

3633

2009-2010 Regular Sessions

I N S E N A T E

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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 devel-
opment law and the state finance law, in relation to returnable bever-
age containers; and to repeal sections 27-1005, 27-1007 and subdivi-
sion 2 of section 27-1011 of the environmental conservation law
relating thereto

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

1 Section 1. Section 27-1001 of the environmental conservation law, as
2 added by chapter 200 of the laws of 1982, is amended to read as follows:
3 S 27-1001. Legislative findings.
4 The legislature hereby finds that litter composed of discarded [soft-
5 drink, beer and ale] BEVERAGE bottles and cans is a growing problem of
6 state concern and a direct threat to the health and safety of the citi-
7 zens of this state. Discarded beverage bottles and cans create a hazard
8 to vehicular traffic, a source of physical injury to pedestrians, farm
9 animals and machinery and an unsightly accumulation of litter which must
10 be disposed of at increasing public expense. Beverage bottles and cans
11 also create an unnecessary addition to the state's and municipalities'
12 already overburdened solid waste and refuse disposal systems. Unsegre-
13 gated disposal of such bottles and cans creates an impediment to the
14 efficient operation of resource recovery plants. Further, the legisla-
15 ture finds that the uninhibited discard of beverage containers consti-
16 tutes a waste of both mineral and energy resources. The legislature
17 hereby finds that requiring a deposit on all beverage containers, along
18 with certain other facilitating measures, will provide a necessary
19 incentive for the economically efficient and environmentally benign
20 collection and recycling of such containers.

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

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1 S 2. Subdivisions 1 and 2 of section 27-1003 of the environmental
2 conservation law, subdivision 1 as amended by chapter 778 of the laws of
3 1988 and subdivision 2 as amended by chapter 546 of the laws of 1986,
4 are amended to read as follows:

5 1. "Beverage" means [carbonated soft drinks, mineral water, soda
6 water, beer, other malt beverages and a wine product as defined in
7 subdivision thirty-six-a of section three of the alcoholic beverage
8 control law. "Malt beverages" means any beverage obtained by the alco-
9 holic fermentation or infusion or decoction of barley, malt, hops, or
10 other wholesome grain or cereal and water including, but not limited to
11 ale, stout or malt liquor.] ALL CARBONATED AND NON-CARBONATED DRINKS IN
12 LIQUID FORM AND INTENDED FOR INTERNAL HUMAN CONSUMPTION. THE TERM
13 "BEVERAGE" SHALL NOT INCLUDE:

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

19 B. RICE MILK OR SOY MILK;

20 C. INFANT FORMULA;

21 D. ALCOHOLIC BEVERAGES OTHER THAN BEER, OTHER MALT BEVERAGES AND WINE
22 PRODUCTS AS DEFINED IN SUBDIVISION THIRTY-SIX-A OF SECTION THREE OF THE
23 ALCOHOLIC BEVERAGE CONTROL LAW. "MALT BEVERAGES" MEANS ANY BEVERAGE
24 OBTAINED BY THE ALCOHOLIC FERMENTATION OR INFUSION OR DECOCTION OF
25 BARLEY, MALT, HOPS, OR OTHER WHOLESOME GRAIN OR CEREAL AND WATER INCLUD-
26 ING, BUT NOT LIMITED TO ALE, STOUT OR MALT LIQUOR;

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

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

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

34 H. PRODUCTS FROZEN AT THE TIME OF SALE;

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

36 J. INSTANT DRINK POWDERS; AND

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

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

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

48 2-A. "BOTTLER" MEANS A PERSON WHO:

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

53 B. IMPORTS FILLED BEVERAGE CONTAINERS INTO THE UNITED STATES.

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

56 A. THE BOTTLER OF THE BEVERAGE IN SUCH CONTAINER;

1 B. THE DISTRIBUTOR OF SUCH CONTAINER IF SUCH DISTRIBUTOR'S PURCHASE OF
2 SUCH CONTAINER WAS NOT, DIRECTLY OR INDIRECTLY, FROM A REGISTERED DEPOS-
3 IT INITIATOR;

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

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

8 [6.] 6-A. "Distributor" means any person, firm or corporation which
9 [bottles, cans or otherwise fills or packages beverage containers, or
10 which] engages in the sale of [such] BEVERAGES IN BEVERAGE containers to
11 a dealer.

12 9. "Redemption center" means any [establishment offering to pay the
13 refund value of a beverage container] PERSON OFFERING TO PAY THE REFUND
14 VALUE OF AN EMPTY BEVERAGE CONTAINER TO A REDEEMER, OR ANY PERSON WHO
15 CONTRACTS WITH ONE OR MORE DEALERS OR DISTRIBUTORS TO COLLECT, SORT AND
16 OBTAIN THE REFUND VALUE AND HANDLING FEE OF EMPTY BEVERAGE CONTAINERS
17 FOR, OR ON BEHALF OF, SUCH DEALER OR DISTRIBUTOR under the provisions of
18 section 27-1013 of this title.

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

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

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

34 S 27-1005. REFUND VALUE.

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

40 S 27-1007. MANDATORY ACCEPTANCE.

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

42 1. A DEALER SHALL ACCEPT AT HIS OR HER PLACE OF BUSINESS FROM A
43 REDEEMER ANY EMPTY BEVERAGE CONTAINERS OF THE DESIGN, SHAPE, SIZE,
44 COLOR, COMPOSITION AND BRAND SOLD BY THE DEALER, AND SHALL PAY TO THE
45 REDEEMER THE REFUND VALUE OF EACH SUCH BEVERAGE CONTAINER AS ESTABLISHED
46 IN SECTION 27-1005 OF THIS TITLE. REDEMPTIONS OF REFUND VALUE MUST BE IN
47 LEGAL TENDER. THE USE OR PRESENCE OF A REVERSE VENDING MACHINE SHALL NOT
48 RELIEVE A DEALER OF ANY OBLIGATIONS IMPOSED PURSUANT TO THIS SECTION.
49 IF A DEALER UTILIZES A REVERSE VENDING MACHINE TO REDEEM CONTAINERS, THE
50 DEALER SHALL PROVIDE REDEMPTION OF BEVERAGE CONTAINERS WHEN THE REVERSE
51 VENDING MACHINE IS FULL, BROKEN, UNDER REPAIR OR DOES NOT ACCEPT A TYPE
52 OF BEVERAGE CONTAINER SOLD BY SUCH DEALER AND MAY NOT LIMIT THE HOURS OR
53 DAYS OF REDEMPTION EXCEPT AS PROVIDED BY SUBDIVISION THREE OF THIS
54 SECTION. ON ANY DAY THAT A DEALER IS OPEN FOR LESS THAN TWENTY-FOUR
55 HOURS, THE DEALER MAY RESTRICT OR REFUSE THE PAYMENT OF REFUND VALUES
56 DURING THE FIRST AND LAST HOUR THE DEALER IS OPEN FOR BUSINESS.

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

3 "NEW YORK BOTTLE BILL
4 BILL OF RIGHTS

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

7 YOU HAVE CERTAIN RIGHTS UNDER THE STATE RETURNABLE CONTAINER ACT:

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

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

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

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

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

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

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

31 A. A REDEMPTION CENTER, BE IT EITHER A LICENSED FIXED PHYSICAL
32 LOCATION THAT IS LOCATED IN THE SAME COUNTY AND WITHIN ONE-HALF MILE OF
33 THE DEALER'S PLACE OF BUSINESS, OR A MOBILE REDEMPTION CENTER OPERATED
34 BY A LICENSED REDEMPTION CENTER THAT IS LOCATED WITHIN ONE-QUARTER MILE
35 OF THE DEALER'S PLACE OF BUSINESS; AND THE REDEMPTION CENTER HAS A WRIT-
36 TEN AGREEMENT WITH THE DEALER TO ACCEPT CONTAINERS ON BEHALF OF THE
37 DEALER; AND THE REDEMPTION CENTER'S HOURS OF OPERATION COVER AT LEAST
38 9:00 A.M. THROUGH 7:00 P.M. DAILY OR IN THE CASE OF A MOBILE REDEMPTION
39 CENTER, THE HOURS OF OPERATION COVER AT LEAST FOUR CONSECUTIVE HOURS
40 BETWEEN 8:00 A.M. AND 8:00 P.M. DAILY; AND THE DEALER POSTS A CONSPICU-
41 OUS, PERMANENT SIGN OPEN TO PUBLIC VIEW, IDENTIFYING THE LOCATION AND
42 HOURS OF OPERATION OF THE AFFILIATED REDEMPTION CENTER OR MOBILE REDEMP-
43 TION CENTER; OR

44 B. THE DEALER PROVIDES, AT A MINIMUM, A CONSECUTIVE TWO HOUR PERIOD
45 BETWEEN 7:00 A.M. AND 7:00 P.M. DAILY WHEREBY THE DEALER WILL ACCEPT UP
46 TO TWO HUNDRED FORTY CONTAINERS, PER REDEEMER, PER DAY, AND POSTS A
47 CONSPICUOUS, PERMANENT SIGN, OPEN TO THE PUBLIC VIEW, IDENTIFYING THOSE
48 HOURS. THE DEALER MAY NOT CHANGE THE HOURS OF REDEMPTION WITHOUT FIRST
49 POSTING A THIRTY DAY NOTICE; OR

50 C. THE DEALER'S PRIMARY BUSINESS IS THE SALE OF FOOD OR BEVERAGES FOR
51 CONSUMPTION OFF-PREMISES, AND THE DEALER'S PLACE OF BUSINESS IS LESS
52 THAN EIGHT THOUSAND SQUARE FEET IN SIZE.

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

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

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

11 6. IN ADDITION TO THE REFUND VALUE OF A BEVERAGE CONTAINER AS ESTAB-
12 LISHED BY SECTION 27-1005 OF THIS TITLE, A DEPOSIT INITIATOR SHALL PAY
13 TO ANY DEALER, OR OPERATOR OF A REDEMPTION CENTER, A HANDLING FEE OF
14 THREE AND ONE-HALF CENTS FOR EACH BEVERAGE CONTAINER ACCEPTED BY THE
15 DEPOSIT INITIATOR FROM SUCH DEALER, OPERATOR OF A REDEMPTION CENTER OR
16 DISTRIBUTOR. PAYMENT OF THE HANDLING FEE SHALL BE AS COMPENSATION FOR
17 COLLECTING, SORTING AND PACKAGING OF EMPTY BEVERAGE CONTAINERS FOR
18 TRANSPORT BACK TO THE DEPOSIT INITIATOR OR ITS DESIGNEE. PAYMENT OF THE
19 HANDLING FEE MAY NOT BE CONDITIONED ON THE PURCHASE OF ANY GOODS OR
20 SERVICES, NOR MAY SUCH PAYMENT BE MADE OUT OF THE REFUND VALUE ACCOUNT
21 ESTABLISHED PURSUANT TO SECTION 27-1012 OF THIS TITLE. A DISTRIBUTOR WHO
22 DOES NOT INITIATE DEPOSITS ON A TYPE OF BEVERAGE CONTAINER IS CONSIDERED
23 A DEALER ONLY FOR THE PURPOSE OF RECEIVING A HANDLING FEE FROM A DEPOSIT
24 INITIATOR.

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

40 8. IF A DEPOSIT INITIATOR OR DISTRIBUTOR REQUIRES EMPTY BEVERAGE
41 CONTAINERS THAT ARE NOT REDEEMED THROUGH A REVERSE VENDING MACHINE TO BE
42 PACKAGED FOR PICK-UP IN BAGS, CARTONS OR OTHER CONTAINERS, IT SHALL BE
43 THE DEPOSIT INITIATOR'S OR DISTRIBUTOR'S RESPONSIBILITY TO PROVIDE A
44 DEALER OR REDEMPTION CENTER A SUFFICIENT NUMBER OF SUCH CONTAINERS AT NO
45 COST TO THE DEALER OR DISTRIBUTOR. THE BAGS, CARTONS, OR OTHER CONTAIN-
46 ERS MUST BE PROVIDED BY THE DEPOSIT INITIATOR OR DISTRIBUTOR ON A SCHED-
47 ULE THAT ALLOWS THE DEALER OR REDEMPTION CENTER SUFFICIENT TIME TO SORT
48 THE EMPTY BEVERAGE CONTAINERS PRIOR TO PICK UP BY THE DEPOSIT INITIATOR
49 OR DISTRIBUTOR:

50 A. WHEN PICKING UP EMPTY BEVERAGE CONTAINERS, A DEPOSIT INITIATOR OR
51 DISTRIBUTOR SHALL NOT REQUIRE A DEALER OR REDEMPTION CENTER TO LOAD
52 THEIR OWN BAGS, CARTONS OR CONTAINERS ON THE DISTRIBUTOR'S VEHICLE OR
53 VEHICLES OR PROVIDE THE STAFF OR EQUIPMENT NEEDED.

54 B. A DEPOSIT INITIATOR OR DISTRIBUTOR SHALL NOT REQUIRE EMPTY CONTAIN-
55 ERS TO BE COUNTED AT A LOCATION OTHER THAN THE REDEMPTION CENTER OR

1 DEALER'S PLACE OF BUSINESS. THE DEALER OR REDEMPTION CENTER SHALL HAVE
2 THE RIGHT TO BE PRESENT AT THE COUNT.

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

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

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

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

19 1. A dealer or operator of a redemption center may refuse to accept
20 from a redeemer, and a [distributor] DEPOSIT INITIATOR may refuse to
21 accept from a dealer or operator of a redemption center any empty bever-
22 age container which does not state thereon a refund value as established
23 by section 27-1005 and provided by section 27-1011 of this title.

24 2. A dealer or operator of a redemption center may also refuse to
25 accept any broken bottle, corroded or dismembered can, or any beverage
26 container which contains a significant amount of foreign material, as
27 determined in rules and regulations to be promulgated by the commission-
28 er. [Notwithstanding the provisions of this subdivision, a distributor
29 shall accept beverage containers as provided in subdivision two of
30 section 27-1007 of this title, if the dealer shall have accepted and
31 paid the refund value of such beverage containers.]

32 S 6. Subdivision 2 of section 27-1011 of the environmental conserva-
33 tion law is REPEALED.

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

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

37 1. EACH DEPOSIT INITIATOR SHALL DEPOSIT IN A REFUND VALUE ACCOUNT AN
38 AMOUNT EQUAL TO THE REFUND VALUE REQUIRED TO BE INITIATED UNDER SECTION
39 27-1005 OF THIS TITLE WHICH IS RECEIVED WITH RESPECT TO EACH BEVERAGE
40 CONTAINER SOLD BY SUCH DEPOSIT INITIATOR. SUCH DEPOSIT INITIATOR SHALL
41 HOLD SUCH AMOUNTS IN TRUST FOR THE STATE. A REFUND VALUE ACCOUNT SHALL
42 BE AN INTEREST-BEARING ACCOUNT ESTABLISHED IN A BANKING INSTITUTION
43 APPROVED BY THE COMMISSIONER OF TAXATION AND FINANCE AND LOCATED IN THIS
44 STATE, THE DEPOSITS IN WHICH ARE INSURED BY AN AGENCY OF THE FEDERAL
45 GOVERNMENT. DEPOSITS OF SUCH AMOUNTS SHALL BE MADE NOT LESS FREQUENTLY
46 THAN EVERY FIVE BUSINESS DAYS. ALL INTEREST, DIVIDENDS AND RETURNS
47 EARNED ON THE ACCOUNT SHALL BE PAID DIRECTLY INTO SAID ACCOUNT. SUCH
48 MONIES SHALL BE KEPT SEPARATE AND APART FROM ALL OTHER MONEYS IN THE
49 POSSESSION OF THE DEPOSIT INITIATOR. THE COMMISSIONER OF TAXATION AND
50 FINANCE MAY SPECIFY A SYSTEM OF ACCOUNTS AND RECORDS TO BE MAINTAINED
51 WITH RESPECT TO ACCOUNTS ESTABLISHED UNDER THIS SUBDIVISION.

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

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

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

12 B. ALL SUCH DEPOSITS CREDITED TO SUCH ACCOUNT AND ALL INTEREST, DIVI-
13 DENDS OR RETURNS RECEIVED ON SUCH ACCOUNT, DURING SUCH QUARTER;

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

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

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

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

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

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

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

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

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

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

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

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

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

44 The commissioner is hereby empowered to promulgate rules and regu-
45 lations governing (1) the circumstances in which dealers and distribu-
46 tors, individually or collectively, are required to accept the return of
47 empty beverage containers, and make payment therefor; (2) the sorting of
48 the containers which a DEPOSIT INITIATOR OR distributor may require of
49 dealers and redemption centers; (3) the [pick up] COLLECTION of returned
50 beverage containers by DEPOSIT INITIATORS OR distributors, including the
51 party to whom such expense is to be charged, the frequency of such pick
52 ups and the payment for refunds and handling fees thereon; (4) the right
53 of dealers to restrict or limit the number of containers redeemed, the
54 rules for redemption at the dealers' place of business, and the redemp-
55 tion of containers from a beverage for which sales have been discontin-
56 ued, and to issue permits to persons, firms or corporations which estab-

1 lish redemption centers, subject to applicable provisions of local and
2 state laws, at which redeemers and dealers may return empty beverage
3 containers and receive payment of the refund value of such beverage
4 containers. No dealer or distributor, as defined in section 27-1003 OF
5 THIS TITLE, shall be required to obtain a permit to operate a redemption
6 center at the same location as the dealer's or distributor's place of
7 business. Operators of such redemption centers shall receive payment of
8 the refund value of each beverage container from the appropriate
9 manufacturer or distributor as provided under [sections] SECTION 27-1007
10 [and 27-1009] of this title.

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

13 S 27-1014. Limitation on rules and regulations.

14 In addition to the authority of the commissioner, under sections
15 27-1009 and 27-1013 of this title, the commissioner shall [only have the
16 power to promulgate rules and regulations governing the initiation of
17 deposits, sale of beverages in containers through vending machines and
18 for on-premises consumption, record keeping, refunding for refillable
19 beverage containers, embossing, imprinting or labeling of refund values
20 and enforcement of the provisions of this section and sections 27-1009
21 and 27-1013 of this title] HAVE THE POWER TO PROMULGATE RULES AND REGU-
22 LATIONS necessary and appropriate to the implementation of this title.

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

27 S 27-1015. Violations.

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

36 2. ANY DISTRIBUTOR OR DEPOSIT INITIATOR WHO VIOLATES ANY PROVISION OF
37 THIS TITLE SHALL BE LIABLE FOR A CIVIL PENALTY OF NOT MORE THAN ONE
38 THOUSAND DOLLARS, AND AN ADDITIONAL CIVIL PENALTY OF NOT MORE THAN ONE
39 THOUSAND DOLLARS FOR EACH DAY DURING WHICH EACH SUCH VIOLATION CONTIN-
40 UES. ANY CIVIL PENALTY MAY BE ASSESSED FOLLOWING A HEARING OR OPPORTU-
41 NITY TO BE HEARD.

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

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

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

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

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

13 S 27-1016. PUBLIC EDUCATION.

14 THE COMMISSIONER SHALL ESTABLISH A PUBLIC EDUCATION PROGRAM TO DISSEM-
15 INATE INFORMATION REGARDING IMPLEMENTATION OF THIS TITLE. SUCH INFORMA-
16 TION SHALL INCLUDE, BUT NOT BE LIMITED TO, PUBLICATION OF THE NEW YORK
17 BOTTLE BILL OF RIGHTS AS SPECIFIED IN SUBDIVISION TWO OF SECTION 27-1007
18 OF THIS TITLE; PUBLICATION OF INFORMATION SPECIFYING THE PROCEDURES
19 NECESSARY TO ESTABLISH A REDEMPTION CENTER AS PROVIDED IN SECTION
20 27-1013 OF THIS TITLE, INCLUDING INFORMATION REGARDING FINANCIAL ASSIST-
21 ANCE AVAILABLE FOR THE ESTABLISHMENT OF REDEMPTION CENTERS AS PROVIDED
22 IN SECTION 27-1019 OF THIS TITLE; PUBLICATION OF INFORMATION DELINEATING
23 THE RELEVANT RIGHTS AND RESPONSIBILITIES OF THE BOTTLE INITIATORS,
24 DISTRIBUTORS, DEALERS, REDEMPTION CENTERS AND REDEEMERS UNDER THE
25 PROVISIONS OF THIS TITLE; AND PUBLICATION OF INFORMATION ON THE GENERAL
26 BENEFITS OF RECYCLING.

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

29 S 27-1017. Local beverage container laws.

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

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

38 S 27-1018. RETURNABLE CONTAINER ACT ADVISORY BOARD.

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

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

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

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

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

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

8 (B) REQUEST THE ATTENDANCE AT ANY MEETING OF THE BOARD OF SUCH PERSON-
9 NEL OF THE DEPARTMENT OR OF OTHER STATE AGENCIES OR AUTHORITIES, AS MAY
10 BE NECESSARY TO PROVIDE INFORMATION AND OTHERWISE ASSIST THE BOARD AND
11 REQUEST SUCH INFORMATION FROM THE DEPARTMENT OR OTHER STATE AGENCIES OR
12 AUTHORITIES AS THE BOARD MAY REQUIRE IN FULFILLING ITS RESPONSIBILITY
13 UNDER THIS SECTION;

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

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

21 (E) MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE CONCERN-
22 ING IMPLEMENTATION OF THIS TITLE; AND

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

25 5. THE BOARD SHALL MEET AT LEAST TWICE EACH YEAR; KEEP A RECORD OF ITS
26 PROCEEDINGS; AND DETERMINE THE RULES OF ITS OWN PROCEDURES. NINE MEMBERS
27 OF THE BOARD SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ANY BUSI-
28 NESS OF THE BOARD.

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

32 7. THE DEPARTMENT SHALL PROVIDE THE BOARD WITH SUCH FACILITIES,
33 ASSISTANCE, AND DATA AS WILL ENABLE THE BOARD TO CARRY OUT ITS POWERS
34 AND DUTIES. ADDITIONALLY, ALL OTHER AGENCIES OF THE STATE OR SUBDIVI-
35 SIONS THEREOF SHALL, AT THE REQUEST OF THE CHAIR PROVIDE THE BOARD WITH
36 SUCH FACILITIES, ASSISTANCE, AND DATA AS WILL ENABLE THE BOARD TO CARRY
37 OUT ITS POWERS AND DUTIES.

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

40 S 27-1019. BEVERAGE CONTAINER ASSISTANCE PROGRAM.

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

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

1 2000 and subdivision 4 as added by chapter 610 of the laws of 1993, are
2 amended to read as follows:

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

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

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

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

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

36 (ii) in-process recycling,

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

38 (iv) increased energy efficiency,

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

41 (vi) elimination of the purchase of materials, the production of which
42 for the use of said firm would result in more waste or resource consump-
43 tion, or

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

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

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

1 designed primarily to achieve compliance with the environmental conser-
2 vation law or regulations promulgated pursuant thereto, or energy recov-
3 ery or incineration, or out-of-process recycling or reuse of hazardous
4 waste or hazardous substances.

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

7 C. MONIES RECEIVED BY THE COMPTROLLER FOR DEPOSIT IN THE ENVIRONMENTAL
8 PROTECTION FUND PURSUANT TO PARAGRAPH B OF SUBDIVISION FOUR OF SECTION
9 27-1012 OF THE ENVIRONMENTAL CONSERVATION LAW SHALL BE MADE AVAILABLE
10 FOR STATE ASSISTANCE UNDER THIS SECTION FOR PROJECTS WITHIN EACH DEPART-
11 MENT OF ENVIRONMENTAL CONSERVATION ADMINISTRATIVE REGION IN PROPORTION
12 TO THE AMOUNT OF SUCH DEPOSITS RECEIVED FROM DEPOSIT INITIATORS WITHIN
13 EACH SUCH REGION. THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION SHALL
14 ANNUALLY REPORT ON THE AMOUNT OF SUCH DEPOSITS MADE WITHIN EACH REGION
15 AND THE AMOUNT OF STATE ASSISTANCE PAYMENTS APPROVED PURSUANT TO THIS
16 SECTION.

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

20 3. Such fund shall consist of the amount of revenue collected within
21 the state from the amount of revenue, interest and penalties deposited
22 pursuant to section fourteen hundred twenty-one of the tax law, the
23 amount of fees and penalties received from easements or leases pursuant
24 to subdivision fourteen of section seventy-five of the public lands law
25 and the money received as annual service charges pursuant to section
26 four hundred four-1 of the vehicle and traffic law, all moneys required
27 to be deposited therein from the contingency reserve fund pursuant to
28 section two hundred ninety-four of chapter fifty-seven of the laws of
29 nineteen hundred ninety-three, all moneys required to be deposited
30 pursuant to section thirteen of chapter six hundred ten of the laws of
31 nineteen hundred ninety-three, repayments of loans made pursuant to
32 section 54-0511 of the environmental conservation law, all moneys to be
33 deposited from the Northville settlement pursuant to section one hundred
34 twenty-four of chapter three hundred nine of the laws of nineteen
35 hundred ninety-six, provided however, that such moneys shall only be
36 used for the cost of the purchase of private lands in the core area of
37 the central Suffolk pine barrens pursuant to a consent order with the
38 Northville industries signed on October thirteenth, nineteen hundred
39 ninety-four and the related resource restoration and replacement plan,
40 ALL MONEYS REQUIRED TO BE DEPOSITED PURSUANT TO PARAGRAPH B OF SUBDIVI-
41 SION FOUR OF SECTION 27-1012 OF THE ENVIRONMENTAL CONSERVATION LAW, the
42 amount of penalties required to be deposited therein by section 71-2724
43 of the environmental conservation law, and all other moneys credited or
44 transferred thereto from any other fund or source pursuant to law. All
45 such revenue shall be initially deposited into the environmental
46 protection fund, for application as provided in subdivision five of this
47 section.

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