



Sen. Laura M. Murphy

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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) 100% fluid cow milk;

13 (3) infant formula; or

14 (4) a meal replacement liquid.

15 "Beverage container" means any prepackaged container for
16 beverages.

1 "Beverage container processing mechanism" means any manual
2 or technological means by which empty beverage containers are
3 properly identified and processed.

4 "Beverage producer" means a person who bottles, cans, or
5 otherwise fills beverage containers to sell to distributors,
6 importers, or retailers.

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

9 "Conventional beverage container" means a beverage
10 container:

11 (1) made of 90% or more glass, polyethylene
12 terephthalate (PET), high-density polyethylene (HDPE)
13 plastic, or aluminum;

14 (2) designed to be used once before being recycled or
15 designed to be reused for multiple cycles before being
16 recycled; and

17 (3) with a volume of no more than one gallon.

18 "Difficult-to-recycle beverage container" means a beverage
19 container that is not included in the definition of
20 conventional beverage container, such as cartons and pouches.

21 "Distributor" means a person, including, but not limited
22 to, a beverage producer, who engages in the sale of beverage
23 containers to a retailer in the State.

24 "Drop-off facility" means a specific area where
25 individuals may bring household recyclable materials to be
26 sorted into material-specific receptacles and is (i) located

1 in the State or (ii) located outside the State and receives
2 more than half of the material it collects from State
3 residents.

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

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

9 "Material recovery facility" means a facility that
10 receives, separates, and sells or otherwise distributes
11 postconsumer materials for recycling and is (i) located in the
12 State or (ii) located outside the State and receives more than
13 half of the material it collects from State residents.

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

16 "Nonprofit organization" means an organization established
17 and operated as a nonprofit organization under Section
18 501(c)(3) of the Internal Revenue Code of 1986.

19 "Organization" means the Distributor and Importer
20 Responsibility Organization established under Section 50.

21 "Recycle" means the series of activities by which a
22 beverage container is:

23 (1) collected and processed;

24 (2) converted into raw material; and

25 (3) used in the production of a new product, including
26 the original product.

1 "Recycle" does not include:

2 (1) the use of material to produce a fuel or fuel
3 substitute;

4 (2) the use of material in a chemical conversion
5 process, such as solvolysis or depolymerization;

6 (3) the use of material in an incineration process,
7 such as a waste-to-energy process; or

8 (4) the use of material within the footprint of a
9 landfill.

10 "Recycling rate" means the percentage of eligible beverage
11 containers recycled out of all eligible beverage containers
12 sold in the State.

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

15 "Store" means an individual location where a retailer
16 sells beverage containers.

17 Section 10. Beverage container recycling redemption refund
18 program.

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

22 (1) 5 cents for a beverage container of 24 fluid
23 ounces or less; and

24 (2) 10 cents for a beverage container of more than 24
25 fluid ounces.

1 (b) Two years after conventional beverage containers begin
2 to be sold or offered for sale in the State with the refund
3 value in paragraph (a), every conventional beverage container
4 sold or offered for sale in the State shall have the following
5 refund value:

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

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

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

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

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

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

24 (e) Any moneys designated for redemption refunds but that
25 are not claimed by consumers shall be used by the Organization
26 only to support its administrative costs and to perform the

1 activities required under this Act.

2 Section 15. Material flows.

3 (a) When a consumer redeems a beverage container in
4 accordance with this Act, the Organization becomes the owner
5 of that beverage container and may:

6 (1) sell it to a buyer of its choosing after first
7 allowing a beverage producer or a company of its beverage
8 container supply chain to purchase the material at a fair
9 market rate; or

10 (2) on its own or via a third party, process the
11 beverage container for refill if it is reusable or have an
12 agreement with one or more third parties that manage
13 reusable beverage containers in the recycling refund
14 system.

15 (b) If a consumer chooses to put a beverage container in
16 its curbside recycling receptacle or a drop-off receptacle,
17 the operator of the material recovery facility that sorts the
18 beverage container or the operator of the drop-off facility
19 that receives the beverage container shall:

20 (1) offer to sell the material to the Organization,
21 which then may be required to pay a certain percent of the
22 redemption value per beverage container;

23 (2) permit the Organization to pick up the material
24 within a reasonable amount of time at the Organization's
25 expense; and

1 (3) report to the Organization the weight in tons and
2 the quality of the beverage containers it is transferring
3 to the Organization.

4 Section 20. Means of redemption.

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

9 (1) bulk bag drop-off for all redeemable beverage
10 containers; and

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

13 (A) redeem all redeemable beverage containers; and

14 (B) immediately receive the refund value.

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

20 (c) At each of its stores having a floor space that is
21 greater than or equal to 25,000 square feet, excluding only
22 outdoor space, the retailer shall make at least 500 square
23 feet and at most 1,000 square feet of space available for the
24 Organization to meet the requirements of subsection (a) and
25 the options provided in subsection (b), but the retailer shall

1 decide where in each store the Organization will, on space the
2 retailer controls inside or outside the store, install,
3 operate, and maintain beverage container processing
4 mechanisms.

5 (d) At each of its stores having a floor space that is
6 greater than 10,000 square feet but less than or equal to
7 25,000 square feet, excluding only outdoor space, the retailer
8 shall, upon the Organization's request, allow the Organization
9 to install, operate, and maintain beverage container
10 processing mechanisms on at least 250 square feet and at most
11 500 square feet of the retailer's choosing that it controls
12 inside or outside the store.

13 (e) At each of its stores having a floor space that is
14 greater than 1,000 square feet but less than or equal to 10,000
15 square feet, excluding only outdoor space, the retailer shall,
16 upon the Organization's request, allow the Organization to
17 install, operate, and maintain beverage container processing
18 mechanisms on at least 100 square feet and at most 250 square
19 feet of the retailer's choosing that it controls inside or
20 outside the store.

21 (f) A retailer who operates a store having a floor space
22 that is less than or equal to 1,000 square feet, excluding
23 outdoor space, has no duty under this Act to host a beverage
24 container processing mechanism.

25 (g) Notwithstanding subsections (a) through (f):

26 (1) the retailer may make available more than the

1 required space for beverage container processing
2 mechanisms;

3 (2) the Organization may install, operate, and
4 maintain more beverage container processing mechanisms on
5 the additional space made available under paragraph (1);
6 and

7 (3) a retailer at any of its stores with more than
8 1,000 square feet, upon request by the Organization
9 regarding a particular store of the retailer, must offer
10 for sale at that particular store of the retailer the
11 standard bags that the Organization deems necessary to
12 operate a bag-drop program.

13 (h) A retailer is exempt from the requirements of
14 subsections (a) through (g) at stores the retailer operates
15 that:

16 (1) primarily sell beverage containers to consumers
17 through stand-alone vending machines, stand-alone
18 refrigerator cases, or similar means; or

19 (2) primarily prepare food for sale.

20 (i) The Agency, in consultation with the Organization and
21 retailers, shall develop a formula to determine how to fairly
22 compensate annually the retailer for use of the space at each
23 store of the retailer that the retailer permits the
24 Organization to install, operate, and maintain beverage
25 container processing mechanisms.

26 (j) The Organization shall, at the request of a retailer

1 that owns a store at which it is operating beverage container
2 processing mechanisms, provide the consumer the option to
3 redeem its refund value for a credit at the retailer in
4 addition to any incentives the retailer chooses to provide the
5 consumer.

6 (k) The Agency, in consultation with the Organization,
7 shall develop convenience standards that the Organization
8 shall follow to ensure that:

9 (1) one or more beverage container processing
10 mechanisms that allow for convenient redemption of
11 redeemable beverage containers is located within a
12 reasonable distance of each resident of the State with the
13 recognition that what is reasonable may depend on a
14 variety of factors, including population density,
15 proximity to public transit, and the number of retailers
16 in the area; and

17 (2) there are enough beverage container processing
18 mechanisms at each location the Organization operates
19 redemption options to enable convenient redemption of
20 redeemable beverage containers.

21 (l) The Organization may enter into an agreement to
22 install, operate, and maintain additional beverage container
23 processing mechanisms at any location that is not considered a
24 store under this Act in order to provide additional convenient
25 redemption options and to meet the performance targets
26 required in Section 55.

1 (m) Any facility that the Organization sets up in the
2 State to aggregate, sort, and process the material collected
3 at various redemption locations under this Act may:

4 (1) accept, pursuant to a reasonable process the
5 Organization may establish, beverage containers that are
6 eligible for redemption and are submitted in the
7 Organization's standard redemption bag, as designated by
8 the Organization; and

9 (2) provide a nonprofit organization with a premium to
10 be determined and paid for by the Organization.

11 (n) The public shall have access to redeem beverage
12 containers in accordance with this Section for not less than
13 10 hours each day:

14 (1) except on federal, State, or local holidays;

15 (2) except at a facility set up by the Organization to
16 aggregate, sort, and process redeemed beverage containers;
17 or

18 (3) unless restricted by the open hours of the store
19 in which the beverage container processing mechanism is
20 being operated.

21 (o) The Organization must provide information to the
22 public detailing how consumers can alert the Organization to
23 problems at beverage container processing mechanisms operated
24 by the Organization. The information shall be provided via:

25 (1) the Organization's website;

26 (2) clearly visible signage at least 5 feet by 5 feet

1 at any bag-drop redemption locations the Organization
2 operates; and

3 (3) clearly visible signage at least 2 feet by 2 feet
4 placed on or within 5 feet of beverage container
5 processing mechanisms that are not bag-drop redemption
6 locations that the Organization operates.

7 (p) The Organization may establish reasonable terms and
8 conditions for the use of a beverage container processing
9 mechanism.

10 Section 25. Labeling requirements.

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

15 (b) The Organization may require that any beverage
16 producer, distributor, or importer include, on any space that
17 is on the top or side of each beverage container sold in the
18 State, the clearly visible abbreviation of the State and
19 applicable redemption refund value under Section 10.

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

23 Section 30. Timing.

24 (a) By no later than 18 months after the effective date of

1 this Act, conventional beverage containers that are sold in
2 the State must be redeemable for the applicable redemption
3 refund value under Section 10.

4 (b) The Agency may permit:

5 (1) up to an additional 365 days to meet the deadline
6 specified in subsection (a); or

7 (2) any delays needed to align the implementation
8 timing of the recycling refund system in this Act with any
9 broader extended producer responsibility system that has
10 become law in the State for packaging or printed paper
11 more generally.

12 (c) The Organization may choose at any time to make one or
13 more difficult-to-recycle beverage containers eligible for the
14 same refund value as conventional beverage containers and,
15 once eligible, the Organization must still comply with all the
16 requirements of this Act, including performance targets and
17 convenience standards.

18 (d) If the market share of a difficult-to-recycle beverage
19 container in any 2 full calendar years in a row grows to 5%
20 more than what it was over the average of 2 full calendar years
21 before the effective date of this Act, then the Organization
22 must:

23 (1) make that difficult-to-recycle beverage container
24 eligible for the same refund value as conventional
25 beverage containers and still comply with all the
26 requirements of this Act, including performance targets

1 and convenience standards; or

2 (2) charge its members for each difficult-to-recycle
3 beverage container sold in the State the amount of the
4 refund value for an equivalent in size conventional
5 beverage container and use the revenue from this charge
6 only to support the grants permitted under this Act to
7 improve education, outreach, or infrastructure to enhance
8 the recycling or reuse of beverage containers.

9 Section 35. Prohibitions.

10 (a) No person shall distribute, import, or sell beverage
11 containers in or into the State except in compliance with this
12 Act.

13 (b) No person shall redeem under this Act a beverage
14 container that was not sold in the State to a consumer in the
15 State.

16 Section 40. Agency duties. On or before October 1 of each
17 year after the effective date of this Act, the Agency shall
18 identify and communicate to the Organization the Agency's
19 total estimated annual cost to implement, administer, and
20 enforce this Act, including the cost of adopting rules under
21 this Act, in the next calendar year, after:

22 (1) subtracting the moneys that the Agency collected
23 from penalties assessed under this Act, which shall be
24 applied toward fulfilling the Agency's responsibilities

1 under this Act in the next calendar year; and

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

5 Section 45. Drop-off facilities and material recovery
6 facilities.

7 (a) Each drop-off facility or material recovery facility
8 may submit the following information to the Organization:

9 (1) the number of tons of each beverage container type
10 eligible for a refund that it sold or transferred out of
11 its facility in the last full calendar year before a
12 beverage container was sold with an applicable refund
13 value; and

14 (2) an estimate of the tons under paragraph (1) that
15 were received from sources in the State.

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

19 (c) By July 1 of each calendar year, starting the first
20 full year and ending the seventh full year after conventional
21 beverage containers are sold with the applicable refund value,
22 the Organization must make an annual payment directly to each
23 material recovery facility and drop-off facility operator that
24 submits data according to subsection (a) that:

25 (1) equals 5% of the scrap value of the material the

1 Organization sold in the preceding calendar year; and

2 (2) is based on the data submitted by the material
3 recovery facility and drop-off facility operators under
4 subsection (a).

5 (d) The operators of material recovery facilities or
6 drop-off facilities shall use an industry-standard scale to
7 measure the weight of all beverage containers that enter the
8 facility.

9 (e) The Organization shall buy beverage containers
10 redeemable under this Act offered to the Organization by the
11 operator of a material recovery facility or drop-off facility
12 of beverage containers received from household collection of
13 recyclables and that meet the quality threshold described in
14 this Section.

15 (f) For the first 10 years after eligible beverage
16 containers are sold with a refund value, the Organization
17 shall pay material recovery facilities and drop-off facilities
18 80% of the 24 fluid ounces or less refund value for each
19 beverage container that the material recovery facility or
20 drop-off facility offers to the Organization:

21 (1) as a bale or loose; and

22 (2) that meets the relevant and most recently
23 published Institute of Scrap Recycling Industries
24 specifications.

25 (g) Following the first 10 years after eligible beverage
26 containers are sold with a refund value, the Organization

1 shall pay material recovery facilities and drop-off facilities
2 for each eligible beverage container it is offered as a bale or
3 loose with the following structure based on each material
4 type:

5 (1) for aluminum beverage cans, operators of material
6 recovery facilities and drop-off facilities receive 80% of
7 the 24 fluid ounces or less refund value if they meet the
8 relevant and most recently published Institute of Scrap
9 Recycling Industries specifications;

10 (2) for glass bottles, operators of material recovery
11 facilities and drop-off facilities receive:

12 (A) 80% of the 24 fluid ounces or less refund value
13 if the material recovery facility or drop-off facility
14 is third-party certified as generating less than 5%
15 nonglass residuals; and

16 (B) 50% of the 24 fluid ounces or less refund value
17 if the material recovery facility or drop-off facility
18 is generating 15% or less nonglass residuals;

19 (3) for polyethylene terephthalate (PET) bottles,
20 operators of material recovery facilities and drop-off
21 facilities receive:

22 (A) 80% of the 24 fluid ounces or less refund value
23 if they are third-party certified as meeting the
24 Association of Plastic Recyclers Grade B model
25 specification for PET bottles bales; and

26 (B) 50% of the 24 fluid ounces or less refund value

1 if they do not meet the Grade B specification; and

2 (4) for high-density polyethylene (HDPE) bottles,
3 operators of material recovery facilities and drop-off
4 facilities receive 80% of the 24 fluid ounces or less
5 refund value if they are third-party certified as meeting
6 the applicable, natural or colored, Association of Plastic
7 Recyclers HDPE model bale specification.

8 (h) The Agency, in consultation with the Organization and
9 material recovery facilities and drop-off facilities and
10 associations that represent material recovery facilities and
11 drop-off facilities, shall develop and publish a methodology
12 for how to determine the average amount of redeemable beverage
13 containers per ton of material offered to the Organization.

14 (i) When the Organization pays the operators of the
15 material recovery facility and drop-off facility the
16 appropriate portion of the redemption value per beverage
17 container, it may do so with an assumption that the beverage
18 containers sold to it have a breakdown of containers that are
19 24 ounces or less and more than 24 ounces equivalent to what
20 percentage of that container type that consumers redeemed in
21 the last calendar year were 24 ounces or less and more than 24
22 ounces.

23 (j) The Organization shall become the owner of the
24 beverage containers for which it pays the amount under
25 paragraph (g) and may sell the material to the buyer of its
26 choosing for revenue after first allowing a beverage producer

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

3 (k) An operator of a material recovery facility or
4 drop-off facility shall pay for up to one independent audit
5 per calendar year on the quality and quantity of its material
6 upon request by the Organization and shall allow the
7 Organization to conduct 2 additional audits per calendar year
8 on the quality and quantity of its material upon request by the
9 Organization and at the Organization's expense.

10 (l) All thresholds in this Section tied to externally
11 referenced documents, such as the model bale specifications
12 from the Association of Plastic Recyclers and the Institute of
13 Scrap Recycling Industries, shall reflect the most current
14 version of the externally referenced documents, including any
15 updates made after the effective date of this Act.

16 Section 50. Distributor and Importer Responsibility
17 Organization.

18 (a) All distributors and importers shall join as members
19 of a Distributor and Importer Responsibility Organization. A
20 distributor or importer operating in violation of this
21 requirement is subject to penalties described in Section 85.
22 The Organization must be established and operated as a
23 nonprofit organization or a cooperative corporation.

24 (b) Only one Organization may operate in the State. The
25 Organization may decide to operate jointly with similar

1 organizations. The Organization shall elect a governing Board
2 of Directors of the Organization composed of Organization
3 members. The Organization shall be led by an Executive
4 Director elected by the Board of Directors of the
5 Organization.

6 (c) The Organization shall charge a membership fee that
7 funds the Organization's costs of operation to meet the
8 requirements of this Act minus the unclaimed redemption
9 refunds, which must stay with the Organization to fund its
10 operations to meet the requirements of this Act, or any other
11 revenue sources that the Organization may develop. The
12 Organization shall charge membership fees that vary by
13 material type and that reflect:

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

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

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

23 (e) The Organization shall publish publicly on its
24 website:

25 (1) within 18 months after the effective date of this
26 Act, an initial plan for how the Organization will meet

1 its requirements under this Act over the next 5 years,
2 including the performance targets specified in Section 55;
3 and

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

9 (f) The Organization shall pay:

10 (1) for any beverage container processing mechanism or
11 self-service kiosk that the Organization installs,
12 maintains, and operates at any location to meet or exceed:

13 (A) the performance targets under Section 55; or

14 (B) the convenience standards under subsection (k)

15 of Section 20;

16 (2) for any facilities in the State necessary to
17 efficiently aggregate, sort, and process the beverage
18 containers collected at redemption locations under this
19 Act;

20 (3) to upkeep a list and map on its website of all
21 redemption locations and the redemption options available
22 at each redemption location;

23 (4) by December 31 of each year, an annual installment
24 to the Agency according to the formula under Section 40,
25 but not to exceed \$500,000 per year; the installment shall
26 fund the Agency's anticipated costs in the following year

1 to implement, administer, and enforce this Act, including
2 adopting rules under this Act;

3 (5) by December 31 of each year, reimbursement for
4 enforcement costs that may result in a total reimbursement
5 by the Organization to the Agency more than \$500,000 per
6 year as long as the funded enforcement activities
7 identified violations of this Act and resulted in
8 penalties under this Act;

9 (6) the cost of the standard bags described under
10 subsection (g) of Section 20; and

11 (7) the material recovery facility and drop-off
12 facility payments under Section 45.

13 (g) If the standard bag the Organization sells to
14 consumers under subsection (g) of Section 20 is made of
15 plastic film, the Organization shall:

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

18 (2) demonstrate to the Agency that the plastic film
19 waste from the standard bags will be recycled in the best
20 commercially available manner.

21 (h) The Organization is not required to pay a redemption
22 refund under this Act for:

23 (1) any beverage container that visibly contains or is
24 visibly contaminated by a substance other than water,
25 residue of the beverage contained within the beverage
26 container as sold by a retailer to a consumer, or dust;

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

4 (3) any beverage container that the Organization has
5 reasonable grounds to believe was procured in another
6 state; or

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

11 (i) The Organization may:

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

14 (A) collecting litter that includes beverage
15 containers; and

16 (B) improving education, outreach, or
17 infrastructure to enhance the recycling or reuse of
18 beverage containers;

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

24 (3) use moneys generated under this Act to pay members
25 or support the management and activities of an advisory
26 committee established under Section 65.

1 Section 55. Targets.

2 (a) The Organization shall meet the following redemption
3 targets:

4 (1) beginning during the second full calendar year
5 after eligible beverage containers are sold in the State
6 with the applicable redemption refund value under Section
7 10, the annual redemption rate from consumers to a
8 beverage container processing mechanism for all redeemable
9 beverage containers is at least 70%;

10 (2) beginning with the fourth full calendar year after
11 all beverage containers are sold in the State with the
12 applicable redemption refund value under Section 10, the
13 annual redemption rate from consumers to a beverage
14 container processing mechanism for all redeemable beverage
15 containers is at least 75%; and

16 (3) beginning during the sixth full calendar year
17 after all beverage containers are sold in the State with
18 the applicable redemption refund value under Section 10,
19 the annual redemption rate from consumers to a beverage
20 container processing mechanism for all redeemable beverage
21 containers is at least 85%.

22 (b) The Organization shall meet the following recycling
23 rate targets that can be met through material consumers redeem
24 through beverage container processing mechanisms or material
25 the Organization receives from drop-off facilities or material

1 recovery facilities:

2 (1) beginning with the second full calendar year after
3 eligible beverage containers are sold in the State with
4 the applicable redemption refund value under Section 10,
5 the annual recycling rate for all redeemable beverage
6 containers is at least 70%;

7 (2) beginning with the fourth full calendar year after
8 eligible beverage containers are sold in the State with
9 the applicable redemption refund value under Section 10,
10 the annual recycling rate for all redeemable beverage
11 containers is at least 75%; and

12 (3) beginning with the sixth full calendar year after
13 all eligible beverage containers are sold in the State
14 with the applicable redemption refund value under Section
15 10, the annual recycling rate for all redeemable beverage
16 containers is at least 85%.

17 (c) At any point that a difficult-to-recycle beverage
18 container is added to the system, the Agency may establish
19 recycling rate targets specific to the added beverage
20 container or beverage containers, and the added beverage
21 container or beverage containers may then not be considered in
22 satisfying the targets in subsection (b).

23 (d) If the Organization does not meet a performance rate
24 target required under subsections (a) through (c), it must
25 submit to the Agency a product stewardship plan no more than
26 365 days after the data required under Section 60 has most

1 recently been published. The product stewardship plan shall
2 detail the reason that the performance target was not met and
3 any action the Organization will take to meet the performance
4 target.

5 (e) If the Organization does not meet a performance rate
6 target under subsections (a) through (c) in any calendar year,
7 the Agency shall assess a civil penalty against the
8 Organization for each such violation that is equal to 5 cents
9 for each beverage container comprising the difference between
10 the number of beverage containers that were redeemed or
11 recycled and the total number of beverage containers that, if
12 redeemed or recycled, would have met the applicable
13 performance rate target.

14 (f) If the Organization does not meet all redemption and
15 recycling rate targets under subsections (a) through (c)
16 within 3 years after a product stewardship plan was submitted
17 to the Agency under subsection (d), the Agency shall:

18 (1) assess a civil penalty against the Organization
19 once per calendar year that shall be up to 10 cents for
20 each beverage container comprising the difference between
21 the number of beverage containers that were redeemed and
22 the total number of beverage containers that, if redeemed,
23 would have met the performance targets; and

24 (2) require the Organization to submit a revised
25 product stewardship plan within 365 days after the
26 effective date of this Act to the Agency for approval.

1 (g) If the Organization does not, within 5 years after a
2 product stewardship plan was submitted to the Agency under
3 subsection (c), meet all recycling and redemption rate targets
4 required under subsections (a) through (c), then:

5 (1) the Organization shall detail on the
6 Organization's website why a new Executive Director of the
7 Organization is not necessary if, at the end of the 5-year
8 period, the same person has acted as Executive Director of
9 the Organization for more than 365 days prior to the end of
10 the relevant 5-year period;

11 (2) the Agency may require certain changes to the
12 product stewardship plan; and

13 (3) the Agency shall assess against the Organization a
14 civil penalty once per calendar year up to 15 cents for
15 each beverage container comprising the difference between
16 the number of beverage containers that were redeemed and
17 the total number of beverage containers that, if redeemed,
18 would have met the performance target.

19 (h) Notwithstanding subsections (e) through (g):

20 (1) the penalty for each performance target required
21 in subsection (e) is not in addition to the penalties
22 authorized in subsections (f) and (g);

23 (2) the Agency may, beyond the amounts required in
24 subsections (f) and (g), for the violations specified in
25 subsections (f) and (g) assess an additional annual
26 penalty of up to \$50,000,000 if the Organization does not

1 in a particular year eliminate at least 25% of the gap in
2 the previous year from achieving any performance rate
3 target it failed to achieve; and

4 (3) the Agency shall retroactively assess penalties
5 against the Organization if the verification in Section 60
6 finds that the Organization performed worse than initially
7 stated in its public disclosures, and these retroactive
8 penalties shall not result in the Organization paying in
9 total more than it would have paid in penalties with the
10 verified performance levels.

11 Section 60. Reporting.

12 (a) On or before July 1 of each calendar year, beginning
13 July 1 of the first full calendar year after conventional
14 beverage containers have a redemption refund value under this
15 Act, the Organization shall make publicly available on its
16 website:

17 (1) the number of beverage containers sold in the
18 State by material type, as well as, for each quarter of the
19 year covered by the report and the quarters of each prior
20 year for at least the preceding 5 years, to the extent data
21 is available, the proportion of beverage containers sold
22 in the State that are capable of being recycled, refilled,
23 or reused;

24 (2) for each quarter of the year covered by the report
25 and the quarters of each prior year for at least the

1 preceding 5 years, and to the extent data is available,
2 the percentage of the total amount of beverage containers
3 sold in the State that each beverage container material
4 type represents;

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

10 (4) the number of beverage containers, by material
11 type, redeemed for each quarter of the year covered by the
12 report and the quarter of each prior year for at least the
13 preceding 5 years, to the extent data is available;

14 (5) the percentage of beverage containers redeemed
15 that were recycled, by material type, and that were
16 reused, by material type, for each quarter of the report
17 year and for the quarters of each of at least the last 5
18 prior years, to the extent data is available;

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

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

24 (8) the end-product each beverage container type
25 became or likely became;

26 (9) the percentage of the total amount of moneys

1 redeemed for each beverage container material type;

2 (10) each redemption location in the State;

3 (11) the means of redemption at each redemption
4 location in the State;

5 (12) the total expenses of the Organization;

6 (13) the total revenues of the Organization;

7 (14) the total reserves of the Organization;

8 (15) the actual or estimated cost to the Organization
9 per beverage container redeemed;

10 (16) the number of redemption locations that provide
11 services or an enhanced redemption experience for minority
12 or low-income consumers;

13 (17) aggregated Organization employee demographic
14 information, including information that can legally be
15 disclosed and that provides insight into the
16 Organization's performance on diversity, equity, and
17 inclusion;

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

22 (19) the total number of individual consumers per
23 month who filed complaints, by redemption location, during
24 the previous calendar year and each prior year for at
25 least the preceding 5 years, to the extent data is
26 available;

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

7 (21) the buyers of the plastic film waste, if any,
8 generated from the standard bag sold by the Organization
9 to consumers for redemption and how buyers may recycle the
10 plastic film waste;

11 (22) the number of individuals and entities registered
12 to receive electronic deposits of redemption refunds under
13 this Act; and

14 (23) the name of each member of the Organization's
15 Board of Directors.

16 (b) The Organization may rely on reporting by members for
17 information used to comply with the reporting requirements of
18 this Act, but shall note in its annual report which of the
19 metrics described in subsection (a) are based on member
20 reporting.

21 (c) The Organization shall hire by June 1 of even-numbered
22 years an independent third-party organization to verify within
23 6 months of its hiring the previous 2 calendar years of data
24 publicly disclosed under subsection (a).

25 (d) Once per odd-numbered calendar year, the Agency may
26 require verification of information disclosed during the

1 previous calendar year by the Organization under this Act. The
2 verification shall:

3 (1) occur only after being notified by the
4 Organization on or before August 1 of that calendar year
5 that the Agency is requiring independent third-party
6 verification;

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

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

9 (A) the Organization is required to report under
10 this Act;

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

13 (C) appeared, or should have appeared, in the
14 Organization's annual report for the previous calendar
15 year; and

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

18 (e) With the data verification activities under
19 subsections (c) and (d), the Organization shall:

20 (1) pay the full cost of the third-party verification;
21 and

22 (2) provide the independent third party with full
23 access to the underlying data supporting the disclosure in
24 subsection (a) being verified.

25 (f) The Organization must establish safeguards to ensure
26 members do not have access to information regarding:

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

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

6 (g) On or before the last day of February of each calendar
7 year, each member of the Organization must report to the
8 Organization all data necessary to satisfy the disclosure
9 requirements of this Section. The Organization shall ensure
10 that data provided by members under this subsection is
11 confidential.

12 Section 65. Operations Advisory Committee; Equity and
13 Access Advisory Committee.

14 (a) The Organization shall establish an Operations
15 Advisory Committee that represents a range of interested and
16 engaged persons and entities, including, at a minimum, one of
17 each of the following:

18 (1) a beverage container manufacturer or a beverage
19 container manufacturer's trade association that rotates
20 between the leading beverage container types;

21 (2) a beverage producer or a beverage producer's trade
22 association;

23 (3) a unit of local government or group of units of
24 local government;

25 (4) the State;

1 (5) an environmental nonprofit organization;

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

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

5 (b) The Operations Advisory Committee may:

6 (1) provide written or oral comments directly to the
7 Board of Directors and the Executive Director no more than
8 4 times a year; and

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

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

15 (B) the Operations Advisory Committee's feedback
16 on the redemption refund system established under this
17 Act.

18 (c) The Organization shall establish an Equity and Access
19 Advisory Committee that represents persons who can help ensure
20 the Organization's operations appropriately consider the
21 diverse needs and cultures of people who redeem beverage
22 containers, including, at a minimum, one of each of the
23 following:

24 (1) an advocate for homeless persons;

25 (2) a governmental social services office;

26 (3) a nongovernmental organization that advocates on

1 behalf of one or more cultural groups;

2 (4) a nongovernmental organization with a focus on
3 environmental justice; and

4 (5) a specialist in diversity and inclusion.

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

6 (1) provide written or oral comments directly to the
7 Board of Directors and the Executive Director no more than
8 4 times a year; and

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

13 (A) the Equity and Access Advisory Committee's
14 feedback on whether the Organization is appropriately
15 considering the diverse needs and cultures of people
16 who redeem beverage containers under this Act; and

17 (B) the Equity and Access Advisory Committee's
18 suggestions on how the Organization can improve in
19 terms of equity and access.

20 Section 70. Reuse study.

21 (a) The Agency shall conduct a study on the infrastructure
22 that is needed in the State to support a robust system for
23 refillable beverage containers and on any changes that would
24 be required in order to ensure effective integration of
25 refillable beverage containers in the deposit return system.

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

5 (c) The cost of the study shall be included in a
6 reimbursement request to the Organization under Section 80.

7 Section 75. Beverage container grant program.

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

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

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

23 (d) The following entities are eligible for a grant under
24 the beverage container grant program:

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

- 1 (2) a nonprofit organization;
- 2 (3) a county or municipal corporation;
- 3 (4) a federally recognized tribe;
- 4 (5) a for-profit organization; and
- 5 (6) a public-private partnership.

6 (e) The cost to administer the beverage container grant
7 program shall be included in a reimbursement request to the
8 Organization under Section 80.

9 Section 80. Reimbursement to the Agency.

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

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

21 Section 85. Enforcement.

22 (a) In addition to any other applicable civil penalties or
23 criminal fines, the Agency may impose a civil penalty for each
24 day that a violation of this Act, as may be defined by

1 subsequent rulemaking, occurs that is:

2 (1) \$100 for the first violation of any requirement
3 under this Act; and

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

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

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

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

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

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

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

24 (1) If the amount of moneys gained is equal to or less
25 than \$950, the violator is subject to:

26 (A) imprisonment in a county jail for not more

1 than 6 months;

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

3 (C) both the fine and imprisonment described in
4 subparagraphs (A) and (B).

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

7 (A) imprisonment in a county jail for not more
8 than one year;

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

10 (C) both the fine and imprisonment described in
11 subparagraphs (A) and (B).

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

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

20 (f) After notification from the Agency of noncompliance
21 with this Act and a 60-day cure period, the Agency may
22 administratively impose a civil penalty once per year to any
23 distributor or importer who fails to participate as an
24 Organization member as required under Section 10. The civil
25 penalty shall be the greater of \$10,000 or 10 cents per
26 beverage container sold by the distributor or importer in the

1 State while not a member. Any distributor or importer who
2 incurs a penalty under this Section may appeal the penalty to
3 the Agency.

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

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

7 (2) beyond the first \$5,000,000 per calendar year,
8 shall only put toward the beverage container grant program
9 created in Section 75.

10 Section 90. Administration. The Agency shall administer
11 and enforce the provisions of this Act not otherwise allocated
12 to another person or entity under this Act."