



PA 21-58—sSB 1037
Environment Committee

AN ACT CONCERNING SOLID WASTE MANAGEMENT

SUMMARY: This act revamps the state’s beverage container redemption law (i.e., “bottle bill,” see BACKGROUND) by doing the following:

1. expanding the list of beverages subject to the bottle bill’s requirements and exempting containers of less than 150mL (§§ 1 & 5);
2. increasing, beginning January 1, 2024, the minimum beverage container deposit amount from five to 10 cents (§ 2);
3. increasing the handling fee that distributors must pay to dealers (e.g., and hereafter, “retailers”) and redemption centers, (§ 3);
4. incrementally reduces the amount of unclaimed deposits that distributors must remit to the General Fund from 100% to 45% by FY 26, and allows the distributors to keep the remainder (§ 4);
5. requiring certain retailers to install and maintain at least two reverse vending machines (RVMs) at their place of business or have dedicated areas for redeeming beverage containers (§ 7); and
6. requiring, beginning January 1, 2024, (a) all refundable beverage containers sold in Connecticut to have a Universal Product Code (UPC) and barcode and (b) deposit initiators (i.e., the first distributor to collect the deposit) to provide them, with packaging information, to the RVM system administrators and other system operators at least 30 days before placing the beverage containers on the market (§ 2).

The act requires the Department of Energy and Environmental Protection (DEEP) to approve a stewardship organization for beverage containers (§ 9). It also requires DEEP to develop terms for a memorandum of agreement (MOA) that provides for in-state processing of at least 80% of the wine and liquor beverage containers sold in-state (§ 8).

The act establishes a five-cent surcharge on the sale of spirit or liquor beverage containers of 50mL or less (commonly referred to as “nips”). It requires (1) wholesalers to remit the surcharges to the municipalities in which the containers were sold and (2) the municipalities to use the remitted funds for environmental measures aimed at reducing solid waste or reducing the impact of litter (§ 10).

The act requires the DEEP commissioner, by July 1, 2022, to develop an incentive program to help municipalities that want to adopt a unit-based pricing program for solid waste disposal (e.g., “pay-as-you-throw”). She must also identify funding sources to provide the incentives (§ 6).

Lastly, the act makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2021, except the handling fee increase, RVM requirement, and nip surcharge take effect October 1, 2021; the bottle bill’s

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expansion takes effect January 1, 2023; the deposit increase takes effect January 1, 2024; and the MOA and stewardship organization provisions are effective upon passage.

§§ 1 & 5 — COVERED BEVERAGE CONTAINERS

Under prior law, the bottle bill applied to the following beverage containers: beer, other malt beverages, mineral or soda water, carbonated soft drinks, and water, including flavored or nutritionally enhanced water.

Beginning January 1, 2023, the act generally expands the bottle bill to include beverage containers for hard cider, plant water or plant infused drink, juice or juice drink, tea, coffee, kombucha, and sports or energy drink. It explicitly includes hard seltzer in the bottle bill's scope, which existing law covers as a "beer or other malt beverage." It also includes beverages identified as juice, tea, coffee, kombucha, plant infused drink, or a sports or energy drink, with letters, words, or symbols on the beverages' labels. Existing law covers containers identified as water this way.

Exempt Containers

The bottle bill previously exempted from its requirements (1) noncarbonated beverages of at least three liters in size or (2) containers made of high-density polyethylene (i.e., with an HDPE designation or #2 recycling symbol). It also exempts containers provided on interstate passenger carriers (e.g., planes or trains). The act modifies some of these exemptions and creates new ones.

First, the act generally (1) eliminates the exemption for high-density polyethylene containers, (2) reduces the size threshold for noncarbonated beverage containers to be exempt, and (3) creates a new exemption for carbonated beverages. Specifically, it now exempts containers (1) over three liters for carbonated beverages, (2) over two and one-half liters for noncarbonated beverages, and (3) of less than 150mL for either carbonated and noncarbonated beverages.

Additionally, by law, manufacturers that annually bottle and sell up to 250,000 noncarbonated beverages of 20 ounces or less in size may apply to the DEEP commissioner for an exemption from the bottle bill's requirements (CGS § 22a-245b). The act extends this exemption, beginning July 1, 2021, to manufacturers of the new noncarbonated beverages covered by the act (e.g., juice, coffee, tea, or sport or energy drink). And it creates a new exemption for juice manufacturers that annually bottle and sell up to 100,000 gallons of juice in beverage containers. These juice manufacturers must also apply for the exemption.

§ 3 — HANDLING FEES

Beginning October 1, 2021, the act increases the handling fees for beverage containers redeemed under the bottle bill by setting the minimum handling fee at

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either two and one-half cents or three and one-half cents, depending on the container involved (see table below). It applies the increased fee to the act’s newly covered beverage containers.

Bottle Bill Handling Fees, Prior Law vs. the Act

| | <i>Prior Law</i> | <i>The Act</i> |
|----------------------------------------------------------------------------|------------------|----------------|
| Beer or other malt beverages, including hard seltzer | \$0.015 | \$0.025 |
| Hard cider | N/A | 0.025 |
| Noncarbonated beverages, mineral or soda water, and carbonated soft drinks | 0.02 | 0.035 |

§ 4 — UNCLAIMED DEPOSITS

Under prior law, unclaimed deposits were paid quarterly by the distributors to the revenue services commissioner for deposit into the state’s General Fund. The act incrementally reduces the amount of unclaimed funds deposited to the General Fund to 45% by FY 26, as shown in the table below, and correspondingly allows the distributors to keep the remainder.

Percentage Distribution of Unclaimed Deposits

| | <i>General Fund</i> | <i>Distributors</i> |
|------------------|---------------------|---------------------|
| Through FY 22 | 100% | 0% |
| FY 23 | 95 | 5 |
| FY 24 | 65 | 35 |
| FY 25 | 55 | 45 |
| FY 26 and beyond | 45 | 55 |

§§ 1 & 7 — RETAILER RVMS AND REDEMPTION AREAS

The act generally requires certain retailers, beginning October 1, 2021, to install and maintain at least two RVMS at their place of business. Under the act, an RVM is a mechanical device that (1) accepts used beverage containers from consumers and (2) provides a way of refunding the containers’ refund value (deposit amount) to the device user.

The requirement to have the RVMS applies to retailers whose place of business (1) is part of a chain engaged in the same general type of business that operates at least 10 units in Connecticut under common ownership and (2) uses at least 7,000 square feet of space to display merchandise for sale to the public.

The act also requires retailers exempt from the RVM requirement (see below), whose place of business is at least 40,000 square feet and does not use RVMS, to maintain a dedicated area at the business to accept and redeem beverage containers. It requires these areas to be adequately staffed so that containers can be efficiently accepted and processed during business hours. There must also be at

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least one conspicuous sign posted at each public entrance describing how to find the redemption area.

Exemptions

The act exempts from the RVM requirement retailers that do the following:

1. sell only beverage containers of 20 ounces or less that are packaged in quantities of less than six;
2. sell beverage containers, but use no more than 5% of their floor space to display and sell consumer products; or
3. get a waiver from the DEEP commissioner allowing them to use an alternative technology to redeem the containers.

For the waiver, the alternative technology must be able to:

1. determine a beverage container's redeemability;
2. protect against fraud by reading a container's UPC and, except for refillable containers, renders the container unredeemable;
3. collect information about the redeemed containers; and
4. issue legal tender or a scrip, receipt, or other credit for the refund value that can be exchanged for legal tender for at least 60 days without needing to purchase other goods.

If the alternative technology does not allow a consumer to immediately obtain the refund value, a retailer can only use it if the retailer also allows a consumer to conveniently and immediately obtain the refund value through an RVM or another method.

Penalty

The act subjects retailers who violate these requirements to a civil fine of up to \$1,000, with an additional \$1,000 for each day the violation continues. It requires a hearing held according to the Uniform Administrative Procedures Act before the DEEP commissioner can assess the fine.

§ 8 — MOA: WINE AND LIQUOR CONTAINERS

Under the act, DEEP must develop the terms for a MOA that, by January 1, 2023, provides for in-state processing of at least 80% of the wine and liquor beverage containers sold in the state. The processing must turn the containers into furnace-ready cullet or by-product that is melted or otherwise used in cement, glass, or fiberglass products.

The act requires DEEP, when developing the terms, to (1) identify the parties that must be part of the agreement and (2) engage them in ongoing discussions about establishing systems and methods under the agreement for statewide, cost-effective, and consumer-oriented collection of the wine and liquor beverage containers. The collected materials must also be sufficiently clean and acceptable for use at a facility that produces the glass cullet or byproduct.

Under the act, the MOA must include provisions, with responsibilities assigned among the parties, for the following:

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1. establishing and implementing the collection systems and methods;
2. transporting collected containers to a processing facility;
3. properly recycling and managing containers not accepted by a facility;
4. executing financial obligations among the parties according to the agreement;
5. recordkeeping of the volume, tonnage, and categories of containers annually processed under the agreement; and
6. auditing costs, efficiencies, and benefits of the agreement.

The DEEP commissioner must submit a draft of the MOA to the Environment Committee by January 15, 2022.

§ 9 — BEVERAGE CONTAINER STEWARDSHIP ORGANIZATION

The act requires the DEEP commissioner to approve an application for the formation of a beverage container stewardship organization by deposit initiators if the organization meets the following requirements:

1. is a 501(c)(3) federally tax-exempt organization;
2. has a governing board of deposit initiators that represents the range of beverages and container materials covered by the state's bottle bill; and
3. shows that it has adequate financial responsibility and controls, including fraud prevention and an audit schedule, to properly manage funds.

It also requires each deposit initiator to join and register with an approved beverage container stewardship organization within three months after DEEP approves the organization. Deposit initiators seeking to sell beverage containers in the state after this period must register and join the organization at least 90 days before selling them.

Under the act, any approved organization must submit a plan for the DEEP commissioner's review and approval to operate a statewide beverage container stewardship program by July 1, 2022. The act requires the plan to provide detailed information about how the organization will operate and finance a program to redeem and recycle beverage containers. The information must at least include the following:

1. 80% annual redemption rate by a specified timeline;
2. financial self-sustainability;
3. verifiable performance metrics for enhanced customer satisfaction;
4. policies and investments to ensure that recovered materials are returned for their highest and best use;
5. detailed descriptions for how existing collection and redemption centers will be used;
6. redemption rates as of the date of the plan and projected for the next five years, along with a recommended refund value for the containers to achieve these rates;
7. how the plan will cost the state or any other participants;
8. revenues that will be returned to the state and projected loss in the state's revenue use or collection in the five fiscal years beginning with FY 22;
9. legislative changes needed to carry out the plan; and

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10. other parameters or requirements the commissioner requires.

When developing the plan, the stewardship organization must obtain input from members of the independent redemption center community, municipal resource recovery facilities, municipal leaders, wine and spirits distributors, and RVM operators. The act prohibits the DEEP commissioner from approving a plan without verification of receiving this input.

The DEEP commissioner, by October 1, 2022, must submit recommendations on any plan for a proposed stewardship program to the Environment Committee.

§ 10 — NIP SURCHARGE

Beginning October 1, 2021, the act requires wholesalers of spirit or liquor beverage containers of 50mL or less to assess a five-cent surcharge on each of these containers to retailers. The retailers must then impose the same surcharge on the customers who purchase the containers. The act specifies that paying the surcharge is a debt by retailers, upon their purchase from the wholesaler, and is subject to posting requirements for delinquencies. Under the Liquor Control Act, a notice of delinquency identifies the delinquent retailer and prohibits manufacturers or wholesalers from crediting the retailer until the notice is satisfied (CGS § 30-48(b)).

Under the act, the surcharge must be distinct and clearly identified from the container's price. The act exempts it from sales tax or being treated as income.

Beginning April 1, 2022, and then every six months, each wholesaler must remit to each municipality where these beverage containers were sold during the prior six-month period, five-cents per container sold by the wholesaler. At the same time as the payment, the wholesaler must file a report with the Department of Revenue Services and the Department of Consumer Protection's Liquor Control Division stating how many beverage containers it sold in each municipality during the prior six months.

The act requires municipalities receiving the surcharge funds to only use the funds for environmental measures to reduce solid waste generation in the municipality or the impact of litter from the solid waste. These measures include things like hiring a recycling coordinator; installing storm drain filters to block solid waste (including beverage container debris); or purchasing a mechanical street sweeper, vacuum, or broom to remove litter and other debris from streets, sidewalks, and abutting lawn and turf areas.

BACKGROUND

General Bottle Redemption Process

Connecticut's bottle bill redemption process generally works as follows:

1. a retailer pays a beverage container distributor a deposit for each eligible beverage container that the distributor delivers;
2. a consumer pays the retailer the deposit for each beverage container that he or she purchases from the retailer;

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3. the retailer or a redemption center pays the consumer the deposit amount for each beverage container that he or she returns (i.e., refunding the deposit);
4. the distributor reimburses the retailer or redemption center the deposit for each beverage container returned, plus a handling fee; and
5. the distributor pays the state the required percentage of unclaimed deposits, which are deposited into the General Fund (CGS § 22a-243 et seq.).