

# STATE OF NEW YORK

9164

## IN SENATE

May 11, 2022

Introduced by Sens. MAY, HARCKHAM -- 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 returnable bottles

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

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

4 1. "Beverage" means carbonated soft drinks, water, beer, other malt  
5 beverages [~~and a~~], wine, liquor, distilled spirit coolers, and cider and  
6 wine [~~product~~] products as defined in [~~subdivision thirty-six-a of~~]  
7 section three of the alcoholic beverage control law. "Malt beverages"  
8 means any beverage obtained by the alcoholic fermentation or infusion or  
9 decoction of barley, malt, hops, or other wholesome grain or cereal and  
10 water including, but not limited to ale, stout or malt liquor. "Water"  
11 means any beverage identified through the use of letters, words or  
12 symbols on its product label as a type of water, including any flavored  
13 water or nutritionally enhanced water [~~, provided, however, that "water"~~  
14 ~~does not include any beverage identified as a type of water to which a~~  
15 ~~sugar has been added~~].

16 § 2. Subdivision 1 of section 27-1003 of the environmental conserva-  
17 tion law, as amended by section one of this act, is amended to read as  
18 follows:

19 1. "Beverage" means carbonated soft drinks, noncarbonated soft drinks,  
20 noncarbonated fruit or vegetable juices containing less than one hundred  
21 percent fruit or vegetable juice, coffee and tea beverages, carbonated  
22 fruit beverages, water, beer, other malt beverages, wine, liquor,  
23 distilled spirit coolers, and cider and wine products as defined in  
24 section three of the alcoholic beverage control law. "Malt beverages"  
25 means any beverage obtained by the alcoholic fermentation or infusion or  
26 decoction of barley, malt, hops, or other wholesome grain or cereal and  
27 water including, but not limited to ale, stout or malt liquor. "Water"

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

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1 means any beverage identified through the use of letters, words or  
2 symbols on its product label as a type of water, including any flavored  
3 water or nutritionally enhanced water.

4 § 3. Subdivision 12 of section 27-1003 of the environmental conserva-  
5 tion law, as added by section 3 of part SS of chapter 59 of the laws of  
6 2009, is amended and a new subdivision 14 is added to read as follows:

7 12. "Reverse vending machine" means an automated device that uses a  
8 laser scanner, microprocessor, or other technology to accurately recog-  
9 nize the universal product code (UPC) on containers to determine if the  
10 container is redeemable and accumulates information regarding containers  
11 redeemed, including the number of such containers redeemed, thereby  
12 enabling the reverse vending machine to accept containers from redeemers  
13 and to issue a scrip or receipt for their refund value. Such definition  
14 shall also apply to alternative technology approved by the commissioner  
15 pursuant to subparagraph (iii) of paragraph (b) of subdivision one of  
16 section 27-1007 of this title.

17 14. "State-specific UPC code" means a universal product code and label  
18 design that is unique to New York or used only in New York and any other  
19 states that have a substantially similar refund value law.

20 § 4. Section 27-1007 of the environmental conservation law, as added  
21 by section 4 of part SS of chapter 59 of the laws of 2009, paragraph (b)  
22 of subdivision 1 as amended by chapter 459 of the laws of 2011, and  
23 subdivision 12 as added by section 3 of part F of chapter 58 of the laws  
24 of 2013, is amended to read as follows:

25 § 27-1007. Mandatory acceptance.

26 Except as provided in section 27-1009 of this title:

27 1. (a) A dealer shall accept at his or her place of business from a  
28 redeemer any empty beverage containers of the design, shape, size,  
29 color, composition and brand sold or offered for sale by the dealer, and  
30 shall pay to the redeemer the refund value of each such beverage  
31 container as established in section 27-1005 of this title. Redemptions  
32 of refund value must be in legal tender, or a scrip or receipt from a  
33 reverse vending machine, provided that the scrip or receipt can be  
34 exchanged for legal tender for a period of not less than sixty days  
35 without requiring the purchase of other goods. In the event such scrip  
36 or receipt expires, such scrip or receipt must indicate any expiration  
37 date and the dealer must post a conspicuous sign indicating how many  
38 days a redeemer has to exchange the scrip or receipt for legal tender.  
39 If such notification is not provided, a dealer must redeem the full  
40 refund value indicated on any legible scrip or receipt. The use or pres-  
41 ence of a reverse vending machine shall not relieve a dealer of any  
42 obligations imposed pursuant to this section. If a dealer utilizes a  
43 reverse vending machine to redeem containers, the dealer shall provide  
44 redemption of beverage containers when the reverse vending machine is  
45 full, broken, under repair or does not accept a type of beverage  
46 container sold or offered for sale by such dealer and may not limit the  
47 hours or days of redemption except as provided by subdivision three of  
48 this section.

49 (b) Beginning March first, two thousand ten, a dealer whose place of  
50 business is part of a chain engaged in the same general field of busi-  
51 ness which operates ten or more units in this state under common owner-  
52 ship and whose business has at least: (i) forty thousand but less than  
53 sixty thousand square feet devoted to the display of merchandise for  
54 sale to the public shall install and maintain at least two reverse vend-  
55 ing machines at the dealer's place of business; (ii) sixty thousand but  
56 less than eighty-five thousand square feet devoted to the display of

1 merchandise for sale to the public shall install and maintain at least  
2 three reverse vending machines at the dealer's place of business; or  
3 (iii) eighty-five thousand square feet devoted to the display of  
4 merchandise for sale to the public shall install and maintain at least  
5 four reverse vending machines at the dealer's place of business. The  
6 requirements of paragraph (b) of this subdivision to install and main-  
7 tain reverse vending machines shall not apply to a dealer that: (i)  
8 sells only beverage containers of twenty ounces or less where such  
9 beverage containers are packaged in quantities fewer than six; (ii)  
10 sells beverage containers and devotes no more than five percent of its  
11 floor space to the display and sale of consumer commodities, as defined  
12 in section two hundred fourteen-h of the agriculture and markets law; or  
13 (iii) obtains a waiver from the commissioner authorizing dealers to  
14 provide consumers with an alternative technology that: (A) determines if  
15 the container is redeemable, (B) provides protections against fraud  
16 through a system that validates each container redeemed by reading the  
17 universal product code and, except with respect to refillable contain-  
18 ers, renders the container unredeemable, (C) accumulates information  
19 regarding containers redeemed, and (D) issues legal tender, or a scrip,  
20 receipt, or other form of credit for the refund value, that can be  
21 exchanged for legal tender for a period of not less than sixty days  
22 without requiring the purchase of other goods and includes any expira-  
23 tion date on the scrip, receipt, or other form of credit. Notwithstand-  
24 ing the foregoing, if the alternative technology does not allow consum-  
25 ers to immediately obtain the refund value of the redeemed container, a  
26 dealer shall be permitted to deploy such alternative technology only if  
27 it also offers an alternative that allows consumers to conveniently and  
28 immediately obtain such refund value through a reverse vending machine  
29 or other alternative method.

30 (c) A dealer to which paragraph (b) of this subdivision does not apply  
31 and whose place of business is at least forty thousand square feet which  
32 does not utilize reverse vending machines to process empty beverage  
33 containers for redemption shall: (i) establish and maintain a dedicated  
34 area within such business to accept beverage containers for redemption;  
35 (ii) adequately staff such area to facilitate efficient acceptance and  
36 processing of such containers during business hours; and (iii) post one  
37 or more conspicuous signs conforming to the size and color requirements  
38 described in subdivision two of this section at each public entrance to  
39 the business which describes where in the business the redemption area  
40 is located. The commissioner may establish in rules and regulations  
41 additional standards for the efficient processing of beverage containers  
42 by such dealers.

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

47 2. A dealer shall post a conspicuous sign, at the point of sale, that  
48 states:

49 "NEW YORK BOTTLE BILL OF RIGHTS

50 STATE LAW REQUIRES US TO REDEEM EMPTY RETURNABLE BEVERAGE CONTAINERS OF  
51 THE SAME TYPE AND BRAND THAT WE SELL OR OFFER FOR SALE

52 YOU HAVE CERTAIN RIGHTS UNDER THE NEW YORK STATE RETURNABLE CONTAINER  
53 ACT:

1 THE RIGHT to return your empties for refund to any dealer who sells  
2 the same brand, type and size, whether you bought the beverage from the  
3 dealer or not. It is illegal to return containers for refund that you  
4 did not pay a deposit on in New York state.

5 THE RIGHT to get your deposit refund in cash, without proof of  
6 purchase.

7 THE RIGHT to return your empties any day, any hour, except for the  
8 first and last hour of the dealer's business day (empty containers may  
9 be redeemed at any time in 24-hour stores).

10 THE RIGHT to return your containers if they are empty and intact.  
11 Washing containers is not required by law, but is strongly recommended  
12 to maintain sanitary conditions.

13 The New York state returnable container act can be enforced by the New  
14 York state department of environmental conservation, the New York state  
15 department of agriculture and markets, the New York state department of  
16 taxation and finance, the New York state attorney general and/or by your  
17 local government."

18 Such sign must be no less than eight inches by ten inches in size and  
19 have lettering a minimum of one quarter inch high, and of a color which  
20 contrasts with the background. The department shall maintain a toll free  
21 telephone number for a "bottle bill complaint line" that shall be avail-  
22 able from 9:00 a.m. to 5:00 p.m. each business day to receive reports of  
23 violations of this title. The telephone number shall be listed on any  
24 sign required by this section.

25 3. On or after June first, two thousand nine, a dealer may limit the  
26 number of empty beverage containers to be accepted for redemption at the  
27 dealer's place of business to no less than seventy-two containers per  
28 visit, per redeemer, per day, provided that:

29 (a) The dealer has a written agreement with a redemption center, be it  
30 either at a fixed physical location within the same county and within  
31 [~~one-half~~] one mile of the dealer's place of business, or a mobile  
32 redemption center, operated by a redemption center, that is located  
33 within one-quarter mile of the dealer's place of business. The redemp-  
34 tion center must have a written agreement with the dealer to accept  
35 containers on behalf of the dealer; and the redemption center's hours of  
36 operation must cover at least 9:00 a.m. through 7:00 p.m. daily or in  
37 the case of a mobile redemption center, the hours of operation must  
38 cover at least four consecutive hours between 8:00 a.m. and 8:00 p.m.  
39 daily. The dealer must post a conspicuous, permanent sign, meeting the  
40 size and color specifications set forth in subdivision two of this  
41 section, open to public view, identifying the location and hours of  
42 operation of the affiliated redemption center or mobile redemption  
43 center; and

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, meeting the size and color specifications  
48 set forth in subdivision two of this section, open to public view, iden-  
49 tifying those hours. The dealer may not change the hours of redemption  
50 without first posting a thirty day notice; and

51 (c) The dealer's primary business is the sale of food or beverages for  
52 consumption off-premises, and the dealer's place of business is less  
53 than ten thousand square feet in size.

54 4. A deposit initiator shall accept from a dealer or operator of a  
55 redemption center any empty beverage container of the design, shape,  
56 size, color, composition and brand sold or offered for sale by the

1 deposit initiator, and shall pay the dealer or operator of a redemption  
2 center the refund value of each such beverage container as established  
3 by section 27-1005 of this title. A deposit initiator shall accept and  
4 redeem all such empty beverage containers from a dealer or redemption  
5 center without limitation on quantity.

6 5. A deposit initiator's or distributor's failure to pick up empty  
7 beverage containers, including containers processed in a reverse vending  
8 machine, from a redemption center, dealer or the operator of a reverse  
9 vending machine, in a timely manner and at reasonable times as provided  
10 by the department pursuant to the regulations promulgated pursuant to  
11 paragraph (c) of subdivision eight of this section shall be a violation  
12 of this title.

13 6. In addition to the refund value of a beverage container as estab-  
14 lished by section 27-1005 of this title, a deposit initiator shall pay  
15 to any dealer or operator of a redemption center a handling fee of three  
16 and one-half cents for each beverage container accepted by the deposit  
17 initiator from such dealer or operator of a redemption center. Begin-  
18 ning April first, two thousand twenty-five, the handling fee will be six  
19 cents. Payment of the handling fee shall be as compensation for collect-  
20 ing, sorting and packaging of empty beverage containers for transport  
21 back to the deposit initiator or its designee. Payment of the handling  
22 fee may not be conditioned on the purchase of any goods or services, nor  
23 may such payment be made out of the refund value account established  
24 pursuant to section 27-1012 of this title. A distributor who does not  
25 initiate deposits on a type of beverage container is considered a dealer  
26 only for the purpose of receiving a handling fee from a deposit initi-  
27 ator.

28 7. A deposit initiator on a brand shall accept from a distributor who  
29 does not initiate deposits on that brand any empty beverage containers  
30 of that brand accepted by the distributor from a dealer or operator of a  
31 redemption center and shall reimburse the distributor the refund value  
32 of each such beverage container, as established by section 27-1005 of  
33 this title. In addition, the deposit initiator shall reimburse such  
34 distributor for each such beverage container the handling fee estab-  
35 lished under subdivision six of this section. Without limiting the  
36 rights of the department or any person, firm or corporation under this  
37 subdivision or any other provision of this section, a distributor shall  
38 have a civil right of action to enforce this subdivision, including,  
39 upon three days notice, the right to apply for temporary and preliminary  
40 injunctive relief against continuing violations, and until arrangements  
41 for collection and return of empty containers or reimbursement of such  
42 distributor for such deposits and handling fees are made.

43 8. It shall be the responsibility of the deposit initiator or distrib-  
44 utor to provide to a dealer or redemption center a sufficient number of  
45 bags, cartons, or other suitable containers, at no cost, for the packag-  
46 ing, handling and pickup of empty beverage containers that are not  
47 redeemed through a reverse vending machine. The bags, cartons, or  
48 containers must be provided by the deposit initiator or distributor on a  
49 schedule that allows the dealer or redemption center sufficient time to  
50 sort the empty beverage containers prior to pick up by the deposit  
51 initiator or distributor. In addition:

52 (a) When picking up empty beverage containers, a deposit initiator or  
53 distributor shall not require a dealer or redemption center to load  
54 their own bags, cartons or containers onto or into the deposit initi-  
55 ator's or distributor's vehicle or vehicles or provide the staff or  
56 equipment needed to do so. However, where pallets or skids, bags,

1 cartons or containers are readily movable only by means of a forklift or  
2 similar equipment, a deposit initiator or distributor may require a  
3 dealer or redemption center to move or load such items at no cost using  
4 a forklift or similar equipment belonging to the dealer or redemption  
5 center provided that such equipment and appropriate staff are readily  
6 available.

7 (b) A deposit initiator or distributor shall not require empty  
8 containers to be counted at a location other than the redemption center  
9 or dealer's place of business. The dealer or redemption center shall  
10 have the right to be present at the count. In the event of a discrepancy  
11 between the count of the dealer or redemption center and the count of  
12 the deposit initiator or distributor for containers not processed  
13 through a reverse vending machine all such empty containers shall be  
14 retained and a re-count may be requested. The re-count may be held at a  
15 location other than the redemption center or dealer's place of business  
16 only if the dealer or redemption center agrees and is present.

17 (c) A deposit initiator or distributor shall pick up empty beverage  
18 containers from the dealer or redemption center in a timely manner and  
19 at reasonable times [~~and intervals~~] as determined in rules or regu-  
20 lations promulgated by the department no later than April first, two  
21 thousand twenty-five.

22 9. No person shall return or assist another to return to a dealer or  
23 redemption center an empty beverage container for its refund value if  
24 such container had previously been accepted for redemption by a dealer,  
25 redemption center, or deposit initiator who initiates deposits on bever-  
26 age containers of the same brand.

27 10. A redeemer, dealer, distributor or redemption center shall not  
28 knowingly redeem an empty beverage container on which a deposit was  
29 never paid in New York state.

30 11. Notwithstanding the provisions of subdivision two of section  
31 27-1009 of this title, a deposit initiator or distributor shall accept  
32 and redeem beverage containers as provided in this title, if the dealer  
33 or operator of a redemption center shall have accepted and paid the  
34 refund value of such beverage containers.

35 12. No person shall intentionally program, tamper with, render inaccu-  
36 rate, or circumvent the proper operation of a reverse vending machine to  
37 wrongfully elicit deposit monies when no valid, redeemable beverage  
38 container has been placed in and properly processed by the reverse vend-  
39 ing machine.

40 13. The department and the department of taxation and finance are  
41 authorized to audit any reverse vending machine.

42 § 5. Paragraph (b) of subdivision 3 of section 27-1011 of the environ-  
43 mental conservation law, as added by section 1 of part PP of chapter 58  
44 of the laws of 2018, is amended and a new subdivision 4 is added to read  
45 as follows:

46 (b) comply with minimum post-consumer recycled material content and  
47 hole diameter limitations as defined in rules and regulations promulgat-  
48 ed by the department no later than April first, two thousand  
49 twenty-four, and is recyclable and indicates a resin identification  
50 code.

51 4. (a) Effective January first, two thousand twenty-five, every glass  
52 beverage container shall contain a minimum percentage of thirty-five  
53 percent post-consumer glass and every aluminum beverage container shall  
54 contain a minimum percentage of thirty-five percent post-consumer alumi-  
55 num.

1 (b) Effective January first, two thousand twenty-eight, every poly-  
2 ethylene terephthalate (PET) beverage container shall contain no less  
3 than twenty-five percent post-consumer PET.

4 (c) Effective January first, two thousand thirty, every plastic bever-  
5 age container shall contain no less than thirty percent post-consumer  
6 plastic.

7 (d) The department may, by regulation, grant a reduction or waiver of  
8 the percentage requirement established pursuant to this subdivision if  
9 the department finds and determines that it is technologically infeas-  
10 ible for the bottler to achieve the specified percent requirement.

11 § 6. Paragraph c of subdivision 3 of section 27-1012 of the environ-  
12 mental conservation law, as added by section 8 of part SS of chapter 59  
13 of the laws of 2009, is amended to read as follows:

14 c. all withdrawals from the refund value account during such quarter,  
15 including all reimbursements paid pursuant to subdivision two of this  
16 section, all service charges on the account, provided that such service  
17 charges do not exceed the maximum amount authorized by the commissioner,  
18 and all payments made pursuant to subdivision four of this section; and

19 § 7. Paragraph a of subdivision 4 of section 27-1012 of the environ-  
20 mental conservation law, as added by section 8 of part SS of chapter 59  
21 of the laws of 2009, is amended to read as follows:

22 a. Quarterly payments. An amount equal to eighty percent of the  
23 balance outstanding in the refund value account at the close of each  
24 quarter shall be paid to the commissioner of taxation and finance at the  
25 time the report provided for in subdivision three of this section is  
26 required to be filed. The commissioner of taxation and finance may  
27 require that the payments be made electronically. The remaining twenty  
28 percent of the balance outstanding at the close of each quarter shall be  
29 the monies of the deposit initiator and may be withdrawn from such  
30 account by the deposit initiator. However, until April first, two thou-  
31 sand twenty-seven, a deposit initiator who initiates deposits on refill-  
32 able beverage containers or beverage containers with a state-specific  
33 universal product code may be entitled to pay an amount equal to seven-  
34 ty-five percent of the balance outstanding in the refund value account  
35 specifically attributable to refillable beverage containers or beverage  
36 containers bearing such product code at the close of each quarter to the  
37 commissioner of taxation and finance at the time the report provided for  
38 in subdivision three of this section is required to be filed. No later  
39 than October first, two thousand twenty-six, the commissioner of taxa-  
40 tion and finance shall submit a report to the governor and the legisla-  
41 ture regarding the implementation of the state-specific universal prod-  
42 uct code and an evaluation of its effectiveness in decreasing fraud. If  
43 the provisions of this section with respect to such account have not  
44 been fully complied with, each deposit initiator shall pay to such  
45 commissioner at such time, in lieu of the amount described in the  
46 preceding sentence, an amount equal to the balance which would have been  
47 outstanding on such date had such provisions been fully complied with.  
48 The commissioner of taxation and finance may require that the payments  
49 be made electronically.

50 § 8. Subdivision 12 of section 27-1012 of the environmental conserva-  
51 tion law, as amended by section 6 of part F of chapter 58 of the laws of  
52 2013, is amended to read as follows:

53 12. a. Each deposit initiator shall provide a report to the department  
54 describing all the types of beverage containers on which it initiates  
55 deposits. The report shall include the product name, type of beverage,  
56 size and composition of the beverage container, universal product code,

1 the presence of any state-specific universal product code and the  
2 percentage of products covered by such code, the methods used to prevent  
3 the fraudulent sale and redemption of beverage containers, and any other  
4 information the department may require. Upon request, a deposit initi-  
5 ator shall also provide to the department a copy of the container label  
6 or a picture of any beverage container sold or offered for sale in this  
7 state on which it initiates a deposit. Such information shall be  
8 provided in a form as prescribed by the department. The department may  
9 require that such forms be filed electronically.

10 b. A bottler may place on a beverage container a state-specific  
11 universal product code [~~or other distinctive marking that is specific to~~  
12 ~~the state or used only in the state and any other states with laws~~  
13 ~~substantially similar to this title~~] as a means of preventing the sale  
14 or redemption of beverage containers on which no deposit was initiated.

15 c. A bottler or deposit initiator shall notify the department, in a  
16 form prescribed by the department, whenever a beverage container or  
17 beverage container label is revised by altering the universal product  
18 code, or whenever the container on which a universal product code  
19 appears is changed in size, composition or glass color, or whenever the  
20 container or container label on which a universal product code appears  
21 is changed to include a state-specific universal product code [~~that is~~  
22 ~~unique to the state or used only in the state and any other states with~~  
23 ~~laws substantially similar to this title~~].

24 § 9. Section 27-1014 of the environmental conservation law, as amended  
25 by section 10 of part SS of chapter 59 of the laws of 2009, is amended  
26 to read as follows:

27 § 27-1014. Authority to promulgate rules and regulations.

28 In addition to the authority of the commissioner, under sections  
29 27-1007, 27-1009, 27-1011, 27-1012, and 27-1013 of this title, the  
30 commissioner shall have the power to promulgate rules and regulations  
31 necessary and appropriate for the administration of this title.

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

35 § 27-1005. Refund value.

36 No person shall sell or offer for sale a beverage container in this  
37 state unless the deposit on such beverage container is or has been  
38 collected by a registered deposit initiator and unless such container  
39 has a refund value of not less than five cents, and beginning April 1,  
40 2025 a refund value of not less than ten cents, which is clearly indi-  
41 cated thereon as provided in section 27-1011 of this title.

42 § 11. This act shall take effect April 1, 2024; provided, however,  
43 that section two of this act shall take effect April 1, 2025. Effective  
44 immediately, the addition, amendment and/or repeal of any rule or regu-  
45 lation necessary for the implementation of this act on its effective  
46 date are authorized to be made and completed on or before such effective  
47 date.