

SENATE THIRD READING  
SB 728 (Limón)  
As Amended June 21, 2023  
Majority vote

## SUMMARY

Prohibits plastic gift cards from being sold, offered for sale, or distributed in the state on and after January 1, 2027, as specified

### Major Provisions

- 1) Prohibits, on and after January 1, 2027, a retailer from selling, offering for sale, or distributing a gift card made from plastic in the state.
- 2) Defines "gift card" to exclude any gift card usable with multiple sellers of goods or services, provided the expiration date is printed on the card.
- 3) Allows a retailer to continue to sell, offer for sale, or distribute an existing stock of gift cards through January 1, 2028.
- 4) Authorizes the Attorney General, a district attorney, a county counsel, or a city attorney to enforce the requirements of the bill. Establishes civil penalties of \$25 for the first day a violation occurs and \$100 per day for any subsequent violations. Specifies that any penalties collected be paid to the entity that brought the action.

## COMMENTS

*Plastic pollution.* Plastics pose a threat to the environment from origin to end-of-life. Plastic production is responsible for three and a half percent of all greenhouse gas emissions—more than the entire aviation sector. In 2021, global plastics production was estimated at 390.7 million metric tons, a 4% increase from the previous year. The United Nations Environment Programme reports that only 9% of all plastic ever made has been recycled, 12% has been incinerated, and the remaining 79% has accumulated in landfills or the environment.

Once plastics enter the environment, they remain there for hundreds to thousands of years. Plastics do not break down into their constituent parts, but instead break down into smaller and smaller particles, or microplastics. Because they are so small, microplastics can travel in the air and water, and can be easily absorbed by living things and accumulate up the food chain. Microplastics have been found in the most pristine natural environments on earth, including in the deep ocean, Antarctic sea ice, and in the sand of remote deserts. Laboratory studies have found that microplastics increase the risk of cancer and disrupt hormone pathways in lab rats.

Recycling plastic into new products is one way to reduce plastic pollution, as it keeps the recycled plastic out of the environment and reduces our dependence on virgin resin. However, recycling is currently only feasible for some of the more common, and least toxic, forms of plastic.

*Gift cards.* Plastic gift cards make up a small portion of the state's waste stream, but not an insignificant amount of plastic. Approximately 3.5 billion gift cards were sold in the United States in 2021. Based on their average weight of 1-2 ounces, approximately 89 tons of gift card

waste were generated. Since California comprises about 10% of the population, roughly 8.9 tons of gift cards are generated in the state annually.

Most gift cards are made of polyvinyl chloride (PVC), a plastic produced from vinyl chloride. According to the United States Environmental Protection Agency (USEPA), acute exposure to vinyl chloride in air can cause central nervous system effects. Chronic exposure through inhalation or oral exposure can result in liver damage. The USEPA has classified vinyl chloride as a human carcinogen.

PVC commonly contains additives, including as phthalates and per- and polyfluoroalkyl substances (PFAS). Measurable amounts of both phthalates and PFAS have been found in the general population, based on urine, blood, and tissue testing performed by the Centers for Disease Control. In animal studies, phthalates have been shown to be anti-androgenic (i.e., decrease testosterone). Human studies appear to show similar results. Prenatal exposure to phthalates show effects on children's neurodevelopmental and neurobehavioral outcomes, increasing the risk of learning, attention, and behavioral disorders. Studies of human health impacts of PFAS show that exposures may cause increased cholesterol levels, damage to the liver and immune system, and increased risk of kidney and testicular cancer.

Gift cards are generally not recyclable. The small size of gift cards makes them nearly impossible to collect in conventional recycling systems. Even if they are collected, PVC is the least recycled plastic, with less than one-quarter of 1% recovered for recycling.

*Gift card alternatives.* There are alternatives to plastic gift cards. Both physical gift cards, such as those of paper, cardboard, bamboo, or other non-plastic materials and electronic gift cards would be permitted under this bill. However, these alternatives may not provide the durability of plastic gift cards.

*This bill.* This bill is intended to reduce the amount of PVC waste generated in the state by banning the distribution of plastic gift cards beginning January 1, 2027, with the exception of a sell through date of January 1, 2028. This bill defines gift cards to include cards that function like gift certificates and excludes cards that can be used at multiple retailers and have an expiration date, like pre-paid debit cards. Gift cards that are reloadable would fall under the prohibition in this bill, but nothing in the bill precludes the ongoing use of reloadable plastic gift cards that were initially sold prior to January 1, 2027.

### **According to the Author**

More than 3.4 billion gift cards were sold in the United States in 2021. The majority of these gift cards are made from PVC, which is not typically accepted for recycling. Regardless of being reusable in many cases, these cards often end up in the waste stream after only a single use, which is why some companies have made the switch away from plastic gift cards opting for paper, cardboard, sustainable wood, bamboo, and electronic options. SB 728 will transition away from the use of plastic gift cards and ensure that businesses continue the transition towards more sustainable products.

### **Arguments in Support**

According to Clean Water Action and the Natural Resources Defense Council:

Billions of gift cards made from hard plastic are sold each year. The vast majority of these plastic gift cards – around 70% – are made from polyvinyl chloride (PVC). PVC is arguably

one of the most toxic chemicals in production and the substance released during the recent New Palestine, Ohio train derailment that has polluted local water sources. As a result, plastic gift cards can add both PVC and overall plastic pollution to the environment when disposed of. Furthermore, plastic gift cards are often not accepted by recycling centers or they reintroduce toxic materials in the rare cases when they are made into new cards. This can be addressed easily since reusable and recyclable alternatives exist, such as digital or paper cards.

### **Arguments in Opposition**

According to the Plastic Industry Association:

While some retailers, grocers, and restaurants have moved to alternative products for gift cards, many continue to use plastic gift cards because they are a popular choice among consumers for their durability. Further, they are less likely to be damaged or rendered unusable. In addition, while digital gift cards seem like a viable alternative, this is simply not a feasible option for many. There are a substantial number of Californians, especially disadvantaged communities, who do not have access to or are not comfortable with the use of digital platforms.

### **FISCAL COMMENTS**

Unknown. This bill is keyed non-fiscal by the Legislative Counsel.

### **VOTES**

#### **SENATE FLOOR: 31-9-0**

**YES:** Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener

**NO:** Alvarado-Gil, Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk

#### **ASM NATURAL RESOURCES: 8-3-0**

**YES:** Luz Rivas, Addis, Friedman, Muratsuchi, Pellerin, Ward, Wood, Zbur

**NO:** Flora, Hoover, Mathis

### **UPDATED**

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