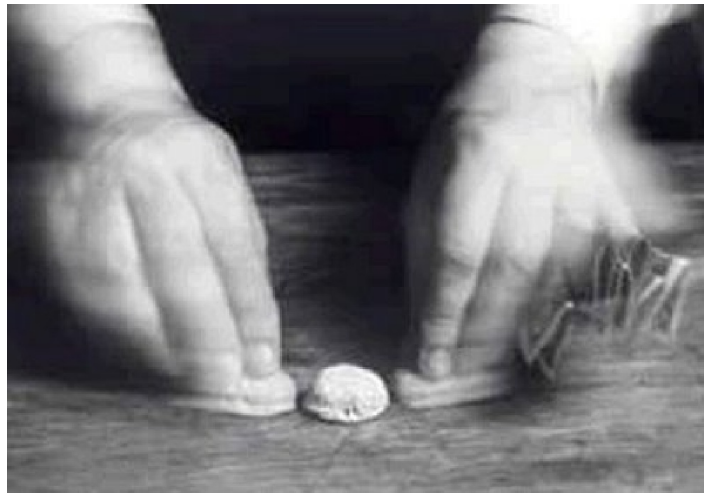




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THE SINGLE-USE CARRYOUT BAG SCAM

Senate Bill No. 270



by

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2016

THE SINGLE-USE CARRYOUT BAG SCAM

What you'll read below and what you'll hear out at the stores regarding the Bag Program will be contingent on ONE THING: WRITTEN IRREVOCABLE NOTICE

If the cashier says they “gotta” sell a bag or you “have to” buy a bag then there MUST BE WRITTEN IRREVOCABLE NOTICE that the retailer is participating. A copy of that NOTICE should be available for public inspection. That’s right, the retailer *is not required* as a matter of law to participate, it’s voluntary!

THIS IS NOW THE LAW THROUGH OUT CALIFORNIA AS VOTED ON BY THE VOTERS

November 8, 2016

Senate Bill No. 270
CHAPTER 850

An act to add Chapter 5.3 (commencing with Section 42280) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste, and making an appropriation therefor.

[Approved by Governor September 30, 2014. Filed with Secretary of State September 30, 2014.]

Article 3. Single-Use Carryout Bags

42283. (a) Except as provided in subdivision (e), on and after July 1, 2015, **a store**, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, **shall not provide a single-use carryout bag to a customer at the point of sale.**

They can give them away *prior* to the point of sale, like by the front door, without fear of liability, but I digress.

PUBLIC RESOURCES CODE

42283. (a) Except as provided in subdivision (e), on and after July 1, 2015, **a store**, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, **shall not provide a single-use carryout bag to a customer at the point of sale.**

42283.6. (a) The operator of a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280 that makes recycled paper or reusable grocery bags available at the point of sale, shall

be subject to the provisions of the at-store recycling program (Chapter 5.1 (commencing with Section 42250)).

(b) A store that **voluntarily agrees** to comply with the provisions of this article pursuant to subdivision (g) of Section 42280, shall also comply with the provisions of the at-store recycling program (Chapter 5.1 (commencing with Section 42250)).

The store participating in the program has waived or forfeited their right to give, or be courteous or charitable, and just in time for the holiday season. Can you say BOON?

The joke's gonna be played on the customer. The store *doesn't have to comply* with the bag ordinance *unless they affirmatively* OPT-IN:

42283.6. (b) A store that **voluntarily agrees** to comply with the provisions of this article pursuant to subdivision (g) of Section 42280, shall also comply with the provisions of the at-store recycling program (Chapter 5.1 (commencing with Section 42250)).

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LEGISLATIVE COUNSEL'S DIGEST

SB 270, Padilla. Solid waste: single-use carryout bags.

The bill would **allow a retail establishment to voluntarily comply** with these requirements, **if the retail establishment provides** the department with **irrevocable written notice**.

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB270



SAMPLE NOTICE
(Cal. Civil Code §18)

We accept and agree to comply with the policy and procedure applicable to those retailers participating in the Single-Use Carry Out Bag program. We hereby waive and forfeit our right to Opt-Out. We hereby assume all risk and liability for our failure to perform specifically to the terms and conditions of the Single Use Carry-Out Bag Program set forth by the Legislature.

The Stater Brothers, Ralph's, Wal-Mart, 7-11, K-Mart, etc.



When they "voluntarily agree" to comply with the Bag Rule they also "voluntarily" Opt-In and agree to comply with the rules applicable to the program. Did the retailer comply with the condition precedent and AFFIRMATIVELY OPT-IN with formal notice? Do they have evidence they OPTED-IN or are the customers just supposedtah believe the cashier? How many of the PROFESSIONALS at the register have read the Bill or the code sections in question?

They VOLUNTARILY decided to fuck their customers some more. Sales tax and the CRV and their profit just isn't quite enough. MOTIVE & OPPORTUNITY: The retailer who participates receives compensation for something they formerly didn't. They save money by not giving away bags. They can claim they're prohibited by law. This is true AS LONG AS they VOLUNTEER to participate. They know people don't grow their own food so they have plenty of opportunity in the form of hunger.

The fact remains, PARTICIPATION IS VOLUNTARY! THEY DON'T GOTTA! And those that do also agree to disrespect their customers even more than they already do because their too damn cheap to issue bags as a courtesy for their customer's patronage.

"Every one of our purchases is a vote, a vote for a particular company and its business practices."

Eric Schlosser, author of "***Fast Food Nation: The Dark Side of the All-American Meal***" (2001)



Friday, November 18, 2016

I just had confirmation of additional "FUCK YOU CUSTOMERS!" from the assholes at Stater Brothers that, YES, they charge SALES TAX on the bag you "HAVE TO BUY"!

These assholes DID NOT HAVE TO PARTICIPATE. They decided to unnecessarily inconvenience their customers. They used to give bags, presumptively as a gesture of thanks for the customer's patronage and convenience. They decided their customers were fools or idiots who can't read so they OPTED-IN to a program they DID NOT HAVE TO Opt-In to. Adding insult to insult, they have the audacity to charge SALES TAX on the bags they now sell. Both the store and the State make out while the customer suffers the indignation of being defrauded by the people who sell food and other necessities of life. The people the customers provide the money so they can eat and pay their bills. The ONLY reason Stater Brothers "has to" sell bags is IF they OPTED-IN.

They decided they didn't want to be nice to their customers. They shifted the burden to the customer to KNOW how many bags they'll need when they go shopping. Do you know how many SQUARE INCHES of bags you'll need when you head out to buy groceries? Stater Brothers markets have VOLUNTARILY AGREED to be subject to the rules regarding Single-Use Carry Out Bags and shit on their customers.

STATER BROTHERS WAS NOT REQUIRED TO PARTICIPATE

*"The bill **would allow a retail establishment to voluntarily comply** with these requirements, **if the retail establishment provides** the department with irrevocable **written notice**."*

There better be a "written notice" on file here...



[\[Department of Resources Recycling and Recovery\]](#)

...or the store selling bags is BREAKING THE LAW. Only participants who've sent "written notice" are authorized to sell bags. In order to LEGALLY sell bags the store is REQUIRED to submit "written notice" to the department.

They become SUBJECT to the law by VOLUNTARILY AGREEING to be SUBJECT to the law. They DID NOT HAVE to participate. Those retailers are now selling what they were once giving and are collecting TAX on the 10 cents for the State from their customers who are not REQUIRED BY LAW to pay sales tax. CUSTOMERS ARE EXEMPT!

"...restrictions and limitations are to be construed strictly, and are not to be extended to include matters not covered by the language used."

Collins v. Riley (1944) 24 Cal.2d 912

CALIFORNIA REVENUE AND TAXATION CODE

6051. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers...

6051.1. (a) Notwithstanding Section 6051, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers ...

6051.2. (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/2 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after July 15, 1991.

6051.3. In addition to the taxes imposed by Sections 6051, 6051.2, 6051.5, and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers...

6051.5. (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state.

6051.7. (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers...

HESPERIA MUNICIPAL CODE

TITLE 3. REVENUE AND FINANCE Chapter 3.16 - SALES AND USE TAX

3.16.060 - Sales tax.

For the privilege of selling tangible personal property at retail, **a tax is imposed upon all**

retailers in the city at the rate stated in Section 3.16.020 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this city on and after the operative date.
https://www.municode.com/library/ca/hesperia/codes/code_of_ordinances?nodeId=TIT3REFI_CH3.16SAUSTA

So where's the section that imposes the tax liability on the customer or consumer? If the cashier says you "have to pay" then there must be a rule imposing the obligation to pay tax on you. IT DOES NOT EXIST! The cashier would be misleading or misrepresenting the truth which as you see is contrary from what you'd hear. Hearsay is less reliable than personal knowledge. Personal knowledge is based on what one sees and experiences. Have some more "personal knowledge"*:

Sales tax is laid solely on retailer and not on consumer, tax relationship is between retailer only and state, and is direct obligation of retailer.
Livingston Rock & Gravel Co. v De Salvo (1955, 2nd Dist) 136 Cal.App.2d 156

The tax code provides that the retailer is the taxpayer and that it is the retailer which is required to pay sales tax to the state; the retailer is permitted but not required to collect a matching "sales tax reimbursement" from consumers.
Loeffler v. Target Corp. (2014) 58 Cal.4th 1081

*** CALIFORNIA EVIDENCE CODE**

702. (a) Subject to Section 801, the testimony of a witness concerning a particular matter is inadmissible unless he has personal knowledge of the matter.

FRAUD = LIE = MISREPRESENTATION = DECEIT = TRICK

fraud

: the crime of using dishonest methods to take something valuable from another person

: a person who pretends to be what he or she is not in order to trick people

: a copy of something that is meant to look like the real thing in order to trick people

Full Definition of fraud

1 a: deceit, trickery; specifically: intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right

b: an act of deceiving or misrepresenting: trick

2 a: a person who is not what he or she pretends to be: impostor; also: one

who defrauds: cheat b: one that is not what it seems or is represented to be
<http://www.merriam-webster.com/dictionary/fraud>

It is well established – indeed, appellant concedes – that the tax is imposed on the retailer and not the consumer.

Pac. Coast Eng. Co. v. State of California (1952) 111 Cal.App.2d 31

If it was “well established” in 1952 then how come no one seems to know? Including the cashiers? Shouldn’t they KNOW who’s REQUIRED to do what when it comes to SALES? Customers don’t SELL, they ACQUIRE. Selling is getting rid of stuff. The sales tax rule applies to someone getting rid of stuff identified by the word: RETAILER.

The only way they can LEGALLY get sales tax from the customer is if the customer VOLUNTARILY COMPLIES WITH THEIR REQUEST. If the store refuses to conclude the transaction unless the customer capitulates and pays what they’re under no obligation to pay. That is a form of EXTORTION. It’s the bully/milk money thing.

Who’s required to pay the CRV? The retailer is cheating on that too!

CALIFORNIA PUBLIC RESOURCES CODE

14560(a)(1). Except as provided in paragraph (3), a beverage **distributor shall pay** the department, for deposit into the fund, a redemption payment of four cents (\$0.04) for a beverage container sold or offered in this state by the distributor.

Paragraph (3) does not contain the word “customer” or “consumer”. The CRV payment rule applies to the DISTRIBUTOR not the customer. A “distributor” gets rid of stuff. The CRV is imposed on getting rid of stuff. A customer isn’t getting rid of anything, they’re ACQUIRING.

The people who’s table you’ll be putting food on are deceiving you. The State is a direct beneficiary of this scam because they get a penny for every bag sold. Imagine how many truck loads of pennies head to Sacramento EVERY DAY stemming from this VOLUNTARY PARTICIPATION program. 365 days year and that adds up to a helluva lotta dough because you were disrespected by the grocery or other store who decided to shift their burden to you. They want to work the least while getting paid the most and then when you call em on it they disrespect you some more. What happens if no one buys their shit? What happens if the customers start saying “NO, I won’t be deceived and ripped off any more” when the cashier tells them the wrong stuff about who’s required to do what? If the cashier is incompetent then why underwrite or support them and encourage bad behavior and incompetence?

HOW DO THEY “MAKE” YOU PAY WHEN YOU’RE UNDER NO OBLIGATION TO PAY?

A. The Crime of Extortion Generally

The crime of extortion is defined as "the obtaining of property from another, with his consent . . . induced by a wrongful use of force or fear" (Pen. Code, § 518.) {Slip Opn. Page 11} **Fear, for purposes of extortion 'may be induced by a threat, either: [¶] . . . [¶] 2. To accuse the individual threatened . . . of any crime; or, [¶] 3. To expose, or impute to him . . . any deformity, disgrace or crime.'** (Pen. Code, § 519.) 'Every person who, with intent to extort any money or other property from another, sends or delivers to any person any letter or other writing, whether subscribed or not, expressing or implying, or adapted to imply, any threat such as is specified in Section 519, is punishable in the same manner as if such money or property were actually obtained by means of such threat.' (Pen. Code, § 523.)" (Flatley, supra, 39 Cal.4th at p. 326.)

As the Supreme Court recognized in Flatley, extortion "has been characterized as a paradoxical crime in that it criminalizes the making of threats that, in and of themselves, may not be illegal. '[I]n many blackmail cases the threat is to do something in itself perfectly legal, but that threat nevertheless becomes illegal when coupled with a demand for money.' (Philippine Export & Foreign Loan Guarantee Corp. v. Chuidian (1990) 218 Cal.App.3d 1058, 1079.)" (Flatley, supra, 39 Cal.4th at p. 326, fn. omitted.) **Criminal extortion laws prohibit the wrongful use of threats to obtain the property of another, regardless whether a debt is actually owed. "[The] belief that the victim owes a debt is not a defense to the crime of extortion."** (Id. at p. 327.)

Malin v. Singer (2013) , Cal.App.4th

[No. B237804. Second Dist., Div. Four. July 16, 2013.]

CALIFORNIA PENAL CODE

518. Extortion is the obtaining of property from another, with his consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right.

520. Every person who extorts any money or other property from another, under circumstances not amounting to robbery or carjacking, by means of force, or any threat, such as is mentioned in Section 519, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three or four years.

ZERO TOLERANCE

- UNETHICAL BUSINESS PRACTICE •
- ILL GOTTEN GAINS •
- EXTORTION •
- FRAUD •

BOYCOTT

"Every one of our purchases is a vote, a vote for a particular company and its business practices."

Eric Schlosser, author of "*Fast Food Nation: The Dark Side of the All-American Meal*" (2001)

KNOWLEDGE IS POWER WHEN PROPERLY APPLIED