

STATE OF NEW YORK

237--C

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sens. MAY, BRESLIN, BRISPORT, CLEARE, GONZALEZ, HINCHEY, HOYLMAN-SIGAL, JACKSON, KAVANAGH, KRUEGER, RAMOS, RIVERA, SALAZAR, SEPULVEDA, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- 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

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

LBD00531-17-4

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

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

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

27 § 3. Subdivisions 8 and 12 of section 27-1003 of the environmental
28 conservation law, subdivision 8 as added by chapter 200 of the laws of
29 1982 and subdivision 12 as added by section 3 of part SS of chapter 59
30 of the laws of 2009, are amended and five new subdivisions 14, 15, 16,
31 17 and 18 are added to read as follows:

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

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

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

1 15. "Return and reusable system" means a refillable beverage container
2 reuse system that features an operational and financial arrangement in
3 which refillable beverage containers are collected for washing and reus-
4 ing. The distances between each point of the system shall be no greater
5 than two hundred miles.

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

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

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

15 (b) any chemical conversion process; or

16 (c) landfill disposal.

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

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

27 § 27-1007. Mandatory acceptance.

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

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

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

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

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

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

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

52 "NEW YORK BOTTLE BILL OF RIGHTS

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

1 YOU HAVE CERTAIN RIGHTS UNDER THE NEW YORK STATE RETURNABLE CONTAINER
2 ACT:

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

7 THE RIGHT to get your deposit refund in cash, without proof of
8 purchase.

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

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

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

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

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

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

46 (b) The dealer provides, at a minimum, a consecutive two hour period
47 between 7:00 a.m. and 7:00 p.m. daily whereby the dealer will accept up
48 to two hundred forty containers, per redeemer, per day, and posts a
49 conspicuous, permanent sign, meeting the size and color specifications
50 set forth in subdivision two of this section, open to public view, iden-
51 tifying those hours. The dealer may not change the hours of redemption
52 without first posting a thirty day notice; and

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

1 4. A deposit initiator shall accept from a dealer or operator of a
2 redemption center any empty beverage container of the design, shape,
3 size, color, composition and brand sold or offered for sale by the
4 deposit initiator, and shall pay the dealer or operator of a redemption
5 center the refund value of each such beverage container as established
6 by section 27-1005 of this title. A deposit initiator shall accept and
7 redeem all such empty beverage containers from a dealer or redemption
8 center without limitation on quantity.

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

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

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

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

1 (a) When picking up empty beverage containers, a deposit initiator or
2 distributor shall not require a dealer or redemption center to load
3 their own bags, cartons or containers onto or into the deposit initi-
4 ator's or distributor's vehicle or vehicles or provide the staff or
5 equipment needed to do so. However, where pallets or skids, bags,
6 cartons or containers are readily movable only by means of a forklift or
7 similar equipment, a deposit initiator or distributor may require a
8 dealer or redemption center to move or load such items at no cost using
9 a forklift or similar equipment belonging to the dealer or redemption
10 center provided that such equipment and appropriate staff are readily
11 available.

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

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

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

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

35 11. Notwithstanding the provisions of subdivision two of section
36 27-1009 of this title, a deposit initiator or distributor shall accept
37 and redeem beverage containers as provided in this title, if the dealer
38 or operator of a redemption center shall have accepted and paid the
39 refund value of such beverage containers.

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

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

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

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

53 c. Each beverage container sold or offered for sale in this state that
54 has a refund value pursuant to paragraph a of this subdivision, shall
55 include a universal product code and barcode printed on the label that
56 is readable by reverse vending machine or alternative technology. Each

1 deposit initiator shall provide such universal product code and barcode
2 and ownership and packaging information of any such beverage container,
3 to the department not less than forty-five days prior to such product
4 being offered for sale in the state. The department shall, not more than
5 thirty days after receipt of such information, make this information
6 readily available to any redemption center, reverse vending machine
7 system operator, deposit initiator-authorized contracted agents, or any
8 other appropriate stakeholder approved by the department.

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

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

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

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

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

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

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

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

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

1 credit on the last day of that preceding month; provided, however, that,
2 beginning April first, two thousand thirteen, nineteen million dollars,
3 and all fiscal years thereafter, twenty-three million dollars plus all
4 funds received from the payments due each fiscal year pursuant to subdivi-
5 sion four of this section in excess of the greater of the amount
6 received from April first, two thousand twelve through March thirty-
7 first, two thousand thirteen or one hundred twenty-two million two
8 hundred thousand dollars, shall be deposited to the credit of the envi-
9 ronmental protection fund established pursuant to section ninety-two-s
10 of the state finance law.

11 § 8. 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 and a new subdivision 13 is added to
14 read as follows:

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

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

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

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

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

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

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

34 § 27-1014. Authority to promulgate rules and regulations.

35 In addition to the authority of the commissioner, under sections
36 27-1007, 27-1009 [~~and~~], 27-1011, 27-1012, 27-1013, and 27-1018 of this
37 title, the commissioner shall have the power to promulgate rules and
38 regulations necessary and appropriate for the administration of this
39 title.

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

43 § 27-1018. Beverage container assistance program.

44 Notwithstanding any other provision of law to the contrary, within the
45 amounts retained by the comptroller for use under the beverage container
46 assistance program pursuant to subdivision five of section 27-1012 of
47 this title, and within the limits of appropriations therefor, the
48 commissioner shall make state assistance payments to municipalities,
49 qualifying small businesses, and not-for-profit organizations located in
50 the state, upon application, for the cost and installation of reverse
51 vending machines located or to be located in the state. Such state
52 assistance payments shall not exceed fifty percent of the costs of
53 equipment, [~~and/or the acquisition~~] installation and/or rehabilitation
54 of real property or structures located or to be located in the state
55 related to the collecting, sorting, and packaging of empty beverage
56 containers subject to the provisions of this title. [~~Such payments may~~

1 ~~include costs related to the establishment of redemption centers,~~
2 ~~including mobile redemption centers.~~] For the purposes of this section,
3 municipalities and not-for-profit organizations shall have the meaning
4 as defined in section 54-0101 of this chapter and qualified small busi-
5 nesses shall mean a dealer~~[, distributor]~~ or redemption center as
6 defined in this title that employs less than fifty employees. Preference
7 for these funds shall be given to registered redemption centers that do
8 not utilize any reverse vending machines. Preference for these funds
9 shall also be given to municipalities, not-for-profit organizations, or
10 qualified small businesses that do not have a registered redemption
11 center within one mile.

12 § 13. Subdivision 1 of section 27-1013 of the environmental conserva-
13 tion law, as amended by section 7 of part F of chapter 58 of the laws of
14 2013, is amended to read as follows:

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

1 cle seventy-eight of the civil practice law and rules; [~~and (f)~~] (g) the
2 operation of mobile redemption centers in order to ensure that to the
3 best extent practicable containers are not proffered for redemption to a
4 deposit initiator or distributor outside of the geographic area where
5 such deposit initiator sells containers and initiates deposits; (h)
6 yearly information provided to the department from dealers and redemp-
7 tion centers including number of containers redeemed and any other
8 information required by the department; and (i) climate mitigation
9 including targets within chapter one hundred six of the laws of two
10 thousand nineteen and recommendations on improving redeemed container
11 recycling rates.

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

15 § 27-1005. Refund value.

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

23 § 15. Section 27-1018 of the environmental conservation law is
24 REPEALED.

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