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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 795 Session of  
2019

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INTRODUCED BY STREET, COSTA, HUGHES, BLAKE, LEACH, MUTH,  
BOSCOLA, SCHWANK AND SABATINA, JULY 8, 2019

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JULY 8, 2019

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

15 Section 1. Short title.

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

18 Section 2. Definitions.

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

22 "Beverage." Any of the following:

- 23 (1) Soda water or similar carbonated soft drink.  
24 (2) Noncarbonated drink, including, but not limited to,  
25 mineral water, flavored and unflavored water, spring water,  
26 vitamin water and any other water beverage, tea, sports  
27 drink, isotonic drink, beer and other malt beverages.  
28 (3) Any other nonalcoholic carbonated and noncarbonated  
29 drink in liquid form that is intended for human consumption.

30 The term does not include milk or a beverage that is primarily

1 derived from a dairy product, infant formula and medicine  
2 approved by the Food and Drug Administration.

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

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

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

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

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

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

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

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

29 "Redeemer." A person, other than a dealer or distributor,  
30 that demands the refund value in exchange for an empty

1 returnable beverage container.

2 "Redemption center." An operation that accepts from  
3 consumers and provides the refund value for empty returnable  
4 beverage containers intended to be recycled and ensures that the  
5 empty returnable beverage containers are properly recycled.

6 "Redemption rate." The percentage of returnable beverage  
7 containers redeemed over a reporting period, which percentage is  
8 calculated by dividing the number of returnable beverage  
9 containers redeemed by the number of returnable beverage  
10 containers sold and multiplying the quotient by 100.

11 "Refillable beverage container." A returnable beverage  
12 container that ordinarily is returned to the manufacturer to be  
13 refilled and resold.

14 "Returnable beverage container." A sealable bottle, can, jar  
15 or carton primarily composed of glass, metal, plastic, or a  
16 combination of those materials, and produced for the purposes of  
17 containing a beverage which, at the time of sale, contains 28  
18 ounces or less of a beverage. The term does not include a  
19 sealable bottle, can, jar or carton composed of paper-based  
20 biodegradable material and aseptic multimaterial packaging.

21 "Returnable beverage distributor" or "distributor." A person  
22 that:

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

25 (2) imports and engages in the sale of filled returnable  
26 beverage containers to a dealer or consumer in this  
27 Commonwealth.

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

1 Section 3. Returnable beverage container assessment on  
2 distributors.

3 (a) General rule.--Beginning January 1, 2020, a returnable  
4 beverage distributor shall pay to the department, on a monthly  
5 basis, a returnable beverage container assessment on each  
6 returnable beverage container manufactured in or imported into  
7 this Commonwealth. The returnable beverage container assessment  
8 shall not apply to returnable beverage containers exported for  
9 sale outside of this Commonwealth.

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

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

16 Section 4. Returnable beverage distributors.

17 (a) Duty to register.--

18 (1) On or before September 1, 2019, a returnable  
19 beverage distributor shall register with the department,  
20 using forms prescribed by the department, and shall notify  
21 the department of any change in address or other information  
22 previously submitted.

23 (2) After September 1, 2019, a person who desires to  
24 conduct business in this Commonwealth as a returnable  
25 beverage distributor shall register with the department no  
26 later than one month prior to the commencement of the  
27 business.

28 (b) Maintenance of records.--

29 (1) A returnable beverage distributor shall maintain  
30 records reflecting the manufacture of beverages in returnable

1 beverage containers or the importation and the sale of filled  
2 returnable beverage containers, as applicable.

3 (2) The records shall be made available, upon request,  
4 for inspection by the department; provided that any  
5 proprietary information obtained by the department shall be  
6 kept confidential and shall not be disclosed to any other  
7 person, except:

8 (i) as may be reasonably required in an  
9 administrative or judicial proceeding to enforce a  
10 provision of this act or rule adopted pursuant to this  
11 act; or

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

13 Section 5. Returnable Beverage Container Fund.

14 (a) Establishment.--The Returnable Beverage Container Fund  
15 is established in the State Treasury. The money in the fund is  
16 appropriated on a continuing basis to the department for the  
17 purposes specified in this act. All revenue generated from the  
18 returnable beverage container assessment shall be deposited into  
19 the fund.

20 (b) Use of fund.--

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

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

29 Section 6. Inventory report.

30 (a) General rule.--Except as otherwise provided under

1 subsection (f), beginning February 1, 2020, and continuing each  
2 month thereafter, a returnable beverage distributor shall file  
3 an inventory report with the department.

4 (b) Content.--The inventory report required under subsection  
5 (a) shall include documentation in sufficient detail to  
6 identify:

7 (1) The number of beverages in returnable beverage  
8 containers, by container size and type, manufactured in or  
9 imported into this Commonwealth during the reporting period.

10 (2) The number of these returnable beverage containers,  
11 by container size and type, exported and intended for  
12 consumption outside this Commonwealth during the reporting  
13 period.

14 (c) Confidentiality of information.--All information  
15 contained in an inventory report, including confidential  
16 commercial and financial information, shall be deemed  
17 confidential and protected from public disclosure to the extent  
18 allowed by law.

19 (d) Calculation of payment.--The payment due from a  
20 returnable beverage distributor for the assessment imposed under  
21 section 3 shall be equal to the net number of returnable  
22 beverage containers imported or manufactured into this  
23 Commonwealth, the total number of containers imported or  
24 manufactured less the total number of containers exported for  
25 consumption outside this Commonwealth, multiplied by 5¢.

26 (e) Filing deadline.--The inventory report and payment shall  
27 be filed with the department no later than the 15th day of the  
28 month following the end of the payment period of the previous  
29 month.

30 (f) Semiannual reporting.--A returnable beverage distributor

1 that annually imports or manufactures in this Commonwealth less  
2 than 100,000 returnable beverage containers may submit reports  
3 and payments required under this act on a semiannual basis;  
4 provided that the semiannual report and payment period shall end  
5 on June 30 and December 31 of each year.

6 Section 7. Returnable deposit value of returnable beverage  
7 containers.

8 Beginning January 1, 2020, a returnable beverage container  
9 sold in this Commonwealth shall have a returnable deposit value  
10 of 5¢, and the returnable deposit value shall be clearly  
11 indicated on the returnable beverage container as provided under  
12 section 9.

13 Section 8. Sales of beverages in returnable beverage  
14 containers.

15 (a) Pass-through from distributors.--Beginning January 1,  
16 2020, a returnable beverage distributor that pays the returnable  
17 beverage container assessment to the department may add the  
18 amount of the assessment to the cost of each returnable beverage  
19 container paid by the dealer or consumer. The addition of the  
20 amount of the assessment may appear as a separate line item on  
21 the invoice prepared by the distributor.

22 (b) Pass-through from dealers.--Beginning January 1, 2020, a  
23 dealer who purchased a returnable beverage container from a  
24 distributor who added the amount of the returnable beverage  
25 container assessment to the cost of the returnable beverage  
26 container paid by the dealer and which dealer sells the  
27 returnable beverage container to a consumer may indicate the  
28 cost of the assessment as a separate line item on the invoice  
29 prepared by the dealer.

30 Section 9. Returnable beverage container requirements.

1 (a) General rule.--Except as provided in subsection (b),  
2 each returnable beverage container sold in this Commonwealth  
3 shall clearly indicate the returnable deposit value of the  
4 container and the word "Pennsylvania" or the letters "PA." The  
5 names or letters representing the names of other states with  
6 comparable deposit laws may also be included in the indication  
7 of the returnable deposit value. The returnable deposit value on  
8 the returnable beverage container shall be clearly, prominently  
9 and indelibly marked by painting, printing, scratch embossing,  
10 raised letter embossing or securely affixed stickers and shall  
11 appear on the top or side of the container in letters at least  
12 one-eighth inch in size.

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

18 Section 10. Redemption of empty returnable beverage containers.

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

21 (1) Operate a redemption center by July 1, 2020, and  
22 shall accept all types of empty returnable beverage  
23 containers that bear a valid returnable deposit value for  
24 this Commonwealth under this act.

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

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

5           (b) Nonapplicability.--Subsection (a) shall not apply to a  
6 dealer:

7           (1) located in a high density population area as defined  
8 by regulation of the department and within two miles of a  
9 certified redemption center that is operated independently of  
10 a dealer;

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

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

15           (4) whose sales of returnable beverage containers are  
16 only via vending machines;

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

19           (6) that demonstrates physical or financial hardship, or  
20 both, based on specific criteria established by regulation of  
21 the department; or

22           (7) that meets other criteria established by the  
23 department.

24           (c) Distances between redemption centers.--The department  
25 may allow the placement of redemption centers at greater than  
26 the distances prescribed in subsection (b) (1) and (2) to  
27 accommodate geographical features while ensuring adequate  
28 consumer convenience.

29           (d) Signs of closest redemption center.--Regardless of the  
30 square footage of a dealer's place of business, a dealer that is

1 not a redemption center or has not subcontracted with a  
2 redemption center shall post a clear and conspicuous sign at the  
3 primary public entrance of the dealer's place of business that  
4 specifies the name, address and hours of operation of the  
5 closest redemption center location.

6 (e) On-premise consumption.--A person engaged in the  
7 business of selling beverages in returnable beverage containers  
8 for on-premises consumption shall collect the used returnable  
9 beverage containers from its patrons and either use a certified  
10 redemption center for the collection of containers or become a  
11 certified redemption center.

12 Section 11. Redemption centers.

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

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

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

28 (d) Duties of redemption centers.--A redemption center  
29 shall:

30 (1) Accept all types of empty returnable beverage

1 containers from consumers or other persons, unless excepted  
2 under section 13.

3 (2) Pay to any consumer or other person who presents an  
4 empty returnable beverage container, except as otherwise  
5 provided under section 13, the amount of the returnable  
6 deposit value for the returnable beverage container, if the  
7 returnable beverage container bears a valid returnable  
8 deposit value for this Commonwealth under this act.

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

13 (e) Compliance with laws.--The redemption area of a  
14 redemption center shall be maintained in full compliance with  
15 applicable laws and with the orders and rules of the department,  
16 including permitting requirements, if deemed necessary by the  
17 department.

18 Section 12. Development of procedures.

19 The department shall develop procedures to facilitate the  
20 exchange of information between returnable beverage container  
21 manufacturers, distributors and retailers and certified  
22 redemption centers. The procedures developed by the department  
23 shall allow for a reasonable time period between the  
24 introduction of a new returnable beverage product and the  
25 deadline for submitting universal product code information to  
26 certified redemption centers operating reverse vending machines.

27 Section 13. Refusal of refund value payment for a returnable  
28 beverage container.

29 A retailer or redemption center may refuse to pay the  
30 returnable deposit value on a broken, corroded or dismembered

1 returnable beverage container or returnable beverage container  
2 that:

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

6 Section 14. Claims for reimbursement from the fund.

7 (a) General rule.--A dealer or redemption center that  
8 accepts a returnable beverage container from a consumer or other  
9 person and pays the returnable deposit value to the consumer or  
10 other person may submit to the department a claim for  
11 reimbursement from the fund.

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

16 (c) Alternative payment approach.--The department may choose  
17 to pay the reimbursement amount on the basis of the total weight  
18 of the containers received by material type and the average  
19 weight of each container type, rather than on a per-returnable-  
20 beverage-container basis.

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

23 Section 15. Redemption center reporting.

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

27 (1) The number or weight of returnable beverage  
28 containers of each material type accepted at the redemption  
29 center for the reporting period.

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

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

4 (4) Copies of out-of-Commonwealth transport and weight  
5 receipts or acceptance receipts from permitted recycling  
6 facilities. If the redemption center and the recycling  
7 facility are the same entity, copies of out-of-Commonwealth  
8 transport and weight receipts, or documentation of end use  
9 accepted by the department, shall also be included.

10 (5) Any other information deemed necessary by the  
11 department.

12 Section 16. Departmental inspections.

13 The records of a returnable beverage distributor, dealer,  
14 redemption center and recycling facility shall be made  
15 available, upon request, for inspection by the department or a  
16 duly authorized agent of the department. Any proprietary  
17 information obtained during the inspection shall be kept  
18 confidential and shall not be disclosed to any other person,  
19 except:

20 (1) as may be reasonably required in an administrative  
21 or judicial proceeding to enforce this act or a regulation  
22 adopted pursuant to this act; or

23 (2) to comply with a court order.

24 Section 17. Annual report to General Assembly.

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

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

28 (2) Detailed financial information on the payment of  
29 claims from the fund and the monthly transfers to the  
30 Hazardous Sites Cleanup Fund.

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

6 Section 18. Regulations.

7           The department may promulgate rules and regulations to  
8           administer and enforce this act.

9 Section 19. Effective date.

10          This act shall take effect immediately.