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**SENATE COMMITTEE ON ENVIRONMENTAL QUALITY**

**Senator Allen, Chair**

**2021 - 2022 Regular**

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**Bill No:** AB 962  
**Author:** Kamlager  
**Version:** 6/14/2021  
**Urgency:** No  
**Consultant:** Genevieve M. Wong

**Hearing Date:** 6/28/2021  
**Fiscal:** Yes

**SUBJECT:** California Beverage Container Recycling and Litter Reduction Act: returnable beverage containers

**DIGEST:** Specifies that returnable beverage containers can be included in the California Beverage Container Recycling and Litter Reduction Act (Bottle Bill) by allowing returnable beverage containers to be considered cancelled for purposes of the Bottle Bill program if the processor transfers the empty container to a CalRecycle-approved washer.

**ANALYSIS:**

Existing law:

- 1) Under the California Integrated Waste Management Act of 1989, requires each city or county source reduction and recycling element to divert 50% of solid waste on and after January 1, 2000. (Public Resources Code §41780) It is a policy goal of the state that not less than 75% of solid waste be source reduced, recycled, or composted by 2020, and annually thereafter. (Public Resources Code (PRC) §41780.01)
- 2) Under the California Beverage Container Recycling and Litter Reduction Act (Act), 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 continuously appropriated to CalRecycle for the payment of refund values and processing fees. (PRC §14500 et seq.)
  - a) Requires CalRecycle to certify processors and requires processors to take actions necessary and approved by CalRecycle to “cancel” containers to render them unfit for redemption. (PRC §14539).

- b) Requires CalRecycle to establish a processing payment for beverage containers that has a scrap value less than the cost of recycling 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.
- c) Requires CalRecycle to pay handling fees to supermarket sites, nonprofit convenience zone recyclers, and rural region recyclers to provide an incentive for the redemption of empty beverage containers in a convenience zone.

This bill:

- 1) Defines “returnable beverage container” as a beverage container that has been used to contain a beverage, for which the applicable redemption payment has been paid, and that is returned whole and intact to a recycler or other certified entity designated by CalRecycle and capable of reuse as a beverage container.
- 2) Provides that a processor approved by CalRecycle to handle returnable beverage containers may satisfy the requirements of processors by transferring the returnable beverage container to a washer that has been approved by CalRecycle.
- 3) Provides that an empty returnable beverage container for which the applicable redemption payment has been paid, which is collected and processed unbroken for reuse as a beverage container continues to be eligible for all applicable payments and incentives provided under the Act.
- 4) Declares the intent of the Legislature that all provisions of the Act be interpreted to encourage and support the reuse, as well as the recycling, of empty beverage containers.

## 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 California Redemption Value (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) *Eligible beverage containers.* Only certain beverage containers containing certain beverages are part of the CRV program. Most containers made from glass, plastic, aluminum, and bimetal (consisting of one or more metals) are eligible. Wine, spirits, milk, fruit juices (over 46 ounces), vegetable juice (over 16 ounces), and soy drinks are not eligible for CRV. Container types that are not included in the CRV program are cartons, pouches, and any container that holds 64 ounces or more.
- 3) *Flow of CRV containers and payments.* The Bottle Bill involves the flow of beverage containers and payments between several sets of parties, including consumers, retailers, recyclers, and manufacturers. At each stage, beverage containers and CRV are exchanged between participants. The Beverage Container Recycling Fund (BCRF) is used to collect and distribute payments for the CRV program.

Consumers generally have four options to recycle (see below). Once collected, the containers are sold to a processor.

Processors sort, clean, and process the containers into materials ready to be recycled, such as glass cullet or plastic flake, which they are able to sell to manufacturers for use in new beverage containers or other types of products. Beverage manufacturers that use glass and aluminum containers combine the recycled material with virgin material to create new containers and fill them with beverages. Plastic beverage containers generally contain no recycled content; however, recent legislation now requires, commencing in 2022, that plastic beverage containers contain a minimum of 15 percent recycled content. This minimum content standard gradually increasing to 50 percent in 2030.

- 4) *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.
  - 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.
- 5) *Processing Payments.* For many material types, the cost of recycling containers is greater than the value of the recycled material, which is referred to as the “scrap value.” This means that, absent some additional financial support, accepting these containers from consumers and recycling them would be unprofitable for recyclers and processors. In order to close that gap, the state subsidizes recycling by making “processing payments” from the BCRF to recyclers and processors. CalRecycle determines processing payment amounts by estimating recycling costs through surveys of recyclers every two years and calculating scrap values based on monthly reports from processors.
- 6) *Handling Fees.* Certified recycling centers within a convenience zone receive a “handling fee” from CalRecycle based on the number of containers they redeem. The handling fees are intended to provide supermarket sites, nonprofit convenience zone recyclers, and rural region recyclers with an incentive to redeem empty beverage containers in the convenience zones.
- 7) *Cancelling beverage containers.* Cancellation is to prevent fraud and prevent a single container from being redeemed multiple times. Under the current system, a processor is required to take certain actions approved by CalRecycle to cancel empty containers to render them unfit for redemption. Pursuant to CalRecycle regulations, beverage containers are deemed cancelled in the following circumstances:
- For aluminum, when the container can no longer be physically reconstituted or distinguished as container units. This can be accomplished by shredding or densification to 30 pounds per cubic foot or more.
  - For glass, when the container has been substantially cleaned of non-glass contaminants and they are “crushed size” in such a manner as to be acceptable without further processing by a willing user.

- For plastic, when the original form has been so altered as to make its reconstitution physically impossible.
  - For bimetal, when densification is sufficient to ensure that separation of a single container is no longer possible, or by shredding, milling, or nuggeting.
  - When the empty beverage container is permanently exported from the State, as specified.
  - When the empty glass or aluminum beverage container is delivered to a location of end use and if specific requirements are met.
- 8) *Refillable beverage containers.* Under the Bottle Bill program, a refillable beverage container is exempt from the program. A “refillable beverage container” is any aluminum beverage container, bimetal beverage container, glass beverage container, plastic beverage container, or other beverage container, holding 150 fluid ounces or less of beverage, which has a minimum deposit of \$0.03, and which ordinarily would be returned to the manufacturer to be refilled and resold.

This exemption was intended to encourage reuse by enabling manufacturers who used refillable containers to continue the practice. Even still, refillable containers have dropped from around 15% of glass beverage containers in 1986 to under 1,000 containers today.

In the past, entities have looked into participating in the Bottle Bill program using refillable containers, which would also give them the ability to utilize the program’s recycling infrastructure. However, because CalRecycle regulations deems crushing or exporting out of state as ways to cancel a container, it is has been difficult for refillable containers to participate in the program.

## Comments

- 1) *Purpose of Bill.* According to the author, “We live in a single use plastic society. The volume of plastic waste discarded by each one of us is embarrassing. AB 962 is a small step toward taking advantage of returnable glass technology to reduce our waste stream. This will encourage both the returnable glass bottles along with the reduction of single plastic bottle containers.”
- 2) “*Returnable beverage container*” versus “*refillable beverage container*”. By using a different term, AB 962 preserves the existing option for refillable containers to be excluded from the program, and provides that returnable containers may be cancelled by transferring the container to a CalRecycle-

approved washer instead of being crushed.

- 3) *Sonoma Pilot Program.* Last November, a pilot program for reusable containers was launched in Sonoma County. The company operating the pilot intends to construct a bottle washing facility in the county, which could employ hundreds of residents. Until then, the program is relying on washing facilities located in Washington and Montana. To fulfill the cancellation requirement, without crushing, the containers are shipped out of state for washing. This requirement is intended to reduce the potential for fraud; however, it also increases transportation costs, and associated air and greenhouse gas emissions, and hinders the development of bottle washing facilities, and their associated jobs, in California.
- 4) *Are all beverage container materials appropriate for this program?* Beverage containers can be made of a number of different types of material: aluminum, glass, various types of plastic (PET, HDPE, PVC, LDPE, PP, PS), and bi-metal. Some of these materials may not be appropriate for reuse multiple times over. For example, studies have shown that when exposed to extreme heat, plastic can leach chemicals. Should a plastic bottle that may have been exposed to extreme heat, but seems otherwise intact, be “washed,” refilled, and placed back into the economy? These, and other considerations, will effect whether a returnable beverage container is “capable of reuse.”
- 5) *Details, details, details.* In its current form, the bill lacks detail on the mechanics of the program.
  - What standard must a container meet to be “capable of reuse” and therefore a “returnable beverage container”? It is likely that different standards will need to be developed for different container types.
  - Would this bill require CalRecycle to develop a specific approval process for processors that will be handling a returnable beverage container? What are the minimal operations standards that must be met, if any?
  - What is a “washer”? What is the approval process that CalRecycle will need to use to approve a washer? What are the standards CalRecycle will use to approve a washer? What are the minimum standards of operation that a washer should meet, if any? To be eligible for CalRecycle approval, it is likely that a potential washer would have to be located within the State for oversight purposes.
  - Are there washers available and where are they located? Are they near processors and beverage manufacturers; or would the returnable containers need to be shipped to remote locations or out-of-state for washing? According to the author, there are no washers located in

California that can be used by the Bottle Bill program. This bill would help create demand for in-state washers.

- How will the state be able to differentiate between a “cancelled” returnable container and other empty beverage containers (to prevent against fraud)? Are there other options, other than sending the beverage container out of state, that could be implemented?
- How does the returnable container get from the recycler to the processor? From the processor to the washer? From the washer to the beverage manufacturer for refilling?
- Will additional processes need to be developed to ensure that returnable beverage containers are transferred from consumer to recycler to processor to washer to beverage manufacturer and remain intact? Or will that be something that is developed by industry?
- What processing payment amount should apply to a returnable beverage container?

6) Suggested committee amendments. *The committee may wish to amend the bill as follows:*

- a) Specify that the processing payment for a returnable beverage container shall be the same amount that is paid for other beverage containers of the same material.
- b) Require CalRecycle, by January 1, 2024, to adopt regulations to implement the bill’s provisions. The regulations shall include, at a minimum, all of the following:
  - i) Standards that a beverage container must meet to be a “returnable beverage container” and “capable of reuse.”
  - ii) Approval requirements, approval processes, standards of operation, and oversight of washers.
  - iii) Approval requirements, approval processes, and standards of operation of processors for the handling of returnable beverage containers, if appropriate.
  - iv) Consider actions to prevent fraud in the redeeming of a returnable beverage container that do not include sending a returnable beverage container out of state.

**SOURCE:** Californians Against Waste (co-sponsor)  
Clean Seas Lobbying Coalition (co-sponsor)

**SUPPORT:**

10power  
350 Humboldt: Grass Roots Climate Action  
350 Silicon Valley  
Actega North America Technologies  
Alliance of Nurses for Healthy Environments  
Anheuser-busch Companies  
Azul  
Ban Sup  
Brilliant Elixirs  
California Craft Brewers Association  
California Interfaith Power & Light  
California League of Conservation Voters  
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Center for Oceanic Awareness, Research, & Education  
Climate Reality Project, San Fernando Valley  
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Courage California  
Ecology Center  
Facts: Families Advocating for Chemical & Toxins Safety  
Friends Committee on Legislation of California  
Glass Packaging Institute  
Greentown Los Altos  
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National Resources Defense Council  
National Stewardship Action Council  
Natural Resources Defense Council  
Northern California Recycling Association  
Oceana  
Opportunity Main Street  
Pier 23 Cafe Restaurant & Bar



Plastic Oceans International  
Plastic Pollution Coalition  
Plastic Pollution Coalition/ the Last Plastic Straw  
Rainbow Grocery Cooperative, INC.  
Real Good Fish  
Recology  
Resource Renewal Institute  
Reusable Packaging Association  
Robin's Restaurant  
Save Our Shores  
Sea Hugger  
Seventh Generation Advisors  
Sf Bar Owner Alliance  
Sierra Club California  
Sierra Nevada Brewing Company  
Silica  
Sonoma County Waste Management Agency  
Surfrider Foundation  
Sustain LA  
Sustainable Mill Valley  
The 5 Gyres Institute  
The Center for Oceanic Awareness, Research, and Education  
The Climate Reality Project Orange County Chapter  
The Nectary  
The Story of Stuff Project  
True Certification  
Upstream  
Vella Ventures  
Wisdom Supply Co.  
Wishtoyo Chumash Foundation  
Zero Waste Capital District  
Zero Waste Sonoma  
Zero Waste USA

**OPPOSITION:**

None received