To: Honorable Mayor and Members of the City Council

From: Zero Waste Commission

Submitted by: Alfred Twu, Chairperson, Zero Waste Commission

Subject: Support of Assembly Bills 509, 954, & 1219

RECOMMENDATION

1. Support Assembly Bill 509, which would develop an incentive payment program that pays directly for tire recycling, and send a letter expressing the City Council's support to Assembly Member Jim Frazier;

2. Support Assembly Bill 954, which would encourage food manufacturers, processors, and retailers responsible for the labeling of food products to voluntarily use uniform quality dates and safety dates on food product labels, and send a letter expressing the City Council’s support to Assembly Member David Chiu; and

3. Support Assembly Bill 1219, which would clarify and expand on the scope of current food donor protection laws, which will assist the State in meeting organic waste diversion and food recovery goals, and send a letter expressing the City Council's support to Assembly Member Susan Talamantes Eggman.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts to this recommendation.

CURRENT SITUATION AND ITS EFFECTS

AB 509: Despite the significant funding and human resources expended by CalRecycle (and its predecessor agency) over the previous two decades, California still landfills, burns, or exports more than 62 percent of the waste tires generated in the state each year. This recycling rate is not only unacceptably low for such a longstanding program, but it has also remained largely stagnant for a long time. Moreover, illegally dumped tires continue to pose a significant cost to local agencies and the state, as well as presenting a health and safety risk to the public. This is despite the fact that tires are highly recyclable. Rubberized paving has proven to be the largest market for recycled tires, and local government paving programs have the potential to use significantly more recycled tires in the place of traditional asphalt.
**AB 954:** 40% of food produced in this country does not get eaten. Food is the single most prevalent item in California’s waste stream, with over 5.5 million tons of food landfilled every year in the state. Wasted food costs consumers and industry $162 billion each year nationally, squanders important natural resources that are used to grow, process, distribute, and store America’s food supply, and represents a missed opportunity to feed millions of food insecure households. Misinterpretation of the date labels on food has been identified as a key factor leading to this waste. Date labels on food have come in a variety of forms including “use by”, “best before”, “sell by”, and “enjoy by” dates, yet these simple markers are poorly understood.

**AB 1219:** Food is the single most prevalent material in California’s waste stream, with over 5.5 million tons of food landfilled every year. Uneaten food and other organic waste releases more than 8.3 million tons of greenhouse gases from landfills each year in California, composing 20 percent of the state’s methane emissions. Much of the food currently going to landfills is wholesome and edible. When edible food is buried in a landfill, we not only squander the resources it took to grow, process, and transport that food, but also miss an opportunity to utilize that food at its highest and best use by feeding individuals in need. This is especially crucial since the state faces a hunger crisis that affects one in eight Californians, including one in four children, with the rate in Alameda County at one in five.

**BACKGROUND**

**AB 509:** Bill will direct CalRecycle to develop an incentive payment program that pays directly for recycling, which in turn will allow recyclers to outcompete other end-of-life alternatives. Furthermore, by redirecting the Department’s existing market development efforts from a series of competitive grant programs to a guaranteed incentive payment program, AB 509 will allow both local governments and recycled content manufacturers to plan and budget for sustained use of recycled tire products.

**AB 954:** Bill will promote statewide voluntary standardized phrases for the language of date labels on food that have been adopted by two major food industry retail and manufacturer associations. These voluntary standards narrow the number of phrases used down to just two: one standard label for communicating product quality, and one for indicating if a product carries increased risk after that date. This will assist the state in meeting organic waste diversion goals.

**AB 1219:** Bill provides clarification and expands on the scope of current food donor protection laws, which will assist the state in meeting organic waste diversion and food recovery goals, such as those set by AB 1826 and SB 1383, and also encourage more donations to organizations who seek to redistribute food to individuals in need.

At its meeting on May 22, 2017, the Zero Waste Commission passed a motion to recommend sending letters of support for the following California legislation: AB 509, AB 954, and AB 1219. (M/S/C: de Tourney/Stein. Ayes: Twu, de Tourney, McKinstry, Stein, Chang, Watson, Clark; Noes: None; Abstain: None; Absent: None.)
ENVIRONMENTAL SUSTAINABILITY
Each bill would enhance the environmental sustainability of our community by decreasing landfilled materials and greenhouse gases from food waste therein.

RATIONALE FOR RECOMMENDATION
The Zero Waste Commission finds that passing the current bills would be effective in helping the City achieve its goal of zero waste by 2020.

ALTERNATIVE ACTIONS CONSIDERED
The alternative of inaction has been considered and was found to be detrimental to zero waste goals.

CITY MANAGER
The City Manager takes no position on the content and recommendations of the Commission’s Report.

CONTACT PERSON
Heidi Obermeit, Recycling Program Manager (510) 981-6357

Attachments:
1: AB 509 FACT SHEET Tire Recycling Incentive Program
2: AB 954 FACT SHEET Food Waste Reduction and Date Labeling Act of 2017
3: AB 1219 FACT SHEET California Good Samaritan Food Donation Act
SUMMARY
AB 509 would create a Tire Recycling Incentive Program to help expand the state’s tire recycling infrastructure to reduce greenhouse gases, create jobs, and cut the statewide and local costs associated with cleanup of illegally dumped tires.

This proven model of performance-based incentive funding will support the use of rubberized pavement and other end markets for recycled tires through consistent and dependable funding to achieve a 75% recycling rate for tires.

BACKGROUND
Californians generate over 44 million waste passenger tires every single year, and the management of these tires has proven to be difficult. Illegally dumped tires pose a significant cost to local governments and the state, large abandoned tire piles have resulted in weeks-long fires, and the recycling rate has remained largely stagnant.

In its March 2015 “Vision for the Future” Report, CalRecycle described the current state of tire recycling as follows:

“For years, CalRecycle has relied on a variety of grant programs, along with focused research, technical support, and outreach, as the bulwark of its market development efforts. While these efforts have been successful in expanding markets and helping businesses to increase production and/or develop new products, the facts speak to the need to reassess this fundamental market development approach. In particular, the tire recycling rate – use of waste tires to produce marketable products (as opposed to exports or use as ADC) – has hovered for years around 40%.”

In order to drastically increase tire recycling, along with the intrinsic environmental and economic benefits of recovering this material, CalRecycle recommends that the Legislature “implement an expanded incentive program that provides payments for desired end-uses of tires”. These types of incentive programs have proven successful for other recycled materials, and multiple statewide studies have recommended a similar approach to increasing tire recycling.

PURPOSE
AB 509 will establish a Tire Recycling Incentive Program (TRIP) to provide an incentive payment to end-users of recycled tires, including those who use rubberized pavement, as well as manufacturers who produce consumer products using recycled tires. The TRIP is intended to double the state’s tire recycling rate from 37% to 75% by the year 2020.

Specifically, this bill requires CalRecycle to develop the TRIP and annually allocate incentive moneys into the program between January 1, 2018 and January 1, 2024. To off the cost of this program, CalRecycle would be authorized to establish the “California tire regulatory fee” (in an amount not to exceed $1/tire) to cover the existing costs of regulating waste tires. CalRecycle must adopt the regulations to implement the initial fee and identify the specific programs that the fee would fund. Establishment of the fee would be conditioned on CalRecycle holding a public hearing to
AB 509 – Tire Recycling Incentive Program

examine the need for additional funding, and the fee would not go into effect until the state’s Tire Fund is depleted.

This bill includes a January 1, 2024 sunset date; and further states explicitly that if the 75% policy goal for diversion is met for three consecutive years, CalRecycle must review and reevaluate the need for the program.

This bill will ensure that more waste tires in California are recycled, processed, and re-manufactured, therefore creating new jobs, diverting waste from landfills, reducing greenhouse gas emissions, and reduce local government costs.

SUPPORT
Californians Against Waste (sponsor)

STAFF CONTACT
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SUMMARY
To reduce food waste and help consumers make informed decisions when making food purchases, AB 954 creates standardized guidelines for food date labels that better describe food freshness and safety.

BACKGROUND
A shocking 40 percent of food produced in the United States never gets eaten. Meanwhile, 1 in 8 Californians is food insecure, including 1 in 4 children. According to a recent NRDC report, 4 percent of the country’s total energy budget, 12 percent of land, and 23 percent of all fresh water is used to grow this uneaten food. Discarded food is not only a significant waste of natural resources; it is also a drain on our economy that costs consumers and industry $162 billion each year.

Americans throw away an estimated 21 percent of the food they bring home, equivalent to more than 20 pounds of food per person every month. Reducing food waste just by a third (if distributed appropriately) would save enough food to feed every hungry American.

Food is the single most prevalent item in California’s waste stream, with over 5.5 million tons of food dumped in landfills every year in the state.Dumping uneaten food and other organic waste into landfills releases more than 8.3 million tons of greenhouse gases each year, which makes up a fifth of the state’s methane emissions.

THE PROBLEM
Misinterpretation of the date labels on foods is a key factor leading to food waste in American households. Surveys show that a vast majority of consumers discard food prematurely as a result of misinterpreting food date labels. The lack of standardization around date labels makes it impossible to educate consumers on their meaning.

Confusion around date labels also contributes to industry food waste. A grocery manufacturing industry report concluded that about $900 million worth of dated product is removed from the shelves before ever reaching consumers, even though those dates are not always associated with expiration, food safety or freshness.

Inconsistent and unclear food labeling also contributes to wasted food that would have otherwise gone to hungry Californians. Some food banks have policies to turn away food that has gone past its food date label out of fear that the food may be spoiled or a health hazard to their guests.

With the exception of baby formula, there are virtually no federal regulations around food date labeling and rules vary widely by state. There are many areas of the country where much of the food supply has some type of printed date and other areas where almost no food is dated.

Improving date labeling policies and practices can decrease consumer confusion, which will not only reduce food waste, but also improve food safety. Date labels on food come in a dizzying number of forms, including “use by,” “best before,” “sell by,” and “freshest by” dates, yet these simple markers are poorly understood and surprisingly under-regulated—their meanings and timeframes are generally not defined in law.

THE SOLUTION
AB 954 directs the California Department of Food and Agriculture and the Department of Public Health to create voluntary uniform language for food date labels to communicate quality and safety to consumers. These standards would include:

1. A “BEST if used By” date to signify the date after which the food’s quality may begin to deteriorate; and

2. A “USE By” date to signify the safety date after which there is a high level of risk associated with the consumption of the product.

National industry leaders, including the Grocery Manufacturers Association and the Food Marketing Institute, recently opted to create voluntary date label guidelines using this exact model to date their products.

Standardizing the language on date labels with uniform phrases and definitions is the foundation for educating consumers on the meaning of labels, which will lead to reduced food waste.
SUPPORT

Californians Against Waste (Sponsor)

FOR MORE INFORMATION

Riana King | Office of Assemblymember David Chiu
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Nick Lapis | Californians Against Waste
nicklapis@cawrecycles.org
SUMMARY

This bill would create the California Good Samaritan Food Donation Act to clarify and expand existing protections for food donors.

BACKGROUND

California became the first state in the country to limit the liability of food donors in order to encourage food donation. In 1996 Congress responded to the need of more uniform protections by enacting the Bill Emerson Good Samaritan Act which protected good faith food donors from civil and criminal liability.

Despite these protections, much of the wholesome surplus food in the state is discarded. A survey conducted by the Waste Reduction Alliance found that 44% of manufacturers, 41% of restaurants and 25% of retailers identified fear of liability as their primary barrier to food donation.

Meanwhile food insecurity in the state affects one in every eight Californians, including one in four children. Food is the most prevalent item in our waste stream, with over 5.5 million tons of food dumped in landfills every year in the state. Uneaten food and other organic waste in landfills release 8.3 million tons of greenhouse gases each year in California, contributing to 20 percent of the state’s methane emissions.

Current law lacks clarity in some provisions and is limited in scope. Limitations in the federal Good Samaritan Act and in California law include:

1) Current law does not explicitly state that donations of past-date foods or those that are mislabeled are protected from liability.
2) No liability protection is given when donors donate directly to final recipients without going through a nonprofit food recovery intermediary.
3) Donated food must be distributed to final recipients for free in order for the protections to apply.
4) There is no education and awareness component for food donor protection laws.

THIS BILL

AB 1219 will:

- Explicitly state that donated food that is mislabeled is subject to liability protection.
- Explicitly state that donated food which has exceeded the sell-by date is subject to liability protection.
- Expand protection to nonprofits and their donors when they sell or charge for food, which can fill a specific need in many communities.
- Provide liability protection for donations made directly to end-users.
- In order to provide education and awareness, Environmental Health Officers will be required to promote the donation of edible food for human consumption.

By more explicitly stating what kinds of food donations are currently protected under Good Samaritan laws, many potential donors will feel reassured that they are, in fact, protected.

SUPPORT

Californians Against Waste (co-sponsor)
California Association of Food Banks (co-sponsor)
California Association of Nonprofits
California Food Policy Advocates
California League of Food Processors
Community Action Agency of Butte County, Inc.
Emergency Food Bank Stockton/San Joaquin
Feeding San Diego
Food Bank of Contra Costa & Solano County
Food Finders
Food for People, Inc.
FoodLink Tulare County
Imperial Valley Food Bank
Jacobs & Cushman San Diego Food Bank
Merced County Food Bank
Redwood Empire Food Bank
Second Harvest Food Bank Orange County
Second Harvest Food Bank Santa Cruz County
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