

AMENDED IN SENATE JUNE 27, 2019

AMENDED IN ASSEMBLY MAY 17, 2019

AMENDED IN ASSEMBLY MAY 7, 2019

AMENDED IN ASSEMBLY APRIL 30, 2019

AMENDED IN ASSEMBLY APRIL 2, 2019

AMENDED IN ASSEMBLY MARCH 19, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 161

Introduced by Assembly Member Ting

(Principal coauthor: Senator Stern)

(Coauthors: Assembly Members Chiu and Mark Stone)

(Coauthor: Senator Wiener)

January 7, 2019

An act to amend Section 1747.08 of the Civil Code, and to add Chapter 5.8 (commencing with Section 42359) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 161, as amended, Ting. Solid waste: paper waste: electronic proofs of purchase.

Existing law prohibits certain stores from providing a single-use carryout bag to a customer at the point of sale and prohibits full-service restaurants from providing single-use plastic straws to consumers unless requested by the consumer.

This bill, on and after January 1, 2022, would require a business, defined as a company business, as defined, that accepts payment through

~~credit cash, credit, or debit transactions, subject to certain exceptions, to provide a proof of purchase to a consumer only at the consumer's option and would prohibit a business from printing a paper proof of purchase if the consumer opts to not receive a proof of purchase, unless otherwise required by state or federal law. The bill, on and after January 1, 2024, if a consumer opts to receive a proof of purchase, would require the proof of purchase to be provided in electronic form or paper form, at the consumer's option, unless a prescribed form is otherwise required by state or federal law. The bill would prohibit a paper proof of purchase provided to a consumer by a business from containing bisphenol A or bisphenol S, and from including items not essential to the transaction, including, but not limited to, coupons or advertisements. The bill would specify that the first and 2nd violations of any of those provisions would result in a notice of violation and any subsequent violation would be punishable by a civil penalty of \$25 for each day the business is in violation, but not to exceed an annual total of \$300. The bill would authorize the Attorney General, a district attorney, or a city attorney to enforce those provisions. The bill would make these provisions operative on January 1, 2022.~~

~~Existing law prohibits a person, firm, partnership, association, or corporation that accepts credit cards for the transaction of business from requesting or requiring the cardholder to provide personal identification information, which is then recorded, as a condition to accepting the credit card as payment in full or in part for goods or services, subject to specified exceptions.~~

~~This bill would exempt from that requirement a person, firm, partnership, association, or corporation that is a business, as would be defined pursuant to the above provisions, is requesting personal identification information that is necessary to provide the cardholder with a receipt in electronic form pursuant to the above provisions, and does not use the personal identification information for marketing purposes.~~

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

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) The report titled “Skip the Slip: Environmental Costs &
2 Human Health Risks of Paper Receipts with Proposed Solutions”
3 from Green America found that more than 3,000,000 trees and
4 9,000,000,000 gallons of water in America are used to create proof
5 of purchase receipts.

6 (b) Receipts generate 302,000,000 pounds of waste and
7 4,000,000,000 pounds of carbon dioxide, the equivalent of more
8 than 425,000 cars on the road, and most paper receipts contain
9 chemicals that would contaminate other recyclable paper materials.

10 (c) The Ecology Center found that 93 percent of paper receipts
11 are coated with bisphenol A (BPA) or bisphenol S (BPS)
12 chemicals. The United States Food and Drug Administration has
13 banned BPA from baby bottles because those chemicals are known
14 to disrupt hormones, causing cancerous tumors, birth defects, and
15 other developmental issues.

16 (d) The BPA or BPS on receipts can enter people’s bodies
17 simply through touch, which poses a major risk to retail workers,
18 who have 30 percent more BPA or BPS found in their bodies than
19 others who do not have regular contact with receipts, according
20 to the Environmental Working Group and the Centers for Disease
21 Control and Prevention.

22 (e) The State of Connecticut banned the use of receipt paper
23 containing BPA in 2011, and the European Union will restrict the
24 use of BPA in thermal paper beginning in 2020 and is also
25 investigating similar restrictions on the use of BPS.

26 (f) ~~Data from a company that provides mobile payment services
27 shows that their sellers send over 10,000,000 digital receipts each
28 month.~~

29 (g)

30 (f) Prohibiting businesses from providing paper receipts except
31 upon request would have significant positive environmental and
32 public health effects.

33 SEC. 2. Section 1747.08 of the Civil Code is amended to read:

34 1747.08. (a) ~~Except as provided in subdivision (e), a person,~~
35 ~~firm, partnership, association, or corporation that accepts credit~~
36 ~~cards for the transaction of business shall not do any of the~~
37 ~~following:~~

38 (1) ~~Request, or require as a condition to accepting the credit~~
39 ~~card as payment in full or in part for goods or services, the~~

1 cardholder to write any personal identification information upon
2 the credit card transaction form or otherwise.

3 (2) Request, or require as a condition to accepting the credit
4 card as payment in full or in part for goods or services, the
5 cardholder to provide personal identification information that the
6 person, firm, partnership, association, or corporation accepting the
7 credit card writes, causes to be written, or otherwise records upon
8 the credit card transaction form or otherwise.

9 (3) Utilize, in any credit card transaction, a credit card form that
10 contains preprinted spaces specifically designated for filling in
11 any personal identification information of the cardholder.

12 (b) For purposes of this section "personal identification
13 information," means information concerning the cardholder, other
14 than information set forth on the credit card, and including, but
15 not limited to, the cardholder's address and telephone number.

16 (e) Subdivision (a) does not apply in the following instances:

17 (1) If the credit card is being used as a deposit to secure payment
18 in the event of default, loss, damage, or other similar occurrence.

19 (2) Cash advance transactions.

20 (3) If any of the following applies:

21 (A) The person, firm, partnership, association, or corporation
22 accepting the credit card is contractually obligated to provide
23 personal identification information in order to complete the credit
24 card transaction.

25 (B) The person, firm, partnership, association, or corporation
26 accepting the credit card in a sales transaction at a retail motor fuel
27 dispenser or retail motor fuel payment island automated cashier
28 uses the ZIP Code information solely for prevention of fraud, theft,
29 or identity theft.

30 (C) The person, firm, partnership, association, or corporation
31 accepting the credit card is obligated to collect and record the
32 personal identification information by federal or state law or
33 regulation.

34 (D) The person, firm, partnership, association, or corporation
35 is a business, as defined in Section 42359 of the Public Resources
36 Code, is requesting personal identification information that is
37 necessary to provide the cardholder with a receipt in electronic
38 form pursuant to Section 42359.1 of the Public Resources Code,
39 and does not use the personal identification information for
40 marketing purposes.

1 (4) If personal identification information is required for a special
2 purpose incidental but related to the individual credit card
3 transaction, including, but not limited to, information relating to
4 shipping, delivery, servicing, or installation of the purchased
5 merchandise, or for special orders.

6 (d) This section does not prohibit any person, firm, partnership,
7 association, or corporation from requiring the cardholder, as a
8 condition to accepting the credit card as payment in full or in part
9 for goods or services, to provide reasonable forms of positive
10 identification, which may include a driver's license or a California
11 state identification card, or where one of these is not available,
12 another form of photo identification, provided that none of the
13 information contained thereon is written or recorded on the credit
14 card transaction form or otherwise. If the cardholder pays for the
15 transaction with a credit card number and does not make the credit
16 card available upon request to verify the number, the cardholder's
17 driver's license number or identification card number may be
18 recorded on the credit card transaction form or otherwise.

19 (e) Any person who violates this section shall be subject to a
20 civil penalty not to exceed two hundred fifty dollars (\$250) for the
21 first violation and one thousand dollars (\$1,000) for each
22 subsequent violation, to be assessed and collected in a civil action
23 brought by the person paying with a credit card, by the Attorney
24 General, or by the district attorney or city attorney of the county
25 or city in which the violation occurred. However, a civil penalty
26 shall not be assessed for a violation of this section if the defendant
27 shows by a preponderance of the evidence that the violation was
28 not intentional and resulted from a bona fide error made
29 notwithstanding the defendant's maintenance of procedures
30 reasonably adopted to avoid that error. When collected, the civil
31 penalty shall be payable, as appropriate, to the person paying with
32 a credit card who brought the action, or to the general fund of
33 whichever governmental entity brought the action to assess the
34 civil penalty.

35 (f) The Attorney General, or any district attorney or city attorney
36 with jurisdiction, may bring an action in the superior court in the
37 name of the people of the State of California to enjoin violation
38 of subdivision (a) and, upon notice to the defendant of not less
39 than five days, to temporarily restrain and enjoin the violation. If
40 it appears to the satisfaction of the court that the defendant has, in

1 fact, violated subdivision (a), the court may issue an injunction
2 restraining further violations, without requiring proof that any
3 person has been damaged by the violation. In these proceedings,
4 if the court finds that the defendant has violated subdivision (a),
5 the court may direct the defendant to pay any or all costs incurred
6 by the Attorney General, district attorney, or city attorney in
7 seeking or obtaining injunctive relief pursuant to this subdivision.
8 (g) Actions for collection of civil penalties under subdivision
9 (e) and for injunctive relief under subdivision (f) may be
10 consolidated.

11 (h) The changes made to this section by Chapter 458 of the
12 Statutes of 1995 apply only to credit card transactions entered into
13 on and after January 1, 1996. Nothing in those changes shall be
14 construed to affect any civil action which was filed before January
15 1, 1996.

16 SEC. 3.

17 SEC. 2. Chapter 5.8 (commencing with Section 42359) is added
18 to Part 3 of Division 30 of the Public Resources Code, to read:

19
20 CHAPTER 5.8. PROOF OF PURCHASE
21

22 42359. For purposes of this chapter, the following definitions
23 apply:

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

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

27 (A) A business that provides proofs of purchase that meet the
28 following requirements:

29 (i) The proof of purchase does not contain bisphenol A or
30 bisphenol S.

31 (ii) The proof of purchase does not include printouts of items
32 nonessential to the transaction, including, but not limited to,
33 coupons or advertisements.

34 (B)

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

37 (C)

38 (B) A small business, as defined in Section 11342.610 of the
39 Government Code.

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

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

6 (e) ~~“Electronic form” includes, but is not limited to, a form sent
7 through email or text message.~~

8 (d)

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

12 (d) “Person” includes any individual, firm, association,
13 organization, partnership, limited liability company, business trust,
14 corporation, or company.

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

19 42359.1. (a) ~~On and after January 1, 2022, a~~ A proof of
20 purchase shall be provided to a consumer by a business only at the
21 consumer’s option, unless a proof of purchase is otherwise required
22 to be given to the consumer by state or federal law.

23 (b) ~~On and after January 1, 2022, a~~ A paper proof of purchase
24 shall not be printed by a business if the consumer opts to not
25 receive a proof of purchase, unless otherwise required by state or
26 federal law.

27 (e) (1) ~~On and after January 1, 2024, if a consumer opts to
28 receive a proof of purchase pursuant to subdivision (a), the proof
29 of purchase shall be provided in electronic form or paper form, at
30 the consumer’s option, unless a prescribed form is otherwise
31 required by state or federal law.~~

32 (2) ~~Notwithstanding paragraph (1), a business is not required
33 to provide an electronic proof of purchase if, due to limited internet
34 connectivity, a power outage, or other unexpected technical
35 difficulties, the business is incapable of sending an electronic proof
36 of purchase.~~

37 (c) *A paper proof of purchase provided to a consumer by a
38 business shall not contain bisphenol A or bisphenol S.*

39 (d) (1) *A paper proof of purchase provided to a consumer by
40 a business shall not include printouts of items nonessential to the*

1 *transaction if those nonessential items make the paper proof of*
2 *purchase longer than necessary to provide the consumer with the*
3 *essential items to the transaction.*

4 (2) “*Items nonessential to the transaction*” include, but are not
5 limited to, coupons or advertisements.

6 (d)

7 (e) The Attorney General, a district attorney, or a city attorney
8 may enforce this section. The first and second violations of
9 subdivision (a), (b), or (e) *this section* shall result in a notice of
10 violation, and any subsequent violation shall be punishable by a
11 civil penalty of twenty-five dollars (\$25) for each day the business
12 is in violation, but not to exceed three hundred dollars (\$300)
13 annually.

14 (e) (1) Nothing in this section shall be construed to alter a
15 consumer privacy protection required pursuant to the California
16 Consumer Privacy Act of 2018 (Title 1.81.5 (commencing with
17 Section 1798.100) to Part 4 of Division 3 of the Civil Code).

18 (2) Nothing in this section is intended to alter the consumer
19 rights of individuals.

20 (f) *This section shall become operative on January 1, 2022.*