
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1322 Session of
2019

INTRODUCED BY ULLMAN, BULLOCK, COMITTA, GALLOWAY, HILL-EVANS,
KENYATTA, McCARTER, McCLINTON, MULLERY, MURT, OTTEN,
SHUSTERMAN AND WILLIAMS, APRIL 29, 2019

REFERRED TO COMMITTEE ON FINANCE, APRIL 29, 2019

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 "Redeemer." A person, other than a dealer or distributor,

1 that demands the refund value in exchange for an empty
2 returnable beverage container.

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

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

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

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

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

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

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

29 The term includes a Federal agency and military distributor but
30 does not include an airline or shipping company that merely

1 transports returnable beverage containers.

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

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

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

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

17 Section 4. Returnable beverage distributors.

18 (a) Duty to register.--

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

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

29 (b) Maintenance of records.--

30 (1) A returnable beverage distributor shall maintain

1 records reflecting the manufacture of beverages in returnable
2 beverage containers or the importation and the sale of filled
3 returnable beverage containers, as applicable.

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

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

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

14 Section 5. Returnable Beverage Container Fund.

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

21 (b) Use of fund.--

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

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

30 Section 6. Inventory report.

1 (a) General rule.--Except as otherwise provided under
2 subsection (f), beginning February 1, 2020, and continuing each
3 month thereafter, a returnable beverage distributor shall file
4 an inventory report with the department.

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

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

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

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

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

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

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

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

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

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

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

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

1 Section 9. Returnable beverage container requirements.

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

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

19 Section 10. Redemption of empty returnable beverage containers.

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

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

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

1 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 provided in section 14 or
5 the regulations adopted under this act.

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

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

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

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

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

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

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

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

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

30 (d) Signs of closest redemption center.--Regardless of the

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

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

13 Section 11. Redemption centers.

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

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

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

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

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

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

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

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

19 Section 12. Development of procedures.

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

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

30 A retailer or redemption center may refuse to pay the

1 returnable deposit value on a broken, corroded or dismembered
2 returnable beverage container or returnable beverage container
3 that:

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

7 Section 14. Claims for reimbursement from the fund.

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

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

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

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

24 Section 15. Redemption center reporting.

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

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

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

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

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

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

13 Section 16. Departmental inspections.

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

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

24 (2) to comply with a court order.

25 Section 17. Annual report to General Assembly.

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

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

29 (2) Detailed financial information on the payment of
30 claims from the fund and the monthly transfers to the

1 Hazardous Sites Cleanup Fund.

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

7 Section 18. Regulations.

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

10 Section 19. Effective date.

11 This act shall take effect immediately.