



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3975

Introduced 1/21/2022, by Sen. Laura M. Murphy

SYNOPSIS AS INTRODUCED:

New Act

Creates the Beverage Container Deposit Act. Provides that every beverage container sold or offered for sale in the State shall have a specified refund value. Provides that a consumer shall pay a nonrefundable fee when purchasing a beverage container not made of aluminum, glass, high density polyethylene plastic, or polyethylene terephthalate that covers the consumer's cost of sorting, transporting, and recycling. Requires all distributors and importers of a beverage in or into the State to join as members of a Producer Responsibility Organization, which must be established and operated as a nonprofit organization. Provides specified performance targets for the Organization. Provides that the Organization shall create an advisory committee with the opportunity to provide written or oral comments directly to the Board of Directors and President of the Organization at least twice a year and submit to the General Assembly once per calendar year a written report with specified requirements. Provides that the Environmental Protection Agency may impose specified civil penalties and criminal fines for violations of the Act. Contains requirements concerning means of redemption of beverage containers for retailers, labeling requirements, timing requirements, performance targets, reporting obligations, and other requirements. Contains other provisions.

LRB102 24551 CPF 33785 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Beverage Container Deposit Act.

6 Section 5. Definitions. In this Act:

7 "Agency" means the Environmental Protection Agency.

8 "Beverage" means a drinkable liquid intended for human
9 oral consumption. "Beverage" does not include the following:

10 (1) A drug regulated under the federal Food, Drug, and
11 Cosmetic Act (21 U.S.C. 301 et seq.).

12 (2) Infant formula.

13 (3) A meal replacement liquid.

14 "Beverage container" means a prepackaged container of a
15 beverage:

16 (1) made of any material, including glass, plastic,
17 metal, carton, pouch, or aseptic packaging, such as a
18 drink box, and multimaterial; and

19 (2) the volume of which is not more than one gallon.

20 "Consumer" means a person in the State who purchases a
21 beverage in a beverage container for use or consumption.

22 "Distributor" means a person who engages in the sale of a
23 beverage in a beverage container to a retailer in the State,

1 including any manufacturer who engages in such sales.

2 "Importer" means a retailer or manufacturer who directly
3 imports beverage containers into the State.

4 "Line breakage" means a defective or damaged beverage
5 container most likely set aside and not meant for the market
6 place.

7 "Member" means a distributor or importer who has joined
8 the Organization and pays the applicable fees.

9 "Organization" means the Producer Responsibility
10 Organization established under Section 45.

11 "Retailer" means a person or business in the State who
12 engages in the sale of a beverage in a beverage container to a
13 consumer.

14 "Reverse vending machine" means a device designed to
15 properly identify and process empty beverage containers and
16 provide a means for a deposit refund on returnable beverage
17 containers.

18 Section 10. Applicable refund value.

19 (a) Every beverage container sold or offered for sale in
20 the State shall have the following refund value:

21 (1) Ten cents for a beverage container under 24 fluid
22 ounces; or

23 (2) Fifteen cents for a beverage container of 24 fluid
24 ounces or more.

25 (b) The Agency may change the refund value by either:

1 (1) the Agency, in consultation with the Organization,
2 deciding to change the minimum refund amount in a
3 material-neutral way; or

4 (2) the Agency receiving a request from the
5 Organization for a change in the refund amount and
6 deciding it is an appropriate change.

7 (c) The Agency shall not change the refund value via the
8 means described in paragraph (1) of subsection (b) more than
9 one time in any 10-year period.

10 (d) The Agency shall not change the refund value via the
11 means described in paragraph (2) of subsection (b) more than
12 one time in any 5-year period.

13 (e) Prior to any change in the refund value described in
14 subsection (b), the Agency must undergo a notice and comment
15 review period with at least 60 days' notice of the change.

16 (f) If the Organization's publicly reported redemption
17 rate required under Section 25 shows that the redemption rate
18 does not reach 85% for 3 years in a row after being required to
19 reach this performance target per Section 50, then every
20 beverage container sold or offered for sale in the State shall
21 have the following refund value:

22 (1) Fifteen cents for a beverage container under 24
23 fluid ounces.

24 (2) Twenty cents for a beverage container of 24 fluid
25 ounces or more.

26 (g) Any refunds not redeemed by consumers are funds the

1 Organization shall use to support its administrative costs and
2 to perform the activities required under this Act.

3 Section 15. Container recycling fee.

4 (a) A consumer shall pay a nonrefundable fee, determined
5 by the Organization under subsection (c), when purchasing a
6 beverage container not made of aluminum, glass, high density
7 polyethylene plastic, or polyethylene terephthalate that
8 covers the consumer's cost of sorting, transporting, and
9 recycling.

10 (b) The Organization may impose a nonrefundable fee for
11 beverage containers in addition to the fee specified in
12 subsection (a).

13 (c) The Organization shall determine the necessary
14 nonrefundable fee for each beverage container type that
15 defrays the cost of sorting, transporting, and recycling each
16 beverage container type.

17 (d) The Organization may stop charging a container
18 recycling fee for any beverage container for which a fee is
19 charged under subsection (a) once there is sufficient economic
20 value and end-markets to support all or most of the cost of
21 sorting, transporting, and recycling a beverage container
22 type.

23 (e) A retailer must make the nonrefundable fee described
24 in subsection (a) visible on the receipt provided to the
25 consumer.

1 Section 20. Material flows.

2 (a) When a consumer redeems a beverage container for the
3 applicable refund value described in Section 10 via the means
4 described in Section 25, the Organization becomes the owner of
5 the beverage container and may sell it to the end-market of its
6 choosing.

7 (b) Notwithstanding subsection (a), the Organization must
8 transfer 10% of the scrap value of a beverage container to the
9 Agency for the 5 years after beverage containers start to be
10 sold in the State with the applicable refund value described
11 in Section 10 that the Agency must use to support the
12 collection of household recyclables, including direct payments
13 to household recycling collection operators and household
14 recycling education efforts.

15 Section 25. Means of redemption.

16 (a) A retailer with a retail space equal to or greater than
17 5,000 square feet must:

18 (1) accept a beverage container and pay the applicable
19 refund value described in Section 10 for up to 250
20 beverage containers per person per day;

21 (2) permit the Organization to operate a bag drop
22 program in its parking lot by providing space of the
23 retailer's choosing within its parking lot sufficient to
24 operate a bag drop as described in subsection (h); or

1 (3) if the retailer has fewer than 30 parking spots
2 under its control, permit the Organization to install,
3 maintain, and service at least 2 reverse vending machines.

4 (b) A retailer with a retail space of more than 1,000
5 square feet and less than 5,000 square feet must:

6 (1) accept a beverage container and pay the applicable
7 refund value described in Section 10 for up to 50 beverage
8 containers per person per day;

9 (2) permit the Organization to operate a bag drop
10 program in its parking lot by providing space of the
11 retailer's choosing within its parking lot sufficient to
12 operate a bag drop as described in subsection (h); or

13 (3) if the retailer has fewer than 30 parking spots
14 under its control, permit the Organization to install,
15 maintain, and service at least one reverse vending
16 machine.

17 (c) A retailer with a retail space of 1,000 square feet or
18 less and who sells more than 1,000,000 beverage containers per
19 year must:

20 (1) accept a beverage container and pay the applicable
21 refund value described in Section 10 for up to 25 beverage
22 containers per person per day;

23 (2) permit the Organization to operate a bag drop
24 program in its parking lot by providing space of its
25 choosing within its parking lot sufficient to operate a
26 bag drop as described in subsection (h); or

1 (3) if the retailer has fewer than 30 parking spots
2 under its control, permit the Organization to install,
3 maintain, and service at least one reverse vending
4 machine.

5 (d) A retailer with a retail space of 1,000 square feet or
6 less and sells less than 1,000,000 beverage containers per
7 year has no duty under this Act except as detailed in
8 subsections (e) and (f).

9 (e) Notwithstanding subsections (a) through (d), a
10 retailer who has at least 10,000 people living within a 3-mile
11 radius of the retailer must permit the Organization to
12 install, maintain, and service at least one reverse vending
13 machine.

14 (f) Notwithstanding subsections (a) through (d), a
15 retailer shall:

16 (1) offer for sale the standard bags that the
17 Organization deems necessary to operate the bag drop
18 programs detailed in this Section;

19 (2) permit the Organization to install, service, and
20 operate a reverse vending machine in space controlled by
21 the retailer; and

22 (3) permit the Organization to install, service, and
23 operate a self-service kiosk that allows for the printing
24 of redemption vouchers.

25 (g) The following retailers do not need to comply with the
26 requirements of this Section regarding means of redemption:

1 (1) A business that primarily prepares food for sale.

2 (2) A person or business who sells beverage containers
3 to consumers through stand-alone vending machines or
4 similar means.

5 (h) Notwithstanding subsections (a) through (f), for zip
6 codes with a greater population density than 30,000 residents
7 per square mile in the State, the Organization must ensure
8 that all residents in the applicable zip code are within 2
9 miles of a bag drop redemption location and must build,
10 service, and operate its own bag drop redemption locations as
11 necessary.

12 (i) Any facility that the Organization sets up in the
13 State to efficiently aggregate, sort, and process the material
14 collected at various redemption locations:

15 (1) shall accept unlimited amounts of beverage
16 containers eligible for redemption submitted in the
17 standard bag determined by the Organization from
18 organizations established and operated as described in
19 Section 501(c)(3) of the federal Internal Revenue Code of
20 1986 or as nonprofit organizations pursuant to the tax law
21 of the State; and

22 (2) may provide these organizations a premium as
23 determined by the Organization.

24 (j) The means of redemption required by this Section shall
25 be available to the public for not less than 10 hours each day,
26 except for a federal, State, or local holiday.

1 (k) The Organization must provide on its website, and on
2 clearly visible signs at least 10 feet by 10 feet at redemption
3 locations described in this Section, information on how
4 consumers can alert the Organization to problems at redemption
5 locations.

6 Section 30. Labeling.

7 (a) A manufacturer, importer, or distributor of a beverage
8 container that is sold in the State shall include on the top
9 lid or on the side or body of the beverage container, anywhere
10 clearly visible, a standardized mark developed by the
11 Organization that indicates to the consumer that the beverage
12 container is redeemable for the applicable refund value
13 described in Section 10.

14 (b) An Organization may require any manufacturer,
15 importer, or distributor of a beverage container that is sold
16 in the State to include a barcode or unique code verification
17 on the beverage container to allow for automated
18 identification.

19 Section 35. Timing.

20 (a) All beverage containers sold in the State must have
21 the applicable refund value stated in Section 10 no later than
22 3 years after the effective date of this Act.

23 (b) All beverage containers subject to the container
24 recycling fee described in Section 15 shall be sold with the

1 container recycling fee no later than 4 years after the
2 effective date of this Act.

3 (c) The Agency may permit up to 365 additional days for the
4 deadlines required under this Section.

5 Section 40. Prohibitions.

6 (a) It is unlawful to distribute, import, or sell beverage
7 containers in commerce in the State except in compliance with
8 this Act.

9 (b) It is unlawful to redeem a beverage container in the
10 State that was not sold to the consumer in the State.

11 Section 45. Producer Responsibility Organization.

12 (a) All distributors and importers of a beverage in or
13 into the State shall establish and join the Producer
14 Responsibility Organization as members. The Organization must
15 be established and operated as a nonprofit organization.

16 (b) Only one Organization is permitted to operate in the
17 State. The Organization may decide to operate jointly with
18 similar organizations in one or more other states.

19 (c) The Organization shall charge a fee to members, based
20 upon the amount of their beverage containers sold in the
21 State, that funds the Organization's costs of operations minus
22 unredeemed deposits, container recycling fees, or any other
23 revenue sources that the Organization may develop.

24 The Organization shall vary the fee charged to each member

1 based upon the relative cost to manage the beverage containers
2 each member distributes or sells in the State.

3 The Organization shall refund to its members the proceeds
4 of selling redeemed beverage containers based upon the
5 relative scrap value of the beverage containers each member
6 distributes or sells in the State.

7 (d) The Organization shall pay for the following:

8 (1) The installation, maintenance, and operation of
9 redemption in the parking lots of retailers, as described
10 in Section 25, for programs that permit consumers to drop
11 off bags with beverage containers eligible for redemption
12 and get paid the appropriate redemption value
13 electronically.

14 (2) The installation, maintenance, and operation of
15 reverse vending machines at retailers described in Section
16 25.

17 (3) The installation, maintenance, and operation of
18 self-service kiosks at retailers described in paragraph 3
19 of subsection (f) of Section 25.

20 (4) The building, service, and operation of bag drop
21 locations necessary to provide adequate access to certain
22 zip codes as described in subsection (h) of Section 25.

23 (5) Any facility in the State necessary to efficiently
24 aggregate, sort, and process the material collected at
25 various redemption locations.

26 (6) The upkeep of a list and map on the Organization's

1 website of all redemption locations and what redemption
2 options are available at each location.

3 (e) The Organization may:

4 (1) Use funds generated from this Act and otherwise to
5 give grants for:

6 (A) litter clean-up; and

7 (B) education and outreach on the recycling of
8 beverage containers or nonbeverage containers.

9 (2) Give funds to its members in a fiscal year in which
10 its revenues exceed the cost of carrying out the
11 requirements of this Act by more than 50%. The funds given
12 to members must not cause revenue to go below greater than
13 150% of the cost of carrying out the requirements of this
14 Act.

15 Section 50. Organization performance targets.

16 (a) The Organization shall meet the following performance
17 targets:

18 (1) At least a 75% redemption target for all beverage
19 containers, starting 2 years after all beverage containers
20 are sold in the State with the applicable deposit value
21 described in Section 10.

22 (2) at least an 85% redemption target for all beverage
23 containers, starting 4 years after all beverage containers
24 are sold in the State with the applicable deposit value
25 described in Section 10.

1 (3) at least a 90% redemption target for all beverage
2 containers, starting 6 years after all beverage containers
3 are sold in the State with the applicable deposit value
4 described in Section 10.

5 (b) If the Organization does not meet the performance
6 targets detailed in subsection (a), it must submit to the
7 Agency a product stewardship plan no more than 365 days after
8 the publication of the public data required under Section 55
9 shows that the performance targets in subsection (a) were not
10 met and detailing the actions the Organization will take to
11 meet the performance targets detailed in subsection (a).

12 (c) If, 3 years after submission of the product
13 stewardship plan described in subsection (b), the performance
14 targets described in subsection (a) have not been met, then
15 the Agency may:

16 (1) fine the Organization up to \$250 per day that the
17 targets are not met; and

18 (2) require the Organization to submit a revised
19 product stewardship plan.

20 (d) If, 5 years after submission of the product
21 stewardship plan described in subsection (b), the performance
22 targets described in subsection (a) have not been met, then
23 the Agency may take over the Organization's operations and
24 charge its members in accordance with subsection (c) until the
25 performance targets of subsection (a) are met, and then shall
26 transfer leadership of the Organization back to the

1 Organization within 180 days after achieving the performance
2 targets of subsection (a).

3 Section 55. Reporting.

4 (a) By July 1 of each calendar year, the Organization
5 shall make the following publicly available on its website:

6 (1) The number of beverage containers sold in the
7 State by material type for each quarter of the year
8 covered by the report and the quarters of each prior year.

9 (2) The number of beverage containers redeemed by
10 material type for each quarter of the year covered by the
11 report and the quarter of each prior year.

12 (3) The number of beverage containers redeemed at each
13 bag drop location, reverse vending machine, or other
14 redemption location that the Organization operates.

15 (4) The end-markets to which the Organization sells
16 beverage containers.

17 (5) The percent of the total amount sold of each
18 material type of beverage container that went to each
19 end-market.

20 (6) All redemption locations in the State.

21 (7) The means of redemption at each location in the
22 State.

23 (8) The total expenses of the Organization.

24 (9) The number of consumer complaints per month by
25 redemption location for the previous calendar year and

1 each prior year.

2 (10) The total number of individual consumers per
3 month that filed complaints, by redemption location, for
4 the previous calendar year and each prior year.

5 (b) The Agency may require the Organization to have an
6 independent third party verify the numbers disclosed under
7 subsection (a) with the following requirements:

8 (1) The Agency shall notify the Organization by August
9 1 that it is requiring an independent third-party review.

10 (2) The Organization shall have until December 31 to
11 conduct the independent third-party review.

12 (c) The Organization must establish safeguards to ensure
13 that its members do not have access to nor see information
14 regarding:

15 (1) the price paid for the material sold by any
16 individual buyer; and

17 (2) how much of each material went to each individual
18 recycler.

19 Section 60. Advisory committee.

20 (a) The Organization shall establish an advisory committee
21 that represents a range of interested and engaged persons,
22 including, at a minimum, one of each of the following:

23 (1) Beverage container manufacturers or their trade
24 associations.

25 (2) Beverage producers or their trade associations.

- 1 (3) Local government.
- 2 (4) Environmental nonprofit organizations.
- 3 (5) End-markets that buy or recycle beverage
4 containers from the Organization.
- 5 (6) Retailers or their trade associations.
- 6 (b) The advisory committee shall:
- 7 (1) have the opportunity to provide written or oral
8 comments directly to the Board of Directors and President
9 of the Organization at least twice a year;
- 10 (2) submit to the General Assembly once per calendar
11 year a written report with:
- 12 (A) its feedback on the operation of the
13 Organization; and
- 14 (B) its feedback on the deposit return system
15 generally; and
- 16 (3) have each of its written reports to the General
17 Assembly published on the Organization's website.

18 Section 65. Reimbursement. The Organization shall
19 reimburse the Agency for costs incurred by the Agency under
20 this Act.

21 Section 70. Enforcement.

22 (a) In addition to any other applicable civil penalty or
23 criminal fine, the Agency may impose a civil penalty for a
24 violation of this Act of \$100 for each initial separate

1 violation and not more than \$1,000 for each subsequent
2 separate violation per day.

3 (b) A person who, with intent to defraud, knowingly takes
4 any of the following actions is guilty of a crime:

5 (1) Redeems out-of-state containers, rejected
6 containers, line breakage, or containers that have already
7 been redeemed.

8 (2) Returns redeemed containers to the State
9 marketplace for redemption.

10 (3) Brings out-of-state containers, rejected
11 containers, or line breakage to the State marketplace for
12 redemption.

13 (c) If the money obtained pursuant to subsection (b):

14 (1) equals or is less than \$950, the person is subject
15 to punishment by imprisonment in a county jail for not
16 more than 6 months, by a criminal fine not exceeding
17 \$1,000, or both; or

18 (2) exceeds \$950, a person convicted of a crime
19 pursuant to paragraph (1) is subject to punishment by
20 imprisonment in a county jail for not more than one year,
21 by a criminal fine not exceeding \$10,000, or both.

22 (d) The Agency may bring a civil action to enjoin the
23 distribution, importation, or sale into the State of a
24 beverage sold in a beverage container in violation of this
25 Act.

26 (e) The Agency may fine the Organization up to \$30,000

1 annually per redemption location that receives complaints from
2 more than 50 individuals per month in the public reporting
3 required under Section 55.

4 (f) All civil penalties and criminal fines the Agency
5 recovers under this Section shall only be used to:

6 (1) administer this Act;

7 (2) build infrastructure that enhances recycling in
8 the State;

9 (3) conduct outreach and education activities focused
10 on recycling in the State;

11 (4) perform litter clean-ups in the State; or

12 (5) support collection of recyclable material at the
13 household or in public spaces.