



Sen. Laura M. Murphy

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LRB103 05311 LNS 60705 a

1 AMENDMENT TO SENATE BILL 85

2 AMENDMENT NO. _____. Amend Senate Bill 85 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the State
5 Beverage Container Recycling Refunds Act.

6 Section 5. Definitions. In this Act:

7 "Agency" means the Environmental Protection Agency.

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

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; or

13 (3) a meal replacement liquid.

14 "Beverage container" means a prepackaged container, such
15 as a carton, pouch, or aseptic packaging that:

16 (1) is made of any multimaterial or material,

1 including, but not limited to, glass, plastic, or metal;

2 (2) is designed to be used for beverage storage one or
3 more times before being recycled; and

4 (3) has a volume of not more than one gallon.

5 "Beverage container processing mechanism" means any manual
6 or technological means by which empty beverage containers are
7 properly identified and processed.

8 "Beverage producer" means a person who bottles, cans, or
9 otherwise fills beverage containers to sell to distributors,
10 importers, or retailers.

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

13 "Distributor" means a person, including, but not limited
14 to, a beverage producer, who engages in the sale of beverage
15 containers to a retailer in the State.

16 "Drop-off facility" means a specific area where
17 individuals may bring household recyclable materials to be
18 sorted into material-specific receptacles.

19 "Importer" means a retailer or beverage producer who
20 directly imports beverage containers into the State.

21 "Line defect" means a beverage container that becomes
22 defective or damaged during manufacturing, is not meant for
23 sale, and is not eligible for redemption.

24 "Material recovery facility" means a facility that
25 receives, separates, and sells or otherwise distributes
26 postconsumer materials for recycling.

1 "Member" means a distributor or importer who has joined
2 the Organization and paid all applicable fees.

3 "Nonprofit organization" means an organization established
4 and operated as a nonprofit organization under Section
5 501(c)(3) of the Internal Revenue Code of 1986.

6 "Organization" means the Distributor and Importer
7 Responsibility Organization established under Section 50.

8 "Recycle" means the series of activities by which a
9 beverage container is:

- 10 (1) collected and processed;
- 11 (2) converted into raw material; and
- 12 (3) used in the production of a new product, including
13 the original product.

14 "Recycle" does not include:

- 15 (1) the use of material to produce a fuel or fuel
16 substitute;
- 17 (2) the use of material in an incineration process,
18 such as a waste-to-energy process; or
- 19 (3) the use of material within the footprint of a
20 landfill.

21 "Retailer" means a person or business in the State who
22 engages in the sale of beverage containers to a consumer.

23 "Store" means an individual location where a retailer
24 sells beverage containers.

25 Section 10. Beverage container recycling redemption refund

1 program.

2 (a) Except as otherwise provided in this Section, each
3 beverage container sold or offered for sale in the State shall
4 have the following redemption refund value:

5 (1) 10 cents for a beverage container of 24 fluid
6 ounces or less; and

7 (2) 15 cents for a beverage container of more than 24
8 fluid ounces.

9 (b) The Agency may change each redemption refund value
10 under subsection (a), by rule, so long as the changed refund
11 value is not based on the type of postconsumer material being
12 recycled, not more often than:

13 (1) once during any 10-year period and in consultation
14 with the Organization; and

15 (2) once during any 5-year period and after receiving
16 a request from the Organization for a change to one or both
17 redemption refund amounts, if the Agency's change conforms
18 with the Organization's request.

19 (c) Prior to any change in the redemption refund value
20 under subsection (b), the Agency must undergo a notice and
21 comment review period with at least 60 days' notice to the
22 public.

23 (d) If the redemption rate publicly reported by the
24 Organization under Section 60 does not reach 80% for 2
25 consecutive calendar years after being required to do so under
26 paragraph (2) of subsection (a) of Section 55, then each

1 beverage container sold or offered for sale in the State shall
2 have the following redemption refund value:

3 (1) fifteen cents for a beverage container of 24 fluid
4 ounces or less; and

5 (2) twenty cents for a beverage container of more than
6 24 fluid ounces.

7 (e) Any moneys designated for redemption refunds but that
8 are not claimed by consumers shall be used by the Organization
9 to support its administrative costs and to perform the
10 activities required under this Act.

11 Section 15. Material flows.

12 (a) When a consumer redeems a beverage container in
13 accordance with this Act, the Organization becomes the owner
14 of that beverage container and may:

15 (1) sell it to a buyer of its choosing after first
16 allowing a beverage producer or a company of its beverage
17 container supply chain to purchase the material at a fair
18 market rate; or

19 (2) on its own or via a third party, process the
20 beverage container for refill if it is reusable.

21 (b) If a consumer chooses to put a beverage container in
22 its curbside recycling receptacle or a drop-off receptacle,
23 the operator of the material recovery facility that sorts the
24 beverage container or the operator of the drop-off facility
25 that receives the beverage container shall:

1 (1) offer to sell the material to the Organization,
2 which then may be required to pay a certain percent of the
3 redemption value per beverage container under Section 70;

4 (2) permit the Organization to pick up the material
5 within a reasonable amount of time at the Organization's
6 expense; and

7 (3) report to the Organization the weight in tons and
8 the quality of the beverage containers it is transferring
9 to the Organization.

10 Section 20. Means of redemption.

11 (a) At each store having a floor space that is greater than
12 or equal to 25,000 square feet, excluding only outdoor space,
13 the Organization shall, at its expense, install, operate, and
14 maintain:

15 (1) bulk bag drop-off for all redeemable beverage
16 containers; and

17 (2) one or more beverage container processing
18 mechanisms that allow the consumer to:

19 (A) redeem all redeemable containers; and

20 (B) immediately receive the refund value.

21 (b) At each store having a floor space that is greater than
22 or equal to 25,000 square feet, excluding only outdoor space,
23 the Organization may, at its expense, install, operate, and
24 maintain additional beverage container processing mechanisms
25 beyond what is required in subsection (a).

1 (c) At each of its stores having a floor space that is
2 greater than or equal to 25,000 square feet, excluding only
3 outdoor space, the retailer shall make at most 1,000 square
4 feet of floor space available for the Organization to meet the
5 requirements of subsection (a) and the options provided in
6 subsection (b), but the retailer shall decide where in each
7 store the Organization will, on space the retailer controls
8 inside or outside the store, install, operate, and maintain
9 beverage container processing mechanisms.

10 (d) At each store having a floor space that is greater than
11 10,000 but less than 25,000 square feet, excluding only
12 outdoor space, the Organization shall, at its expense,
13 install, operate, and maintain beverage container processing
14 mechanisms such that the consumer has:

15 (1) the ability to redeem all redeemable beverage
16 containers; and

17 (2) the option to receive immediately the refund
18 value.

19 (e) At each store having a floor space that is greater than
20 10,000 square feet but less than 25,000 square feet, excluding
21 only outdoor space, the Organization may, at its expense,
22 install, operate, and maintain additional beverage container
23 processing mechanisms beyond what is required in subsection
24 (d).

25 (f) At each of its stores having a floor space that is
26 greater than 10,000 square feet but less than 25,000 square

1 feet, excluding only outdoor space, the retailer shall make at
2 most 500 square feet of floor space available for the
3 Organization to meet the requirements of subsection (d) and
4 the options provided in subsection (e), but the retailer shall
5 decide where in each store the Organization will, on space it
6 controls inside or outside the store, install, operate, and
7 maintain beverage container processing mechanisms.

8 (g) At each of its stores having a floor space that is
9 greater than 1,000 square feet but less than or equal to 10,000
10 square feet, excluding only outdoor space, the retailer shall,
11 upon the Organization's request, allow the Organization to
12 install, operate, and maintain beverage container processing
13 mechanisms on no more than 250 square feet of space that it
14 controls inside or outside the store.

15 (h) A retailer who operates a store having a floor space
16 that is less than or equal to 1,000 square feet has no duty
17 under this Act to host a beverage container processing
18 mechanism.

19 (i) Notwithstanding subsections (a) through (g):

20 (1) the retailer may make available more than the
21 required space for beverage container processing
22 mechanisms; and

23 (2) the Organization may install, operate, and
24 maintain more beverage container processing mechanisms on
25 the additional space made available under paragraph (1) of
26 this subsection.

1 (j) The Agency, in consultation with the Organization and
2 retailers, shall develop a formula to determine how to fairly
3 compensate annually the retailer for use of the space at each
4 store of the retailer that the retailer permits the
5 Organization to install, operate, and maintain beverage
6 container processing mechanisms.

7 (k) Notwithstanding subsections (a) through (i), a
8 retailer shall, upon request by the Organization regarding a
9 particular store of the retailer:

10 (1) offer for sale at that particular store the
11 standard bags that consumers must use to redeem containers
12 via the bulk bag drop-off redemption option; and

13 (2) permit the Organization to install, service, and
14 operate a self-service kiosk that prints redemption
15 vouchers inside or immediately outside of that particular
16 store.

17 (l) A retailer is exempt from the requirements of this
18 Section at stores the retailer operates that primarily
19 prepares food for sale.

20 (m) A retailer is exempt from the requirements of
21 subsections (a) through (i) at stores the retailer operates
22 that primarily sell beverage containers to consumers through
23 stand-alone vending machines, stand-alone refrigerator cases,
24 or similar means.

25 (n) The Agency shall develop convenience standards that
26 the Organization shall follow to ensure that:

1 (1) one or more beverage container processing
2 mechanisms that allow for convenient redemption of
3 redeemable beverage containers is located within a
4 reasonable distance of each resident of the State; and

5 (2) there are enough beverage container processing
6 mechanisms at each store or location the Organization
7 operates to enable quick and easy redemption of redeemable
8 beverage containers.

9 (o) The Organization may enter into an agreement to
10 install, operate, and maintain an additional beverage
11 container processing mechanism at any location that is not
12 considered a store under this Act in order to provide
13 additional convenient, quick, or easy redemption options and
14 to meet the performance targets required in Section 55.

15 (p) Any facility that the Organization sets up in the
16 State to aggregate, sort, and process the material collected
17 at various redemption locations under this Act may:

18 (1) accept, pursuant to a reasonable process the
19 Organization may establish, beverage containers that are
20 eligible for redemption and are submitted in the
21 Organization's standard redemption bag, as designated by
22 the Organization; and

23 (2) provide a nonprofit organization with a premium to
24 be determined by the Organization.

25 (h) The public shall have access to redeem beverage
26 containers in accordance with this Section for not less than

1 10 hours each day, except on federal, State, or local holidays
2 and except at a facility set up by the Organization to
3 aggregate, sort, and process redeemed beverage containers.

4 (r) The Organization must provide information to the
5 public detailing how consumers can alert the Organization to
6 problems at beverage container processing mechanisms operated
7 by the Organization. The information shall be provided via:

8 (1) the Organization's website;

9 (2) clearly visible signage at least 5 feet by 5 feet
10 at each redemption location required under this Section;
11 and

12 (3) clearly visible signage at least 2 feet by 2 feet
13 placed on or within 5 feet of each beverage container
14 processing mechanism.

15 (s) The Organization may establish reasonable terms and
16 conditions for the use of a beverage container processing
17 mechanism.

18 Section 25. Labeling requirements.

19 (a) A beverage producer, distributor, or importer shall
20 include the abbreviation "RV" on a clearly visible portion of
21 the top or side of each beverage container that is sold by the
22 beverage producer, distributor, or importer in the State.

23 (b) The Organization may require that any beverage
24 producer, distributor, or importer include, on any space that
25 is on the top or side of each beverage container sold in the

1 State, the clearly visible abbreviation of the State and
2 applicable redemption refund value under Section 10.

3 (c) A beverage producer, distributor, or importer may
4 include a barcode or unique code verification on a beverage
5 container to automatically identify it.

6 Section 30. Timing.

7 (a) By no later than 18 months after the effective date of
8 this Act, beverage containers that are at least 90% aluminum,
9 glass, high-density polyethylene plastic, or polyethylene
10 terephthalate and that are sold in the State must be
11 redeemable for the applicable redemption refund value under
12 Section 10.

13 (b) By no later than 3 years after the effective date of
14 this Act, beverage containers that do not meet the standard
15 described under subsection (a) and that are sold in the State
16 must be redeemable for the applicable redemption refund value
17 under Section 10.

18 (c) The Agency may permit up to an additional 365 days to
19 meet either one or both of the deadlines specified in
20 subsections (a) and (b).

21 Section 35. Prohibitions.

22 (a) No person shall distribute, import, or sell beverage
23 containers in or into the State except in compliance with this
24 Act.

1 (b) No person shall redeem under this Act a beverage
2 container that was not sold in the State to a consumer in the
3 State.

4 Section 40. Agency duties. On or before October 1 of each
5 year after the effective date of this Act, the Agency shall
6 identify and communicate to the Organization the Agency's
7 total estimated annual cost to implement, administer, and
8 enforce this Act, including the cost of adopting rules under
9 this Act, in the next calendar year, after:

10 (1) subtracting the moneys that the Agency collected
11 from penalties assessed under this Act, which shall be
12 applied toward fulfilling the Agency's responsibilities
13 under this Act in the next calendar year; and

14 (2) adding any expenses incurred in fulfilling the
15 Agency's responsibilities under this Act that are not
16 covered by the annual cost from the previous year.

17 Section 45. Drop-off facility and material recovery
18 facility duties.

19 (a) Each drop-off facility or material recovery facility
20 operating in the State, or outside of the State may submit the
21 following information to the Organization if the majority of
22 the material it processes comes from the State:

23 (1) the amount in tons of residential recyclable
24 material that the facility sold in the previous calendar

1 year; and

2 (2) an estimate of the amount in tons of residential
3 recyclable material that the facility sold that came from
4 the State.

5 (b) The optional information detailed in subsection (a)
6 shall be submitted on or before April 1 and shall pertain only
7 to the previous full calendar year.

8 Section 50. Distributor and Importer Responsibility
9 Organization.

10 (a) All distributors and importers shall join as members
11 of a Distributor and Importer Responsibility Organization. A
12 distributor or importer operating in violation of this
13 requirement is subject to penalties described in Section 75.
14 The Organization must be established and operated as a
15 nonprofit organization or a cooperative corporation.

16 (b) Only one Organization may operate in the State. The
17 Organization may decide to operate jointly with similar
18 organizations. The Organization shall elect a governing Board
19 of Directors of the Organization composed of Organization
20 members. The Organization shall be led by an Executive
21 Director elected by the Board of Directors of the
22 Organization.

23 (c) The Organization shall charge a membership fee that
24 funds the Organization's costs of operation minus unclaimed
25 redemption refunds or any other revenue sources that the

1 Organization may develop. The Organization shall charge
2 membership fees that vary by material type and that reflect:

3 (1) the cost of collecting, transporting, sorting, and
4 processing each beverage container type; and

5 (2) the number of units of each beverage container
6 type that each member distributes or sells in the State.

7 (d) The Organization shall provide to members against the
8 fees charged under this Act a credit from revenue generated
9 from the sale of each beverage container type's scrap in an
10 amount based on the percentage of each beverage container type
11 that each member distributes or sells in the State.

12 (e) The Organization shall publish publicly on its
13 website:

14 (1) within 18 months after the effective date of this
15 Act, an initial plan for how the Organization will meet
16 its requirements under this Act over the next 5 years,
17 including the performance targets specified in Section 55;
18 and

19 (2) no later than every 5 years after publication of
20 the initial plan under paragraph (1), an updated plan on
21 how the Organization will continue to meet its
22 requirements under this Act, including the performance
23 targets specified in Section 55.

24 (f) The Organization shall pay:

25 (1) for any beverage container processing mechanism or
26 self-service kiosk that the Organization chooses to

1 install, maintain, and operate:

2 (A) with retailer permission granted under Section
3 20; or

4 (B) at any location to meet or exceed:

5 (i) the performance targets under Section 55;
6 or

7 (ii) the beverage container processing
8 mechanism requirement under subsection (f) of
9 Section 20;

10 (2) for any facilities in the State necessary to
11 efficiently aggregate, sort, and process the beverage
12 containers collected at redemption locations under this
13 Act;

14 (3) to upkeep a list and map on its website of all
15 redemption locations and the redemption options available
16 at each redemption location;

17 (4) by December 31 of each year, an annual installment
18 to the Agency according to the formula under Section 40,
19 but not to exceed \$500,000 per year; the installment shall
20 fund the Agency's anticipated costs in the following year
21 to implement, administer, and enforce this Act, including
22 adopting rules under this Act;

23 (5) by December 31 of each year, reimbursement for
24 enforcement costs that may result in a total reimbursement
25 by the Organization to the Agency more than \$500,000 per
26 year as long as the funded enforcement activities

1 identified violations of this Act and resulted in
2 penalties under this Act;

3 (6) a credit to consumers for the cost of the standard
4 bags described under subsection (f) of Section 10; and

5 (7) beginning during the first full year and ending
6 the fifth full year after one or more beverage container
7 types is sold with a redemption refund value under this
8 Act, direct annual payments by July 1 of each calendar
9 year to drop-off facility operators and material recovery
10 facility operators who choose to submit information under
11 Section 45. Each payment shall:

12 (A) equal 5% of the scrap value from the beverage
13 container material the Organization sold in the
14 preceding calendar year; and

15 (B) be based on the data submitted by drop-off
16 facility operators or material recovery facility
17 operators under Section 45.

18 (g) If the standard bag the Organization sells to
19 consumers under subsection (f) of Section 10 is made of
20 plastic film, the Organization shall:

21 (1) ensure that the standard bag sold is composed of a
22 minimum of 50% recycled content; and

23 (2) demonstrate to the Agency that the plastic film
24 waste from the standard bags will be recycled in the best
25 commercially available manner.

26 (h) The Organization is not required to pay a redemption

1 refund under this Act for:

2 (1) any beverage container that visibly contains or is
3 visibly contaminated by a substance other than water,
4 residue of the beverage contained within the beverage
5 container as sold by a retailer to a consumer, or dust;

6 (2) any beverage container that is crushed, broken, or
7 damaged to the extent that the brand appearing on the
8 beverage container cannot be identified;

9 (3) any beverage container that the Organization has
10 reasonable grounds to believe was procured in another
11 state; or

12 (4) any beverage container for which the Organization
13 has reasonable grounds to believe a redemption refund has
14 already been issued under this Act or under any other
15 state's law, rule, or regulation.

16 (i) The Organization may:

17 (1) use, or award grants using, moneys received or
18 generated under this Act for:

19 (A) litter clean-up; and

20 (B) education and outreach on recycling beverage
21 containers;

22 (2) use moneys received or generated under this Act to
23 directly, or in partnership with a nongovernmental
24 organization, provide services to or enhance the
25 redemption experience of minority or low-income consumers
26 who redeem a beverage container;

1 (3) to the extent allowed by law, distribute to its
2 members moneys received or generated under this Act during
3 a fiscal year if:

4 (A) the Organization's revenues under this Act
5 exceeded the costs of carrying out the Organization's
6 requirements under this Act by more than 10%; and

7 (B) after distributing the moneys to members, the
8 Organization's nondistributed revenues comprise at
9 least 110% of the costs of carrying out the
10 Organization's requirements under this Act; and

11 (4) use moneys generated under this Act to pay members
12 or support the management and activities of an advisory
13 committee established under Section 65.

14 Section 55. Performance targets.

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

17 (1) beginning during the second full calendar year
18 after all beverage containers are sold in the State with
19 the applicable redemption refund value under Section 10,
20 the performance target shall be to have an annual
21 redemption rate for all redeemable beverage containers of
22 at least 70%;

23 (2) beginning with the fourth full calendar year after
24 all beverage containers are sold in the State with the
25 applicable redemption refund value under Section 10, the

1 performance target shall be to have an annual redemption
2 rate for all redeemable beverage containers of at least
3 75%;

4 (3) beginning during the sixth full calendar year
5 after all beverage containers are sold in the State with
6 the applicable redemption refund value under Section 10,
7 the performance target shall be to have an annual
8 redemption rate for all redeemable beverage containers of
9 at least 85%; and

10 (4) beginning during the eighth full calendar year
11 after all beverage containers are sold in the State with
12 the applicable redemption refund value under Section 10
13 and in each calendar year thereafter, the performance
14 target shall be:

15 (A) to have an annual redemption rate for all
16 redeemable beverage containers of at least 90%; or

17 (B) to have at least 90% of redeemable beverage
18 containers collectively:

19 (i) redeemed via the redemption system
20 implemented under this Act at an 85% redemption
21 rate or higher, as required under paragraph (3);

22 (ii) collected under a curbside recycling
23 program in the State and meet or exceed the
24 quality standards described in Section 70 when
25 sold by the material recovery facility; or

26 (iii) collected at a drop-off facility and

1 then sold by the drop-off facility with quality
2 standards that meet or exceed those described in
3 Section 70.

4 (b) The Organization shall meet the following recycling
5 rates targets for beverage containers redeemed through the
6 system it operates:

7 (1) For beverage containers that are made of at least
8 90% aluminum, glass, high-density polyethylene plastic, or
9 polyethylene terephthalate, the recycling rate target
10 shall be:

11 (A) a 70% recycling rate beginning 2 years after
12 the beverage containers are sold in the State with the
13 applicable refund value under Section 10; and

14 (B) a 90% recycling rate beginning 5 years after
15 the beverage containers are sold in the State with the
16 applicable refund value under Section 10.

17 (2) For beverage containers not specified in paragraph
18 (1) the recycling target rate shall be:

19 (A) a 50% recycling rate beginning 4 years after
20 the beverage containers are sold in the State with the
21 applicable refund value under Section 10; and

22 (B) a 70% recycling rate beginning 7 years after
23 the beverage containers are sold in the State with the
24 applicable refund value under Section 10.

25 (c) If the Organization does not meet a redemption rate
26 target required under subsection (a) or a recycling rate

1 target required under subsection (b), it must submit to the
2 Agency a product stewardship plan no more than 365 days after
3 the data required under Section 60 has most recently been
4 published. The product stewardship plan shall detail the
5 reason that the performance target was not met and any action
6 the Organization will take to meet the performance target.

7 (d) If the Organization does not meet a redemption rate
8 target under subsection (a) or a recycling rate target under
9 subsection (b) in any calendar year, the Agency shall assess a
10 civil penalty against the Organization for each such violation

11 (1) If a redemption rate target was not met, the civil
12 penalty shall be equal to one cent for each beverage
13 container comprising the difference between the number of
14 beverage containers that were redeemed and the total
15 number of beverage containers that, if redeemed, would
16 have met the redemption rate target.

17 (2) If a recycling rate target was not met, the civil
18 penalty shall be equal to one cent for each beverage
19 container comprising the difference between the number of
20 beverage containers that were recycled and the total
21 number of beverage containers that, if recycled, would
22 have met the recycling rate target.

23 (e) If the Organization does not meet all redemption rate
24 targets under subsection (a) and recycling rate targets under
25 subsection (b) within 3 years after a product stewardship plan
26 was submitted to the Agency under subsection (c):

1 (1) The Agency shall assess a civil penalty against
2 the Organization once per calendar year:

3 (A) If redemption rate targets were not met, the
4 civil penalty shall be up to 10 cents for each beverage
5 container comprising the difference between the number
6 of beverage containers that were redeemed and the
7 total number of beverage containers that, if redeemed,
8 would have met the performance targets.

9 (B) If recycling rate targets were not met, the
10 civil penalty shall be up to 10 cents for each beverage
11 container comprising the difference between the number
12 of beverage containers that were recycled and the
13 total number of beverage containers that were recycle
14 and the total number of beverage containers that, if
15 recycled, would have met the performance targets.

16 (2) The Agency shall require the Organization to
17 submit a revised product stewardship plan within 365 days
18 after the effective date of this Act.

19 (f) If the Organization does not, within 5 years after a
20 product stewardship plan was submitted to the Agency under
21 subsection (c), meet all redemption rate targets required
22 under subsection (a) and recycling rate targets required under
23 subsection (b), then:

24 (1) the Organization shall detail on the
25 Organization's website why a new Executive Director of the
26 Organization is not necessary if, at the end of the 5-year

1 period, the same person has acted as Executive Director of
2 the Organization for more than 365 days prior to the
3 effective date of this Act;

4 (2) the Agency may require the Organization to remove
5 an Executive Director of the Organization that has served
6 in that position for more than 365 days prior to the
7 effective date of this Act; and

8 (3) the Agency shall assess against the organization a
9 civil penalty once per calendar year:

10 (A) If redemption rate targets were not met in the
11 previous calendar year, the civil penalty shall be up
12 to 15 cents for each beverage container comprising the
13 difference between the number of beverage containers
14 that were redeemed and the total number of beverage
15 containers that, if redeemed, would have met the
16 performance target.

17 (B) If recycling rate targets were not met in the
18 previous calendar year, the civil penalty shall be up
19 to 15 cents for each beverage container comprising the
20 difference between the number of beverage containers
21 that were recycled and the total number of beverage
22 containers that, if recycled, would have met the
23 performance targets.

24 (g) Notwithstanding subsections (d) through (f), the
25 penalty for each performance target required in subsection (d)
26 is not in addition to the penalties authorized in subsections

1 (e) and (f) as long as the penalty assessed against the
2 Organization in subsections (e) and (f) is greater than that
3 required in subsection (d).

4 (h) If the Organization does not meet all the redemption
5 rate targets required under subsection (a) and the recycling
6 rate targets under subsection (b) within 7 years after the
7 product stewardship plan was submitted to the Agency under
8 subsection (c), then the Agency may take over management of
9 the Organization from the Executive Director of the
10 Organization and charge the Organization members in accordance
11 with Section 50 until:

12 (1) all of the performance targets are met, after
13 which the members of the Organization shall take over
14 management of the Organization again and choose a new
15 Executive Director within 365 days after all of the
16 performance targets are met; or

17 (2) five years after the Agency has taken over, after
18 which, if all of the performance targets are not met in any
19 2 consecutive years, the members of the Organization shall
20 take over management of the Organization again and choose
21 a new Executive Director within 365 days of the effective
22 date of this Act.

23 (i) If the Agency exercises the option described in
24 subsection (h), then the requirements of subsections (c), (e),
25 and (f) shall not apply to the Organization until 3 years after
26 the new Executive Director is chosen.

1 Section 60. Reporting.

2 (a) On or before July 1 of each calendar year, beginning
3 July 1 of the first full calendar year after a beverage
4 container has a redemption refund value under this Act, the
5 Organization shall make publicly available on its website:

6 (1) the number of beverage containers sold in the
7 State by material type, as well as, for each quarter of the
8 year covered by the report and the quarters of each prior
9 year for at least the preceding 5 years, to the extent the
10 data is available under this Act, the proportion of
11 beverage containers sold in the State that are capable of
12 being recycled, refilled, or reused;

13 (2) for each quarter of the year covered by the report
14 and the quarters of each prior year for at least the
15 preceding 5 years, and to the extent data is available
16 under this Act, the percentage of the total amount of
17 beverage containers sold in the State that each beverage
18 container material type represents;

19 (3) the percentage of the total amount of fees charged
20 to members that each beverage container material type
21 represents for each quarter of the year covered by the
22 report and the quarters of each prior year for at least the
23 preceding 5 years, to the extent data is available;

24 (4) the number of beverage containers, by material
25 type, redeemed for each quarter of the year covered by the

1 report and the quarter of each prior year for at least the
2 preceding 5 years, to the extent data is available;

3 (5) the percent of beverage containers redeemed that
4 were recycled, by material type;

5 (6) the number of beverage containers redeemed at each
6 beverage container processing mechanism provided by the
7 Organization under this Act;

8 (7) the buyers by material type to whom the
9 Organization sold beverage container materials;

10 (8) the end-product each beverage container type
11 became or likely became;

12 (9) the percentage of the total amount of moneys
13 redeemed for each beverage container material type;

14 (10) each redemption location in the State;

15 (11) the means of redemption at each redemption
16 location in the State;

17 (12) the total expenses of the Organization;

18 (13) the total revenues of the Organization;

19 (14) the total reserves of the Organization;

20 (15) the cost to the Organization per beverage
21 container redeemed;

22 (16) the number of redemption locations that provide
23 services or an enhanced redemption experience for minority
24 or low-income consumers;

25 (17) aggregated demographic information, including, at
26 a minimum, the race, ethnicity, and gender identity of:

1 (A) employees working on-site at redemption
2 locations or at facilities the Organization
3 establishes to aggregate, sort, and process the
4 beverage containers collected at redemption locations;
5 and

6 (B) any Organization employees not described in
7 subparagraph (A);

8 (18) the number of consumer complaints per month, by
9 redemption location, during the previous calendar year and
10 each prior year for at least the preceding 5 years, to the
11 extent data is available;

12 (19) the total number of individual consumers per
13 month who filed complaints, by redemption location, during
14 the previous calendar year and each prior year for at
15 least the preceding 5 years, to the extent data is
16 available;

17 (20) a list of all members, their brands of beverage
18 containers, and a breakdown of each member's beverage
19 container packaging mix by beverage container type during
20 the previous calendar year and each prior year for at
21 least the preceding 5 years, to the extent data is
22 available;

23 (21) the buyers of the plastic film waste, if any,
24 generated from the standard bag sold by the Organization
25 to consumers for redemption and how buyers may recycle the
26 plastic film waste;

1 (22) the number of individuals and entities registered
2 to receive electronic deposits of redemption refunds under
3 this Act; and

4 (23) the name of each member of the Organization's
5 Board of Directors.

6 (b) The Organization may rely on reporting by members for
7 information used to comply with the reporting requirements of
8 this Act, but shall note in its annual report which of the
9 metrics described in subsection (a) are based on member
10 reporting.

11 (c) Once per calendar year, the Agency may require
12 verification of information disclosed during that calendar
13 year by the Organization under this Act. The verification
14 shall:

15 (1) occur only after being notified by the
16 Organization on or before August 1 of that calendar year
17 that the Agency is requiring independent third-party
18 verification;

19 (2) be performed by an independent third party;

20 (3) be limited in scope to information that:

21 (A) the Organization is required to report under
22 this Act;

23 (B) the Agency specifies for third-party
24 verification under this subsection; and

25 (C) appeared, or should have appeared, in the
26 Organization's annual report for that calendar year;

1 and

2 (4) be conducted on or before December 31 of the
3 calendar year in which it is required by the Agency.

4 The Organization must pay the full cost of the
5 third-party verification.

6 (d) The Organization must establish safeguards to ensure
7 members do not have access to information regarding:

8 (1) the price paid by any individual buyer for
9 beverage container material sold by the Organization under
10 this Act; and

11 (2) the amount of each beverage container material
12 sold by the Organization to each individual buyer.

13 (e) On or before the last day of February of each calendar
14 year, each member of the Organization must report to the
15 Organization all data necessary to satisfy the disclosure
16 requirements of this Section. The Organization shall ensure
17 that data provided by members under this subsection is
18 confidential.

19 Section 65. Operations Advisory Committee; Equity and
20 Access Advisory Committee.

21 (a) The Organization shall establish an Operations
22 Advisory Committee that represents a range of interested and
23 engaged persons and entities, including, at a minimum, one of
24 each of the following:

25 (1) a beverage container manufacturer or a beverage

1 container manufacturer's trade association that rotates
2 between the leading beverage container types;

3 (2) a beverage producer or a beverage producer's trade
4 association;

5 (3) a unit of local government or group of units of
6 local government;

7 (4) the State;

8 (5) an environmental nonprofit organization;

9 (6) an entity that buys beverage containers from, or
10 recycles them for, the Organization; and

11 (7) a retailer or a retailer's trade association.

12 (b) The Operations Advisory Committee may:

13 (1) provide written or oral comments directly to the
14 Board of Directors and the Executive Director no more than
15 4 times a year; and

16 (2) every even-numbered calendar year, submit to the
17 Organization a written report that the Organization must
18 publish on its website upon request by the Operations
19 Advisory Committee and that contains:

20 (A) the Operations Advisory Committee's feedback
21 on the operation of the Organization; and

22 (B) the Operations Advisory Committee's feedback
23 on the redemption refund system established under this
24 Act.

25 (c) The Organization shall establish an Equity and Access
26 Advisory Committee that represents persons who can help ensure

1 the Organization's operations appropriately consider the
2 diverse needs and cultures of people who redeem beverage
3 containers, including, at a minimum, one of each of the
4 following:

5 (1) an advocate for homeless persons;

6 (2) a governmental social services office;

7 (3) a nongovernmental organization that advocates on
8 behalf of one or more cultural groups;

9 (4) a nongovernmental organization with a focus on
10 environmental justice; and

11 (5) a specialist in diversity and inclusion.

12 (d) The Equity and Access Advisory Committee may:

13 (1) provide written or oral comments directly to the
14 Board of Directors and the Executive Director no more than
15 4 times a year; and

16 (2) every even-numbered calendar year, submit to the
17 Organization a written report that the Organization must
18 publish on its website upon request by the Equity and
19 Access Advisory Committee and that contains:

20 (A) the Equity and Access Advisory Committee's
21 feedback on whether the Organization is appropriately
22 considering the diverse needs and cultures of people
23 who redeem beverage containers under this Act; and

24 (B) the Equity and Access Advisory Committee's
25 suggestions on how the Organization can improve in
26 terms of equity and access.

1 Section 70. Additional drop-off facility and material
2 recovery facility duties.

3 (a) The operator of a material recovery facility and
4 drop-off facility shall use an industry-standard scale to
5 measure the weight of all beverage containers that enter the
6 facility.

7 (b) The operator of a material recovery facility and
8 drop-off facility shall track the weight by U.S. ton of each
9 beverage container type redeemable under this Act that enters
10 the facility and the quality of each bale or ton of redeemable
11 material.

12 (c) The Organization shall buy bales of beverage
13 containers redeemable under this Act from the operator of a
14 material recovery facility and drop-off facility for beverage
15 containers that were made with individual containers received
16 from household collection of recyclables and that meet the
17 quality threshold described in subsection (d).

18 (d) The Organization shall pay the operator a material
19 recovery facility and drop-off facility half of the redemption
20 value under this Act for each beverage container if:

21 (1) the plastic PET bottle bale produced meets the
22 Association of Plastic Recyclers Grade A model
23 specification for plastic PET bottles;

24 (2) the aluminum beverage can bale produced meets one
25 of the UBC scrap specifications in the latest scrap

1 specifications from the Institute of Scrap Recycling
2 Industries and has no more than 4% moisture and no more
3 than 8% nonused beverage can material after the moisture
4 is deducted;

5 (3) the glass bottle material produced has a glass
6 purity of at least 95% per the glass purity measurement
7 instructions from the Glass Recycling Coalition;

8 (4) the plastic HDPE natural bottle bale produced
9 meets the HDPE natural bottle model bale specification
10 from the Association of Plastic Recyclers;

11 (5) the plastic HDPE colored bottle bale produced
12 meets the HDPE colored bottle model bale specification
13 from the Association of Plastic Recyclers;

14 (6) the aseptic packaging and gable-top carton bale
15 meets the latest aseptic packaging and gable-top carton
16 specification from the Institute of Scrap Recycling
17 Industries; or

18 (7) the quality of the other redeemable beverage
19 container types not specified in this subsection meets
20 thresholds set by the Agency, in consultation with the
21 Organization and operators of a material recovery facility
22 and drop-off facility.

23 (e) All thresholds in this Section tied to externally
24 referenced documents such as the model bale specifications
25 from the Association of Plastic Recyclers and the Institute of
26 Scrap Recycling Industries shall reflect the most current

1 version of the externally referenced documents including any
2 updates made after the effective date of this Act.

3 (f) The Agency, in consultation with the Organization and
4 operators of a material recovery facility and drop-off
5 facility, may set thresholds for material quality that require
6 the Organization to pay some amount other than 50% of the
7 redemption amount under this Act.

8 (g) The Organization shall buy bales of beverage
9 containers redeemable under this Act from an operator of a
10 material recovery facility and drop-off facility for beverage
11 containers that were made with individual beverage containers
12 received from a household collection of recyclables and that
13 meet quality requirements established under subsection (f).

14 (h) The Organization may buy bales of beverage containers
15 redeemable under this Act from an operator of a material
16 recovery facility and drop-off facility for beverage
17 containers that were made with individual beverage containers
18 received from a household collection of recyclables and do not
19 meet quality requirements established under subsection (d) or
20 (f).

21 (i) The Organization shall become the owner of the
22 beverage containers once the appropriate portion of the
23 redemption value per beverage container is paid to the
24 operator of the material recovery facility and drop-off
25 facility and as such, is free to sell the material to the buyer
26 of its choosing for revenue after first allowing a beverage

1 producer or a company in its beverage container supply chain
2 to purchase the material at a fair market rate.

3 (j) When the Organization pays the operators of the
4 material recovery facility and drop-off facility the
5 appropriate portion of the redemption value per beverage
6 container, it may do so with an assumption that the beverage
7 containers sold to it have a breakdown of containers that are
8 24 ounces or less and more than 24 ounces equivalent to what
9 percent of that container type that consumers redeemed in the
10 last calendar year were 24 ounces or less and more than 24
11 ounces.

12 (k) An operator of a material recovery facility and
13 drop-off facility shall permit the Organization to tour its
14 facility without notice up to 4 times each calendar year.

15 (l) An operator of a material recovery facility and
16 drop-off facility shall pay for up to one independent audit
17 per calendar year on the quality of its material upon request
18 by the Organization and shall allow the Organization to
19 conduct 2 additional audits per calendar year on the quality
20 of its material upon request by the Organization and at the
21 Organization's expense.

22 Section 75. Reuse study.

23 (a) The Agency shall conduct a study on the infrastructure
24 that is needed in the State to support a robust system for
25 refillable beverage containers and on any changes that would

1 be required in order to ensure effective integration of
2 refillable beverage containers in the deposit return system.

3 (b) The study required in subsection (a) shall be
4 published on the Agency's website and filed with the General
5 Assembly no later than 2 years after the effective date of this
6 Act.

7 (c) The cost of the study shall be included in a
8 reimbursement request to the Organization under Section 85.

9 Section 80. Beverage container grant program.

10 (a) The Organization shall transfer 5% of the revenue from
11 unclaimed redemption refunds in the previous calendar year to
12 the Agency by July 1 of each calendar year starting the first
13 full calendar year after one or more beverage container types
14 is sold with a redemption refund value under this Act to fund a
15 beverage container grant program.

16 (b) The Agency with the money available in the beverage
17 container grant program shall annually fund with a competitive
18 grant process education, infrastructure, or litter clean-up
19 activities that increase the reuse or recycling of beverage
20 containers or reduce the litter from beverage containers in
21 the State.

22 (c) The Agency shall not give grants such that any one
23 beverage container type receives more than 25% of the benefits
24 from the activities funded.

25 (d) The following entities are eligible for a grant under

1 the beverage container grant program:

2 (1) a school or an institution of higher education;

3 (2) a nonprofit organization;

4 (3) a county or municipal corporation;

5 (4) a federally recognized tribe;

6 (5) a for-profit organization; and

7 (6) a public-private partnership.

8 (e) The cost to administer the beverage container grant
9 program shall be included in a reimbursement request to the
10 Organization under Section 85.

11 Section 85. Reimbursement to the Agency.

12 (a) The Organization shall reimburse the Agency for costs
13 incurred by the Agency under this Act, not to exceed \$500,000
14 per year, in accordance with paragraph (4) of subsection (f)
15 of Section 50.

16 (b) The Organization shall reimburse the Agency for
17 enforcement costs incurred by the Agency under this Act, in
18 accordance with paragraph (5) of subsection (f) of Section 50,
19 that may take the total amount reimbursed by the Organization
20 to the Agency beyond \$500,000 per year as long as the funded
21 enforcement activities identified violations of this Act and
22 resulted in penalties under this Act.

23 Section 90. Enforcement.

24 (a) In addition to any other applicable civil penalties or

1 criminal fines, the Agency may impose a civil penalty for each
2 day that a violation of this Act, as may be defined by
3 subsequent rulemaking, occurs that is:

4 (1) \$100 for the first violation of any requirement
5 under this Act; and

6 (2) not more than \$1,000 for each subsequent violation
7 of that requirement.

8 (b) A person who takes any of the following actions with
9 the intent to knowingly defraud is subject to subsection (c),
10 along with any other federal, State, or local enforcement
11 action arising from the action:

12 (1) redeeming out-of-state beverage containers,
13 rejected beverage containers, line defects, or beverage
14 containers that have already been redeemed;

15 (2) seeking a redemption refund under this Act by
16 returning an already-redeemed beverage container at a
17 redemption location;

18 (3) bringing out-of-state beverage containers,
19 rejected beverage containers, or line defects to the State
20 marketplace for redemption; or

21 (4) selling beverage containers not distributed or
22 imported into the State by a member of the Organization.

23 (c) A violation of subsection (b) resulting in financial
24 gain by the violator shall subject the violator to the
25 following:

26 (1) If the amount of moneys gained is equal to or less

1 than \$950, the violator is subject to:

2 (A) imprisonment in a county jail for not more
3 than 6 months;

4 (B) a criminal fine not exceeding \$1,000; or

5 (C) both the fine and imprisonment described in
6 subparagraphs (A) and (B).

7 (2) If the amount of moneys gained is more than \$950,
8 the violator is subject to:

9 (A) imprisonment in a county jail for not more
10 than one year;

11 (B) a criminal fine not exceeding \$10,000; or

12 (C) both the fine and imprisonment described in
13 subparagraphs (A) and (B).

14 (d) The Agency may bring a civil action to enjoin the
15 distribution, importation, or sale in the State of a beverage
16 container in violation of this Act.

17 (e) The Agency may assess a penalty of up to \$30,000 in a
18 calendar year against the Organization for each redemption
19 location at which the Organization receives more than an
20 average of 100 individuals' complaints per month, according to
21 the public reporting required under Section 60.

22 (f) After notification from the Agency of noncompliance
23 with this Act and a 60-day cure period, the Agency may
24 administratively impose a civil penalty once per year to any
25 distributor or importer who fails to participate as an
26 Organization member as required under Section 10. The civil

1 penalty shall be the greater of \$10,000 or 10 cents per
2 beverage container sold by the distributor or importer in the
3 State while not a member. Any distributor or importer who
4 incurs a penalty under this Section may appeal the penalty to
5 the Agency.

6 (g) All penalties the State recovers under this Act:

7 (1) up to the first \$5,000,000 per calendar year shall
8 only be used to administer this Act;

9 (2) beyond the first \$5,000,000 per calendar year
10 shall only put toward the beverage container grant program
11 created in Section 80.

12 Section 95. Administration. The Agency shall administer
13 and enforce the provisions of this Act not otherwise allocated
14 to another person or entity under this Act."