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PBi's Biotre® and environmental marketing claims on packaging in the State of California

At PBi we endeavor to make our product descriptions truthful, accurate, and helpful to customers. Developments in California laws and the penalties allowed by those laws have prompted us to provide information about our Biotre® packaging. These laws affect environmental marketing claims on packaging sold in the state of California.

We suggest our customers based in or who may sell in California take an abundance of caution when describing Biotre® on their packaging. They should not print the words compostable, marine degradable, biodegradable, degradable, decomposable, or any form of those terms on their packaging.

No one at PBi is qualified to provide legal advice. *We are not offering a legal opinion.* We are also not responsible for our customers' product claims printed on their bags. We want to be the best packaging supplier possible by sharing the information we know. We hope this helps you provide great products in great packaging with helpful statements for your customers.

What is PBi's Biotre®?

Biotre® is a packaging material composed of multiple, laminated layers. The outer layers consist of cellulose from wood pulp. In **Biotre® 1.0** with Natural Kraft paper on the outside, these materials make up 60% of the material by weight and have been shown to break down into healthy compost in 12 weeks when tested according to a test method called ASTM D6400.

The interior layer in **Biotre® 1.0** is made with an additive that makes it "oxo-degrade". This additive has been shown to allow plastic to break into microscopic pieces under specific conditions over 5-10 years vs. the estimated 1,000 years needed for normal plastic.

Biotre® 2.0 includes an interior layer that consists of 100% plant-based, renewable resources, i.e. sugar cane. *This is a non-biodegradable layer* made from renewable resources.

Biotre® takes a comprehensive approach to being environmentally friendly.

- **Waste Reduction** – Biotre® can reduce the amount of packaging that ends up in waste disposal because 60% can break down naturally in a relatively short period of time, e.g. a home composting environment (Biotre® is not recommended for municipal or industrial composting). Our goal is to increase the amount that breaks down to 100%.
- **Climate Change** – The plant-based components that go into Biotre® (wood pulp & for Biotre® 2.0 sugar cane) absorb the greenhouse gas CO₂ through natural plant respiration prior to being used to make our Biotre® packaging.



- **Natural Resources** - Biotre® preserves our natural resources by reducing the use of finite fossil fuel and mineral resources. While most barrier packaging is made from almost exclusively petroleum-based plastics or aluminum foil, Biotre® film layers consist of 60% to nearly 100% renewable plants depending on which version you use.

Laws Regulating what you can print on a package in California

California passed a law in 2013 that regulates what can be printed on a package regarding environmental claims - see [CA Public Resources Code Section \("PRC"\) Division 30, Part 3, CHAPTER 5.7. Plastic Products \[42355 - 42358.5\]](#). Section 42355 (b) of the law says it's purpose is "...to ensure that environmental marketing claims, including claims of biodegradation, do not lead to an increase in environmental harm associated with plastic litter by providing consumers with a false belief that certain plastic products are less harmful to the environment if littered." At PBI, we fully support this purpose. Biotre® should never end up as litter and we trust our customers agree.

The state of California's law accomplish its purpose by mandating that "a person shall not sell a plastic bag that is labeled with the terms...'compostable' or 'marine degradable'...biodegradable, degradable, decomposable, or any form of those terms or in any way imply that the food or beverage container will break down, fragment, biodegrade, or decompose in a landfill or other environment" unless it meets the requirements of a specific test procedure. The test it must pass is called ASTM D6400. ATSM D6400 requires a material to break down 100% in 12 weeks. Biotre® does not break down 100% in this time frame (only 60% does as noted previously). Therefore, Biotre® does not meet the requirement of the test designated by the state of California.

As described above, Biotre® 2.0 includes an interior layer that consists of 100% plant-based, renewable resources, i.e. sugar cane. *This is a non-biodegradable layer* made from renewable resources.

We received the following comment from our legal counsel: "...violations of these California statutes are likely to result in costly penalties depending on the amount of products sold or distributed." We have seen CA district attorneys seek costly penalties in these cases:

- [Water bottles w/ ENSO additive](#) (CA Attorney General)
- [\\$1 million settlement w/ Walmart over various products](#) (23 CA District Attorneys)
- [\\$500,000 settlement w/ Costco and Rogers Coffee Co. over coffee pods](#) (24 CA District Attorneys)

Conclusion

The goal for the marketer who wants to take advantage of the multi-faceted environmental benefits of Biotre® packaging and sell packages in California is to capture the comprehensive nature of Biotre®'s environmental benefits while being interesting, accurate, and informative and while not labelling their packaging with any of the words, or forms of those words, prohibited by the state of California.