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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3200

04/04/2023 Authored by Edelson, Jordan, Feist and Stephenson
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act
1.2 relating to solid waste; establishing program for beverage container recycling
1.3 refunds; providing civil and criminal penalties; requiring reports; appropriating
1.4 money; proposing coding for new law in Minnesota Statutes, chapter 115A.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [115A.566] BEVERAGE CONTAINER RECYCLING REFUNDS;
1.7 DEFINITIONS.

1.8 For purposes of sections 115A.566 to 115A.5665, the following terms have the meanings
1.9 given:

1.10 (1) "applicable refund value" means the value established under section 115A.5661,
1.11 subdivision 1;

1.12 (2) "beverage" means a drinkable liquid intended for human oral consumption. Beverage
1.13 does not include:

1.14 (i) a drug regulated under the federal Food, Drug, and Cosmetic Act, United States Code,
1.15 title 21, section 301 et seq.;

1.16 (ii) infant formula; or

1.17 (iii) a meal replacement liquid;

1.18 (3) "beverage container" means a prepackaged container for beverages, including a
1.19 carton; a pouch; an aseptic package, such as a juice box; or other container:

1.20 (i) made of any material, including glass, plastic, metal, or multimaterial;

2.1 (ii) designed to be used once before being recycled or designed to be reused for multiple
2.2 cycles before being recycled; and

2.3 (iii) with a volume of no more than one gallon;

2.4 (4) "beverage container processing mechanism" means any method, manual or
2.5 technological, that properly identifies and processes empty beverage containers that are
2.6 eligible for redemption;

2.7 (5) "beverage producer" means a person bottling, canning, or otherwise filling beverage
2.8 containers for sale to distributors, importers, or retailers;

2.9 (6) "consumer" means an individual in the state who purchases a beverage in a beverage
2.10 container for use or consumption;

2.11 (7) "distributor" means a person who sells beverages in beverage containers to a retailer
2.12 in the state, including a beverage producer who engages in sales;

2.13 (8) "distributor and importer responsibility organization" or "organization" means the
2.14 distributor and importer responsibility organization established under section 115A.5663;

2.15 (9) "drop-off facility" means a specific area where individuals may bring household
2.16 recyclable materials to place into material-specific receptacles;

2.17 (10) "importer" means a retailer or beverage producer who directly imports beverage
2.18 containers into the state;

2.19 (11) "line breakage" means a beverage container that becomes defective or damaged
2.20 during manufacturing and that is not meant for sale and not eligible for redemption;

2.21 (12) "material recovery facility" means a facility that receives, separates, and sells or
2.22 otherwise distributes postconsumer materials for recycling;

2.23 (13) "member" means a distributor or importer that joins the organization and pays the
2.24 applicable fees;

2.25 (14) "retailer" means a person in the state that sells beverages in beverage containers to
2.26 a consumer; and

2.27 (15) "store" means an individual location where a retailer sells beverage containers.

2.28 **Sec. 2. [115A.5661] BEVERAGE CONTAINER DEPOSIT PROGRAM.**

2.29 Subdivision 1. **Applicable refund value.** (a) Every beverage container sold or offered
2.30 for sale in the state has the following refund value:

3.1 (1) ten cents for beverage containers of 24 fluid ounces or less; and

3.2 (2) 15 cents for beverage containers of more than 24 fluid ounces.

3.3 (b) The commissioner may change the refund value:

3.4 (1) by deciding, in consultation with the distributor and importer responsibility
3.5 organization, to change one or both refund amounts in a material-neutral manner; or

3.6 (2) upon receiving a request from the organization for a change in the refund amount
3.7 and determining that a change in one or both refund amounts in a material-neutral way is
3.8 appropriate.

3.9 (c) The commissioner must not change the refund value under paragraph (b), clause (1),
3.10 more than once every ten years.

3.11 (d) The commissioner must not change the refund value under paragraph (b), clause (2),
3.12 more than once every five years.

3.13 (e) Before changing the refund value under paragraph (b), the commissioner must publish
3.14 a notice in the State Register and allow a 60-day comment period.

3.15 (f) Notwithstanding paragraph (a), if the organization's publicly reported redemption
3.16 rate required under section 115A.5663, subdivision 6, shows that the redemption rate does
3.17 not reach 85 percent for three years in a row after being required to reach an 85 percent
3.18 redemption target under section 115A.5663, subdivision 5, then every beverage container
3.19 sold or offered for sale in the state has the following refund value:

3.20 (1) 15 cents for beverage containers of 24 fluid ounces or less; and

3.21 (2) 20 cents for beverage containers of more than 24 fluid ounces.

3.22 (g) The organization must use any refunds not claimed by the consumer for the
3.23 organization's administrative costs and duties under sections 115A.566 to 115A.5665.

3.24 Subd. 2. **Disposition of redeemed containers.** When a consumer redeems a beverage
3.25 container for the applicable refund value, the organization becomes the owner of the beverage
3.26 container and may:

3.27 (1) sell it to the buyer of the organization's choosing; or

3.28 (2) on its own or via a third party, process the reusable beverage container for refill.

3.29 Subd. 3. **Retailer duties; methods of redeeming.** (a) A retailer has no duties under
3.30 paragraphs (b) to (d) until the organization requests permission to install, maintain, and
3.31 service a beverage container processing mechanism inside or outside a store of the retailer.

4.1 (b) For a store that is equal to or greater than 5,000 square feet, the retailer that operates
4.2 the store must:

4.3 (1) if the store has 30 or more parking spots for its customers, permit the organization
4.4 to:

4.5 (i) collect bags of redeemable beverage containers in a space of the retailer's choosing
4.6 in the store's parking lot; and

4.7 (ii) install, maintain, and service at least one other beverage container processing
4.8 mechanism inside or outside the store on property the retailer owns or leases;

4.9 (2) if the store has fewer than 30 parking spots for its customers, permit the organization
4.10 to install, service, and operate at least two beverage container processing mechanisms inside
4.11 or outside the store on property the retailer owns or leases; or

4.12 (3) accept beverage containers at the store and pay the applicable refund value for up to
4.13 250 beverage containers per person per day if the retailer does not, within 90 days of
4.14 receiving a written request from the organization, notify the organization that the retailer
4.15 will comply with clause (1) or (2) on property the retailer owns or leases.

4.16 (c) For a store that is more than 1,000 square feet and less than 5,000 square feet, the
4.17 retailer that operates the store must:

4.18 (1) if the store has 30 or more parking spots for its customers, permit the organization
4.19 to:

4.20 (i) collect bags of redeemable beverage containers in a space of the retailer's choosing
4.21 in the parking lot for the store; and

4.22 (ii) install, maintain, and service at least one other beverage container processing
4.23 mechanism inside or outside the store on property the retailer owns or leases; or

4.24 (2) if the store has fewer than 30 parking spots for its customers, permit the organization
4.25 to install, service, and operate at least one beverage container processing mechanism inside
4.26 or outside the store on property the retailer owns or leases; or

4.27 (3) accept beverage containers at the store and pay the applicable refund value for up to
4.28 50 beverage containers per person per day if the retailer does not, within 90 days of receiving
4.29 a written request from the organization, notify the organization that the retailer will comply
4.30 with clause (1) or (2) on property the retailer owns or leases.

4.31 (d) For a store that is 1,000 square feet or less and in which more than 1,000,000 beverage
4.32 containers per year are sold, the retailer that operates the store must:

5.1 (1) if the store has 30 or more parking spots for its customers, permit the organization
5.2 to collect bags of redeemable beverage containers in a space of the retailer's choosing in
5.3 the parking lot for the store;

5.4 (2) if the store has fewer than 30 parking spots for its customers, permit the organization
5.5 to install, service, and operate at least one beverage container processing mechanism inside
5.6 or outside the store on property the retailer owns or leases; or

5.7 (3) accept beverage containers at the store and pay the applicable refund value for up to
5.8 25 beverage containers per person per day if the retailer does not, within 90 days of receiving
5.9 a written request from the organization, notify the organization that the retailer will comply
5.10 with clause (1) or (2) on property the retailer owns or leases.

5.11 (e) A retailer must comply with paragraph (f) at a store that is 1,000 square feet or less
5.12 and in which fewer than 1,000,000 beverage containers per year are sold.

5.13 (f) Notwithstanding paragraphs (b) to (d), a retailer, upon request by the organization
5.14 regarding a particular store of the retailer, must:

5.15 (1) offer for sale at that particular store of the retailer the standard bags that the
5.16 organization deems necessary to operate a bag-drop program;

5.17 (2) permit the organization to install, service, and operate at least one beverage container
5.18 processing mechanism in a space of the retailer's choosing inside or outside of that particular
5.19 store of the retailer; and

5.20 (3) permit the organization to install, service, and operate in a space of the retailer's
5.21 choosing inside or outside that particular store of the retailer a self-service kiosk that allows
5.22 for printing redemption vouchers.

5.23 (g) A retailer is exempt from this subdivision at a store the retailer operates that:

5.24 (1) primarily prepares food for sale; or

5.25 (2) sells beverage containers to consumers only through stand-alone vending machines
5.26 or similar means.

5.27 (h) Notwithstanding paragraphs (b) to (g), for zip codes in the state with a population
5.28 density greater than 30,000 residents per square mile, the organization must install, service,
5.29 and operate enough beverage container processing mechanisms to ensure that there is one
5.30 beverage container processing mechanism for every 500 residents.

5.31 (i) Any facilities that the organization establishes in the state to aggregate, sort, and
5.32 process the material collected at redemption locations:

6.1 (1) must accept, according to a reasonable process the organization may establish,
 6.2 beverage containers that are eligible for redemption and that are submitted in the standard
 6.3 bag from entities established and operated as described in section 501(c)(3) of the Internal
 6.4 Revenue Code or established and operated as a nonprofit organization under the tax law of
 6.5 any district, state, or territory; and

6.6 (2) may provide entities under clause (1) a premium as determined by the organization.

6.7 (j) The methods of redemption required under this section must be available to the public
 6.8 for not less than ten hours each day except for a federal or local holiday. This paragraph
 6.9 does not apply to facilities the organization established to aggregate, sort, and process
 6.10 material.

6.11 (k) The organization must provide information according to clauses (1) to (3) on how
 6.12 consumers can alert the organization to problems at beverage container processing
 6.13 mechanisms the organization operates:

6.14 (1) on the organization's website;

6.15 (2) on clearly visible signs, measuring at least five feet by five feet, at the bag-drop
 6.16 redemption locations described in this section; and

6.17 (3) on clearly visible signs, measuring at least two feet by two feet, on or within five
 6.18 feet of beverage container processing mechanisms that are not bag-drop redemption locations.

6.19 (l) The organization may create reasonable terms and conditions for using the bag-drop
 6.20 program and beverage container processing mechanisms that the organization operates for
 6.21 consumers to redeem beverage containers.

6.22 Subd. 4. **Nonredeemable material.** The organization is not required to pay refunds on:

6.23 (1) a beverage container visibly containing or contaminated by a substance other than
 6.24 water, residue of the original contents, or ordinary dust;

6.25 (2) a beverage container that is:

6.26 (i) crushed or broken; or

6.27 (ii) damaged to the extent that the brand appearing on the container cannot be identified;

6.28 (3) a beverage container that the organization has reasonable grounds to believe was
 6.29 bought in another state; or

6.30 (4) a beverage container for which the organization has reasonable grounds to believe
 6.31 a refund has already been given.

7.1 Subd. 5. **Labeling.** (a) A beverage producer, importer, or distributor of a beverage
7.2 container that is sold in the state must clearly display on the top or side of the beverage
7.3 container the abbreviation "RV," which indicates the container has a refund value.

7.4 (b) The organization may require that any beverage producer, importer, or distributor
7.5 of a beverage container that is sold in the state clearly display on the top or side of the
7.6 beverage container the abbreviation of the state and the applicable refund value.

7.7 (c) A beverage producer, importer, or distributor of a beverage container that is sold in
7.8 the state may include a barcode or unique code verification on the beverage container to
7.9 allow for automated identification.

7.10 Subd. 6. **Timing.** (a) All beverage containers that are made of 90 percent or more
7.11 aluminum, glass, high density polyethylene plastic, or polyethylene terephthalate and sold
7.12 in the state must have the applicable refund value no later than two years after the effective
7.13 date of this section. All other beverage containers that are sold in the state must have the
7.14 applicable refund value no later than three years after the effective date of this section.

7.15 (b) The commissioner may extend the deadlines under paragraph (a) for up to an
7.16 additional 365 days.

7.17 Subd. 7. **Drop-off facilities and material recovery facilities; reporting data.** (a) The
7.18 operator of a material recovery facility or drop-off facility operating in the state, or outside
7.19 the state where the majority of the material the facility processes originates in Minnesota,
7.20 may annually submit the following information to the organization:

7.21 (1) the number of tons of residential recyclable material the facility received for
7.22 processing in the previous calendar year; and

7.23 (2) an estimate of the number of tons under clause (1) that were received from households
7.24 in this state.

7.25 (b) The optional data under paragraph (a) must be submitted by April 1 for data from
7.26 the previous full calendar year.

7.27 Subd. 8. **Prohibitions.** (a) It is unlawful to distribute or sell beverage containers in the
7.28 state or import beverage containers in or into the state except in compliance with this section.

7.29 (b) It is unlawful to redeem a beverage container in the state that was not sold to a
7.30 consumer in the state.

8.1 Subd. 9. **Commissioner's report.** By April 1 each odd-numbered year, the commissioner
8.2 must estimate and report to the organization the cost to administer and enforce sections
8.3 115A.566 to 115A.5665 for the following two fiscal years after:

8.4 (1) subtracting the amount that the commissioner collected from penalties assessed under
8.5 section 115A.5665 and that will be used to administer and enforce sections 115A.566 to
8.6 115A.5665 in the next two fiscal years; and

8.7 (2) adding any costs to administer and enforce sections 115A.566 to 115A.5665 that
8.8 were not covered by the estimated annual cost from the previous two fiscal years.

8.9 **Sec. 3. [115A.5663] DISTRIBUTOR AND IMPORTER RESPONSIBILITY**
8.10 **ORGANIZATION.**

8.11 Subdivision 1. **Formation.** The distributor and importer responsibility organization must
8.12 be established and operated as a nonprofit or cooperative corporation. Only one producer
8.13 responsibility organization is permitted to operate in the state. The organization may decide
8.14 to operate jointly with organizations in one or more other states.

8.15 Subd. 2. **Members; penalty; fees.** (a) All distributors and importers of a beverage in or
8.16 into the state must join the organization as members. A distributor or importer that operates
8.17 in violation of this subdivision is subject to penalties under section 115A.5665.

8.18 (b) The organization must charge a fee to members. The fee must be established in an
8.19 amount that, together with unclaimed refunds and any other revenue sources that the
8.20 organization may develop and that are not refunded under paragraph (d), covers the
8.21 organization's cost of operations.

8.22 (c) The organization must charge member fees that vary by material type reflecting:

8.23 (1) the cost of collecting, sorting, and processing each beverage container type; and

8.24 (2) the number of units of each beverage container type that the member distributes or
8.25 sells in the state.

8.26 (d) The organization must:

8.27 (1) refund to members the revenue generated from selling the scrap of each beverage
8.28 container type based on the percentage of each beverage container type that a member
8.29 distributes or sells in the state; or

8.30 (2) if refunds under clause (1) are not legally permitted, credit each member against the
8.31 fee charged under paragraph (c) the amount of the applicable refund under clause (1).

9.1 Subd. 3. Duties; authorities. (a) The organization must publish on its website:

9.2 (1) within 18 months after the effective date of this section, an initial plan for how the
9.3 organization will, over the next five years, meet the requirements of sections 115A.566 to
9.4 115A.5665, including the performance targets under subdivision 5;

9.5 (2) an updated plan, at least every five years after the initial plan is published, for how
9.6 the organization will continue to meet the requirements of sections 115A.566 to 115A.5665,
9.7 including the performance targets under subdivision 5; and

9.8 (3) a list and map of all redemption locations and what redemption options are available
9.9 at each location.

9.10 (b) The organization must pay for:

9.11 (1) any beverage container processing mechanism or self-service kiosk that the
9.12 organization installs, services, and operates:

9.13 (i) with a retailer's permission under section 115A.5661, subdivision 3, or at any other
9.14 location;

9.15 (ii) to meet or exceed a performance target under subdivision 5; or

9.16 (iii) to meet or exceed the per capita requirement under section 115A.5661, subdivision
9.17 3, paragraph (g);

9.18 (2) any facilities in the state necessary to efficiently aggregate, sort, and process the
9.19 material collected at redemption locations;

9.20 (3) a credit to consumers for the cost of the bags that are processed at the organization's
9.21 bag-drop locations; and

9.22 (4) by July 1 of each calendar year, starting the first full year and ending the fifth full
9.23 year after one or more beverage container types is sold with the applicable refund value, an
9.24 annual payment directly to each material recovery facility and drop-off facility operator
9.25 that submits data according to section 115A.5661, subdivision 7, that:

9.26 (i) equals a pro rata portion of ten percent of the scrap value of the material the
9.27 organization sold in the preceding calendar year; and

9.28 (ii) is based on the data submitted by the material recovery facility and drop-off facility
9.29 operators under section 115A.5661, subdivision 7.

9.30 (c) The organization may use money generated under this section and section 115A.5661
9.31 or other sources of revenue to:

10.1 (1) give grants for litter cleanup and for education and outreach on recycling beverage
 10.2 containers;

10.3 (2) directly or in partnership with a nongovernmental organization provide services to
 10.4 or enhance the redemption experience of diverse or low-income consumers redeeming
 10.5 beverage containers; and

10.6 (3) pay advisory committee members under subdivision 7 or pay for the administration
 10.7 and activities of the advisory committee.

10.8 (d) To the extent allowed under law, the organization may refund money to organization
 10.9 members in a fiscal year in which the organization's revenues exceed the organization's
 10.10 costs under this section by more than ten percent. Money refunded to members must not
 10.11 cause revenue to go below 110 percent of the organization's costs.

10.12 (e) The organization must use refunds not claimed by the consumer to support the
 10.13 organization's administrative costs and to perform the duties required under this section.

10.14 Subd. 4. **Bag requirements.** If the standard bags sold at retailers for the bag-drop program
 10.15 are made of plastic film, the organization must:

10.16 (1) ensure that the bags have a minimum of 50 percent recycled content; and

10.17 (2) demonstrate, upon request of the commissioner, that the waste film from the bags is
 10.18 being recycled in the best commercially available manner.

10.19 Subd. 5. **Performance targets.** (a) The organization must meet the following performance
 10.20 targets:

10.21 (1) beginning two years after all beverage containers are sold in the state with the
 10.22 applicable refund value, at least 70 percent annual redemption for all beverage containers;

10.23 (2) beginning four years after all beverage containers are sold in the state with the
 10.24 applicable refund value, at least 75 percent annual redemption for all beverage containers;

10.25 (3) beginning six years after all beverage containers are sold in the state with the
 10.26 applicable refund value, at least 85 percent annual redemption for all beverage containers;
 10.27 and

10.28 (4) beginning eight years after all beverage containers are sold in the state with the
 10.29 applicable refund value, at least 90 percent annually of all beverage containers are redeemed
 10.30 under sections 115A.566 to 115A.5665 or recycled through a curbside recycling program.

10.31 (b) If the organization does not meet an applicable performance target under paragraph
 10.32 (a), the organization must submit a product stewardship plan to the commissioner. The plan

11.1 must be submitted to the commissioner no more than 365 days after publication of the data
11.2 required under subdivision 6 shows that the applicable performance target in paragraph (a)
11.3 was not met. The plan must detail the actions the organization will take to meet the
11.4 performance targets.

11.5 (c) If the applicable performance targets under paragraph (a) have not been met in each
11.6 of the three years after the organization submitted a product stewardship plan under paragraph
11.7 (b), then the commissioner may:

11.8 (1) fine the organization once per calendar year in an amount equal to the difference
11.9 between the amount of redeemed beverage containers and the amount of beverage containers
11.10 that should have been redeemed under the applicable performance target, multiplied by up
11.11 to ten cents per beverage container; and

11.12 (2) require the organization to submit a revised product stewardship plan.

11.13 (d) If the performance targets under paragraph (a) have not been met in each of the five
11.14 years after the organization submitted a product stewardship plan under paragraph (b), then:

11.15 (1) if the organization's director has held office for more than 365 days, the organization
11.16 must explain on its website why a new director is not necessary; and

11.17 (2) the commissioner may fine the organization once per calendar year in an amount
11.18 equal to the difference between the amount of redeemed beverage containers and the amount
11.19 of beverage containers that should have been redeemed under the applicable performance
11.20 target, multiplied by up to 15 cents per beverage container.

11.21 (e) If the performance targets under paragraph (a) have not been met in each of the seven
11.22 years after the organization submitted a product stewardship plan under paragraph (b), then
11.23 the commissioner may assume the organization's operations and charge the member fees
11.24 according to subdivision 2 until the performance targets are met. The commissioner must
11.25 then transfer leadership of the organization back to the organization's governing board within
11.26 180 days after achieving the performance targets.

11.27 (f) If the performance targets are not met for at least two years in a row within five years
11.28 after the commissioner assumes operations under paragraph (e), the commissioner must
11.29 allow the members of the organization to choose a new organization director, in which case
11.30 paragraphs (b) to (e) apply anew beginning three years after the new director is chosen.

11.31 Subd. 6. **Reporting.** (a) By July 1 beginning the first full year after one or more beverage
11.32 container types have a refund value, the organization must make the information in clauses
11.33 (1) to (21) for the preceding calendar year publicly available on the organization's website:

12.1 (1) the number of beverage containers sold in the state by material type and the portion
12.2 of the total sold that was refillable or reusable for each quarter of the report year and for
12.3 the quarters of each of at least the last five prior years, to the extent the data is available
12.4 under sections 115A.566 to 115A.5665;

12.5 (2) the percent of the total amount of beverage containers sold in the state that each
12.6 material type represents for each quarter of the report year and for the quarters of each of
12.7 at least the last five prior years, to the extent the data is available under sections 115A.566
12.8 to 115A.5665;

12.9 (3) the percent of the total amount of fees charged to the members that each material
12.10 type represents for each quarter of the report year and for the quarters of each of at least the
12.11 last five prior years, to the extent the data is available under sections 115A.566 to 115A.5665;

12.12 (4) the number of beverage containers redeemed by material type for each quarter of
12.13 the report year and for the quarters of each of at least the last five prior years, to the extent
12.14 the data is available under sections 115A.566 to 115A.5665;

12.15 (5) the number of beverage containers redeemed at each bag-drop location, reverse
12.16 vending machine, or other beverage container processing mechanism that the organization
12.17 operates;

12.18 (6) the buyers to which the organization sold beverage containers, including what material
12.19 type each buyer bought from the organization;

12.20 (7) the percent of the total amount sold of each material type that went to each buyer;

12.21 (8) all redemption locations in the state;

12.22 (9) the methods of redemption at each location in the state;

12.23 (10) the organization's total annual expenses;

12.24 (11) the organization's total annual revenue;

12.25 (12) the organization's total reserves;

12.26 (13) the total cost to the organization for each beverage container returned;

12.27 (14) the number of redemption locations that provide services or an enhanced redemption
12.28 experience for diverse or low-income consumers;

12.29 (15) aggregated employee demographic information that includes at a minimum the race
12.30 or ethnicity and gender identity of employees working on-site at redemption locations or

13.1 at facilities the organization establishes to aggregate, sort, and process the material collected
13.2 at redemption locations and of other organization employees;

13.3 (16) the number of consumer complaints per month by redemption location for the report
13.4 year and for at least the last five prior years, to the extent the data is available under sections
13.5 115A.566 to 115A.5665;

13.6 (17) the total number of individual consumers per month that filed complaints by
13.7 redemption location for the report year and for at least the last five prior years;

13.8 (18) a list of all organization members and each member's beverage brands and a
13.9 breakdown of each member's beverage packaging mix by beverage container type for the
13.10 report year and for at least the last five prior years, to the extent the data is available under
13.11 sections 115A.566 to 115A.5665;

13.12 (19) a list of the buyers of waste film from the standard bag sold to consumers for the
13.13 bag-drop program and a description of the products that are produced from the waste film;

13.14 (20) the number of individuals and organizations with a registered account to receive
13.15 electronic deposits of refunds; and

13.16 (21) the names of the governing board members of the organization.

13.17 (b) The organization may rely on member reporting when compiling information to be
13.18 reported under paragraph (a), but must note in the annual report which data in paragraph
13.19 (a) are based on member reporting.

13.20 (c) Once per calendar year, the commissioner may require the organization to have an
13.21 independent third party verify the data disclosed under paragraph (a). The scope of the
13.22 review is limited to the data that the organization is required to report under paragraph (a),
13.23 and the commissioner must specify the data to be reviewed. The commissioner must notify
13.24 the organization no later than August 1 that an independent third-party review is required,
13.25 and the organization must complete the independent third-party review by December 31 of
13.26 the year notified. The organization must pay for the cost of the third-party review.

13.27 (d) The organization must establish safeguards to ensure its members do not have access
13.28 to information regarding:

13.29 (1) the price paid by any individual buyer for the material sold; or

13.30 (2) how much of each material went to each individual recycler.

14.1 (e) By February 28 each year, each organization member must report to the organization
14.2 all data necessary to satisfy the disclosure requirements under paragraph (a). The organization
14.3 must establish a process for the data to be confidentially submitted.

14.4 Subd. 7. **Advisory committees.** (a) The organization must establish an operations
14.5 advisory committee that represents a range of stakeholders. The committee must include,
14.6 at a minimum, a representative of:

14.7 (1) beverage container manufacturers or manufacturer trade associations;

14.8 (2) beverage producers or producer trade associations;

14.9 (3) local governments;

14.10 (4) state government;

14.11 (5) environmental nonprofit organizations;

14.12 (6) entities that buy or recycle beverage containers from the organization; and

14.13 (7) retailers or retailer trade associations.

14.14 (b) The operations advisory committee may:

14.15 (1) provide written or oral comments directly to the organization's president and board
14.16 of directors no more than four times each year; and

14.17 (2) submit to the organization every even-numbered year a written report, which the
14.18 organization must publish on its website if the committee requests it, containing the
14.19 committee's feedback on:

14.20 (i) the organization's operation; and

14.21 (ii) the deposit return system generally.

14.22 (c) The organization must establish an equity and access advisory committee that helps
14.23 to ensure that the organization's operations appropriately consider the diverse needs and
14.24 cultures of individuals who redeem beverage containers. The committee must include, at a
14.25 minimum:

14.26 (1) a homeless advocate;

14.27 (2) a representative of a government social services office;

14.28 (3) a representative of a nongovernmental organization that advocates on behalf of one
14.29 or more cultural groups; and

14.30 (4) a specialist in diversity and inclusion.

15.1 (d) The equity and access committee may:

15.2 (1) provide written or oral comments directly to the organization's president and board
15.3 of directors no more than four times each year; and

15.4 (2) submit to the organization every odd-numbered year a written report, which the
15.5 organization must publish on its website if the committee requests it, containing:

15.6 (i) the committee's feedback on whether organization operations are appropriately
15.7 considering the diverse needs and cultures of individuals who redeem beverage containers;
15.8 and

15.9 (ii) recommendations on how the organization can improve in terms of equity and access.

15.10 Subd. 8. **Reimbursement.** By June 30 each odd-numbered year, the organization must
15.11 transfer to the commissioner an amount, not to exceed \$500,000 for each of the next two
15.12 fiscal years, to be deposited in the state treasury and credited to the special revenue fund to
15.13 pay for the estimated program cost reported under section 115A.5661, subdivision 8. The
15.14 money is appropriated to the commissioner for the specified purposes.

15.15 Sec. 4. **[115A.5665] ENFORCEMENT.**

15.16 Subdivision 1. **Civil penalty.** In addition to any other applicable civil or criminal
15.17 penalties, the commissioner may impose a civil penalty for violating sections 115A.566 to
15.18 115A.5663 of \$100 per day for each initial separate violation and not more than \$1,000 per
15.19 day for each subsequent separate violation.

15.20 Subd. 2. **Criminal penalty.** (a) A person who, with intent to defraud, knowingly takes
15.21 any of the following actions is guilty of a crime:

15.22 (1) redeems out-of-state containers, rejected containers, line breakage, or containers that
15.23 have already been redeemed;

15.24 (2) returns redeemed containers to a redemption location seeking a refund;

15.25 (3) brings out-of-state containers, rejected containers, or line breakage to the state for
15.26 redemption; or

15.27 (4) sells beverage containers not distributed in or imported into the state by a member
15.28 of the organization.

15.29 (b) If the money obtained from a criminal act under paragraph (a):

16.1 (1) is less than or equal to \$950, the person convicted is subject to imprisonment in a
16.2 county jail for not more than six months, a fine not exceeding \$1,000, or both imprisonment
16.3 and a fine; or

16.4 (2) exceeds \$950, the person convicted is subject to imprisonment in a county jail for
16.5 not more than one year, a fine not exceeding \$10,000, or both imprisonment and a fine.

16.6 Subd. 3. **Injunction.** The commissioner may bring a civil action to enjoin the distribution,
16.7 importation, or sale into the state of a beverage sold in a beverage container in violation of
16.8 section 115A.5661.

16.9 Subd. 4. **Organization fines.** The commissioner may fine the organization up to \$30,000
16.10 annually for each redemption location that receives complaints from more than an average
16.11 of 100 individuals per month in a calendar year according to the public reporting required
16.12 in section 115A.5663, subdivision 6.

16.13 Subd. 5. **Distributor and importer fines.** The commissioner may administratively
16.14 impose a civil penalty once each year on a distributor or importer who fails to participate
16.15 in the organization as required under section 115A.5663, subdivision 2. The commissioner
16.16 must first notify the distributor or importer of the noncompliance and allow 60 days for the
16.17 distributor or importer to comply before imposing the penalty. The penalty must be the
16.18 greater of ten cents per beverage container sold by the distributor or importer in the state
16.19 or \$10,000. A distributor or importer that incurs a penalty under this subdivision may appeal
16.20 the penalty as a contested case under chapter 14.

16.21 Subd. 6. **Disposition of proceeds.** All monetary penalties that the commissioner recovers
16.22 under this section must be deposited in the state treasury and credited to the special revenue
16.23 fund. The money is appropriated to the commissioner to be used only in the fiscal year
16.24 following the fiscal year the money is received as follows:

16.25 (1) up to \$5,000,000 available each fiscal year must be used only to administer sections
16.26 115A.566 to 115A.5665; and

16.27 (2) any available amount in excess of \$5,000,000 each fiscal year may be used:

16.28 (i) for the purposes described in clause (1);

16.29 (ii) to conduct outreach and educational activities focused on the beverage container
16.30 recycling refund system;

16.31 (iii) to clean up litter in the state; or

16.32 (iv) to support collection of recyclable material in public spaces.

17.1 Sec. 5. **EFFECTIVE DATE.**

17.2 Sections 1 to 4 are effective July 1, 2024.