

# Cash-strapped states still push bills

By [Mike Verespej](#)  
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WASHINGTON (Jan. 12, 3:45 p.m. ET) -- The flurry of anti-plastic activity at the state level is already in full force in 2009, not diminished at all by state budget deficits in California and elsewhere.

Defeated at the last minute last year, a proposed 25 cent fee on all single-use carryout bags, not just plastic bags, has been reintroduced in California. In addition, several areas in California are looking at bans or 25 cent fees on plastic bags: Santa Clara County, Gardena, Berkeley, San Diego, Burbank, Palo Alto, Los Angeles and Los Angeles County.

Though no bans were enacted outside California last year, other states and cities also are looking into bans or taxes, including Michigan, Texas, Virginia, Iowa, Iowa City and Alexandria, Va., just to name a few. Voters in Seattle will decide later this year whether to enact a 20 cent fee on paper and plastic carryout bags.

"Bags seem to be the hot and heavy item at this point. They appear to be the focal point of activists," said Tim Shestek, director of state, government and grass-roots affairs in California for the American Chemistry Council of Arlington, Va. "I expect to see an uptick in activity in 2009. Los Angeles is looking to enact either a ban or a fee if the state doesn't enact a fee, and there is a strong effort in Santa Clara County," which encompasses 16 cities south of San Francisco.

But bags won't be the only issue. In California, there are several bills to define elements of the state's Green Chemistry Initiative, which was enacted last year. Also, proposals to ban polystyrene takeout packaging are being buoyed by the recommendation of the state's Ocean Protection Council, which one source said gives them "a little more heat, a little more pressure."

But Shestek disagreed. "There may be some coastal communities looking at bans, but takeout-food-container bans are not on the radar screen on the state level as much as they have been. Some of the OPC recommendations are being pushed by Heal the Bay, but our message is that if you are going to look at recycling or some type of mandate, it ought to apply to all takeout containers," Shestek said.

Heal the Bay is a nonprofit environmental group based in Santa Monica, Calif.

However, Mark Murray, executive director of Sacramento-based Californians Against Waste, thinks there is an opportunity to pass a tax on carryout bags, a statewide ban on PS takeout packaging and legislation to expand bottle-deposit bills to include most consumer-goods containers.

"The bigger issue will be the economy and the budget. But environmental legislators will be receptive to all three of those measures," Murray said.

"We have to make the case [with bags] that it is a priority issue and paint the picture of how this is not going to cost consumers more money, but [will] actually save them money, and that the policy is designed to motivate a change in behavior," Murray said.

With takeout packaging, he hopes to convince the state to establish standards and guidelines that will oust materials that aren't being recycled, and create restrictions "based on product performance."

With expanded container legislation, “Our challenge is to convey to folks that it is a system designed to stimulate recycling,” Murray said.

Elsewhere, bills to expand bottle-deposit laws beyond soft drinks in Connecticut and New York “stand a very good chance of passage this year,” along with initiatives in Florida, Indiana and Rhode Island, said Betty McLaughlin, executive director of the Container Recycling Institute in Glastonbury, Conn.

“The recycling proposals that will have the most traction will be the ones like container-deposit legislation that don’t cost the taxpayers money, because legislators may be reluctant to impose new programs that raise taxes.”

However, because of the state budget deficits, “we are in uncharted territory,” said Jane Adams, director of state affairs for the Washington-based Society of the Plastics Industry Inc. “Most of the states will be running up deficits and any new program that requires spending will be looked at very closely, if at all.”

Those deficits also mean that business needs to keep an eye on city and state proposals to levy new fees on business in the name of balancing their budgets.

New York Gov. David Paterson, for example, has proposed an 18 percent sales tax on sugary sodas and juice drinks to raise \$400 million in funding for state health-care programs, and New York Mayor Michael Bloomberg has raised the idea of a 6 cent tax on plastic carryout bags.

“With minor exceptions, the states are broke,” said Mike Lynch, director of government affairs at Illinois Tool Works Inc. in Glenview, Ill. “Manufacturers clearly need to be watchful for what state legislatures try to do to close those revenue gaps.”

In addition, when most of the focus is on major issues like budget deficits, some legislators might introduce something like a greenhouse-gas emission or hazardous substance bill with little fanfare. “If you don’t pay attention, you have legislation going to the governor before you know it,” Lynch said.

“I see a panoply of legislation in California and numerous regulatory efforts” by the California Integrated Waste Management Board, he said. Lynch also expects to see states such as Massachusetts, Wisconsin, Maine, Vermont and New York “resurrect the concept of producer stewardship.”

“We have to do our homework,” he said. “We have to bring verifiable economic arguments to make it difficult to pass legislation.”

Bans of products containing certain chemicals are expected to surface in California, but not gain much traction because of the Green Chemistry Initiative, enacted in September.

“Legislators will use this as an excuse not to deal with bans on a material-by-material basis,” said one legislative source. “There will be individual bills, but legislatures will say, ‘Hey, wait, didn’t we deal with this with our green chemistry bills?’ ”

Shestek agreed. “The mind-set among legislators is that we have a foundation to move away from chemical bans with the Green Chemistry Initiative.”

Still, the most ominous specters hanging over the industry are proposed bans or fees on plastic bags.

How those issues fare within communities is likely to turn on the outcome of a lawsuit filed by the Save the Plastic Bag Coalition, a group of plastic bag manufacturers and retailers. The coalition seeks to overturn an upcoming plastic bag ban in Manhattan Beach, Calif.

The suit, filed in Los Angeles Superior Court, charges that the city did not conduct an environmental impact review as required under the California Environmental Quality Act.

“What happens in Manhattan Beach is going to impact everything else,” said a local legislative source.

For its part, the plastics division of ACC still maintains that the plastic bag issue is different in California than elsewhere.

“There are two environments in which bags are discussed,” said Keith Christman, the division’s senior packaging director. “One is inside California as a local issue, where it is driven in a more emotional way that you don’t see anywhere else. In areas outside of California, they see recycling of plastic bags as a productive approach.”

Taxes on bags “eliminate a viable product option” for consumers, added Roger Bernstein, ACC vice president of state affairs. “It is pretty draconian to impose a 25 cent tax [on consumers who] take home a lightweight, efficient, reusable grocery sack.”

But the industry’s stance and arguments to date have hurt more than they have helped, said another legislative source in California.

“The ACC is so disregarded out here. Legislators see them as having nothing to offer on the issue,” said the source. “Maybe when they find out that bottles and everything are going to get targeted, maybe they will get it.”

What’s more, “I don’t think anybody from the plastics industry has figured out the really far-reaching implications of the Green Chemistry Initiative,” said the same source.

“They just signed off on it because it was their only way out to avoid chemical-by-chemical regulation.”