

Spotting Legal Challenges Panel – Supplemental Information*

AB 2449

AB 2449 (Levine 2006), the plastic carryout bag recycling law, preempts California municipalities from adopting ordinances that impose a plastic carryout bag fee upon supermarkets and large pharmacies that are compliant with the recycling program. This law sunsets on January 1, 2013.

Proposition 26

Prop 26 amends the California Constitution to reclassify certain fees as “taxes,” which require a 2/3 vote (by the legislature at the state level and by the voters for local initiatives).

CEQA

The California Environmental Quality Act (CEQA) requires California’s state and local government agencies to analyze the environmental impacts of their actions before they make decisions. CEQA applies to a broad range of government actions that fall into the CEQA statute's definition of "project."

Where a proposed project may result in significant environmental impacts, an agency must ordinarily prepare an Environmental Impact Report before approving it. Groups associated with the plastic bag manufacturing industry have pursued lawsuits against cities that have not prepared EIRs before banning plastic bags. Thus far, these challenges have been largely successful, based on the industry’s assertion that these bans will increase environmental impacts from paper bag use. On April 21, 2010, the California Supreme Court accepted a petition from the City of Manhattan Beach asking the Court to clarify how CEQA applies to plastic bag bans.

Resources

www.plasticbaglaws.org for text of laws, related CEQA litigation, and relevant studies.

<http://www.healthebay.org/about-bay/current-issues/marine-debris> for a variety of information, including how to take action.

www.AboutTheBag.com Los Angeles County’s site is a compendium resource and has links to the LA County ordinance, EIR, and economic study.

www.Cleanseascoalition.org for member groups organizations and other information.

<http://www.opc.ca.gov/2010/04/preventing-ocean-litter-3/> click on the relevant link for the California 2008 Implementation Strategy to Reduce and Prevent Ocean Litter.

<http://www.greencitiescalifornia.org/mea> for the Green Cities California Master Environmental Assessment.

*The information herein is not, nor is it intended to be, legal advice. You should consult an attorney for individual advice regarding your specific situation.