



Model State Legislation:

Beverage Container Pollution Prevention Research Act

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Summary

The Beverage Container Pollution Prevention Research Act requires that the state conduct an independent assessment of whether implementing a 10-cent beverage container deposit system (also known as recycling refund or bottle bill program) in addition to the existing packaging extended producer responsibility program would further reduce pollution, increase reuse and recycling rates, and create additional economic benefits.

The study will review costs, benefits, infrastructure needs, best practices from other jurisdictions, and how such a system could work alongside the state's existing recycling and reuse programs.

Section 1. Definitions

- (a) "Department" means the Department [the state agency with jurisdiction over environmental protection or otherwise designated by the legislature based on the state government structure].¹
- (b) "Beverage" means a drinkable liquid intended for human oral consumption. "Beverage" does not include:
 - (1) A drug regulated under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301 et seq.;
 - (2) 100% fluid milk;
 - (3) Infant formula; or
 - (4) A meal replacement liquid.
- (c) "Beverage container" means a prepackaged container that:
 - (1) Is designed to hold a beverage;
 - (2) Is made of any material, including glass, plastic, metal, paper, or a combination thereof; and
 - (3) Has a volume which is not greater than 3 liters.
- (d) "End of life services" means reuse, collection, recycling, and redemption services for beverage containers.
- (e) "Miniature beverage container" means a beverage container that has a volume less than 50 milliliters.
- (f) "Reuse" means the redemption and return of a covered beverage container to the marketplace that is:
 - (1) Intentionally designed and marketed to be used multiple times for its original intended purpose without a change in form;
 - (2) Designed for durability and maintenance to extend its useful life and reduce demand for new production of covered beverage containers;
 - (3) Supported by adequate and convenient redemption and return logistics and infrastructure at a retail location, by a service provider, or on behalf of or by a producer; and
 - (4) Compliant with applicable federal, state, and local statutes, rules, ordinances, and other laws governing health and safety.
- (g) "Recycling" or "Recycle" means the act of collecting and processing materials and returning them to, or maintaining them within, the economic mainstream in the form of recovered material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.
 - (1) To be considered recycling, the process shall meet all of the following, as determined by the Department:
 - (A) Results in postconsumer recycled content material for new packaging or product applications;
 - (B) Displaces the use of virgin materials for the production of new packaging or product applications;

¹ Items marked in [] require state-specific updates.

- (C) Complies with all established federal and state laws and regulations governing greenhouse gas emissions and air and water quality standards; and
- (D) Sends covered materials to a responsible end market.
- (2) Recycling does not include:
 - (A) Combustion;
 - (B) Fuel production;
 - (C) Other forms of energy recovery; or
 - (D) Disposal or disposition within the footprint of a landfill.
- (h) "Recycling rate" means the amount of beverage containers recycled in a calendar year divided by the total amount of that beverage container type sold, offered for sale, or distributed in the state by weight.
- (i) "Reuse rate" means the market share of reusable covered beverage containers relative to all covered beverage containers sold into the state in a given year, expressed as a percentage;
- (j) "Return rate" for reusable beverage containers means the proportion of reusable containers successfully returned to producers for reuse, relative to the total amount of reusable containers sold into the state in a given year, expressed as a percentage.

Section 2. Beverage Container Redemption and Reuse Feasibility Study.

- (a) The Department, in collaboration with other state agencies as needed, shall commission an independent statewide assessment to determine the infrastructure, policy, and programmatic requirements necessary to support a statewide beverage container redemption system for beverage containers including, but not limited to, beverage containers made from:
 - (1) Aluminum and bimetal materials;
 - (2) Glass materials;
 - (3) Plastic materials; and
 - (4) Other priority materials as designated by the Department.
- (b) The assessment shall assume that as part of a beverage container redemption system consumers will pay an upfront, refundable deposit of no less than ten cents per container, which shall be redeemable upon return of the container for reuse or recycling.
- (c) No later than six months after the effective date of this Act, the Department shall procure an independent third-party with relevant expertise to conduct the assessment.
- (d) The assessment shall include, at a minimum:
 - (1) An assessment of the current recycling rates, litter rates, reuse rates and return rates of beverage containers in the State by material type;
 - (2) An estimate of lost economic opportunities in the State due to the collection of beverage containers in curbside recycling programs, including through [PACKAGING EPR PROGRAM NAME/CITATION,] and the potential economic benefits and impacts of establishing a separate collection stream for beverage containers via a statewide redemption system;
 - (3) An analysis of case studies from jurisdictions around the world that have enacted beverage container redemption systems after adopting packaging extended producer responsibility programs, including a comparison of the following data from before and after the beverage container redemption systems were implemented:
 - (A) Costs to producers of beverage containers and packaging materials covered under the extended producer responsibility program;
 - (B) Litter rates of beverage containers;
 - (C) Job creation, including in the informal collection sector;
 - (D) Business opportunities related to increased material recovery, recycling, and reuse from a beverage container redemption system in addition to an extended producer responsibility program; and
 - (E) Effects on material recovery facilities and collection providers, including any steps undertaken to compensate or otherwise accommodate material recovery facilities and collection providers for potential loss of revenue from the removal of beverage containers from single-stream recycling programs;
 - (4) An assessment of the feasibility of achieving an overall market share of 5% or 10% for reusable beverage containers sold in the State by 2030, 2040, and 2050 and a determination of the infrastructure

- and investments that would be necessary to support those goals;
- (5) Suggested performance targets and timing recommendations for beverage containers sold in the State, which shall include:
 - (A) An overall redemption rate for beverage containers;
 - (B) Recycling rates for beverage containers of each material type;
 - (C) An overall market share of reusable containers;
 - (D) An average return rate associated with reusable containers;
 - (E) Recommendations for addressing specific items in the waste stream including, but not limited to, miniature beverage containers; and
 - (F) Recommendations for the dates by which each suggested performance target shall be met, including potential phase-in timing;
 - (6) Recommendations as to how a statewide beverage container redemption program might coordinate with existing producer responsibility programs in the State, including the [PACKAGING EPR PROGRAM NAME/CITATION], which shall include, at a minimum:
 - (A) How infrastructure could be leveraged between both programs to create efficiencies and reduce costs for producers;
 - (B) Opportunities for coordination in education and outreach;
 - (C) Opportunities to coordinate reuse activities for optimized return rates and consumer convenience;
 - (D) How end of life service costs could be fairly distributed, regardless of which system a consumer uses to return covered materials;
 - (E) Methods by which producer responsibility organizations could compensate each other for handling covered materials and cross-program expenses; and
 - (e) Recommendations for any variable deposits on specific beverage container types based on best practices from jurisdictions around the world.
 - (f) The assessment pursuant to this section shall be conducted with input from municipalities, quasi-public agencies, regional planning entities, and non-governmental organizations working in the public interest, and shall include direct input from industry stakeholders and impacted communities, including environmental and public health advocates.

Section 3. Reimbursement of Department's Expenses.

- (a) No later than six months after the completion of the assessment, any packaging Producer Responsibility Organizations registered in the State shall reimburse the Department for reasonable costs incurred to comply with this Act.
- (b) If multiple packaging Producer Responsibility Organizations are registered in the State, the reimbursement total shall be equitably allocated among them based on their respective market shares or another equitable formula determined by the Department.
- (c) No later than three months after the completion of the assessment, the Department shall notify registered packaging Producer Responsibility Organizations of its costs in complying with this Act and the methodology for allocating costs among multiple packaging Producer Responsibility Organizations, if relevant.

Section 4. Report to the Legislature.

- (a) No later than 18 months after the effective date of this Act, the Department shall submit a final report on the assessment conducted, including findings and recommendations, to [the Governor, the Speaker of the House, the Senate President, and the chairs of the relevant House and Senate committees] and make the final report publicly available on the Department's website indefinitely.
- (b) The Department shall, prior to the final report required by this section, hold at least one public hearing to solicit public input on the draft report.

For additional information or for a word document version of this legislation, please contact:
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