

1647

2015-2016 Regular Sessions

I N   S E N A T E

January 13, 2015

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

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

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

1     Section 1. Subdivisions 1, 2, 3, 4, and 5 of section 27-1012 of the  
2 environmental conservation law, subdivisions 1, 2, 3 and 4 as added by  
3 section 8 of part SS of chapter 59 of the laws of 2009 and subdivision 5  
4 as amended by section 6 of part F of chapter 58 of the laws of 2013, are  
5 amended and a new subdivision 5-a is added to read as follows:  
6     1. Each deposit initiator shall deposit in a refund value account an  
7 amount equal to the refund value initiated under section 27-1005 of this  
8 title which is received with respect to each beverage container sold by  
9 such deposit initiator, EXCEPT FOR THOSE REFUND VALUES RECEIVED FOR  
10 REFILLABLE BEVERAGE CONTAINERS. Such deposit initiator shall hold the  
11 amounts in the refund value account in trust for the state. A refund  
12 value account shall be an interest-bearing account established in a  
13 banking institution located in this state, the deposits in which are  
14 insured by an agency of the federal government. Deposits of such amounts  
15 into the refund value account shall be made not less frequently than  
16 every five business days. All interest, dividends and returns earned on  
17 the refund value account shall be paid directly into said account. The  
18 monies in such accounts shall be kept separate and apart from all other  
19 monies in the possession of the deposit initiator. The commissioner of  
20 taxation and finance may specify a system of accounts and records to be  
21 maintained with respect to accounts established under this subdivision.  
22     2. Payments of refund values pursuant to section 27-1007 of this  
23 title, EXCEPT FOR PAYMENTS OF REFUND VALUES ON REFILLABLE BEVERAGE  
24 CONTAINERS, shall be paid from each deposit initiator's refund value

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

LBD03816-01-5

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

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

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

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

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

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

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

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

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

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

9 5. All monies collected or received by the department of taxation and  
10 finance pursuant to this title, AFTER DEDUCTION OF THE AMOUNT THE  
11 COMMISSIONER OF TAXATION AND FINANCE DETERMINES IS NECESSARY TO COVER  
12 REASONABLE COSTS INCURRED BY THE DEPARTMENT OF TAXATION AND FINANCE TO  
13 IMPLEMENT, ADMINISTER, AND ENFORCE THE PROVISIONS OF THIS TITLE, shall  
14 be deposited to the credit of the comptroller with such responsible  
15 banks, banking houses or trust companies as may be designated by the  
16 comptroller. Such deposits shall be kept separate and apart from all  
17 other moneys in the possession of the comptroller. The comptroller shall  
18 require adequate security from all such depositories. Of the total  
19 revenue collected, the comptroller shall retain the amount determined by  
20 the commissioner of taxation and finance to be necessary for refunds out  
21 of which the comptroller must pay any refunds to which a deposit initi-  
22 ator may be entitled. After reserving the amount to pay refunds, the  
23 comptroller must, by the tenth day of each month, pay into the state  
24 treasury to the credit of the general fund the revenue deposited under  
25 this subdivision during the preceding calendar month and remaining to  
26 the comptroller's credit on the last day of that preceding month;  
27 provided, however, that, beginning April first, two thousand thirteen,  
28 and all fiscal years thereafter, fifteen million dollars plus all funds  
29 received from the payments due each fiscal year pursuant to subdivision  
30 four of this section in excess of the amount received from April first,  
31 two thousand twelve through March thirty-first, two thousand thirteen,  
32 shall be deposited to the credit of the environmental protection fund  
33 established pursuant to section ninety-two-s of the state finance law.

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

42 S 2. This act shall take effect immediately.