STATE OF NEW YORK

8668--A

IN ASSEMBLY

January 10, 2022

Introduced by M. of A. CAHILL, COOK, GLICK, McDONALD, GALEF, SIMON, STECK, DINOWITZ, DICKENS, HUNTER, KELLES, THIELE, MAGNARELLI, LEMONDES, CRUZ, BROWN, DAVILA, DURSO, TAGUE, O'DONNELL, GONZALEZ-ROJAS, LUNSFORD, FERNANDEZ, FORREST -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to expansion of the New York bottle bill

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

Section 1. Subdivision 1 of section 27-1003 of the environmental conservation law, as amended by section 2 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

1. "Beverage" means [~~carbonated soft drinks, 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~~] **all carbonated and non-carbonated drinks in liquid form and intended for internal human consumption, including but not limited to water, soft drinks, milk and dairy derived products, sports drinks, teas, juices, and alcoholic beverages**. "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**, lager** or malt liquor. "Water" means any beverage identified through the use of letters, words or symbols on its product label as a type of water, including any flavored water or nutritionally enhanced water, [~~provided, however, that "water" does not include any beverage identified as a type of water to which a sugar has been added~~] **or any beverage identified as a type of water to which a sugar has been added. "Milk" means whole milk, skim milk, low-fat milk, cream, cultured milk, or any combination of those products. The term "dairy derived products" includes any product of which the single largest ingredient is milk, milk fat, or cultured milk. "Sports drinks" means drinks that are mostly water, electrolytes (such as sodium or potassium) and carbohydrates**

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

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(such as sucrose or fructose). "Teas" means drinks brewed from tea leaves which may or may not include sweeteners and other flavors. "Juices" means drinks which the main ingredient is the juice from fruits and/or vegetables. "Alcoholic beverages" means beer and other malt beverages, liquors, spirits, wines, wine products, and ciders, as defined in subdivisions three, nineteen, twenty-nine, thirty-six, thirty-six-a, and paragraph (a) of subdivision seven-b of section three of the alcoholic beverage control law, respectively. The term "beverage" shall not include:

a. infant formula;

b. 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;

c. a liquid that is ingested in very small quantities and that is consumed for medicinal purposes only;

d. products frozen at the time of sale;

e. products designed to be consumed in a frozen state;

f. instant drink powders;

g. seafood, meat or vegetable broths or soups; and

h. yogurt products.

§ 2. Section 27-1005 of the environmental conservation law, as added by section 4 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

§ 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~~] ten cents which is clearly indicated thereon as provided in section 27-1011 of this title.

§ 3. Paragraph a of subdivision 4 of section 27-1012 of the environmental conservation law, as added by section 8 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

a. Quarterly payments. An amount equal to [~~eighty~~] ninety percent of the balance outstanding in [~~the~~] a deposit initiator's 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. The commissioner of taxation and finance may require that the payments be made electronically. The remaining [~~twenty~~] ten percent of the balance outstanding at the close of each quarter shall be the monies of the deposit initiator and may be withdrawn from such account by the deposit initiator. 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. The commissioner of taxation and finance may require that the payments be made electronically.

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

5. All moneys collected or received by the department of taxation and finance pursuant to this title shall be deposited to the credit of the comptroller with such responsible banks, banking houses or trust companies as may be designated by the comptroller. Such deposits shall be kept separate and apart from all other moneys in the possession of the

comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected, the comptroller shall retain the amount determined by the commissioner of taxation and finance to be necessary for refunds out of which the comptroller must pay any refunds to which a deposit initiator may be entitled. After reserving the amount to pay refunds, the comptroller must, by the tenth day of each month, pay into the state treasury to the credit of the general fund the revenue deposited under this subdivision during the preceding calendar month and remaining to the comptroller's credit on the last day of that preceding month[~~; provided, however, that, beginning April first, two thousand thirteen, nineteen million dollars, and all fiscal years thereafter, twenty-three million dollars plus all funds received from the payments due each fiscal year pursuant to subdivision four of this section in excess of the greater of the amount received from April first, two thousand twelve through March thirty-first, two thousand thirteen or one hundred twenty-two million two hundred thousand dollars~~]; provided, however, that at the beginning of the quarterly period next succeeding the effective date of a chapter of the laws of two thousand twenty-two that amended this subdivision:

(a) fifty percent of revenue deposited under this subdivision, shall be deposited to the credit of the environmental protection fund, established pursuant to section ninety-two-s of the state finance law; and

(b) five and one-half percent of revenue deposited under this subdivision shall be distributed to registered redemption centers on a quarterly basis, in a manner prescribed by the comptroller.

§ 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.