

# California Legislature Fails Its Citizens with Draconian Bag Ban

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**LEGISLATURE PASSES DRACONIAN BAN RATHER THAN A SIMPLER MEASURE ACCEPTABLE TO SHOPPERS**

**By Anthony van Leeuwen  
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The California Legislature has once again failed the people of California, this time by passing a draconian plastic bag ban (i.e. SB-270). This legislation would ban the distribution of thin-film plastic carryout bags by grocery and convenience stores and impose a minimum fee of 10-cents per store-provided paper or reusable bag. The intent of the fee is to change shopper behavior by using a punitive financial incentive to coerce shoppers into bringing and using their own reusable bags. (California State Legislature , 2014) The legislature could have passed a much simpler solution that would have received much greater and more widespread public support and that would not have involved changing shopper behavior or imposing bag fees while at the same time solving the plastic bag litter problem. (van Leeuwen, Bag Bans: A Community Could Do So Much Better& For So Much Less, 2014)

## Plastic Bag Litter Problem

Proponents of bag bans have long complained that the thin-film plastic grocery bags are a litter problem because they so easily become airborne and are driven by breezes and end up in creeks, rivers, on beaches, and get stuck on bushes, trees, shrubs, and fences. In addition, these thin-film plastic bags get into the storm drain system and are flushed out into the river with the next rain storm and then continue on their way to the ocean where they can potentially harm wildlife.

## A Simple Solution

The problem with thin-film plastic carryout bags, highlighted above, could have been solved by simply requiring that these bags be made from a thicker plastic film. For example, the “thick” plastic carryout bags made from 2.25 mils thick plastic film and also called a “reusable” bag is heavy enough to prevent it from becoming airborne or windblown litter and certainly will not float and go down storm drains and discharged into the river bed. Not only is this solution elegant and simple, it would not require shoppers to change shopping habits or pay a bag fee, plus the thicker plastic bag is fully recyclable in the At-Store Recycling Bin; whereas, most reusable bags are not recyclable. Many local jurisdictions have ignored this solution as well, even though some would allow stores to distribute the thick (reusable) plastic carryout bag at no charge while having to charge a minimum of 10-cents for a paper bag. (van Leeuwen, Bag Bans: A Community Could Do So Much Better& For So Much Less, 2014)

## Another Simple Solution

Another potential solution is just to use paper bags instead of plastic bags, a solution that would have been more acceptable to the public. However, this solution was deliberately rejected by using the excuse that paper bags “*have greater impacts related to air quality, GHG emissions, and water quality than plastic bags on a per bag basis*”. (BEACON, 2013) While it is true that a paper bag does have a greater environmental impact than a thin-film plastic carryout bag on a per bag basis, the same is true for reusable bags. The issue is not the environmental impact on a “per bag basis”, the issue is “will using paper bags instead of plastic bags” result in an insignificant environmental impact or a significant (i.e. class I or class II) environmental impact that would require mitigation measures to be implemented under state law, such as using a “reusable” bag as an alternative product.

By using this phony “per bag” criteria, the solution to use paper bags instead of plastic bags was rejected outright and no environmental evaluation was ever conducted. Had the Environmental Impact Report (EIR) actually evaluated this option, they would have discovered that there are no significant environmental impacts related to paper bag use.

**NOTE:** Environmental Impact Reports (EIRs) prepared for single-use carryout bag ordinances make the assumption that 30% of plastic bags will be replaced by paper bags. It does not take a rocket scientist to modify and extend the calculations in the EIR to change the percentage of paper bags from 30% to 100%, zero out the other bags, and redo the calculations for the different environmental parameters measured. While some of the numbers are different, which is to be expected, there is no significant environmental impact.

In other words, bag ban proponents including public officials, using some clever wording to reject the paper bag solution outright in order to adopt a preconceived solution (i.e. using reusable bags) **defrauded the public** out of a perfectly good and acceptable solution. Furthermore, these public officials when explaining to the public why they had rejected this solution misled and lied to the public by stating that using paper bags are bad for the environment when no such environmental study was ever conducted! (van Leeuwen, Bag Bans: Defrauding the Public of Reasonable Alternative Solutions, 2014, p. 7)

## Other More Traditional Solution Also Ignored

There are two other solutions that can potentially help to solve the problem with plastic bag litter. These solutions were never explored because the source of plastic bag litter was never addressed or seriously investigated by any local jurisdiction that implemented a bag ban. (van Leeuwen & Williams, Bag Bans Officials Neglect Homework, 2013)

## Selective Distribution of Paper Bags

Most shoppers who purchase groceries for their households and who use plastic bags, transport the plastic bags filled with groceries to their home, where the bags are unloaded and the groceries put away. The plastic bags are inside the home and fully in control of the shopper and are not littered.

Other shoppers, who purchase snacks and drinks to be consumed somewhere outside of the store and in a public area, improperly dispose of the plastic bag they receive and these bags end up as wind-blown litter. A simple solution is for a checker or bagger to issue a paper bag instead of a plastic to shoppers who purchase drinks and snacks. This would prevent a lot of plastic bag litter. Again, this solution was never considered and never explored. (van Leeuwen, Bag Bans: A Community Could Do So Much Better& For So Much Less, 2014)

### **Bagging Litter That Could Become Airborne**

Another solution is to educate consumers to **bag** all trash that can become airborne when the curbside trash can is dumped into the trash truck and the truck is driving down the highway. This would include popsicles and candy wrappers, paper, plastic wrap, plastic bags, and other items. By bagging this material so that it cannot become airborne and blown by the wind, a lot of roadside litter will be eliminated. This is essentially the same solution that residents are required to employ when disposing of shredded paper from a paper shredder. Again, this practical solution was never considered by any jurisdiction. (van Leeuwen, Bag Bans: A Community Could Do So Much Better& For So Much Less, 2014)

### **The Preconceived Solution**

The preconceived solution passed by the legislature in SB-270, and which mirrors many local bag bans, is not only draconian, but much more complicated than it needs to be. It bans the distribution of thin-film plastic carryout bags by grocery and convenience stores at the point of sale for the purpose of carrying purchases home. In addition, a minimum fee of 10-cents per paper or reusable bag (e.g. a thick plastic bag) must be charged by the store for no other reason other than to change shopper behavior and coerce shoppers into bringing and using their own reusable bags. This solution involves changing human behavior and shopping habits. (California State Legislature , 2014) Here are some of the characteristics Pro and Con of the legislated solution:

#### **Pro**

- Bans the free distribution of thin-film plastic carryout bags at grocery and convenience stores thereby reducing the quantity of litter attributed to this item.
- Imposes a minimum per bag fee of 10-cents for a store provided paper or reusable bag in order to encourage (i.e. coerce) shoppers into using reusable bags.
- Reusable bags are more durable and hold more than the thin-film plastic bags.
- The bag fee is kept by the store and used to pay for paper and reusable bags including the free paper or reusable bags offered to shoppers receiving public assistance.
- The bag fee is exempt from sales tax in order to avoid the limitations of Proposition 26. (van Leeuwen, Paper Bag Fee - Setting A Bad Precedent, 2014)

#### **Con**

- Thin-film plastic carryout bags are banned only at grocery and convenience stores thereby leaving other types of stores free to distribute thin-film plastic bags.

- Since not all thin-film plastic bags are eliminated, the impact on plastic bag litter is limited. The overall impact on litter is negligible. (van Leeuwen, Bag Bans: Wrong Way To Control Litter, 2013)
- Shoppers who forget to bring reusable bags or do not bring enough are punished by having to pay a minimum fee of 10-cents for each store-provided bag issued or having to go without. (Williams & van Leeuwen, 2014)
- Bringing reusable bags into the store make it easier for the shoplifter. (van Leeuwen, Plastic Bag Ban and Shoplifting, 2013)
- Bringing reusable bags into the store make it easier for a criminal to hide a weapon. (van Leeuwen, Plastic Bag Ban and Shoplifting, 2013)
- Reusable bags if not washed on a regular basis can be a health hazard and transmit diseases of various kinds. (van Leeuwen, Bacterial and Viral Health Hazards of Reusable Shopping Bags, 2013)
- Washing reusable bags uses water, a scarce resource that needs to be conserved since California is experiencing a statewide drought. (van Leeuwen, Plastic Bag Bans and California's Drought, 2014)
- Reusable bags must be inspected, folded, and put back into the car, after each use taking a few minutes of your personal time. (Williams & van Leeuwen, 2014)
- Reusable bags hold more than thin-film plastic bags, and if filled, can weigh much more, a problem for the elderly, the handicapped, and shoppers who have back problems. (van Leeuwen, Reusable Bags and Ergonomic Issues, 2013)
- Most reusable bags are made from cotton or non-woven polypropylene and are not recyclable; whereas, bags made from plastic film are recyclable.
- Two out of three customers reject using reusable bags and choose to either purchase store provided paper or reusable bags or to forgo bags altogether. (van Leeuwen, Shoppers Reject Using Reusable Bags, 2014)
- Those who pay for store provided bags end up subsidizing the free paper or reusable bags given to shoppers who receive public assistance. (van Leeuwen, Plastic Bag Ban Creates New Welfare Benefit, 2013)
- Bag bans do not reduce litter and those jurisdictions that have implemented bag bans have not been able to reduce their litter cleanup budgets by even a single penny.
- The bag fee is a windfall to grocers who stand to make millions of dollars from shoppers.

## Conclusion

The California Legislature could have passed a simple solution to the plastic bag litter problem that would have been barely noticed by consumers and would have preserved individual liberty leaving each shopper free to choose the type of grocery bag they will use to carry groceries home. The solution would have avoided bag fees; avoided the need to bring your own bags; avoided using scarce resources such as water and energy to wash and sanitize reusable bags; and avoided using your personal time to inspect, fold, and put reusable bags back into the car for the next shopping trip.

Instead, the legislature passed a draconian bag ban that implements the preconceived solution pushed by environmental groups and supported by grocers. A solution, not unlike local bag bans, that attempt to change shopper behavior by using a punitive financial incentive to coerce shoppers into bringing and using their own reusable bags. The draconian solution passed by the legislature would cost Californians more than \$1 Billion per year in out of pocket costs and the value of one's personal time and have a negligible impact on litter! (van Leeuwen, *Statewide Bag Ban Would Cost Residents More Than \$1 Billion!*, 2013) The legislature did not do its citizens a favor by passing this draconian legislation and ignoring simpler and more traditional solutions that would have solved some if not all of the problems with plastic bag litter. The California Legislature earns another "F" for Failure to establish good public policy.

## About The Author

**Anthony van Leeuwen** is the founder of the [Fight The Plastic Bag Ban](http://fighttheplasticbagban.com) website and writes extensively on the subject. He holds a bachelors and Master's degree in Electronics Engineering and has over 40 years of experience working in the federal government.

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