§ 27-1003. Definitions.

Whenever used in this title:

1. "Beverage" means carbonated soft drinks, water, beer, other malt beverages and a wine product as defined in subdivision thirty-six-a of section three of the alcoholic beverage control law. "Malt beverages" means any beverage obtained by the alcoholic fermentation or infusion or decoction of barley, malt, hops, or other wholesome grain or cereal and water including, but not limited to ale, stout or malt liquor. "Water" means any beverage identified through the use of letters, words or symbols on its product label as a type of water, including any flavored water or nutritionally enhanced water, provided, however, that "water" does not include any beverage identified as a type of water to which a sugar has been added.

2. "Beverage container" means the individual, separate, sealed glass, metal, aluminum, steel or plastic bottle, can or jar used for containing less than one gallon or 3.78 liters at the time of sale or offer for sale of a beverage intended for use or consumption in this state. Beverage containers sold or offered for sale or distributed aboard aircraft or ships shall be considered as intended for use or consumption outside this state.

2-a. "Bottler" means a person, firm or corporation who:

a. bottles, cans or otherwise packages beverages in beverage containers except that if such packaging is for any other person, firm or corporation having the right to bottle, can or otherwise package the same brand of beverage, then such other person, firm or corporation shall be the bottler; or

b. imports filled beverage containers into the United States.

3. "Commissioner" means the commissioner of environmental conservation.

4. "Dealer" means every person, firm or corporation who engages in the sale of beverages in beverage containers to a consumer for off premises consumption in this state.

5. "Department" means the department of environmental conservation.

5-a. A "deposit initiator" for each beverage container for which a refund value is established under section 27-1005 of this title means:

a. the bottler of the beverage in such container;

b. the distributor of such container if such distributor's purchase of such container was not, directly or indirectly, from a registered deposit initiator;

c. a dealer of such container who sells or offers for sale such container in this state, whose purchase of such container was not, directly or indirectly, from a registered deposit initiator; or

d. an agent acting on behalf of a registered deposit initiator.

6. "Distributor" means any person, firm or corporation which engages in the sale or offer for sale of beverages in beverage containers to a dealer.

7. "Place of business" means the location at which a dealer sells or offers for sale beverages in beverage containers to consumers.

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

9. "Redemption center" means any person offering to pay the refund value of an empty beverage container to a redeemer, or any person who contracts with one or more dealers or distributors to collect, sort and obtain the refund value and handling fee of empty beverage containers for, or on behalf of, such dealer or distributor under the provisions of

section 27-1013 of this title.

10. "Use or consumption" means the exercise of any right or power incident to the ownership of a beverage, other than the sale or the keeping or retention of a beverage for the purpose of sale.

11. "Ship" or "ships" means any ocean going vessel used to carry passengers or freight in interstate or foreign commerce.

12. "Reverse vending machine" means an automated device that uses a laser scanner, microprocessor, or other technology to accurately recognize the universal product code (UPC) on containers to determine if the container is redeemable and accumulates information regarding containers redeemed, including the number of such containers redeemed, thereby enabling the reverse vending machine to accept containers from redeemers and to issue a scrip or receipt for their refund value.

13. "Universal product code" or "UPC code" means a standard for encoding a set of lines and spaces that can be scanned and interpreted into numbers to identify a product. Universal product code may also mean any accepted industry barcode which replaces the UPC code including EAN and other codes that may be used to identify a product.