

STATE OF NEW YORK

10184

IN ASSEMBLY

May 5, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Englebright) -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to returnable bottles

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

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

4 1. "Beverage" means carbonated soft drinks, water, beer, other
malt
5 beverages ~~[and-a]~~, wine, liquor, distilled spirit coolers, and cider
and
6 wine ~~[product]~~ products as defined in ~~[subdivision thirty-six-a~~
~~of]~~
7 section three of the alcoholic beverage control law. "Malt
beverages"

8 means any beverage obtained by the alcoholic fermentation or infusion
or
9 decoction of barley, malt, hops, or other wholesome grain or cereal
and
10 water including, but not limited to ale, stout or malt liquor.

"Water"
11 means any beverage identified through the use of letters, words
or
12 symbols on its product label as a type of water, including any
flavored
13 water or nutritionally enhanced water~~[, provided, however, that~~
~~"water"~~
14 ~~does not include any beverage identified as a type of water to which~~
~~a~~
15 ~~sugar has been added]~~.

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

19 1. "Beverage" means carbonated soft drinks, noncarbonated soft
drinks,
20 noncarbonated fruit or vegetable juices containing less than one
hundred

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

EXPLANATION--Matter in italics (underscored) is new; matter in
brackets

[-] is old law to be omitted.

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

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

7 12. "Reverse vending machine" means an automated device that
uses a
8 laser scanner, microprocessor, or other technology to accurately
recog-
9 nize the universal product code (UPC) on containers to determine if
the

10 container is redeemable and accumulates information regarding
containers
11 redeemed, including the number of such containers redeemed,
thereby

12 enabling the reverse vending machine to accept containers from
redeemers

13 and to issue a scrip or receipt for their refund value. Such
definition

14 shall also apply to alternative technology approved by the
commissioner

15 pursuant to subparagraph (iii) of paragraph (b) of subdivision one
of

16 section 27-1007 of this title.

17 14. "State-specific UPC code" means a universal product code and
label

18 design that is unique to New York or used only in New York and any
other

19 states that have a substantially similar refund value law.

20 § 4. Section 27-1007 of the environmental conservation law, as
added
21 by section 4 of part SS of chapter 59 of the laws of 2009, paragraph
(b)
22 of subdivision 1 as amended by chapter 459 of the laws of 2011,
and
23 subdivision 12 as added by section 3 of part F of chapter 58 of the
laws
24 of 2013, is amended to read as follows:
25 § 27-1007. Mandatory acceptance.
26 Except as provided in section 27-1009 of this title:
27 1. (a) A dealer shall accept at his or her place of business from
a
28 redeemer any empty beverage containers of the design, shape,
size,
29 color, composition and brand sold or offered for sale by the dealer,
and
30 shall pay to the redeemer the refund value of each such
beverage
31 container as established in section 27-1005 of this title.
Redemptions
32 of refund value must be in legal tender, or a scrip or receipt from
a
33 reverse vending machine, provided that the scrip or receipt can
be
34 exchanged for legal tender for a period of not less than sixty
days
35 without requiring the purchase of other goods. In the event such
scrip
36 or receipt expires, such scrip or receipt must indicate any
expiration
37 date and the dealer must post a conspicuous sign indicating how
many
38 days a redeemer has to exchange the scrip or receipt for legal
tender.
39 If such notification is not provided, a dealer must redeem the
full
40 refund value indicated on any legible scrip or receipt. The use or
pres-
41 ence of a reverse vending machine shall not relieve a dealer of
any
42 obligations imposed pursuant to this section. If a dealer
utilizes a
43 reverse vending machine to redeem containers, the dealer shall
provide
44 redemption of beverage containers when the reverse vending machine
is
45 full, broken, under repair or does not accept a type of
beverage
46 container sold or offered for sale by such dealer and may not limit
the
47 hours or days of redemption except as provided by subdivision three
of
48 this section.
49 (b) Beginning March first, two thousand ten, a dealer whose place
of

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

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1 merchandise for sale to the public shall install and maintain at
least
2 three reverse vending machines at the dealer's place of business;
or
3 (iii) eighty-five thousand square feet devoted to the display
of
4 merchandise for sale to the public shall install and maintain at
least
5 four reverse vending machines at the dealer's place of business.
The
6 requirements of paragraph (b) of this subdivision to install and
main-
7 tain reverse vending machines shall not apply to a dealer that:
(i)
8 sells only beverage containers of twenty ounces or less where
such
9 beverage containers are packaged in quantities fewer than six;
(ii)
10 sells beverage containers and devotes no more than five percent of
its
11 floor space to the display and sale of consumer commodities, as
defined
12 in section two hundred fourteen-h of the agriculture and markets law;
or
13 (iii) obtains a waiver from the commissioner authorizing dealers
to
14 provide consumers with an alternative technology that: (A) determines
if
15 the container is redeemable, (B) provides protections against
fraud
16 through a system that validates each container redeemed by reading
the
17 universal product code and, except with respect to refillable
contain-
18 ers, renders the container unredeemable, (C) accumulates
information
19 regarding containers redeemed, and (D) issues legal tender, or a
scrip,
20 receipt, or other form of credit for the refund value, that can
be

21 exchanged for legal tender for a period of not less than sixty
days
22 without requiring the purchase of other goods and includes any
expira-
23 tion date on the scrip, receipt, or other form of credit.
Notwithstanding-
24 ing the foregoing, if the alternative technology does not allow
consum-
25 ers to immediately obtain the refund value of the redeemed container,
a
26 dealer shall be permitted to deploy such alternative technology only
if
27 it also offers an alternative that allows consumers to conveniently
and
28 immediately obtain such refund value through a reverse vending
machine
29 or other alternative method.
30 (c) A dealer to which paragraph (b) of this subdivision does not
apply
31 and whose place of business is at least forty thousand square feet
which
32 does not utilize reverse vending machines to process empty
beverage
33 containers for redemption shall: (i) establish and maintain a
dedicated
34 area within such business to accept beverage containers for
redemption;
35 (ii) adequately staff such area to facilitate efficient acceptance
and
36 processing of such containers during business hours; and (iii) post
one
37 or more conspicuous signs conforming to the size and color
requirements
38 described in subdivision two of this section at each public entrance
to
39 the business which describes where in the business the redemption
area
40 is located. The commissioner may establish in rules and
regulations
41 additional standards for the efficient processing of beverage
containers
42 by such dealers.
43 (d) For the purposes of this subdivision on any day that a dealer
is
44 open for less than twenty-four hours, the dealer may restrict or
refuse
45 the payment of refund values during the first and last hour the
dealer
46 is open for business.
47 2. A dealer shall post a conspicuous sign, at the point of sale,
that
48 states:
49 "NEW YORK BOTTLE BILL OF RIGHTS
50 STATE LAW REQUIRES US TO REDEEM EMPTY RETURNABLE BEVERAGE CONTAINERS
OF
51 THE SAME TYPE AND BRAND THAT WE SELL OR OFFER FOR SALE

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

53 ACT:

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

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

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

10 THE RIGHT to return your containers if they are empty and
intact.

11 Washing containers is not required by law, but is strongly
recommended

12 to maintain sanitary conditions.

13 The New York state returnable container act can be enforced by the
New

14 York state department of environmental conservation, the New York
state

15 department of agriculture and markets, the New York state department
of

16 taxation and finance, the New York state attorney general and/or by
your

17 local government."

18 Such sign must be no less than eight inches by ten inches in size
and

19 have lettering a minimum of one quarter inch high, and of a color
which

20 contrasts with the background. The department shall maintain a toll
free

21 telephone number for a "bottle bill complaint line" that shall be
avail-

22 able from 9:00 a.m. to 5:00 p.m. each business day to receive reports
of

23 violations of this title. The telephone number shall be listed on
any

24 sign required by this section.

25 3. On or after June first, two thousand nine, a dealer may limit
the

26 number of empty beverage containers to be accepted for redemption at
the

27 dealer's place of business to no less than seventy-two containers
per

28 visit, per redeemer, per day, provided that:

29 (a) The dealer has a written agreement with a redemption center, be
it

30 either at a fixed physical location within the same county and
within
31 [~~one-half~~] one mile of the dealer's place of business, or a
mobile
32 redemption center, operated by a redemption center, that is
located
33 within one-quarter mile of the dealer's place of business. The
redemp-
34 tion center must have a written agreement with the dealer to
accept
35 containers on behalf of the dealer; and the redemption center's hours
of
36 operation must cover at least 9:00 a.m. through 7:00 p.m. daily or
in
37 the case of a mobile redemption center, the hours of operation
must
38 cover at least four consecutive hours between 8:00 a.m. and 8:00
p.m.
39 daily. The dealer must post a conspicuous, permanent sign, meeting
the
40 size and color specifications set forth in subdivision two of
this
41 section, open to public view, identifying the location and hours
of
42 operation of the affiliated redemption center or mobile
redemption
43 center; and
44 (b) The dealer provides, at a minimum, a consecutive two hour
period
45 between 7:00 a.m. and 7:00 p.m. daily whereby the dealer will accept
up
46 to two hundred forty containers, per redeemer, per day, and
posts a
47 conspicuous, permanent sign, meeting the size and color
specifications
48 set forth in subdivision two of this section, open to public view,
iden-
49 tifying those hours. The dealer may not change the hours of
redemption
50 without first posting a thirty day notice; and
51 (c) The dealer's primary business is the sale of food or beverages
for
52 consumption off-premises, and the dealer's place of business is
less
53 than ten thousand square feet in size.
54 4. A deposit initiator shall accept from a dealer or operator
of a
55 redemption center any empty beverage container of the design,
shape,
56 size, color, composition and brand sold or offered for sale by
the

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1 deposit initiator, and shall pay the dealer or operator of a
redemption
2 center the refund value of each such beverage container as
established

3 by section 27-1005 of this title. A deposit initiator shall accept
and
4 redeem all such empty beverage containers from a dealer or
redemption
5 center without limitation on quantity.
6 5. A deposit initiator's or distributor's failure to pick up
empty
7 beverage containers, including containers processed in a reverse
vending
8 machine, from a redemption center, dealer or the operator of a
reverse
9 vending machine, in a timely manner and at reasonable times as
provided
10 by the department pursuant to the regulations promulgated pursuant
to
11 paragraph (c) of subdivision eight of this section shall be a
violation
12 of this title.
13 6. In addition to the refund value of a beverage container as
estab-
14 lished by section 27-1005 of this title, a deposit initiator shall
pay
15 to any dealer or operator of a redemption center a handling fee of
three
16 and one-half cents for each beverage container accepted by the
deposit
17 initiator from such dealer or operator of a redemption center.
Begin-
18 ning April first, two thousand twenty-five, the handling fee will be
six
19 cents. Payment of the handling fee shall be as compensation for
collect-
20 ing, sorting and packaging of empty beverage containers for
transport
21 back to the deposit initiator or its designee. Payment of the
handling
22 fee may not be conditioned on the purchase of any goods or services,
nor
23 may such payment be made out of the refund value account
established
24 pursuant to section 27-1012 of this title. A distributor who does
not
25 initiate deposits on a type of beverage container is considered a
dealer
26 only for the purpose of receiving a handling fee from a deposit
initi-
27 ator.
28 7. A deposit initiator on a brand shall accept from a distributor
who
29 does not initiate deposits on that brand any empty beverage
containers
30 of that brand accepted by the distributor from a dealer or operator
of a
31 redemption center and shall reimburse the distributor the refund
value
32 of each such beverage container, as established by section 27-1005
of

33 this title. In addition, the deposit initiator shall reimburse
such
34 distributor for each such beverage container the handling fee
estab-
35 lished under subdivision six of this section. Without limiting
the
36 rights of the department or any person, firm or corporation under
this
37 subdivision or any other provision of this section, a distributor
shall
38 have a civil right of action to enforce this subdivision,
including,
39 upon three days notice, the right to apply for temporary and
preliminary
40 injunctive relief against continuing violations, and until
arrangements
41 for collection and return of empty containers or reimbursement of
such
42 distributor for such deposits and handling fees are made.
43 8. It shall be the responsibility of the deposit initiator or
distrib-
44 utor to provide to a dealer or redemption center a sufficient number
of
45 bags, cartons, or other suitable containers, at no cost, for the
packag-
46 ing, handling and pickup of empty beverage containers that are
not
47 redeemed through a reverse vending machine. The bags, cartons,
or
48 containers must be provided by the deposit initiator or distributor
on a
49 schedule that allows the dealer or redemption center sufficient time
to
50 sort the empty beverage containers prior to pick up by the
deposit
51 initiator or distributor. In addition:
52 (a) When picking up empty beverage containers, a deposit initiator
or
53 distributor shall not require a dealer or redemption center to
load
54 their own bags, cartons or containers onto or into the deposit
initi-
55 ator's or distributor's vehicle or vehicles or provide the staff
or
56 equipment needed to do so. However, where pallets or skids,
bags,

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

5 center provided that such equipment and appropriate staff are
6 readily
7 available.
8 (b) A deposit initiator or distributor shall not require
9 empty
10 containers to be counted at a location other than the redemption
11 center
12 or dealer's place of business. The dealer or redemption center
13 shall
14 have the right to be present at the count. In the event of a
15 discrepancy
16 between the count of the dealer or redemption center and the count
17 of
18 the deposit initiator or distributor for containers not
19 processed
20 through a reverse vending machine all such empty containers shall
21 be
22 retained and a re-count may be requested. The re-count may be held
23 at a
24 location other than the redemption center or dealer's place of
25 business
26 only if the dealer or redemption center agrees and is present.
27 (c) A deposit initiator or distributor shall pick up empty
28 beverage
29 containers from the dealer or redemption center in a timely manner
30 and
31 at reasonable times [~~and intervals~~] as determined in rules or
32 regu-
33 lations promulgated by the department no later than April first,
34 two
35 thousand twenty-five.
36 9. No person shall return or assist another to return to a dealer
37 or
38 redemption center an empty beverage container for its refund value
39 if
40 such container had previously been accepted for redemption by a
41 dealer,
42 redemption center, or deposit initiator who initiates deposits on
43 bever-
44 age containers of the same brand.
45 10. A redeemer, dealer, distributor or redemption center shall
46 not
47 knowingly redeem an empty beverage container on which a deposit
48 was
49 never paid in New York state.
50 11. Notwithstanding the provisions of subdivision two of
51 section
52 27-1009 of this title, a deposit initiator or distributor shall
53 accept
54 and redeem beverage containers as provided in this title, if the
55 dealer
56 or operator of a redemption center shall have accepted and paid
57 the
58 refund value of such beverage containers.
59 12. No person shall intentionally program, tamper with, render
60 inaccu-

36 rate, or circumvent the proper operation of a reverse vending machine
to
37 wrongfully elicit deposit monies when no valid, redeemable
beverage
38 container has been placed in and properly processed by the reverse
vend-
39 ing machine.

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

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

46 (b) comply with minimum post-consumer recycled material content
and
47 hole diameter limitations as defined in rules and regulations
promulgat-
48 ed by the department no later than April first, two
thousand

49 twenty-four, and is recyclable and indicates a resin
identification
50 code.

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

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

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

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

11 § 6. Paragraph c of subdivision 3 of section 27-1012 of the
environ-

12 mental conservation law, as added by section 8 of part SS of chapter
59
13 of the laws of 2009, is amended to read as follows:
14 c. all withdrawals from the refund value account during such
quarter,
15 including all reimbursements paid pursuant to subdivision two of
this
16 section, all service charges on the account, provided that such
service
17 charges do not exceed the maximum amount authorized by the
commissioner,
18 and all payments made pursuant to subdivision four of this section;
and
19 § 7. Paragraph a of subdivision 4 of section 27-1012 of the
environ-
20 mental conservation law, as added by section 8 of part SS of chapter
59
21 of the laws of 2009, is amended to read as follows:
22 a. Quarterly payments. An amount equal to eighty percent of
the
23 balance outstanding in the refund value account at the close of
each
24 quarter shall be paid to the commissioner of taxation and finance at
the
25 time the report provided for in subdivision three of this section
is
26 required to be filed. The commissioner of taxation and finance
may
27 require that the payments be made electronically. The remaining
twenty
28 percent of the balance outstanding at the close of each quarter shall
be
29 the monies of the deposit initiator and may be withdrawn from
such
30 account by the deposit initiator. However, until April first, two
thou-
31 sand twenty-seven, a deposit initiator who initiates deposits on
refill-
32 able beverage containers or beverage containers with a state-
specific
33 universal product code may be entitled to pay an amount equal to
seven-
34 ty-five percent of the balance outstanding in the refund value
account
35 specifically attributable to refillable beverage containers or
beverage
36 containers bearing such product code at the close of each quarter to
the
37 commissioner of taxation and finance at the time the report provided
for
38 in subdivision three of this section is required to be filed. No
later
39 than October first, two thousand twenty-six, the commissioner of
taxa-
40 tion and finance shall submit a report to the governor and the
legisla-

41 ture regarding the implementation of the state-specific universal
prod-
42 uct code and an evaluation of its effectiveness in decreasing fraud.
If
43 the provisions of this section with respect to such account have
not
44 been fully complied with, each deposit initiator shall pay to
such
45 commissioner at such time, in lieu of the amount described in
the
46 preceding sentence, an amount equal to the balance which would have
been
47 outstanding on such date had such provisions been fully complied
with.
48 The commissioner of taxation and finance may require that the
payments
49 be made electronically.
50 § 8. Subdivision 12 of section 27-1012 of the environmental
conserva-
51 tion law, as amended by section 6 of part F of chapter 58 of the laws
of
52 2013, is amended to read as follows:
53 12. a. Each deposit initiator shall provide a report to the
department
54 describing all the types of beverage containers on which it
initiates
55 deposits. The report shall include the product name, type of
beverage,
56 size and composition of the beverage container, universal product
code,
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1 the presence of any state-specific universal product code and
the
2 percentage of products covered by such code, the methods used to
prevent
3 the fraudulent sale and redemption of beverage containers, and any
other
4 information the department may require. Upon request, a deposit
initi-
5 ator shall also provide to the department a copy of the container
label
6 or a picture of any beverage container sold or offered for sale in
this
7 state on which it initiates a deposit. Such information shall
be
8 provided in a form as prescribed by the department. The department
may
9 require that such forms be filed electronically.
10 b. A bottler may place on a beverage container a state-
specific
11 universal product code [~~or other distinctive marking that is specific~~
to
12 ~~the state or used only in the state and any other states with~~
laws
13 ~~substantially similar to this title~~] as a means of preventing the
sale

14 or redemption of beverage containers on which no deposit was initiated.

15 c. A bottler or deposit initiator shall notify the department, in a

16 form prescribed by the department, whenever a beverage container or

17 beverage container label is revised by altering the universal product

18 code, or whenever the container on which a universal product code

19 appears is changed in size, composition or glass color, or whenever the

20 container or container label on which a universal product code appears

21 is changed to include a state-specific universal product code [~~that~~

22 ~~is~~

23 ~~unique to the state or used only in the state and any other states~~

24 ~~with~~

25 ~~laws substantially similar to this title~~].

26 § 9. Section 27-1014 of the environmental conservation law, as amended

27 by section 10 of part SS of chapter 59 of the laws of 2009, is amended

28 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, 27-1011, 27-1012, and 27-1013 of this title, the

32 commissioner shall have the power to promulgate rules and regulations

33 necessary and appropriate for the administration of this title.

34 § 10. Section 27-1005 of the environmental conservation law, as added

35 by section 4 of part SS of chapter 59 of the laws of 2009, is amended to

36 read as follows:

37 § 27-1005. Refund value.

38 No person shall sell or offer for sale a beverage container in this

39 state unless the deposit on such beverage container is or has been

40 collected by a registered deposit initiator and unless such container

41 has a refund value of not less than five cents, and beginning April 1,

42 2025 a refund value of not less than ten cents, which is clearly indi-

43 cated thereon as provided in section 27-1011 of this title.

44 § 11. This act shall take effect April 1, 2024; provided, however,

45 that section two of this act shall take effect April 1, 2025.

Effective

46 immediately, the addition, amendment and/or repeal of any rule or regu-

47 lation necessary for the implementation of this act on its effective

46 date are authorized to be made and completed on or before such
effective
47 date.