§ 27-1007. Mandatory acceptance.

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

1. (a) A dealer shall accept at his or her place of business from a redeemer any empty beverage containers of the design, shape, size, color, composition and brand sold or offered for sale by the dealer, and shall pay to the redeemer the refund value of each such beverage container as established in section 27-1005 of this title. Redemptions of refund value must be in legal tender, or a scrip or receipt from a reverse vending machine, provided that the scrip or receipt can be exchanged for legal tender for a period of not less than sixty days without requiring the purchase of other goods. The use or presence of a reverse vending machine shall not relieve a dealer of any obligations imposed pursuant to this section. If a dealer utilizes a reverse vending machine to redeem containers, the dealer shall provide redemption of beverage containers when the reverse vending machine is full, broken, under repair or does not accept a type of beverage container sold or offered for sale by such dealer and may not limit the hours or days of redemption except as provided by subdivision three of this section.

(b) Beginning March first, two thousand ten, a dealer whose place of business is part of a chain engaged in the same general field of business which operates ten or more units in this state under common ownership and whose business has at least: (i) forty thousand but less than sixty thousand square feet devoted to the display of merchandise for sale to the public shall install and maintain at least two reverse vending machines at the dealer's place of business; (ii) sixty thousand but less than eighty-five thousand square feet devoted to the display of merchandise for sale to the public shall install and maintain at least three reverse vending machines at the dealer's place of business; or (iii) eighty-five thousand square feet devoted to the display of merchandise for sale to the public shall install and maintain at least four reverse vending machines at the dealer's place of business. The requirements of paragraph (b) of this subdivision to install and maintain reverse vending machines shall not apply to a dealer that: (i) sells only beverage containers of twenty ounces or less where such beverage containers are packaged in quantities fewer than six; (ii)

sells beverage containers and devotes no more than five percent of its floor space to the display and sale of consumer commodities, as defined in section two hundred fourteen-h of the agriculture and markets law; or (iii) obtains a waiver from the commissioner authorizing dealers to provide consumers with an alternative technology that: (A) determines if the container is redeemable, (B) provides protections against fraud through a system that validates each container redeemed by reading the universal product code and, except with respect to refillable containers, renders the container unredeemable, (C) accumulates information regarding containers redeemed, and (D) issues legal tender, or a scrip, receipt, or other form of credit for the refund value, that can be exchanged for legal tender for a period of not less than sixty days without requiring the purchase of other goods. Notwithstanding the foregoing, if the alternative technology does not allow consumers to immediately obtain the refund value of the redeemed container, a dealer shall be permitted to deploy such alternative technology only if it also offers an alternative that allows consumers to conveniently and immediately obtain such refund value through a reverse vending machine or other alternative method.

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

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

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

"NEW YORK BOTTLE BILL OF RIGHTS

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

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

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

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

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

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

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

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

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

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

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

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

4. A deposit initiator shall accept from a dealer or operator of a redemption center any empty beverage container of the design, shape, size, color, composition and brand sold or offered for sale by the deposit initiator, and shall pay the dealer or operator of a redemption center the refund value of each such beverage container as established by section 27-1005 of this title. A deposit initiator shall accept and

redeem all such empty beverage containers from a dealer or redemption center without limitation on quantity.

5. A deposit initiator's or distributor's failure to pick up empty beverage containers, including containers processed in a reverse vending machine, from a redemption center, dealer or the operator of a reverse vending machine, shall be a violation of this title.

6. In addition to the refund value of a beverage container as established by section 27-1005 of this title, a deposit initiator shall pay to any dealer or operator of a redemption center a handling fee of three and one-half cents for each beverage container accepted by the deposit initiator from such dealer or operator of a redemption center. Payment of the handling fee shall be as compensation for collecting, sorting and packaging of empty beverage containers for transport back to the deposit initiator or its designee. Payment of the handling fee may not be conditioned on the purchase of any goods or services, nor may such payment be made out of the refund value account established pursuant to section 27-1012 of this title. A distributor who does not initiate deposits on a type of beverage container is considered a dealer only for the purpose of receiving a handling fee from a deposit initiator.

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

distributor for such deposits and handling fees are made.

8. It shall be the responsibility of the deposit initiator or distributor to provide to a dealer or redemption center a sufficient number of bags, cartons, or other suitable containers, at no cost, for the packaging, handling and pickup of empty beverage containers that are not redeemed through a reverse vending machine. The bags, cartons, or containers must be provided by the deposit initiator or distributor on a schedule that allows the dealer or redemption center sufficient time to sort the empty beverage containers prior to pick up by the deposit initiator or distributor. In addition:

(a) When picking up empty beverage containers, a deposit initiator or distributor shall not require a dealer or redemption center to load their own bags, cartons or containers onto or into the deposit initiator's or distributor's vehicle or vehicles or provide the staff or equipment needed to do so.

(b) A deposit initiator or distributor shall not require empty containers to be counted at a location other than the redemption center or dealer's place of business. The dealer or redemption center shall have the right to be present at the count.

(c) A deposit initiator or distributor shall pick up empty beverage containers from the dealer or redemption center at reasonable times and intervals as determined in rules or regulations promulgated by the department.

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

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

11. Notwithstanding the provisions of subdivision two of section 27-1009 of this title, a deposit initiator or distributor shall accept

and redeem beverage containers as provided in this title, if the dealer or operator of a redemption center shall have accepted and paid the refund value of such beverage containers.

12. No person shall intentionally program, tamper with, render inaccurate, or circumvent the proper operation of a reverse vending machine to wrongfully elicit deposit monies when no valid, redeemable beverage container has been placed in and properly processed by the reverse vending machine.