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3633

2009-2010 Regular Sessions

I N  S E N A T E

March 25, 2009

Introduced by Sens. LAVALLE, PADAVAN -- 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, the economic development law and the state finance law, in relation to returnable beverage containers; and to repeal sections 27-1005, 27-1007 and subdivision 2 of section 27-1011 of the environmental conservation law relating thereto

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

Section 1. Section 27-1001 of the environmental conservation law, as added by chapter 200 of the laws of 1982, is amended to read as follows:

S 27-1001. Legislative findings.

The legislature hereby finds that litter composed of discarded [soft-drink, beer and ale] BEVERAGE bottles and cans is a growing problem of state concern and a direct threat to the health and safety of the citizens of this state. Discarded beverage bottles and cans create a hazard to vehicular traffic, a source of physical injury to pedestrians, farm animals and machinery and an unsightly accumulation of litter which must be disposed of at increasing public expense. Beverage bottles and cans also create an unnecessary addition to the state's and municipalities' already overburdened solid waste and refuse disposal systems. Unsegregated disposal of such bottles and cans creates an impediment to the efficient operation of resource recovery plants. Further, the legislature finds that the uninhibited discard of beverage containers constitutes a waste of both mineral and energy resources. The legislature hereby finds that requiring a deposit on all beverage containers, along with certain other facilitating measures, will provide a necessary incentive for the economically efficient and environmentally benign collection and recycling of such containers.

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

LBD10667-01-9

S 2. Subdivisions 1 and 2 of section 27-1003 of the environmental conservation law, subdivision 1 as amended by chapter 778 of the laws of 1988 and subdivision 2 as amended by chapter 546 of the laws of 1986, are amended to read as follows:

1. "Beverage" means [carbonated soft drinks, mineral water, soda water, beer, other malt beverages and a wine product as defined in subdivision thirty-six-a of section three of the alcoholic beverage control law. "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.] ALL CARBONATED AND NON-CARBONATED DRINKS IN LIQUID FORM AND INTENDED FOR INTERNAL HUMAN CONSUMPTION. THE TERM "BEVERAGE" SHALL NOT INCLUDE:

A. MILK AND DAIRY DERIVED PRODUCTS. "MILK" MEANS WHOLE MILK, SKIM MILK, LOW-FAT MILK, CREAM, CULTURED MILK, YOGURT OR ANY COMBINATION OF THOSE PRODUCTS. THE TERM "DAIRY DERIVED PRODUCTS" INCLUDES ANY PRODUCT OF WHICH THE SINGLE LARGEST INGREDIENT IS MILK, MILK FAT, CULTURED MILK OR YOGURT;

B. RICE MILK OR SOY MILK;

C. INFANT FORMULA;

D. ALCOHOLIC BEVERAGES OTHER THAN BEER, OTHER MALT BEVERAGES AND WINE PRODUCTS AS DEFINED IN SUBDIVISION THIRTY-SIX-A OF SECTION THREE OF THE ALCOHOLIC BEVERAGE CONTROL LAW. "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;

E. A LIQUID THAT IS A SYRUP, IN A CONCENTRATED FORM, OR TYPICALLY ADDED AS A MINOR FLAVORING INGREDIENT IN FOOD OR DRINK, SUCH AS EXTRACTS, COOKING ADDITIVES, SAUCES OR CONDIMENTS;

F. A LIQUID THAT IS INGESTED IN VERY SMALL QUANTITIES AND THAT IS CONSUMED FOR MEDICINAL PURPOSES ONLY;

G. A LIQUID THAT IS DESIGNED AND CONSUMED ONLY AS A NUTRITIONAL SUPPLEMENT AND NOT AS A BEVERAGE;

H. PRODUCTS FROZEN AT THE TIME OF SALE;

I. PRODUCTS DESIGNED TO BE CONSUMED IN A FROZEN STATE;

J. INSTANT DRINK POWDERS; AND

K. SEAFOOD, MEAT OR VEGETABLE BROTHS, OR SOUPS.

2. "Beverage container" means the individual, separate, sealed glass, metal, aluminum, steel or plastic bottle, can or jar used for containing LESS THAN one gallon or 3.8 liters [or less] at the time of sale of a beverage intended for use or consumption in this state. Beverage containers sold or distributed aboard aircraft or ships shall be considered as intended for use or consumption outside this state.

S 3. Subdivisions 6 and 9 of section 27-1003 of the environmental conservation law, as added by chapter 200 of the laws of 1982, are amended and four new subdivisions 2-a, 6, 12 and 13 are added to read as follows:

2-A. "BOTTLER" MEANS A PERSON WHO:

A. BOTTLES, CANS OR OTHERWISE PACKAGES BEVERAGES IN BEVERAGE CONTAINERS EXCEPT THAT IF SUCH PACKAGING IS FOR A DISTRIBUTOR HAVING THE RIGHT TO BOTTLE, CAN OR OTHERWISE PACKAGE THE SAME BRAND OF BEVERAGE, THEN SUCH DISTRIBUTOR SHALL BE THE BOTTLER; OR

B. IMPORTS FILLED BEVERAGE CONTAINERS INTO THE UNITED STATES.

6. A "DEPOSIT INITIATOR" FOR EACH BEVERAGE CONTAINER FOR WHICH A REFUND VALUE IS ESTABLISHED UNDER SECTION 27-1005 OF THIS TITLE MEANS:

A. THE BOTTLER OF THE BEVERAGE IN SUCH CONTAINER;

B. THE DISTRIBUTOR OF SUCH CONTAINER IF SUCH DISTRIBUTOR'S PURCHASE OF SUCH CONTAINER WAS NOT, DIRECTLY OR INDIRECTLY, FROM A REGISTERED DEPOSIT INITIATOR;

C. A DEALER OF SUCH CONTAINER WHO SELLS SUCH CONTAINER IN THIS STATE, WHOSE PURCHASE OF SUCH CONTAINER WAS NOT, DIRECTLY OR INDIRECTLY, FROM A REGISTERED DEPOSIT INITIATOR; OR

D. AN AGENT ACTING ON BEHALF OF A DEPOSIT INITIATOR.

[6.] 6-A. "Distributor" means any person, firm or corporation which [bottles, cans or otherwise fills or packages beverage containers, or which] engages in the sale of [such] BEVERAGES IN BEVERAGE containers to a dealer.

9. "Redemption center" means any [establishment offering to pay the refund value of a beverage container] PERSON OFFERING 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.

12. "REVERSE VENDING MACHINE" MEANS AN AUTOMATED DEVICE THAT USES A LASER SCANNER, MICROPROCESSOR, OR OTHER TECHNOLOGY TO ACCURATELY RECOGNIZE THE UNIVERSAL PRODUCT CODE (UPC) TO DETERMINE IF THE CONTAINER IS REDEEMABLE ON CONTAINERS AND ACCUMULATES INFORMATION REGARDING CONTAINERS REDEEMED, THEREBY ENABLING THE REVERSE VENDING MACHINE TO ACCEPT CONTAINERS FROM REDEEMERS AND TO ISSUE SCRIP FOR THEIR REFUND VALUE.

13. "UNIVERSAL PRODUCT CODE OR UPC CODE" MEANS A STANDARD FOR ENCODING A SET OF LINES AND SPACES THAT CAN BE SCANNED AND INTERPRETED INTO NUMBERS TO IDENTIFY A PRODUCT. UNIVERSAL PRODUCT CODE MAY ALSO MEAN ANY ACCEPTED INDUSTRY BARCODE WHICH REPLACES THE UPC CODE INCLUDING BUT NOT LIMITED TO UNIVERSAL PRODUCT CODE (UPC), EAN AND OTHER CODES THAT MAY BE USED TO IDENTIFY A PRODUCT.

S 4. Sections 27-1005 and 27-1007 of the environmental conservation law are REPEALED and two new sections 27-1005 and 27-1007 are added to read as follows:

S 27-1005. REFUND VALUE.

NO PERSON SHALL SELL OR OFFER FOR SALE A BEVERAGE CONTAINER IN THIS STATE UNLESS THE DEPOSIT ON SUCH BEVERAGE CONTAINER IS OR HAS BEEN COLLECTED BY A REGISTERED DEPOSIT INITIATOR AND UNLESS SUCH CONTAINER HAS A REFUND VALUE OF NOT LESS THAN FIVE CENTS WHICH IS CLEARLY INDICATED THEREON AS PROVIDED IN SECTION 27-1011 OF THIS TITLE.

S 27-1007. MANDATORY ACCEPTANCE.

EXCEPT AS PROVIDED IN SECTION 27-1009 OF THIS TITLE:

1. 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 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. 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 BY SUCH DEALER AND MAY NOT LIMIT THE HOURS OR DAYS OF REDEMPTION EXCEPT AS PROVIDED BY SUBDIVISION THREE OF THIS SECTION. 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.

2. A DEALER SHALL POST A CONSPICUOUS SIGN, AT THE POINT OF SALE THAT STATES:

"NEW YORK BOTTLE BILL
BILL OF RIGHTS

STATE LAW REQUIRES US TO REDEEM EMPTY RETURNABLE BEVERAGE CONTAINERS OF THE SAME TYPE OF CONTAINER THAT WE SELL

YOU HAVE CERTAIN RIGHTS UNDER THE STATE RETURNABLE CONTAINER ACT:

THE RIGHT TO RETURN YOUR EMPTIES FOR REFUND TO ANY DEALER WHO SELLS YOU THE SAME BRAND, TYPE AND SIZE, WHETHER YOU BOUGHT THE BEVERAGE FROM THE DEALER OR NOT. IT IS ILLEGAL TO RETURN CONTAINERS THAT WERE PURCHASED OUTSIDE OF NEW YORK STATE.

THE RIGHT TO GET YOUR DEPOSIT REFUND IN CASH, WITHOUT PROOF OF PURCHASE.

THE RIGHT TO RETURN YOUR EMPTIES ANY DAY, ANY HOUR, EXCEPT THE FIRST AND LAST HOURS OF THE DEALER'S BUSINESS DAY (EMPTY CONTAINERS MAY BE REDEEMED AT ANY TIME IN 24-HOUR STORES).

THE RIGHT TO RETURN YOUR CONTAINERS IF THEY ARE EMPTY AND INTACT. WASHING CONTAINERS IS NOT REQUIRED BY LAW, BUT IS STRONGLY RECOMMENDED TO MAINTAIN SANITARY CONDITIONS.

THE NEW YORK STATE RETURNABLE CONTAINER ACT CAN BE ENFORCED BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (NYSDEC), THE NEW YORK STATE ATTORNEY GENERAL OR YOUR LOCAL GOVERNMENT."

THIS SIGN MUST BE NO LESS THAN EIGHT INCHES BY TEN INCHES IN SIZE AND HAVE LETTERING A MINIMUM OF ONE QUARTER INCH HIGH, AND OF A COLOR WHICH CONTRASTS WITH THE BACKGROUND.

3. ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, IN A CITY WITH A POPULATION GREATER THAN ONE MILLION, A DEALER MAY LIMIT THE NUMBER OF EMPTY BEVERAGE CONTAINERS TO BE ACCEPTED FOR REDEMPTION AT THE DEALER'S PLACE OF BUSINESS TO NO LESS THAN SEVENTY-TWO CONTAINERS PER VISIT, PER REDEEMER, PER DAY, PROVIDED THAT:

A. A REDEMPTION CENTER, BE IT EITHER A LICENSED FIXED PHYSICAL LOCATION THAT IS LOCATED IN THE SAME COUNTY AND WITHIN ONE-HALF MILE OF THE DEALER'S PLACE OF BUSINESS, OR A MOBILE REDEMPTION CENTER OPERATED BY A LICENSED REDEMPTION CENTER THAT IS LOCATED WITHIN ONE-QUARTER MILE OF THE DEALER'S PLACE OF BUSINESS; AND THE REDEMPTION CENTER HAS A WRITTEN AGREEMENT WITH THE DEALER TO ACCEPT CONTAINERS ON BEHALF OF THE DEALER; AND THE REDEMPTION CENTER'S HOURS OF OPERATION 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 COVER AT LEAST FOUR CONSECUTIVE HOURS BETWEEN 8:00 A.M. AND 8:00 P.M. DAILY; AND THE DEALER POSTS A CONSPICUOUS, PERMANENT SIGN OPEN TO PUBLIC VIEW, IDENTIFYING THE LOCATION AND HOURS OF OPERATION OF THE AFFILIATED REDEMPTION CENTER OR MOBILE REDEMPTION CENTER; OR

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, OPEN TO THE PUBLIC VIEW, IDENTIFYING THOSE HOURS. THE DEALER MAY NOT CHANGE THE HOURS OF REDEMPTION WITHOUT FIRST POSTING A THIRTY DAY NOTICE; OR

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 EIGHT THOUSAND SQUARE FEET IN SIZE.

4. A DEPOSIT INITIATOR SHALL ACCEPT FROM A DEALER OR OPERATOR OF A REDEMPTION CENTER ANY EMPTY BEVERAGE CONTAINERS OF THE DESIGN, SHAPE,

SIZE, COLOR, COMPOSITION AND BRAND SOLD BY THE DEPOSIT INITIATOR, AND SHALL PAY THE DEALER OR OPERATOR OF A REDEMPTION CENTER THE REFUND VALUE OF EACH SUCH BEVERAGE CONTAINER AS ESTABLISHED BY SECTION 27-1005 OF THIS TITLE. A DEPOSIT INITIATOR SHALL ACCEPT AND REDEEM ALL SUCH EMPTY BEVERAGE CONTAINERS FROM A DEALER OR REDEMPTION CENTER WITHOUT LIMITATION ON QUANTITY.

5. A DEPOSIT INITIATOR'S OR DISTRIBUTOR'S FAILURE TO PICK UP EMPTY BEVERAGE CONTAINERS, INCLUDING CONTAINERS PROCESSED IN A REVERSE VENDING MACHINE, FROM A REDEMPTION CENTER, DEALER OR REVERSE VENDING MACHINE, SHALL BE A VIOLATION OF THIS TITLE.

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, OPERATOR OF A REDEMPTION CENTER OR DISTRIBUTOR. 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.

7. A DEPOSIT INITIATOR ON A BRAND SHALL ACCEPT FROM A DISTRIBUTOR WHO DOES NOT INITIATE DEPOSITS ON THAT BRAND ANY EMPTY BEVERAGE CONTAINERS OF THAT BRAND AND SHALL PAY THE DISTRIBUTOR THE REFUND VALUE OF EACH SUCH BEVERAGE CONTAINER, AS ESTABLISHED BY SECTION 27-1005 OF THIS TITLE. IN ADDITION, THE DEPOSIT INITIATOR SHALL PAY TO SUCH DISTRIBUTOR FOR EACH SUCH BEVERAGE CONTAINER THE HANDLING FEE ESTABLISHED UNDER SUBDIVISION SIX OF THIS SECTION. WITHOUT LIMITING THE RIGHTS OF THE DEPARTMENT OR ANY PERSONS, FIRM OR CORPORATION UNDER THIS SUBDIVISION OR ANY OTHER PROVISION OF THIS SECTION, A DISTRIBUTOR, A DEALER OR AN OPERATOR OF A REDEMPTION CENTER SHALL HAVE A CIVIL RIGHT OF ACTION TO ENFORCE THIS SUBDIVISION, INCLUDING UPON THREE DAYS NOTICE, THE RIGHT TO APPLY FOR TEMPORARY AND PRELIMINARY INJUNCTIVE RELIEF AGAINST CONTINUING VIOLATIONS AND UNTIL ARRANGEMENTS FOR COLLECTION AND RETURN OF EMPTY CONTAINERS OR REIMBURSEMENT OF THE REDEEMING DISTRIBUTOR FOR SUCH DEPOSITS AND HANDLING FEES ARE MADE.

8. IF A DEPOSIT INITIATOR OR DISTRIBUTOR REQUIRES EMPTY BEVERAGE CONTAINERS THAT ARE NOT REDEEMED THROUGH A REVERSE VENDING MACHINE TO BE PACKAGED FOR PICK-UP IN BAGS, CARTONS OR OTHER CONTAINERS, IT SHALL BE THE DEPOSIT INITIATOR'S OR DISTRIBUTOR'S RESPONSIBILITY TO PROVIDE A DEALER OR REDEMPTION CENTER A SUFFICIENT NUMBER OF SUCH CONTAINERS AT NO COST TO THE DEALER OR DISTRIBUTOR. THE BAGS, CARTONS, OR OTHER 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:

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 ON THE DISTRIBUTOR'S VEHICLE OR VEHICLES OR PROVIDE THE STAFF OR EQUIPMENT NEEDED.

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.

9. NO PERSON SHALL RETURN OR ASSIST ANOTHER TO RETURN TO A DEALER OR REDEMPTION CENTER AN EMPTY BEVERAGE CONTAINER FOR ITS REFUND VALUE IF SUCH CONTAINER HAD PREVIOUSLY BEEN ACCEPTED FOR REDEMPTION BY A DEALER, REDEMPTION CENTER, OR DEPOSIT INITIATOR WHO INITIATES DEPOSITS ON BEVERAGE CONTAINERS OF THE SAME BRAND.

10. IT IS UNLAWFUL FOR A REDEEMER, DEALER, DISTRIBUTOR OR REDEMPTION CENTER TO KNOWINGLY REDEEM AN EMPTY BEVERAGE CONTAINER ON WHICH A DEPOSIT WAS NEVER PAID.

11. NOTWITHSTANDING THE PROVISIONS OF SECTION 27-1009 OF THIS TITLE, A DEPOSIT INITIATOR OR DISTRIBUTOR SHALL ACCEPT AND REDEEM BEVERAGE CONTAINERS AS PROVIDED IN THIS TITLE, IF THE DEALER OR OPERATOR OF A REDEMPTION CENTER SHALL HAVE ACCEPTED AND PAID THE REFUND VALUE OF SUCH BEVERAGE CONTAINERS.

S 5. Section 27-1009 of the environmental conservation law, as added by chapter 200 of the laws of 1982, is amended to read as follows:

S 27-1009. Refusal of acceptance.

1. A dealer or operator of a redemption center may refuse to accept from a redeemer, and a [distributor] DEPOSIT INITIATOR may 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 also refuse to accept any broken bottle, corroded or dismembered can, or any beverage container which contains a significant amount of foreign material, as determined in rules and regulations to be promulgated by the commissioner. [Notwithstanding the provisions of this subdivision, a distributor shall accept beverage containers as provided in subdivision two of section 27-1007 of this title, if the dealer shall have accepted and paid the refund value of such beverage containers.]

S 6. Subdivision 2 of section 27-1011 of the environmental conservation law is REPEALED.

S 7. The environmental conservation law is amended by adding a new section 27-1012 to read as follows:

S 27-1012. DEPOSIT AND DISPOSITION OF REFUND VALUES.

1. EACH DEPOSIT INITIATOR SHALL DEPOSIT IN A REFUND VALUE ACCOUNT AN AMOUNT EQUAL TO THE REFUND VALUE REQUIRED TO BE 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 SUCH AMOUNTS IN TRUST FOR THE STATE. A REFUND VALUE ACCOUNT SHALL BE AN INTEREST-BEARING ACCOUNT ESTABLISHED IN A BANKING INSTITUTION APPROVED BY THE COMMISSIONER OF TAXATION AND FINANCE AND LOCATED IN THIS STATE, THE DEPOSITS IN WHICH ARE INSURED BY AN AGENCY OF THE FEDERAL GOVERNMENT. DEPOSITS OF SUCH AMOUNTS SHALL BE MADE NOT LESS FREQUENTLY THAN EVERY FIVE BUSINESS DAYS. ALL INTEREST, DIVIDENDS AND RETURNS EARNED ON THE ACCOUNT SHALL BE PAID DIRECTLY INTO SAID ACCOUNT. SUCH MONIES SHALL BE KEPT SEPARATE AND APART FROM ALL OTHER MONEYS 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.

2. PAYMENTS OF REFUND VALUES PURSUANT TO SECTION 27-1007 OF THIS TITLE SHALL BE PAID FROM EACH DEPOSIT INITIATOR'S REFUND VALUE ACCOUNT. NO OTHER PAYMENT OR WITHDRAWAL FROM SUCH ACCOUNT MAY BE MADE EXCEPT AS PRESCRIBED BY THIS SECTION.

3. EACH DEPOSIT INITIATOR SHALL FILE QUARTERLY REPORTS WITH THE COMMISSIONER OF TAXATION AND FINANCE ON A FORM AND IN THE MANNER PRESCRIBED BY SUCH COMMISSIONER. THE QUARTERLY REPORTS REQUIRED BY THIS SUBDIVISION SHALL BE FILED FOR THE QUARTERLY PERIODS ENDING ON THE LAST DAY OF MAY, AUGUST, NOVEMBER AND FEBRUARY OF EACH YEAR, AND EACH SUCH REPORT SHALL BE FILED WITHIN TWENTY DAYS AFTER THE END OF THE QUARTERLY PERIOD COVERED THEREBY. EACH SUCH REPORT SHALL INCLUDE, IN ADDITION TO ANY OTHER INFORMATION SUCH COMMISSIONER SHALL DETERMINE APPROPRIATE, THE FOLLOWING INFORMATION:

A. THE BALANCE IN THE REFUND VALUE ACCOUNT AT THE BEGINNING OF THE QUARTER FOR WHICH THE REPORT IS PREPARED;

B. ALL SUCH DEPOSITS CREDITED TO SUCH ACCOUNT AND ALL INTEREST, DIVIDENDS OR RETURNS RECEIVED ON SUCH ACCOUNT, DURING SUCH QUARTER;

C. ALL WITHDRAWALS FROM SUCH ACCOUNT, DURING SUCH QUARTER, INCLUDING ALL REIMBURSEMENTS PAID PURSUANT TO SUBDIVISION TWO OF THIS SECTION, ALL SERVICE CHARGES ON THE ACCOUNT, AND ALL PAYMENTS MADE PURSUANT TO SUBDIVISION FOUR OF THIS SECTION; AND

D. THE BALANCE IN SUCH ACCOUNT AT THE CLOSE OF SUCH QUARTER.

4. A. UNDER-REDEMPTIONS. AN AMOUNT EQUAL TO THE BALANCE OUTSTANDING IN THE REFUND VALUE ACCOUNT AT THE CLOSE OF EACH QUARTER SHALL BE PAID TO THE COMMISSIONER OF TAXATION AND FINANCE AT THE TIME THE REPORT PROVIDED FOR IN SUBDIVISION THREE OF THIS SECTION IS REQUIRED TO BE FILED. IF THE PROVISIONS OF THIS SECTION WITH RESPECT TO SUCH ACCOUNT HAVE NOT BEEN FULLY COMPLIED WITH, EACH DEPOSIT INITIATOR SHALL PAY TO SUCH COMMISSIONER AT SUCH TIME, IN LIEU OF THE AMOUNT DESCRIBED IN THE PRECEDING SENTENCE, AN AMOUNT EQUAL TO THE BALANCE WHICH WOULD HAVE BEEN OUTSTANDING ON SUCH DATE HAD SUCH PROVISIONS BEEN FULLY COMPLIED WITH.

ALL MONEYS COLLECTED OR RECEIVED BY THE COMMISSIONER OF TAXATION AND FINANCE PURSUANT TO THIS SECTION SHALL BE DEPOSITED BY THE COMPTROLLER IN THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

B. OVER-REDEMPTIONS. IN THE EVENT A DEPOSIT INITIATOR PAYS OUT MORE IN REFUND VALUES THAN IT COLLECTS IN DEPOSITS DURING THE COURSE OF A CALENDAR YEAR, THE DEPOSIT INITIATOR MAY APPLY TO THE COMMISSIONER OF TAXATION AND FINANCE FOR A REIMBURSEMENT FROM THE ENVIRONMENTAL PROTECTION FUND EQUAL TO THE AMOUNT OF OVER-REDEEMED DEPOSITS. THE COMMISSIONER OF TAXATION AND FINANCE SHALL REIMBURSE ANY SUCH DOCUMENTED CLAIM.

5. THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED TO RELIEVE ANY DEPOSIT INITIATOR FROM AN OBLIGATION TO PAY EITHER THE REFUND VALUE AND HANDLING FEE FOR EACH REDEEMED BEVERAGE CONTAINER IN ACCORDANCE WITH THIS TITLE OR ANY AMOUNT REQUIRED BY SUBDIVISION FOUR OF THIS SECTION AT THE TIME PRESCRIBED IN SUCH SUBDIVISION.

6. THE COMMISSIONER AND THE COMMISSIONER OF TAXATION AND FINANCE SHALL PROMULGATE, AND SHALL CONSULT EACH OTHER IN PROMULGATING, SUCH RULES AND REGULATIONS AS MAY BE NECESSARY OR DESIRABLE TO EFFECTUATE THE PURPOSES OF THIS SECTION. THE COMMISSIONER SHALL PROVIDE ALL NECESSARY AID AND ASSISTANCE TO THE COMMISSIONER OF TAXATION AND FINANCE IN CONNECTION WITH THE ADMINISTRATION AND ENFORCEMENT OF THE PROVISIONS OF THIS SECTION.

7. EACH DEPOSIT INITIATOR SHALL REGISTER WITH THE COMMISSIONER OF TAXATION AND FINANCE AS A DEPOSIT INITIATOR UNDER THIS TITLE. THE APPLICATION SHALL BE IN SUCH FORM AND CONTAIN SUCH INFORMATION AND SHALL BE FILED AT SUCH TIME AND UNDER SUCH CONDITIONS, AS SUCH COMMISSIONER MAY PRESCRIBE. NO DEPOSIT INITIATOR, UNLESS SO REGISTERED, SHALL MAKE ANY SALE WITHIN THIS STATE OF BEVERAGE CONTAINERS, EXCEPT A SALE, IF ANY, AS TO WHICH THIS STATE IS WITHOUT POWER TO IMPOSE SUCH CONDITION.

8. EACH DEPOSIT INITIATOR SHALL REGISTER THE CONTAINER LABEL OF ANY BEVERAGE OFFERED FOR SALE IN THE STATE ON WHICH IT INITIATES A DEPOSIT. ANY SUCH REGISTERED CONTAINER LABEL SHALL BEAR A UNIVERSAL PRODUCT CODE. SUCH UNIVERSAL PRODUCT CODE SHALL BE NEW YORK STATE SPECIFIC, IN ORDER TO IDENTIFY THE BEVERAGE CONTAINER AS OFFERED FOR SALE EXCLUSIVELY IN NEW YORK STATE, AND AS A MEANS OF PREVENTING ILLEGAL REDEMPTION OF BEVERAGE CONTAINERS PURCHASED OUT-OF-STATE. REGISTRATION MUST BE ON FORMS AS PRESCRIBED BY THE DEPARTMENT AND MUST INCLUDE THE UNIVERSAL PRODUCT CODE FOR EACH COMBINATION OF BEVERAGE AND CONTAINER MANUFACTURED. THE DEPOSIT INITIATOR SHALL RENEW A LABEL REGISTRATION WHENEVER THAT LABEL IS REVISED BY ALTERING THE UNIVERSAL PRODUCT CODE OR WHENEVER THE CONTAINER ON WHICH IT APPEARS IS CHANGED IN SIZE, COMPOSITION OR GLASS COLOR.

9. THE COMMISSIONER OF TAXATION AND FINANCE MAY REQUIRE THE MAINTENANCE OF SUCH ACCOUNTS, RECORDS OR DOCUMENTS RELATING TO THE SALE OF BEVERAGE CONTAINERS, BY ANY BEVERAGE MANUFACTURER, DISTRIBUTOR, DEALER OR REDEMPTION CENTER AS SUCH COMMISSIONER MAY DEEM APPROPRIATE FOR THE ADMINISTRATION OF THIS SECTION. THE COMMISSIONER MAY MAKE EXAMINATIONS, INCLUDING THE CONDUCT OF FACILITY INSPECTIONS DURING REGULAR BUSINESS HOURS, WITH RESPECT TO THE ACCOUNTS, RECORDS OR DOCUMENTS REQUIRED TO BE MAINTAINED UNDER THIS SUBDIVISION. SUCH ACCOUNTS, RECORDS AND DOCUMENTS SHALL BE PRESERVED FOR A PERIOD OF THREE YEARS, EXCEPT THAT THE COMMISSIONER MAY CONSENT TO THEIR DESTRUCTION WITHIN THAT PERIOD OR MAY REQUIRE THAT THEY BE KEPT LONGER. SUCH ACCOUNTS, RECORDS AND DOCUMENTS MAY BE KEPT WITHIN THE MEANING OF THIS SUBDIVISION WHEN REPRODUCED BY ANY PHOTOGRAPHIC, PHOTOSTATIC, MICROFILM, MICRO-CARD, MINIATURE PHOTOGRAPHIC OR OTHER PROCESS WHICH ACTUALLY REPRODUCES THE ORIGINAL ACCOUNTS, RECORDS OR DOCUMENTS.

10. A. ANY PERSON REQUIRED TO BE REGISTERED UNDER THIS SECTION WHO, WITHOUT BEING SO REGISTERED, MAKES SALES OF BEVERAGE CONTAINERS IN THIS STATE, IN ADDITION TO ANY OTHER PENALTY IMPOSED BY THIS TITLE, SHALL BE SUBJECT TO A PENALTY IN AN AMOUNT NOT EXCEEDING FIVE HUNDRED DOLLARS FOR THE FIRST DAY ON WHICH SUCH SALES ARE MADE, PLUS AN AMOUNT NOT EXCEEDING FIVE HUNDRED DOLLARS FOR EACH SUBSEQUENT DAY ON WHICH SUCH SALES ARE MADE, NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS IN THE AGGREGATE.

B. ANY DEPOSIT INITIATOR WHO FAILS TO MAINTAIN ACCOUNTS OR RECORDS PURSUANT TO THIS SECTION, UNLESS IT IS SHOWN THAT SUCH FAILURE WAS DUE TO REASONABLE CAUSE AND NOT DUE TO NEGLIGENCE OR WILLFUL NEGLECT, SHALL BE SUBJECT TO A PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH QUARTER DURING WHICH SUCH FAILURE OCCURRED OR CONTINUES.

S 8. Section 27-1013 of the environmental conservation law, as amended by chapter 149 of the laws of 1983, is amended to read as follows:

S 27-1013. Redemption centers.

The commissioner is hereby empowered to promulgate rules and regulations governing (1) the circumstances in which dealers and distributors, individually or collectively, are required to accept the return of empty beverage containers, and make payment therefor; (2) the sorting of the containers which a DEPOSIT INITIATOR OR distributor may require of dealers and redemption centers; (3) the [pick up] 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; (4) 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, and to issue permits to persons, firms or corporations which estab-

lish 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. 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 manufacturer or distributor as provided under [sections] SECTION 27-1007 [and 27-1009] of this title.

S 9. Section 27-1014 of the environmental conservation law, as added by chapter 149 of the laws of 1983, is amended to read as follows:

S 27-1014. Limitation on rules and regulations.

In addition to the authority of the commissioner, under sections 27-1009 and 27-1013 of this title, the commissioner shall [only have the power to promulgate rules and regulations governing the initiation of deposits, sale of beverages in containers through vending machines and for on-premises consumption, record keeping, refunding for refillable beverage containers, embossing, imprinting or labeling of refund values and enforcement of the provisions of this section and sections 27-1009 and 27-1013 of this title] HAVE THE POWER TO PROMULGATE RULES AND REGULATIONS necessary and appropriate to the implementation of this title.

S 10. Section 27-1015 of the environmental conservation law, as added by chapter 200 of the laws of 1982 and subdivision 1 as designated and subdivision 2 as added by chapter 149 of the laws of 1983, is amended to read as follows:

S 27-1015. Violations.

1. A violation of this title, EXCEPT AS PROVIDED IN SUBDIVISION FOUR OF THIS SECTION, shall be a public nuisance. In addition, EXCEPT AS PROVIDED IN SUBDIVISIONS TWO AND FOUR OF THIS SECTION, any person who shall violate any provision of this title shall be liable for a civil penalty of not more than five hundred dollars, and an additional civil penalty of not more than five hundred dollars for each day during which each such violation continues. Any civil penalty may be assessed following a hearing or opportunity to be heard.

2. ANY DISTRIBUTOR OR DEPOSIT INITIATOR WHO VIOLATES ANY PROVISION OF THIS TITLE SHALL BE LIABLE FOR A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS, AND AN ADDITIONAL CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH DAY DURING WHICH EACH SUCH VIOLATION CONTINUES. ANY CIVIL PENALTY MAY BE ASSESSED FOLLOWING A HEARING OR OPPORTUNITY TO BE HEARD.

3. It shall be unlawful for a distributor OR DEPOSIT INITIATOR, acting alone or aided by another, to return empty beverage containers to a dealer or redemption center for their refund value if the distributor OR DEPOSIT INITIATOR had previously accepted such beverage containers from any dealer or operator of a redemption center. A violation of this subdivision shall be a misdemeanor punishable by a fine of not less than five hundred dollars nor more than one thousand dollars and an amount equal to two times the amount of money received as a result of such violation.

4. ANY PERSON WHO WILFULLY TENDERS TO A DEALER, DISTRIBUTOR, REDEMPTION CENTER OR BOTTLER MORE THAN FORTY-EIGHT EMPTY BEVERAGE CONTAINERS THAT SUCH PERSON KNOWS OR REASONABLY SHOULD KNOW WERE NOT ORIGINALLY SOLD IN THIS STATE AS FILLED BEVERAGE CONTAINERS MAY BE ASSESSED BY THE DEPARTMENT A CIVIL PENALTY OF UP TO ONE HUNDRED DOLLARS FOR EACH CONTAINER OR UP TO TWENTY-FIVE THOUSAND DOLLARS FOR EACH SUCH TENDER OF

CONTAINERS. AT EACH LOCATION WHERE CUSTOMERS TENDER CONTAINERS FOR REDEMPTION, DEALERS AND REDEMPTION CENTERS MUST CONSPICUOUSLY DISPLAY A SIGN IN LETTERS THAT ARE AT LEAST ONE INCH IN HEIGHT WITH THE FOLLOWING INFORMATION: "WARNING: PERSONS TENDERING CONTAINERS FOR REDEMPTION THAT WERE NOT ORIGINALLY PURCHASED IN THIS STATE MAY BE SUBJECT TO A CIVIL PENALTY OF UP TO ONE HUNDRED DOLLARS PER CONTAINER OR UP TO TWENTY-FIVE THOUSAND DOLLARS FOR EACH SUCH TENDER OF CONTAINERS." ANY CIVIL PENALTY MAY BE ASSESSED FOLLOWING A HEARING OR OPPORTUNITY TO BE HEARD.

5. THE ATTORNEY GENERAL AND ANY POLITICAL SUBDIVISION OF THE STATE ARE HEREBY AUTHORIZED TO ENFORCE THE PROVISIONS OF THIS TITLE.

S 11. The environmental conservation law is amended by adding a new section 27-1016 to read as follows:

S 27-1016. PUBLIC EDUCATION.

THE COMMISSIONER SHALL ESTABLISH A PUBLIC EDUCATION PROGRAM TO DISSEMINATE INFORMATION REGARDING IMPLEMENTATION OF THIS TITLE. SUCH INFORMATION SHALL INCLUDE, BUT NOT BE LIMITED TO, PUBLICATION OF THE NEW YORK BOTTLE BILL OF RIGHTS AS SPECIFIED IN SUBDIVISION TWO OF SECTION 27-1007 OF THIS TITLE; PUBLICATION OF INFORMATION SPECIFYING THE PROCEDURES NECESSARY TO ESTABLISH A REDEMPTION CENTER AS PROVIDED IN SECTION 27-1013 OF THIS TITLE, INCLUDING INFORMATION REGARDING FINANCIAL ASSISTANCE AVAILABLE FOR THE ESTABLISHMENT OF REDEMPTION CENTERS AS PROVIDED IN SECTION 27-1019 OF THIS TITLE; PUBLICATION OF INFORMATION DELINEATING THE RELEVANT RIGHTS AND RESPONSIBILITIES OF THE BOTTLE INITIATORS, DISTRIBUTORS, DEALERS, REDEMPTION CENTERS AND REDEEMERS UNDER THE PROVISIONS OF THIS TITLE; AND PUBLICATION OF INFORMATION ON THE GENERAL BENEFITS OF RECYCLING.

S 12. Section 27-1017 of the environmental conservation law, as added by chapter 200 of the laws of 1982, is amended to read as follows:

S 27-1017. Local beverage container laws.

The provisions of this title shall not be construed so as to limit in any way the authority of political subdivisions of the state to enact, implement and enforce local beverage container control laws prior to but not after the effective date of this title. NOTHING IN THIS SECTION SHALL LIMIT THE AUTHORITY OF POLITICAL SUBDIVISIONS OF THE STATE TO ENFORCE THE PROVISIONS OF THIS TITLE.

S 13. The environmental conservation law is amended by adding a new section 27-1018 to read as follows:

S 27-1018. RETURNABLE CONTAINER ACT ADVISORY BOARD.

THERE IS HEREBY CREATED THE "RETURNABLE CONTAINER ACT ADVISORY BOARD", REFERRED TO HEREAFTER AS THE BOARD. SUCH BOARD SHALL CONSIST OF FIFTEEN MEMBERS: SIX OF WHOM SHALL BE APPOINTED BY THE GOVERNOR AND SHALL INCLUDE THE COMMISSIONERS OF ENVIRONMENTAL CONSERVATION AND ECONOMIC DEVELOPMENT, THREE OF WHOM SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE; THREE OF WHOM SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY; ONE OF WHOM SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE; ONE OF WHOM SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY; AND THE ATTORNEY GENERAL.

1. THE TWELVE AT LARGE MEMBERS OF THE BOARD SHOULD INCLUDE: TWO REPRESENTATIVES OF ORGANIZATIONS WHOSE PRIME FUNCTION IS THE ENHANCEMENT OF THE ENVIRONMENTAL QUALITY OF THE STATE; TWO DEPOSIT INITIATORS OR DISTRIBUTORS; TWO MUNICIPAL RECYCLING COORDINATORS; TWO DEALERS; TWO OPERATORS OF REDEMPTION CENTERS AND TWO REDEEMERS.

2. THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL SERVE AS THE CHAIR OF THE BOARD.

3. THE MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

4. THE BOARD SHALL, AT A MINIMUM HAVE THE DUTY AND RESPONSIBILITY TO:

(A) SERVE AS A WORKING FORUM FOR THE EXCHANGE OF VIEWS, CONCERNS, IDEAS, INFORMATION AND RECOMMENDATIONS RELATING TO IMPLEMENTATION OF THIS TITLE;

(B) REQUEST THE ATTENDANCE AT ANY MEETING OF THE BOARD OF SUCH PERSONNEL OF THE DEPARTMENT OR OF OTHER STATE AGENCIES OR AUTHORITIES, AS MAY BE NECESSARY TO PROVIDE INFORMATION AND OTHERWISE ASSIST THE BOARD AND REQUEST SUCH INFORMATION FROM THE DEPARTMENT OR OTHER STATE AGENCIES OR AUTHORITIES AS THE BOARD MAY REQUIRE IN FULFILLING ITS RESPONSIBILITY UNDER THIS SECTION;

(C) MONITOR, REVIEW AND MAKE RECOMMENDATIONS CONCERNING THE OBJECTIVES, METHODS AND STRATEGIES OF THE DEPARTMENT AND OTHER STATE AGENCIES IN IMPLEMENTING AND PURSUING PROGRAMS DESIGNED TO MEET THE OBJECTIVES OF THIS TITLE;

(D) REQUEST AND RECEIVE, UPON REASONABLE NOTICE, REPORTS FROM THE DEPARTMENT AND OTHER STATE AGENCIES AND PUBLIC AUTHORITIES CONCERNING THE IMPLEMENTATION OF THIS TITLE;

(E) MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE CONCERNING IMPLEMENTATION OF THIS TITLE; AND

(F) PERFORM OTHER ACTIVITIES OR SERVICES AS MAY BE NECESSARY TO FULFILL THE PURPOSES OF THIS SECTION.

5. THE BOARD SHALL MEET AT LEAST TWICE EACH YEAR; KEEP A RECORD OF ITS PROCEEDINGS; AND DETERMINE THE RULES OF ITS OWN PROCEDURES. NINE MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ANY BUSINESS OF THE BOARD.

6. STAFF SERVICES, INCLUDING RECORDING OF BOARD PROCEEDINGS, SHALL BE PERFORMED BY PERSONNEL OF THE DEPARTMENT, OR SUCH STATE DEPARTMENTS OR AGENCIES AS THE CHAIR DEEMS APPROPRIATE OR DESIRABLE.

7. THE DEPARTMENT SHALL PROVIDE THE BOARD WITH SUCH FACILITIES, ASSISTANCE, AND DATA AS WILL ENABLE THE BOARD TO CARRY OUT ITS POWERS AND DUTIES. ADDITIONALLY, ALL OTHER AGENCIES OF THE STATE OR SUBDIVISIONS THEREOF SHALL, AT THE REQUEST OF THE CHAIR PROVIDE THE BOARD WITH SUCH FACILITIES, ASSISTANCE, AND DATA AS WILL ENABLE THE BOARD TO CARRY OUT ITS POWERS AND DUTIES.

S 14. Section 27-1019 of the environmental conservation law is renumbered 27-1020 and a new section 27-1019 is added to read as follows:

S 27-1019. BEVERAGE CONTAINER ASSISTANCE PROGRAM.

WITHIN THE LIMITS OF APPROPRIATIONS THEREFOR, THE COMMISSIONER SHALL MAKE STATE ASSISTANCE PAYMENTS TO MUNICIPALITIES, NOT-FOR-PROFIT ORGANIZATIONS AND NEW YORK BUSINESSES FOR THE COST OF REVERSE VENDING MACHINES AND GRANTS NOT TO EXCEED FIFTY PERCENT OF THE COSTS OF EQUIPMENT, AND/OR THE ACQUISITION AND/OR REHABILITATION OF REAL PROPERTY OR STRUCTURES RELATED TO THE COLLECTING, SORTING, AND PACKAGING OF EMPTY BEVERAGE CONTAINERS SUBJECT TO THE PROVISIONS OF THIS TITLE. SUCH PAYMENTS SHALL INCLUDE COSTS RELATED TO THE ESTABLISHMENT OF REDEMPTION CENTERS, INCLUDING MOBILE REDEMPTION CENTERS. FOR THE PURPOSES OF THIS SECTION, MUNICIPALITIES AND NOT-FOR-PROFIT ORGANIZATIONS SHALL HAVE THE MEANING AS DEFINED IN SECTION 54-0101 OF THIS CHAPTER AND BUSINESSES SHALL MEAN A DEALER, DISTRIBUTOR OR REDEMPTION CENTER AS DEFINED IN THIS TITLE THAT EMPLOYS LESS THAN ONE HUNDRED EMPLOYEES PER LOCATION.

S 15. Subdivisions 1 and 4 of section 54-0701 of the environmental conservation law, subdivision 1 as amended by chapter 146 of the laws of

2000 and subdivision 4 as added by chapter 610 of the laws of 1993, are amended to read as follows:

1. "Cost" means the capital cost of a municipal recycling project including engineering and architectural services, surveys, plans and specifications; consultant and legal services; lands acquired pursuant to the conditions set forth in section 54-0709 of this title, and other direct capital expenses incident to such a project, less any federal assistance or other assistance received or to be received. "Cost" shall also include the capital, planning and promotional costs associated with waste reduction projects, the costs related to household hazardous waste collection and disposal programs, and the costs related to planning, educational and promotional activities associated with a recyclables recovery program. "COST" SHALL ALSO INCLUDE BEVERAGE CONTAINER ASSISTANCE PROGRAM GRANTS TO MUNICIPALITIES AND NOT-FOR-PROFIT ORGANIZATIONS PURSUANT TO SECTION 27-1019 OF THIS CHAPTER. Provided, however, "cost" shall exclude any cost incurred prior to April first, nineteen hundred ninety-three, and shall further exclude costs related to planning, educational and promotional activities associated with a recyclables recovery program incurred prior to April first, two thousand.

4. "Recycling project" means recyclables recovery equipment, source separation equipment, a recyclables recovery program or any combination thereof required by a recyclables recovery program AND THE REIMBURSEMENT TO MUNICIPALITIES AND NOT-FOR-PROFIT CORPORATIONS, AS SUCH TERMS ARE DEFINED IN SECTION 54-0101 OF THIS ARTICLE, FOR THE COST OF A REDEMPTION CENTER AS DEFINED IN SECTION 27-1003 OF THIS CHAPTER.

S 16. Paragraph h of subdivision 1 of section 261 of the economic development law, as amended by chapter 471 of the laws of 1998, is amended to read as follows:

h. "Eligible project" shall mean actions taken by or on behalf of a New York business involving the acquisition, construction, alteration, repair or improvement of a building, fixtures, machinery or equipment, provided that such project results in:

(i) source reduction or material substitution, provided that the substitution of one hazardous substance, product or nonproduct output for another does not result in the creation of a new risk,

(ii) in-process recycling,

(iii) recycling or reuse of non-hazardous solid wastes,

(iv) increased energy efficiency,

(v) conservation of the use of water or other natural resources improvements in process economics,

(vi) elimination of the purchase of materials, the production of which for the use of said firm would result in more waste or resource consumption, or

(vii) other practices or technologies that reduce the use of hazardous materials or otherwise improve air or water quality.

THE TERM "ELIGIBLE PROJECT" SHALL ALSO INCLUDE ACTIONS TAKEN BY OR ON BEHALF OF A NEW YORK BUSINESS TO SUPPORT COSTS OF EQUIPMENT, AND/OR THE ACQUISITION AND/OR REHABILITATION OF REAL PROPERTY OR STRUCTURES RELATED TO THE COLLECTING, SORTING, AND PACKAGING OF EMPTY BEVERAGE CONTAINERS AS SUCH TERMS ARE DEFINED IN TITLE TEN OF ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW. SUCH ACTIONS SHALL BE ELIGIBLE FOR STATE ASSISTANCE PAYMENTS UNDER THE BEVERAGE CONTAINER ASSISTANCE PROGRAM PURSUANT TO SECTION 27-1019 OF THE ENVIRONMENTAL CONSERVATION LAW.

The term "eligible project" shall not include end of pipe pollution control technologies or practices where such controls or practices are

designed primarily to achieve compliance with the environmental conservation law or regulations promulgated pursuant thereto, or energy recovery or incineration, or out-of-process recycling or reuse of hazardous waste or hazardous substances.

S 17. Subdivision 2 of section 92-s of the state finance law is amended by adding a new paragraph c to read as follows:

C. MONIES RECEIVED BY THE COMPTROLLER FOR DEPOSIT IN THE ENVIRONMENTAL PROTECTION FUND PURSUANT TO PARAGRAPH B OF SUBDIVISION FOUR OF SECTION 27-1012 OF THE ENVIRONMENTAL CONSERVATION LAW SHALL BE MADE AVAILABLE FOR STATE ASSISTANCE UNDER THIS SECTION FOR PROJECTS WITHIN EACH DEPARTMENT OF ENVIRONMENTAL CONSERVATION ADMINISTRATIVE REGION IN PROPORTION TO THE AMOUNT OF SUCH DEPOSITS RECEIVED FROM DEPOSIT INITIATORS WITHIN EACH SUCH REGION. THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION SHALL ANNUALLY REPORT ON THE AMOUNT OF SUCH DEPOSITS MADE WITHIN EACH REGION AND THE AMOUNT OF STATE ASSISTANCE PAYMENTS APPROVED PURSUANT TO THIS SECTION.

S 18. Subdivision 3 of section 92-s of the state finance law, as amended by chapter 145 of the laws of 2004, is amended to read as follows:

3. Such fund shall consist of the amount of revenue collected within the state from the amount of revenue, interest and penalties deposited pursuant to section fourteen hundred twenty-one of the tax law, the amount of fees and penalties received from easements or leases pursuant to subdivision fourteen of section seventy-five of the public lands law and the money received as annual service charges pursuant to section four hundred four-l of the vehicle and traffic law, all moneys required to be deposited therein from the contingency reserve fund pursuant to section two hundred ninety-four of chapter fifty-seven of the laws of nineteen hundred ninety-three, all moneys required to be deposited pursuant to section thirteen of chapter six hundred ten of the laws of nineteen hundred ninety-three, repayments of loans made pursuant to section 54-0511 of the environmental conservation law, all moneys to be deposited from the Northville settlement pursuant to section one hundred twenty-four of chapter three hundred nine of the laws of nineteen hundred ninety-six, provided however, that such moneys shall only be used for the cost of the purchase of private lands in the core area of the central Suffolk pine barrens pursuant to a consent order with the Northville industries signed on October thirteenth, nineteen hundred ninety-four and the related resource restoration and replacement plan, ALL MONEYS REQUIRED TO BE DEPOSITED PURSUANT TO PARAGRAPH B OF SUBDIVISION FOUR OF SECTION 27-1012 OF THE ENVIRONMENTAL CONSERVATION LAW, the amount of penalties required to be deposited therein by section 71-2724 of the environmental conservation law, and all other moneys credited or transferred thereto from any other fund or source pursuant to law. All such revenue shall be initially deposited into the environmental protection fund, for application as provided in subdivision five of this section.

S 19. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, however, that section two of this act shall take effect January 1, 2011.