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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO HEALTH AND SAFETY -- BEVERAGE CONTAINER DEPOSIT
RECYCLING ACT

Introduced By: Senators Valverde, McKenney, DiMario, Miller, Kallman, Euer,
Sosnowski, Murray, Gu, and Pearson

Date Introduced: June 06, 2024

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. The general assembly makes the following findings of fact:

2 (1) Single-use beverage containers are significant contributors to litter and marine debris;

3 (2) Recycling collection for beverage containers in Rhode Island currently is low, while
4 recycling collection rates for beverage containers in states that have a beverage container return
5 system have significantly reduced litter and debris;

6 (3) Source-separated beverage containers collected via container deposit systems are more
7 likely to be recycled into new beverage containers than are containers collected via mixed-stream
8 recycling;

9 (4) Container deposit systems help create environmentally friendly local jobs; and

10 (5) It is in the best interests of the health, safety, and welfare of residents and visitors to
11 Rhode Island to protect our environment and our natural resources by instituting recycling rates
12 and waste diversion through a container deposit system.

13 SECTION 2. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
14 amended by adding thereto the following chapter:

15 [CHAPTER 19.19](#)

16 [BEVERAGE CONTAINER DEPOSIT RECYCLING ACT](#)

17 **23-19.19-1. Definitions.**

18 [As used in this chapter the following words and terms are construed as follows:](#)

- 1 (1) "Applicable refund value" means the value established under § 23-19.19-7.
- 2 (2) "Beverage" means a drinkable liquid intended for human oral consumption. Beverage
3 does not include:
- 4 (i) A drug regulated under the federal Food, Drug, and Cosmetic Act, 21 U. S. C. § 301 et
5 seq.;
- 6 (ii) One hundred percent (100%) fluid milk;
- 7 (iii) Infant formula; or
- 8 (iv) A meal replacement liquid.
- 9 (3) "Beverage consumer" means an individual in the state who purchases a beverage in a
10 beverage container for use or consumption.
- 11 (4) "Beverage container" means a prepackaged container designed to hold a beverage that
12 is made of any material, including glass, plastic, and metal, or a combination thereof, and has a
13 volume which is not less than fifty milliliters (50 ml), nor greater than three liters (3L).
- 14 (5) "Beverage container processing mechanism" means any method, manual or
15 technological, that properly identifies and processes empty beverage containers that are eligible for
16 redemption.
- 17 (6) "Brand" means a name, symbol, word, or mark that identifies a product and attributes
18 the product and its components, including packaging, to the brand owner.
- 19 (7) "Brand owner" means a person that owns or licenses a brand or that otherwise has rights
20 to market a product under the brand, whether or not the brand's trademark is registered.
- 21 (8) "Coordination plan" means a plan developed by one or more producer responsibility
22 organizations to ensure their activities are coordinated to meet the requirements of this chapter.
- 23 (9) "Corporation" means the Rhode Island resource recovery corporation established
24 pursuant to the provisions of § 23-19-6.
- 25 (10) "Department" means the Rhode Island department of environment management
26 ("DEM").
- 27 (11) "Drop-off facility" means a specific area where individuals may bring beverage
28 containers or covered materials to place into material-specific receptacles.
- 29 (12) "Material recovery facility" means a facility that receives, separates, and sells or
30 otherwise distributes postconsumer materials for recycling to responsible end markets.
- 31 (13) "Mechanical recycling" means a form of recycling that does not change the basic
32 molecular structure of the material being recycled.
- 33 (14) "Postconsumer material" means material generated by households or by commercial,
34 and institutional facilities in their role as end users of the product which has been used for its

1 intended purpose and discarded. This material includes returns of material from the distribution
2 chain.

3 (15) "Postconsumer recycled content" means the proportion of a covered material or
4 beverage container composed of postconsumer material, expressed as a percentage of the total
5 weight of the covered material or beverage container. Postconsumer recycled content shall be third-
6 party certified when third-party certification is available for the material type and approved for use
7 in the program by the department.

8 (16) "Postconsumer recycled content rate" means the amount of post-consumer recycled
9 content used to manufacture the covered material or beverage container divided by the total amount
10 of materials used to manufacture the covered material or beverage container.

11 (17) "Producer" means the following person responsible for compliance with requirements
12 under §§ 23-19.19-2 and 23-19.19-3 for a covered beverage container sold, offered for sale, or
13 distributed in the state.

14 (i) For beverage containers sold at a physical retail location in the state:

15 (A) If the beverage container is sold in packaging under the manufacturer's own brand or
16 is sold in packaging that lacks identification of a brand, the producer is the person that manufactures
17 the beverage container;

18 (B) If there is no person to which subsection (17)(i)(A) of this section applies, the producer
19 is the person that is licensed to sell or offer for sale to consumers in the state an item with packaging
20 under the brand or trademark used in a commercial enterprise, sold, offered for sale, or distributed
21 in or into this state, whether or not the trademark is registered in this state;

22 (C) If there is no person to which no other provision of this subsection applies, the producer
23 of the beverage container is the brand owner of the item; or

24 (D) If there is no person described in the provisions of this subsection located in the United
25 States, the producer is the person that imports the item into the United States for use in a commercial
26 enterprise that sells, offers for sale, or distributes the item in the state;

27 (E) For beverage containers in the state via remote sale or distribution, the producer is the
28 person that packages and ships the product or group of products; and

29 (ii) If the producer is a business operated wholly or in part as a franchise, the producer is
30 the franchisor, if that franchisor has franchisees that have a commercial presence within the state.
31 Producer does not include a person that annually sells, offers for sale, distributes, or imports in or
32 into the state less than one ton of covered products, and has a global gross revenue of less than two
33 million dollars (\$2,000,000) for the person's most recent fiscal year.

34 (18) "Producer responsibility organization" or "PRO" means a nonprofit organization that

1 qualifies for a tax exemption under 26 U.S.C. Sec. 501(c)(3) of the Federal Internal Revenue Code
2 and is designated by a beverage producer or group of beverage producers to carry out the activities
3 required of beverage producers by this chapter, and selected or approved by the department
4 pursuant to the provisions of § 23-19.19-2.

5 (19) "Producer responsibility plan" means a document describing the activities of an
6 organization to carry out the responsibilities of producers under §§ 23-19.19-2 and 23-19.19-3.

7 (20) "Program year" means January 1 through December 31 of a calendar year.

8 (21) "Public place" means an indoor or outdoor location open to and generally used by the
9 public and to which the public is permitted to have access including, but not limited to, streets,
10 sidewalks, plazas, town squares, public parks, beaches, sports facilities, forests, or other public land
11 open for recreation or other uses, and transportation facilities such as bus and train stations, airports,
12 and ferry terminals.

13 (22) "Public service provider" means a political subdivision that provides or that contracts
14 or otherwise arranges with another party to provide collection, recycling, composting, or reuse
15 services for covered materials within its jurisdiction.

16 (23) "Recycling" or "recycle" means the process of collecting, sorting, and processing
17 materials at a responsible end market and returning them to, or maintaining them within, the
18 economic mainstream in the form of recovered material for new, reused, or reconstituted products
19 which meet the quality standards necessary to be used in the marketplace. Recycling shall not
20 include combustion, fuel production, and other forms of energy recovery or disposal.

21 (24) "Recycling rate" means the amount of recycled covered material or beverage
22 containers in a plan year divided by the total amount of covered material or beverage containers
23 sold in the state by weight and/or unit.

24 (25) "Refillable packaging" means packaging designed to be refilled by consumers
25 multiple times for the same or similar purpose in its original format, and that is sold or provided to
26 consumers once for the duration of its usable life.

27 (26) "Responsible end market" means a materials market that:

28 (i) Recycles, composts, or otherwise recovers materials and disposes of contaminants in a
29 manner that minimizes risks, environmental harm, public health and worker health and safety;

30 (ii) Complies with all applicable international treaties, federal, state, and local laws and
31 regulations governing greenhouse gas emission and air and water quality standards, trade
32 regulation, and human rights and labor standards;

33 (iii) Does not disproportionately burden environmental justice areas and low-income
34 communities with negative human health and environmental impacts of pollution or other

1 environmental hazards resulting from the operation of the end market; and

2 (iv) Possesses all requisite licenses and permits required by government agencies.

3 (27) "Retailer" means any established person, department, partnership, business, facility,
4 vendor, organization, or individual that sells or provides merchandise, goods, or materials directly
5 to a customer.

6 (28) "Returnable reusable packaging" means packaging designed to be recirculated
7 multiple times for the same or similar purpose in its original format in a system for reuse, that is
8 owned by producers or a third party and is returned to producers or a third party after each use.

9 (29) "Reuse" means the return of returnable reusable packaging to the marketplace and the
10 continued use of the returnable reusable packaging for its original intended purpose.

11 (30) "Reuse rate" means the amount of returnable reusable packaging or beverage container
12 measured per item that is reused by unit divided by the total amount of returnable reusable
13 packaging or beverage container measured per item sold into the state.

14 (31) "Service provider" means an entity that provides collection, recycling, composting, or
15 reuse services under a producer responsibility plan.

16 (32) "Single-use" means conventionally discarded after a single use or not sufficiently
17 durable or washable to be, or not intended to be, reusable or refillable.

18 (33) "Source reduction" means the reduction in the amount of covered material created by
19 a producer relative to an established baseline. Methods of source reduction include, but are not
20 limited to, shifting covered material to returnable, reusable or refillable packaging or a reusable
21 product or eliminating unnecessary packaging. Source reduction does not include either of the
22 following:

23 (i) Replacing a recyclable or compostable covered material with a nonrecyclable or
24 noncompostable covered material or a covered material that is less likely to be recycled or
25 composted; or

26 (ii) Switching from virgin covered material to postconsumer recycled content.

27 (34) "Store" means an individual location where a retailer sells beverage containers.

28 **23-19.19-2. Producer registration.**

29 (a) On and after July 1, 2025, no beverage container may be sold, offered for sale, or
30 distributed in the state unless the producer of a beverage has signed a written agreement with a
31 producer responsibility organization ("PRO") to operate under an approved producer responsibility
32 plan, and the PRO is registered in accordance with the provisions of this section.

33 (b) Until the expiration of the first producer responsibility plans approved by the
34 department, all producers shall enter into an agreement with the selected PRO which shall represent

1 all producers. After such time, if the department approves more than one PRO, producers shall
2 choose one PRO with which to register. The department, in compliance with the provisions of
3 chapter 35 of title 42 ("administrative procedures"), may establish a handling fee to be paid by
4 participants to the PRO

5 (c) No later than July 1, 2025, the department shall provide written notice to PRO of the
6 department's estimate of the department's cost to administer the beverage container recycling
7 program during the period before the initial registration of the PRO, and the amount to be paid.

8 (d) Within thirty (30) days of receipt of the notice from the department under subsection
9 (c) of this section, the PRO shall remit payment for those costs in full to the department.

10 (e) By July 1 each year after initial selection, pursuant to this section, every PRO shall
11 register with the department by submitting the following:

12 (1) Contact information for a person responsible for implementing the producer
13 responsibility plan;

14 (2) A list of all member producers and, for each producer, a list of all brands of the
15 producer's covered materials sold, offered for sale, or distributed in the state;

16 (3) Copies of written agreements with each producer stating that the PRO is the producer's
17 agent with respect to fulfilling the responsibilities of producers required under §§ 23-19.19-2 and
18 23-19.19-3 and that the producer pledges to comply with those provisions;

19 (4) A list of current board members and the executive director if different than the person
20 responsible for implementing the producer responsibility plan; and

21 (5) Payment of the annual fee required under this section.

22 (f) As part of the annual registration filing with the department, the PRO shall submit to
23 the department an annual fee for the following year, as determined by the department. By May 1
24 each year, the department shall notify the PRO in writing of the amount of the fee for the following
25 year, which may not exceed the department's estimate of the costs required to:

26 (1) Administer, implement, and enforce the provisions of § 23-19.19-3;

27 (2) Conduct rulemaking to implement the provisions of § 23-19.19-3, if applicable.

28 **23-19.19-3. Beverage container recycling refund program.**

29 (a) No later than July 1, 2025, the department shall select a single PRO to implement
30 activities under the selected beverage PRO and shall:

31 (1) Be an independent nonprofit organization that qualifies for a tax exemption under 26
32 U.S.C. § 501(c)(3) of the Federal Internal Revenue Code;

33 (2) Have a governing board that represents the diversity of beverage containers placed on
34 the market by those entities, and of producers in terms of size; and

1 (3) Have adequate financial responsibility and financial controls in place to ensure proper
2 management of funds.

3 (b) No later than January 1, 2025, producers of beverage containers shall form and join a
4 beverage PRO for the purposes of complying with the provisions of this chapter. The governing
5 body of the beverage PRO shall submit an application to the department describing how the PRO
6 meets the requirements to be an approved PRO pursuant to the provisions of this chapter.

7 **23-19.19-4. Beverage producer responsibility plan.**

8 (a) On or before July 1, 2026, and every five (5) years thereafter, the initial PRO selected
9 pursuant to § 23-19.19-3(a) shall submit a stewardship plan to the department describing the
10 proposed operation of programs to fulfill the requirements of this chapter. Updated and revised
11 stewardship plans shall be filed with the department at a minimum every five (5) years for every
12 PRO as directed by the department. The beverage producer responsibility plan shall describe
13 activities to be undertaken during the next five (5) program years and shall, at a minimum:

14 (1) Describe how the PRO, acting on behalf of producers of beverages proposes to:

15 (i) Meet performance targets for reuse, recycling, redemption, and recycled content as
16 described in this chapter;

17 (ii) Incorporate as program objectives the reduction of waste, expansion of reuse systems,
18 and improved design of beverage containers;

19 (iii) Reduce toxicity of beverage containers through proof of testing and provide technical
20 assistance on compliance with the provisions of this chapter; and

21 (iv) Expand convenient reuse, redemption, and recycling services.

22 (2) Summarize consultations held with stakeholders to provide input to the beverage
23 producer responsibility plan, a list of recommendations that were incorporated into the beverage
24 producer responsibility plan as a result, and a list of rejected recommendations and the reasons for
25 rejection;

26 (3) Describe how the program uses and interacts with existing reuse, collection, and
27 recycling efforts and service providers;

28 (4) Include a list of beverage containers designated for collection and the method of
29 collection to be used for each;

30 (5) Propose annual performance targets for source reduction, rates of reuse, recycling, and
31 postconsumer recycled content for beverage containers, as applicable, and include how these
32 annual performance targets shall meet the requirements of this chapter;

33 (6) Describe expanded and improved operations specifically designed to ensure that the
34 performance targets and capture rates are met;

1 (7) Include a plan for beverage container redemption and processing mechanisms that
2 provides equitable and convenient access across the state;

3 (8) Include a proposed budget for each of the next five (5) program years;

4 (9) Include proposed beverage producer fees and describe the process used to calculate
5 beverage producer fees;

6 (10) Certify that the PRO will treat data submitted by service providers as nonpublic data;

7 (11) Discuss the viability of available markets for beverage containers, and what
8 improvements are needed to markets to improve program performance and ensure that performance
9 targets are met;

10 (12) Describe proposed campaigns to educate consumers about how to access beverage
11 container redemption and processing mechanisms;

12 (13) Describe how the PRO intends to assist producers in improving product labels as a
13 means of informing consumers about the program;

14 (14) Include a plan for how the beverage PRO shall ensure the measure of recycled
15 materials;

16 (15) Describe how the PRO shall coordinate with any packaging related to the PRO;

17 (16) Describe how the PRO shall return recycling refund amounts to material recovery
18 facilities (MRFs) for the beverage containers processed in recovery facilities; and

19 (17) Include a plan for adopting verifications by independent third parties, as applicable.

20 (b) The department shall review each beverage producer responsibility plan and approve,
21 modify, or reject it within one hundred twenty (120) days of receipt, providing reasons for
22 modification or rejection in writing to the organization. The PRO shall submit a revised beverage
23 producer responsibility plan, if necessary, within sixty (60) days of receiving the department's
24 decision. The department shall review a revised beverage producer responsibility plan within forty-
25 five (45) days of receipt. The department may require submission of additional revised beverage
26 producer responsibility plans until a revised beverage producer responsibility plan is approved. The
27 department shall conduct the review and approval process pursuant to the provisions of chapter 35
28 of title 42 ("administrative procedures").

29 (c) A PRO may file a proposed amendment to the beverage producer responsibility plan
30 with the department at any time. The department may approve, modify, or reject the proposed
31 amendment. A beverage PRO may not change operations under an approved beverage producer
32 responsibility plan without the department's written approval.

33 (d) The department may require amending a beverage producer responsibility plan if the
34 department determines that an amendment is necessary to ensure that the PRO maintains progress

1 to meet annual performance targets and the goals for the beverage producer responsibility plan. The
2 PRO shall address any comments and feedback and shall list rejected recommendations and the
3 reasons for rejection during the amendment approval process.

4 **23-19.19-5. Performance goals.**

5 (a) Beginning the first month after all beverage containers are sold, offered for sale, or
6 distributed in the state with the applicable refund value, all redeemed beverage containers shall be
7 recycled or reused.

8 (b) The PRO shall meet the following performance targets for redemption:

9 (1) Beginning two (2) years after all beverage containers are sold in the state with the
10 applicable refund value, at least seventy percent (70%) annual redemption for all beverage
11 containers;

12 (2) Beginning four (4) years after all beverage containers are sold in the state with the
13 applicable refund value, at least seventy-five percent (75%) annual redemption for all beverage
14 containers;

15 (3) Beginning six (6) years after all beverage containers are sold in the state with the
16 applicable refund value, at least eighty-five percent (85%) annual redemption for all beverage
17 containers; and

18 (4) Beginning eight (8) years after all beverage containers are sold in the state with the
19 applicable refund value, at least ninety percent (90%) annually of all beverage containers redeemed.

20 (c) Each beverage producer or the beverage PRO shall meet the following reuse rates:

21 (1) By the end of the first beverage producer responsibility plan, or not later than seven (7)
22 years after the effective date of this chapter, whichever is sooner, a minimum of fifteen percent
23 (15%) of beverage containers shall be reusable; and

24 (2) By the end of the second beverage producer responsibility plan, or not later than twelve
25 (12) years after the effective date of this chapter, whichever is sooner, a minimum of twenty-five
26 percent (25%) of beverage containers shall be reusable.

27 (3) After the second beverage producer responsibility plan, the department may adjust the
28 reuse performance targets for subsequent beverage producer responsibility plans. An adjustment to
29 the performance targets shall not be less than the performance target in subsection (b)(2) of this
30 section.

31 (d) Each individual producer shall meet the following minimum recycled content
32 requirements for all beverage containers and shall report compliance with the targets through the
33 PRO by the end of the first stewardship plan, or no later than seven (7) years after the effective date
34 of this chapter:

1 (1) All glass beverage containers manufactured in the state used by the producer shall
2 contain, on average, at least thirty-five percent (35%) postconsumer recycled content;

3 (2) All polyethylene terephthalate (PET) beverage containers sold, offered for sale or
4 distributed in the state shall contain, on average, at least forty-five percent (45%) postconsumer
5 recycled content;

6 (3) All high-density polyethylene (HDPE) beverage containers sold, offered for sale or
7 distributed in the state shall contain, on average, at least twenty-five percent (25%) postconsumer
8 recycled content;

9 (4) All polypropylene (PP) beverage containers sold, offered for sale or distributed in the
10 state shall contain, on average, at least twenty-five percent (25%) postconsumer recycled content;
11 and

12 (5) All aluminum beverage containers sold, offered for sale or distributed in the state shall
13 contain, on average, at least fifty percent (50%) postconsumer recycled content.

14 (e) The department may adjust the performance targets in subsection (d) of this section or
15 add performance targets for additional beverage container types based on information gathered
16 during the needs assessment or provided in producer stewardship plans and reports. An adjustment
17 to the performance targets shall not adjust minimum recycled content requirements to less than five
18 percent (5%) of the targets set in subsection (d) of this section.

19 **23-19.19-6. Beverage producer fees.**

20 (a) The PRO shall collect an annual fee from its members that:

21 (1) Is based on the total amount of beverage containers each producer sells, offers for sale,
22 or distributes in the state in the prior calendar year calculated on a per-unit basis;

23 (2) Incentivize using materials and design attributes that reduce environmental impacts and
24 human health impacts of beverage containers, by the following methods in order of priority:

25 (i) Eliminating the presence of toxic substances;

26 (ii) Reducing the amount of packaging per individual beverage container that is necessary
27 to efficiently deliver a product without damage or spoilage and without reducing its ability to be
28 recycled;

29 (iii) Increasing beverage containers managed in a reuse system;

30 (iv) Enhancing recyclability of beverage containers; and

31 (v) Increasing the proportion of postconsumer material used to produce beverage
32 containers;

33 (3) Prioritizes reuse by charging covered materials that are managed through a reuse system
34 only once;

1 (4) Collects revenues sufficient to pay in full:
2 (i) The annual registration payment required;
3 (ii) The cost of collecting, sorting, and processing each beverage container type;
4 (iii) The cost of ensuring all employees working at facilities to redeem, collect, sort,
5 aggregate and process materials collected at redemption locations are paid a living wage, receive
6 health benefits, and have strong labor and work safety practices;
7 (iv) The set refund value to material recovery facilities and drop-off facilities as required
8 by this chapter;
9 (v) Costs to provide outreach and education to increase consumer knowledge of how to
10 manage beverage containers in an environmentally sound manner;
11 (vi) Costs for staffing needs at the department and rulemaking to implement the provisions
12 of this chapter; and
13 (5) Collects adequate revenues to allow for establishing and maintaining a financial reserve
14 that is sufficient to operate the program in a fiscally prudent and responsible manner.
15 (b) The fee the organization charges members pursuant to the provisions of this section
16 shall vary by material type reflecting:
17 (1) The cost of collecting, sorting, and processing each beverage container type; and
18 (2) The number of units of each beverage container type that the member distributes or
19 sells in the state.
20 (c) With the revenue from the sale of redeemed beverage containers, the organization shall
21 credit each member against the fee charged under subsection (b) of this section based on:
22 (1) The revenue generated from the sale of each beverage container type; and
23 (2) The percentage of each beverage container type that a member distributes or sells in the
24 state.
25 (d) Fees collected under this section shall not be used for costs associated with:
26 (1) An administrative civil penalty pursuant to this chapter;
27 (2) Costs associated with litigation between the producer or organization and the state;
28 (3) For lobbying by or on behalf of a PRO or any of its members; or
29 (4) To subsidize, incentivize or otherwise support incineration, engineered municipal solid
30 waste conversion, gasification, pyrolysis, high heat burning or the production of energy or fuels,
31 except for fuels produced using anaerobic digestion of source separated organic materials, or other
32 disposal activities.
33 (e) Any fees collected under this section in excess of the costs identified in subsection (a)
34 of this section and the amount of any unclaimed deposits shall be deposited in a restricted receipt

1 account, and shall be reinvested to improve consumer education, collection, recycling, and reuse
2 programs.

3 **23-19.19-7. Applicable refund value.**

4 (a) Every beverage container sold or offered for sale in the state shall have a refund value
5 of ten cents (\$0.10).

6 (b) If the PRO's redemption rate required under this section shows that the redemption
7 rate does not reach ninety percent (90%) for three (3) years in a row after being required to reach a
8 ninety percent (90%) redemption target under this chapter then every beverage container sold or
9 offered for sale in the state shall have the following refund value of fifteen cents (\$0.15) for each
10 beverage container, and the PRO shall conduct a study to determine whether any education or
11 convenience factors of the plan need to be strengthened.

12 **23-19.19-8. Nonredeemable material.**

13 Excluding the material recovery facility and drop-off facility payments in this chapter, the
14 PRO is not required to pay refunds on:

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

17 (2) A beverage container that is:

18 (i) Crushed or broken; or

19 (ii) Damaged to the extent that the brand appearing on the container cannot be identified;

20 (3) A beverage container that the PRO has reasonable grounds to believe was bought in
21 another state; or

22 (4) A beverage container for which the PRO has reasonable grounds to believe a refund
23 has already been given.

24 **23-19.19-9. Labeling.**

25 (a) A beverage producer of a beverage container that is sold in the state shall clearly display
26 on the top or side of the beverage container the abbreviation "RV," which indicates the container
27 has a refund value.

28 (b) A beverage producer of a beverage container that is sold in the state shall clearly display
29 on the top or side of the beverage container the abbreviation of the state and the applicable refund
30 value.

31 (c) A producer of a beverage that is sold in the state may include a barcode or unique code
32 verification on the beverage container to allow for automated identification to be registered with
33 the department with information required pursuant to § 23-19.19-2.

34 **23-19.19-10. Timing.**

1 All beverage containers that are made of ninety percent (90%) or more aluminum, glass,
2 high density polyethylene plastic, polypropylene, or polyethylene terephthalate and sold in the state
3 shall have the applicable refund value no later than two (2) years after the effective date of this
4 chapter. All other beverage containers that are sold in the state shall have the applicable refund
5 value no later than three (3) years after the effective date of this chapter.

6 **23-19.19-11. Refund value to drop-off facilities and material recovery facilities.**

7 (a) On a monthly basis, the operator of a material recovery facility or drop-off facility may
8 submit the following information to the PRO:

9 (1) The number of tons of beverage containers the facility received for processing in the
10 previous month; and

11 (2) An estimate of the number of tons under subsection (a)(1) of this section that were
12 received from households in the state.

13 (b) Starting after the first full month that beverage containers are sold with the applicable
14 refund value, the PRO shall make a monthly payment directly to each material recovery facility
15 and drop-off facility operator that is based on the data submitted by the material recovery facility
16 and drop-off facility operators under subsection (a) of this section.

17 (c) The monthly payment required in subsection (b) of this section to material recovery
18 facilities and drop-off facilities shall reflect a payment of at least sixty percent (60%) of the refund
19 value for beverage containers for each beverage container that the material recovery facility or
20 drop-off facility recycles.

21 (d) Material recovery facilities and drop-off facilities shall use the methodology specified
22 in the beverage producer responsibility plan to determine the average amount of redeemable
23 beverage containers per ton of material recycled.

24 (e) The operators of material recovery facilities and drop-off facilities shall use an industry-
25 standard scale to measure the weight of all beverage containers that enter the facility.

26 (f) The PRO may conduct two (2) audits per calendar year on the quality and quantity of
27 the drop-off facility or material recovery facilities' material upon request by the organization and
28 at the organization's expense.

29 **23-19.19-12. Education and outreach.**

30 The beverage container PRO, in collaboration with and after consulting with the
31 corporation, the department, retailers, and holding at least one public hearing shall:

32 (1) Develop and disseminate easy-to-understand, culturally responsive materials in
33 multiple languages designed to educate consumers regarding the management of beverage
34 containers that can be reused and the management of beverage containers that can be redeemed;

1 (2) Conduct or fund others to conduct statewide and local campaigns promoting awareness
2 of how end consumers can conveniently access beverage container collection and redemption
3 mechanisms to maximize redemption rates; and

4 (3) Disseminate education and outreach materials to the department, service providers,
5 retailers, community organizations, and department.

6 **23-19.19-13. Prohibitions.**

7 No person shall knowingly redeem a beverage container in the state that was not sold to a
8 consumer in the state.

9 **23-19.19-14. Beverage producer responsibility organization duties.**

10 (a) The PRO shall be responsible for compliance with this chapter, including the
11 preparation and implementation of a producer responsibility plan, the achievement of the
12 performance targets, and the preparation and submission to the department of annual reports and
13 audits.

14 (b) The PRO shall maintain a website that uses best practices for accessibility that contains:

15 (1) Information regarding a process that members of the public can use to contact the PRO
16 with questions;

17 (2) A list and map of all redemption locations and what redemption options are available
18 at each location;

19 (3) The draft and approved stewardship plan and any draft and approved amendments;

20 (4) Annual reports filed by the PRO; and

21 (5) A link to administrative rules and regulations implementing this chapter.

22 (c) A beverage PRO shall notify the department within thirty (30) days if a change is made
23 to the contact information for a person responsible for implementing the stewardship plan, or a
24 change to the board members.

25 (d) The PRO shall pay for:

26 (1) Any beverage container redemption or processing mechanism or self-service kiosk that
27 the PRO installs, services, and operates;

28 (2) Any facilities in the state necessary to efficiently aggregate, sort, and process the
29 material collected at redemption locations;

30 (3) The material recovery facility and drop-off facility payments under this chapter; and

31 (4) Necessary investments and improvements to provide services to or enhance the
32 redemption experience of diverse or low-income consumers redeeming beverage containers.

33 **23-19.19-15. Beverage producer responsibility organization annual report.**

34 (a) No later than four (4) years after the effective date of this chapter, and each March

1 thereafter, the PRO shall submit a written annual report to the department that contains, at a
2 minimum, the following information for the previous program year:

3 (1) The amount of beverage containers sold, offered for sale, or distributed in the state, by
4 material type;

5 (2) The amount of beverage containers redeemed statewide and in each county in the state,
6 including the amount of covered materials and collection methods utilized;

7 (3) The total cost to implement the program and a detailed description of program
8 expenditures;

9 (4) A copy of a financial audit of program operations conducted by an independent third
10 party approved by the department;

11 (5) A list of any beverage producers found to be out of compliance with the requirements
12 of this chapter and actions taken by the PRO to return the beverage producer to compliance;

13 (6) A description of education and outreach activities undertaken, any evaluations
14 conducted of their efficacy, and plans for next program year's activities;

15 (7) A description of technical assistance provided to beverage producers regarding source
16 reduction and packaging redesign and actions taken by producers to reduce waste and redesign
17 packaging to be reusable, recyclable, and compostable;

18 (8) An evaluation of the process established by the PRO to answer questions from
19 consumers regarding redemption activities;

20 (9) A description of program performance problems that emerged in specific locations and
21 efforts taken or proposed by the PRO to address them;

22 (10) Any proposed amendments to the beverage producer responsibility plan to improve
23 program performance or reduce costs; and

24 (11) A summary of consultations held with stakeholders and how any feedback was
25 incorporated into the report as a result of the consultations, together with a list of rejected
26 recommendations and the reasons for rejection.

27 (b) To facilitate preparing the annual report under this section, service providers, public
28 service providers, and political subdivisions operating under a service agreement with the PRO
29 shall, if requested, forward relevant data to the PRO. The PRO shall treat any data submitted under
30 this section as public data.

31 (c) A PRO that fails to meet a performance target established in the beverage producer
32 responsibility plan shall, within ninety (90) days of filing an annual report under this section, file
33 with the department a report detailing the factors contributing to the failure and propose an
34 amendment to the beverage producer responsibility plan specifying changes in operations that the

1 beverage producer responsibility plan will make that are designed to achieve the following year's
2 targets.

3 **23-19.19-16. Coordination plan.**

4 In the event that a packaging producer responsibility program is established, the packaging
5 PRO shall establish a coordinating body and process to ensure the efficient delivery of services and
6 coordinated efforts. These coordinating efforts shall ensure the costs of recycling covered products
7 and beverage containers are fairly distributed, regardless of which system a consumer returns the
8 materials through.

9 **23-19.19-17. Third-party certification.**

10 The department may adopt requirements that producers or PROs obtain third-party
11 certification, when available, for the following:

- 12 (1) Postconsumer recycled content;
13 (2) Responsible end markets;
14 (3) Reusable materials; and
15 (4) Recycling, composting, and reuse rates.

16 **23-19.19-18. Enforcement.**

17 (a) The department or attorney general may enforce the provisions of this chapter. The
18 department or attorney general shall first issue a corrective order before pursuing other enforcement
19 actions.

20 (b) The department or attorney general may issue a notice of violation to, and impose an
21 administrative civil penalty not to exceed fifty thousand dollars (\$50,000) per day per violation on
22 any entity not in compliance with this chapter or any of the regulations the department adopts to
23 implement this chapter.

24 (c) In the event that the department determines that a PRO no longer meets the requirements
25 of this chapter, including those set forth in §§ 23-19.19-2 and 23-19.19-3, or fails to implement and
26 administer an approved PRO plan in a manner that effectuates the purposes of this chapter, the
27 department shall revoke its approval of the PRO and may approve additional PROs pursuant to the
28 provisions of this chapter.

29 (d) If the department determines that a PRO, or producer has not achieved the targets
30 established pursuant this chapter, the department shall, through a public process, adopt rules and
31 regulations that place requirements on the PRO, or producers to achieve the targets specified in this
32 chapter.

33 **23-19.19-19. Rulemaking authorized.**

34 The department may adopt rules and regulations to implement the provisions of this chapter

1 [pursuant to the provisions of chapter 35 of title 42 \("administrative procedures"\).](#)

2 SECTION 3. This act shall take effect on July 1, 2024.

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LC006221
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO HEALTH AND SAFETY -- BEVERAGE CONTAINER DEPOSIT
RECYCLING ACT

1 This act would establish a system for the recycling of beverage containers working with
2 the department of environmental management. Deposits would be paid by the consumer, and the
3 retailers or redemption centers would be reimbursed a handling fee. The department would by rule
4 and regulation provide for the establishment, operation, and licensure of redemption centers.

5 This act would take effect on July 1, 2024.

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