

# SB 1053 and AB 2236: Bans More Than Just Plastic Grocery Bags

An August 2024 legal analysis by the law firm Mayer Brown LLP examined legal issues pertaining to compliance with and enforcement of SB 1053 and AB 2236. As you'll see, there's more at stake than just the future of plastic grocery bags.

## What Do SB 1053 and AB 2236 Supporters Think These Bills Will Do?

Proponents assert that SB 1053 and AB 2236 would ban certain stores from selling or distributing reusable plastic bags at the "point of sale," defined as checkout counters, self-checkout kiosks, in-store pickup, outside delivery, and home delivery.

Paper bags made from at least 50% recycled materials would be the only option available for customers.

## OK, So Just Plastic Bags Are Banned?

No. The current versions of the two bills go much further and would ban the sale or distribution of many types of bags.

If enacted, SB 1053 and AB 2236 would change existing law to prohibit stores from providing, distributing, or selling "a bag" to a consumer at the point of sale, with certain exemptions for pharmacy bags, produce bags, and dry cleaning bags, as well as recyclable paper bags for groceries.

But legislators have failed to provide a clear definition for what constitutes a "bag," nor do they define a "reusable grocery bag," raising questions as to which types of bags this ban applies.

## What Else Should I Know?

SB 1053 and AB 2236 prohibit stores from stocking and selling reusable grocery bags of any kind, even those made from cloth or other washable textiles. These bags are popular with consumers and a key element of the passage of SB 270, California's existing bag law.

## What's The Bottom Line?

The ambiguity surrounding the definition of “bag” and what it means to “sell” a bag at a point of sale, could lead to confusion as to whether stores can provide, distribute or sell any other type of bag besides paper.

In other words, SB 1053 and AB 2236 threaten washable, reusable grocery bags and commonly purchased items like Ziploc bags, trash bags, backpacks, insulated cooler bags, and more.

This could lead to significant issues for enforcing this bill and potentially to litigation as courts grapple with how to interpret this ambiguous statute. Current bill language creates a potential for unequal enforcement of the law and legal uncertainty for retailers.

## Forbes The Unintended Consequences of California's War on Plastic Bags

BY JOHN TAMNY | JULY 29, 2024

“Precisely because it’s so vague, it could result in bans not just on reusable shopping bags, but other reusable bag forms including backpacks and handbags, single-use plastic carriers including trash bags, Ziploc style bags, lawn bags, and other types made of paper or plastic. In short, there are a lot of limiting factors given the vague wordage that could have California quite unwittingly banning backpacks and others like it.”



### California Assembly: Committee on Natural Resources

JENNIFER FEARING TESTIMONY ON SB 1053 | OCEAN CONSERVANCY, OCEANA AND MONTEREY BAY AQUARIUM | JULY 1, 2024

“With paper being the only authorized bag, SB 1053’s provisions setting standards for reusable bags now risk muddying the primary intent of the Bill and expands the scope to start defining what can and can’t be sold as a reusable bag anywhere in the store.”

SB 1053 and AB 2236 do more than ban plastic grocery bags. Due to broad and poorly defined definitions in the bill language, you could say goodbye to...



Backpacks



Purses



Trash bags



Sandwich bags



Lawn bags



Insulated cooler bags

And more...