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AP Exclusive: Calif. recycling law lacks oversight

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SACRAMENTO, Calif. -- Seeking to reduce the number of plastic shopping bags cluttering California's beaches and landfills, the state Legislature in 2006 passed a law requiring grocery stores and other large retailers to give consumers an easy way of returning used bags.

Stores handing out plastic bags to customers were directed to collect used bags for recycling and make reusable bags available for purchase.

Seven years later, recycling bins continue to sit outside California stores, but it's virtually impossible to know whether the law is working: The agency in charge of the recycling program can't say how many bags are being recycled or whether the program has affected demand, factors that could help state lawmakers in weighing proposals to ban the product.

Stores are required to submit annual reports detailing how many bags were bought by the store, how many were returned by consumers and which recyclers processed them, yet the state recycling department cannot say how many stores are complying.

A review by The Associated Press found data has not been analyzed since 2009, two years after the law took effect. Then, 3 percent of California's plastic bags were being recycled, a 1 percentage point increase from the previous year.

While totals of bags purchased and recycled during the last three years were made available after an AP request, Department of Resources Recycling and Recovery spokesman Mark Oldfield said those numbers have not been verified so the official recycling rate can be updated.

He said the program lacks resources to analyze recent reports. No fees are charged to bag manufacturers, recyclers or retailers to help pay for staff. While the law allows for fines if stores do not comply, no violations have been issued.

"Work on the program at this point consists of a few weeks of data entry by entry-level staffers when the reports come in during the spring," Oldfield said.

Last year, lawmakers renewed the law through 2020. But in doing so, they did not give the recycling department, known as CalRecycle, more authority or money to improve oversight.

At least four other states, including New York and Delaware, have enacted statewide recycling programs to prevent plastic waste. More than a dozen states this year considered fees or bans on the bags, according to the National Conference of State Legislatures.

Former Democratic Assemblyman Lloyd Levine, who authored the California recycling legislation, said he hoped the program would help prevent the tangle of dirty bags in tree branches in his San Fernando Valley district. He initially sought a fee on bags, but the plastics industry urged him to first try recycling.

"My goal was to eliminate plastic bags from polluting the environment," Levine said. "It's now 2013 and recycling rates have only marginally improved. It's absolutely pathetic."

The state's raw data from the last three years appears to show the weight of bags bought by retailers has decreased, while the weight of bags being recycled grew slightly.

Retailers reported purchasing 62.3 million pounds of bags in 2012, down from 107.4 million in 2008, a possible result of municipal bans on plastic shopping bags. They reported 4 million pounds of bags and 27 million pounds of mixed bags and plastic film were returned for recycling in 2012.

But those figures don't reveal how many bags were recycled. A study by California State University, Sacramento, which calculated previous recycling rates, showed the store-submitted totals for collected bags often included other materials. Without verifying the stores' totals, it's impossible to say how much was from bags, plastic film or general garbage.

Mark Murray, executive director of Californians Against Waste, said his group has not pushed CalRecycle to update recycling rates because he does not want to take resources from more effective programs.

"I'm not sure having state bean-counters counting recycling that's not happening is all that useful," he said.

Murray credited the law with increasing recycling of commercial plastic film stores previously discarded, but said it has failed to significantly affect how many shopping bags are recycled. He faulted the plastics industry for not doing enough public outreach.

Plastics industry officials say they fulfilled their role by creating the bins, signs and other educational materials. They say grocers failed to aggressively promote the program, while the state grocers association argues education was the responsibility of manufacturers.

"It didn't increase recycling the way we had hoped," said Kevin Kelly, chief executive of Union City-based Emerald Packaging and among those involved in discussions on the original recycling legislation.

Grocers acknowledge they have changed their position on recycling and now support phasing out bags. California Grocers Association spokesman Dan Heylen said stores have been shifting away from plastic as California communities approved local bag bans.

More than 80 counties and cities in California have banned plastic bags, including Los Angeles, where a ban starts in January.

Levine says he is disappointed the program — and what his former staffers affectionately refer to as "the Lloyd bins" — has not had a greater effect. He now supports a statewide bag ban.

"It's never too late to increase awareness on recycling," he said. "But at this point, I am skeptical of whether that will ever be as effective as we'd like."

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