ACRI Association of California Recycling Industries

Right to Sell or Donate Recyclable Materials in California

Introduction

California has long been a leader in recycling and sustainability through comprehensive waste management and recycling programs. For residents and businesses, this includes a right to engage in independent recycling practices, including the ability to sell or donate recyclable materials.

Key Rights Under California Law

California residents and businesses have established rights concerning the disposal and management of recyclable materials. Under California law, businesses retain the right to sell or donate their recyclable materials. This right is safeguarded in the following legislative mandates:

- AB 341 (Section 42649.5) states that nothing in the bill limits or modifies a business's ability to sell or donate recyclable materials, even if the business is subject to franchise or waste collection agreements.
- Similarly, AB 1826 (Section 42649.84) reaffirms that businesses may sell or donate recyclable organic waste materials without being subject to the requirements of local organic waste recycling programs.
- While focused on plastic pollution and producer responsibility, SB 54/AB 1526 also reaffirms that the right to sell or donate recyclable materials. Thus, providing further assurance to businesses that they can engage in recycling programs of their choice.

These bills and resulting law ensure that franchise agreements governing waste collection do not infringe upon the ability of an individual or businesses to choose to sell or donate recyclables and are not mandated to use the services of a local jurisdiction's franchised waste haulers.

Understanding Franchise Flow Control and Its Limits

Franchise flow control applies to the collection and disposal of solid waste within a local jurisdiction. Local governments can enter into franchise agreements with waste haulers to control the flow of materials to designated facilities. These agreements typically require businesses to use specified service providers for waste management.

However, flow control does not apply to recyclables that are being donated or sold. Again, this means that businesses have the right to independently manage recyclables by donating or selling them directly to recycling centers, non-profits, or other entities, even if a local government has granted a waste collection franchise in their area.

For example, a business that generates large quantities of recyclable materials—such as cardboard, paper, metal, glass or plastics—may choose to donate these materials to a local charitable organization or sell them to a recycling facility without violating flow control regulations. This flexibility ensures that businesses and residents can make their own decisions regarding their recyclables, potentially benefiting from financial incentives or supporting community efforts.

Conclusion

The California legislature has made it clear that there is legal framework to support residents' and businesses' rights to sell or donate recyclable materials. Thus ensuring that individuals can make independent and environmentally conscious decisions without being constrained by franchise flow control regulations and local waste franchise agreements.

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