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**SENATE COMMITTEE ON ENVIRONMENTAL QUALITY**

**Senator Allen, Chair**

**2021 - 2022 Regular**

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**Bill No:** AB 1067  
**Author:** Ting  
**Version:** 1/12/2022  
**Urgency:** No  
**Consultant:** Genevieve M. Wong

**Hearing Date:** 6/1/2022  
**Fiscal:** Yes

**SUBJECT:** Beverage containers

**DIGEST:** Requires the Department of Resources Recycling and Recovery (CalRecycle), by July 1, 2023, to submit a report to the Legislature on the dealer “in-lieu” fee collected pursuant to the California Beverage Container Recycling and Litter Reduction Act (Bottle Bill).

**ANALYSIS:**

Existing law:

- 1) Under the California Beverage Container Recycling and Litter Reduction Act (Bottle Bill), requires beverage containers, as defined, sold in-state to have a California redemption value (CRV) of 5 cents for containers that hold fewer than 24 ounces and 10 cents for containers that hold 24 ounces or more, and requires distributors to pay a redemption payment to the Department of Resources Recycling and Recovery (CalRecycle) for every beverage container sold in the state. These funds are deposited into the Beverage Container Recycling Fund (BCRF) and are continuously appropriated to CalRecycle for the payment of refund values, handling fees, and other recycling-related activities. (PRC §14500 et seq.)
- 2) Requires CalRecycle to annually designate all “convenience zones,” as defined, and requires there to be at least one certified recycling center or location within every convenience zone. (PRC §§14509.4, 14571, 14571.1)
- 3) Requires, in a convenience zone where a recycling center or location does not exist and until one has been established in that zone (unserved zone), all dealers in the zone to either submit an affidavit stating that the dealer redeems all empty beverage containers types (Option A) or pay CalRecycle an in-lieu fee of \$100 per day until a recycling location is established (Option B). (PRC §14571.6)

- a) Defines “dealer” as a retail establishment that offers the sale of beverages in beverage containers to consumers. (PRC §14510)
- b) Defines “recycling center” as an operation that is certified by CalRecycle and accepts from consumers and pays the CRV for empty beverage containers. (PRC §14520)

This bill:

- 1) Requires CalRecycle to study whether the \$100 in-lieu fee paid by dealers provides incentive for a dealer to redeem beverage containers and report its findings to the Legislature.
- 2) Requires the study to include:
  - a) How many dealers are in compliance with Option A (taking back containers), how many are in compliance with Option B (paying the in-lieu fee), and how many are out of compliance and what enforcement actions have been taken against those out of compliance; and
  - b) Recommendations on whether a fee based on the dealer’s sale of beverage containers would encourage dealers to choose Option A.
- 3) Sunsets the bill’s provisions on July 1, 2027, and repeals them on January 1, 2028.

## Background

- 1) *Background on the Bottle Bill program.* The Bottle Bill was established by AB 2020 (Margolin, Chapter 1290, Statutes of 1986). The purpose of the program is to be a self-funded program that encourages consumers to recycle beverage containers to prevent littering. The program accomplishes this goal by requiring consumers to pay a deposit for each eligible container purchased. Then the program guarantees consumers repayment of that deposit, the CRV, for each eligible container returned to a certified recycler. Statute includes two main goals for the program: (1) reducing litter; and, (2) achieving a recycling rate of 80% for eligible containers.
- 2) *Ways to recycle containers.* Consumers have four different avenues in which they may recycle containers:
  - a) Return the container to a “convenience zone” recycling center located within ½ mile radius of a supermarket. These are generally small centers that only accept beverage containers and receive handling fees from the

BCRF. During 2019-20 FY, CZ recyclers redeemed about 30% of beverage containers.

- b) Return the container to an “old line” recycling center, which refers to a recycler that does not receive handling fees and usually accepts large quantities of materials, frequently by truckload from municipal or commercial waste collection services. Traditional recyclers collect a little more than half of all CRV containers (58%).
  - c) If there is not a convenience zone recycling center or an “old line” recycling center located within a particular convenience zone, dealers within that zone are required to either redeem the containers or pay an in-lieu fee. Dealers that redeem containers can recover the amount of CRV paid to consumers if they take the containers to a certified recycler.
  - d) Consumers can also forfeit their CRV and “donate” their containers to residential curbside recycling collection. In the 2019-20 FY, curbside programs collected about 12% of CRV containers. Curbside programs keep the CRV on these containers.
- 3) *Recent recycling center closures.* In August 2019, rePlanet closed all 284 of its recycling centers in California. Before its closure, rePlanet was the largest recycling network in California. Following the closures, rePlanet stated, “With the continued reduction in State fees, the depressed pricing of recycled aluminum and PET plastic, and the rise in operating costs resulting from minimum wage increases and required health and workers compensation insurance, the Company has concluded that operation of these recycling centers is no longer sustainable.” .” In total, over 1,000 recycling centers have closed since 2013. According to CalRecycle, as of February 2021, there were 1,224 recycling centers in the state. Some counties, such as Humboldt, Trinity, Sierra, and Alpine, have no recycling centers.
- 4) *Unserved convenience zones: Option A & Option B.* When the Bottle Bill was enacted in 1989, a “backstop” system was set up to ensure consumers have the ability to redeem their CRV in the event that no recycling centers in a convenience zone are available. That backstop is the dealers. When a recycling center closes, the convenience zone in which it was located becomes “unserved.” When a dealer finds itself in an unserved convenience zone, the dealer has 2 choices: Option A, in which the dealer agrees to take back beverage containers in-store; or, Option B, in which the dealer agrees to pay an in-lieu fee of \$100/day if they choose not to take back beverage containers in-store. Option B serves as an alternative for fulfilling the duty to provide

redemption opportunities to consumers. The in-lieu fee has remained \$100/day since the Bottle Bill's enactment.

## Comments

- 1) *Purpose of Bill.* According to the author, "California's Bottle Bill became law more than 30 years ago and is in dire need of updating. In the past few years, hundreds of recycling centers have closed and our inadequate recycling infrastructure has inadvertently led to a "tax" on consumers who buy beverage containers but cannot redeem their CRV. In the absence of recycling centers, the bottle bill requires beverage dealers to either take back the eligible containers they sell to consumers or pay an "in-lieu" fee of \$100 per day. However, a recent audit found that many retailers both refuse to take back the containers they sell and owe CalRecycle millions in unpaid fees. Though this provision was meant to provide consumers with a convenient way to get their nickel and dime back, it is clear that many consumers are still finding it increasingly difficult to recycle their used containers.

"As the State works to update our recycling infrastructure, it is necessary to collect information about the provisions of the Bottle Bill that work and those that do not reflect the changing global market conditions around recycling. To that end, AB 1067 would require CalRecycle to conduct a study that measures how effective the in-lieu fee provision is in incentivizing dealers to redeem the CRV for containers they sell and consider whether the flat fee of \$100 per day should be adjusted based on the amount of beverage containers sold by the retailer. This study would inform our future approaches to reforming an outdated program and ensure the State can provide consumers ample opportunities to participate in recycling effort."

- 2) *Is Option B effective?* According to a 2019 report by Eunomia Research and Consulting, in April 2017, CalRecycle reported 143 dealers chose Option B. If all 143 dealers paid \$100/day for a year, the Bottle Bill program would receive \$5.22 million per annum. In CalRecycle's March 2018 quarterly report, it forecasted \$2.538 million in Option B revenue for 2017/18, indicating that CalRecycle may not be collecting all the possible revenue (although the report notes that not all unserved zones are necessarily unserved for a full year).

The Eunomia report also comments that "[w]hile the remainder have, in theory, agreed to take back containers, in practice a negligible number of containers are returned to [dealers], partly because consumers are not being made aware of the service. It was reported in the interviews for [the Eunomia] study that

CalRecycle only has 7 inspectors to support retailer compliance. The suggestion is that [dealers] may prefer to report to CalRecycle that they are taking containers, risking a fine in the event that they are visited that will be less than the \$36,500 annual fee paid by Option B [dealers]. The lack of enforcement is not fair to Option B [dealers] and means consumers are not able to access the services that were supposedly planned for under the [Bottle Bill].”

- 3) *CalRecycle enforcement efforts.* According to CalRecycle’s 2017 and 2018 Enforcement Reports in 2017 CalRecycle inspected 442 dealers and issued 249 Notices of Noncompliance (NONC) and 45 violations. In 2018, CalRecycle inspected 231 dealers and issued 72 NONCs and 46 violations. In 2019, CalRecycle issued a \$3.6 million fine against CVS Health Corp. for failing to comply with either Option A or Option B at 81 of its 848 stores.
- 4) *This bill.* This bill requires CalRecycle to study how many dealers are opting to redeem CRV in store, how many dealers are opting to pay \$100/day in-lieu of redeeming CRV, and how many dealers are doing neither. The study would also look at whether the \$100/day in-lieu fee provides incentives to dealers to redeem the CRV and whether an in-lieu fee based on sales would provide incentives to dealers to provide redemption opportunities to consumers.

### **Related/Prior Legislation**

SB 38 (Wieckowski, 2021) establishes an industry-run bottle and can recycling program that would replace the current Bottle Bill program July 1, 2024. SB 38 has been referred to the Assembly Natural Resources Committee.

AB 1311 (Wood, Chapter 506, Statutes of 2021) expands redemption opportunities under the Bottle Bill by allowing the use of “bag drop” operations as certified recycling centers and authorizing alternative schedules for recycling centers.

AB 1454 (Bloom, 2021) makes various changes to the state’s Bottle Bill program including incorporating bag drop redemption programs, temporarily increasing processing payments to recycling centers, providing incentives to dealers to redeem beverage containers from consumers, and making various appropriations out of the BCRF to recycling-related activities. AB 1454 has been referred to this committee.

AB 1840 (Ting, 2020) would have required CalRecycle to make recommendations to the Legislature on how to improve the Bottle Bill program to increase recycling of beverage container materials within the state and increase consumer redemption convenience. AB 1840 was held in the Assembly Natural Resources Committee.

AB 2562 (Holden, 2020) would have required dealers to submit an affidavit to CalRecycle stating that the beverage container redemption requirements are being met and would have imposed a civil penalty on dealers who failed to comply with the redemption requirements. AB 2562 was held in Assembly Natural Resources Committee.

SB 724 (Stern, 2019) would have amended the Bottle Bill program to provide temporary financial assistance to recycling centers while providing permanent exemptions to dealers from various consumer redemption opportunities. SB 724 was held in Senate Appropriations Committee.

SB 452 (Glazer, 2018) is nearly identical to SB 724 (Stern, 2019). The committee heard the bill under Senate Rule 29.10 and the bill passed this committee with a vote of 7 – 0. SB 452 was vetoed by the Governor.

**SOURCE:** Author

**SUPPORT:**

Californians Against Waste  
Strategic Materials, INC.

**OPPOSITION:**

None received

**-- END --**