



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 "Area of environmental justice concern" means a census
9 block group that is designated by the Agency, by
10 administrative rule, as a census block group in which the
11 population of low-income or minority residents is twice the
12 statewide average.

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

15 (1) a drug regulated under the Federal Food, Drug, and
16 Cosmetic Act (21 U.S.C. 301 et seq.);

- 1 (2) 100% fluid cow milk;
- 2 (3) infant formula; or
- 3 (4) a meal replacement liquid.

4 "Beverage container" means any prepackaged container for
5 beverages.

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

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

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

14 "Covered beverage container" means a beverage container:

15 (1) made of 90% or more glass, polyethylene
16 terephthalate (PET), high-density polyethylene (HDPE)
17 plastic, or aluminum;

18 (2) designed to be used once before being recycled or
19 designed to be reused for multiple cycles before being
20 recycled; and

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

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

25 "Drop-off facility" means a specific area where
26 individuals may bring household recyclable materials to be

1 sorted into material-specific receptacles and is (i) located
2 in the State or (ii) located outside the State and receives
3 more than half of the material it collects from State
4 residents.

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

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

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

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

17 "Non-covered beverage container" means a beverage
18 container that is not included in the definition of covered
19 beverage container.

20 "Nonprofit organization" means an organization established
21 and operated as a nonprofit organization under Section
22 501(c)(3) of the Internal Revenue Code.

23 "Organization" means the Distributor and Importer
24 Responsibility Organization established under Section 50.

25 "Recycle" means the series of activities by which a
26 beverage container is:

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

5 "Recycle" does not include:

- 6 (1) the use of material to produce a fuel or fuel
- 7 substitute;
- 8 (2) the use of material in a chemical conversion
- 9 process, such as solvolysis or depolymerization;
- 10 (3) the use of material in an incineration process,
- 11 such as a waste-to-energy process; or
- 12 (4) the use of material within the footprint of a
- 13 landfill.

14 "Recycling rate" means the percentage of covered beverage

15 containers recycled out of all covered beverage containers

16 sold in the State.

17 "Retailer" means a person or business in the State who

18 engages in the sale of beverage containers to a consumer.

19 "Self-service kiosk" means a machine which a consumer can

20 use to:

- 21 (1) create an account in order to participate in a
- 22 bag-drop program;
- 23 (2) conduct account activity, including viewing an
- 24 account balance;
- 25 (3) print vouchers redeemable for cash or store credit
- 26 for redeemed beverage containers; or

1 (4) print labels to identify bags in the bag-drop
2 program with the consumer's account.

3 A self-service kiosk does not redeem beverage containers.

4 "Store" means an individual location where a retailer
5 sells beverage containers.

6 Section 10. Beverage container recycling redemption refund
7 program.

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

11 (1) 5 cents for a beverage container of 24 fluid
12 ounces or less; and

13 (2) 10 cents for a beverage container of more than 24
14 fluid ounces.

15 (b) Two years after covered beverage containers begin to
16 be sold or offered for sale in the State with the refund value
17 in paragraph (a), every covered beverage container sold or
18 offered for sale in the State shall, except as otherwise
19 provided by rule adopted in accordance with subsection (b),
20 have the following refund value:

21 (1) 10 cents for a beverage container of 24 fluid
22 ounces or less; and

23 (2) 15 cents for a beverage container of more than 24
24 fluid ounces.

25 (c) The Agency may adopt rules providing a different

1 redemption refund value than the redemption refund value
2 provided under subsection (b), so long as the modified
3 redemption refund value is not based on the type of
4 postconsumer material being recycled, but no more often than:

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

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

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

15 (e) Any moneys designated for redemption refunds but that
16 are not claimed by consumers shall be used by the Organization
17 only to support its administrative costs and to perform the
18 activities required under this Act.

19 Section 15. Material flows.

20 (a) When a consumer redeems a beverage container in
21 accordance with this Act, the Organization becomes the owner
22 of that beverage container and may:

23 (1) sell it to a buyer of its choosing after first
24 allowing a beverage producer or a company of its beverage
25 container supply chain to purchase the material at a fair

1 market rate; or

2 (2) on its own or via a third party, process the
3 beverage container for refill if it is reusable or has an
4 agreement with one or more third parties that manage
5 reusable beverage containers in the recycling refund
6 system.

7 (b) If a consumer chooses to put a beverage container in
8 its curbside recycling receptacle or a drop-off receptacle,
9 the operator of the material recovery facility that sorts the
10 beverage container or the operator of the drop-off facility
11 that receives the beverage container may offer to sell the
12 material to the Organization, which then may be required to
13 pay a certain percent of the redemption value per beverage
14 container under Section 45.

15 Section 20. Means of redemption.

16 (a) At each store having a floor space that is greater than
17 or equal to 10,000 square feet, excluding only outdoor space,
18 the Organization shall, at its expense, install, operate, and
19 maintain:

20 (1) bulk bag drop-off for all redeemable beverage
21 containers; and

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

24 (A) redeem all redeemable beverage containers; and

25 (B) immediately receive the refund value.

1 (b) At each store having a floor space that is greater than
2 or equal to 10,000 square feet, excluding only outdoor space,
3 the Organization may, in consultation with the retailer and at
4 its expense, install, operate, and maintain additional
5 beverage container processing mechanisms beyond what is
6 required in subsection (a) to meet the redemption option
7 requirements per county in this Section and the performance
8 targets in Section 55.

9 (c) At each of its stores having a floor space that is
10 greater than or equal to 10,000 square feet, excluding only
11 outdoor space, the retailer shall decide where in each store
12 the Organization will, on space the retailer controls inside
13 or outside the store, install, operate, and maintain beverage
14 container processing mechanisms.

15 (d) At each of its stores having a floor space that is
16 greater than or equal to 1,000 square feet but less than 10,000
17 square feet, excluding only outdoor space, the retailer shall,
18 upon the Organization's request, allow the Organization to
19 install, operate, and maintain beverage container processing
20 mechanisms necessary to meet the redemption option
21 requirements per county in this Section and the performance
22 targets in Section 55 on space of the retailer's choosing that
23 it controls inside or outside the store.

24 (e) A retailer who operates a store having a floor space
25 that is less than 1,000 square feet, excluding outdoor space,
26 has no duty under this Act to host a beverage container

1 processing mechanism.

2 (f) Notwithstanding subsections (a) through (e):

3 (1) the retailer may make available more than the
4 required space for beverage container processing
5 mechanisms;

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

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

16 (g) A retailer is exempt from the requirements of
17 subsections (a) through (f) at stores the retailer operates
18 that:

19 (1) sell beverage containers as an inconsequential
20 amount of the store's annual revenue, meaning less than 5%
21 of the store's annual revenue, through stand-alone vending
22 machines, stand-alone refrigerator cases, or similar
23 means; or

24 (2) primarily prepare food for sale.

25 (h) The Agency, in consultation with the Organization and
26 retailers, shall develop a formula to determine how to fairly

1 compensate annually the retailer for use of the space at each
2 store of the retailer that the retailer permits the
3 Organization to install, operate, and maintain beverage
4 container processing mechanisms.

5 (i) The Organization shall, at the request of a retailer
6 that owns a store at which it is operating beverage container
7 processing mechanisms, provide the consumer the option to
8 redeem its refund value for a credit at the retailer in
9 addition to any financial incentive beyond the refund value
10 that the retailer chooses to provide the consumer.

11 (j) Through the redemption mechanisms established at
12 retailers or at other locations, the Organization shall
13 install, service, and maintain at least the number of beverage
14 container processing mechanisms necessary to meet the minimum
15 number determined under subsection (k) for each of the
16 following classes of counties:

17 (1) counties with a population density that is less
18 than 250 individuals per square mile;

19 (2) counties with a population density that is greater
20 than or equal to 250 individuals per square mile but less
21 than 500 individuals per square mile;

22 (3) counties with a population density that is greater
23 than or equal to 500 individuals per square mile but less
24 than 750 individuals per square mile;

25 (4) counties with a population density that is greater
26 than or equal to 750 individuals per square mile but less

1 than 1,000 individuals per square mile;

2 (5) counties with a population density that is greater
3 than or equal to 1,000 individuals per square mile but
4 less than 5,000 individuals per square mile; and

5 (6) counties with a population density that is greater
6 than or equal to 5,000 individuals per square mile.

7 (k) The Organization shall determine the minimum number of
8 each beverage container processing mechanism required in each
9 county based on the classification in subsection (j) and the
10 following criteria:

11 (1) the number of stores in the county that host
12 beverage container processing mechanisms;

13 (2) the number of stores in the county that must, upon
14 request by the Organization, host beverage container
15 processing mechanisms;

16 (3) the proximity between the stores in paragraphs (1)
17 and (2), their proximity to residents, and their proximity
18 to public transit;

19 (4) the size of the stores in paragraphs (1) and (2);

20 (5) the percentage of county residents with a car; and

21 (6) the percentage of county residents below the
22 federal poverty line.

23 (l) By no later than the date upon which covered beverage
24 containers are sold or offered for sale in the State with the
25 refund value specified in Section 10, the Organization shall
26 operate in each county that contains an area of environmental

1 justice concern directly, in partnership or through contract
2 with another entity, at least one redemption site that:

3 (1) provides written information about the redemption
4 process in at least 3 languages other than English and a QR
5 code that provides information in additional non-English
6 languages spoken in the county; and

7 (2) is staffed by persons trained to communicate
8 appropriately and to deliver services effectively to
9 persons in culturally diverse and underserved communities.

10 (m) By no later than the date upon which covered beverage
11 containers are sold or offered for sale in the State with the
12 refund value specified in Section 10, at least 5 of the
13 redemption mechanisms the Organization operates directly, in
14 partnership or through contracting with another entity, shall
15 be mobile redemption sites that operate at least 40 hours per
16 week, excluding local, State, or federal holidays, and shall
17 be designed to:

18 (1) provide services to persons who redeem high
19 volumes of beverage containers; and

20 (2) collect beverage containers for redemption from
21 persons who are physically impaired or otherwise unable to
22 transport beverage containers to a redemption center.

23 (n) The Organization may enter into an agreement to
24 install, operate, and maintain additional beverage container
25 processing mechanisms at any location in order to meet:

26 (1) the redemption option requirements under this

1 Section for each county; and

2 (2) the performance targets required in Section 55.

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

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

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

13 (p) The public shall have access to redeem beverage
14 containers in accordance with this Section for not less than
15 10 hours each day:

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

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

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

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

- 1 (1) the Organization's website; and
- 2 (2) clearly visible signage at each beverage container
- 3 processing mechanism that the Organization operates.
- 4 (r) The Organization may establish reasonable terms and
- 5 conditions for the use of a beverage container processing
- 6 mechanism.

7 Section 25. Labeling requirements.

8 (a) A beverage producer, distributor, or importer shall

9 include the abbreviation "RV" on a clearly visible portion of

10 the top or side of each beverage container that is sold by the

11 beverage producer, distributor, or importer in the State.

12 (b) The Organization may require that any beverage

13 producer, distributor, or importer include, on any space that

14 is on the top or side of each beverage container sold in the

15 State, the clearly visible abbreviation of the State and

16 applicable redemption refund value under Section 10.

17 (c) A beverage producer, distributor, or importer may

18 include a barcode or unique code verification on a beverage

19 container to automatically identify it.

20 Section 30. Timing.

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

22 this Act, covered beverage containers that are sold in the

23 State must be redeemable for the applicable redemption refund

24 value under Section 10.

1 (b) The Agency may permit:

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

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

9 (c) The Organization may choose at any time to make one or
10 more non-covered beverage containers eligible for the same
11 refund value as covered beverage containers and, once
12 eligible, the Organization must still comply with all the
13 requirements of this Act, including performance targets.

14 (d) If the market share of a non-covered beverage
15 container in any 2 full calendar years in a row grows to 5%
16 more than what it was over the average of 2 full calendar years
17 before the effective date of this Act, then the Organization
18 must:

19 (1) make that non-covered beverage container eligible
20 for the same refund value as covered beverage containers
21 and still comply with all the requirements of this Act,
22 including performance targets; or

23 (2) charge its members for each non-covered beverage
24 container sold in the State the amount of the refund value
25 for an equivalent in size covered beverage container and
26 use the revenue from this charge only to support the

1 grants permitted under this Act to improve education,
2 outreach, or infrastructure to enhance the recycling or
3 reuse of beverage containers.

4 Section 35. Prohibitions.

5 (a) No person shall distribute, import, or sell beverage
6 containers in or into the State except in compliance with this
7 Act.

8 (b) No person shall redeem under this Act a beverage
9 container that was not sold in the State to a consumer in the
10 State.

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

17 (1) subtracting the moneys that the Agency collected
18 from penalties assessed under this Act, which shall be
19 applied toward fulfilling the Agency's responsibilities
20 under this Act in the next calendar year; and

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

1 Section 45. Drop-off facilities and material recovery
2 facilities.

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

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

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

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

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

21 (1) equals 5% of the scrap value of the material the
22 Organization sold in the preceding calendar year; and

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

26 (d) The operators of material recovery facilities or

1 drop-off facilities shall use an industry-standard scale to
2 measure the weight of all beverage containers that enter the
3 facility.

4 (e) When the operator of a material recovery facility or
5 drop-off facility chooses to offer for purchase to the
6 Organization beverage containers purchased in the State and
7 redeemable under this Act, the Organization shall buy those
8 beverage containers at the amounts specified in this Section
9 as long as the quality standards described in this Section are
10 met.

11 (f) For the first 10 years after eligible beverage
12 containers are sold with a refund value, the Organization
13 shall pay material recovery facilities and drop-off
14 facilities:

15 (1) 100% of the refund value for each covered beverage
16 container:

17 (A) made of 90% or more aluminum, polyethylene
18 terephthalate (PET), or high-density polyethylene
19 (HDPE) that the material recovery facility or drop-off
20 facility offers to the Organization:

21 (i) as a bale or loose; and

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

25 (B) made of 90% or more glass that the material
26 recovery facility or drop-off facility offers to the

1 organization:

2 (i) loose; and

3 (ii) as furnace-ready cullet;

4 (2) 50% for beverage containers made of 90% or more
5 glass that the material recovery facility or drop-off
6 facility offers to the organization and that contains 15%
7 or less non-glass residuals or fines.

8 (g) Following the first 10 years after eligible beverage
9 containers are sold with a refund value, the Organization
10 shall pay material recovery facilities and drop-off facilities
11 for each eligible beverage container it is offered as a bale or
12 loose with the following structure based on each material
13 type:

14 (1) for beverage containers made of 90% or more
15 aluminum, operators of material recovery facilities and
16 drop-off facilities receive 100% of the refund value if
17 they meet the relevant and most recently published
18 Institute of Scrap Recycling Industries specifications;

19 (2) for beverage containers made of 90% or more glass,
20 operators of material recovery facilities and drop-off
21 facilities receive:

22 (A) 100% of the refund value if the material
23 recovery facility or drop-off facility provides
24 furnace-ready cullet; and

25 (B) 50% of the refund value if the material
26 recovery facility or drop-off facility provides glass

1 that contains 15% or less non-glass residuals or
2 fines;

3 (3) For beverage containers made of 90% or more
4 polyethylene terephthalate (PET), operators of material
5 recovery facilities and drop-off facilities receive:

6 (A) 100% of the refund value if they are
7 third-party certified as meeting the Association of
8 Plastic Recyclers Grade B model specification for PET
9 bottle bales; and

10 (B) 50% of the refund value if they do not meet the
11 Grade B specification; and

12 (4) For beverage containers made of 90% or more
13 high-density polyethylene (HDPE), operators of material
14 recovery facilities and drop-off facilities receive 100%
15 of the refund value if they are third-party certified as
16 meeting the applicable, natural or colored, Association of
17 Plastic Recyclers HDPE model bale specification.

18 (h) The Agency, in consultation with the Organization and
19 material recovery facilities and drop-off facilities and
20 associations that represent material recovery facilities and
21 drop-off facilities, shall develop and publish a methodology
22 for how to determine the average amount of redeemable beverage
23 containers that were purchased in the State per ton of
24 material offered to the Organization.

25 (i) When the Organization pays the operators of the
26 material recovery facility and drop-off facility the

1 appropriate portion of the redemption value per beverage
2 container, it may do so with an assumption that the beverage
3 containers sold to it have a breakdown of containers that are
4 24 ounces or less and more than 24 ounces equivalent to what
5 percentage of that container type that consumers redeemed in
6 the last calendar year and that were 24 ounces or less and more
7 than 24 ounces.

8 (j) The Organization shall become the owner of the
9 beverage containers for which it pays the amount under
10 paragraphs (f) and (g) and may sell the material to the buyer
11 of its choosing for revenue after first allowing a beverage
12 producer or a company in its beverage container supply chain
13 to purchase the material at a fair market rate.

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

21 (l) All thresholds in this Section tied to externally
22 referenced documents, such as the model bale specifications
23 from the Association of Plastic Recyclers and the Institute of
24 Scrap Recycling Industries, shall reflect the most current
25 version of the externally referenced documents, including any
26 updates made after the effective date of this Act.

1 Section 50. Distributor and Importer Responsibility
2 Organization.

3 (a) All distributors and importers shall join as members
4 of a Distributor and Importer Responsibility Organization. A
5 distributor or importer operating in violation of this
6 requirement is subject to penalties described in Section 85.
7 The Organization must be established and operated as a
8 nonprofit organization or a cooperative corporation.

9 (b) Only one Organization may operate in the State. The
10 Organization may decide to operate jointly with similar
11 organizations. The Organization shall elect a governing Board
12 of Directors of the Organization composed of Organization
13 members. The Organization shall be led by an Executive
14 Director elected by the Board of Directors of the
15 Organization.

16 (c) The Organization shall charge a membership fee that
17 funds the Organization's costs of operation to meet the
18 requirements of this Act minus the unclaimed redemption
19 refunds and the revenue from the sale of the redeemed beverage
20 containers, both of which must stay with the Organization to
21 fund its operations to meet the requirements of this Act. The
22 Organization may develop other revenue sources. The
23 Organization shall charge membership fees that vary by
24 material type and that reflect:

25 (1) the cost of collecting, transporting, sorting, and

1 processing each beverage container type, among other costs
2 that may vary by beverage container type;

3 (2) the monetary value of each beverage container
4 type; and

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

7 (d) The Organization shall submit within 12 months of the
8 effective date of this Act and every 5 years thereafter a plan
9 to the Agency for approval that describes how the Organization
10 will meet its requirements under this Act over the next 5
11 years.

12 (e) The Agency must review and approve, deny, or request
13 additional information for a draft plan by the Organization by
14 no later than 120 days after its receipt date. The Agency must
15 post the draft plan on the Agency's website and allow public
16 comment for no less than 45 days before approving, denying, or
17 requesting additional information on the draft plan.

18 (f) If the Agency denies or requests additional
19 information regarding a draft plan, the Agency must provide
20 the Organization the reasons, in writing, why the plan is not
21 sufficient. The organization must submit a revised draft plan
22 to the Agency within 60 days of receipt of the Agency's action.
23 The Agency shall review and approve or disapprove of the
24 revised draft plan within 60 days of receiving it.

25 (g) The Organization may revise and submit a draft plan to
26 the Agency not more than twice. If, after the second revised

1 plan is submitted, the Agency determines that the draft plan
2 does not meet the requirements of this Act, the Agency must
3 modify the draft plan as necessary for it to meet the
4 requirements of this Act and approve it.

5 (h) The Organization shall publish publicly on its
6 website:

7 (1) within 18 months after the effective date of this
8 Act, an Agency-approved initial plan for how the
9 Organization will meet its requirements under this Act
10 over the next 5 years, including the performance targets
11 specified in Section 55 and the minimum number of beverage
12 container processing mechanisms required in each county
13 under Section 20; and

14 (2) no later than every 5 years after publication of
15 the initial plan under paragraph (1), an updated plan on
16 how the Organization will continue to meet its
17 requirements under this Act, including the performance
18 targets specified in Section 55 and the minimum number of
19 beverage container processing mechanisms required in each
20 county under Section 20.

21 (i) The Organization shall pay:

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

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

26 (B) the redemption option requirements under

1 Section 20 for each county;

2 (2) for any facilities in the State necessary to
3 efficiently aggregate, sort, and process the beverage
4 containers collected at redemption locations under this
5 Act;

6 (3) to upkeep a list and map on its website of all
7 redemption locations and the redemption options available
8 at each redemption location;

9 (4) by December 31 of each year, an annual installment
10 to the Agency according to the formula under Section 40,
11 but not to exceed \$500,000 per year; the installment shall
12 fund the Agency's anticipated costs in the following year
13 to implement, administer, and enforce this Act, including
14 adopting rules under this Act;

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

21 (6) the cost of the standard bags described under
22 subsection (f) of Section 20;

23 (7) the material recovery facility and drop-off
24 facility payments under Section 45;

25 (8) a survey in each even-numbered year of consumers
26 for whom refunds paid under this Section constitute a

1 significant portion of their income to determine if their
2 needs are being met.

3 (j) If the standard bag the Organization sells to
4 consumers under subsection (f) of Section 20 is made of
5 plastic film, the Organization shall:

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

8 (2) demonstrate to the Agency that the plastic film
9 waste from the standard bags will be recycled in the best
10 commercially available manner.

11 (k) The Organization is not required to pay a redemption
12 refund under this Act for:

13 (1) any beverage container that visibly contains or is
14 visibly contaminated by a substance other than water,
15 residue of the beverage contained within the beverage
16 container as sold by a retailer to a consumer, or dust;

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

20 (3) any beverage container that the Organization has
21 reasonable grounds to believe was procured in another
22 state; or

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

1 (1) The Organization may:

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

4 (A) collecting litter that includes beverage
5 containers; and

6 (B) improving education, outreach, or
7 infrastructure to enhance the recycling or reuse of
8 beverage containers;

9 (2) use moneys received or generated under this Act to
10 directly, or in partnership with a nongovernmental
11 organization, provide services to or enhance the
12 redemption experience of minority or low-income consumers
13 who redeem a beverage container; and

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

17 Section 55. Targets.

18 (a) The Organization shall meet the following redemption
19 targets:

20 (1) beginning with the second full calendar year after
21 eligible beverage containers are sold in the State with
22 the applicable redemption refund value under Section 10,
23 the annual redemption rate from consumers to a beverage
24 container processing mechanism for all redeemable beverage
25 containers is at least 70%;

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

7 (3) beginning with the sixth full calendar year after
8 all beverage containers are sold in the State with the
9 applicable redemption refund value under Section 10, the
10 annual redemption rate from consumers to a beverage
11 container processing mechanism for all redeemable beverage
12 containers is at least 85%.

13 (b) The Organization shall meet the following recycling
14 rate targets through material consumers redeem through
15 beverage container processing mechanisms or through material
16 the Organization receives from drop-off facilities or material
17 recovery facilities:

18 (1) beginning with the second full calendar year after
19 eligible beverage containers are sold in the State with
20 the applicable redemption refund value under Section 10,
21 the annual recycling rate for all redeemable beverage
22 containers is at least 70%;

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

1 containers is at least 75%; and

2 (3) beginning with the sixth full calendar year after
3 all eligible beverage containers are sold in the State
4 with the applicable redemption refund value under Section
5 10, the annual recycling rate for all redeemable beverage
6 containers is at least 85%.

7 (c) At any point that a non-covered beverage container is
8 added to the system, the Agency may establish recycling rate
9 targets specific to the added beverage container or beverage
10 containers, and the added beverage container or beverage
11 containers may then not be considered in satisfying the
12 targets in subsection (b).

13 (d) If the Organization does not meet a performance rate
14 target required under subsections (a) through (c) in any
15 calendar year:

16 (1) it must submit to the Agency a revised product
17 stewardship plan no more than 365 days after the data
18 required under Section 60 has most recently been published
19 that showed a performance target required under
20 subsections (a) through (c) was not met, and the Agency
21 review of this revised plan must follow the same
22 guidelines as provided for the initial draft plan in
23 Section 50. The product stewardship plan shall detail the
24 reasons that the performance target was not met and any
25 action the Organization will take to meet the performance
26 target; and

1 (2) the Agency shall assess a civil penalty against
2 the Organization for each such violation that is equal to
3 5 cents for each beverage container comprising the
4 difference between the number of beverage containers that
5 were redeemed or recycled and the total number of beverage
6 containers that, if redeemed or recycled, would have met
7 the applicable performance rate target.

8 (e) If the Organization does not meet all redemption and
9 recycling rate targets under subsections (a) through (c)
10 within 3 years after a product stewardship plan was submitted
11 to the Agency under subsection (d), the Agency shall:

12 (1) assess a civil penalty against the Organization
13 once per calendar year that is equal to 10 cents for each
14 beverage container comprising the difference between the
15 number of beverage containers that were redeemed and the
16 total number of beverage containers that, if redeemed,
17 would have met the performance targets;

18 (2) require the Organization to submit a revised
19 product stewardship plan within 365 days after the data
20 required under Section 60 has most recently been published
21 that showed a performance target required under
22 subsections (a) through (c) was not met within 3 years
23 after a product stewardship plan was submitted to the
24 Agency under subsection (d), and the Agency review of this
25 revised plan must follow the same guidelines as provided
26 for the initial draft plan in Section 50;

1 (3) require the Organization to hire a third party to
2 evaluate whether the minimum number of beverage container
3 processing mechanisms required in each county in
4 accordance with Section 20 is sufficient to meet the
5 performance targets; and

6 (4) if the third party evaluation under paragraph (3)
7 determines the minimum number of beverage container
8 processing mechanisms is not sufficient, the third party
9 must in its analysis provide a new minimum number of
10 beverage container processing mechanisms per county that
11 will be sufficient to meet the performance targets, and
12 the Organization shall be responsible for meeting the
13 third-party-determined minimum number in each county.

14 (f) If the Organization does not, within 5 years after a
15 product stewardship plan was submitted to the Agency under
16 subsection (d), meet all recycling and redemption rate targets
17 required under subsections (a) through (c), then:

18 (1) the Organization shall detail on the
19 Organization's website why a new Executive Director of the
20 Organization is not necessary if, at the end of the 5-year
21 period, the same person has acted as Executive Director of
22 the Organization for more than 365 days prior to the end of
23 the relevant 5-year period;

24 (2) the Agency may require certain changes to the
25 product stewardship plan; and

26 (3) the Agency shall assess against the Organization a

1 civil penalty once per calendar year equal to 15 cents for
2 each beverage container comprising the difference between
3 the number of beverage containers that were redeemed and
4 the total number of beverage containers that, if redeemed,
5 would have met the performance target.

6 (g) Notwithstanding subsections (d) through (f):

7 (1) the penalty for each performance target required
8 in subsection (d) is not in addition to the penalties
9 authorized in subsections (e) and (f);

10 (2) the Agency may, beyond the amounts required in
11 subsections (e) and (f), for the violations specified in
12 subsections (e) and (f) assess once per calendar year an
13 additional annual penalty of up to \$50,000,000 if the
14 Organization does not in a particular year eliminate at
15 least 25% of the gap in the previous year from achieving
16 any performance rate target it failed to achieve; and

17 (3) the Agency shall retroactively assess penalties
18 against the Organization if the verification in Section 60
19 finds that the Organization performed worse than initially
20 stated in its public disclosures, and these retroactive
21 penalties shall not result in the Organization paying in
22 total more than it would have paid in penalties with the
23 verified performance levels.

24 Section 60. Reporting.

25 (a) On or before July 1 of each calendar year, beginning

1 July 1 of the first full calendar year after covered beverage
2 containers have a redemption refund value under this Act, the
3 Organization shall submit to the Agency and make publicly
4 available on its website:

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

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

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

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

1 (5) the percentage of beverage containers redeemed
2 that were recycled, by material type, and that were
3 reused, by material type, for each quarter of the report
4 year and for the quarters of each of at least the last 5
5 prior years, to the extent data is available;

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

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

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

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

15 (10) each redemption location in the State;

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

18 (12) the total expenses of the Organization;

19 (13) the total revenues of the Organization;

20 (14) the total reserves of the Organization;

21 (15) the actual or estimated cost to the Organization
22 per beverage container redeemed;

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

26 (17) aggregated Organization employee demographic

1 information, including information that can legally be
2 disclosed and that provides insight into the
3 Organization's performance on diversity, equity, and
4 inclusion;

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

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

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

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

24 (22) the number of individuals and entities registered
25 to receive electronic deposits of redemption refunds under
26 this Act;

1 (23) the results of the survey of consumers for whom
2 refunds paid under this Section constitute a significant
3 portion of their income; and

4 (24) 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) The Organization shall hire by June 1 of even-numbered
12 years an independent third-party organization to verify within
13 6 months of its hiring the previous 2 calendar years of data
14 publicly disclosed under subsection (a).

15 (d) Once per calendar year, the Agency may require
16 verification of information disclosed during the previous
17 calendar year by the Organization under this Act. The
18 verification shall:

19 (1) occur only after being notified by the
20 Organization on or before August 1 of that calendar year
21 that the Agency is requiring independent third-party
22 verification;

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

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

25 (A) the Organization is required to report under
26 this Act;

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

3 (C) appeared, or should have appeared, in the
4 Organization's annual report for the previous calendar
5 year; and

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

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

10 (1) pay the full cost of the third-party verification;
11 and

12 (2) provide the independent third party with full
13 access to the underlying data supporting the disclosure in
14 subsection (a) that is being verified.

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

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

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

22 (g) On or before the last day of February of each calendar
23 year, each member of the Organization must report to the
24 Organization all data necessary to satisfy the disclosure
25 requirements of this Section. The Organization shall ensure
26 that data provided by members under this subsection is

1 confidential.

2 Section 65. Operations Advisory Committee; Equity and
3 Access Advisory Committee.

4 (a) The Organization shall establish an Operations
5 Advisory Committee that represents a range of interested and
6 engaged persons and entities, including, at a minimum, one of
7 each of the following:

8 (1) a beverage container manufacturer or a beverage
9 container manufacturer's trade association that rotates
10 between the leading beverage container types;

11 (2) a beverage producer or a beverage producer's trade
12 association;

13 (3) a unit of local government or group of units of
14 local government;

15 (4) the State;

16 (5) an environmental nonprofit organization;

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

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

20 (b) The Operations Advisory Committee may:

21 (1) provide written or oral comments directly to the
22 Board of Directors and the Executive Director no more than
23 4 times a year; and

24 (2) every even-numbered calendar year, submit to the
25 Organization a written report that the Organization must

1 publish on its website upon request by the Operations
2 Advisory Committee and that contains:

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

5 (B) the Operations Advisory Committee's feedback
6 on the redemption refund system established under this
7 Act.

8 (c) The Organization shall establish an Equity and Access
9 Advisory Committee that represents persons who can help ensure
10 the Organization's operations appropriately consider the
11 diverse needs and cultures of people who redeem beverage
12 containers, including, at a minimum, one of each of the
13 following:

14 (1) an advocate for homeless persons;

15 (2) a governmental social services office;

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

18 (4) a nongovernmental organization with a focus on
19 environmental justice; and

20 (5) a specialist in diversity and inclusion.

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

22 (1) provide written or oral comments directly to the
23 Board of Directors and the Executive Director no more than
24 4 times a year; and

25 (2) every even-numbered calendar year, submit to the
26 Organization a written report that the Organization must

1 publish on its website upon request by the Equity and
2 Access Advisory Committee and that contains:

3 (A) the Equity and Access Advisory Committee's
4 feedback on whether the Organization is appropriately
5 considering the diverse needs and cultures of people
6 who redeem beverage containers under this Act; and

7 (B) the Equity and Access Advisory Committee's
8 suggestions on how the Organization can improve in
9 terms of equity and access.

10 Section 70. Reuse study.

11 (a) The Agency shall conduct a study on the infrastructure
12 that is needed in the State to support a robust system for
13 reusable beverage containers and on any changes that would be
14 required in order to ensure effective integration of reusable
15 beverage containers in the deposit return system.

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

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

22 Section 75. Beverage container grant program.

23 (a) The Organization shall transfer 5% of the revenue from
24 unclaimed redemption refunds in the previous calendar year to

1 the Agency by July 1 of each calendar year, starting with the
2 first full calendar year after one or more beverage container
3 types is sold with a redemption refund value under this Act, to
4 fund a beverage container grant program.

5 (b) The Agency, with the money available in the beverage
6 container grant program, shall annually fund, through a
7 competitive grant process, education, infrastructure, or
8 litter clean-up activities that increase the reuse or
9 recycling of beverage containers or reduce the litter from
10 beverage containers in the State.

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

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

- 16 (1) a school or an institution of higher education;
- 17 (2) a nonprofit organization;
- 18 (3) a county or municipal corporation;
- 19 (4) a federally recognized tribe;
- 20 (5) a for-profit organization; and
- 21 (6) a public-private partnership.

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

25 Section 80. Reimbursement to the Agency.

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

5 (b) The Organization shall reimburse the Agency for
6 enforcement costs incurred by the Agency under this Act, in
7 accordance with paragraph (5) of subsection (i) of Section 50,
8 that may take the total amount reimbursed by the Organization
9 to the Agency beyond \$500,000 per year as long as the funded
10 enforcement activities identified violations of this Act and
11 resulted in penalties under this Act.

12 Section 85. Enforcement.

13 (a) In addition to any other applicable civil penalties or
14 criminal fines, the Agency may impose a civil penalty for each
15 day that a violation of this Act, as may be defined by
16 subsequent rulemaking, occurs that is:

17 (1) \$100 for the first violation of any requirement
18 under this Act; and

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

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

25 (1) redeeming out-of-state beverage containers,

1 rejected beverage containers, line defects, or beverage
2 containers that have already been redeemed;

3 (2) seeking a redemption refund under this Act by
4 returning an already-redeemed beverage container at a
5 redemption location;

6 (3) bringing out-of-state beverage containers,
7 rejected beverage containers, or line defects to the State
8 marketplace for redemption; or

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

11 (c) A violation of subsection (b) resulting in financial
12 gain by the violator shall subject the violator to the
13 following:

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

16 (A) imprisonment in a county jail for not more
17 than 6 months;

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

19 (C) both the fine and imprisonment described in
20 subparagraphs (A) and (B).

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

23 (A) imprisonment in a county jail for not more
24 than one year;

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

26 (C) both the fine and imprisonment described in

1 subparagraphs (A) and (B).

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

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

10 (f) After notification from the Agency of noncompliance
11 with this Act and a 60-day cure period, the Agency may
12 administratively impose a civil penalty per day to any
13 distributor or importer who fails to participate as an
14 Organization member as required under Section 10. The civil
15 penalty per day shall be the greater of \$10,000 or 10 cents per
16 beverage container sold by the distributor or importer in the
17 State while not a member. Any distributor or importer who
18 incurs a penalty under this Section may appeal the penalty to
19 the Agency.

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

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

23 (2) beyond the first \$5,000,000 per calendar year,
24 shall only be put toward the beverage container grant
25 program created in Section 75.

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