
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2023 - 2024 Regular

Bill No: SB 1280
Author: Laird
Version: 3/20/2024
Urgency: No
Consultant: Gabrielle Meindl

Hearing Date: 4/3/2024
Fiscal: Yes

SUBJECT: Waste management: propane cylinders: reusable or refillable

DIGEST: Prohibits the sale or offer for sale of propane cylinders, on and after January 1, 2028, other than those propane cylinders that are reusable or refillable, as defined.

ANALYSIS:

Existing law:

- 1) Defines a "household hazardous waste (HHW)" as hazardous waste generated incidental to owning or maintaining a place of residence, but does not include waste generated in the course of operating a business at a residence. (Health and Safety Code (HSC) § 25218.1(e))
- 2) Establishes that counties and cities will provide services for the collection of HHW and that the state will provide an expedited and streamlined regulatory structure to facilitate the collection of HHW. (HSC § 25218)
- 3) Provides requirements for the safe handling, storing and use of liquefied petroleum (LP) gas to reduce the possibility of damage to containers, accidental releases of LP-gas, and exposure of flammable concentrations of LP-gas to ignition sources. (California Fire Code, Chapter 61)
- 4) States that it is the intent of the Legislature that the National Fire Protection Association (NFPA) 58 Standard supersede any inconsistent state standards, unless that standard contains a more stringent safety standard than that contained in the NFPA 58 Standard. (HSC § 13241)

This bill:

- 1) Defines "reusable" or "refillable" or "reuse" or "refill," in regard to propane cylinders, as a cylinder that is explicitly designed and marketed to be utilized multiple times for the same product, is designed for durability to function

properly in its original condition for multiple uses, and is supported by adequate infrastructure to ensure the cylinders can be conveniently and safely reused or refilled for multiple cycles.

- 2) Specifies that “propane cylinder” does not include any of the following:
 - a) Cylinders that are customarily designed for use in the construction industry and, when full, contain less than 15 ounces of fuel, whether filled solely with propane or not.
 - b) Cylinders that have an overall product height-to-width ratio of 3.55 to 1 or greater.
 - c) Cylinders that are offered to a state or local government agency for purchase pursuant to the United States General Services Administration’s State and Local Disaster Purchasing Program, or a successor program.
- 3) On and after January 1, 2028, prohibits the sale or offer for sale of propane cylinders other than those propane cylinders that are reusable or refillable.

Background

- 1) *Household hazardous waste (HHW) disposal.* At the local level, certified local agencies, known as Certified Unified Program Agencies (CUPAs), are responsible for developing local programs to collect, recycle, or properly dispose of HHW. The California Environmental Protection Agency (CalEPA) oversees the 81 CUPAs, and the statewide implementation of the Unified Program, which protects Californians from hazardous waste and hazardous materials by ensuring consistency throughout the state regarding the implementation of administrative requirements, permits, inspections, and enforcement at the local regulatory level. California Hazardous Waste Law provides several management requirements for HHW generators and establishes a streamlined permitting process for HHW collection facilities.
- 2) *Disposable propane cylinders.* Disposable propane cylinders are single-use, generally one-pound, propane cylinders, typically used in camping stoves, portable heaters, lanterns, portable showers, tailgating grills, boat engines, scooters, lawn care equipment, insect foggers, and welding equipment. It is estimated that between 40-60 million disposable one-pound propane cylinders are sold in the United States every year. As California accounts for roughly 10% of the population, it is estimated that over 4 million disposable one-pound propane cylinders are sold in California each year. The current price for a disposable one-pound propane cylinder filled with gas averages about \$5.00 each.

- 3) *Proper disposal is expensive.* Under existing law, a consumer is permitted to dispose of an empty propane tank or cylinder in the curbside trash or recycling bin. However, if a propane tank or cylinder is not empty then it must be brought to a HHW facility. In most instances, however, it is impossible to know whether a cylinder is completely empty.

Cylinders received at HHW facilities are typically placed into 55-gallon drums, then transported to recycling/processing facilities where the cylinders are off-gassed to ensure no residual gas remains in the cylinder. Once empty, they are punctured and then crushed, baled, and then sent to the recycled metals market.

These safety measures, employed to avoid the risk of explosion that could cause injury to personnel or damage to infrastructure, contribute to the cost of collecting and recycling these cylinders. According to data provided by the author, the transportation and recycling/processing cost of a disposable propane cylinder is approximately \$3.00.

Based on CalRecycle data, it is estimated that only a quarter of the approximately four million disposable propane cylinders sold in California are recovered through HHW operations. Calculating in the cost of transporting and processing for these items, local governments, using ratepayer funds, are likely spending upwards of \$3 million per year to handle this relatively small waste stream. The majority of the remaining three million or more disposable propane cylinders end up in landfills.

- 4) *Improper disposal can wreak havoc.* According to a May 23, 2019, article from Waste 360, a waste, recycling, and organics industry trade association, “Small, disposable propane tanks are convenient commodities, but they are a safety and economic nightmare for materials recovery facilities (MRFs), landfills and parks, causing fires and explosions when tanks leak or get punctured... Disposable propane cylinders exploded at a Kent County, Mich., MRF in June 2016 and again in June 2017. “In 2016, it cost over \$68,000 from one tank, and a worker was knocked off the baler,” says Darwin Baas, Kent County Public Works director. “We receive dozens a week. When they are tipped on the floor, they are often covered by paper and old corrugated cardboard and easy to miss. They get punctured in the baler. They cause chemical damage and fire, and when the fire is put out, they cause water damage.”
- 5) *Transition from single-use propane cylinders to refillable.* According to a December 21, 2020, report from the Statewide Commission on Recycling Markets and Curbside Recycling:

“Single-use 1 lb. propane cylinders are a threat to human and environmental health. When “empty,” single-use cylinders often still contain a small amount of gas, posing a danger to sanitation workers due to risk of explosion and resulting fires. Because of the high hazard level, this waste stream is very costly to manage and dispose of properly. Ironically, 80% of the purchase price is for the single-use packaging, the steel cylinder, which is the main culprit of the disposal issue...

“Made of hot rolled steel, these cylinders have very high GHG impacts with an estimated 11 million lbs. of GHG emissions avoided if CA moved to refillables only. All other sizes of propane cylinders have been made refillable for decades including BBQ size 5 gallon and the 20-gallon size used on forklifts. The public is trained to refill BBQ tanks and can do the same with 1lbs in California, but when the cost of the 1lb has been externalized onto local governments via HHW programs when the refillables now exist and are sold and refilled in California, we believe the sale of disposables should be banned in short order.”

- 6) *Refillable Campaigns*. In light of the disposal problems of these products, some governments, businesses and environmental nonprofits have begun pushing alternatives to disposable cylinders. One such effort, Refuel Your Fun (RFYF), was developed by the California Product Stewardship Council (CPSC) in 2015 using CalRecycle HHW grants to transition communities to choose reusable cylinders over their single-use counterparts. The campaign works to educate the public about the advantages of using reusable propane cylinders as compared to the disadvantages of the single-use cylinders noted earlier. This is accomplished through a variety of methods including conducting outreach/exchange events to get more reusables into circulation. To date, CalRecycle has awarded 38 grants (approximately \$2.7 million in funds) throughout the state that have focused on refillable propane cylinders.

Comments

- 1) *Purpose of Bill*. According to the author, “California can do much better when it comes to reusing and refilling our products and eliminating materials, often hazardous materials, which are discarded haphazardly. These propane cylinders place a great burden on our park systems, beaches, and material recovery facilities. It is time to transition away from single-use products that harm our environment, pose a threat to workers and end up in our landfills. SB 1280 would result in more reusable propane cylinders for consumers to refill which will lead to a cleaner and safer California.”

- 2) *A problematic waste stream.* Disposable propane cylinders are a problematic waste stream. The current purchase price of these cylinders does not cover the management cost of its waste stream. To date, the disposal costs of these products have been borne by local governments, who then pass along the costs to ratepayers through higher fees. Further, the improper disposal of these products can pose occupational and facility safety issues. Over the years, the state has dealt with problematic consumer products in various ways – through EPR programs, product-labeling requirements, visible deposit fees, and, in some instances, product sales bans.
- 3) *Look familiar?* This Committee has heard and approved both a ban (SB 1256, Wieckowski, 2022) and an extended producer responsibility (EPR) approach (SB 560, Laird, 2023) to managing single-use, one-pound propane cylinders. In 2022, SB 1256 (Wieckowski), which would have banned these products, was vetoed. Governor Newsom's veto message stated:

"An outright ban without a plan for collection and refill infrastructure could inhibit the success of building a circular system in California...I encourage the Legislature and stakeholders to work on a approach for the collection and reuse of this product that accounts for manufacturer and retail responsibility."

Following this direction, in 2023, Senator Laird introduced SB 560, which used an EPR approach instead of a ban to reduce gas cylinders in the waste stream. However, this bill stalled in Senate Appropriations Committee. This year, SB 1280 goes back to a similar approach taken with SB 1256 – it specifies that only reusable or refillable propane cylinders can be offered for sale in the state after January 1, 2028 – effectively banning the sale of disposable cylinders after that date. Another related bill currently pending before this committee is SB 1143 (Allen), which would establish a comprehensive EPR program for specified HHW, including propane cylinders.

While the committee has before it two approaches to managing this problematic waste stream, they are not incompatible: SB 1280 would require a change in the products design (i.e., ending the use of disposable, one-pound propane cylinders), while SB 1143 focuses on end-of-life management for products. As noted previously, even refillable cylinders have a shelf-life. Thus, the committee could choose to support both bills without inconsistency.

- 4) *Available refill infrastructure?* For refillables to work, consumers need access to refillable cylinders and places to refill or exchange them. According to the

sponsors of this proposal, there are more than 400 locations across the state that sell, refill, and/or exchange reusable cylinders. However, opponents contend that there are “minimal viable refill infrastructure or distribution network[s] within the state to refill or return” these cylinders and that refillable propane cylinders are likely only available at less 215 retail locations based on their review of the “Refuel Your Fun Retailer Map.” Opponents further claim that “no UHaul stores sell or refill one-pound propane cylinders; these stores represent 30 percent of the locations on the map.” While staff did not have the ability to verify all claims, from a search of its website, staff did not find evidence that UHaul offers refill services for propane tank sizes under 4.5 pounds. Proponents counter that many franchise locations for UHaul do offer refill of one-pound propane cylinders.

SB 1280 would provide a three-year window for consumers, retailers, and propane cylinder exchange programs to transition to refillable cylinders. *Given the questions about the available refill infrastructure, moving forward, the author may wish to consider whether a three-year window is sufficient to ensure adequate refill opportunities are available.*

- 5) *End-of-life management issues for propane cylinders remain.* Opponents argue that a ban on disposable cylinders does not address the end-of-life management issues associated with either disposable and refillable cylinders. This is a fair point. While a ban would arguably lower the overall number of cylinders entering the market, even reusables eventually need a viable disposal option. As mentioned previously, staff would note, however, that if SB 1143 (Allen), the HHW EPR bill, were to pass, these cylinders could have a workable end-of-life route.
- 6) *Definition of “refillable/reusable” needs clarification.* The bill defines “reusable” or “refillable” in regard to propane cylinders, as a cylinder that is explicitly designed and marketed to be utilized multiple times for the same product, is designed for durability to function properly in its original condition for multiple uses, and *is supported by adequate infrastructure* to ensure the cylinders can be conveniently and safely reused or refilled for multiple cycles. *Moving forward, the author should define what criteria is needed to demonstrate “adequate infrastructure.”*

DOUBLE REFERRAL:

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Judiciary Committee.

Related/Prior Legislation

SB 560 (Laird, 2023) would have established an Extended Producer Responsibility (EPR) program for gas cylinders under 20 pounds. This bill was held on Suspense in Senate Appropriations Committee.

SB 1256 (Wieckowski, 2022) would have prohibited the sale of disposable propane cylinders, as defined, on and after January 1, 2028, and would make the violation of this provision subject to specified civil penalties. This bill was vetoed.

SOURCE: California Product Stewardship Council

SUPPORT:

Alameda County Board of Supervisors
California Chapters of The Solid Waste Association of North America's Legislative Task Force
California Product Stewardship Council
California Resource Recovery Association
California State Association of Counties (CSAC)
California Waste & Recycling Association
Californians Against Waste
Castro Valley Sanitary District
City of Alameda
Cleaneart4kids.org
League of California Cities
Little Kamper, Lp
National Stewardship Action Council
Republic Services - Western Region
Rethinkwaste
Rural County Representatives of California (RCRC)
Santa Clara County Recycling and Waste Reduction Commission
Sea Hugger
Sustainable Works
Western Placer Waste Management Authority (WPWMA)
Zero Waste Sonoma

OPPOSITION:

California Retailers Association
Worthington Industries

ARGUMENTS IN SUPPORT: According to the National Stewardship Action Council (NSAC), “NSAC is proud to support SB 1280 to support source reduction of waste and GHG emissions from making and recycling of steel canisters, which will prohibit the sale non-reusable propane cylinders, as defined.

“The California Integrated Waste Management Act of 1989, created by AB 939 (Sher), established the waste management hierarchy with source reduction first, then recycling. Millions of dollars of California grant funds, as well as non-profit funds, have been used to develop and implement a source reduction focused Campaign titled ReFuel Your Fun & \$ave! (RFYF), which promotes the use of reusable 1 lb. propane gas cylinders. With the grant and non-profit funding using staff of NSAC, the Campaign established over hundreds of locations statewide that currently sell, refill, and/or exchange reusable 1 lb. propane gas cylinders.

“The California Commission on Recycling Markets and Curbside Recycling, which our Executive Director Heidi Sanborn chaired and was comprised of 16 experts representing materials management companies, local governments, unions, and NGOs, unanimously recommended that the legislature, “ban the sale of single-use cylinders as reusables are already on the market broadly in California and the costs to manage cylinders are most often more than the cost to buy them”, and to “transition from single-use propane cylinders to refillable.”

ARGUMENTS IN OPPOSITION: According to Worthington Enterprises, “A ban of these cylinders is highly problematic given the minimal viable refill infrastructure or distribution network within the state to refill or return used 1 lb. cylinders; the concerns for retailer and consumer safety associated with refilling small format cylinders; cost and convenience considerations that hinder the use of small format refillable cylinders; and, finally, the fact that such a ban would still not address the waste management issues. Refillable cylinders also need be addressed at end-of-life.

“The stated reasons for denying consumers the ability to buy recyclable containers is the expense and alleged safety risk these containers pose on the waste industry and consumers. We are not aware of any studies to back up either of these allegations. We would also assume if these concerns did exist that they would apply to a wide range of non-refillable flammable products, along with refillable products when they are inappropriately handled or disposed of by consumers.

According to CalRecycle's 2021 Facility-Based Waste Characterization Data, 1 pound or smaller propane cylinders comprise zero percent of the waste stream. Due to Worthington's experience supplying both non-refillable and refillable cylinders, we understand the market challenges and consumer risks related to enabling state-wide distribution of small format refillable cylinders. Notably, Worthington is concerned with the risks associated with asking consumers to refill cylinders at home...By promoting a refillable small format cylinder, SB 1280 will encourage and endorse the unsafe practice of self-filling.

"Worthington Enterprises remains committed to an Extended Producer Responsibility (EPR) program for its products...Worthington is in the process of implementing a producer responsibility program in Connecticut and is part of the group organizing to address Vermont's new HHW EPR law."

-- END --