

ASSEMBLY BILL NO. 427—ASSEMBLYMAN OHRENSCHALL

MARCH 21, 2011

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Enacts provisions requiring the payment of deposits
and refunds on certain beverage containers sold in
this State. (BDR 40-1079)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to programs for recycling; enacting provisions
requiring the payment of deposits and refunds on certain
beverage containers sold in this State; and providing other
matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill establishes a program for requiring deposits to be paid and then
2 refunded on certain recyclable beverage containers sold in this State. Under **section**
3 **10** of this bill, every beverage container, with certain exceptions, has a refund value
4 of 5 cents. **Section 11** of this bill requires every beverage container sold in this
5 State to be clearly labeled with that refund value and as being recyclable and
6 originally sold in this State. **Section 12** of this bill requires a consumer to deposit
7 the refund value of each beverage container when purchasing a filled container, and
8 **section 13** of this bill provides for the refunding of that value to the consumer and
9 the eventual return of empty beverage containers to bottlers. **Section 14** of this bill
10 prohibits a person from attempting to return for a refund more than a certain
11 number of empty beverage containers that the person knows or has reason to know
12 were not originally sold in this State. **Section 15** of this bill provides for the
13 separate accounting of money received as a deposit for a beverage container and
14 requires certain surplus money to be transferred to the Division of Environmental
15 Protection of the State Department of Conservation and Natural Resources for use
16 in recycling and recycling promotion and education programs. **Section 16** of this
17 bill requires certain reports to be made to the Division, and **section 17** of this bill
18 requires the Division to adopt regulations necessary to carry out the provisions of
19 this bill.



* A B 4 2 7 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 444A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *As used in sections 2 to 16, inclusive, of this act, the words and terms described in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Beverage” means beer and other malt beverages, mineral water, soda water and similar carbonated soft drinks intended for human consumption.*

Sec. 4. *“Beverage container” means any sealable bottle, can, jar or carton that is primarily composed of glass, metal or plastic or any combination thereof and is produced for the purpose of containing a beverage.*

Sec. 5. *“Bottler” means any person who fills beverage containers for sale to distributors or dealers. The term includes any person who produces a beverage and fills beverage containers with that beverage for sale to distributors or dealers.*

Sec. 6. *“Consumer” means a person who purchases a beverage in a beverage container for use or consumption with no intent to resell the beverage.*

Sec. 7. *“Dealer” means a person who engages in the sale of beverages in beverage containers. The term includes the operator of a vending machine that sells beverages.*

Sec. 8. *“Distributor” means a person who engages in the sale of beverages in beverage containers to a dealer. The term includes a bottler.*

Sec. 9. *“Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.*

Sec. 10. 1. *Except as otherwise provided in subsection 2, every beverage container sold or offered for sale in this State has a refund value of 5 cents.*

2. *The following beverage containers do not have a refund value:*

(a) *A beverage container sold by a distributor for use by a common carrier in the conduct of interstate passenger service; and*

(b) *A beverage container sold by a distributor for use by a gaming establishment, saloon, restaurant or resort that demonstrates to the satisfaction of the State Environmental Commission that:*



* A B 4 2 7 *

(1) Of the beverage containers sold or given away by the gaming establishment, saloon, restaurant or resort, a percentage not less than that determined by the Division pursuant to subsections 3 and 4 contain beverages that will be consumed on the premises; and

(2) The gaming establishment, saloon, restaurant or resort has on the premises a program for recycling beverage containers.

3. The Division shall adopt regulations prescribing the method for determining the percentage of beverage containers sold or given away by a gaming establishment, saloon, restaurant or resort required for the exemption pursuant to paragraph (b) of subsection 2.

4. The regulations adopted pursuant to subsection 3 must provide for consideration by the Division of the size and nature of the gaming establishment, saloon, restaurant or resort and the purposes of this act.

Sec. 11. A beverage container may not be sold in this State unless the beverage container is clearly labeled:

1. As being reusable;

2. With the refund value of the beverage container; and

3. As being originally sold in this State as a filled beverage container.

Sec. 12. For every filled beverage container that a consumer purchases from a dealer, the consumer shall deposit the refund value of the beverage container with the dealer.

Sec. 13. 1. Except as otherwise provided in subsections 4 and 5, a dealer shall:

(a) Accept from any person during normal business hours any empty beverage container of the type, size and brand sold by the dealer at any time during the preceding 60 days; and

(b) Except as otherwise prescribed in this paragraph, pay the person the refund value of each empty beverage container so returned. To pay the person the refund value as required by this paragraph, the dealer may use money from the Deposit Transaction Account of the dealer. The dealer may refuse to pay the person the refund value as required by this paragraph if the amount of money necessary to pay the person exceeds the amount of money in the Deposit Transaction Account of the dealer.

2. Except as otherwise provided in subsections 4 and 5, a distributor shall:

(a) Accept from a dealer, during normal business hours and at the location at which the dealer normally obtains filled beverage containers from the distributor, any empty beverage container of the type, size and brand sold by the distributor at any time during the preceding 60 days; and



(b) Pay the dealer a handling fee of 1 cent per beverage container.

3. Except as otherwise provided in subsections 4 and 5, a bottler shall:

(a) Accept from a distributor or dealer, during normal business hours and at the location at which the distributor or dealer normally obtains filled beverage containers from the bottler, any empty reusable beverage container of the type, size and brand sold by the bottler at any time during the preceding 60 days; and

(b) Pay the distributor or dealer a handling fee of 1 cent per beverage container.

4. A dealer, distributor or bottler may refuse to accept a beverage container which contains material foreign to the normal contents of the beverage container other than water, soap or any similar cleaning material or solution.

5. A dealer, distributor or bottler may refuse to accept empty beverage containers that the dealer, distributor or bottler reasonably believes were not originally sold in this State as filled beverage containers.

Sec. 14. A person may not offer to return at one time to a dealer, distributor or bottler more than 250 empty beverage containers that the person knows or has reason to know were not originally sold in this State as filled beverage containers.

Sec. 15. 1. Every dealer shall maintain a separate account designated as the Deposit Transaction Account.

2. All money received by a dealer pursuant section 12 of this act must be deposited in the Deposit Transaction Account of the dealer and held in trust for the State until such time as it is disposed of pursuant to this section or section 13 of this act.

3. Any income earned on the amount in the Deposit Transaction Account of a dealer is the property of the dealer and may be transferred to a private account of the dealer at any time after the income has been accounted for, for the purpose of deeming deposit amounts abandoned pursuant to subsection 4.

4. On the last day of each month, any amount of money that is or must be in the Deposit Transaction Account of a dealer and that exceeds the sum of:

(a) Income earned on the amount in the Deposit Transaction Account during that month; and

(b) The total amount of refund values received by the dealer during that month and the two preceding months,

↪ shall be deemed abandoned deposit amounts.

5. Except as otherwise provided in subsection 6, not later than the 10th day of the following month, each dealer shall



1 *provide to the Division, in the manner prescribed by the Division,*
2 *an amount equal to the amount deemed abandoned pursuant to*
3 *subsection 4.*

4 *6. If the amount required to be provided to the Division by a*
5 *dealer in a given month exceeds the amount in the Deposit*
6 *Transaction Account of the dealer:*

7 *(a) The dealer may apply to the Division for relief from the*
8 *requirement of subsection 5; and*

9 *(b) The Division may grant such relief upon a determination*
10 *that the dealer is not at fault for the fact that the amount required*
11 *to be provided to the Division exceeds the amount in the Deposit*
12 *Transaction Account.*

13 *7. Notwithstanding any provision of law to the contrary, any*
14 *money received by the Division pursuant to subsection 5 must be:*

15 *(a) Deposited in the State Treasury;*

16 *(b) Accounted for separately in the State General Fund; and*

17 *(c) Used by the Division solely for recycling programs and*
18 *programs promoting recycling and education concerning*
19 *recycling.*

20 **Sec. 16.** *Not later than the 10th day of each month, each*
21 *dealer shall report to the Division, in the manner prescribed by the*
22 *Division:*

23 *1. The amount deposited with the dealer pursuant to section*
24 *12 of this act during the immediately preceding month;*

25 *2. The amount refunded to a consumer pursuant to section*
26 *13 of this act during the immediately preceding month and during*
27 *the immediately preceding 3 months;*

28 *3. Any income earned on money in the Deposit Transaction*
29 *Account of the dealer during the immediately preceding month;*

30 *4. The balance in the Deposit Transaction Account of the*
31 *dealer as of the close of business on the last business day of the*
32 *immediately preceding month; and*

33 *5. Any other information required by the Division.*

34 **Sec. 17.** The Division of Environmental Protection of the State
35 Department of Conservation and Natural Resources shall, on or
36 before December 31, 2011, adopt any regulations required or
37 necessary to carry out the provisions of this act.

38 **Sec. 18.** This act becomes effective:

39 *1. Upon passage and approval for the purpose of adopting any*
40 *regulations and performing any other preparatory administrative*
41 *tasks that are necessary to carry out the provisions of this act; and*

42 *2. On January 1, 2012, for all other purposes.*

