

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 1347 (Ting)
Version: June 19, 2023
Hearing Date: June 27, 2023
Fiscal: Yes
Urgency: No
AM

SUBJECT

Solid waste: paper waste: proofs of purchase

DIGEST

This bill, on an after January 1, 2025, requires a business, as defined, to offer a consumer, on equal terms, the option of receiving a proof of purchase by email, text message, paper, or not receiving one at all. The bill prohibits a business from printing a proof of purchase if the consumer opts to not receive one, unless otherwise required by state or federal law, and prohibits a paper receipt from containing items nonessential to the transaction if they would make the receipt longer. The bill also prohibits a proof of purchase provided to a consumer from containing bisphenol A, on an after January 1, 2024, or any bisphenols on an after January 1, 2025. A violation of these provisions subjects a business to a civil penalty, as provided. The bill defines various terms for these purposes.

EXECUTIVE SUMMARY

Every year millions of paper receipts are printed by businesses. These receipts can have a detrimental impact on the environment and pose health risks as many paper receipts are coated with bisphenol-A (BPA) or bisphenol-S (BPS), which are known endocrine-disruptors. Paper receipts also generate waste and require the use of large quantities of water and trees to produce. This bill seeks to address these environmental and health concerns by requiring a business to provide consumers with the option of receiving an electronic receipt, a paper receipt, or no receipt, and prohibits a paper receipt from containing items nonessential to the transaction if they would make the receipt longer. The bill authorizes the Attorney General, a district attorney, or a city attorney to enforce these provisions, and provides for a violation to be punished by a civil penalty of \$25 per day, not to exceed \$300 annually. This bill is substantially similar to AB 161 (Ting, 2019), which passed this Committee but ultimately died in the Senate Appropriations Committee.

The bill is sponsored by Californians Against Waste and supported by numerous environmental and community organizations. The bill is opposed by various businesses and organizations representing businesses. Should this bill pass out of this Committee, it will be heard next in the Senate Environmental Quality Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the California Consumer Privacy Act of 2018 (CCPA), which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. It places attendant obligations on businesses to respect those rights. (Civ. Code § 1798.100 et seq.)
 - a) Establishes the California Privacy Rights Act of 2020 (CPRA), which amends the CCPA and creates the California Privacy Protection Agency (PPA), which is charged with implementing these privacy laws, promulgating regulations, and carrying out enforcement actions. (Civ. Code § 798.100 et seq.; Proposition 24 (2020).)
- 2) Prohibits, pursuant to the Song Beverly Credit Card Act, persons and entities that accept credit cards for the transaction of business from doing any of the following and subjects a person who violates these provisions to a civil penalty:
 - a) Requesting or requiring the cardholder, as a condition of accepting the credit card as payment for goods or services, to write any personal identification information on the credit card transaction form or otherwise.
 - b) Requesting or requiring the cardholder, as a condition of accepting the credit card as payment for goods or services, to provide personal identification information that the person or entity accepting the credit card writes, causes to be written, or otherwise records upon the credit card transaction form or otherwise.
 - c) Utilizing, in any credit card transaction, a credit card form that contains preprinted spaces specifically designated for filling in any personal identification information of the cardholder. (Civ. Code § 1747.08(a).)
- 3) Requires that local governments divert at least 50 percent of solid waste from landfill disposal, and establishes a statewide goal that 75 percent of solid waste be diverted from landfill disposal by 2020, and annually thereafter. (Pub. Res. Code §§ 41780 & 41780.01.)
- 4) Requires commercial waste generators, including multi-family dwellings, to arrange for recycling services and requires local governments to implement commercial

solid waste recycling programs designed to divert solid waste from businesses.
(Pub. Res. Code §§ 42649 et. seq.)

- 5) Requires generators of specified amounts of organic waste to arrange for recycling services for that material. (Pub. Res. Code §§ 42649.8 et. seq.)

This bill:

- 1) Requires a business to offer a consumer, on equal terms, at least all of the following options for receiving a proof of purchase:
 - a) an email receipt;
 - b) a text message receipt;
 - c) a paper receipt; and
 - d) no receipt.
- 2) Provides that a business is not required to provide an electronic proof of purchase if, due to limited internet connectivity, a power outage, or other unexpected technical difficulties, the business is incapable of sending an electronic proof of purchase. Under these circumstances, the business must provide the consumer a paper proof of purchase unless the consumer opts not to receive a proof of purchase.
- 3) Prohibits a paper proof of purchase provided to a consumer by a business from including printouts of items nonessential to the transaction if those nonessential items make the paper proof of purchase longer than necessary to provide the consumer with the essential items to the transaction.
 - a) "Items nonessential to the transaction" include, but are not limited to, coupons or advertisements.
- 4) Prohibits a paper proof of purchase provided to a consumer by a business from containing bisphenol A on and after January 1, 2024, and from containing any bisphenols on and after January 1, 2025.
- 5) Provides that a first and second violation results in a notice of violations, and any subsequent violation is punishable by a civil penalty of \$25 for each day a business is in violation, but is not to exceed \$300 annually.
- 6) Authorizes the Attorney General, a district attorney, a county counsel, or a city attorney to enforce these provisions.
- 7) Specifies that his section does not alter any consumer privacy protection provided by law, or any other consumer right under federal, state, or local law.
- 8) Defines the following terms:

- a) "Business" means a person that accepts payment through cash, credit, or debit transactions.
- b) "Business" does not include either any of the following:
 - i. a health care provider, as defined in Section 123105 of the Health and Safety Code;
 - ii. an entity organized as a nonprofit institution that has annual gross sale receipts of less than two million dollars (\$2,000,000); or
 - iii. except for purposes of the prohibition in 4), above, an entity that is not subject to the California Consumer Privacy Act of 2018 (Title 1.81.5 (commencing with Section 1798.100) of Part 4 of Division 3 of the Civil Code).
- c) "Consumer" means a person who purchases, and does not offer for resale, food, alcohol, other tangible personal property, or services.
- d) "Invoice" means an itemized list of goods or services provided before or after the point of sale through a contract stating the amount due.
- e) "Person" includes any individual, firm, association, organization, partnership, limited liability company, business trust, corporation, or company.
- f) "Proof of purchase" means a receipt for the retail sale of food, alcohol, or other tangible personal property, or for the provision of services, provided at the point of sale, but does not include an invoice.

COMMENTS

1. Stated need for the bill

The author writes:

With the increasing adoption of e-receipts, paper receipts have become unnecessary and antiquated. Yet many businesses are still providing paper receipts, many of which are coated with toxic chemicals that makes them harmful to human health and nearly impossible to recycle. According to Green America's *Skip the Slip* report, over 3 million trees and 10 billion gallons of water in the United States are used to create proof of purchase receipts. That's a lot of environmental impact for something that we generally don't need, especially if you're just buying a pack of gum or getting a cup of coffee to-go. This bill would reduce waste and ensure that we don't expend valuable resources by requiring businesses that are subject to the California Consumer Protection Act (CCPA) to offer customers the option between an electronic receipt, paper receipt and no receipt. AB 1347 would also ban the use of BPA/BPS on all printed receipts in the state.

2. Paper receipts

a. Health risks posed by paper receipts

Paper receipts are a ubiquitous part of our economy, with some estimates finding that “cashiers, waiters, banks, and many other employees handle as many as 30 receipts per hour.”¹ Most receipts are printed on thermal paper and “because of the way the ink develops, BPA and BPS are added in their free form without being bound to the paper or polymerized[,]” which leads to the chemicals transferring easily to anything the thermal paper touches.² In 2016, the European Union banned the use of BPA in thermal receipts to take effect in 2020 and classified BPA as a “substance that has toxic effects on our ability to reproduce.”³ In the United States, Connecticut became the first state to ban the manufacture, sale, or distribution of thermal receipt paper or cash register receipt paper containing BPA.⁴

The Assembly Natural Resources Committee notes:

Point-of-sale receipts in California are generally printed on white thermal paper, which is very thin, lightweight paper coated with a material that changes color when heated. Generally, this coating contains significant amounts of either BPA or BPS. According to the American Forest and Paper Association (AFPA), receipt paper used in California almost exclusively uses BPS.⁵

The bill prohibits BPA in receipts on and after January 1, 2024. In response to concerns raised by the opposition related to adequate supply of receipt paper that does not contain BPS, the bill bans all other bisphenols in receipts beginning on January 1, 2025.

b. Bill is intended to reduce the amount of receipt waste generated in the state

The author and sponsors of the bill state that it is intended to reduce the amount of receipt waste generated in the state. According to Green America’s *Skip the Slip* report, each year in the U.S. receipt use consumes over 12.4 million trees, 13 billion gallons of water, and generates 1.5 billion pounds of waste, and 4 billion pounds of carbon

¹ Ecology Center, *Receipt Paper Study 2018 Findings Overview*, available at <https://www.ecocenter.org/our-work/healthy-stuff-lab/reports/more-you-bargained-receipt-paper-study-2018/receipt-paper-study>.

² Safer Chemicals Healthy Families, *New report: 9 out of 10 receipts contain toxic BPA or BPS* (Jan, 17, 2018), available at <https://saferchemicals.org/2018/01/17/new-report-9-out-of-10-receipts-contain-toxic-bpa-or-bps/>.

³ ECHA, *Bisphenols* available at <https://www.echa.europa.eu/hot-topics/bisphenols>.

⁴ *Senate Bill 210 (Meyer, 2011)*, C.G.S.A. § 21a-12e.

⁵ Asm. Natural Resources Comm. Analysis of AB 1347 (2023-24 gen. sess.) as amended Feb. 16, 2023 at p. 3.

dioxide.⁶ Even if toxic chemicals are banned on paper receipts, they are generally made of material that is generally not recyclable. The size and composition of receipts commonly makes them a contaminant in the recycling stream. They note that in April of 2022, CVS started explicitly asking customers at cash registers if they want a printed receipt, digital receipt, or no receipt and that within four months, CVS saved 87 million yards of receipt paper. California’s solid waste hierarchy places source reduction at the top of the solid waste management hierarchy, followed by reuse and then recycling, with disposal being the last resort. Requiring consumers to request a paper receipt is intended to reduce the number of paper receipts generated, which will conserve the resources needed to make the receipts and reduce the generation of waste receipts.

A coalition of environmental and community groups, including the sponsor of the bill Californians Against Waste, write:

In 2021, the United States used 284,000 metric tons of receipts that are effectively impossible to recycle due to toxic coatings in thermal receipt paper.

In 2021, receipts generated 334,000,000 pounds of waste. In a survey from Green America regarding consumer receipt preferences, respondents said they threw away or lost 49 percent of paper receipts they received, even if they intended to keep the receipt. (footnotes omitted) [...]

However, according to the Assembly Natural Resources “receipts make up a small percentage of the total paper disposed in California.” That Committee further noted, “estimates vary on the amount of receipt paper used in the US. According to the AFPA, the US annually uses approximately 180,000 tons of paper receipts. Grand View Research, which provides market information, estimates that around 280,000 tons of thermal paper is used in the US each year for receipts. California-specific data is not available.”⁷

c. This bill’s proposed solution to the issues raised above

In light of the negative impacts posed by paper receipts, the bill seeks to do several things:

- Requires a business to offer a consumer, at a minimum, all of the following options: (1) an email receipt, (2) a text message receipt, (3) a paper receipt, and (4) no receipt.
- Prohibits a business from printing a receipt if a consumer elects to not receive one, unless otherwise required by state or federal law.

⁶ Green America, *Skip the Slip: Environmental Costs & Human Health Risks of Paper Receipts with Proposed Solutions* at p. 2, available at <https://www.greenamerica.org/sites/default/files/2018-05/Skip%20the%20Slip%20Report%20-%20May%202018.pdf>.

⁷ Asm. Natural Resources Comm. Analysis of AB 1347 (2023-24 gen. sess.) as amended Feb. 16, 2023 at p. 3.

- Provides that a business is not required to provide an electronic receipt if, due to limited internet connectivity, a power outage, or other unexpected technical difficulties, the business is incapable of sending an electronic receipt. Under these circumstances, the business is required to provide the consumer a paper receipt unless the consumer opts not to receive a receipt.
- Prohibits a receipt provided to a consumer from containing BPA on and after January 1, 2024, or any bisphenols on and after January 1, 2025.
- Prohibits paper receipts from including printouts of items nonessential to the transaction if those nonessential items make the paper proof of purchase longer than necessary to provide the consumer with the essential items to the transaction. Items nonessential to the transaction include, but are not limited to, coupons or advertisements.

The bill defines “business” as a company that accepts payment through credit or debit transactions, and specifies that a business does not include a health care provider or an entity organized as a nonprofit institution that has annual gross sale receipts of less than \$2 million. The bill also provides that a business does not include an entity that is not subject to the CCPA, except for the requirement that a receipt not contain any BPA or BPS. A first and second violation by a business results only in a notice of a violation, and any subsequent violations subject a business to a civil penalty of \$25 for each day the business is in violation, not to exceed \$300 in a year. As such, the bill provides only nominal fines for the enforcement of its provisions. The Attorney General, a district attorney, and a city attorney are authorized to enforce these provisions. The bill specifically states it does not alter any consumer privacy protection provided by law, including the CCPA or the Song-Beverly Credit Card Act, or any consumer rights under federal, state, or local law.

3. This bill implicates privacy issues and the First Amendment

a. Privacy and the CCPA

Article I, Section 1 of the California Constitution provides: “All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.” Privacy is therefore not just a policy goal, it is a constitutional right of every Californian. Current technology has allowed many tasks that previously required the use of paper to be done digitally or electronically, which has the potential to provide waste reduction and other positive environmental impacts. However, this also impacts the privacy rights of individuals. Finding the appropriate balance between protecting Californian’s privacy and other important policy goals, such as waste reduction, is not an easy task and will require careful consideration by the Legislature.

Under the CCPA, email addresses and phone numbers fall within the definition of personal information. The CCPA provides consumers with numerous rights related to the collection and sale of their personal identifying information, including that consumers are entitled to certain disclosures, have the right to opt out of the sale of their personal identifying information, and the right to request that a business delete their personal identifying information. A violation of the CCPA could subject a business to civil liability of up to \$2,500 per violation, or up to \$7,500 per intentional violation, in an action brought by the Attorney General, as specified. (Civ. Code § 1798.155.) Opposition raises the valid point that a business that currently does not collect consumer information to avoid being subject to the CPRA would now be required to collect that information and, therefore, be required to be subject to the CPRA. The opposition notes that CPRA compliance is especially cumbersome and costly for small and medium-sized businesses.

In order for a business to offer a receipt in an electronic form, a business must obtain personal information from a consumer, such as a consumer's email address or phone number. The bill in print does allow a consumer to choose a paper receipt; however, it is likely that many consumers will opt to receive an electronic receipt. This collection of personal information by businesses raises serious issues of data protection and could place consumers at an increased risk of having their personal information stolen. There have been several examples of massive data breaches that have led to the personal information of millions of consumer's being stolen by hackers, including Epsilon International in 2011 (millions affected)⁸, Equifax in 2017 (143 million affected)⁹, Marriott International in 2018 (up to 500 million affected),¹⁰ and T-Mobile in 2023 (37 million affected).¹¹

In order to reduce the privacy risks associated with requiring the collection of email addresses and telephone numbers under the bill, the Assembly Privacy and Consumer Protection Committee amended the bill to limit the application of the provisions of the bill, except for the ban on BPA and BPS receipts, to businesses that are already covered under the CCPA. Even with this amendment, that Committee noted:

The question before this Committee is whether or not the environmental impact of the proposed policies is worth any erosion of Californians' privacy rights and/or consumer protections that may be required in order to achieve the stated goals of the

⁸ Halliday, Josh, *Epsilon email hack: millions of customers' details stolen*, The Guardian (Apr. 4, 2011), available at <https://www.theguardian.com/technology/2011/apr/04/epsilon-email-hack> (as of Jun. 16, 2019).

⁹ FTC, *The Equifax Data Breach: What to Do* (Sept. 8, 2017), available at <https://www.consumer.ftc.gov/blog/2017/09/equifax-data-breach-what-do> (as of Jun. 16, 2019).

¹⁰ FTC, *The Marriott data breach* (Dec. 4, 2018), available at <https://www.consumer.ftc.gov/blog/2018/12/marriott-data-breach> (as of Jun. 16, 2019).

¹¹ Wyatt Grantham-Philips, *In latest T-Mobile hack, 37 million customers have personal data stolen, company says*, USA Today, <https://www.usatoday.com/story/tech/2023/01/20/tmobile-data-hack-37-million-customers/11088603002/>.

author. The answer appears, unfortunately, that beyond banning the use of toxic chemicals, it is unclear that this bill makes a significant difference in the amount of paper waste and may, in fact, unintentionally increase electronic waste. Therefore, the bill may result in an expansion in the number of the businesses that collected [sic] telephone numbers and email addresses and that does pose some level of privacy risk for customer[s], with very little, if any benefit.¹²

If this bill were to be enacted, it would mandate businesses to collect email addresses and phone numbers of their customers. The CCPA, though it does provide some protections for consumers, it requires a consumer to take affirmative action to request that their information be deleted and does not provide any protections for data breaches.

b. The bill places restrictions on speech

The bill's provisions that prohibit paper receipts from including printouts of items nonessential to the transaction if those nonessential items make the paper proof of purchase longer than necessary to provide the consumer with the essential items to the transaction implicate the First Amendment of the federal Constitution. Opposition notes that this provision is regulating commercial speech and would prevent a business from including things other than coupons or advertisements, such as information about supporting a community event or a specific charity or encouraging their customers to vote.

The First Amendment prohibits the government from "abridging the freedom of speech, or of the press; or the right of people peaceably to assemble, and to petition the Government for a redress of grievances." This bill's provisions would likely be considered a time, place, and manner restriction as the limitation imposed is content-neutral, meaning it applies without regard to the content of the message. When determining whether a statute is content neutral, the court has stated that the principal inquiry is if the government's purpose in regulation is due to disagreement with the message the speech conveys. (*Ward v. Rock Against Racism* (1989) 491 U.S. 781, 791) The court noted that a law "that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others." The purpose of the bill's provision is to discourage receipts from being longer than necessary in order to address the environmental impact of receipts, not because of the content contained on the receipt.

The Supreme Court has held that governments may "impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions 'are justified without reference to the content of the regulated speech, that they are narrowly tailored

¹² Asm. Privacy and Consumer Protection Comm. Analysis of AB 1347 (2023-24 gen. sess.) as amended April 19, 2023 (as stored April 24, 2023) at p. 1.

to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.” (*Ibid.*) This is commonly referred to as an intermediate scrutiny standard. It is unclear if a court would find that addressing the environmental concerns posed by paper receipts is a significant governmental interest given the evidence; however, it is likely the bill could meet this prong of the strict scrutiny standard.

In regards to whether the bill is narrowly tailored, the court has held that “[g]overnment may not regulate expression in such a manner that a substantial portion of the burden on speech does not serve to advance its goals.” (*Id.* at 799.) The court further elaborated that “the means chosen are not substantially broader than necessary to achieve the government’s interest” and “will not be invalid simply because a court concludes that the government’s interest could be adequately served by some less-speech-restrictive alternative.” (*Id.* at 800.) The bill prohibits receipts from being longer than necessary to provide the consumer with the essential items to the transaction, and specifically states this includes coupons and advertisements. Nothing under the bill prohibits a business from offering coupons or advertisements in a separate form to a consumer, which arguably leaves alternative channels for communication. However, it is unclear if a court would find that the burden this bill places on speech is done so in a manner that does not serve to advance the stated goal to reduce waste, given the Assembly Committee of Natural Resources statement that receipts make up a small percentage of the total paper disposed in California.

c. Bill requires the option of no receipt

The bill would require a business to not provide a receipt at the option of the consumer. Opposition has raised several issue with this provision of the bill. Most specifically, they note that paper receipts are utilized to decrease theft and that a growing number of businesses have begun checking receipts as consumers exit their stores to combat the growing issue of organized retail theft, and that allowing a consumer to opt out of receiving a paper receipt or the option of no receipt at all would affect these businesses ability to use paper receipts to combat such theft. They also state that some businesses point of sale systems cannot support this type of mandate and would require some businesses to purchase new systems.

Costco Wholesale writes that they are opposed to the bill as well unless a provision is included that exempts a business from this requirement if “the rules of an association or club to which the consumer belongs requires generation of receipts in paper form” as they argue that paper receipts are integral to their business model and have been for decades. The Orange County Business Council writes that they believe the bill interferes with federal requirements that SNAP and WIC recipients have to receive paper receipts. However, the bill allows a paper receipt to be printed and provided if required under federal or state law.

4. Proposed amendments

Given the concerns raised above, the author has agreed to amend the bill to remove the mandated collection of personal information and the restrictions on the length of a receipt in the bill. The author has also agreed to push the enactment date of the requirement to offer a receipt or no receipt option to a consumer until January 1, 2026 to give businesses time to ensure their technology can comply with the bill's requirements. Lastly, the author has proposed an amendment to address the concerns raised by Costco Wholesale. A mock-up of the amendments in context is attached to this analysis.

5. Statements in support

A coalition of environmental and community groups, including Californians Against Waste the sponsor of the bill, writes:

This outdated technology [paper receipts] simply does not match current consumer lifestyles. In a survey from Green America, 86 percent of respondents want retailers to offer digital receipts as an option due to environmental concerns and for easier storage. AB 1347 would give consumers the option to choose between a printed, digital, or no receipt, which matches what consumers already prefer.

93% of receipts are coated in Bisphenol-A (BPA) or Bisphenol-S (BPS) for text to appear on the receipt. BPA and BPS are easily transferred through surface contact which can contaminate paper collected for recycling. The easy spread of BPA and BPS also pose a risk to human health, as both BPA and BPS can easily be absorbed through the skin and enter the bloodstream. BPA and BPS are endocrine disruptors linked to numerous health concerns including fetal development issues, reproductive impairment, Type 2 diabetes, thyroid conditions and other health concerns. AB 1347 would require all printed receipts to be free of BPA and BPS, limiting consumers exposure to these toxic substances and eliminate the chance of contamination in recycling facilities.

Over 3.5 million trees and 10 billion gallons of water were used to manufacture receipts every year in the United States. This is a tremendous investment in resources for an item that the average person throws away. As we continue to mitigate the effects of climate change, it is imperative that we also minimize the waste of valuable resources to manufacture a product that can readily be replaced through available technology. (footnotes omitted)

6. Statements in opposition

A coalition of organizations representing various businesses, including the California Retailers Association, the California Grocers Association, and the California Restaurant Association, are opposed unless the bill is amended to remove all the provision but the BPA and BPS ban. They write:

A growing number of businesses check receipts as consumers exit their stores which helps to reduce theft. Authorizing a consumer to opt out of receiving any proof of purchase makes it impossible to know who has purchased the products they are walking out with.

Requiring businesses to offer an electronic receipt is also problematic. Not all businesses have point-of-sale (POS) systems that enable them to collect emails and send electronic receipts. In fact, some specifically do not want to collect such consumer information because it may make them subject to the California Privacy Rights Act. CPRA compliance is especially cumbersome and costly for small and medium-sized businesses. Also, in environments like drive throughs, there is generally not a way to have a consumer enter their email from their vehicle.

Additionally, there is a major compliance issue when it comes to grocery retailers that are WIC and SNAP authorized. Federal regulations require a receipt to be printed with the transaction amount and the benefit balance. These requirements are very strict and if not followed, it could cause an issue with federal regulators. Another issue is the technology capabilities of the processing companies, the Food and Nutrition Service (FNS) requires authorized retailers to partner with FNS authorized payment processing companies. For example, Square has the capability to offer the option of an emailed or printed receipt as well as processing SNAP Payments. However, it is not available to high-risk merchants, those who are prone to fraud and back charges. Some grocers will fall into that category depending on their location.

This bill further prohibits the inclusion of any information that is not essential to the transaction, including but not limited to coupons and advertisements. We believe this provision raises constitutional questions. Restricting what can and cannot be printed on a receipt is a limit of commercial speech. Businesses add information to receipts that cover a wide variety of topics – not simply coupons or advertisements. Under this bill, a business would be prohibited from encouraging customers to vote in an upcoming election or to support a community event or charity.

Additionally, we believe that the provision cited above is anti-consumer. This bill explicitly prohibits a business from providing coupons on paper receipts. This greatly limits California consumers' ability to access coupon based savings.

SUPPORT

Californians Against Waste (sponsor)
5 Gyres Institute
7th Generation Advisors
Active San Gabriel Valley
Ban Single Use Plastic (SUP)
Ban Sup (single Use Plastic)

Bay Area Youth Lobbying Initiative
Breast Cancer Prevention Partners
California Product Stewardship Council
California Resource Recovery Association
Californians Against Waste
Center for Oceanic Awareness, Research, and Education
Clean Water Action
Climate Action California
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, San Fernando Valley
Courage California
Ecology Center
Educate.Advocate.
Environmental Working Group
Facts Families Advocating for Chemical and Toxics Safety
Fort Ord Environmental Justice Network
Friends Committee on Legislation of California
Friends of the Earth
Glendale Environmental Coalition
Global Alliance for Incinerator Alternatives
Green America
Green Science Policy Institute
Greenpeace USA
Grove Collaborative
Heal the Bay
Los Angeles Alliance for a New Economy
National Stewardship Action Council
Natural Resources Defense Council
Northern California Recycling Association
Plastic Free Future
Plastic Oceans International
Plastic Pollution Coalition
Recology
RethinkWaste
San Francisco Baykeeper
Santa Cruz Climate Action Network
Save Our Shores
Sierra Club California
Surfrider Foundation
The 5 Gyres Institute
The Keep a Breast Foundation
The Story of Stuff Project
Upstream
Voices for Progress

Wishtoyo Chumash Foundation
Zero Waste USA

OPPOSITION

Auto Care Association
California Chamber of Commerce
California Fuels & Convenience Alliance
California Grocers Association
California Manufacturers & Technology Association
California Restaurant Association
California Retailers Association
CAWA
Costco Wholesale
Electronic Transactions Association
Orange County Business Council
Paper Receipts Converting Association
The Toy Association

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 161 (Ting, 2019) was substantially similar to this bill. AB 161 died in the Senate Appropriations Committee.

PRIOR VOTES

Assembly Floor (Ayes 49, Noes 17)
Assembly Appropriations Committee (Ayes 11, Noes 4)
Assembly Privacy and Consumer Protection Committee (Ayes 8, Noes 2)
Assembly Natural Resources Committee (Ayes 8, Noes 2)

MOCK-UP OF PROPOSED AMENDMENTS TO SEC. 2 OF THE BILL¹³

SEC. 2. Chapter 3.7 (commencing with Section 42190) as added to Part 3 of Division 30 of the Public Resources Code, is amended to read:

CHAPTER 3.7. Proof of Purchase

42190. For purposes of this chapter, the following definitions apply:

(a) (1) "Business" means a person that accepts payment through cash, credit, or debit transactions.

(2) "Business" does not include any of the following:

(A) A health care provider, as defined in Section 123105 of the Health and Safety Code.

(B) An entity organized as a nonprofit institution that has annual gross sale receipts of less than two million dollars (\$2,000,000).

(C) Except for purposes of subdivision ~~(d)~~ (b) of Section 42190.1, an entity that is not subject to the California Consumer Privacy Act of 2018 (Title 1.81.5 (commencing with Section 1798.100) of Part 4 of Division 3 of the Civil Code).

(b) "Consumer" means a person who purchases, and does not offer for resale, food, alcohol, other tangible personal property, or services.

(c) "Invoice" means an itemized list of goods or services provided before or after the point of sale through a contract stating the amount due.

(d) "Person" includes any individual, firm, association, organization, partnership, limited liability company, business trust, corporation, or company.

(e) "Proof of purchase" means a receipt for the retail sale of food, alcohol, or other tangible personal property, or for the provision of services, provided at the point of sale, but does not include an invoice.

42190.1. (a) (1) On and after January 1, ~~2025~~, 2026 a business shall offer a consumer, on equal terms, ~~at least all of the following options for receiving a proof of purchase: the option to receive a proof of purchase or not receive a proof of purchase.~~

~~(1) An email receipt.~~

¹³ The amendments may also include technical, nonsubstantive changes recommended by the Office of Legislative Counsel.

~~(2) A text message receipt.~~

~~(3) A paper receipt.~~

~~(4) No receipt.~~

~~(b) A~~

~~(2) On and after January 1, 2026, a business shall not print a paper proof of purchase if the consumer opts to not receive a proof of purchase, unless otherwise required by state or federal law.~~

~~(3) Notwithstanding paragraphs (1) and (2), a business is not required to provide the consumer with an option to not receive a proof of purchase if a consumer voluntarily opts in to receive a proof of purchase through the rules of an association or warehouse or other club to which the consumer belongs.~~

~~(c) Notwithstanding paragraphs (1) and (2) of subdivision (a), a business is not required to provide an electronic proof of purchase if, due to limited internet connectivity, a power outage, or other unexpected technical difficulties, the business is incapable of sending an electronic proof of purchase. Under those circumstances, the business shall provide the consumer a paper proof of purchase unless the consumer opts not to receive a proof of purchase pursuant to this section.~~

~~(d) (b) On and after January 1, 2024, a paper proof of purchase provided to a consumer by a business shall not contain bisphenol A. On and after January 1, 2025, a paper proof of purchase provided to a consumer by a business shall not contain any bisphenols.~~

~~(e) (1) A paper proof of purchase provided to a consumer by a business shall not include printouts of items nonessential to the transaction if those nonessential items make the paper proof of purchase longer than necessary to provide the consumer with the essential items to the transaction.~~

~~(2) "Items nonessential to the transaction" include, but are not limited to, coupons or advertisements.~~

~~(f) (c) The Attorney General, a district attorney, a county counsel, or a city attorney may enforce this section. The first and second violations of this section shall result in a notice of violation, and any subsequent violation shall be punishable by a civil penalty of twenty-five dollars (\$25) for each day the business is in violation, but not to exceed three hundred dollars (\$300) annually.~~

~~(g) (d) (1) This section does not alter any consumer privacy protection provided by law, including, but not limited to, those protections provided pursuant to the California~~

Consumer Privacy Act of 2018 (Title 1.81.5 (commencing with Section 1798.100) of Part 4 of Division 3 of the Civil Code), including the amendments approved by the voters in Proposition 24 at the November 3, 2020, statewide general election, and the Song-Beverly Credit Card Act of 1971 (Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code), including paragraph (2) of subdivision (a) of Section 1747.08 of the Civil Code.

(2) This section does not alter any other consumer right under federal, state, or local law.

(f) This section does not prohibit a business from offering a consumer the option of receiving an electronic proof of purchase, including but not limited to an email proof of purchase or text proof of purchase, unless otherwise prohibited by state or federal law.