

CALIFORNIA COASTAL COMMISSION

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W-20

July 8, 2009

TO: Coastal Commissioners and Interested Public

FROM: Peter M. Douglas, Executive Director
 Sarah Christie, Legislative Coordinator

SUBJECT: LEGISLATIVE REPORT FOR JULY 2009

CONTENTS: This report provides summaries and status of bills that affect the Coastal Commission and California's Coastal Program as well as bills that staff has identified as coastal-related legislation.

Note: Information contained in this report is accurate as of 06/24/09. Changes in the status of some bills may have occurred between the date this report was prepared and the presentation date.¹ Current status of any bill may be checked by visiting the California Senate Homepage at www.senate.ca.gov. This report can also be accessed through the Commission's World Wide Web Homepage at www.coastal.ca.gov

2009 Legislative Calendar

Jan 1	Statutes take effect
Jan 5	Legislature reconvenes
Jan 10	Budget must be submitted by Governor
Jan 30	Last day to submit bills to Legislative Counsel
Feb 27	Last day for bills to be introduced
April 2	Spring Recess begins
April 13	Legislature reconvenes
May 1	Last day for Policy Committees to hear and report 1 st House fiscal bills to the Floor
May 15	Last day for Policy Committees to hear and report 1 st House nonfiscal bills to the Floor
May 22	Last day for Policy Committees to meet prior to June 8
May 29	Last day for Fiscal Committees to hear and report 1 st House fiscal bills to the Floor
June 1-5	Floor Session only. No committees may meet
June 5	Last day to pass bills from house of origin
June 8	Committee meetings may resume
June 15	Budget must be passed by midnight
July 10	Last day for Policy Committees to hear and report bills to the Floor from the second house
July 17	Summer Recess begins at the end of session if Budget Bill has been enacted
Aug 17	Legislature reconvenes
Aug 28	Last day for Fiscal Committees to meet and report bills to the Floor
Aug 31-Sept 11	Floor session only. No committees may meet
Sept 4	Last day to amend bills on the Floor
Sept 11	Last day for any bill to be passed. Interim Recess begins on adjournment of session
Oct 11	Last day for Governor to sign or veto bills passed by the Legislature before Sept. 11

¹ Terms used in this report relating to bill status. 1) "On Suspense" means bill is held in Appropriations because of potential costs to state agency. Bills usually heard by Appropriations near Fiscal Committee Deadline in June. 2) "Held in committee" means bill was not heard in the policy committee this year. 3) "Failed passage" means a bill was heard by policy committee but failed to get a majority vote. Reconsideration can be granted by the committee.

PRIORITY LEGISLATION

AB 42 (Blakeslee) Electricity: Pacific Gas & Electric: seismic fault

This bill would require the California Energy Commission, in consultation with other specified agencies including the Coastal Commission, to determine what, if any seismic or other hazard studies are urgently needed at the Diablo Canyon Nuclear Power Facility. The bill would also require the CEC, in consultation with other state agencies including the Coastal Commission, conduct or facilitate peer review of any studies generated as a result of this bill.

Introduced 12/01/08
Last Amended 06/23/09
Status Senate Energy, Utilities and Commerce Committee

AB 64 (Krekorian) Energy: renewable energy resources

This bill would, in relevant part to the Coastal Commission, create a new state agency, the Renewables Infrastructure Authority (RIA). The RIA would be composed of a 9-member Board, and would have exclusive authority to issue permits for renewable energy facilities greater than 5 megawatts, effectively pre-empting all local and state regulatory authority. The bill also authorizes the RIA to issue up to \$6.4 billion in bonds to finance renewable energy projects. *Amendments of 5/06 exempt projects within the coastal zone from the bill.*

Introduced 12/09/08
Last Amended 06/23/09
Status Senate Energy, Utilities and Commerce Committee

Commission position Oppose Unless Amended

AB 68 (Brownlee) Solid waste: single-use carry out bags

This bill would prohibit stores from providing single-use carryout bags to customers after July 10, 2010, unless the store charges a fee of not less than \$0.25 for the bag. The fees collected would be deposited into the Bag Pollution Fund, which the bill would establish, on a quarterly basis. Funds would be expended, after appropriation by the Legislature, to implement programs that educate consumers and reduce the use of plastic bags, and to reduce and mitigate the effects of plastic bag litter.

Introduced 12/12/08
Last Amended 4/23/09
Status Assembly Appropriations Committee, Suspense File

AB 87 (Davis) Single use carryout bags: environmental effects

This bill would prohibit stores from providing single-use carryout bags to customers after July 10, 2010, unless the store charges a fee of not less than \$0.25 for the bag. The fees collected would be deposited into the Bag Pollution Fund, which the bill would establish, on a quarterly basis. Funds would be expended, after appropriation by the Legislature, to implement programs that educate consumers and reduce the use of plastic bags, and to reduce and mitigate the effects of plastic bag litter.

Introduced 01/05/09
Last Amended 04/27/09
Status Assembly Appropriations Committee, Suspense File

AB 226 (Ruskin) Coastal resources: enforcement

This bill would give the Coastal Commission administrative civil liability authority and deposit any resulting revenues into the Coastal Act Services Fund (CASF). This bill would also redirect existing civil penalty revenue from State Coastal Conservancy to the Commission's CASF, subject to appropriation by the Legislature.

Amendments taken by the author in Senate Natural Resources Committee 6/23 clarify that a lien filed by the Commission would not be a "super lien" and that the provisions of the bill would not apply to local governments when acting in their legislative or quasi-judicial capacity.

Introduced 02/03/09
Amended 06/16/09
Status Senate Judiciary Committee

Commission Position Support

AB 248 (Lowenthal) Public resources; ballast water management

This bill would require the owner or operator of a vessel that carries or is capable of carrying ballast water to maintain written or electronic records regarding the make and type of ballast water treatment system, and when and by whom it was approved.

Introduced 02/10/09
Last amended 05/13/09
Status Senate E.Q. Committee

AB 291 (Saldana) Coastal resources: coastal development permits

This bill would prohibit the issuance of a coastal development permit for any property for which a notice of violation has been received, unless the Executive Director of the Commission determines that an application has been filed that fully resolves the violation. *Amendments of 5/11 clarify that the violation runs with the land, not the person, and exclude de minimis violations from the provisions of the bill.*

Introduced 02/13/09
Last amended 5/11/09
Status Senate Appropriations Committee

Commission Position Support

AB 305 (Nava) Hazardous materials: penalties

This bill would make failure to report an oil spill or knowingly provide a false or misleading report about an oil spill in waters of the state a crime punishable by a \$50,000 fine, imprisonment, or both.

Introduced 02/17/09
Last amended 05/06/09
Status Senate E.Q. Committee

AB 650 (Hill) Local government: City of Half Moon Bay

This bill would require the Infrastructure and Economic Development Bank to loan \$10,000 to the city of Half Moon Bay to purchase the Beachwood property in response to the city's settlement agreement in the matter of Yamagiwa v. City of Half Moon Bay (N.D. Cal. 2007). Under the settlement agreement the city waived its right to appeal, and now owes the plaintiff \$18 million in exchange for purchase of the Beachwood property. This is an urgency bill.

Introduced 02/27/09
Last amended 4/30/09
Status Assembly Appropriations Committee.

AB 694 (Saldana) Tidelands and submerged lands: San Diego

This bill would clarify that all state tidelands underlying U.S. Naval installations in the City of San Diego shall revert back to the jurisdiction of the State Lands Commission after decommissioning, rather than remaining the property of the Navy.

Introduced 02/26/09
Status Senate Natural Resources and Water Committee

AB 783 (Anderson) State agencies: repeal

This bill would require that all statutorily created state agencies, boards, and state commissions that are funded by General Fund revenues, except for the Franchise Tax Board, be repealed on January 1, 2022.

Introduced 02/26/09
Status Assembly Business and Professions Committee

AB 925 (Saldana) Recycling: single use beverage container caps

This bill would prohibit the sale of single-use plastic beverage containers without a cap that is not affixed to the container, and made from recyclable materials.

Introduced 02/26/09
Status Senate E.Q. Committee

Commission position Recommend Support – (analysis attached)

AB 964 (Committee)

This bill would set in statute the provisions of a MOU between the state and several bargaining units representing state employees, regarding calculations for retirement allowances.

Introduced 02/26/09
Last amended 03/23/09
Status Assembly Floor, urgency clause failed adoption, reconsideration granted

AB 1347 (Price) Desalination

This bill would repeal Section 12949.6 of the Water Code. This section establishes the Water Desalination Task Force, and requires the Department to report to the Legislature no later than July 1, 2004, on the potential opportunities for sea water and brackish water desalination in California. The Commission participated in the task force, but did not sign on to the final report.

Introduced 02/27/09
Status Assembly Water, Parks and Wildlife Committee

AB 1358 (Hill) Product management: disposable food containers

This bill would prohibit food vendors or state facilities from dispensing food or beverages in disposable polystyrene food or beverage containers, beginning January 1, 2012.

Introduced 02/27/09
Last amended 05/05/09
Status Assembly Floor, inactive file.

AB 1408 (Krekorian) Water demand mitigation fund

This bill would allow a local government to establish a “water demand mitigation fund.” The bill would permit public water agencies to use revenues from said funds to implement water efficiency measures in existing structures. The bill would authorize local governments to require developer of new subdivisions (tract maps) to contribute into a water demand mitigation fund, as a condition of approval.

Introduced 02/27/09
Last amended 04/30/09
Status Passage refused, reconsideration granted, to inactive file.

AB 1442 (Committee on Water, Parks and Wildlife)

This bill would, in relevant part, require the Wildlife Conservation Board to take into consideration areas of the state where public access and hunting/fishing opportunities are most needed when determining which streams and lakes are suitable for hunting and fishing. It would allow the WCB to lease areas of degraded habitat to nonprofit organizations for the purpose of habitat restoration and public access. It would authorize the taking of any game species for a prize or other inducement of reward.

Introduced 02/27/09
Last amended 06/15/09
Status Senate Natural Resources and Water Committee

AJR 3 (Nava) Offshore oil drilling

This measure would request that Congress reinstate the federal offshore oil and gas leasing moratorium for the 2009 fiscal year and beyond. This measure also would memorialize the Legislature’s opposition to the proposed expansion of oil and gas drilling of the Pacific Coast and any federal energy policies and legislation that would weaken California’s role in energy siting decisions by those policies.

Introduced 01/23/09
Last amended 04/30/09
Status Senate Natural Resources and Water Committee

SB 4 (Oropeza) State beaches and parks: smoking

This bill would prohibit smoking of any tobacco product on a state coastal beach on in any unit of the State Parks system. The bill authorizes the Department of Parks and Recreation, or any other relevant state agency, to develop and post signs to provide notice of the smoking prohibition.

Introduced 12/01/08
Last amended 06/18/09
Status Assembly Governmental Organization Committee
Commission Position Recommend Support – (analysis attached)

SB 21 (Simitian) Fishing gear

This bill would require the Department of Fish and Game to make recommendations to the Fish and Game Commission regarding a sustainable funding source for the recovery of derelict fishing gear and the prevention of lost of fishing gear. The bill would require any persons and/or vessels who lose fishing gear at sea to report the loss within 48 hours. The bill would require all fishing licenses issued by the DFG to include information and phone numbers related to the new requirement. The bill would also require DFG to establish a data base of all known and reported sites of derelict/lost fishing gear, and to establish performance targets for their removal.

Introduced 12/01/08
Last amended 03/25/09
Status Senate Appropriations Committee, Suspense File

SB 42 (Corbett) Coastal resources: seawater intake

This bill would prohibit a state agency from approving any new power plant or industrial facility that utilizes Once-Through-Cooling (OTC). The bill would also establish a per-gallon fee for sea water used for OTC in an amount to be set by the SWRCB. Fees would be deposited in the Marine Life Restoration Account, which the bill would create, within the Coastal Conservancy's Coastal Trust Fund. The bill would also require the SWRCB to establish and implement a statewide policy on the use of sea water for OTC.

Introduced 01/06/09
Last Amended 04/14/09
Status Senate Energy, Utilities and Commerce

SB 262 (Lowenthal) Coastal resources:

This bill would repeal the requirement that the Commission must meet monthly. In the event that the Commission did cancel a meeting, this bill would extend all statutory deadlines to the following month. *Amendments taken on 6/11 stipulate that the Commission must meet at least 10 times per year.*

Introduced 02/24/09
Last amended 06/11/09
Status Assembly Natural Resources Committee

Commission Position Support

SB 428 (Kehoe) Tide and submerged lands

This bill would specify that a "marine mammal park for the education and enjoyment of children" is an allowable use for the City of San Diego to authorize at the property known as "Children's Pool." The intent of the legislation is to allow the City some relief in deciding how/whether to comply with a 2001 appeals court decision ordering the city to dredge the pool to eliminate harbor seal habitat, in light of a subsequent restraining order to prevent the dredging based on environmental concerns.

Introduced 02/28/09
Status Assembly Appropriations Committee

SB 459 (Wolk) Tidelands and submerged lands: removal of vessels

This bill would allow the State Lands Commission to immediately remove without notice any unattended vessel that is moored, docked, beached or stranded in such a way that it is creating a hazardous condition. This bill would provide that any vessel under the State Lands Commission's jurisdiction that is allowed to persist in an unseaworthy or dilapidated state for more than 30 days shall be declared abandoned and authorize the Commission to sell, destroy or otherwise dispose of the vessel. Any proceeds from the sale of abandoned property, less the commission's costs, be deposited into the General Fund.

Introduced 02/26/09
Last amended 06/18/09
Status Senate Appropriations Committee

SB 650 (Yee) Half Moon Bay

This bill would appropriate \$10 million from Proposition 84 funds to the city of Half Moon Bay to purchase the property known as Beachwood to assist with the city's settlement agreement in the matter of Yamagiwa v. City of Half Moon Bay (N.D. Cal. 2007). Under the settlement agreement the city waived its right to appeal, and now owes the plaintiff \$18 million.

Introduced 02/27/09
Last amended 05/06/09
Status Senate Natural Resources and Water Committee, Hearing cancelled at author's request.

SB 790 (Pavley) Coastal resources; project grants

This bill would make Low Impact Development (LID) projects eligible for Prop 84 bond funds, if those projects contribute to the protection of water quality or reduce storm water runoff, and authorize the State Water Resources Control Board, in consultation with the Coastal Conservancy, to award grants to public agencies and non-profit organizations.

Introduced 02/27/09
Last amended 05/04/09
Status Assembly Environmental Safety & Toxic Materials Committee

SB 801 (Walters) Coastal resources: City of Laguna Nigel:

This bill states that it is the intent of the Legislature to revise the current coastal zone boundary to terminate at the western edge of the city. This would remove much of the incorporated area of the city of Laguna Nigel from the coastal zone. *Amendments taken on 4/13 replace the initial language with language that makes technical, non-substantive changes to the California Environmental Quality Act.*

Introduced 02/27/09
Last amended 04/13/09
Status Senate Rules

Commission Position Oppose

SB 833 (Natural Resources and Water Committee) Natural resources

This bill makes numerous minor changes to several sections of the Public Resources Code, including Section 30716(c)(3)(B) relating to de minimis amendments to Port Master Plans. This bill would delete an inadvertent self cross-reference to (c), and a mistaken cross reference to 30716(b), which governs minor amendments. The bill would replace that cross reference with a referral to 30716(a) which governs regular PMP amendments. This would allow the Commission, if 3 or more members disagree with an Executive Director's determination that a PMP amendment is de minimis, to set the amendment for public hearing.

Introduced 04/15/09
Last Amended 06/17/09
Status Assembly Natural Resources Committee

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**BILL ANALYSIS****SB 4 (Oropeza)**

As Amended June 18, 2009

RECOMMENDED POSITION

Staff recommends the Commission **Support** SB 4.

SUMMARY

SB 4 would make it a misdemeanor for a person to smoke any tobacco product on any state beach or any unit of the state park system, if signs had been posted to inform the public of the new law. Violation would be punishable by a fine of \$100.

PURPOSE OF THE BILL

The purpose of the bill is to reduce cigarette butt litter and marine debris by banning smoking on state beaches. An additional purpose is to reduce the harmful health impacts of second hand smoke.

EXISTING LAW

Under existing law, smoking is banned within 25 feet of a playground, sand lot, or tot lot, or entrance to a public building. Smoking is also prohibited inside public facilities and private restaurants, bars and workplaces. Over the last few years, several Cities and Counties have banned smoking on local beaches and parks, including the Counties of San Mateo and San Francisco, and the Cities of San Diego, Los Angeles, Huntington Beach, Pasadena, Carson and Davis.

PROGRAM BACKGROUND

As the primary sponsor of California Coastal Cleanup Day, the Commission has been collecting data on beach litter since 1985. Since that time, over 900,000 volunteers have collected more than 14 million pounds of garbage. Every year, the most prevalent item of trash recovered is cigarette butts. Volunteers have removed over 5.5 million cigarette butts since data began being collected in 1989. While cigarette butts are small and relatively light, and therefore do not make up a significant percentage of the pounds of trash removed each year, butts annually account for 40 percent of the total number of debris items removed from California's shorelines.

ANALYSIS

As noted above, cigarette butts are the single most prevalent item of debris collected from public beaches. Cigarette butts are composed almost entirely of plastic (rather than paper and cotton, as is popularly thought). As such, they take an incredibly long time to biodegrade. While it may take 5-10 years for the butts to break down into smaller pieces of plastic that might not be recognizable as butts, or even visible to the naked eye, those smaller pieces persist in the marine environment, and may never fully biodegrade. Even as plastic particles become smaller, they maintain their potential for ingestion by marine animals and organisms. Once ingested, plastic can fill an animal's stomach, giving them a false sense of satiation without providing nourishment, leading to the potential for starvation. In addition, the various toxic chemicals that are used to create different forms of plastic may

leach into the tissue of the ingesting animal, from which point they may travel up the food chain and cause harm through bioaccumulation.

In addition to the potential health impacts to marine organisms and humans alike, cigarette butts are a blight on our beaches. While no specific economic study has been conducted on the financial impact of dirty beaches, California has a \$46 billion ocean-dependent economy, and economic studies conducted on the east coast have shown a direct economic impact to surrounding communities due to dirty or unhealthy beaches.

There is no way to distinguish between cigarette butts that make their way into the coastal and marine environment from beaches, versus those that are washed down from inland areas. However, it is reasonable to assume that if smoking on state beaches and park facilities was prohibited and enforced, it would reduce the overall number of cigarette butts in the environment. In fact, preliminary data from Coastal Cleanup Day events indicates that this theory holds true: data by the California. Data from the Coastal Commission's beach cleanup events indicates a 43% decrease in smoking litter on L.A. County beaches from 2004-2006. Smoking bans were in effect on a vast majority of L.A. County beaches by 2005. In those same years (2004-06), in areas where smoking was not banned, the presence of smoking litter increased. Similar decreases were found in San Diego and Santa Cruz counties, where smoking is banned on many beaches. A secondary benefit could be realized from the public education aspect of this bill. If the "no smoking" signs were designed in such a way as to inform smokers of the dangers associated with cigarette butt pollution, (such as the signs on storm drains that feature a fish motif and read "drains to bay," etc.) and/or coordinated with a public outreach media campaign, it could result in heightened awareness of the issue and a change in habits over time.

Certainly, marine debris and beach litter takes many forms, and cigarette butts are only a single component. But addressing the issue from many angles is necessary to make incremental progress on such a complex issue. Reducing the waste stream is a proven approach, and banning smoking on beaches is a step in that direction.

RECOMMENDED POSITION

Staff recommends the Commission **Support** SB 4

SUPPORT/OPPOSITION (as of 5/6/09)

Support for SB 4:

American Cancer Society
American Heart Association
California Medical Association
Heal the Bay

Opposition to SB 4:

Commonwealth Brands

BILL NUMBER: SB 4 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY June 18, 2009
AMENDED IN SENATE MAY 5, 2009

INTRODUCED BY Senator Oropeza

DECEMBER 1, 2008

An act to add Section 5008.9 to the Public Resources Code,
relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 4, as amended, Oropeza. Public resources: state beaches and parks: smoking ban.

(1) Existing law makes it an infraction for a person to smoke a cigarette, cigar, or other tobacco-related product within 25 feet of a playground or tot lot sandbox area.

This bill would make it an infraction for a person to smoke, as defined, a pipe, cigar, or cigarette on a state coastal beach or in a unit of the state park system, as defined. The bill would establish a state-mandated local program by creating a new crime.

This bill would permit the Department of Parks and Recreation or another relevant state agency to develop and post signs at a state coastal beach or a unit of the state park system to provide notice of the smoking prohibition. The bill would require the smoking prohibition to be enforced only after signs have been posted alerting the public of the prohibition , *but would authorize warnings to be given before signs have been posted* .

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5008.9 is added to the Public Resources Code, to read:

5008.9. (a) For purposes of this section, the following definitions apply:

(1) "Cigar" has the same meaning as defined in Section 104550 of the Health and Safety Code.

(2) "Cigarette" has the same meaning as defined in Section 104556 of the Health and Safety Code.

(3) "Smoke or smoking" means the carrying of a lighted pipe, lighted cigar, or lighted cigarette, of any kind, or the lighting of a pipe, cigar, or cigarette, of any kind, including, but not limited to, tobacco or any other weed or plant.

(4) "State coastal beach" means a sand area that is owned, operated, or under the jurisdiction of the state, an agency of the state, or a department of the state and that adjoins the ocean, a bay, or an estuary. "State coastal beach" does not include an adjacent parking lot.

5) "Unit of the state park system" means an area specified in Section 5002. "Unit of the state park system" does not include an adjacent parking lot.

(b) A person shall not smoke a cigar, cigarette, or other tobacco-related product on a state coastal beach or in a unit of the state park system.

c) A person who violates this section is guilty of an infraction and shall be punished by a fine of one hundred dollars (\$100).

(d) The Department of Parks and Recreation or another relevant state agency or department may develop and post signs at a state coastal beach and a unit of the state park system to provide notice of the smoking prohibition ~~set forth~~ in subdivision (b). New signs shall be posted only when existing signs are replaced by the state.

e) This section shall ~~only~~ be enforced *only* on state coastal beaches or in a unit of the state park system once signs have been posted alerting the public to the smoking prohibition in subdivision (b) , *except that warnings may be given before signs have been posted* .

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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**BILL ANALYSIS**
AB 925 (Saldana)

As Introduced, February 26, 2009

RECOMMENDED POSITION

Staff recommends the Commission **Support** AB 925.

SUMMARY

AB 925 would prohibit the sale of any plastic, single-use beverage container that does not have an affixed cap made from recyclable material.

PURPOSE OF THE BILL

The purpose of the bill is to reduce the number of plastic bottle caps that make their way into the terrestrial and marine environment.

EXISTING LAW

Pursuant to the Integrated Waste Management Act of 1989, rigid plastic packaging container must be made from 25% recycled content or have a recycling rate of at least 45%. This has not been applied to beverage container lids.

PROGRAM BACKGROUND

The Coastal Commission's Coastal Cleanup Day has grown to become the largest volunteer program in the state, and together with the annual Adopt-A-Beach Program the Commission also runs, comprise the state's primary efforts at combating marine debris. In 2008, over 73,000 volunteers participated in California Coastal Cleanup Day. When combined with the Adopt-A-Beach Program, the Commission brought over 100,000 volunteers out to our beaches and waterways to conduct marine debris cleanup activities. Since 1989, the Commission has also been collecting data on the debris the volunteers remove, and this accumulated data has provided the state with a wealth of information on the composition and potential sources of the debris littering California's coast and inland waterways. Thanks to this history of information and activities, the Commission has become one of the state's foremost authorities on the quantity and various impacts of marine debris.

Since the Commission began collecting data from Coastal Cleanup Day in 1989, 1,044,414 bottle caps have been collected; about 10% of all items collected annually. In 2005, 61,117 bottle caps were collected during California's Coastal Cleanup Day. The California Coastal Commission report, *Eliminating Land-based Discharges of Marine Debris in California: A Plan of Action from The Plastic Debris Project*, identifies bottle caps and lids as the third most common type of debris. The report recommends actions to address marine debris from land-based discharges. Action 61 includes a recommendation to "redesign beverage containers to eliminate pieces that can become segregated from the beverage container, including lids, caps, straws, and cup holders." This bill would implement recommendation 61, reducing marine debris as well as marine wildlife mortality associated with ingesting this material.

The California Department of Conservation estimates that between 35-50% of all bottles returned for recycling are returned without the caps. On February 8th, 2007 the Ocean Protection Council adopted a comprehensive resolution on marine debris that recommended specific actions for California to prevent and reduce marine debris, including tethering plastic bottle caps.

ANALYSIS

Plastic marine debris is a pernicious and growing problem world-wide, and plastic bottle caps are a significant component of marine debris. Because plastic does not degrade in the marine environment, it simply breaks down into ever smaller particles which can actually displace natural food sources for ocean wildlife. Recent studies by the Algalita Marine Research Foundation and the Southern California Coastal Water Research Project have found that the average mass of plastics in the seawater off the coast of Long Beach is two and a half times greater than the average mass of plankton. A similar study over seawater 1,000 miles west of San Francisco in the Pacific gyre found the mass of plastics was six times the mass of plankton in drifts where marine animals congregate for feeding. Obviously, this debris can be life threatening to marine organisms. Large seabirds such as Laysan and Black-footed albatrosses and Northern Fulmars frequently consume larger pieces of marine debris, including bottle caps. Adults have also been known to feed these items to their young. Consumed in large quantities, plastic debris can kill adults and juveniles alike.

Recycling centers already recycle bottles and caps and many manufacturers already produce bottles with caps that are tethered in some way. While this bill would make it mandatory to tether lids to bottles, it would not dictate the specific design or technology used.

This solution has a historical precedent. A law passed in the 1970s required affixed pop-tops to replace pull-tabs on aluminum cans. Loose pull-tabs contributed to litter, the un-recycled solid waste stream, and posed a threat to certain types of wildlife. While this law was initially opposed by industry, the it is now the international standard.

AB 925 provides for responsible resource recovery, avoidance of environmental harm, and makes good economic sense in terms of reducing litter and marine debris. In addition, the leashing of caps to bottles themselves will serve an important educational function for the general public, further emphasizing the need to recycle all forms of plastic possible to keep them from being lost, inadvertently or on purpose, in our environment.

SUPPORT/OPPOSITION

Support for AB 925:

As You Sow Foundation
California Coastkeeper
California League of Conservation Voters
Clean Water Action / Clean Water Fund
Faith2Green
Green Sangha
Heal the Bay
JUNK
Ocean Advocate
Natural Resources Defense Council
San Diego Coastkeeper
Santa Monica Baykeeper
Save the Bay
Seventh Generation Advisors
Sierra Club California
Surfrider
Urban Semillas

Opposition to AB 925:

California Grocers Association
California Nevada Soft Drink Association
California Retailers Association
Grocery Manufacturers Association

BILL NUMBER: AB 925 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Saldana
FEBRUARY 26, 2009

An act to add Chapter 6.3 (commencing with Section 42380) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 925, as introduced, Saldana. Recycling: single-use plastic beverage container caps.

The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state, to generally meet one of specified criteria.

This bill would define terms and would prohibit a retailer, on and after January 1, 2012, from selling or offering for sale a single-use plastic beverage container with a cap that is not affixed to, or part of, the beverage container. The bill would also prohibit a retailer, on and after that date, from selling or offering for sale a single-use beverage container with a cap, unless the cap is made of a recyclable material, as defined.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 6.3 (commencing with Section 42380) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 6.3. PLASTIC BEVERAGE CONTAINER CAPS

42380. The Legislature finds and declares all of the following:

(a) The problem of plastic marine debris is increasing in California and in the North Pacific Gyre, which is a swirling vortex of ocean currents comprising most of the northern Pacific Ocean, and where densities of microplastics have tripled during the last decade.

(b) Plastic is the most common type of marine debris, comprising up to 90 percent of floating marine debris.

(c) Plastics are especially harmful to the marine environment due to their nondegradable qualities.

(d) Plastic and plastic packaging waste represent a significant and fast growing component of the state's waste stream and marine debris.

(e) Over 60,000 bottle caps were collected on California beaches during Coastal Cleanup Day in 2005.

(f) An Orange County study estimated that over 88,000 plastic caps and lids litter Orange County beaches.

(g) The increasing problem of marine debris is harmful to marine resources. Marine mammals and seabirds often mistake marine debris such as bottle caps for food. Ingestion of the plastic debris can ultimately lead to malnutrition and starvation.

(h) Plastic and other debris litter our beaches, and represent a threat to California's forty-six billion dollar (\$46,000,000,000) ocean-dependent, tourism-oriented economy and in certain circumstances may pose a public health threat.

(i) California state and local agencies spend millions of dollars per year in litter collection.

(j) The California Coastal Commission's plan of action from the Plastic Debris River to Sea Project recommends that plastic beverage containers be redesigned to eliminate pieces that can become segregated from the beverage container, including lids and caps.

(k) Aluminum can pull tabs, a common form of litter in the 1960s and 1970s, were redesigned to remain connected to the body of the can. As a result, the pull tab litter problem was eliminated.

(l) The Ocean Protection Council passed a resolution on marine debris on February 8, 2007. The resolution calls for an investigation of innovative methods to reduce plastic waste commonly found in the marine environment.

42381. For purposes of this chapter, the following definitions shall apply:

(a) "Beverage" means a liquid, in a ready-to-drink form, that is intended for human consumption.

(b) "Beverage container" means an individual, separate bottle, can, jar, carton, or other receptacle, however denominated, in which a beverage is sold, and that is

constructed of plastic. "Beverage container" does not include a cup or other similar open or loosely sealed receptacle.

(c) "Recyclable" means a material that still has useful physical or chemical properties after serving its original purpose and can, therefore, be reused or remanufactured into additional products.

(d) "Retailer" means a person who sells a beverage in a beverage container to a consumer.

(e) "Single use" means a single-use disposable product used for serving or transporting a prepared, ready-to-consume beverage.

42382. On and after January 1, 2012, a retailer shall not sell or offer for sale either of the following:

(a) A single-use beverage container with a cap that is not affixed to, or part of, the beverage container.

(b) A single-use beverage container with a cap, unless the cap is made of a recyclable material.