STATE OF NEW YORK

8391--A

2025-2026 Regular Sessions

IN ASSEMBLY

May 13, 2025

Introduced by M. of A. SEPTIMO, HYNDMAN, SIMON, KAY -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to returnable beverage containers; and repealing certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 9 of section 27-1003 of the environmental conservation law, as amended by section 3 of part SS of chapter 59 of the laws of 2009, is amended and a new subdivision 14 is added to read as follows:

9. "Redemption center" means any person [~~offering~~] **in compliance with section 27-1013 of this title who is not a dealer and offers** to pay the refund value of an empty beverage container to a redeemer, or [~~any person~~] who contracts with one or more dealers or distributors to collect, sort and obtain the refund value and handling fee of empty beverage containers for, or on behalf of, such dealer or distributor [~~under the provisions of section 27-1013 of this title~~].

14. "Commingling" means the sorting of beverage containers at a redemption center by size and material type rather than by deposit initiator in accordance with the requirements of an approved commingling agreement.

§ 2. Subdivisions 1 and 2 of section 27-1003 of the environmental conservation law, as amended by section 2 of part SS of chapter 59 of the laws of 2009, are amended to read as follows:

1. "Beverage" means carbonated soft drinks, [~~water~~] **noncarbonated drinks**, beer, other malt beverages and a wine product as defined in subdivision thirty-six-a of section three of the alcoholic beverage

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

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control law. "Noncarbonated drinks" means any noncarbonated liquid intended for human consumption excluding "spirits" and "wine" as defined in subdivisions twenty-nine and thirty-six of section three of the alcoholic beverage control law, beverages with dairy milk as the primary (first) ingredient, drugs regulated under the federal food, drug and cosmetic act, infant formula, or meal replacement liquids. "Malt beverages" means any beverage obtained by the alcoholic fermentation or infusion or decoction of barley, malt, hops, or other wholesome grain or cereal and water including, but not limited to ale, stout or malt liquor. [~~"Water" means any beverage identified through the use of letters, words or symbols on its product label as a type of water, including any flavored water or nutritionally enhanced water, provided, however, that "water" does not include any beverage identified as a type of water to which a sugar has been added.~~]

2. "Beverage container" means the individual, separate, sealed glass, metal, aluminum, steel or [~~plastic~~] polyethylene terephthalate (PET) bottle, can or jar used for containing three liters or less [~~than one gallon or 3.78 liters~~] at the time of sale or offer for sale of a beverage intended for use or consumption in this state. Beverage containers sold or offered for sale or distributed aboard aircraft or ships shall be considered as intended for use or consumption outside this state.

§ 3. Subdivisions 3, 6 and 8 of section 27-1007 of the environmental conservation law, as added by section 4 of part SS of chapter 59 of the laws of 2009, are amended to read as follows:

3. [~~On or~~] One year after [~~June first, two thousand nine~~] the effective date of the chapter of the laws of two thousand twenty-five which amended this subdivision, a dealer [~~may limit the number of empty beverage containers to be accepted for redemption at the dealer's~~] whose place of business [~~to no~~] is less than [~~seventy-two containers per visit, per redeemer, per day~~] ten thousand square feet in size and whose primary business is the sale of food or beverages for consumption off-premises may obtain an exemption from the obligation to accept empty beverage containers for redemption at such dealer's place of business through an application process developed by the department, provided that:

(a) The dealer has a written agreement with a redemption center, be it either at a fixed physical location [~~within the same county and within one-half mile of the dealer's place of business,~~] or a mobile redemption center, [~~operated by a redemption center,~~] that is [~~located within one-quarter mile of the dealer's place of business. The redemption center must have a written agreement with the dealer to accept containers on behalf of the dealer; and the redemption center's hours of operation must cover at least 9:00 a.m. through 7:00 p.m. daily or in the case of a mobile redemption center, the hours of operation must cover at least four consecutive hours between 8:00 a.m. and 8:00 p.m. daily.~~]:

(i) within five miles of the dealer's place of business for dealers in a rural area as defined by subdivision seven of section four hundred eighty-one of the executive law; or

(ii) within two miles of the dealer's place of business for dealers elsewhere in the state;

(b) The affiliated redemption center operates:

(i) in a fixed location at least thirty-five hours per week including at least six consecutive hours on Saturdays and operates until 7:00 p.m. at least one day per week; or

(ii) as a mobile redemption center in the designated area at least fifteen hours per week including at least four consecutive hours on Saturdays; and

(c) The dealer must post a conspicuous, permanent sign, meeting the size and color specifications set forth in subdivision two of this section, open to public view, identifying the location and hours of operation of the affiliated redemption center or mobile redemption center[~~; and~~

~~(b) The dealer provides, at a minimum, a consecutive two hour period between 7:00 a.m. and 7:00 p.m. daily whereby the dealer will accept up to two hundred forty containers, per redeemer, per day, and posts a conspicuous, permanent sign, meeting the size and color specifications set forth in subdivision two of this section, open to public view, identifying those hours. The dealer may not change the hours of redemption without first posting a thirty day notice; and~~

~~(c) The dealer's primary business is the sale of food or beverages for consumption off-premises, and the dealer's place of business is less than ten thousand square feet in size~~].

6. In addition to the refund value of a beverage container as established by section 27-1005 of this title, a deposit initiator shall pay to any dealer or operator of a redemption center a handling fee [~~of three and one-half cents~~] for each beverage container accepted by the deposit initiator from such dealer or operator of a redemption center. Payment of the handling fee shall be as compensation for collecting, sorting and packaging of empty beverage containers for transport back to the deposit initiator or its designee. Payment of the handling fee may not be conditioned on the purchase of any goods or services, nor may such payment be made out of the refund value account established pursuant to section 27-1012 of this title. A distributor who does not initiate deposits on a type of beverage container is considered a dealer only for the purpose of receiving a handling fee from a deposit initiator. The amount of the handling fee shall be as follows:

(a) Three cents for each redeemed container subject to an approved commingling agreement;

(b) Three and one-half cents for each container redeemed through a reverse vending machine or other process utilizing technology that recognizes the universal product code to determine if the container is redeemable and accumulates information regarding the number of containers redeemed for the purpose of invoicing deposit initiators; and

(c) Four and one-half cents for all other redeemed containers.

8. It shall be the responsibility of the deposit initiator or distributor to provide to a dealer or redemption center a sufficient number of bags, cartons, or other suitable containers, at no cost, for the packaging, handling and pickup of empty beverage containers that are not redeemed through a reverse vending machine. The bags, cartons, or containers must be provided by the deposit initiator or distributor on a schedule that allows the dealer or redemption center sufficient time to sort the empty beverage containers prior to pick up by the deposit initiator or distributor. In addition:

(a) When picking up empty beverage containers, a deposit initiator or distributor shall not require a dealer or redemption center to load their own bags, cartons or containers onto or into the deposit initiator's or distributor's vehicle or vehicles or provide the staff or equipment needed to do so.

(b) [~~A deposit initiator or distributor shall not require empty containers to be counted at a location other than the redemption center~~

~~or dealer's place of business. The dealer or redemption center shall have the right to be present at the count.~~

~~(c)~~] A deposit initiator or distributor shall pick up empty beverage containers from the dealer or redemption center at reasonable times and intervals as determined in rules or regulations promulgated by the department.

(c) Independent of procedures adopted under an approved commingling agreement under section 27-1008 of this title, a deposit initiator or distributor shall have the right to conduct audits of containers presented for redemption by redemption centers or dealers subject to the following:

(i) Audits may be conducted on bags, gaylords, shells, or other receptacles used to hold empty containers as well as the contents of a reverse vending machine;

(ii) The deposit initiator, distributor, or their agent shall notify the redemption center or dealer of the audit in writing upon completion of a pickup of empty containers from the site, describing the time and place of the audit and allowing the redemption center or dealer to be present;

(iii) Bags or other receptacles to be audited shall be tagged at the time of pickup and include at least ten percent of containers of a particular container type and size (e.g., twelve ounce aluminum cans) to be audited but in no case shall fewer than one thousand containers be audited;

(iv) Appropriate chain of custody procedures shall be implemented;

(v) The audit shall separate containers eligible for refund under this title from containers and materials that are ineligible as specified in section 27-1009 of this title, and the number of eligible containers shall be compared to the number of containers represented by the redemption center or dealer at the time of pickup; and

(vi) Results of the audit shall be retained by the distributor, deposit initiator, or agent with a copy provided to the redemption center or dealer.

(d) It shall be a violation of this title to have more than two percent ineligible containers within the audited bags, gaylords, shells or other receptacles used to hold empty containers, or in the audited contents of a reverse vending machine. A shortfall of greater than ten percent between the number of eligible containers represented by the dealer or redemption center and the actual amount determined by audit shall be a violation of this title. Either violation is subject to adjustment as follows: for a first violation, the distributor, deposit initiator, or agent shall provide a written notice warning the dealer or redemption center of the nature of the violation; for a second violation, a distributor, deposit initiator, or their agent, may withhold the refund and handling fee for the fraction of the ineligible containers and/or shortfall in the audited bags applied to the day's pickup and provide notice to the department of a second violation; for a third violation, the distributor, deposit initiator, or their agent may withhold the refund and handling fee for the fraction of the ineligible containers and/or shortfall in the audited bags applied to one week's pickups and provide notice to the department; and for any subsequent violation, the adjustment shall apply to all pickups for the month and the department shall be appropriately notified. The department shall consider violation records when renewing or, in the case of multiple violations, withdrawing registration from a redemption center.

§ 4. Subdivision 11 of section 27-1007 of the environmental conservation law is REPEALED and subdivision 12 is renumbered subdivision 11.

§ 5. Subdivision 5 of section 27-1015 of the environmental conservation law, as amended by section 8 of part F of chapter 58 of the laws of 2013, is amended to read as follows:

5. The department, the department of agriculture and markets, the department of taxation and finance and the attorney general are hereby authorized to enforce the provisions of this title and all monies collected shall be deposited to the credit of the environmental protection fund established pursuant to section ninety-two-s of the state finance law. In addition, the provisions of section 27-1005 of this title and subdivisions one, two, three, four, five[~~,~~] and ten [~~and eleven~~] of section 27-1007 of this title may be enforced by a county, city, town or village and the local legislative body thereof may adopt local laws, ordinances or regulations consistent with this title providing for the enforcement of such provisions.

§ 6. The environmental conservation law is amended by adding a new section 27-1008 to read as follows:

§ 27-1008. Commingling.

1. Groups of deposit initiators and brands that wish to form a commingling group shall meet the following criteria:

(a) An agreement shall include brands that represent at least thirty-five percent of sales of all beverage containers in a commingling territory.

(b) One commingling territory shall include all counties in the department's regions three through nine; commingling territories may be established separately in department regions one and two or they may be combined.

(c) An agreement shall clearly define criteria for deposit initiators' brands to enter into or exit an approved commingling agreement and there shall not be unreasonable barriers put into place on any beverage brand entering or exiting the commingling agreement.

(d) The agreement shall specify the manufacturers, distributors, and/or third party pick-up agents acting on behalf of the parties to the agreement, the brands to be included, and the sorting requirements which shall not include parameters other than container material type and size.

(e) The agreement shall specify a method for determining the number of containers redeemed. Such method shall be one of the following:

(i) The number of containers redeemed shall be based upon a count of at least ten percent of the containers presented for redemption by the redemption center;

(ii) The number of containers redeemed shall be the number of containers the redemption center certifies as being presented for redemption; or

(iii) Another method approved by the commissioner as a part of the commingling agreement.

(f) The agreement, or a cover letter to the agreement, shall identify a name, address, and telephone number for a point of contact for questions on this agreement and to respond to complaints that the terms of the agreement are not being conformed to.

2. A commingling agreement shall be submitted to the commissioner prior to its implementation for review and approval.

3. If the department believes that the parties to an approved commingling agreement are not in conformance with the minimum criteria contained in this section, the commissioner shall notify the group's

point of contact of the alleged non-compliance. The parties shall have thirty days to correct the noncompliance or provide information demonstrating that the allegation of noncompliance was in error. Continued noncompliance shall be grounds to revoke the approval of a commingling agreement.

§ 7. Section 27-1009 of the environmental conservation law, as amended by section 4 of part F of chapter 58 of the laws of 2013, is amended to read as follows:

§ 27-1009. Refusal of acceptance.

1. A dealer or operator of a redemption center [~~may~~] **shall** refuse to accept from a redeemer, and a deposit initiator or distributor [~~may~~] **shall** refuse to accept from a dealer or operator of a redemption center any empty beverage container which does not state thereon a refund value as established by section 27-1005 and provided by section 27-1011 of this title.

2. A dealer or operator of a redemption center [~~may~~] **shall** also refuse to accept any broken bottle, corroded, crushed or dismembered container, or any beverage container which contains a significant amount of foreign material, as determined in rules and regulations to be promulgated by the commissioner.

3. A dealer or operator of a redemption center and a deposit initiator or distributor shall also refuse to accept for refund an empty beverage container that the dealer, redemption center, deposit initiator, or distributor knows or has reasonable grounds to know was purchased outside of New York.

§ 8. Paragraph a of subdivision 1 of section 27-1011 of the environmental conservation law, as amended by section 5 of part F of chapter 58 of the laws of 2013, is amended to read as follows:

a. Every beverage container sold or offered for sale in this state shall clearly indicate by permanently marking or embossing the container or by printing as part of the product label the refund value of the container **or the letters "RV"** and the words "New York" or the letters "NY".

§ 9. Subdivision 5 of section 27-1012 of the environmental conservation law, as amended by section 2 of part JJ of chapter 58 of the laws of 2017, is amended to read as follows:

5. All moneys collected or received by the department of taxation and finance pursuant to this title shall be deposited to the credit of the comptroller with such responsible banks, banking houses or trust companies as may be designated by the comptroller. Such deposits shall be kept separate and apart from all other moneys in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected, the comptroller shall retain the amount determined by the commissioner of taxation and finance to be necessary for refunds out of which the comptroller must pay any refunds to which a deposit initiator may be entitled. After reserving the amount to pay refunds, the comptroller must, by the tenth day of each month, pay into the state treasury to the credit of the general fund the revenue deposited under this subdivision during the preceding calendar month and remaining to the comptroller's credit on the last day of that preceding month; provided, however, [~~that, beginning~~]**:**

(a) Beginning April first, two thousand thirteen, [~~nineteen million dollars,~~] and all fiscal years thereafter, [~~twenty-three~~] **fifteen** million dollars plus all funds received from the payments due each fiscal year pursuant to subdivision four of this section in excess of [~~the greater of~~] the amount received from April first, two thousand twelve through March thirty-first, two thousand thirteen [~~or one hundred twenty-two million two hundred thousand dollars~~], shall be deposited to the credit of the environmental protection fund established pursuant to section ninety-two-s of the state finance law[~~.~~]; and

(b) Beginning on the effective date of the chapter of the laws of two thousand twenty-five which amended this subdivision and for each of the next three years, twelve million dollars of the payments to the state treasury to the credit of the general fund shall instead be transferred to the department. Such funds shall be used solely to establish and fund support to redemption centers that operate independently from dealers in rural areas as defined in subdivision seven of section four hundred eighty-one of the executive law or in environmental justice communities and that redeem fewer than two million beverage containers per year. Such support may take the form of a supplemental handling fee, capped at an additional one cent per container redeemed, or the equivalent in grants as determined by the department. The department may develop policies and procedures for the evaluation of redemption center eligibility and support. The commissioner may retain up to five percent of funds transferred to cover the administrative costs of such temporary support. Any unused funds at the end of each year shall be returned to the general fund.

§ 10. Section 27-1013 of the environmental conservation law, as amended by section 7 of part F of chapter 58 of the laws of 2013, is amended to read as follows:

§ 27-1013. Redemption centers.

1. The commissioner is hereby empowered to promulgate rules and regulations governing (a) the circumstances in which deposit initiators, dealers and distributors, individually or collectively, are required to accept the return of empty beverage containers, including beverage containers processed through reverse vending machines and make payment therefor; (b) the sorting of the containers which a deposit initiator or distributor may require of dealers and redemption centers; (c) the collection of returned beverage containers by deposit initiators or distributors, including the party to whom such expense is to be charged, the frequency of such pick ups and the payment for refunds and handling fees thereon; (d) the right of dealers to restrict or limit the number of containers redeemed, the rules for redemption at the dealers' place of business, and the redemption of containers from a beverage for which sales have been discontinued; (e) [~~to issue~~] the issuance of registrations to persons, firms or corporations which establish redemption centers, subject to applicable provisions of local and state laws, at which redeemers and dealers may return empty beverage containers and receive payment of the refund value of such beverage containers. Such registrations shall be issued at no cost. [~~Should the department require by regulations adopted pursuant to this paragraph that redemption centers must obtain a registration as a condition of operation, any redemption center in business as of March first, two thousand thirteen that previously provided the department with the notification information required by regulations in effect as of such date may continue to operate as if the department had issued such redemption center a registration required by regulations adopted under this paragraph; provided, however, that such redemption center shall provide the department with any other information required by regulations adopted pursuant to this paragraph.~~] All redemption centers in operation on January first, two thousand twenty-five shall be considered to have registered, and the department shall develop a process for obtaining registration informa-

tion from such pre-existing centers within one year of the effective date of the chapter of the laws of two thousand twenty-five which amended this section. Redemption centers shall allow the department to conduct facility inspections and shall meet all applicable requirements prior to registration. The registration application shall include the name, address, and contact information for the redemption center, its hours of operation, the types of beverage containers to be accepted, the name and address of any dealer with which it has a written agreement to provide redemption services under subdivision three of section 27-1007 of this title, for pre-existing centers the number of beverage containers accepted for refund in the most recently completed fiscal year, and any additional information required by the commissioner. The commissioner shall approve registration applications if the commissioner finds that the facility will provide a convenient service for the return of empty beverage containers and meets all registration and operating requirements enumerated in this title. Registrations shall be renewed no less frequently than every three years. The commissioner shall annually publish and post on the department's website a list of registered redemption centers and the total aggregate number of redeemed containers handled by such centers in the prior year. All registrations are subject to suspension or non-renewal for good cause shown, including but not limited to unsafe practices, falsification of reports, or serious or continued violation of this title. The department may, after due notice and opportunity of hearing, pursuant to the provisions of section 71-1709 of this chapter, deny an application or revoke a registration. In determining whether or not to revoke a registration the commissioner shall at a minimum, take into consideration the compliance history of a violator, good faith efforts of a violator to comply, any economic benefit from noncompliance and whether the violation was procedural in nature. The commissioner's determination to revoke a registration is subject to review under article seventy-eight of the civil practice law and rules; and (f) the operation of mobile redemption centers in order to ensure that to the best extent practicable containers are not proffered for redemption to a deposit initiator or distributor outside of the geographic area where such deposit initiator sells containers and initiates deposits.

2. The department may require a redemption center to obtain a permit, [~~as an alternative~~] in addition to registration if such center is located at the same facility or site as another solid waste management facility otherwise subject to the requirements of title seven of this article or the regulations promulgated pursuant thereto.

3. No dealer or distributor, as defined in section 27-1003 of this title, shall be required to obtain a permit to operate a redemption center at the same location as the dealer's or distributor's place of business. Operators of such redemption centers shall receive payment of the refund value of each beverage container from the appropriate deposit initiator or distributor as provided under section 27-1007 of this title.

4. Each dealer and redemption center shall require any person tendering for redemption more than two thousand five hundred containers at one time to such dealer or redemption center to provide such person's name and address [~~and~~], the license plate of the vehicle used to transport the containers, or, in the case of an agent or employee of a not-for-profit corporation, a sales tax exemption certificate, and a certification that to the best of such person's knowledge the containers were originally sold as filled beverage containers in this state and were not

previously redeemed. **After complying with at least one of these requirements, a person need not comply each subsequent time such person tenders to a dealer or redemption center for redemption more than two thousand five hundred beverage containers if all of the containers were collected at one location in this state, all proceeds of the refund value benefit a nonprofit organization that has been determined by the United States internal revenue service to be exempt from taxation under section 501 (c) (3) of the United States internal revenue code of 1986, and the person tendering the containers for redemption signs a declaration indicating such person's name, the address of the collection point and the name of the organization or organizations that will receive the refund value.** The dealer or redemption center redeeming the beverage containers shall keep the information on file for a minimum of twelve months and provide [~~same~~] **the information** to the department upon request.

§ 11. This act shall take effect immediately; provided, however, that section two of this act shall take effect July 1, 2029.