
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2019 - 2020 Regular

Bill No: AB 54
Author: Ting
Version: 9/10/2019
Urgency: Yes
Consultant: Genevieve M. Wong

Hearing Date: 9/11/19
Fiscal: Yes

SUBJECT: The California Beverage Container Recycling and Litter Reduction Act

DIGEST: To exempt certain dealers from beverage container redemption requirements in unserved convenience zones until July 1, 2020; to expand the recycling pilot project program, extend that program for an additional 2 years, and provide funding to support those pilot projects; and to authorize the Director of Finance to provide financial assistance to recycling centers in the form of supplemental payments.

ANALYSIS:

Existing law, the California Beverage Container Recycling and Litter Reduction Act (Bottle Bill):

- 1) 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 (Public Resources Code (PRC §14560). Requires distributors to pay a redemption payment to the Department of Resources Recycling and Recovery (CalRecycle) for every beverage container sold in the state (PRC §14575).
- 2) Provides that these funds are continuously appropriated to CalRecycle for, among other things, the payment of refund values and processing fees (PRC §14581).
- 3) Requires CalRecycle to annually designate all “convenience zones,” as defined (PRC §§14509.4, 14571.1).
- 4) Requires, in a convenience zone where a recycling center or location does not exist and until one has been established in that zone, all dealers in the zone to either: a) redeem empty beverage containers; or, b) pay CalRecycle an in-lieu fee of \$100/day until a recycling location is established (PRC §14571.6).

- 5) Defines “dealer” as a retail establishment which offers the sale of beverages in beverage containers to consumers. However, any lodging, eating, or drinking establishment, or soft drink vending machine operator who engages in the sale of beverages in beverage containers to consumers are not deemed a dealer for purposes of the Bottle Bill (PRC §14510).
- 6) Defines “recycling center” as an operation which is certified by CalRecycle and which accepts from consumers, and pays or provides the refund value for empty beverage containers intended to be recycled (PRC §14520).
- 7) Requires CalRecycle to establish a processing payment for a beverage container covered under the program that has a scrap value less than the cost of recycling, to be determined as specified, that is at least equal to the difference between the scrap value of the material and the sum of the cost of recycling and a reasonable financial return (PRC §14575(b)).
- 8) Requires CalRecycle to pay handling fees to supermarket sites, non-profit convenience zone recyclers, and rural region recyclers to provide an incentive for the redemption of empty beverage containers in a convenience zone (PRC §14585).
- 9) Authorizes, until January 1, 2020, CalRecycle to approve up to 5 recycling pilot projects that meet certain criteria and which are designed to improve redemption opportunities in unserved convenience zones. Provides that it is the intent to create new, convenient recycling opportunities to improve consumer redemption of beverage containers and increase recycling rate in jurisdictions served by pilot projects.

This bill:

- 1) Exempts from beverage container redemption requirements, until March 1, 2020, certain dealers that are located in a convenience zone that was served by, or exempted because of, a recycling center that closed between August 1, 2019, and September 1, 2019, at the initiation of the recycler.
- 2) Exempts from beverage container redemption requirements dealers located in an unserved convenience zone if a completed application for a recycling center within the convenience zone is pending before CalRecycle and a letter is submitted to CalRecycle stating the recycling center’s intent to serve that convenience zone. Sunsets this provision July 1, 2020.

- 3) Authorizes CalRecycle to approve recycling pilot projects for an additional 2 years.
- 4) Makes the following changes to the pilot projects program:
 - a) Specifies that a pilot project is not subject to hours of operation requirements that are generally applicable to certified recycling center but imposes other hours of operation requirements, including that the pilot project recycler be open at least 8 hours per week during the weekend.
 - b) Requires CalRecycle to establish an internet website to disseminate information regarding beverage container recycling opportunities.
 - c) Eliminates the requirement that a convenience zone in the pilot project shall be served by only one pilot project recycler.
 - d) Allows a pilot project recycler to be located anywhere within the pilot project area.
 - e) Makes other technical changes.
- 5) Authorizes, from the 2019-2020 fiscal year to the 2021-2022 fiscal year, CalRecycle to expend up to \$5,000,000 to support the recycling pilot projects. Declares the purpose of this appropriation is to ensure the continued support of, and to bolster, consumer redemption opportunities.
- 6) Authorizes the Director of Finance to approve the expenditure of up to \$5,000,000 from the California Beverage Container Recycling Fund for supplemental payments to recycling centers, as specified.
- 7) Contains an urgency clause.

Background

- 1) *Background on the Bottle Bill program.* The Bottle Bill was established by AB 2020 (Margolin, Chapter 1290, Statutes of 1986) 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 CRV for each eligible container purchased that is refunded when an eligible container is returned to a certified recycler. Statute includes two main goals for the program: (1) reducing litter; and, (2) achieving a recycling rate of 80 percent for eligible containers.
- 2) *Recycling convenience zones.* Convenience zones are intended to provide consumers opportunities to redeem containers near where beverages are purchased. According to CalRecycle, a convenience zone is typically a half-

mile radius with the center point originating at a supermarket that: a) is identified in the Progressive Grocer Marketing Guidebook; b) has gross annual sales of \$2 million or more; and, c) is considered a “full-line” store that sells a line of dry groceries, canned goods, or non-food items and perishable items.

In some instances, a convenience zone may be larger than a half mile. For example, an interested person may petition CalRecycle for a three-mile convenience zone to be created in a rural region when there are at least two dealers within three miles of a singular recycling center, and where the dealers are a mile or less apart and have an aggregate sales volume of at least \$2 million gross annual sales.

Recycling centers are privately owned and operated by individuals, profit, and nonprofit organizations. They are certified by CalRecycle and must adhere to standards to help provide the public the service they need, e.g. operating at least 30 hours per week and signs depicting prices paid for beverage containers.

Overlapping convenience zones are common in commercial zoning areas throughout the state. If a recycler is on-site at one convenience zone where one or more convenience zones overlap, each of these zones are served by this recycler. Accordingly, it is not necessary in such cases for each convenience zone to support its own recycling center.

A convenience zone may be exempt from the requirement to have a recycling center within its boundaries if one or more conditions are met, including: ease of access to redemption center by consumers, reasonable distance to next closest recycling center, consumers in area predominantly use curbside program for recycling, and recycling centers in the area fail to meet a sufficient volume for economic viability.

- 3) *Handling fees.* Handling fees are monthly payments made by CalRecycle to recycling centers that meet certain eligibility requirements. A recycler can receive a monthly handling fee payment for each eligible container redeemed at an eligible center. CalRecycle makes handling fee payments to recyclers to provide incentives for the convenient redemption of beverage containers. These payments encourage redemption and reward operational efficiency at supermarket site recycling centers, nonprofit convenience zone recycling centers, and rural region recycling centers operating within convenience zones. The amount of the base handling fee is determined by a cost survey to determine recycling costs per container.

- 4) *Recent recycling center closures.* In August, rePlanet closed all 284 of its 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.”

Various causes may have attributed to the closure of these recyclers. One reason may be attributed to the drop in commodity prices, which have been declining over several years. Also, oil prices have declined significantly and reached historically low levels in 2016. In 2011, PET plastic scrap prices were at a peak of \$500/ton and have steadily dropped to \$200 in 2016; a decline of 60 percent. New plastic is manufactured from oil, so when the price of oil is very low, using recycled plastic can be more expensive because it has to be sorted and cleaned.

Additionally, changes to processing payments have not kept pace with the decline in scrap values. According to the Legislative Analyst’s Office, the state subsidizes recycling by making “processing payments” to recyclers and processors. Processing payments are intended to cover the difference between a container’s scrap value and the cost of recycling it (including a reasonable rate of return). Both the costs of recycling and the scrap value of beverage containers can fluctuate significantly based on changing market prices. As a result, processing payments vary over time. Some contend that they have failed to keep up with real time pricing and includes a minimum three-month gap – this gap results in recycling centers receiving insufficient state payments to make up for the income they may lose from the decline in scrap value.

- 5) *Unserved convenience zones: Option A & Option B.* 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. These options serve as alternatives for fulfilling a duty to provide redemption opportunities to consumers.
- 6) *Pilot programs.* In 2017, former Governor Brown signed SB 458 (Wiener, Chapter 648, Statutes of 2017) authorizing CalRecycle to approve up to 5 pilot projects proposed by jurisdictions to provide convenient beverage container

redemption in both urban and rural areas that do not have enough recycling opportunities. The law allows cities, counties, and companies to partner together to open new and innovative types of redemption opportunities to serve areas that do not have enough beverage container recycling locations. The innovative recycling centers can be mobile recycling centers, stationary staffed recycling centers, reverse vending machines, pick-up services, stationary drop-off sites, or any combination of these.

Comments

- 1) *Purpose of Bill.* According to the author, “The recent closure of 284 recycling centers highlights the urgency for California to address its recycling challenges. The remaining recycling centers are now impacted by long lines and unable to serve consumers looking to get their redemptions, and many rural areas in the state have been left unserved. AB 54 would address these needs by funding mobile recycling pilots in areas impacted by these closures and providing temporary relief to stores that are unprepared to provide redemption to consumers.”
- 2) *Relief for recycling centers.* In the Budget Act of 2019, \$5,000,000 was made available to CalRecycle to provide temporary assistance to low-volume recyclers in the form of a monthly supplemental payment. Since then rePlanet has closed all of its recycling centers. In an effort to prevent the further closures of recycling centers in the state and to help maintain the state’s recycling infrastructure, AB 54 would make available an additional \$5,000,000 for supplemental payments to recycling centers.
- 3) *CalRecycle Beverage Container Recycling Pilot Program.* SB 458 (Wiener, Chapter 648, Statutes of 2017) enacted the pilot program with the goal of increasing the convenience of recycling in areas that do not have enough recycling centers. The program allows approved pilot project recyclers to have greater flexibility for how recycling centers choose to redeem beverage containers, including through mobile recycling and stationary drop-off locations. The program is set to expire January 1, 2020.

Recognizing the important role that the pilot program can play in providing consumer redemption opportunities, AB 54 would extend the program to be operative for another 2 years, expand the program to allow for more flexibility in the types pilot projects that may be approved, and require the pilot project recycler to meet certain weekend hours of operation requirements. Taken as a whole, these changes are intended to help increase and maintain consumer redemption opportunities throughout the state in light of recent recycling center

closures.

Related/Prior Legislation

SB 634 (Glazer) would make substantial changes to the Bottle Bill Program by (1) providing temporary financial assistance to recycling centers while providing, in some cases, permanent exemptions to dealers from CRV consumer redemption requirements; and (2) by authorizing the director of CalRecycle to make changes to processing fees, handling fees, create supplemental recycling incentives, and establish PET quality incentive payments, as specified. SB 634 is referred to Assembly Committee on Higher Education.

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

SB 452 (Glazer, 2018) was nearly identical to SB 724 (Stern, 2019), also amending the Bottle Bill Program to provide temporary financial assistance to recycling centers while providing, sometimes permanent, exemptions to dealers from CRV consumer redemption requirements. SB 452 was vetoed by the Governor.

SOURCE: Author

SUPPORT:

California Grocers Association
City and County of San Francisco
TOMRA Americas

OPPOSITION:

Californians Against Waste

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