site that contains

types of approved food service packaging that are reusable, recyclable, or compostable. The bill would exempt packaging acquired before its inclusion on the list, as specified. The bill would require the department to regularly, but no less than once every 5 years, evaluate the list of approved types of food service packaging and would authorize the department to add or remove types of food service packaging to or from the list based on whether the packaging is, among other factors, recyclable or compostable. The bill would authorize the department to require a manufacturer of a type of food service packaging or material to submit data for purposes of this evaluation, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Chapter 6 (commencing with Section 42370) is  
2 added to Part 3 of Division 30 of the Public Resources Code, to  
3 read:

4

5 CHAPTER 6. SUSTAINABLE PACKAGING FOR THE STATE OF  
6 CALIFORNIA ACT OF 2018

7

8 42370. This chapter shall be known, and may be cited, as the  
9 Sustainable Packaging for the State of California Act of 2018.

10 42370.1. For purposes of this chapter, the following terms have  
11 the following meanings:

12 (a) "Beverage container" has the same meaning as defined in  
13 Section 14505.

14 (b) "Food service packaging" means a product used for serving  
15 or transporting prepared, ready-to-consume food or beverages,  
16 including, but not limited to, plates, cups, bowls, trays, and hinged  
17 or lidded containers. "Food service packaging" does not include  
18 beverage containers or single-use disposable items, such as straws,  
19 cup lids, and utensils, or single-use disposable packaging for  
20 unprepared foods.

21 (c) "Prepared food" means a food or beverage prepared for  
22 consumption on or off a food service facility's premises, using  
23 any cooking or food preparation technique. "Prepared food" does  
24 not include prepackaged, sealed food that is mass produced by a  
25 third party off the premises of the food service facility.

1 (d) “Recyclable,” regarding a type of food service packaging,  
2 means composed of material that meets both of the following  
3 criteria:

4 (1) The material is eligible to be labeled as “recyclable” in  
5 accordance with the uniform standards contained in the Federal  
6 Trade Commission Guides for the Use of Environmental Marketing  
7 Claims.

8 (2) The director determines that the material, in its final form  
9 as part of food service packaging, meets both of the following  
10 criteria:

11 (A) The material is regularly separated for recycling by recycling  
12 service providers that serve a substantial majority of communities  
13 in the state.

14 (B) The separated material has readily available recycling  
15 markets. The director’s determination of whether a separated  
16 material has readily available recycling markets shall be based on  
17 consultation with local governments and representatives of the  
18 solid waste and recycling industry and on consideration of data  
19 that may be presented by a manufacturer of a type of food service  
20 packaging or material.

21 42370.2. (a) Except as provided in subdivision (b), on and  
22 after January 1, 2021, a food service facility located in a  
23 state-owned facility, *operating on or* acting as a concessionaire  
24 on state property, or under contract to provide food service to a  
25 state agency shall not dispense prepared food using food service  
26 packaging unless the type of food service packaging is on the list  
27 maintained and updated by the department pursuant to Section  
28 42370.3.

29 (b) A food service facility may use food service packaging that  
30 is not on the list maintained and updated by the department  
31 pursuant to Section 42370.3 under any of the following  
32 circumstances:

33 (1) The food service facility possessed that specific inventory  
34 of food service packaging before January 1, 2019.

35 (2) The food service facility possessed that specific inventory  
36 of food service packaging before the list maintained pursuant to  
37 Section 42370.3 was updated to remove the type of food service  
38 packaging and the type of food service packaging was on the list  
39 when the food service facility took possession of the food service  
40 packaging.

1 (3) The food service facility acquired that specific inventory of  
2 food service packaging pursuant to a contract entered into before  
3 January 1, 2019.

4 (4) The food service facility acquired that specific inventory of  
5 food service packaging pursuant to a contract entered into before  
6 the list maintained pursuant to Section 42370.3 was updated to  
7 remove the type of food service packaging and the type of food  
8 service packaging was on the list when the food service facility  
9 entered into the contract.

10 (c) This section shall not affect any contract in existence as of  
11 January 1, 2019. For a contract that is subject to this section and  
12 that is entered into, renewed, or updated after January 1, 2019, the  
13 food service facility shall be responsible for ensuring that the food  
14 service packaging subject to the contract is in compliance with  
15 this section.

16 42370.3. (a) The department shall publish the following list  
17 of approved types of food service packaging on its Internet Web  
18 site no later than June 1, 2020:

19 (1) Food service packaging that is made from thermoformed  
20 polyethylene terephthalate.

21 (2) Food service packaging that is made from paper or  
22 paperboard.

23 (3) Food service packaging that is made from compostable  
24 plastic that meets an ASTM standard specification identified in  
25 subdivision (b) of Section 42356.

26 (4) Food service packaging that is made from aluminum.

27 (5) Reusable food service packaging that is provided by either  
28 the food service facility or the customer.

29 (b) (1) The department shall regularly, but no less than once  
30 every five years, evaluate the list of approved food service  
31 packaging published pursuant to subdivision (a) to evaluate whether  
32 each of the types of approved food service packaging is recyclable  
33 or compostable. The department may remove a type of food service  
34 packaging from the list if the department determines that the type  
35 of food service packaging is not recyclable or compostable.

36 (2) Before removing a type of food service packaging from the  
37 list pursuant to paragraph (1), the department shall consider  
38 whether there are cost-effective alternatives available for the  
39 material of which the food service packaging is composed.

1 (c) (1) The department shall regularly, but no less than once  
2 every five years, evaluate whether there are types of food service  
3 packaging that are recyclable or compostable that are not on the  
4 list published by the department pursuant to subdivision (a). The  
5 department may add a type of food service packaging to the list  
6 published pursuant to subdivision (a), including, but not limited  
7 to, upon the request of a manufacturer of a type of food service  
8 packaging or material, if the food service packaging is either  
9 recyclable or compostable.

10 (2) The department may require that a manufacturer of a type  
11 of food service packaging or material submit data for purposes of  
12 the department's evaluation of whether to add the type of food  
13 service packaging or material that the manufacturer seeks to have  
14 added to the list.

15 (d) In deciding whether to remove a type of food service  
16 packaging from the list pursuant to subdivision (b) or to add a type  
17 of food service packaging to the list pursuant to subdivision (c),  
18 the department may consider either of the following:

19 (1) Whether the material of which the food service packaging  
20 is composed is prone to become litter.

21 (2) Whether the material of which the food service packaging  
22 is composed has any chemicals that pose a risk to human health.

23 42370.4. This chapter does not preempt the authority of a city,  
24 county, or city and county to adopt and enforce additional takeout  
25 food packaging ordinances, regulations, or policies that are more  
26 restrictive than the applicable standards required by this chapter.