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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1191 Session of  
2023

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INTRODUCED BY SHUSTERMAN, CIRESI, HILL-EVANS, HANBIDGE, SANCHEZ,  
STAMBAUGH, RABB, McNEILL, FREEMAN, WAXMAN, CEPEDA-FREYTIZ,  
INNAMORATO AND HOWARD, MAY 18, 2023

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
MAY 18, 2023

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AN ACT

1 Providing for the return of beverage containers and for the  
2 powers and duties of the Department of Environmental  
3 Protection; imposing a returnable beverage container  
4 assessment on distributors; providing for duties of  
5 returnable beverage distributors; establishing the Returnable  
6 Beverage Container Fund; and providing for a returnable  
7 deposit value on returnable beverage containers, for  
8 redemption of empty returnable beverage containers, for  
9 redemption centers, for payment of claims from the fund and  
10 for annual report to General Assembly.

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14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 Section 1. Short title.

17 This act shall be known and may be cited as the Returnable  
18 Beverage Container Act.

19 Section 2. Definitions.

20 The following words and phrases when used in this act shall  
21 have the meanings given to them in this section unless the  
22 context clearly indicates otherwise:

23 "Beverage." Any of the following:

24 (1) Soda water or similar carbonated soft drink.

25 (2) Noncarbonated drink, including, but not limited to,  
26 mineral water, flavored and unflavored water, spring water,  
27 vitamin water and any other water beverage, tea, sports  
28 drink, isotonic drink, beer and other malt beverages.

29 (3) Any other nonalcoholic carbonated and noncarbonated  
30 drink in liquid form that is intended for human consumption.

1 The term does not include milk or a beverage that is primarily  
2 derived from a dairy product, infant formula and medicine  
3 approved by the Food and Drug Administration.

4 "Consumer." A person who buys a beverage in a returnable  
5 beverage container for use or consumption and pays the deposit.

6 "Dealer." A person who engages in the sale of beverages in  
7 returnable beverage containers to a consumer for off-premises  
8 consumption in this Commonwealth.

9 "Department." The Department of Environmental Protection of  
10 the Commonwealth.

11 "Fund." The Returnable Beverage Container Fund established  
12 under this act.

13 "On-premises consumption." The consumption of returnable  
14 beverages by a patron immediately and within the area under  
15 control of an establishment, including, but not limited to, a  
16 bar, restaurant, passenger ship or airplane.

17 "Patron." A person who buys a beverage in a returnable  
18 beverage container for use or consumption and does not pay the  
19 deposit.

20 "Person." An individual, partnership, firm, association,  
21 public or private corporation, Federal agency, the Commonwealth  
22 or any of its political subdivisions, trust or any other legal  
23 entity.

24 "Recycling facility." The contiguous land and structures and  
25 other appurtenances and improvements on the land used for the  
26 collection, separation, recovery and sale or reuse of secondary  
27 resources that would otherwise be disposed of as solid waste and  
28 are an integral part of a manufacturing process aimed at  
29 producing a marketable product made of postconsumer material.

30 "Redemption center." An operation that accepts from

1 consumers and provides the refund value for empty returnable  
2 beverage containers intended to be recycled and ensures that the  
3 empty returnable beverage containers are properly recycled.

4 "Refillable beverage container." A returnable beverage  
5 container that ordinarily is returned to the manufacturer to be  
6 refilled and resold.

7 "Returnable beverage container." A sealable bottle, can, jar  
8 or carton primarily composed of glass, metal or plastic, or a  
9 combination of those materials, and produced for the purposes of  
10 containing a beverage which, at the time of sale, contains 28  
11 ounces or less of a beverage. The term does not include a  
12 sealable bottle, can, jar or carton composed of paper-based  
13 biodegradable material and aseptic multimaterial packaging.

14 "Returnable beverage distributor" or "distributor." A person  
15 that:

16 (1) is a manufacturer of beverages in returnable  
17 beverage containers in this Commonwealth; or

18 (2) imports and engages in the sale of filled returnable  
19 beverage containers to a dealer or consumer in this  
20 Commonwealth.

21 The term includes a Federal agency and military distributor but  
22 does not include an airline or shipping company that merely  
23 transports returnable beverage containers.

24 Section 3. Returnable beverage container assessment on  
25 distributors.

26 (a) General rule.--Beginning January 1, 2024, a returnable  
27 beverage distributor shall pay to the department, on a monthly  
28 basis, a returnable beverage container assessment on each  
29 returnable beverage container manufactured in or imported into  
30 this Commonwealth. The returnable beverage container assessment

1 shall not apply to returnable beverage containers exported for  
2 sale outside of this Commonwealth.

3 (b) Amount of assessment.--The returnable beverage container  
4 assessment shall be 5¢ per returnable beverage container and may  
5 be imposed only once on the same returnable beverage container.

6 (c) State preemption.--No municipality may impose or collect  
7 an assessment or fee on returnable beverage containers for the  
8 same or similar purpose as provided under this act.

9 Section 4. Returnable beverage distributors.

10 (a) Duty to register.--

11 (1) On or before September 1, 2023, a returnable  
12 beverage distributor shall register with the department,  
13 using forms prescribed by the department, and shall notify  
14 the department of any change in address or other information  
15 previously submitted.

16 (2) After September 1, 2023, a person who desires to  
17 conduct business in this Commonwealth as a returnable  
18 beverage distributor shall register with the department no  
19 later than one month prior to the commencement of the  
20 business.

21 (b) Maintenance of records.--

22 (1) A returnable beverage distributor shall maintain  
23 records reflecting the manufacture of beverages in returnable  
24 beverage containers or the importation and the sale of filled  
25 returnable beverage containers, as applicable.

26 (2) The records shall be made available, upon request,  
27 for inspection by the department; provided that any  
28 proprietary information obtained by the department shall be  
29 kept confidential and shall not be disclosed to any other  
30 person, except:

1 (i) as may be reasonably required in an  
2 administrative or judicial proceeding to enforce a  
3 provision of this act or rule adopted pursuant to this  
4 act; or

5 (ii) under an order issued by a court.

6 Section 5. Returnable Beverage Container Fund.

7 (a) Establishment.--The Returnable Beverage Container Fund  
8 is established in the State Treasury. The money in the fund is  
9 appropriated on a continuing basis to the department for the  
10 purposes specified in this act. All revenue generated from the  
11 returnable beverage container assessment shall be deposited into  
12 the fund.

13 (b) Use of fund.--

14 (1) The money in the fund shall be used to pay valid  
15 returnable deposit claims submitted by returnable beverage  
16 distributors and redemption centers under section 14.

17 (2) After the payment of claims under paragraph (1), 75%  
18 of the fund shall be transferred on a monthly basis to the  
19 Hazardous Sites Cleanup Fund established under section 901 of  
20 the act of October 18, 1988 (P.L.756, No.108), known as the  
21 Hazardous Sites Cleanup Act.

22 Section 6. Inventory report.

23 (a) General rule.--Except as otherwise provided under  
24 subsection (f), beginning February 1, 2024, and continuing each  
25 month thereafter, a returnable beverage distributor shall file  
26 an inventory report with the department.

27 (b) Content.--The inventory report required under subsection  
28 (a) shall include documentation in sufficient detail to  
29 identify:

30 (1) The number of beverages in returnable beverage

1 containers, by container size and type, manufactured in or  
2 imported into this Commonwealth during the reporting period.

3 (2) The number of these returnable beverage containers,  
4 by container size and type, exported and intended for  
5 consumption outside this Commonwealth during the reporting  
6 period.

7 (c) Confidentiality of information.--All information  
8 contained in an inventory report, including confidential  
9 commercial and financial information, shall be deemed  
10 confidential and protected from public disclosure to the extent  
11 allowed by law.

12 (d) Calculation of payment.--The payment due from a  
13 returnable beverage distributor for the assessment imposed under  
14 section 3 shall be equal to the net number of returnable  
15 beverage containers imported or manufactured into this  
16 Commonwealth, the total number of containers imported or  
17 manufactured less the total number of containers exported for  
18 consumption outside this Commonwealth, multiplied by 5¢.

19 (e) Filing deadline.--The inventory report and payment shall  
20 be filed with the department no later than the 15th day of the  
21 month following the end of the payment period of the previous  
22 month.

23 (f) Semiannual reporting.--A returnable beverage distributor  
24 that annually imports or manufactures in this Commonwealth less  
25 than 100,000 returnable beverage containers may submit reports  
26 and payments required under this act on a semiannual basis;  
27 provided that the semiannual report and payment period shall end  
28 on June 30 and December 31 of each year.

29 Section 7. Returnable deposit value of returnable beverage  
30 containers.

1 Beginning January 1, 2024, a returnable beverage container  
2 sold in this Commonwealth shall have a returnable deposit value  
3 of 5¢, and the returnable deposit value shall be clearly  
4 indicated on the returnable beverage container as provided under  
5 section 9.

6 Section 8. Sales of beverages in returnable beverage  
7 containers.

8 (a) Pass-through from distributors.--Beginning January 1,  
9 2024, a returnable beverage distributor that pays the returnable  
10 beverage container assessment to the department may add the  
11 amount of the assessment to the cost of each returnable beverage  
12 container paid by the dealer or consumer. The addition of the  
13 amount of the assessment may appear as a separate line item on  
14 the invoice prepared by the distributor.

15 (b) Pass-through from dealers.--Beginning January 1, 2024, a  
16 dealer who purchased a returnable beverage container from a  
17 distributor who added the amount of the returnable beverage  
18 container assessment to the cost of the returnable beverage  
19 container paid by the dealer and which dealer sells the  
20 returnable beverage container to a consumer may indicate the  
21 cost of the assessment as a separate line item on the invoice  
22 prepared by the dealer.

23 Section 9. Returnable beverage container requirements.

24 (a) General rule.--Except as provided in subsection (b),  
25 each returnable beverage container sold in this Commonwealth  
26 shall clearly indicate the returnable deposit value of the  
27 container and the word "Pennsylvania" or the letters "PA." The  
28 names or letters representing the names of other states with  
29 comparable deposit laws may also be included in the indication  
30 of the returnable deposit value. The returnable deposit value on



1 the returnable beverage container shall be clearly, prominently  
2 and indelibly marked by painting, printing, scratch embossing,  
3 raised letter embossing or securely affixed stickers and shall  
4 appear on the top or side of the container in letters at least  
5 one-eighth inch in size.

6 (b) Nonapplicability.--Subsection (a) shall not apply to a  
7 refillable glass returnable beverage container that has a brand  
8 name permanently marked on it and the equivalent of a refund  
9 value of at least 5¢ paid upon receipt of the container by a  
10 dealer or returnable beverage distributor.

11 Section 10. Redemption of empty returnable beverage containers.

12 (a) General rule.--Except as provided in subsection (b), a  
13 dealer shall:

14 (1) Operate a redemption center by July 1, 2024, and  
15 shall accept all types of empty returnable beverage  
16 containers that bear a valid returnable deposit value for  
17 this Commonwealth under this act.

18 (2) Pay to a person who presents an empty returnable  
19 beverage container, except as otherwise provided under  
20 section 13, the amount of the returnable deposit value for  
21 the returnable beverage container, if the returnable beverage  
22 container bears a valid returnable deposit value for this  
23 Commonwealth under this act.

24 (3) Ensure that each returnable beverage container  
25 collected is recycled and forward documentation necessary to  
26 support claims for payment from the fund as provided in  
27 section 14 or the regulations adopted under this act.

28 (b) Nonapplicability.--Subsection (a) shall not apply to a  
29 dealer:

30 (1) located in a high density population area as defined

1 by regulation of the department and within two miles of a  
2 certified redemption center that is operated independently of  
3 a dealer;

4 (2) located in a rural area as defined by regulation of  
5 the department;

6 (3) that subcontracts with a certified redemption center  
7 to be operated on the dealer's premises;

8 (4) whose sales of returnable beverage containers are  
9 only via vending machines;

10 (5) whose place of business is less than 5,000 square  
11 feet of interior space;

12 (6) that demonstrates physical or financial hardship, or  
13 both, based on specific criteria established by regulation of  
14 the department; or

15 (7) that meets other criteria established by the  
16 department.

17 (c) Distances between redemption centers.--The department  
18 may allow the placement of redemption centers at greater than  
19 the distances prescribed in subsection (b)(1) and (2) to  
20 accommodate geographical features while ensuring adequate  
21 consumer convenience.

22 (d) Signs of closest redemption center.--Regardless of the  
23 square footage of a dealer's place of business, a dealer that is  
24 not a redemption center or has not subcontracted with a  
25 redemption center shall post a clear and conspicuous sign at the  
26 primary public entrance of the dealer's place of business that  
27 specifies the name, address and hours of operation of the  
28 closest redemption center location.

29 (e) On-premise consumption.--A person engaged in the  
30 business of selling beverages in returnable beverage containers

1 for on-premises consumption shall collect the used returnable  
2 beverage containers from its patrons and either use a certified  
3 redemption center for the collection of containers or become a  
4 certified redemption center.

5 Section 11. Redemption centers.

6 (a) Certification required.--Prior to operation, a  
7 redemption center must be certified by the department.

8 (b) Applications.--An application for certification as a  
9 redemption center shall be filed with the department on forms  
10 prescribed by the department.

11 (c) Discretionary review of certification.--The department,  
12 at any time, may review the certification of a redemption  
13 center. After written notice to the person responsible for the  
14 establishment and operation of the redemption center and to the  
15 dealers served by the redemption center, the department, after  
16 affording the person a hearing in accordance with applicable  
17 law, may withdraw the certification of the redemption center if  
18 the department finds that there has not been compliance with  
19 applicable laws, rules, permit conditions or certification  
20 requirements.

21 (d) Duties of redemption centers.--A redemption center  
22 shall:

23 (1) Accept all types of empty returnable beverage  
24 containers from consumers or other persons, unless excepted  
25 under section 13.

26 (2) Pay to any consumer or other person who presents an  
27 empty returnable beverage container, except as otherwise  
28 provided under section 13, the amount of the returnable  
29 deposit value for the returnable beverage container, if the  
30 returnable beverage container bears a valid returnable

1 deposit value for this Commonwealth under this act.

2 (3) Ensure each returnable beverage container collected  
3 is recycled and forward documentation necessary to support  
4 claims for payment from the fund as required by section 14 or  
5 the regulations adopted under this act.

6 (e) Compliance with laws.--The redemption area of a  
7 redemption center shall be maintained in full compliance with  
8 applicable laws and with the orders and rules of the department,  
9 including permitting requirements, if deemed necessary by the  
10 department.

11 Section 12. Development of procedures.

12 The department shall develop procedures to facilitate the  
13 exchange of information between returnable beverage container  
14 manufacturers, distributors and retailers and certified  
15 redemption centers. The procedures developed by the department  
16 shall allow for a reasonable time period between the  
17 introduction of a new returnable beverage product and the  
18 deadline for submitting universal product code information to  
19 certified redemption centers operating reverse vending machines.

20 Section 13. Refusal of refund value payment for a returnable  
21 beverage container.

22 A retailer or redemption center may refuse to pay the  
23 returnable deposit value on a broken, corroded or dismembered  
24 returnable beverage container or returnable beverage container  
25 that:

- 26 (1) contains a free-flowing liquid;
- 27 (2) does not properly indicate a refund value; or
- 28 (3) contains a significant amount of foreign material.

29 Section 14. Claims for reimbursement from the fund.

30 (a) General rule.--A dealer or redemption center that

1 accepts a returnable beverage container from a consumer or other  
2 person and pays the returnable deposit value to the consumer or  
3 other person may submit to the department a claim for  
4 reimbursement from the fund.

5 (b) Amount of claim.--The department shall pay to each  
6 dealer or redemption center that submits a claim under  
7 subsection (a) 2¢ for each returnable beverage container that is  
8 not returned.

9 (c) Alternative payment approach.--The department may choose  
10 to pay the reimbursement amount on the basis of the total weight  
11 of the containers received by material type and the average  
12 weight of each container type, rather than on a per-returnable-  
13 beverage-container basis.

14 (d) Limitation.--Reimbursement from the fund may only occur  
15 once for each returnable beverage container.

16 Section 15. Redemption center reporting.

17 In order for a claim to be approved by the department, the  
18 dealer or redemption center must submit to the department the  
19 following information on forms prescribed by the department:

20 (1) The number or weight of returnable beverage  
21 containers of each material type accepted at the redemption  
22 center for the reporting period.

23 (2) The amount of refunds paid out by material type.

24 (3) The number or weight of returnable beverage  
25 containers of each material type transported out of this  
26 Commonwealth or to a permitted recycling facility.

27 (4) Copies of out-of-Commonwealth transport and weight  
28 receipts or acceptance receipts from permitted recycling  
29 facilities. If the redemption center and the recycling  
30 facility are the same entity, copies of out-of-Commonwealth

1 transport and weight receipts, or documentation of end use  
2 accepted by the department, shall also be included.

3 (5) Any other information deemed necessary by the  
4 department.

5 Section 16. Departmental inspections.

6 The records of a returnable beverage distributor, dealer,  
7 redemption center and recycling facility shall be made  
8 available, upon request, for inspection by the department or a  
9 duly authorized agent of the department. Any proprietary  
10 information obtained during the inspection shall be kept  
11 confidential and shall not be disclosed to any other person,  
12 except:

13 (1) as may be reasonably required in an administrative  
14 or judicial proceeding to enforce this act or a regulation  
15 adopted pursuant to this act; or

16 (2) to comply with a court order.

17 Section 17. Annual report to General Assembly.

18 The department shall file a report with the General Assembly  
19 on an annual basis. The report shall include:

20 (1) Information on the administration of this act.

21 (2) Detailed financial information on the payment of  
22 claims from the fund and the monthly transfers to the  
23 Hazardous Sites Cleanup Fund.

24 (3) Recommendations from the department as to whether  
25 the actual claim experience of the fund necessitates  
26 adjustment of the percentage of monthly transfers set forth  
27 in section 5(b)(2) in order for the fund to be fiscally sound  
28 for the continued payment of claims under this act.

29 Section 18. Regulations.

30 The department may promulgate rules and regulations to

- 1 administer and enforce this act.
- 2 Section 19. Effective date.
- 3 This act shall take effect immediately.