

Why You Should Oppose Bag Bans

THERE ARE GOOD REASONS FOR OPPOSING BAG BANS – AND THEY INVOLVE YOUR PERSONAL FREEDOM AND LIBERTY

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Some people welcome a ban on plastic carryout bags, others are opposed, and others are not sure. This article is intended for those of you who are in between and unsure whether you should oppose or support a bag ban.

With as much that goes on in the world today that vies for our attention, getting excited about plastic grocery bags (i.e. plastic carryout bags) is certainly not high on the totem pole. We live in a topsy-turvy world where things that were once banned are allowed (e.g. marijuana) and things that were once allowed are now banned (e.g. plastic carryout bags).

So how can we approach this subject in a fair and impartial manner? How can we determine if we should support or oppose a bag ban? We know that when the legislature or a local jurisdiction passes a law they are trying to solve a perceived problem. So the answer to the question is to understand the nature of the problem and how the proposed solution or law intends to solve that problem and most important what alternative solutions were considered. The more clearly we understand this the better we can see how our personal freedom and liberties are affected and whether that intrusion is warranted and justified.

The purpose of this paper is not to provide a detailed explanation of the problem and the solution (e.g. plastic bag ban) but a philosophical argument about why or why not bag bans should be opposed. Readers who want more exhaustive arguments about the nature of the alleged problem and how the proposed bag ban solves or fails to solve the alleged problem are encouraged to visit our website: [Fight The Plastic Bag Ban](#) to read the many articles about plastic bag bans and related issues. The following articles are recommended as well as others referenced herein:

[Plastic Bag Bans – A Community Could Do So Much Better & For So Much Less](#)
[Bag Bans – Trading One Problem for Another](#)
[Using Reusable Bags Not That Easy](#)
[Paper Bag Fee Setting a Bad Precedent](#)
[Bag Bans: Defrauding the Public of Reasonable Alternative Solutions](#)
[Plastic Bag Recycling Rate – A Non-Issue](#)
[Bag Bans: A Failure – Not Success As Claimed](#)
[The Lies Myths Half Truths and Exaggerations of Bag Ban Proponents](#)
[Bag Bans: Officials Neglect Homework](#)
[Statewide Bag Ban Will Cost Residents \\$1 Billion](#)

“Feel-Good” Nature of Bag Bans

Bag Banners portray a bag ban as doing something positive for the environment. Public officials are particularly susceptible to this positive “feel-good” nature of a bag ban because of their political and deep emotional need to be seen as “Green” by their constituents. As a result, these politicians are more than willing to curry favor with so-called environmental groups and overlook a critical analysis of the alleged problem and the proposed solution. (van Leeuwen & Williams, Bag Bans Officials Neglect Homework, 2013)

A critical analysis reveals that the bag ban is short on results and large on feel-good sentiment. For example:

- A bag ban will only reduce the number of thin-film plastic carryout bags distributed because the ban with a few exceptions applies only to grocery and convenience stores. Other retail stores will be allowed to continue distribution of thin-film plastic carryout bags.
- A bag ban will replace the thin-film plastic carryout bags distributed in grocery and convenience stores with paper and a thick plastic “reusable” carryout bag at a cost of 10-cents each. Neither the paper nor the thick plastic “reusable” bags are reused by shoppers and in practice are used as “disposable” bags. Hence, the thick plastic “reusable” bags will enter the litter stream.
- A bag ban will have a negligible effect on litter. While plastic bag litter is more visible than other types of litter, it comprises less than 0.6% of roadside litter. In comparison, fast food waste makes up more than 29% of roadside litter. A bag ban will still leave more than 99.4% of litter waiting to be picked up!
- A bag ban will not prevent harm to marine wildlife. While plastic carryout bags that make their way to the ocean can become problematic for wildlife if ingested; other plastic objects (e.g. bottle caps, cigarette lighters, ballpoint pens, golf tees, balloons, etc.) will continue to menace wildlife. Eliminating one item out of the litter stream may appear to be the right solution, but is actually the wrong solution, because a comprehensive solution to address all litter is needed.

A comprehensive solution to prevent plastic debris and litter from reaching waterways and the ocean is currently being implemented by the Total Maximum Daily Loads (TMDL) program under the federal Clean Water Act. The TMDL program installs trash capture devices in the storm drain system to prevent litter, plastic bags, and plastic debris from being discharged into rivers that empty into the ocean. Environmental organizations report that 80% of plastic debris in the oceans comes from land based sources via the storm drains that empty into rivers and into the ocean; the other 20% comes from sea based sources. In other words, the TMDL program alone will largely solve the problem with plastic bags and other plastic debris from being discharged into rivers and the ocean, and brings into question the real need for a plastic bag ban and the need to shift towards using reusable bags.

Another major source of litter are homeless encampments many of which are located in riverbeds and generate hundreds of tons of litter including plastic bags that will flow down river during the wet season and are a major problem for local jurisdictions to deal with. A bag ban will not solve this litter problem. Removing homeless encampments from the river bottom and resettling these people into some kind of

housing is the only way to prevent this litter in order to meet the requirements of the federal Clean Water Act.

Just looking at the above facts should tell you that a bag ban is more about “feeling good”, about showing that you are doing something, but is short on real tangible results.

Who Decides “Acceptable” Uses of Products

Americans, who live in one of the most prosperous societies on the face of the earth, use many different products to enhance our life, eliminate manual labor, and just to make life easier. For example, we use a washing machine and dryer to wash and dry our clothes. You could wash your clothes by hand and hang them on a clothes line to dry, but hand washing clothes and hanging them out to dry is labor intensive and not very convenient. With California in a severe drought and many fearing that Climate Change is on the horizon, think of how much water and energy would be saved if the state legislature simply outlawed the sale and use of washing machines and dryers! Of course, we are being facetious, but it brings to light important questions that we need to ask ourselves: *“Should the government outlaw washing machines and dryers? Is it the role of the government to decide how you wash your clothes? Is it the role of government to tell you what kind of commercially available product to use?”* These questions are very similar to the kind of questions that the reader should ask about bag bans and type of shopping bags you should be allowed to use.

Getting back to bag bans.

Bag Banners consider that the use of resources to manufacture “disposable” paper and plastic bags when reusable bags are commercially available off-the-shelf to be a waste of resources. Therefore, in devising their solution to ban thin-film plastic bags; they put a fee on store provided “disposable” paper bags in order to coerce the shopper into bringing and using their own reusable bags. Their intent was to prevent shoppers from merely switching from one type of disposable bag to another. This is also exactly the same reason why they rejected simpler solutions such as using paper bags instead or to change the thickness of plastic bags so they don’t become airborne and wind-blown litter.

The question is should products that are littered be regulated or banned? If you say yes, then should cigarettes be banned on the grounds that the most frequently littered item is a cigarette butt? Should fast food takeout be banned because fast food waste makes up more than 29% of roadside litter?

Is it the role of the government to decide that the use of a particular “disposable” product is wasteful when “reusable” alternatives are available? The answer is NO. In our economic system, a lower cost product gains market share and higher cost products or inefficient solutions will lose market share and are eventually eliminated. In other words, products that are wasteful of resources are over time eliminated from the marketplace. A bag ban does just the opposite; it fixes and holds inefficient solutions in place as a matter of law, preventing the marketplace from weeding out inefficient solutions.

At one time, grocery stores bagged all groceries in paper bags. Then someone invented a less expensive plastic carryout bag that uses fewer resources to manufacture than the paper bag. As a result, paper bag manufacturers lost market share and plastic bag manufacturers gained market share. With a bag ban, even though a minimum fee of 10-cents per paper bag is paid, we are actually going backwards to use bags that are not as efficient to manufacture as plastic bags. In other words we are choosing products that are more wasteful of resources and have a greater impact on the environment.

What Else Besides Plastic Bags Will Be Banned?

Ever shopped at a department store like Target, K-Mart, or Wal-Mart? Did you notice that shelf full of reusable water bottles? After plastic bags are banned and the public gets used to that, don't be surprised if these nanny state environmentalists go after bottled water. In fact, in our article "[Banning Bottled Water – Wrong Solution](#)" we have documented that the assault on bottled water has begun. We have documented that some jurisdictions have already succumbed by banning bottled water from vending machines in public places, some colleges and universities have banned the sale of bottled water on campus, some national parks like the Grand Canyon have banned the sale of bottled water, and in Massachusetts the City of Concord has banned the sale of bottled water within city limits in plastic containers of 1 liter or less. (van Leeuwen, Banning Bottled Water – Wrong Solution, 2014)

In a nation with a crisis in obesity, residents and visitors to the above areas can purchase soda laden with sugar and sweeteners from a vending machine but not a "sugar free" bottle of water. Visitors are expected to bring or purchase their own reusable water bottle and fill that bottle with tap water from a bottle filling station. (van Leeuwen, Banning Bottled Water – Wrong Solution, 2014)

One environmental group is beginning a campaign that targets outdoor smoking in public areas, beginning in San Francisco. The group hopes to pass ordinances that ban outdoor smoking or to enforce existing bans. The goal is to prevent cigarette butts from being casually flicked into gutters from where they find their way to flow down storm drains and into the bay.

Since SB-270 signed by Governor Brown will ban plastic grocery bags, what is next? Will they want to ban smoking in public places or entire cities, ban the distribution of bottled water, or ban disposable diapers? Where is the limit? What item will be put up on the pedestal next and targeted for a ban, using almost the exact same arguments?

If the bag banners and self-proclaimed "concerned environmentalists" who pursue these solutions are not stopped from going down this path, they will only be emboldened to keep going until someone or something stops them.

Should The Government Impose A Pre-Conceived Solution On Everyone Else?

Statewide and local bag bans all implement the same "pre-conceived" solution: ban thin-film plastic bags; put a fee on store provided "disposable" paper bags in order to coerce shoppers into bringing and

using their own reusable bags. There are some minor differences between the statewide and local bag bans but most are implemented from the same common prescription or recipe. The question is *“Should the government impose a complex pre-conceived solution on everyone or should the government impose a narrow and limited solution that preserves individual choice on the type of shopping bag to use?”*

Is the Public Really Behind a Bag Ban?

Benjamin Franklin expressed the concept of popular sovereignty when he wrote: "In free governments, the rulers are the servants and the people their superiors and sovereigns". (Franklin, 2003, p. 398) The principle is that the authority of the government is created and sustained by the consent of its people, through their elected representatives (Rule by the People), who are the source of all political power. In fact, the American government is founded on the principle of popular sovereignty. (Wikipedia)

Public officials frequently forget that they are working for the public and the decisions they make should be in the interest of the public. However, some of them feel that since they were elected into office by their constituents, that they were elected to make the tough decisions as they see fit. But isn't it true that on controversial or matters that affect every resident in the community that the interests and will of the public should receive the highest consideration. Should our elected leaders not find out how the public feels about this issue, by taking a poll or by putting this matter to a public vote? Since a bag ban affects all residents in the jurisdiction, by imposing higher financial costs and requiring the commitment of personal time, should this controversial matter not have been put on the ballot? The answer is; YES, it should have been put on the ballot.

Are Bag Banners And Elected Officials Smarter?

The question: *“Are elected officials and Bag Banners smarter than the rest of us?”* is certainly worthy of consideration. Most of us expect that our elected officials and public employees would use critical thinking skills in analyzing problems and proposed solutions. By critical thinking we mean “disciplined thinking that is clear, rational, open-minded, and informed by evidence.” (Random House, Inc.)

Unfortunately, bag banners and public officials use emotional arguments for example citing wildlife harmed by plastic carryout bags (e.g. a turtle chewing on a plastic bag) or by plastic bags littered in the community and the fear that unsightly plastic bag litter will impact tourism. These emotional arguments are used instead of a logical argument in order to gain acceptance of a bag ban and to obscure the fact that there is no compelling rational reason for such a ban. (Your Logical Fallacy Is)

The fact that bag banners and public officials resort to emotional arguments instead of well thought-out and reasoned arguments does not bode well for the public. Unfortunately the public has to put up with bad decisions made by politicians who operate out of emotion or political cowardice and who suppress common sense, logic, and sound reasoning.

So to answer the question: *“Are elected officials and Bag Banners smarter than the rest of us?”* the answer is a resounding NO. The public has to hold these officials accountable and remove them from office when necessary.

Bag Bans Set Bad Precedents

Statewide and local bag bans set a very bad precedent. They require that a private business must charge their customers a set minimum fee for a product previously offered at no charge. Furthermore, they restrict the ability of that private business to offer that product at no charge to their customers. In this case, the product is a store provided paper or thick plastic “reusable” bag.

The bag fee is to be kept by the store solely for the purposes specified in the law or ordinance such as paying for the bags offered including the “free” paper or thick plastic reusable bags for customers on public assistance (e.g. Food Stamp recipients). State law makes it very clear; that the minimum fee is implemented for no other reason so that customers who bring their own bags do not subsidize customers who need store provided bags. In other words, customers who pay for store provided bags will subsidize the free bags provided to shoppers receiving public assistance. This amounts to a transfer of wealth from one class of shoppers to another. Also, the fee paid for these bags is exempt from sale tax, in order to circumvent the requirements of Proposition 26 which requires a vote of the people to raise taxes or to impose new fees. (van Leeuwen, Paper Bag Fee - Setting A Bad Precedent, 2014)

It should be noted that grocers, like any other business, has the complete freedom to eliminate plastic carryout bags from their stores and have the complete freedom to charge a fee for a paper or other type of shopping bags offered to customers. Since grocers are reported in favor of the bag ban that eliminates plastic bags and charges a fee for paper bags or thick reusable bags, why do they need a law to do what they claim to believe in?

What grocers want is for the government to mandate a minimum paper bag fee in order to “level the playing field”. This means that they do not want a competitor to steal their business by offering free or charging a lower fee for bags. Experience has shown that stores in areas that have implemented bag bans have lost business to stores in areas that have no bag bans by as much as 10%. Hence, setting a minimum fee, although they claim it is to discourage use of store-provided “disposable” paper and plastic reusable bags, is actually a form of price fixing and an anti-competitive measure.

Had these grocers gotten together and agreed together to charge a minimum bag fee, they would be facing prison terms under federal antitrust laws. *“In the United States, price fixing can be prosecuted as a criminal federal offense under section 1 of the Sherman Antitrust Act.”* (Wikipedia) Hence, a bag ban implementing a minimum fee for paper and plastic reusable bags imposed by the government provides political cover for what would otherwise be an illegal act of price fixing.

Bag Bans Penalize Shoppers

Bag bans penalize shoppers in many ways. First, shoppers who choose to use reusable bags are penalized with the cost of purchasing reusable bags and also the cost of water and energy to wash reusable bags and the personal time consumed managing reusable bags. Second, shoppers who choose to use store provided bags must pay a minimum fee of 10-cents per bag issued. Third, shoppers who do

not choose to use reusable bags or do not want to pay for store provided bags leave the store without a bag either by juggling purchases in their arms or in a grocery cart or shopping basket.

The truth, as shown above, is that all shoppers are penalized in some form. In a paper titled "[Plastic Bag Alternatives Much More Costly to Consumers](#)" the authors estimate the cost of grocery bags for a typical family of four using different options from store provided plastic bags to shoppers bringing their own reusable bags. Store provided plastic carryout bags before the ban would cost the family indirectly about \$21 per year. After the ban, using store provided paper bags would cost about \$78 per year and using reusable bags would come to about \$300 per year. The latter option includes not only out-of-pocket costs but also the value of one's personal time to manage bags including washing bags on a regular basis. (van Leeuwen & Williams, Plastic Bag Alternatives Much More Costly to Consumers, 2013)

Recommended Solution Has Associated Health Risks

The preferred solution by bag banners is for shoppers to use reusable bags. In fact, the fee on store provided paper or thick plastic reusable bags is designed to coerce the shopper through a financial incentive to use reusable shopping bags. However, using reusable shopping bags carries with it certain health risks.

In an article "[Bacterial and Viral Health Hazards Of Reusable Shopping Bags](#)" the author shows that if reusable bags are not washed on a regular basis, there will be a buildup of bacteria, yeast, mold, and coliforms which if they come in contact with food items could be a potential health hazard. In addition, viral health hazards also exist and a potential factor in disease transmission. Washing shopping bags will maintain them in a sanitary condition and kill 99.9% of bacteria. Unfortunately, many shoppers do not wash bags to maintain them in a sanitary condition and many shoppers who live in their cars or come out of homeless encampments have no means to wash and sanitize reusable shopping bags.

In a related article "[Reusable Bags and Ergonomic Issues](#)" the author outlines ergonomic issues related to using reusable bags. A common maxim is that reusable bags hold more. Well, if they hold more, they will also weigh more. The weight of a filled reusable bag can vary from 10 lbs. for a small reusable bag to 28 and 38 lbs. for medium and large reusable bags. The weight of filled reusable bags can be a hazard to the elderly, the handicapped, and to customers who have back problems.

Political Payoffs, Backroom Deals, and Bribery Should Not Be Tolerated

Plastic bag bans were passed at the state and local levels through the support and participation of different interest groups, each of which had their own interests, and not necessarily the best interests of consumers in mind. Consider the roles and interests of the different groups involved.

Grocers: were very much aware that a plastic bag ban would increase the cost of doing business because paper bags cost between 5 and 12 cents each and plastic grocery bags cost only 1 to 2 cents each. As a result, grocers would only support the bag ban if it includes a provision mandating a minimum fee for each paper bag issued. This provision was necessary to "*level the playing field*" and prevent other

grocers from using lower or no bag fees to steal customers and business away. In other words the bag fee is nothing more than an effort to eliminate competition, as well as make a handsome profit.

Bag Manufacturers: including reusable, paper, and plastic bag companies all wanted to increase their individual market share. Paper bag and reusable bags companies saw an increase in market share of carryout shopping bags while plastic bag manufacturers are seeing a decrease and are having to defend their business interests in the political and legal arenas.

State Legislature: passed a statewide bag ban in SB 270 (Padilla) that was never about the environment. It was a **back room deal** between legislators, grocers, and their unions to scam California consumers out of billions of dollars without providing any real public benefit – all under the guise of environmentalism. (Larkin, 2014) If this law is allowed to go into effect it would jeopardize thousands of California manufacturing jobs, hurt the environment, and fleece consumers out of millions of dollars in bag fees.

Public Officials: support bag bans largely because of a **political need** to be seen as “Green”. Because public officials do not want to be seen as hurting “the poor” they made sure that bag ban laws include a provision that shoppers who are recipients of public assistance programs will be provided free paper or thick plastic reusable bags all at the expense of customers who pay for store provided bags.

California State Board of Equalization: **circumvented Proposition 26 voter approval requirements** for new taxes and fees by ruling in a Special Notice titled “[Sales Tax Does Not Apply to City and County Paper Bag Surcharges](#)” that paper bag fees are not subject to state sales tax. (California State Board Of Equalization, 2011) It should be noted that other states do charge a sales tax on paper bag fees and that California aggressively collects sales taxes from its own citizens who purchase products over the internet from sellers in other states. So this action can only be interpreted as an effort to defraud citizens from voting on new taxes and fees and to shield local jurisdictions from legal challenges that paper bag fees constitute an illegal tax and are subject to voter approval under Proposition 26.

State Legislators: made \$2 million available (in SB 270) from the bottle deposit fund for loans to plastic bag manufacturers to convert machinery to making reusable bags in an effort to **bribe and garner support** from legislators who represent districts with plastic bag manufacturers. (California State Legislature , 2014)

Local Jurisdictions: prepared environmental impact reports (EIRs) that stacked the deck in favor of the “[pre-conceived solution](#)”. By using **hidden criteria** and through a **clever manipulation of objectives** they were able to dismiss and avoid a full environmental review of feasible alternatives more favorable to the public. For example, the alternative of just using paper bags with no fee was dismissed outright on the basis that paper bags are worse for the environment than plastic bags. This is clearly the wrong criteria to use, and a full environmental review would have shown that using paper bags instead of plastic bags will have no significant effect on the environment. In other words, the public was defrauded out of feasible alternatives.

Watershed Management Agencies: offered cities and counties a **credit** toward litter cleanup in the watershed if a city or county passed a plastic bag ban. The credit was much more generous than the reduction in the amount of litter and saved cities and counties hundreds of thousands if not millions of dollars. It should be noted that the public was not informed of this credit and that bag banners including public officials kept it hidden and out of public view.

Public Officials: in public meetings concerning implementation of bag bans **failed to disclose** that projects to install trash capture devices in storm drains required by the federal Clean Water Act would actually prevent plastic bags and debris from being washed down storm drains into the river and to the ocean. According to environmental organizations 80% of plastic debris in the ocean comes from land based sources and is conveyed to the ocean by the storm drain system!

Bag banners: including a number of so-called environmental groups and self-proclaimed environmentalists and their supporter's lobbied city councils and county supervisors and state legislators to pass bag bans. They easily outnumbered citizens who were opposed to the bag bans at public meetings and claimed plastic bags harm wildlife and **falsely suggested** that passing a bag ban would prevent harm to wildlife and would solve litter problems.

News Media: was **in the tank for Bag Banners** and published articles supporting bag bans and rarely an article in opposition. The articles they did publish were superficial covering only the talking points provided by Bag Banners rather than an in-depth look at the real issues involved with the goal of spurring a robust public debate.

While more can be said about each of the groups listed above, their actions and self-serving roles in implementing bag bans, it should be obvious that the deck was stacked against the public and that the public interest was not well served!

Should Businesses Be Prohibited From Offering A Legal Product For Free?

Should the government legally prevent a private business from offering their customers a completely legal product for free? Should the government legally set a minimum price that a private business must charge its customer for a particular product?

If the government can step in and tell businesses that they cannot offer completely legal products for free to customers (based on some philosophical objection), what else can they ban? No free parking spaces, to encourage people to walk or use public transportation? No free shopping carts because homeless people take them and dump them in creeks? No free food samples at stores because of obesity concerns?

Should the government fix a minimum price on a product provided by a private company? Should public officials conspire with grocers to fix prices? The answer to these questions is a resounding No!

Is the Nanny State What We Really Want?

The term Nanny State refers generally to a government that makes decisions for people that they might otherwise make for themselves, especially those that relate to private and personal behavior. This is usually manifested in the enforcement of extensive public health and safety regulations. For example, mandatory wearing of bicycle helmets, banning smoking in public places such as restaurants, etc. (Wikipedia)

In the case of a plastic bag ban, the government is telling you that at a grocery or convenience store, you are required to bring your own bag, that the preferred bag is a reusable bag, and that a store provided paper or thick plastic reusable bag will cost you a minimum of 10-cents. This is clearly an example of the Nanny State at work.

The majority in the middle might say "well, reusable bags are probably better, and I have some, I just can't remember them. So I think if the government forces me (as long as they force everyone else at the same time) it is OK. I may not like it, but I'll get used to it". If this describes you, then it is time to get off the fence!

Conclusion

Whether or not you believe in using plastic bags or reusable bags to carry your groceries home, that is not the issue. The issue here is an entirely new set of rules and laws, bending and skirting of current laws, and allowing the government to become "nannies", telling us how and when we can use certain products and assuming that our time and energy to comply with their desires have absolute no value or consideration. They intrude into the relationship between customers and retail stores, who as a gesture of good will offer a legitimate free product (e.g. a carryout bag) for their own benefit as well as that of their customers. In addition; they implement unnecessary fees to bilk consumers out of millions of dollars each and every year. What makes matters worse; there is "No Bang for the Buck" because banning plastic grocery bags has no real impact on litter!

In view of everything we have stated in this article, we hope that you also have come to the conclusion; that **bag bans should be opposed**. At the very least, we hope that you too will demand an in-depth and robust public debate on the issue of banning plastic carryout bags including a robust discussion of alternative solutions to solve plastic bag litter concerns.

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