S T A T E O F N E W Y O R K

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I N A S S E M B L Y

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Introduced by M. of A. DESTITO, MORELLE, SCHROEDER, LENTOL, SCHIMMINGER, STIRPE, MAGEE, GABRYSZAK, PERALTA, GORDON, HYER-SPENCER, P. LOPEZ -- Multi-Sponsored by -- M. of A. AMEDORE, REILLY -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 to amend chapter 59 of the laws of 2009, amending the environmental conservation law and the economic development law relating to including additional beverage containers, in relation to requiring a study on fraud and improper redemption

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

Section 1. Paragraph (a) of subdivision 3 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, is amended to read as follows:

(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. The dealer must post a conspicuous, permanent sign, meeting the size and color specifications set forth in subdivision two of this section, open to

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

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public view, identifying the location and hours of operation of the affiliated redemption center or mobile redemption center; [and] OR

S 2. Subdivision 1 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, is amended to read as follows:

1. (a) A dealer shall accept at his or her place of business from a redeemer any empty beverage containers of the design, shape, size, color, composition and brand sold or offered for sale by the dealer, and shall pay to the redeemer the refund value of each such beverage container as established in section 27-1005 of this title. Redemptions of refund value must be in legal tender, or a scrip or receipt from a reverse vending machine, provided that the scrip or receipt can be exchanged for legal tender for a period of not less than [sixty] THIRTY days without requiring the purchase of other goods. SUCH SCRIP OR RECEIPT SHALL CLEARLY INDICATE THE EXPIRATION THEREOF. The use or presence of a reverse vending machine shall not relieve a dealer of any obligations imposed pursuant to this section. If a dealer utilizes a reverse vending machine to redeem containers, the dealer shall provide redemption of beverage containers when the reverse vending machine is full, broken, under repair or does not accept a type of beverage container sold or offered for sale by such dealer and may not limit the hours or days of redemption except as provided by subdivision three of this section.

(b) Beginning March first, two thousand ten, a dealer whose place of business is part of a chain engaged in the same general field of business which operates ten or more units in this state under common ownership and whose business exceeds: (i) forty thousand square feet but is less than sixty thousand square feet shall install and maintain at least three reverse vending machines at the dealer's place of business; (ii) sixty thousand square feet but is less than eighty-five thousand square feet shall install and maintain at least four reverse vending machines at the dealer's place of business; or (iii) eighty-five thousand square feet shall install and maintain at least eight reverse vending machines at the dealer's place of business; provided, however, that the requirements of this paragraph to install and maintain reverse vending machines shall not apply to a dealer that sells only refrigerated beverage containers of twenty ounces or less where each beverage container is sold as an individual container that is not connected to or packaged with any other beverage container. THIS PARAGRAPH SHALL NOT APPLY TO RETAIL ESTABLISHMENTS IN WHICH THE SALES OF CONSUMER COMMODITIES, AS DEFINED IN SECTION TWO HUNDRED FOURTEEN-H OF THE AGRICULTURE AND MARKETS LAW, DO NOT EXCEED TEN PERCENT OF ANNUAL GROSS SALES.

(c) A dealer to which paragraph (b) of this subdivision does not apply and whose place of business is at least forty thousand square feet which does not utilize reverse vending machines to process empty beverage containers for redemption shall: (i) establish and maintain a dedicated area within such business to accept beverage containers for redemption; (ii) adequately staff such area to facilitate efficient acceptance and processing of such containers during business hours; and (iii) post one or more conspicuous signs conforming to the size and color requirements described in subdivision two of this section at each public entrance to the business which describes where in the business the redemption area is located.

(D) The commissioner [may] SHALL establish in rules and regulations additional standards for the efficient processing of beverage containers by such dealers. SUCH RULES AND REGULATIONS SHALL INCLUDE A PROVISION

FOR A WAIVER FROM THE REQUIREMENTS OF THIS SECTION IF A DEALER CAN REASONABLY DEMONSTRATE THAT THEY PLAN TO IMPLANT AN ALTERNATIVE MECHANISM FOR CONVENIENTLY AND EFFICIENTLY ACCEPTING BEVERAGE CONTAINERS FOR REDEMPTION. SUCH REGULATIONS MAY ALSO PROVIDE THAT A DEALER UNDER SUBPARAGRAPH (III) OF PARAGRAPH (B) OF THIS SUBDIVISION MAY MAINTAIN LESS THAN EIGHT BUT GREATER THAN FIVE REVERSE VENDING MACHINES IF SUCH DEALER CAN DEMONSTRATE THAT EIGHT REVERSE VENDING MACHINES ARE NOT NECESSARY FOR THE CONVENIENT AND EFFICIENT REDEMPTION OF BEVERAGE CONTAINERS.

[(d)] (E) For the purposes of this subdivision on any day that a dealer is open for less than twenty-four hours, the dealer may restrict or refuse the payment of refund values during the first and last hour the dealer is open for business.

S 3. Subdivision 1 of section 27-1012 of the environmental conservation law, as added by section 8 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

1. Each deposit initiator shall deposit in a refund value account an amount equal to the refund value initiated under section 27-1005 of this title which is received with respect to each beverage container sold by such deposit initiator. Such deposit initiator shall hold the amounts in the refund value account in trust for the state. A refund value account shall be an interest-bearing account established in a banking institution located in this state, the deposits in which are insured by an agency of the federal government. Deposits of such amounts into the refund value account shall be made not less frequently than every [five] TEN business days. All interest, dividends and returns earned on the refund value account shall be paid directly into said account. The monies in such accounts shall be kept separate and apart from all other monies in the possession of the deposit initiator. The commissioner of taxation and finance may specify a system of accounts and records to be maintained with respect to accounts established under this subdivision.

S 4. Part SS of chapter 59 of the laws of 2009 amending the environmental conservation law and the economic development law relating to including additional beverage containers, is amended by adding a new section 15-a to read as follows:

S 15-A. ON OR BEFORE SEPTEMBER 30, 2010, THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, IN CONJUNCTION WITH THE COMMISSIONER OF TAXATION AND FINANCE, SHALL SUBMIT A REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE CHAIRS OF THE SENATE AND ASSEMBLY ENVIRONMENTAL CONSERVATION COMMITTEES, REGARDING ANY ISSUES OF FRAUD OR REDEMPTION OF NON-NEW YORK STATE BEVERAGE CONTAINERS. SUCH REPORT SHALL INCLUDE ANY DATA RELATING TO THE OCCURRENCE AND FREQUENCY OF SUCH FRAUD OR IMPROPER REDEMPTION. WHEN PREPARING THE REPORT, THE COMMISSIONERS MAY CONSULT WITH BOTTLERS, DEPOSIT INITIATORS, AND/OR DISTRIBUTORS TO DETERMINE IF, AND TO WHAT EXTENT, FRAUD OR IMPROPER REDEMPTION HAS OCCURRED. IN ADDITION TO THE COLLECTION AND REPORTING OF THE DATA, THE REPORT SHALL CONTAIN ANY SUGGESTED LEGISLATIVE RECOMMENDATIONS THAT CAN BE IMPLEMENTED TO THWART SUCH FRAUD OR IMPROPER REDEMPTION IN THE FUTURE.

S 5. This act shall take effect immediately.