

STATE OF NEW YORK

6353--A

2023-2024 Regular Sessions

IN ASSEMBLY

April 5, 2023

Introduced by M. of A. GLICK, FAHY, SIMON, DINOWITZ, L. ROSENTHAL, GALLAGHER, RAMOS, PAULIN, AUBRY, CARROLL, GONZALEZ-ROJAS, SIMONE, BURGOS, REYES, RIVERA, COLTON, BURDICK, DE LOS SANTOS, LAVINE, O'DONNELL, SHIMSKY, DICKENS, EPSTEIN, STECK, ALVAREZ, RAGA, THIELE, LEVENBERG, BORES, STIRPE, ARDILA, LUNSFORD, SILLITTI, HEVESI, SAYEGH, KIM, ZINERMAN, GUNTHER, SHRESTHA, OTIS, WALLACE, TAYLOR, BICHOTTE HERMELYN, FORREST, MAMDANI, CLARK, BRONSON, SEAWRIGHT, KELLES, LUCAS, McMAHON, WEPRIN -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to returnable bottles; and to repeal section 27-1018 of such law relating to the beverage container assistance program

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, noncarbonated soft drinks,
5 noncarbonated fruit or vegetable juices containing less than one hundred
6 percent fruit or vegetable juice, coffee and tea beverages, carbonated
7 fruit beverages, water, beer, other malt beverages, cider as defined in
8 section three of the alcoholic beverage control law, and [~~a~~] wine [~~prod-~~
9 ~~uct~~] products as defined in [~~subdivision thirty-six-a of~~] section three
10 of the alcoholic beverage control law. "Malt beverages" means any bever-
11 age obtained by the alcoholic fermentation or infusion or decoction of
12 barley, malt, hops, or other wholesome grain or cereal and water includ-
13 ing, but not limited to ale, stout or malt liquor. "Water" means any
14 beverage identified through the use of letters, words or symbols on its

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

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1 product label as a type of water, including any flavored water or nutri-
2 tionally enhanced water [~~, provided, however, that "water" does not~~
3 ~~include any beverage identified as a type of water to which a sugar has~~
4 ~~been added~~].

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

8 1. "Beverage" means [~~carbonated soft drinks, noncarbonated soft~~
9 ~~drinks, noncarbonated fruit or vegetable juices containing less than one~~
10 ~~hundred percent fruit or vegetable juice, coffee and tea beverages,~~
11 ~~carbonated fruit beverages, water, beer, other malt beverages, cider as~~
12 ~~defined in section three of the alcoholic beverage control law, and a~~
13 ~~wine product as defined in section three of the alcoholic beverage~~
14 ~~control law. "Malt beverages" means any beverage obtained by the alco-~~
15 ~~holic fermentation or infusion or decoction of barley, malt, hops, or~~
16 ~~other wholesome grain or cereal and water including, but not limited to~~
17 ~~ale, stout or malt liquor. "Water" means any beverage identified through~~
18 ~~the use of letters, words or symbols on its product label as a type of~~
19 ~~water, including any flavored water or nutritionally enhanced water] any
20 drinkable liquid intended for human oral consumption. The term beverage
21 does not include: a drug regulated under the Federal Food, Drug, and
22 Cosmetic Act, 21 U.S.C. 301 et seq.; infant formula; a meal replacement
23 liquid; dairy products derived from animal milk; plant-based dairy
24 alternatives; and noncarbonated fruit or vegetable juices containing one
25 hundred percent fruit or vegetable juice.~~

26 § 3. Subdivisions 8 and 12 of section 27-1003 of the environmental
27 conservation law, subdivision 8 as added by chapter 200 of the laws of
28 1982 and subdivision 12 as added by section 3 of part SS of chapter 59
29 of the laws of 2009, are amended and five new subdivisions 14, 15, 16,
30 17 and 18 are added to read as follows:

31 8. "Redeemer" means every person who demands the refund value provided
32 for herein in exchange for the empty beverage container, regardless of
33 personal purchase of the beverage container, but shall not include a
34 dealer as defined in subdivision four of this section.

35 12. "Reverse vending machine" means an automated device that uses a
36 laser scanner, microprocessor, or other technology to accurately recog-
37 nize the universal product code (UPC) on containers to determine if the
38 container is redeemable and accumulates information regarding containers
39 redeemed, including the number of such containers redeemed, thereby
40 enabling the reverse vending machine to accept containers from redeemers
41 and to issue legal tender or a scrip [~~ex~~], receipt, or other form of
42 credit for their refund value. Such definition shall also apply to
43 alternative technology approved by the commissioner pursuant to subpara-
44 graph (iii) of paragraph (b) of subdivision one of section 27-1007 of
45 this title. Nothing in this definition shall be construed to relieve a
46 dealer specified in subparagraph (iii) of paragraph (b) of subdivision
47 one of section 27-1007 of this title of the requirement to provide an
48 immediate form of deposit repayment if the reverse vending machine or
49 alternative technology does not provide such.

50 14. "Refillable beverage container" means any beverage container which
51 is so constructed and designed that it is structurally capable of being
52 refilled and resold at least fifty times by a beverage manufacturer, and
53 which the beverage manufacturer requires to be returned for the purpose
54 of refilling and resale.

55 15. "Return and reusable system" means a refillable beverage container
56 reuse system that features an operational and financial arrangement in

1 which refillable beverage containers are collected for washing and reus-
2 ing. The distances between each point of the system shall be no greater
3 than two hundred miles.

4 16. "Redemption rate" means the percentage of beverage containers sold
5 that are redeemed for deposit value.

6 17. "Recycling" means to separate, dismantle or process the materials,
7 components or commodities contained in discards for the purpose of
8 preparing the materials, components, or commodities for use or reuse in
9 new products or components. "Recycling" shall not include:

10 (a) energy recovery or energy generation by any means, including but
11 not limited to, combustion, incineration, pyrolysis, gasification,
12 solvolysis, or waste-to-fuel;

13 (b) any chemical conversion process; or

14 (c) landfill disposal.

15 18. "Recycling rate" means the percentage of redeemed beverage
16 containers that are ultimately recycled. The recycling rate shall be
17 calculated as the total weight of beverage containers that are recycled
18 in a given year divided by the total weight of beverage containers
19 generated by a distributor in that year.

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~~] such dealer's place of
28 business from a redeemer any empty beverage containers of the design,
29 shape, size, color, composition and brand sold or offered for sale by
30 the dealer, and shall pay to the redeemer the refund value of each such
31 beverage container as established in section 27-1005 of this title.
32 Redemptions of refund value must be in legal tender, or a scrip or
33 receipt from a reverse vending machine, provided that the scrip or
34 receipt can be exchanged for legal tender for a period of not less than
35 sixty days without requiring the purchase of other goods. In the event
36 such scrip or receipt expires, such scrip or receipt must indicate any
37 expiration date and the dealer must post a conspicuous sign indicating
38 how many days a redeemer has to exchange the scrip or receipt for legal
39 tender. If such notification is not provided, a dealer must redeem the
40 full refund value indicated on any legible scrip or receipt. The use or
41 presence 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. All dealers and redemption centers shall provide consum-
49 ers the ability to recycle any containers deemed unredeemable.

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

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

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

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

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

50 "NEW YORK BOTTLE BILL OF RIGHTS

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

53 YOU HAVE CERTAIN RIGHTS UNDER THE NEW YORK STATE RETURNABLE CONTAINER
54 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.~~] eight hours
37 daily or in the case of a mobile redemption center, the hours of opera-
38 tion must cover at least four consecutive hours between 8:00 a.m. and
39 8:00 p.m. daily. The dealer must post a conspicuous, permanent sign,
40 meeting the size and color specifications set forth in subdivision two
41 of this section, open to public view, identifying the location and hours
42 of 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
16 [~~three and one-half~~] five cents for each beverage container accepted by
17 the deposit initiator from such dealer or operator of a redemption
18 center. Beginning April first, two thousand twenty-six, the handling
19 fee shall be six cents. Beginning April first, two thousand thirty-one,
20 the handling fee shall be six and one-half cents. Payment of the handl-
21 ing fee shall be as compensation for collecting, sorting and packaging
22 of empty beverage containers for transport back to the deposit initiator
23 or its designee. Payment of the handling fee may not be conditioned on
24 the purchase of any goods or services, nor may such payment be made out
25 of the refund value account established pursuant to section 27-1012 of
26 this title. A distributor who does not initiate deposits on a type of
27 beverage container is considered a dealer only for the purpose of
28 receiving a handling fee from a deposit initiator.

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

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

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

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

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

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

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

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

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

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

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

43 14. Notwithstanding any provision of this section to the contrary, a
44 dealer shall not be required to accept from a redeemer any empty bever-
45 age container at a farmers' market as such term is defined by the
46 department of agriculture and markets.

47 § 5. Subdivision 1 of section 27-1011 of the environmental conserva-
48 tion law is amended by adding a new paragraph c to read as follows:

49 c. Each beverage container sold or offered for sale in this state that
50 has a refund value pursuant to paragraph a of this subdivision, shall
51 include a universal product code and barcode printed on the label that
52 is readable by reverse vending machine or alternative technology. Each
53 deposit initiator shall provide such universal product code and barcode
54 and ownership and packaging information of any such beverage container,
55 to the department not less than forty-five days prior to such product
56 being offered for sale in the state. The department shall, not more than

1 thirty days after receipt of such information, make this information
2 readily available to any redemption center, reverse vending machine
3 system operator, deposit initiator-authorized contracted agents, or any
4 other appropriate stakeholder approved by the department.

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

9 (b) comply with [~~minimum post-consumer recycled material content and~~]
10 hole diameter limitations as defined in rules and regulations promulgat-
11 ed by the department no later than April first, two thousand
12 twenty-five, and is recyclable and indicates a resin identification
13 code.

14 4. Each distributor is required to meet the following performance
15 requirements: (a) Beginning April first, two thousand thirty, at least
16 twenty-five percent of all beverage containers sold by each distributor
17 in the state shall be refillable containers that are part of a return
18 and reusable system. Each distributor shall work with dealers, reverse
19 vending machine owners, and redemption centers to ensure that refilla-
20 ble beverage containers sold by the distributor achieve at least an
21 eighty percent return rate.

22 (b) (i) Beginning April first, two thousand twenty-five, all distribu-
23 tors of non-refillable beverage containers shall report the recycling
24 rate, by material type, of redeemed containers to the department.

25 (ii) Beginning April first, two thousand twenty-six, at least seventy
26 percent of the redeemed beverage container material shall be recycled.

27 (iii) Beginning April first, two thousand twenty-eight, at least
28 eighty percent of the redeemed beverage container material shall be
29 recycled.

30 (iv) Beginning April first, two thousand thirty, at least ninety
31 percent of the redeemed beverage container material, including beverage
32 container caps, lids, and other rigid sealers, shall be recycled.

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

36 5. All moneys collected or received by the department of taxation and
37 finance pursuant to this title shall be deposited to the credit of the
38 comptroller with such responsible banks, banking houses or trust compa-
39 nies as may be designated by the comptroller. Such deposits shall be
40 kept separate and apart from all other moneys in the possession of the
41 comptroller. The comptroller shall require adequate security from all
42 such depositories. Of the total revenue collected, the comptroller shall
43 retain the amount determined by the commissioner of taxation and finance
44 to be necessary for refunds out of which the comptroller must pay any
45 refunds to which a deposit initiator may be entitled. Of the revenue
46 remaining following payments of any refunds, the comptroller shall
47 retain an amount equal to five percent of the total for the beverage
48 container assistance program established pursuant to section 27-1018 of
49 this title. After reserving the amount to pay refunds, the comptroller
50 must, by the tenth day of each month, pay into the state treasury to the
51 credit of the general fund the revenue deposited under this subdivision
52 during the preceding calendar month and remaining to the comptroller's
53 credit on the last day of that preceding month; provided, however, that,
54 beginning April first, two thousand thirteen, nineteen million dollars,
55 and all fiscal years thereafter, twenty-three million dollars plus all
56 funds received from the payments due each fiscal year pursuant to subdi-

1 vision four of this section in excess of the greater of the amount
2 received from April first, two thousand twelve through March thirty-
3 first, two thousand thirteen or one hundred twenty-two million two
4 hundred thousand dollars, shall be deposited to the credit of the envi-
5 ronmental protection fund established pursuant to section ninety-two-s
6 of the state finance law.

7 § 8. Paragraph c of subdivision 3 of section 27-1012 of the environ-
8 mental conservation law, as added by section 8 of part SS of chapter 59
9 of the laws of 2009, is amended and a new subdivision 13 is added to
10 read as follows:

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

16 13. Annually the department, in consultation with the department of
17 taxation and finance, shall use available information to produce an
18 annual report at a minimum containing information on redemption rates,
19 container material types by percent usage, refillable container usage,
20 fraud and enforcement actions, an analysis of the handling fee and
21 consumer price index, and information on how this program helps to
22 achieve the targets of chapter one hundred six of the laws of two thou-
23 sand nineteen. Such report shall be shared with the legislature and
24 posted publicly on the department's website.

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

28 a. Quarterly payments. An amount equal to eighty percent of the
29 balance outstanding in the refund value account at the close of each
30 quarter shall be paid to the commissioner of taxation and finance at the
31 time the report provided for in subdivision three of this section is
32 required to be filed. The commissioner of taxation and finance may
33 require that the payments be made electronically. The remaining twenty
34 percent of the balance outstanding at the close of each quarter shall be
35 the monies of the deposit initiator and may be withdrawn from such
36 account by the deposit initiator. However, a deposit initiator who
37 initiates deposits on refillable beverage containers which are part of a
38 return and reusable system may be entitled to pay an amount equal to
39 seventy-five percent of the balance outstanding in the refund value
40 account specifically attributable to refillable beverage containers at
41 the close of each quarter to the commissioner of taxation and finance at
42 the time the report provided for in subdivision three of this section is
43 required to be filed. The department shall promulgate rules on the
44 eligibility of deposit initiators for such refillable beverage container
45 bonus. If the provisions of this section with respect to such account
46 have not been fully complied with, each deposit initiator shall pay to
47 such commissioner at such time, in lieu of the amount described in the
48 preceding sentence, an amount equal to the balance which would have been
49 outstanding on such date had such provisions been fully complied with.
50 The commissioner of taxation and finance may require that the payments
51 be made electronically.

52 § 10. Paragraph a of subdivision 7 of section 27-1012 of the environ-
53 mental conservation law, as amended by section 8 of part SS of chapter
54 59 of the laws of 2009, is amended to read as follows:

55 a. Any person who is a deposit initiator under this title before April
56 first, two thousand nine, must apply by June first, two thousand nine to

1 the commissioner of taxation and finance for registration as a deposit
2 initiator. Any person who becomes a deposit initiator on or after April
3 first, two thousand nine shall apply for registration prior to collect-
4 ing any deposits as such a deposit initiator. Such application shall be
5 in a form prescribed by the commissioner of taxation and finance and
6 shall require such information deemed to be necessary for proper admin-
7 istration of this title. The commissioner of taxation and finance may
8 require that applications for registration must be submitted electron-
9 ically. The commissioner of taxation and finance shall electronically
10 issue a deposit initiator registration certificate in a form prescribed
11 by the commissioner of taxation and finance within fifteen days of
12 receipt of such application or may take an additional ten days if the
13 commissioner of taxation and finance deems it necessary to consult with
14 the commissioner before issuing such registration certificate. A regis-
15 tration certificate issued pursuant to this subdivision may be issued
16 for a specified term of not less than three years and shall be subject
17 to renewal in accordance with procedures specified by the commissioner
18 of taxation and finance. The commissioner of taxation and finance shall
19 furnish to the commissioner a complete list of registered deposit initi-
20 ators and shall continually update such list as warranted. The commis-
21 sioner shall share any information with the commissioner of taxation and
22 finance that is necessary for the administration of this subdivision.
23 The commissioner shall publish the list of registered deposit initiators
24 and their covered products, and a list of registered redemption centers
25 on the department's website.

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

29 § 27-1014. Authority to promulgate rules and regulations.

30 In addition to the authority of the commissioner, under sections
31 27-1007, 27-1009 [~~and~~], 27-1011, 27-1012, 27-1013, and 27-1018 of this
32 title, the commissioner shall have the power to promulgate rules and
33 regulations necessary and appropriate for the administration of this
34 title.

35 § 12. Section 27-1018 of the environmental conservation law, as added
36 by section 13 of part SS of chapter 59 of the laws of 2009, is amended
37 to read as follows:

38 § 27-1018. Beverage container assistance program.

39 Notwithstanding any other provision of law to the contrary, within the
40 amounts retained by the comptroller for use under the beverage container
41 assistance program pursuant to subdivision five of section 27-1012 of
42 this title, and within the limits of appropriations therefor, the
43 commissioner shall make state assistance payments to municipalities,
44 qualifying small businesses, and not-for-profit organizations located in
45 the state, upon application, for the cost and installation of reverse
46 vending machines located or to be located in the state. Such state
47 assistance payments shall not exceed fifty percent of the costs of
48 equipment, [~~and/or the acquisition~~] installation and/or rehabilitation
49 of real property or structures located or to be located in the state
50 related to the collecting, sorting, and packaging of empty beverage
51 containers subject to the provisions of this title. [~~Such payments may~~
52 ~~include costs related to the establishment of redemption centers,~~
53 ~~including mobile redemption centers.~~] For the purposes of this section,
54 municipalities and not-for-profit organizations shall have the meaning
55 as defined in section 54-0101 of this chapter and qualified small busi-
56 nesses shall mean a dealer[~~, distributor~~] or redemption center as

1 defined in this title that employs less than fifty employees. Preference
2 for these funds shall be given to registered redemption centers that do
3 not utilize any reverse vending machines. Preference for these funds
4 shall also be given to municipalities, not-for-profit organizations, or
5 qualified small businesses that do not have a registered redemption
6 center within one mile.

7 § 13. Subdivision 1 of section 27-1013 of the environmental conserva-
8 tion law, as amended by section 7 of part F of chapter 58 of the laws of
9 2013, is amended to read as follows:

10 1. The commissioner is hereby empowered to promulgate rules and regu-
11 lations governing (a) the circumstances in which deposit initiators,
12 dealers and distributors, individually or collectively, are required to
13 accept the return of empty beverage containers, including beverage
14 containers processed through reverse vending machines and make payment
15 therefor; (b) the sorting of the containers which a deposit initiator or
16 distributor may require of dealers and redemption centers; (c) the
17 collection of returned beverage containers by deposit initiators or
18 distributors, including the party to whom such expense is to be charged,
19 the frequency of such pick ups, a process for safe pick ups, and the
20 payment for refunds and handling fees thereon; (d) the right of dealers
21 to restrict or limit the number of containers redeemed, the rules for
22 redemption at the dealers' place of business, and the redemption of
23 containers from a beverage for which sales have been discontinued; (e)
24 ~~[to]~~ the right of redemption centers to have timely, transparent, and
25 safe pick ups and transparent verification of container counts; (f) the
26 department shall issue registrations to persons, firms or corporations
27 which establish redemption centers, subject to applicable provisions of
28 local and state laws, at which redeemers and dealers may return empty
29 beverage containers and receive payment of the refund value of such
30 beverage containers~~[, Such]~~, subject to a review that considers safety
31 and accessibility, and shall be renewed every ten years. As of April
32 first, two thousand twenty-six, such such registrations shall be issued
33 at ~~[no cost]~~ the cost of one hundred fifty dollars. Should the depart-
34 ment require ~~[by]~~ any additional regulations adopted pursuant to this
35 paragraph ~~[that redemption centers must obtain a registration as a~~
36 ~~condition of operation,~~] any redemption center in business as of ~~[March~~
37 ~~first, two thousand thirteen]~~ April first, two thousand twenty-five that
38 previously provided the department with the notification information
39 required by regulations in effect as of such date may continue to oper-
40 ate as if the department had issued such redemption center a registra-
41 tion required by regulations adopted under this paragraph; provided,
42 however, that such redemption center shall provide the department with
43 any other information required by regulations adopted pursuant to this
44 paragraph. The department may, after due notice and opportunity of
45 hearing, pursuant to the provisions of section 71-1709 of this chapter,
46 deny an application or revoke a registration. In determining whether or
47 not to revoke a registration the commissioner shall at a minimum, take
48 into consideration the compliance history of a violator, good faith
49 efforts of a violator to comply, any economic benefit from noncompliance
50 and whether the violation was procedural in nature. The commissioner's
51 determination to revoke a registration is subject to review under arti-
52 cle seventy-eight of the civil practice law and rules; ~~[and (f)]~~ (g) the
53 operation of mobile redemption centers in order to ensure that to the
54 best extent practicable containers are not proffered for redemption to a
55 deposit initiator or distributor outside of the geographic area where
56 such deposit initiator sells containers and initiates deposits; (h)

1 yearly information provided to the department from dealers and redemp-
2 tion centers including number of containers redeemed and any other
3 information required by the department; and (i) climate mitigation
4 including targets within chapter one hundred six of the laws of two
5 thousand nineteen and recommendations on improving redeemed container
6 recycling rates.

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

10 § 27-1005. Refund value.

11 No person shall sell or offer for sale a beverage container in this
12 state unless the deposit on such beverage container is or has been
13 collected by a registered deposit initiator and unless such container
14 has a refund value of not less than five cents, and beginning April
15 first, two thousand twenty-six, a refund value of not less than ten
16 cents, which is clearly indicated thereon as provided in section 27-1011
17 of this title.

18 § 15. Section 27-1018 of the environmental conservation law is
19 REPEALED.

20 § 16. This act shall take effect April 1, 2025; provided, however,
21 that section one of this act shall take effect April 1, 2026; provided,
22 further, that section two of this act shall take effect April 1, 2029;
23 provided, further, that the amendments to subdivision 6 of section
24 27-1007 of the environmental conservation law made by section four of
25 this act shall take effect immediately; and provided, further, that
26 section fifteen of this act shall take effect January 1, 2038, with any
27 proceeds transferred to the environmental protection fund established
28 pursuant to section 92-s of the state finance law. Effective immediate-
29 ly, the addition, amendment and/or repeal of any rule or regulation
30 necessary for the implementation of this act on its effective date are
31 authorized to be made and completed on or before such effective date.