

703

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to deposits of refund values for refillable beverage containers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 1, 2, 3, 4, and 5 of section 27-1012 of the
2 environmental conservation law, as added by section 8 of part SS of
3 chapter 59 of the laws of 2009, are amended and a new subdivision 5-a is
4 added to read as follows:

5 1. Each deposit initiator shall deposit in a refund value account an
6 amount equal to the refund value initiated under section 27-1005 of this
7 title which is received with respect to each beverage container sold by
8 such deposit initiator, EXCEPT FOR THOSE REFUND VALUES RECEIVED FOR
9 REFILLABLE BEVERAGE CONTAINERS. Such deposit initiator shall hold the
10 amounts in the refund value account in trust for the state. A refund
11 value account shall be an interest-bearing account established in a
12 banking institution located in this state, the deposits in which are
13 insured by an agency of the federal government. Deposits of such amounts
14 into the refund value account shall be made not less frequently than
15 every five business days. All interest, dividends and returns earned on
16 the refund value account shall be paid directly into said account. The
17 monies in such accounts shall be kept separate and apart from all other
18 monies in the possession of the deposit initiator. The commissioner of
19 taxation and finance may specify a system of accounts and records to be
20 maintained with respect to accounts established under this subdivision.
21 2. Payments of refund values pursuant to section 27-1007 of this
22 title, EXCEPT FOR PAYMENTS OF REFUND VALUES ON REFILLABLE BEVERAGE
23 CONTAINERS, shall be paid from each deposit initiator's refund value

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 account. No other payment or withdrawal from such account may be made
2 except as prescribed by this section.

3 3. Each deposit initiator shall file quarterly reports with the
4 commissioner of taxation and finance on a form and in the manner
5 prescribed by such commissioner. The commissioner of taxation and
6 finance may require such reports to be filed electronically. The quar-
7 terly reports required by this subdivision shall be filed for the quar-
8 terly periods ending on the last day of May, August, November and Febru-
9 ary of each year, and each such report shall be filed within twenty days
10 after the end of the quarterly period covered thereby. Each such report
11 shall include all information such commissioner shall determine appro-
12 priate including but not limited to the following information:

13 a. the balance in the refund value account at the beginning of the
14 quarter for which the report is prepared;

15 b. all such deposits credited to the refund value account and all
16 interest, dividends or returns received on such account, during such
17 quarter;

18 c. all withdrawals from the refund value account during such quarter,
19 including all reimbursements paid pursuant to subdivision two of this
20 section, all service charges on the account, and all payments made
21 pursuant to subdivision four of this section; and

22 d. the balance in the refund value account at the close of such quar-
23 ter. SUCH REPORT SHALL NOT INCLUDE ANY INFORMATION PERTAINING TO
24 REFILLABLE BEVERAGE CONTAINERS.

25 4. a. Quarterly payments. An amount equal to [eighty percent of] the
26 balance outstanding in the refund value account at the close of each
27 quarter shall be paid to the commissioner of taxation and finance at the
28 time the report provided for in subdivision three of this section is
29 required to be filed. [The commissioner of taxation and finance may
30 require that the payments be made electronically. The remaining twenty
31 percent of the balance outstanding at the close of each quarter shall be
32 the monies of the deposit initiator and may be withdrawn from such
33 account by the deposit initiator.] If the provisions of this section
34 with respect to such account have not been fully complied with, each
35 deposit initiator shall pay to such commissioner at such time, in lieu
36 of the amount described in the preceding sentence, an amount equal to
37 the balance which would have been outstanding on such date had such
38 provisions been fully complied with. The commissioner of taxation and
39 finance may require that the payments be made electronically.

40 b. Refund value account shortfall. In the event a deposit initiator
41 pays out more in refund values than it collects in deposits of refund
42 values during the course of a quarterly period as described in subdivi-
43 sion three of this section, the deposit initiator may apply to the
44 commissioner of taxation and finance for a refund of the amount of such
45 excess payment of refund values from sources other than the refund value
46 account, in the manner as provided by the commissioner of taxation and
47 finance. [A deposit initiator must apply for a refund no later than
48 twelve months after the due date for filing the quarterly report for the
49 quarterly period for which the refund claim is made. No interest shall
50 be payable for any refund paid pursuant to this paragraph.]

51 c. Final report. A deposit initiator who ceases to do business in this
52 state as a deposit initiator shall file a final report and remit payment
53 of [eighty percent of] all amounts remaining in the refund value account
54 as of the close of the deposit initiator's last day of business. The
55 commissioner of taxation and finance may require that the payments be
56 made electronically. The deposit initiator shall indicate on the report

1 that it is a "final report". The final report is due to be filed with
2 payment twenty days after the close of the quarterly period in which the
3 deposit initiator ceases to do business. In the event the deposit initi-
4 ator pays out more in refund values than it collects in such final quar-
5 terly period, the deposit initiator may apply to the commissioner of
6 taxation and finance for a refund of the amount of such excess payment
7 of refund values from sources other than the refund value account, in
8 the manner as provided by the commissioner of taxation and finance.

9 5. All monies collected or received by the department of taxation and
10 finance pursuant to this title, AFTER DEDUCTION OF THE AMOUNT THE
11 COMMISSIONER OF TAXATION AND FINANCE DETERMINES IS NECESSARY TO COVER
12 REASONABLE COSTS INCURRED BY THE DEPARTMENT OF TAXATION AND FINANCE TO
13 IMPLEMENT, ADMINISTER, AND ENFORCE THE PROVISIONS OF THIS TITLE, shall
14 be deposited to the credit of the comptroller with such responsible
15 banks, banking houses or trust companies as may be designated by the
16 comptroller. Such deposits shall be kept separate and apart from all
17 other moneys in the possession of the comptroller. The comptroller shall
18 require adequate security from all such depositories. Of the total
19 revenue collected, the comptroller shall retain the amount determined by
20 the commissioner of taxation and finance to be necessary for refunds out
21 of which the comptroller must pay any refunds to which a deposit initi-
22 ator may be entitled. After reserving the amount to pay refunds, the
23 comptroller must, by the tenth day of each month, pay into the [state
24 treasury to the credit of the general fund] ENVIRONMENTAL PROTECTION
25 FUND the revenue deposited under this subdivision during the preceding
26 calendar month and remaining to the comptroller's credit on the last day
27 of that preceding month.

28 5-A. EACH DEPOSIT INITIATOR WHO INITIATES DEPOSITS ON REFILLABLE
29 BEVERAGE CONTAINERS SHALL FILE AN ANNUAL REPORT WITH THE COMMISSIONER ON
30 A FORM AND IN THE MANNER PRESCRIBED BY THE COMMISSIONER. THE COMMISSION-
31 ER MAY REQUIRE SUCH REPORT BE FILED ELECTRONICALLY. SUCH REPORT SHALL
32 INCLUDE ALL INFORMATION THE COMMISSIONER SHALL DETERMINE APPROPRIATE
33 PERTAINING TO DEPOSITS FOR REFILLABLE BEVERAGE CONTAINERS, INCLUDING BUT
34 NOT LIMITED TO: TOTAL DEPOSITS INITIATED; TOTAL DEPOSITS REDEEMED; AND
35 ALL UNCLAIMED DEPOSITS RETAINED BY SUCH DEPOSIT INITIATOR.

36 S 2. This act shall take effect immediately.