



California Product Stewardship Council

P.O. Box 2321, Mill Valley CA 94942

POSITION ON Pre-Emption of Local Authority

Among their many responsibilities, local governments in California are held responsible for managing municipal solid waste (AB 939) and household hazardous waste. This responsibility has often driven recycling improvements and innovations and led this year to the State achieving its goal of diverting 50% of wastes generated in the state from disposal.

In 2006, AB 2449 (Levine) was adopted to require all CA grocery stores to take back and recycle plastic grocery bags, implement a public education program, and label all bags 'Please Return to a Participating Store for Recycling.' The bill includes language that, for the next 6 years, will **prohibit local agencies from implementing a recycling requirement or recycling fees on plastic bags** at stores complying with the statewide takeback requirement or even asking stores to account for the number of bags used.

This "pre-emption" of local authority to adopt fees was based on a precedent in SB20 adopted in 2003 that established the state's landmark electronic waste recycling system.¹ In that case, the state had established a system of statewide fees to fund the takeback of covered electronic products, and did not want local governments to interfere with that statewide system. No similar statewide fees were enacted to implement AB2449.

One of the supporters of AB2449, Californians against Waste (CAW) explained that AB 2449 provides a uniform statewide consumer takeback and recycling option at more than 5000 retail stores in the state. They are hopeful that this will result in an increase in the current 2-3% recycling rates for the more than 19 billion plastic carry out bags generated in California annually. Without the preemption of local authority, CAW claims that there would have been no takeback and recycling requirement adopted.

This preemption of local authority is disturbing and is a dangerous precedent. Solid waste policy is a partnership between state and local governments in California. It is inappropriate and unreasonable to pre-empt local authority from using all available tools at their disposal to discharge their responsibilities, while at the same time continuing to hold them responsible for management of solid and hazardous waste.

Therefore, it is the official position of the California Product Stewardship Council (CPSC)² to oppose attempts to restrict local government's autonomy and authority to use all available tools to fulfill their responsibilities and achieve their goals which meet or surpass statewide standards. CPSC would only support such restrictions if producers were clearly given the physical and financial responsibility to take-back products and packaging.

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¹ Section 42472. (a) states "The imposition of a covered electronic waste recycling fee is a matter of statewide interest and concern and is applicable uniformly throughout the state. A city, county, city and county, or other public agency may not adopt, implement, or enforce an ordinance, resolution, regulation, or rule requiring a consumer, manufacturer, or retailer to **recycle covered electronic devices** or **imposing a covered electronic waste recycling fee** upon a manufacturer, retailer, or consumer, unless expressly authorized under this chapter."

² This letter reflects the views of the members of the CPSC only: cities, counties or other local government bodies that a) sign the CPSC Letter of Agreement or b) request membership and publicly support the principles of Product Stewardship as defined in the CPSC Letter of Agreement.

Mission To shift California's product waste management system from one focused on government funded and ratepayer financed waste diversion to one that relies on producer responsibility in order to reduce public costs and drive improvements in product design that promote environmental sustainability.