

Date of Hearing: June 19, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 728 (Limón) – As Amended May 1, 2023

SENATE VOTE: 31-9

SUBJECT: Plastic gift cards: prohibition

SUMMARY: Prohibits plastic gift cards from being sold, offered for sale, or distributed in the state on and after January 1, 2026. Specifies that “gift card” has the same definition as “gift certificate” as defined in Civil Code (CC) 1749.45.

EXISTING LAW:

- 1) Defines “gift certificate” to include gift cards, but does not include any gift card usable with multiple sellers of goods or services, provided the expiration date, if any, is printed on the card. (CC 1749.45)
- 2) Prohibits the sale of gift certificates, as defined, that contain an expiration date or a service fee. (CC 1749.5)
- 3) Requires that gift certificates are redeemable for cash value or subject to replacement with a new gift certificate at no cost to the consumer. Requires that gift certificates with cash value of less than \$10 to be redeemable for cash. (CC 1749.5)
- 4) Pursuant to the Integrated Waste Management Act (Public Resources Code (PRC) 40000 et seq.):
 - a) Requires that local governments divert at least 50% of solid waste from landfill disposal and establishes a statewide goal that 75% of solid waste be diverted from landfill disposal by 2020.
 - b) Requires commercial and organic waste generators, including multi-family dwellings, to arrange for recycling services for that material.
- 5) Prohibits the sale or distribution of single-use carryout bags at the point of sale, as specified. (PRC 42283)
- 6) Prohibits lodging establishments from providing small plastic bottles, as defined, containing personal care products to any person staying in the establishment. (PRC 42372)
- 7) Prohibits a food facility from providing single-use foodware or condiments to a consumer except upon request. (PRC 42271)

FISCAL EFFECT: Nonfiscal

COMMENTS:**1) Author's statement:**

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.

- 2) 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.

- 3) 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 one percent recovered for recycling.

- 4) **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.
- 5) **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, 2026. 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, 2026.
- 6) **Suggested amendments.** This bill does not include an enforcement mechanism to ensure that stores that distribute gift cards will comply. The *committee may wish to amend the bill* to include an enforcement provision that would allow the Attorney General, city attorney, county counsel, or district attorney to enforce its provisions by issuing civil penalties in the amount of \$25 for a first violation and \$100 for subsequent violations.

The *committee may further wish to amend the bill* to clarify that the prohibition on the sale and distribution of plastic gift card applies to retailers.

Finally, the *committee may wish to amend the bill* to include amendments requested by the author to extend the implementation date one year, to January 1, 2027, and to allow a one year "sell through" period to allow retailers to distribute gift cards already in their possession.

REGISTERED SUPPORT / OPPOSITION:

Support

Clean Water Action
National Stewardship Action Council
Natural Resources Defense Council

Opposition

Plastics Industry Association

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /