



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4205

Introduced 11/1/2023, by Rep. Hoan Huynh

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.990 new

Creates the Bottle Deposit Act. Provides that, to encourage container reuse and recycling, every beverage container sold or offered for sale to a consumer in the State must have a deposit and refund value. Includes provisions regarding: a dealer as a distributor; requirements for labels, stamps, and brand names on beverage containers; application of the Act; the commingling of beverage containers and entering into commingling agreements; unclaimed deposits for beverage containers not subject to commingling agreements; redemption centers, including licensing requirements; prohibitions on certain types of beverage containers and holders; penalties, ranging from \$100 to \$1,000; exceptions for beverage containers used on international flights; licensing requirements, including fees for applications; the creation of the Beverage Container Enforcement Fund; administration by the Environmental Protection Agency; the denial of redemption center licenses; the unlawful possession of beverage containers; the prohibition of glass-breaking games; and annual reporting requirements. Makes a conforming change in the State Finance Act.

LRB103 34179 LNS 64002 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 Bottle
5 Deposit Act.

6 Section 5. Definitions. As used in this Act:

7 "Agency" means the Illinois Environmental Protection
8 Agency.

9 "Beverage" means:

10 (1) wine, alcoholic liquor, or beer, as defined in the
11 Liquor Control Act of 1934; or

12 (2) mineral water, tea, coffee, soda water or similar
13 carbonated soft drinks, bottled water, juice, or other
14 drinks in liquid form intended for human consumption.

15 "Beverage container" means a bottle, can, jar, carton, or
16 other container made of glass, metal, or plastic that has been
17 sealed by a manufacturer.

18 "Brand" means a name, symbol, word, or mark that
19 identifies a beverage container, rather than its components,
20 and attributes the beverage container to the owner of the
21 brand.

22 "Commingling agreement" means an agreement between 2 or
23 more initiators of deposit allowing the beverage containers

1 for which they have initiated deposits to be commingled by
2 dealers and redemption centers, as described in Section 30.

3 "Consumer" means an individual who purchases a beverage in
4 a beverage container for use or consumption.

5 "Dealer" means a person who sells, offers to sell, or
6 engages in the sale of beverages in beverage containers to a
7 consumer, including, but not limited to, an operator of a
8 vending machine containing beverages in beverage containers.

9 "Director" means the Director of the Environmental
10 Protection Agency.

11 "Distributor" means a person who engages in the sale of
12 beverages in beverage containers to a dealer in this State.

13 "Distributor" includes a manufacturer who engages in such
14 sales.

15 "Initiator of deposit" or "initiator" means a
16 manufacturer, distributor, or other person who initiates a
17 deposit on a beverage container under Section 10.

18 "Manufacturer" means a person that:

19 (1) sells or offers for sale a beverage in this State
20 under the manufacturer's brand or label;

21 (2) licenses another person to sell or offer for sale
22 a beverage in this State under the manufacturer's brand or
23 label;

24 (3) imports into the United States for sale or
25 offering for sale in this State a beverage that is
26 manufactured outside of the United States by another

1 person without a presence in the United States; or

2 (4) is an out-of-state wholesaler of liquor that holds
3 a license issued under the Liquor Control Act of 1934.

4 "Nonrefillable" means a beverage container that, after
5 being used by a consumer, is not intended to be reused as a
6 beverage container by the manufacturer.

7 "Operator of a vending machine" means an owner of a
8 vending machine, the person who refills a vending machine, or
9 the owner or lessee of the property upon which a vending
10 machine is located.

11 "Person" means an individual, partnership, corporation, or
12 other legal entity.

13 "Pick-up agent" means an initiator of deposit, distributor
14 or contracted agent of an initiator of deposit, or distributor
15 that receives redeemed beverage containers from a redemption
16 center and transports those containers for recycling.

17 "Premises" means the property of the dealer or the
18 dealer's lessor on which a sale is made.

19 "Product stewardship" means a manufacturer's taking
20 responsibility for managing and reducing the life-cycle
21 impacts of the manufacturer's beverage containers, from
22 product design to end-of-life management.

23 "Product stewardship program" means a program financed and
24 either managed or provided by manufacturers individually or
25 collectively that includes, but is not limited to, the
26 collection, transportation, reuse, and recycling or disposal,

1 or both, of unwanted beverage containers. "Product stewardship
2 program" includes a program financed through an assessment
3 paid by the manufacturers to a stewardship organization.

4 "Proprietary information" means information that is a
5 trade secret or production, commercial, or financial
6 information the disclosure of which would impair the
7 competitive position of the submitter and would make available
8 information not otherwise publicly available.

9 "Recycling" or "recycle" means a series of activities by
10 which material that has reached the end of its current use is
11 processed into material for use in the production of new
12 beverage containers.

13 "Reuse" means a change in ownership of a beverage
14 container or component in a beverage container for use in the
15 same manner and purpose for which it was originally produced.

16 "Redemption center" means a place of business that deals
17 in acceptance of empty, returnable beverage containers from
18 consumers or dealers, or both, and that is licensed under
19 Section 60.

20 "Refillable" means a beverage container that, after being
21 used by a consumer, is to be reused as a beverage container at
22 least 5 times by a manufacturer.

23 "Reverse vending machine" means an automated device that
24 uses a laser scanner and microprocessor to accurately
25 recognize the universal product code on beverage containers
26 and to accumulate information regarding containers redeemed,

1 enabling the reverse vending machine to accept containers from
2 redeemers and to issue script for the containers' refund
3 value. "Reverse vending machine" does not include a hand
4 scanner or other similar device.

5 "Spirits" has the meaning given to that term in Section
6 1-3.02 of the Liquor Control Act of 1934.

7 "Stewardship organization" means a corporation, nonprofit
8 organization, or other legal entity created by a manufacturer
9 or group of manufacturers to implement a product stewardship
10 program.

11 "Unwanted beverage container" means a beverage container
12 that is no longer wanted by its owner or that has been
13 abandoned or discarded or is intended to be discarded by its
14 owner.

15 "Use or consumption" means the exercise of any right or
16 power over a beverage incident to the ownership thereof, other
17 than the sale, storage, or retention for the purpose of sale of
18 a beverage.

19 "Wine" has the meaning given to that term in Section
20 1-3.03 of the Liquor Control Act of 1934. "Wine" does not
21 include wine coolers.

22 "Wine cooler" means a beverage of less than 8% alcohol
23 content by volume consisting of wine and:

24 (1) plain, sparkling, or carbonated water; and

25 (2) any one or more of the following:

26 (A) fruit juices;

- 1 (B) fruit adjuncts;
2 (C) artificial or natural flavors or flavorings;
3 (D) preservatives;
4 (E) coloring; or
5 (F) any other natural or artificial blending
6 material.

7 Section 10. Refund value. To encourage container reuse and
8 recycling, every beverage container sold or offered for sale
9 to a consumer in this State must have a deposit and refund
10 value. The deposit and refund value are determined according
11 to this Section.

12 (1) For refillable beverage containers, except wine
13 and spirits containers, the manufacturer shall determine
14 the deposit and refund value according to the type, kind,
15 and size of the beverage container. The deposit and refund
16 value may not be less than 5 cents.

17 (2) For nonrefillable beverage containers, except wine
18 and spirits containers, sold through geographically
19 exclusive distributorships, the distributor shall
20 determine and initiate the deposit and refund value
21 according to the type, kind, and size of the beverage
22 container. The deposit and refund value may not be less
23 than 5 cents.

24 (3) For nonrefillable beverage containers, except wine
25 and spirits containers, not sold through geographically

1 exclusive distributorships, the deposit and refund value
2 may not be less than 5 cents.

3 (4) For wine and spirits containers having a volume of
4 50 milliliters or less, the refund value may not be more
5 than 5 cents. For wine and spirits containers having a
6 volume greater than 50 milliliters, the refund value may
7 not be less than 15 cents.

8 Section 15. Dealer as distributor. Whenever a dealer or
9 group of dealers receives a shipment or consignment of, or in
10 any other manner acquires, beverage containers outside the
11 State for sale to consumers in the State, the dealer or dealers
12 shall comply with this Act as if they were distributors as well
13 as dealers.

14 Section 20. Labels; stamps; brand names.

15 (a) Except as provided in subsections (b) and (d), the
16 refund value and the word "Illinois" or the abbreviation "IL"
17 must be clearly indicated on every refundable beverage
18 container sold or offered for sale by a dealer in this State by
19 embossing, stamping, labeling, or other method of secure
20 attachment to the beverage container. The refund value may not
21 be indicated on the bottom of the container.

22 (b) With respect to nonrefillable beverage containers the
23 deposits for which are initiated under paragraph (3) of
24 Section 10, the refund value and the word "Illinois" or the

1 abbreviation "IL" must be clearly indicated on every
2 refundable beverage container sold or offered for sale by a
3 dealer in this State by permanently embossing or permanently
4 stamping the beverage containers, except in instances when the
5 initiator of deposit has specific permission from the Agency
6 to use stickers or similar devices. The refund value may not be
7 indicated on the bottom of the container.

8 (c) Notwithstanding subsection (a) and with respect to
9 nonrefillable beverage containers, for the deposits that are
10 initiated under paragraph (2) of Section 10, the refund value
11 and the word "Illinois" or the abbreviation "IL" may be
12 clearly indicated on refundable beverage containers sold or
13 offered for sale by a dealer in this State by use of stickers
14 or similar devices if those containers are not otherwise
15 marked in accordance with subsection (a). A redemption center
16 shall accept containers identified by stickers in accordance
17 with this subsection or by embossing or stamping in according
18 with subsection (a).

19 (d) Refillable glass beverage containers of carbonated
20 beverages, for which the deposit is initiated under paragraph
21 (1) of Section 10, that have a refund value of not less than 5
22 cents and a brand name permanently marked on the container are
23 not required to comply with subsection (a). The exception
24 provided by this subsection does not apply to glass beverage
25 containers that contain spirits, wine, or malt liquor.

26 (e) An initiator of deposit shall register the container

1 label of any beverage offered for sale in the State on which it
2 initiates a deposit. Registration must be on forms or in an
3 electronic format provided by the Agency and must include the
4 universal product code for each combination of beverage and
5 container manufactured. The initiator of deposit shall renew a
6 label registration annually and whenever that label is revised
7 by altering the universal product code or whenever the
8 container on which it appears is changed in size, composition,
9 or glass color. The initiator of deposit shall also include,
10 as part of the registration, the method of collection for that
11 type of container, identification of a collection agent,
12 identification of all the parties to a commingling agreement
13 that applies to the container, and proof of the collection
14 agreement. The Agency may charge a fee for registration and
15 registration renewals under this subsection.

16 (f) A beverage container that is sold or distributed in
17 the State that is not in compliance with the initiator of
18 deposit or the labeling registration requirements established
19 in this Section may be removed from sale by the Agency.

20 Section 25. Application.

21 (a) Except as otherwise provided in this Section, a dealer
22 operating a retail space of 5,000 square feet or more may not
23 refuse to accept from any consumer or other person who is not a
24 dealer any empty, unbroken, and reasonably clean beverage
25 container or refuse to pay, in cash, the refund value of the

1 returned beverage container as established by Section 10
2 unless the dealer has a written agreement with a redemption
3 center to provide redemption services on behalf of the dealer
4 and that redemption center:

5 (1) is located within 10 miles from the dealer, as
6 measured along public roadways; or

7 (2) if there is no redemption center located within 10
8 miles from the dealer under paragraph (1), is the
9 redemption center in closest proximity to the dealer, as
10 measured along public roadways.

11 This subsection does not require an operator of a vending
12 machine to maintain a person to accept returned beverage
13 containers on the premises where the vending machine is
14 located.

15 (b) A dealer may limit the total number of beverage
16 containers that the dealer will accept from any one consumer
17 or other person in any one business day to 240 containers, or
18 any other number greater than 240.

19 (c) A dealer may refuse to accept beverage containers
20 during no more than 3 hours in any one business day. If a
21 dealer refuses to accept containers under this subsection the
22 hours during which the dealer will not accept containers must
23 be conspicuously posted.

24 (d) A distributor may not refuse to accept from any dealer
25 or redemption center any empty, unbroken, and reasonably clean
26 beverage container or any beverage container that has been

1 processed through an approved reverse vending machine that
2 meets the requirements of rules adopted by the Agency under
3 this Act of the kind, size, and brand sold by the distributor
4 or refuse to pay to the dealer or redemption center the refund
5 value of a beverage container as established by Section 10.

6 (e) Notwithstanding subsection (g), a distributor or its
7 agent may refuse to accept or pay the refund value and handling
8 costs to a dealer, redemption center, or other person for a
9 beverage container that has been processed by a reverse
10 vending machine in a way that has reduced the recycling value
11 of the container below market value. This subsection may not
12 be interpreted to prohibit a written processing agreement
13 between a distributor and a dealer or redemption center and
14 does not relieve a distributor of its obligation under
15 subsection (g) to accept empty, unbroken, and reasonably clean
16 beverage containers. The Agency shall adopt rules to establish
17 the recycling value of beverage containers under this
18 subsection and the rules may authorize the use of a third party
19 vendor to determine if a beverage container has been processed
20 by a reverse vending machine in a manner that has reduced the
21 recycling value below current market value. The rules must
22 outline the method of allocating among the parties involved
23 the payment for third party vendor costs.

24 (f) Reimbursement of handling costs is governed by this
25 subsection.

26 (1) In addition to the payment of the refund value,

1 the initiator of deposit under paragraphs (1), (2), and
2 (4) of Section 10 shall reimburse the dealer or redemption
3 center for the cost of handling beverage containers
4 subject to Section 10, in an amount that equals at least
5 4.5 cents per returned container for containers picked up
6 by the initiator after January 1, 2025. The initiator of
7 deposit may reimburse the dealer or redemption center
8 directly or indirectly through a party with which it has
9 entered into a commingling agreement.

10 (2) In addition to the payment of the refund value,
11 the initiator of deposit under paragraph (3) of Section 10
12 shall reimburse the dealer or redemption center for the
13 cost of handling beverage containers subject to Section 10
14 in an amount that equals at least 4.5 cents for containers
15 picked up on or after January 1, 2025. The initiator of
16 deposit may reimburse the dealer or redemption center
17 directly or indirectly through a contacted agent or
18 through a party with which it has entered into a
19 commingling agreement.

20 (g) The obligation to pick up and recycle beverage
21 containers subject to this Act is determined by this
22 subsection.

23 (1) A distributor that initiates the deposit under
24 paragraph (2) or (4) of Section 10 has the obligation to
25 pick up and recycle any empty, unbroken, and reasonably
26 clean beverage containers of the particular kind, size,

1 and brand sold by the distributor from dealers to whom
2 that distributor has sold those beverages and from
3 licensed redemption centers. A distributor that, within
4 this State, sells beverages under a particular label
5 exclusively to one dealer, which dealer offers those
6 labeled beverages for sale at retail exclusively at the
7 dealer's establishment, shall pick up any empty, unbroken,
8 and reasonably clean beverage containers of the kind,
9 size, and brand sold by the distributor to the dealer only
10 from those licensed redemption centers that are located
11 within 25 miles from the dealer, as measured along public
12 roadways. A dealer that manufactures its own beverages for
13 exclusive sale by that dealer at retail has the obligation
14 of a distributor under this Section. The Agency may
15 establish by rule, in accordance with the Illinois
16 Administrative Procedure Act, criteria prescribing the
17 manner in which distributors shall fulfill the obligations
18 imposed by this paragraph. The rules may establish a
19 minimum number or value of containers below which a
20 distributor is not required to respond to a request to
21 pick up empty containers. Any rules adopted under this
22 paragraph must allocate the burdens associated with the
23 handling, storage, transportation, and recycling of empty
24 containers to prevent unreasonable financial or other
25 hardship.

26 (2) The initiator of deposit under paragraph (3) of

1 Section 10 has the obligation to pick up and recycle any
2 empty, unbroken, and reasonably clean beverage containers
3 of the particular kind, size, and brand sold by the
4 initiator from dealers to whom a distributor has sold
5 those beverages and from licensed redemption centers. The
6 obligation may be fulfilled by the initiator directly or
7 indirectly through a contracted agent.

8 (3) An initiator of deposit under paragraph (2), (3),
9 or (4) of Section 10 has the obligation to pick up and
10 recycle any empty, unbroken, and reasonably clean beverage
11 containers that are commingled under a commingling
12 agreement along with any beverage containers that the
13 initiator is otherwise obligated to pick up and recycle
14 under paragraphs (1) and (2).

15 (4) The initiator of deposit or initiators of deposit
16 who are members of a commingling agreement have the
17 obligation under this subsection to pick up and recycle
18 empty, unbroken, and reasonably clean beverage containers
19 of the particular kind, size, and brand sold by the
20 initiator from dealers to whom a distributor has sold
21 those beverages and from licensed redemption centers every
22 15 days. The initiator of deposit or initiators of deposit
23 who are members of a commingling agreement have the
24 obligation to make additional pick ups when a redemption
25 center has collected 10,000 beverage containers from that
26 initiator of deposit or initiators of deposit who are

1 members of the commingling agreement.

2 The obligations of the initiator of deposit under this
3 subsection may be fulfilled by the initiator directly or
4 indirectly through a party with which it has entered into a
5 commingling agreement. A contracted agent hired to pick up
6 beverage containers for one or more initiators of deposit is
7 deemed to have made a pick up at a redemption center for those
8 initiators of deposit when it picks up beverage containers
9 belonging to those initiators of deposit.

10 (h) A dealer or redemption center has an obligation to
11 pick up plastic bags that are used by that dealer or redemption
12 center to contain beverage containers. Plastic bags used by a
13 dealer or redemption center and the cost allocation of these
14 bags must conform to rules adopted by the Agency concerning
15 size and gauge.

16 (i) The obligations to accept or take empty beverage
17 containers and to pay the refund value and handling fees for
18 such containers as described in subsections (a), (d), (f), and
19 (g) apply only to containers originally sold in this State as
20 filled beverage containers. A person who tenders to a dealer,
21 distributor, redemption center, or bottler more than 48 empty
22 beverage containers that the person knows or has reason to
23 know were not originally sold in this State as filled beverage
24 containers is subject to the enforcement action and civil
25 penalties set forth in this subsection. At each location where
26 consumers tender containers for redemption, dealers and

1 redemption centers must conspicuously display a sign in
2 letters that are at least one inch in height with the following
3 information: "WARNING: Persons tendering containers for
4 redemption that were not originally purchased in this State
5 may be subject to a fine of greater than \$100 per container or
6 \$25,000 for each tender." A person who violates the provisions
7 of this subsection is subject to a civil penalty of the greater
8 of \$100 for each container or \$25,000 for each tender of
9 containers.

10 (j) The Agency may revoke the license of a dealer or
11 redemption center that has been adjudged to have committed a
12 violation of this Section.

13 (k) In order to prevent fraud from the redemption of
14 beverage containers not originally sold in this State, this
15 subsection governs the redemption of more than 2,500 beverage
16 containers.

17 (1) A person tendering for redemption more than 2,500
18 beverage containers at one time to a dealer or redemption
19 center must provide to the dealer or redemption center
20 that person's name and address and the license plate
21 number of the vehicle used to transport the beverage
22 containers. The dealer or redemption center redeeming
23 these beverage containers shall forward that information
24 to the Agency within 10 days, and the information must be
25 kept on file for a minimum of 12 months.

26 (2) After complying at least once with the

1 requirements of paragraph (1), a person need not comply
2 with paragraph (1) each subsequent time that person
3 tenders to a dealer or redemption center for redemption
4 more than 2,500 beverage containers if:

5 (A) all of the containers were collected at one
6 location in this State;

7 (B) all proceeds of the refund value benefit a
8 nonprofit organization that has been determined by the
9 United States Internal Revenue Service to be exempt
10 from taxation under Section 501(c)(3) of the United
11 States Internal Revenue Code of 1986; and

12 (C) the person tendering the containers for
13 redemption signs a declaration indicating the person's
14 name, the address of the collection point, and the
15 name of the organization or organizations that will
16 receive the refund value.

17 (1) An initiator of deposit may maintain a civil action in
18 a circuit court against a person, other than a redemption
19 center licensed in accordance with Section 10, that tenders to
20 a redemption center or retailer more than 48 empty beverage
21 containers that the person knows or has reason to know were not
22 originally sold in this State as filled beverage containers.
23 If the initiator of deposit prevails in any action, the
24 initiator of deposit is entitled to an award of reasonable
25 attorney's fees and court costs, including expert witness
26 fees.

1 Section 30. Commingling of beverage containers.

2 (a) Notwithstanding any other provisions of this Act to
3 the contrary, 2 or more initiators of deposit may enter into a
4 commingling agreement through which some or all of the
5 beverage containers for which the initiators have initiated
6 deposits may be commingled by dealers and operators of
7 redemption centers as provided in this Section.

8 An initiator of deposit that enters into a commingling
9 agreement under this Section shall permit any other initiator
10 of deposit to become a party to that agreement on the same
11 terms and conditions as the original agreement. Once the
12 initiator of deposit has established a qualified commingling
13 agreement under the requirements of subsection (c), the Agency
14 shall allow additional brands of beverage containers from a
15 different product group to be included in the commingling
16 agreement if those additional brands are of like material to
17 those containers already managed under the commingling
18 agreement.

19 For the purposes of this Act and notwithstanding any
20 provision of this Act to the contrary, the State, through the
21 Department of Financial and Professional Regulation and the
22 Liquor Control Board, is deemed to be managing returned
23 containers for which the State has initiated deposits in a
24 commingling program under a qualified commingling agreement as
25 long as the State allows a dealer or redemption center to

1 commingle returned containers of like material.

2 (b) If initiators of deposit enter into a commingling
3 agreement under this Section, commingling of beverage
4 containers must be by all containers of like product group,
5 material, and size. An initiator of deposit required under
6 subsection (g) of Section 25 to pick up beverage containers
7 subject to a commingling agreement also shall pick up all
8 other beverage containers subject to the same commingling
9 agreement. The initiator of deposit may not require beverage
10 containers that are subject to a commingling agreement to be
11 sorted separately by a dealer or redemption center.

12 (c) The Agency shall determine that a commingling
13 agreement is qualified for the purposes of this Act if:

14 (1) 50% or more of beverage containers of like product
15 group, material, and size for which the deposits are being
16 initiated in the State are included in the commingling
17 agreement;

18 (2) the initiators of deposit included in the
19 commingling agreement are initiators of deposit for
20 beverage containers containing wine and each initiator of
21 deposit sells no more than 100,000 gallons of wine or
22 500,000 beverage containers containing wine in a calendar
23 year; or

24 (3) the commingling agreement has been approved by the
25 Agency under subsection (f).

26 (d) For purposes of this Section, containers are

1 considered to be of like materials if made up of one of the
2 following:

- 3 (1) plastic;
- 4 (2) aluminum;
- 5 (3) metal other than aluminum; and
- 6 (4) glass.

7 (e) For purposes of this Section, like products are those
8 that are made up of one or more of the following:

- 9 (1) beer, ale, or other beverage produced by
10 fermenting malt, wine, and wine coolers;
- 11 (2) spirits;
- 12 (3) soda;
- 13 (4) noncarbonated water; and
- 14 (5) all other beverages.

15 (f) Subject to the requirements of this subsection, an
16 initiator of deposit may enter into a commingling agreement
17 for its beverage containers to be managed in a commingling
18 program operated by a third party or by a stewardship
19 organization. The third party or stewardship organization
20 shall submit a plan for the operation of the commingling
21 program to the Agency for review and approval as a qualified
22 commingling agreement. A commingling program under this
23 subsection must:

- 24 (1) require redemption centers to commingle all
25 beverage containers of initiators of deposit included by
26 like material;

1 (2) establish standards to provide for fair
2 apportionment of costs among initiators of deposit
3 included in the program either on the basis of the count of
4 containers redeemed or on the total weight of containers
5 marketed in the State. These standards may provide for the
6 determination of the amount to be paid to a redemption
7 center as based on the unit counts generated by a reverse
8 vending machine, as long as the reverse vending machine is
9 subject to periodic audits by the third party or
10 stewardship organization on a schedule approved by the
11 Agency; and

12 (3) require that, no later than the 20th day of the
13 month following the end of March, June, September, and
14 December, each initiator of deposit included in the
15 commingling program report to the third party or
16 stewardship organization operating the commingling program
17 regarding its sales of beverages into the State for the
18 previous 3-month period by brand and by number of
19 nonrefillable beverage containers sold by product size and
20 material type as well as the average beverage container
21 weight by material type and size. The third party or
22 stewardship organization shall assign financial
23 responsibility for the costs of operating the commingling
24 program to the initiators of deposit included in the
25 commingling program based on each initiator of deposit's
26 proportion of the total weight of beverage containers

1 marketed in the State by material type or by actual count
2 of containers redeemed.

3 The third party or stewardship organization operating the
4 commingling program may require an initiator of deposit
5 included in the commingling program to provide financial
6 assurance in the form of a deposit no greater than the
7 initiator of deposit's anticipated costs for beverage
8 container deposits, redemption center handling costs, and any
9 contractual fees for up to 4 months of anticipated sales in the
10 State. The third party or stewardship organization shall
11 retain any financial assurance required under this subsection
12 in a separate account. If an initiator of deposit that has
13 provided financial assurance in accordance with this
14 subsection fails to reimburse the third party or stewardship
15 organization for its incurred costs within 90 days of receipt
16 of an invoice of such costs, the third party or stewardship
17 organization may cover those invoiced costs using the
18 financial assurance provided by the initiator of deposit in
19 accordance with this subsection.

20 The Agency may approve no more than 2 commingling
21 agreements as qualified commingling agreements under this
22 subsection and may not approve a qualified commingling
23 agreement under this subsection for a period exceeding 10
24 years.

25 (g) Not later than 48 hours following the execution or
26 amendment of a commingling agreement, including an amendment

1 that adds an additional party to an existing agreement, the
2 parties shall file a copy of the commingling agreement or
3 amendment with the Agency.

4 (h) The initiators of deposit participating in a qualified
5 commingling agreement under this Section must submit to the
6 Agency an application for reapproval of that commingling
7 agreement in a form prescribed by the Agency at least 6 months
8 prior to the date of expiration of the Agency's prior approval
9 or reapproval.

10 After review of an application submitted under this
11 subsection, the Agency may reapprove the commingling agreement
12 for an additional period not to exceed 10 years.

13 Section 35. Unclaimed deposits.

14 (a) This Section applies only to those beverage containers
15 that are not subject to a commingling agreement under Section
16 30.

17 (b) An initiator of deposit shall maintain a separate
18 account to be known as the initiator's deposit transaction
19 fund. The initiator shall keep that fund separate from all
20 other revenues and accounts. The initiator shall place in that
21 fund the refund value for all nonrefillable beverage
22 containers it sells subject to this Act. Except as specified
23 in subsections (d) and (e), amounts in the initiator's deposit
24 transaction fund may only be expended to pay refund values for
25 returned nonrefillable beverage containers. Amounts in the

1 fund may not be used to pay the handling fees required by this
2 Act. The fund must be maintained by the initiator on behalf of
3 consumers who have purchased products in refundable
4 nonrefillable beverage containers and on behalf of the State.
5 Except as specified in subsections (d) and (e), amounts in the
6 fund may not be regarded as income of the initiator.

7 (c) An initiator of deposit shall report to the Department
8 of Revenue by the 20th day of each month concerning
9 transactions affecting its deposit transaction fund in the
10 preceding month. The report must be in a form prescribed by the
11 Department of Revenue and must include:

12 (1) the number of nonrefillable beverage containers
13 sold and the number of nonrefillable beverage containers
14 returned in the applicable month;

15 (2) the amount of deposits received in and payments
16 made from the fund in the applicable month and the most
17 recent 3-month period;

18 (3) any income earned on amounts in the fund during
19 the applicable month;

20 (4) the balance in the fund at the close of the
21 applicable month; and

22 (5) such other information as the Department of
23 Revenue may require.

24 The report required by this subsection must be treated by
25 the Department of Revenue as a return.

26 For the purposes of this subsection, "return" means any

1 document, digital file, or electronic data transmission
2 containing information required by this subsection to be
3 reported to the Department of Revenue.

4 (d) The initiator's abandoned deposit amount, at the end
5 of each month, is the amount equal to the amount of deposits
6 that are or should be in the fund, less the sum of:

7 (1) income earned on amounts in the fund during that
8 month; and

9 (2) the total amount of refund values received by the
10 initiator for nonrefillable beverage containers during
11 that month and the 2 preceding months.

12 Income on the fund may be transferred from the fund for use
13 as funds of the initiator.

14 (e) By the 20th day of each month, an initiator shall turn
15 over to the Department of Revenue the initiator's abandoned
16 deposit amounts determined under subsection (d). Those amounts
17 may be paid from the deposit fund. Amounts collected by the
18 Department of Revenue under this subsection must be treated by
19 the Department of Revenue as a tax and must be deposited in the
20 General Revenue Fund.

21 For the purposes of this subsection, "tax" means the total
22 amount required to be paid, withheld, and paid over or
23 collected and paid over with respect to estimated or actual
24 tax liability in this State, any credit or reimbursement
25 allowed or paid in this State that is recoverable by the
26 Department of Revenue, and any amount assessed by the

1 Department of Revenue in this State, including any interest or
2 penalties provided by law. "Tax" also means any fee, fine,
3 penalty, or other debt owed to the State provided for by law if
4 that fee, fine, penalty, or other debt is subject to
5 collection by the Department of Revenue under statute or
6 transferred to the Department of Revenue for collection.

7 (f) If any month the authorized payments from the deposit
8 transaction fund by an initiator under this Section exceed the
9 funds that are or should be in the initiator's deposit
10 transaction fund, the Department of Revenue shall reimburse
11 the initiator, from amounts received under subsection (e), for
12 those refunds paid by the initiator for nonrefillable beverage
13 containers for which the funds that are or should be in the
14 initiator's deposit transaction fund are insufficient.
15 However, reimbursements paid by the Department of Revenue to
16 an initiator may not exceed amounts paid by the initiator
17 under subsection (e) in the preceding 24-months less amounts
18 paid to the initiator under this subsection during that same
19 24-month period.

20 (g) Any uniform tax administration provisions apply to the
21 Department of Revenue's administration of the reports and
22 payments required by this Section.

23 (h) Except as otherwise provided in this subsection, a
24 manufacturer who produces no more than 50,000 gallons of its
25 product in a calendar year is exempt from the requirements of
26 this Section for that year. A brewer who produces no more than

1 50,000 gallons of its product or bottler of water who sells no
2 more than 250,000 containers each containing no more than one
3 gallon of its product in a calendar year is exempt from the
4 requirements of this Section for that year.

5 (i) The Agency may remove from sale a beverage that is sold
6 or distributed in the State by an initiator of deposit who is
7 not in compliance with the reporting and payment requirements
8 established in this Section if the Agency is notified by the
9 Department of Revenue of that noncompliance. The Agency shall
10 allow the sale of the beverage to resume upon notification by
11 the Department of Revenue that all delinquent reports have
12 been submitted and all payments are current.

13 Section 40. Redemption centers.

14 (a) Redemption centers may be established and operated by
15 any person or municipality, agency, or municipal joint action
16 agency, subject to the approval of the Director, to serve
17 local dealers and consumers, at which consumers may return
18 empty beverage containers as provided under Section 25.

19 (b) Application for approval of a redemption center must
20 be filed with the Agency. The application must state the name
21 and address of the person responsible for the establishment
22 and operation of the center and the names and addresses of each
23 dealer with whom the redemption center has entered into a
24 written agreement to provide redemption services in accordance
25 with subsection (a) of Section 25 and their distances from the

1 redemption center, as measured along public roadways, and must
2 include a statement that the redemption center will accept and
3 manage all beverage containers the labels for which are
4 registered in accordance with Section 20.

5 (c) The Director may, by order, approve the licensing of a
6 redemption center if the redemption center complies with the
7 requirements established under Section 60 and the applicable
8 rules adopted under this Act.

9 (d) A licensed redemption center may not refuse to accept
10 from any consumer or dealer any empty, unbroken, and
11 reasonably clean beverage container of the kind, size, and
12 brand sold in the State as long as the label for the container
13 is registered under subsection (e) of Section 20 or refuse to
14 pay in cash the refund value of the returned beverage
15 container as established under Section 10. A redemption center
16 or reverse vending machine is not obligated to count
17 containers or to pay a cash refund at the time the beverage
18 container is returned as long as the amount of the refund value
19 due is placed into an account to be held for the benefit of the
20 consumer and funded in a manner that allows the consumer to
21 obtain deposits due within 2 business days of the time of the
22 return.

23 (e) A redemption center shall tender to pick-up agents
24 only beverage containers sold in the State that are placed in
25 shells, shipping cartons, bags, or other receptacles in a
26 manner that facilitates accurate eligible beverage container

1 unit counts.

2 (f) A redemption center shall prepare beverage containers
3 for pick up by pick-up agents, which are subject to audit under
4 rules adopted by the Agency in accordance with this
5 subsection.

6 (1) A redemption center shall label each shell,
7 shipping carton, bag, or other receptacle with the
8 business name, initials, redemption center license number,
9 or other unique identifying mark and with the number of
10 beverage containers contained in each shell, shipping
11 carton, bag, or other receptacle.

12 (2) The Agency may audit shells, shipping cartons,
13 bags, or other receptacles that have been prepared for
14 pick up by a redemption center.

15 (A) An audit may be conducted by the Agency
16 on-site at the redemption center or off-site at a
17 different location. Off-site audits may involve the
18 use of bulk redemption technology.

19 (B) An audit must be conducted on a minimum of
20 1,000 beverage containers.

21 (C) If the results of an audit vary from the
22 beverage container count labeled in accordance with
23 paragraph (1), the Agency shall, in the case of an
24 on-site audit, require the redemption center to add or
25 remove containers to address the variation in the
26 results of the audit or, in the case of an off-site

1 audit, require the redemption center to accept payment
2 from the initiator of deposit or pick-up agent
3 adjusted in accordance with the variation in the
4 results of the audit.

5 (D) The Agency may deny an application for
6 approval of a redemption center under subsection (b)
7 if the redemption center, pursuant to audits conducted
8 by the Agency in accordance with this subsection, has
9 repeatedly prepared for pick up shells, shipping
10 cartons, bags, or other receptacles containing less
11 than 97% of the beverage containers that such shells,
12 shipping cartons, bags, or other receptacles are
13 labeled as containing.

14 (g) The Agency may, in a manner consistent with the
15 Illinois Administrative Procedure Act, revoke the license of a
16 redemption center if the redemption center has not complied
17 with the Director's approval order issued under subsection (c)
18 or if the redemption center no longer provides a convenient
19 service to the public.

20 Section 45. Prohibition on certain types of containers and
21 holders. A beverage may not be sold or offered for sale to
22 consumers in this State:

23 (1) in a metal container designed or constructed so
24 that part of the container is detachable for the purpose
25 of opening the container without the aid of a separate can

1 opener, except that nothing in this paragraph prohibits
2 the sale of a container the only detachable part of which
3 is a piece of adhesive-backed tape; and

4 (2) in a container composed of one or more plastics if
5 the basic structure of the container, exclusive of the
6 closure device, also includes aluminum or steel.

7 Section 50. Penalties.

8 (a) A violation of this Act by any person is a civil
9 violation for which a fine of not more than \$100 may be
10 adjudged.

11 (b) Each day a violation under subsection (a) continues or
12 exists constitutes a separate offense.

13 (c) Notwithstanding subsection (a), a person who knowingly
14 violates subsection (g) of Section 25 commits a civil
15 violation for which a fine of \$1,000 may be adjudged.

16 Section 55. Exception for beverage containers used on
17 international flights. This Act does not apply to any beverage
18 container sold to an airline and containing a beverage
19 intended for consumption on an aircraft flight in interstate
20 or foreign commerce.

21 Section 60. Licensing requirements.

22 (a) A license issued annually by the Agency is required
23 before any person may initiate deposits under Section 10,

1 operate a redemption center under Section 40, or act as a
2 contracted agent for the collection of beverage containers
3 under paragraph (2) of subsection (g) of Section 25.

4 (b) The Agency shall adopt rules establishing the
5 requirements and procedures for issuance of licenses and
6 annual renewals under this Section, including a fee structure.

7 (c) An applicant under this Section shall include the
8 following fees with a license application and an annual
9 license renewal application.

10 (1) An applicant for approval of a redemption center
11 shall submit a \$100 license fee with an initial
12 application and subsequent annual applications.

13 (2) An applicant for approval as an initiator of
14 deposit:

15 (A) of a small brewery or a small winery that
16 produces more than 50,000 gallons of its product or a
17 bottler of water that annually sells no more than
18 250,000 containers, each containing no more than one
19 gallon of its product, shall submit an annual license
20 fee of \$50.

21 For the purposes of this subparagraph:

22 "Small brewery" means a person that engages in
23 either or both of the following activities:

24 (i) producing the person's own malt liquor by
25 fermentation of malt, wholly or partially, or
26 substitute for malt; or

1 (ii) producing or bottling low-alcohol spirits
2 products consisting of malt liquor to which
3 spirits have been added.

4 "Small brewery" does not include a person that
5 engages in the activities described in item (i) or
6 (ii) above that produces in total more than 30,000
7 barrels per year of malt liquor and low-alcohol
8 spirits products consisting of malt liquor to which
9 spirits have been added.

10 "Small winery" means a person that ferments and
11 ages:

12 (i) up to 50,000 gallons per year of the
13 person's own wine that is not hard cider; and

14 (ii) up to 3,000 barrels per year of the
15 person's own wine that is hard cider;

16 (B) of a small beverage manufacturer whose total
17 production of all beverages from all combined
18 manufacturing locations in less than 50,000 gallons
19 annually, shall submit an annual license fee of \$50;
20 and

21 (C) other than under subparagraph (A) or (B),
22 shall submit a \$500 annual license fee with each
23 application.

24 (3) An applicant for approval as a contracted agent
25 for the collection of beverage containers shall submit a
26 \$500 annual license fee with each application.

1 (d) In licensing redemption centers, the Agency shall
2 consider at least the following:

3 (1) the health and safety of the public, including
4 sanitation protection when food is also sold on the
5 premises;

6 (2) the convenience for the public, including the
7 distribution of centers by population or by distance, or
8 both;

9 (3) the proximity of the proposed redemption center to
10 existing redemption centers and the potential impact that
11 the location of the proposed redemption center may have on
12 an existing redemption center;

13 (4) the proposed owner's record of compliance with
14 this Act and rules adopted by the Agency under this Act;
15 and

16 (5) the hours of operation of the proposed redemption
17 center and existing redemption centers in the proximity of
18 the proposed redemption center.

19 (e) The Agency may grant a license to a redemption center
20 if the following requirements are met:

21 (1) the Agency may license up to 5 redemption centers
22 in a municipality with a population over 30,000;

23 (2) the Agency may license up to 3 redemption centers
24 in a municipality with a population over 20,000 but no
25 more than 30,000; and

26 (3) the Agency may license up to 2 redemption centers

1 in a municipality with a population over 5,000 but no more
2 than 20,000.

3 For a municipality with a population of no more than
4 5,000, the Agency may license redemption canters in accordance
5 with rules adopted by the Agency.

6 (f) Notwithstanding subsection (e):

7 (1) an entity that is a distributor licensed by or
8 registered with the Agency need not comply with subsection
9 (e);

10 (2) a reverse vending machine is not considered a
11 redemption center for purposes of subsection (e) when it
12 is located in a licensed redemption center; and

13 (3) the Agency may grant a license that is
14 inconsistent with the requirements set out in subsection
15 (e) only if the applicant has demonstrated a compelling
16 public need for an additional redemption center in the
17 municipality.

18 Section 65. Beverage Container Enforcement Fund.

19 (a) The Beverage Container Enforcement Fund is created as
20 a special fund in the State treasury. Any interest earned on
21 moneys in the Fund shall be deposited into the Fund.

22 (b) The Fund consists of:

23 (1) fees for issuance of licenses and license renewals
24 under Section 60;

25 (2) fees for registration of beverage container labels

1 and registration renewals under subsection (e) of Section
2 20; and

3 (3) all other money appropriated or allocated for
4 inclusion in the Fund.

5 (c) The Agency may combine administration and inspection
6 responsibilities of other programs it administers with
7 administration and enforcement responsibilities under this Act
8 for efficiency purposes. However, money in the Fund may be
9 used to Fund only the portion of staff time devoted to
10 administration and enforcement activities under this Act.

11 (d) The Fund is a nonlapsing, revolving fund. All money in
12 the Fund must be continuously applied by the Agency to carry
13 out the administrative and enforcement responsibilities of the
14 Agency under this Act.

15 Section 70. Agency administration. The Agency shall
16 administer this Act and has the authority, following public
17 hearing, to adopt necessary rules to carry it into effect. The
18 Agency may adopt rules governing redemption centers that
19 receive beverage containers from dealers supplied by
20 distributors other than the distributors servicing the area in
21 which the redemption center is located in order to prevent the
22 distributors servicing the area in which the redemption center
23 is located in order to prevent the distributors servicing the
24 area within which the redemption center is located from being
25 unfairly penalized. In addition to other actions required by

1 this Act, the Agency responsibilities include:

2 (1) The Agency shall establish and maintain a registry
3 of beverage container labels. The registry must contain
4 the information of each beverage type and beverage
5 contained filed under subsection (e) of Section 20
6 arranged and displayed in an organized and comprehensible
7 manner. The Agency shall update the registry regularly and
8 make information from the registry available upon request.

9 (2) The Agency shall provide information about the
10 operation of this Act to any affected person whose
11 premises it inspects or visits as part of its licensing
12 and inspection responsibilities.

13 Section 75. Denial of redemption center license.

14 (a) The Agency shall notify an applicant denied a license
15 for a redemption center of the reasons for the denial. Written
16 notification must be sent to the mailing address given by the
17 applicant in the application for a redemption center license.

18 (b) An applicant aggrieved by a decision made by the
19 Agency may appeal the decision to the Pollution Control Board
20 in accordance with Section 40 of the Environmental Protection
21 Act or by filing an appeal with the Appellate Court and serving
22 a copy of the appeal in accordance with the Code of Civil
23 Procedure. The appeal to the Pollution Control Board or to the
24 Appellate Court must be filed and served within 30 days of the
25 mailing of the Agency's decision.

1 Section 80. Unlawful possession of beverage containers.

2 (a) A person is guilty of a violation of this Section if
3 that person possesses more than 48 beverage containers that
4 are not labeled as required under Section 20. This Section
5 does not apply to any landfill or waste disposal sites
6 permitted by the Agency under the Environmental Protection
7 Act.

8 (b) A violation of this Section is a civil violation for
9 which a fine of \$100 per container in excess of 48 beverage
10 containers may be adjudged.

11 (c) The Illinois State Police shall enforce this Section
12 and prosecute any persons found in violation.

13 (d) An initiator of deposit may maintain a civil action in
14 a circuit court against a person, other than a redemption
15 center licensed in accordance with Section 60, in possession
16 of more than 48 beverage containers that the person knows or
17 has reason to know were not originally sold in this State as
18 filled beverage containers. If the initiator of deposit
19 prevails in any action, the initiator of deposit is entitled
20 to an award of reasonable attorney's fees and court costs,
21 including expert witness fees.

22 (e) The Agency may, by rule, adopt procedures for
23 designating certain transportation activities and storage or
24 production facilities or portions of facilities as exempt from
25 this Section. Any exemption granted under this subsection must

1 be based on a showing by the person owning or operating the
2 facility or undertaking the activity that:

3 (1) the beverage containers stored or transported are
4 intended solely for retail sale outside of the State;

5 (2) the beverage containers are being transported to
6 and stored in a facility licensed by the Department of
7 Revenue. No person shall receive, hold, store, or deliver
8 any alcoholic liquors without a certificate of
9 registration from the Department of Revenue in accordance
10 with Article VIIA of the Liquor Control Act of 1934 prior
11 to labeling and subsequent retail sale within the State;
12 or

13 (3) the person is licensed by the Department of
14 Revenue. No person shall receive, hold, store, or deliver
15 any alcoholic liquors without a certificate of
16 registration from the Department of Revenue in accordance
17 with Article VIIA of the Liquor Control Act of 1934 to
18 import malt liquor and wine into the State, the beverage
19 containers contain malt liquor or wine and these
20 containers are being transported or stored prior to
21 labeling and subsequent retail sale within the State.

22 The Agency may require reporting of the numbers of
23 beverage containers imported into and exported from the State
24 under the terms of this subsection.

25 Section 85. Glass-breaking games. A person, firm,

1 corporation, association, or organization may not hold,
2 conduct, or operate any game, contest scheme, or device in
3 which a person stakes or risks something of value for the
4 opportunity to win something of value if that game, contest,
5 scheme, or device involves the breaking of glass. A violation
6 of this Section is a Class C misdemeanor.

7 Section 90. Reporting requirements.

8 (a) This Section establishes annual reporting requirements
9 for initiators of deposit and pick-up agents that are not
10 initiators of deposit.

11 (b) Each initiator of deposit shall report annually by
12 March 1 to the Agency concerning its deposit transactions in
13 the preceding calendar year. The report must be in a form
14 prescribed by the Agency and must include the number of
15 nonrefillable beverage containers sold by the initiator of
16 deposit in the State by container size, beverage type, and
17 redemption value, delineated at a minimum into wine, spirits,
18 and all other beverage types, and must include the number of
19 nonrefillable beverage containers returned to the initiator of
20 deposit by beverage type and redemption value.

21 (c) Each pick-up agent that is not an initiator of deposit
22 shall report annually by March 1 to the Agency concerning the
23 redemptions for each initiator of deposit it served in the
24 preceding calendar year. The report must be in a form
25 prescribed by the Agency and must include the number of

1 nonrefillable containers returned by the pick-up agent to each
2 initiator of deposit it served by redemption value, except
3 that the pick-up agent may report by average weight and total
4 weight of beverage containers returned by material type for
5 containers managed by a qualified commingling agreement under
6 Section 30.

7 (d) Proprietary information submitted to the Agency in a
8 report required under this Section that is identified by the
9 submittor as proprietary information is confidential and must
10 be handled by the Agency in the same manner as other
11 confidential information.

12 Section 95. The State Finance Act is amended by adding
13 Section 5.990 as follows:

14 (30 ILCS 105/5.990 new)

15 Sec. 5.990. The Beverage Container Enforcement Fund.