

Date of Hearing: April 17, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2632 (Wilson) – As Introduced February 14, 2024

**SUBJECT:** Planning and zoning: thrift retail stores

**SUMMARY:** Prohibits a local government from treating a thrift retail store differently from a retailer that sells similar goods. Specifically, **this bill:**

- 1) Defines “thrift retail store” to mean a retail store and related donation facilities engaged primarily in the sale of secondhand clothing, shoes, apparel, toys, and standard household goods, such as furniture, fixtures, and small household appliances, and the collection of those goods for resale. “Thrift retail store” does not include the sale of large household appliances such as refrigerators or stoves and does not include the sale of cars or anything automotive-related.
- 2) Prohibits a city, including a charter city, a county, or city and county from treating a thrift retail store differently from a retail store for purposes of zoning, development standards, including, but not limited to, height, size, parking requirements, or setbacks from adjacent uses, or permitting. A city, county, or city and county may require that thrift retail stores meet certain aesthetic or design standards, including design review approval, provided those standards or design review, or both, are also required of nonthrift retail stores.
- 3) Prohibits a city, including a charter city, a county, or a city and county from prohibiting a thrift retail stores from receiving used and donated items for sale in the store or other thrift retail stores, or reuse or recycling, or both reuse or recycling, through other means.
- 4) Contains a number of findings and declarations, including that a significant portion of the waste stream into California landfills is composed of clothing and households goods that have not reached the end of their usefulness and that thrift retail establishments diverts reusable goods from landfills which furthers statewide policy.
- 5) Finds and declares that reducing waste streams of discarded clothing and households goods to state lands is a matter of statewide concern and not a municipal affair. Therefore, the bill applies to all cities, including charter cities.
- 6) Provides that no reimbursement is required by this bill because the only costs that may be incurred by a local agency or school district under this bill would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article 1 of the California Constitution.

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state-mandated local program.

**COMMENTS:**

- 1) **Bill Summary.** This bill would prohibit a local government from treating a thrift retail store differently from a retailer that sells similar goods. The bill allows a local government to require that thrift retail stores meet certain aesthetic or design standards, including design

review approval. Under this bill, a local government can not prohibit a thrift retail store from receiving used and donated items for sale in the store or other thrift retail stores, or reuse or recycling, or both reuse or recycling. The bill is sponsored by Savers Value Village.

- 2) **Author's Statement.** According to the author, "Used clothing is a significant portion of the waste Californians produce. McKinsey estimates that in one year alone, Californians will purchase 780,000 tons of apparel, 740,000 tons of which will ultimately end up in landfills. The growth in fast fashion and the ready availability of new, affordable clothes mean this unsustainable cycle will continue.

"Because less than 1% of clothing is made into new clothing the solution to textile waste lies in reuse and the circular economy. Moreover, one person's trash may well be another's treasure. People who shop at secondhand stores are both environmental heroes and economically smart. Despite this, some jurisdictions hold stereotypical and false beliefs that thrift store shoppers are less valuable or more problematic than shoppers of full price retail stores, and sometimes use zoning and ordinances to exclude thrift stores from their shopping districts.

"This bill to remove these unjustified prohibitions against secondhand stores will encourage the reduction of apparel waste by preventing local jurisdictions from continuing to treat thrift stores differently from other retailers."

- 3) **Integrated Waste Management Act.** The Integrated Waste Management Act (Act) requires waste diversion from landfill or transformation facilities through source reduction, recycling, and composting activities identified in city, county and regional agency Source Reduction and Recycling Elements (SRRE). In addition to the SRREs, local jurisdictions are also required to prepare additional solid waste planning documents. These include the Household Hazardous Waste Element (HHWE), the Nondisposal Facility Element (NDFE), the Countywide Siting Elements (CSE), and the Countywide Integrated Waste Management Plan (CIWMP). The NDFEs are to be consistent with the implementation of a local jurisdiction's SRRE. However, it is the SRREs that are required to have an implementation schedule which shows the diversion of 25 percent and 50 percent through source reduction, recycling and composting activities.

Under the CSE, counties are required to prepare a CSE that describes areas that may be used for developing new disposal facilities. The element also provides an estimate of the total permitted disposal capacity needed for a 15-year period if counties determine that their existing disposal capacity will be exhausted within 15 years or if additional capacity is desired

- 4) **Trash and Garbage and Waste, Oh My!** In *State of Disposal and Recycling in California for Calendar Year 2020*, CalRecycle reported that California's overall waste generation was about 77.4 million tons and, of that, 40 million tons went to landfill. Of the total materials generated, 52% were sent to landfill, 17% were exported as recyclables, 12% were composted, anaerobically digested or mulched, and another 13% were recycled.

According to CalRecycle's *2020 Facility-Based Characterization of Solid Waste in California* report, textiles were the sixth most prevalent material type disposed by single-family residences in 2018. California disposed of nearly 1.2 million metric tons of textiles in

2018, making up about 3% of California's total waste stream. CalRecycle indicates that up to 95% of California's textile waste is reusable or recyclable. In order to recycle or reuse the fabric, the item must have the material tag attached to identify the type of material. Without tags, it becomes impractical to determine the blends used in each product making them essentially unrecyclable.

- 5) **Talkin' Trash.** Although current law requires that local government at local governments divert at least 50% of waste by 2000 through various means, some local governments have achieved higher percentages of waste diversion. Alameda County has set a waste diversion goal of 89% by 2020, they have achieved currently achieved a diversion rate of 81%. One of the strategies Alameda County is attempting to create a zero waste culture and has considered second-hand stores and thrift shops as a way to cultivate this culture.

Los Angeles County has set a goal of 80% diversion by 2025 and 90% by 2035. These targeted diversion rates would be implemented through various strategies and initiatives. One initiative that seeks to institutionalize waste prevent and source reductions identifies that the promotion of thrift stores and repair shops is a way to prevent waste.

- 6) **It was ninety-nine cents.** The bill raises the issue that retail stores are treated differently than the retail stores of similar items. In the adoption of commercial zoning districts, some cities have written thrift stores out of the permitted uses allowed in that zone even though retail stores and antique shops are permitted uses in the same zones.

However, the California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority. Local governments use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, and lot coverage ratios to increase open space, among others. These ordinances can also include conditions on development to address community impacts or other particular site-specific considerations. Local governments have broad authority to define the specific approval processes needed to satisfy these considerations, including the permits the developer must obtain.

- 7) **Policy Considerations.** Though thrift stores may provide benefits to the community like waste diversion and providing affordable household items and clothes for sale, the Constitution vests local governments with discretion to regulate uses of land to promote health and safety within their jurisdiction. The bill requires local governments to treat thrift retail the same as retail stores that sell new items. While the two uses of land are similar enough in the sale of items, how the stores acquire items requires further consideration. A thrift store may receive donations from institutions, other stores, and individuals. Donations collection can range from walk-in only to curbside pick-up to freight drop-off. The Committee may wish to consider the operational differences between a retail store receiving new items and a thrift retail store receiving donated items.

8) **Committee Amendments.** In order to address the policy consideration outlined above, the committee may wish to amend the bill as follows:

**65631. ~~As used in this article,~~ For purposes of this article,** “thrift retail store” means a retail store and related donation facilities engaged primarily in the sale of secondhand clothing, shoes, apparel, toys, and standard household goods, such as furniture, fixtures, and small household appliances, and the collection of those goods for resale. “Thrift retail store” does not include the sale of large household appliances such as refrigerators or stoves and does not include the sale of cars or anything automotive-related.

(b) **“Local agency” means a city, including a charter city, a county, or a city and county.**

**65632. (a) Except as provided by subdivision (c),(d), and (e), ~~A city, including a charter city, a county, or a city and county,~~ a local agency** shall not treat a thrift retail store differently from a nonthrift retail store **engaged in the sale of sale of new items that similar to items sold by a thrift retail store ~~similar new items~~** for purposes of zoning, development standards, including, but not limited to, height, size, parking requirements, or setbacks from adjacent uses, or permitting. **~~A city, county, or city and county~~ local agency** may also require that thrift retail stores meet certain aesthetic or design standards, including design review approval, provided those standards or design review, or both, are also required of nonthrift retail stores.

(b) **~~A city, including a charter city, a county, or a city and county,~~ local agency** shall not prohibit a thrift retail store from receiving used and donated items for sale in the store or other thrift retail stores, or reuse or recycling, or both reuse and recycling, through other means.

(c) **Nothing in this section shall be construed to prohibit the adoption or enforcement of reasonable local rules and ordinances as applied to retail establishments engaging in the sale of new items that similar to items sold by a thrift retail store.**

(d) **Nothing in this section shall be construed to prohibit the adoption or enforcement of reasonable regulations on the collection or receiving of used and donated items by a thrift retail store, including but not limited to, reasonable regulations related to:**

- (1) **Requirements that the delivery of goods from non-passenger vehicles be conducted within a specified area of the thrift retail store premises.**
- (2) **Requirements that the donation process is operated by employees the thrift retail store and that donations of goods from the public be collected and received by thrift store employees.**
- (3) **Limitations upon the square footage or percentage of the thrift retail store premises within which collection and receiving activities are conducted.**
- (4) **Requirements applicable to the operation of equipment associated with the collection, receiving, processing or disposal of used and donated items.**
- (5) **Enforcement of health and safety standards including, but not limited to, shopping center ingress and egress or the enforcement of illegal dumping, as generally applied to retail.**

(e) **Nothing in this section shall be construed to limit or otherwise affect the ability of a local agency to adopt or enforce any local rules and ordinances on businesses other than thrift retail stores as defined in section 65631.**

- 9) **Previous Legislation.** SB 1187 (Kamlager), Chapter 616, Statutes of 2022, required CalRecycle to establish a three year pilot project located in Los Angeles and Ventura Counties with garment manufacturers to study and report on the feasibility of recycling fabric.

AB 939 (Sher), Chapter 1095, Statutes of 1989, established the California Integrated Waste Management Act and required cities, counties, and approved regional solid waste management agencies responsible for enacting plans and implementing programs to divert 25 percent of their solid waste by 1995 and 50 percent by year 2000. Later legislation mandates the 50 percent diversion requirement be achieved every year.

- 10) **Arguments in Support.** None on file.

- 11) **Arguments in Opposition.** None on file.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file.

**Opposition**

None on file.

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