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**SENATE COMMITTEE ON ENVIRONMENTAL QUALITY**

**Senator Allen, Chair**

**2021 - 2022 Regular**

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**Bill No:** SB 451  
**Author:** Dodd  
**Version:** 4/12/2021  
**Urgency:** Yes  
**Consultant:** Genevieve M. Wong

**Hearing Date:** 4/26/2021  
**Fiscal:** Yes

**SUBJECT:** Beverage container recycling: pilot projects

**DIGEST:** Authorizes CalRecycle, until July 1, 2026, to authorize the establishment of a pilot program for the collection and recycling of beverage containers, which may include beverages and beverage containers not currently covered by the current Bottle Bill program.

**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 (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 continuously appropriated to CalRecycle for the payment of refund values and processing fees. (PRC §14500 et seq.)
  - a) Requires CalREcycle to report the following information to the Legislature at least every six months:
    - i) Updated condition of the Beverage Container Recycling Fund (BCRF);
    - ii) The recycling rate, by beverage container material type;

- iii) An explanation of significant changes to the fund condition and of significant changes to the methodology used for forecasting the condition of the fund;
- iv) Projected sales by beverage container material type and size;
- v) Projected handling fee payments and the number of beverage containers projected to be eligible for a handling fee payment;
- vi) Projected processing payments; and
- vii) Grants awarded during the current fiscal year.

This bill:

- 1) Authorizes CalRecycle, until July 1, 2026, to approve a 3-year pilot program, which may operate in multiple jurisdictions, for the collection of empty beverage containers in an environmentally beneficial, economically efficient, and practical manner.
  - a) Authorizes the pilot program to include any “beverage” and “beverage container,” as defined by the Bottle Bill, and may also include the following:
    - i) Beverages that are sold in containers that are not an aluminum beverage container, glass container, plastic beverage container, or bimetal container.
    - ii) Wine and wine from which alcohol has been removed;
    - iii) Milk, medical food, and infant formula; and
    - iv) One hundred percent fruit juice in containers that are 46 ounces or larger.
  - b) Prohibits the pilot program from including cups or other similar open or loosely-sealed receptacles.
- 2) Authorizes the pilot program to collect material through the use of bottle bins.
- 3) Requires a pilot project operator to provide to CalRecycle a three-year plan that includes all of the following goals and elements:
  - a) Establishing recycling collection that includes all of the following:
    - i) Achieving the 80% recycling goal established by existing law;
    - ii) Determining a recycling method;
    - iii) Establishing consumer convenience;
    - iv) A list of beverages and beverage containers included in the pilot project;
    - v) A description of the pilot project area; and

- vi) A plan for the department to audit the pilot project.
- b) An annual update to CalRecycle by April 1 of each year, and a final report on the pilot project by on or before April 1, 2026.
- 4) Requires CalRecycle to review and approve, disapprove, or conditionally approve the plan within a reasonable timeframe.
- 5) Requires CalRecycle, in the biannual report required by existing law, to include an annual update on the pilot project.
- 6) Sunsets these provisions on January 1, 2026.
- 7) Takes effect immediately as an urgency statute.

## 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.

Over the years, various concerns about the program have been raised such as the structural deficit, the effectiveness of some supplemental programs supported by the program, fraud, and whether some offsets support the goals of the program.

- 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) *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.”

Various causes have attributed to the closure of these recyclers. One reason may be 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/ton in 2016. By November 2020, the price dropped further to \$101/ton. 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 processing payments have failed to keep up with real time prices and includes a minimum three-month gap, resulting in recycling centers receiving insufficient state payments to make up for the income they may lose from the decline in scrap value.

According to CalRecycle, as of February 26, 2021, there are 1,224 recycling centers in the state. Some counties, such as Trinity, Sierra, and Alpine, have zero recycling centers.

- 4) *Existing pilot project program.* To address the closure of recycling centers and reduced redemption opportunities for consumers, the pilot project program was enacted, giving CalRecycle authority to approve up to five recycling pilot projects. The pilot projects are run by applicant jurisdictions and are subject to specified criteria, including convenience thresholds for consumers to be able to redeem their CRVs and operation requirements. The pilot program does not have a consistent funding source and its operation is dependent on funding

allocations from the Legislature. The pilot project program is set to expire July 1, 2022, but proposed budget trailer language could possibly extend its operation for an additional 3 years, to 2025, and expand the program to allow CalRecycle to approve up to 10 pilot projects.

- 5) *Limitations of the current Bottle Bill program.* According to a 2017 CalRecycle publication, the Bottle Bill program is limited in its abilities to adapt to changes in consumer products and behavior, developments in recycling systems, and fluctuations in the global commodities market. These limitations have created challenges and missed opportunities to maximize the benefits of recycling beverage containers, especially climate change benefits. To that end, CalRecycle proposed a policy framework outlining key components of reform and based on the following principles:
- a) *Improving recycling and remanufacturing.* According to CalRecycle, the program has been successful in its initial goal of reducing litter by providing recycling collection opportunities for consumers. However, collection does not ensure that a product is recycled into a new commodity. Future investments should be dedicated to creating clean, recyclable streams of material to facilitate recycling and remanufacturing. To facilitate recycling and remanufacturing, CalRecycle will focus on reform efforts that maintain redemption opportunities for consumers and increase the stream of clean recyclable materials.
  - b) *Sharing responsibility.* According to CalRecycle, historically, the consumer has shouldered most of the financial burden to sustain the program. Program responsibilities and financing should be rebalanced among all program participants. Under the current program, consumers pay \$0.05 or \$0.10 on each beverage container purchased, and in order to get their money back, consumers must travel to a recycling center to return the container. In contrast beverage manufacturers pay \$0.00024 for each polyethylene terephthalate (PET) container they sell in California.
  - c) *Enhancing adaptability and sustainability.* According to CalRecycle, increases in the recycling rate have resulted in a structural deficit in the BCRF. In addition, the program does not respond quickly to fluctuations in the global commodities market. The program must be both nimble and fiscally sustainable to advance the state's economic and environmental goals. A comprehensively reformed program must be fiscally stable and include a mechanism preventing future structural deficits.

6) *AB 54 Report*. In 2019, Assembly Bill 54 (Ting, Chapter 793, Statutes of 2019) required CalRecycle to issue a report to the Legislature on “options to expand or otherwise reconfigure convenience zones under the Act in order to reduce or eliminate public costs of supporting uneconomic and low-volume recycling centers while preserving the public’s ability to redeem beverages containers for the refund value.” The report, issued March 12, 2020, identified three options to make beverage container recycling more economical, and preserve the public’s ability to redeem their CRV deposit:

- Option 1: Reconfiguring convenience zones and recycler payments from a statewide to a regional standard;
- Option 2: Allowing additional, redemption methods such as mobile and “bag-drop” services; and
- Option 3: Enhance recycled material markets by establishing minimum recycled content requirements for plastic beverage containers.

According to the report, Option 1 and 2 also assist in maintaining and improving scrap values by facilitating recycling that avoids contamination and improves the marketability of recycled material. As the value of recycled material increases, the amount of program payments necessary to cover the cost of recycling decreases.

7) *Statewide Commission on Recycling Markets and Curbside Recycling*. In 2019, The California Recycling Market Development Act (AB 1583, Eggman, Chapter 690, Statutes of 2019) required CalRecycle to convene, by July 1, 2020, a Statewide Commission on Recycling Markets and Curbside Recycling. The Commission is required, by July 1, 2021, (1) to issue policy recommendations to achieve certain market development goals, solid waste diversion goals, and organic waste disposal goals; and (2) to identify products that are recyclable and compostable and regularly collected in curbside recycling programs. The commission was required to issue preliminary recommendations by January 1, 2021.

On December 21, 2020, the Commission issued its preliminary recommendations, which included the following recommended changes to the Bottle Bill program:

- Expanding convenience zones to 1 mile in urban areas and 5 miles in rural areas, and allowing CalRecycle Director to adjust zones in jurisdictions with unique zoning or siting issues;
- Limiting store exemptions to 35% by jurisdiction or county;
- Allowing handling fee payments to recycling centers not on dealers sites, but within the zones;

- Placing a cap on handling fees received by site, zone, and jurisdiction; and
- Allowing grocers and dealers to receive payment from a recycling center or processor for the deposits paid out to a consumer and also receive handling fee payments.

## Comments

- 1) *Purpose of Bill.* According to the author, “SB 451 provides the platform to experiment a reform to the current California’s Beverage Container Redemption and Recycling program. This bill establishes a new pilot program that will give the opportunity to explore changes of the current California’s Bottle Bill program by increasing safety and convenience for Californians wanting to redeem their beverage containers. Although the current Bottle Bill program, established more than thirty years ago, has been very successful in improving recycling rates and the California recycling system, the program is now facing significant challenges as it consistently runs in deficit and recycling rates have continued to decline over the past several years.

“SB 451 will create a pilot program that modifies some aspects of the current Bottle bill program, giving the opportunity to analyze the environmental and social benefits of modernizing the existing system.”

- 2) *Separating CRV material and non-CRV beverages from curbside collection.* In addition to solid waste collection services, many jurisdictions also provide recycling collection services, commonly referred to as “curbside collection” or “curbside programs.” Curbside programs are often provided by the same waste hauler that provides the solid waste collection services. The services differ from jurisdiction to jurisdiction, with some providing single-stream collection services and others providing dual stream collection services. California’s Bottle Bill program annually provides \$15 million dollars to curbside programs to help the programs achieve the programmatic goals of the Bottle Bill program. According to a 2015 LAO report, the curbside payments are equivalent to approximately \$0.01 per container. Additionally, curbside collection operators receive revenue from redeeming CRV for containers they collect, processing payments, and administrative fees, as well as contract payments from local governments that utilize their services.

In addition to CRV material, curbside programs also collect items that are not subject to the Bottle Bill program such as wine bottles, liquor bottles, other beverage containers that are not subject to a CRV, paper, and plastic food packaging. It is unclear what collection methods will be used by the pilot

project and how those methods might differ from what is already offered to consumers. According to the author, the intent is to provide an alternative curbside pickup for CRV material and beverage containers that are not a part of the Bottle Bill program and, according to the language of the bill, that alternative collection could include a “bottle bin.”

If the intent is to provide the consumer with an alternative curbside program, from a consumer perspective, there will be little difference between placing items in a “blue bin,” that is part of a curbside program, and placing items in a “bottle bin” or other collection mechanism that is a part of an approved pilot project. In either situation, a consumer would not be getting their CRV back, if applicable.

- 3) *Will dual programs create consumer confusion?* The operation of a pilot project bottle bin alongside a curbside program blue bin could cause consumer confusion, especially if the pilot project only accepts certain types of beverage containers, some which may be subject to a CRV and others that are not. To further complicate matters, many food items are sold in containers that made of the same material and are of similar size and shape as beverages that could be covered by the pilot program. Will a consumer know, or care, to differentiate between the items? Will a consumer take the time to place glass milk jugs and glass liquor bottles in different bins if one is covered by the pilot program and the other is not? Or what about a plastic lime juice bottle versus a glass lime juice bottle? Neither of these products would be covered by the pilot project, but would a consumer know the difference, especially if a similar shaped glass beverage container that is used for fruit juice is covered? Or a brown glass worcestershire sauce bottle versus a brown beer bottle of similar size and shape? To the average consumer, both are made of dark glass and are recyclable.
- 4) *How is this different than the current pilot project program?* The current pilot projects are aimed at providing increased redemption opportunities for consumers (i.e. more opportunity to get their CRV deposit back). This new pilot program focuses more on the collection of material and will not increase consumer access to redemption opportunities nor is it clear if it would it help address the closure of recycling centers.
- 5) *Will the new pilot project be eligible for various program payments?* The current Bottle Bill program includes the payment of handling fees and processing payments.



Processing payments are provided to processors, dropoff or collection programs, curbside programs, and recycling centers. As an entity that will be operating similarly to a curbside program but may or may not be collecting CRV material, to what extent, if any, will the pilot project be eligible for processing fees?

Handling fees are provided to supermarket sites, nonprofit convenience zone recyclers, and rural regional recyclers in order to provide incentive to redeem empty beverage containers in convenience zones. The current pilot projects are authorized to apply for handling fees. The new pilot project, under the current language of the bill, would act similarly to curbside programs, which do not receive handling fees. As such, unless the new pilot project redeems beverage containers for consumers, it should not be eligible for handling fees.

- 6) *Who pays?* The current pilot project program is dependent on funding from the Legislature to operate. It is unclear how this new pilot project will be funded.

If the State pays, how much is an appropriate amount to fund a program of unknown scope and size? Will the money come out of the General Fund or the BCRF? If it comes out of the General Fund, and thereby using taxpayer money, is it appropriate for taxpayers (i.e. the consumer) to be paying for both this service through taxes and for curbside collection through utility bills? If it comes out of the Beverage Container Recycling Fund, and the pilot project covers the collection of beverages that are not a part of the Bottle Bill program, is it appropriate for CRV money to be wholly paying for the collection of these containers that do not contribute?

If the operator pays, is there enough of an incentive for an operator to want to fund the pilot project? What is that incentive?

If the consumers pay, is it through a fee? What will the fee be based on? Will the fee be based on beverage containers that are bought or on beverage containers that are disposed of? If based on beverages that are bought, on which containers? If the container is already a part of the Bottle Bill program, does the consumer pay twice? If the container is not a part of the Bottle Bill program, and the pilot project only covers a particular area of the state, what are the logistics behind charging a fee in one area for a particular type of beverage container but not in another area for that same beverage container? If the fee is based on the number of beverage containers that are disposed of, does that incentivize the consumer to either litter or not utilize the bottle bin?

- 7) *What happens after collection?* The proposed pilot project calls for an alternative mechanism for collecting recyclable material from consumers. Under the current system, a consumer can either redeem the container at a convenience zone recycling center, redeem at an “old-line” recycler, or forgo the CRV and give the container to a curbside program. Once collected, the containers are “sold” to a processor who sorts, cleans, and processes the containers into materials ready to be recycled. Certified recycling centers, dropoff or collection programs, and curbside programs are able to collect the CRV on applicable material from processors. The material is then sold to manufacturers for use in new beverage containers or new types of products.

Under the pilot project, will the operator be able to collect the CRV of collected beverage containers, if applicable? While the language references recycling by requiring the plan to determine a “recycling method,” it is unclear what the means and what happens to the material once it has been collected via the pilot project. Does it get folded into the rest of the system, with the material collected by the pilot project following the same flow as material that is collected pursuant to the current system? Or does the pilot project have its own recycling system set up to handle the CRV and nonCRV material? Could this cause a splinter in the system?

- 8) *Addressing deficiencies in the current Bottle Bill program.* The AB 54 report and the Commission’s preliminary recommendations focused on expanding consumer redemption convenience and keeping recycling centers open. SB 451 does not appear to address either of these goals. Not enough is known about the pilot project, how it will operate, or what its objectives are to be able to determine if it would further these goals or help solve the issues of the current Bottle Bill program.
- 9) *Fill in the blank.* This bill, in its current version, is not implementable. In addition to the questions discussed above, all the following questions, and more, will need to be answered and incorporated into the pilot project before it can be enacted. Otherwise, the bill runs the risk of a California Court finding the bill being invalid for being unconstitutionally vague.
- What is a “bottle bin”?
  - What is a “recycling method”?
  - What is “consumer convenience”? It seems that “convenience” in this context is not based on the consumer’s ability to redeem their CRV, but rather on their ability to dispose of their containers. How will consumer convenience be established? What standards will the program have to follow to be considered convenient to the consumer? Is a bottle bin any more convenient than what is currently available with curbside?

- d) What standard will CalRecycle use to approve, disapprove, or conditionally approve the plan?
- e) What would be considered a “reasonable timeframe” in which CalRecycle is required to approve, disapprove, or conditionally approve the plan?

### **Related/Prior Legislation**

SB 38 (Wieckowski) creates an industry-run bottle and can recycling program to replace the current Bottle Bill program, which the bill revises and sunsets July 1, 2024. SB 38 passed out of the Senate Environmental Quality Committee with a vote of 5-2. The bill has been referred to the Senate Appropriations Committee.

AB 962 (Kamlager) authorizes Bottle Bill processors that have been approved by CalRecycle to handle reusable beverage containers to satisfy certain statutory operation requirements by transferring reusable beverage containers to a CalRecycle-approved washer. AB 962 has been referred to the Assembly Natural Resources Committee.

AB 1311 (Wood) authorizes the use of a “bag drop recycling center” as an authorized recycling location operated by a recycling center and would make conforming changes. The bill also makes changes to the minimum hours a certified recycling center is required to operate. AB 1311 has been referred to the Assembly Natural Resources Committee.

AB 1454 (Bloom) establishes the Beverage Container Recycling Program Advisory Board; authorizes CalRecycle to designate a regional convenience zone serving multiple unserved supermarket-based zones based on community need; requires certified recycling centers to pay customers the refund value of their redeemed containers through either a voucher or electronic payment; and authorizes the Director of CalRecycle to increase processing payments to recycling centers for a certain number of glass and plastic containers. AB 1454 has been referred to the Assembly Natural Resources Committee.

SB 634 (Glazer, 2020) would have made various changes to the Bottle Bill program including, authorizing the Director of CalRecycle to declare a recycling exigency if certain determinations were made, which would allow for the adjustment of processing payments, increasing the handling fee; providing supplemental recycling initiatives; and providing PET quality incentive payments. SB 634 also would have expanded the pilot project program; modified dealer redemption requirements by placing limitations on the number of beverage containers that can be redeemed per day and limiting the redemption requirements to dealers with \$2,000,000 gross annual sales or more; modified various other

consumer redemption opportunities; and provided supplemental handling fee payments to low-volume recycling centers. SB 634 was held in the Assembly Rules Committee.

AB 793 (Ting, Chapter 115, Statutes of 2020) establishes minimum postconsumer recycled content standards for plastic beverage containers subject to the Bottle Bill.

AB 2381 (Choi, 2020) would have enacted the California Recycling Stabilization Act of 2020 which would have set processing payments and handling fees at the rate in effect on July 1, 2020; and would have required CalRecycle to pay supplemental handling fees to recycling centers on a per-container basis, as specified. AB 2381 was held in the Assembly Natural Resources Committee.

AB 2562 (Holden, 2020) would have made dealers who do not redeem empty beverage containers liable for a civil penalty in an undefined amount. AB 2562 was held in the 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 exemptions to dealers from various consumer redemption opportunities. SB 724 was held in Senate Appropriations Committee

SB 452 (Glazer, 2018) would have amended California's Bottle Bill program to provide temporary financial assistance to recycling centers while providing exemptions to dealers from various consumer redemption opportunities. SB 452 was vetoed by Governor Brown.

SB 60 (Glazer, 2017) would have exempt dealers in certain recycling convenience zones from having to comply with consumer redemption responsibilities. SB 60 was held by the Senate Environmental Quality Committee.

SB 458 (Wiener, Chapter 648, Statutes of 2017) authorized CalRecycle to approve up to 5 recycling pilot projects designed to improve redemption opportunities in unserved convenience zones if specified conditions were met.

**SOURCE:** Author

**SUPPORT:**

American Beverage Association  
Elders Climate Action, Norcal and Socal Chapters

**OPPOSITION:**

None received

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