
THIRD READING

Bill No: AB 1158
Author: Chu (D), et al.
Amended: 9/8/17 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 6-0, 7/5/17
AYES: Wieckowski, Stone, Hill, Lara, Skinner, Stern
NO VOTE RECORDED: Gaines

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-2, 5/30/17 - See last page for vote

SUBJECT: Carpet recycling

SOURCE: Author

DIGEST: This bill provides changes to the Product Stewardship for Carpets Program related to minimum carpet recycling rate requirements, prohibitions on specified expenditures of funds, and establishment of an advisory committee.

Senate Floor Amendments of 9/8/17 require carpet recycling stewardship organizations to improve and increase carpet recycling in the state.

ANALYSIS: Existing law establishes the Product Stewardship for Carpets Program (Public Resources Code (PRC) §42970 et seq.), which:

- 1) Requires manufacturers of carpets sold in this state, individually or through a carpet stewardship organization, to submit a carpet stewardship plan to CalRecycle that includes specified elements.
- 2) Provides for a carpet stewardship assessment per unit of carpet sold in the state in an amount that cumulatively will adequately fund the plan and be consistent with the purposes of the chapter. Requires the amount of the assessment be sufficient to meet, but not exceed, the anticipated cost of carrying out the plan.

- 3) Defines “CARE” as the Carpet America Recovery Effort, a third party nonprofit carpet stewardship organization incorporated as a 501(c)(3) nonprofit corporation and established to increase the reclamation and stewardship of postconsumer carpet.

This bill:

- 1) Requires a carpet stewardship plan to achieve a 24% recycling rate for postconsumer carpet by January 1, 2020, and to include quantifiable goals, as specified.
- 2) Requires a carpet stewardship organization to provide CalRecycle with specified data in order to evaluate the effectiveness of the program.
- 3) Authorizes CalRecycle to allow a manufacturer that is no longer subject to the plan to continue to sell carpet in California for a specified time if a carpet stewardship plan that was previously approved by CalRecycle either terminates or is revoked.
- 4) Prohibits a carpet stewardship organization from expending funds from an assessment for any of the following purposes: a) penalties imposed pursuant to PRC Section 42978; b) costs associated with litigation against the state; or, c) “Engineered municipal solid waste conversion” as defined in PRC Section 40131.2, use at cement kilns, and transformation as defined in PRC Section 40201.
- 5) Establishes an advisory committee.
- 6) Requires the Department of General Services to ensure that carpet purchased by a state agency contains a minimum amount of postconsumer content.

Background

- 1) *Carpet recycling stewardship program.* California’s carpet stewardship program was established by AB 2398 (Pérez, Chapter 681, Statutes of 2010). California is the first state to create a private-sector designed and managed statewide carpet extended producer responsibility program. Carpet manufacturers, individually, or through a stewardship organization, are required to design a plan and implement the program to achieve continuous meaningful improvement in landfill diversion and recycling of postconsumer carpet. In addition, the stewardship organization finances and distributes funds to support the stewardship program, and reports to CalRecycle on its progress.

CalRecycle’s role in the carpet stewardship program is to review and approve plans, check progress, and provide oversight and enforcement. Other service providers

participate in the management system as negotiated with the stewardship organization.

CARE is a third-party nonprofit carpet stewardship organization based in Georgia. AB 2398 established CARE as the sole carpet stewardship organization until April 1, 2015. After that date, other stewardship organizations are allowed to submit their own plan to CalRecycle for approval. Currently, CARE is the only carpet stewardship organization in California.

- 2) *Recent history of the carpet stewardship program.* (For a more expansive history dating back to events since 2014 regarding the carpet stewardship plan and enforcement, please see analysis by the Senate Environmental Quality Committee.)
 - a) On February 20, 2017, CARE submitted its Revised California Carpet Stewardship Plan 2017-2021 to CalRecycle. The plan specified that with the \$0.25/square yard assessment, CARE expected to collect \$23.7 million in 2017. The plan identified \$1.7 million in reuse subsidy payments; \$7.1 million in recycling processor payments; \$11.1 million in manufacturer payments; just under \$1 million in specified grants; and, \$6.2 million in “program expenses,” which included \$764,142 for CARE salaries and staffing.
 - b) On March 10, 2017, separate from its consideration of the proposed 2017 stewardship plan, CalRecycle began an enforcement proceeding against CARE and filed an accusation document. Among the accusations was failing to meet the requirement that the carpet stewardship organization is required to achieve "continuous and meaningful improvement in the rates of recycling and diversion of postconsumer carpet subject to its stewardship plan and in meeting the other goals included in the organization's plan."

The recycling rate for carpet dropped from 2013 to 2015 – the recycling rate was 12.2% in 2013, 12.1% in 2014, and 10% in 2015. CalRecycle is seeking a total of \$3.285 million in penalties: \$182,500 for 2013; \$1.46 million for 2014; and, \$1.6425 million for 2015.

The accusation document imposed fines against CARE for a total of \$3.285 million: \$182,500 for 2013; \$1.46 million for 2014; and, \$1.6425 million for 2015.
 - c) On April 18, 2017, CalRecycle disapproved CARE’s revised 2017-2021 plan based on a finding that the plan did not adequately address the deficiencies cited in the December 20, 2016 Request for Approval.

- d) On May 3, 2017, CalRecycle initiated weekly discussions with CARE regarding required plan components as well as public outreach efforts and work with manufacturers to achieve compliance.
- e) On May 16, 2017, CalRecycle released a draft enforcement plan against carpet manufacturers. The draft plan did not enforce against wholesalers or retailers. CalRecycle proposed requiring each manufacturer by August 15, 2017, to indicate whether they want CARE to continue acting on their behalf, whether they want to join a different stewardship group or whether they will file their own plan. Also, it proposed an October 19, 2017 deadline to submit new plans. Failures to respond to CalRecycle or submit new plans may result in fines for individual manufacturers.
- f) On June 20, 2017, CalRecycle considered and adopted the final Enforcement Plan. CalRecycle is in the process of mailing out the first notification to carpet manufacturers, which asks manufacturers to respond by August 15, 2017, regarding how the manufacturer will comply going forward. Manufacturers may choose to stay with CARE or choose to submit their own stewardship plan.
- g) By October 19, 2017, each carpet manufacturer, individually or through a stewardship organization, is required to submit a plan to CalRecycle in order to avoid penalties under the Enforcement Plan. Within 60 days of submittal, CalRecycle must approve or disapprove the plan(s).

Comments

- 1) *Purpose of bill.* According to the author, “The carpet industry's inability to meet the legislative performance standards and the goals of its own stewardship plan has and will result in burdens on local governments, crowded landfills, carpet being shipped out of state instead of building California's recycling infrastructure, and incineration of useful material that could otherwise be recycled. As the program run by CARE is being paid for by California consumers, we need to ensure that it goes toward enhancing waste reduction at the source, increasing the carpet recycling rate to align with statewide goals, and provide convenience for California fee payers to recycle carpet. AB 1158 aims to complement and improve the current program to ensure that the goals of the 2010 enabling legislation.”
- 2) *Support and opposition.* The support and opposition listed below are based on the July 10, 2017 version of AB 1158. As of September 8, 2017, no position letters were received for the September 8, 2017 version of this bill.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 8/29/17)

7th Generation Advisors
California Chapters of the Solid Waste Association of North America
California Conference of Directors of Environmental Health
California League of Conservation Voters
California Product Stewardship Council
California Recycling Market Development Zone
California Refuse Recycling Council
California Resource Recovery Association
Californians Against Waste
Changing Markets
City of Berkeley Mayor Jesse Arreguin
City of Cupertino
City of Napa
City of Sunnyvale
City of Thousand Oaks
Clean Water Action
Coalition for Clean Air
Colorado Medical Waste, Inc.
Councilmember Sophie Hahn, City of Berkeley, District 5
Councilmember Susan Wengraf, City of Berkeley, District 6
Dave Cortese, President of County of Santa Clara Supervisor, Third District
East Yard Communities for Environmental Justice
Environment California
Environmental Working Group
Fiberon
Full Circle Environmental
Global Alliance for Incinerator Alternatives
Heal the Bay
Institute for Local Self-Reliance
League of California Cities
Los Angeles County Solid Waste Management Committee/Integrated Waste
Management Task Force
More Ocean Less Plastic
Napa Recycling and Waste Services
Natural Resources Defense Council
Plastic Pollution Coalition
Santa Clara County
Stop Waste
The Story of Stuff Project

Valley Improvement Projects for Social & Environmental Justice
Voices for Progress Education Fund
Western Placer Waste Management Authority
Wishtoyo Chumash Foundation
Zanker Recycling
Zero Waste USA

OPPOSITION: (Verified 8/29/17)

Carpet & Rug Institute
Carpet America Recovery Effort
District Council 16 Painters and Allied Trades
Mohawk Industries
Shaw Industries Group Inc.

ASSEMBLY FLOOR: 73-2, 5/30/17

AYES: Acosta, Aguiar-Curry, Arambula, Baker, Berman, Bigelow, Bloom, Bocanegra, Bonta, Burke, Caballero, Calderon, Cervantes, Chávez, Chiu, Chu, Cooley, Cooper, Cunningham, Dababneh, Dahle, Daly, Flora, Fong, Frazier, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gomez, Gonzalez Fletcher, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Quirk, Quirk-Silva, Reyes, Ridley-Thomas, Rodriguez, Rubio, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Voepel, Waldron, Weber, Wood, Rendon

NOES: Travis Allen, Harper

NO VOTE RECORDED: Brough, Chau, Chen, Choi, Eggman

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9/11/17 20:03:57

**** **END** ****