SENATE BILL 641

By: Senators Frosh, Ferguson, Madaleno, Manno, Montgomery, Pinsky, and Raskin
Introduced and read first time: February 1, 2013
Assigned to: Education, Health, and Environmental Affairs and Finance

A BILL ENTITLED

AN ACT concerning

Statewide Container Recycling Incentive Program

FOR the purpose of requiring certain beverage distributors to register with the Department of the Environment in a certain manner on or before a certain date; requiring certain beverage distributors to maintain certain records; requiring a redeemable beverage container sold in the State to bear certain information beginning on a certain date; requiring each county, in consultation with the Department, to designate certain convenience zones on or before a certain date; requiring certain beverage distributors to pay a certain deposit to the Comptroller of the State beginning on a certain date; establishing procedures for the payment of certain deposits by certain beverage distributors to the Comptroller; requiring the Comptroller to deposit certain payments to the Container Recycling Incentive Fund; requiring certain beverage distributors to collect a certain deposit on redeemable beverage containers from certain retailers and on–premise sellers beginning on a certain date; requiring certain retailers to charge a consumer a redeemable beverage container deposit at the point of sale of a beverage; requiring that certain deposit charges appear as a separate line item on bills and invoices and prohibiting certain deposit charges from being included in the calculation of the sales tax on a beverage; requiring at least one licensed redemption center to be located within each convenience zone beginning on a certain date; establishing certain requirements for redemption centers; requiring each county, in consultation with the Department, to adopt certain rules and procedures for the licensing of redemption centers and to establish certain verification procedures for certain redemption centers; requiring the Comptroller to pay to a redemption center the full refund value of the redeemable beverage containers the redemption center accepts under certain circumstances; requiring the Comptroller to pay certain handling fees to privately operated redemption centers and to redemption centers operated by a county; establishing certain requirements for requests for payment submitted by redemption centers to the Comptroller; authorizing the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Comptroller to refuse payment to a redemption center under certain circumstances; establishing the Container Recycling Incentive Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the Comptroller to administer the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the purposes for which the Fund may be used; providing for the investment of money in and expenditures from the Fund; authorizing the Secretary to adopt certain regulations; requiring the Office of Recycling to work with the counties on certain activities; defining certain terms; and generally relating to the establishment of a Statewide Container Recycling Incentive Program.

BY adding to
Article – Environment
Section 9–1733 through 9–1741 to be under the new part “Part V. Statewide Container Recycling Incentive Program”
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

Preamble

WHEREAS, Four billion beverage containers are sold in Maryland each year, and fewer than 25% are reused or repurposed – the remainder end up in our landfills and litter our environment; and

WHEREAS, Research indicates that litter impacts public health and decreases property values, harming vulnerable communities and ecosystems; and

WHEREAS, Balancing environmental priorities with market incentives is crucial to growing American manufacturing in an age of globalization and climate change; and

WHEREAS, More than 2 decades of data from deposit states point to the economic and environmental benefits of integrating beverage container deposit incentive programs with curbside recycling; and

WHEREAS, Deposit systems are a proven policy tool for increasing beverage container recycling rates and protecting the environment – the 10 deposit states currently recycle more than 50% of all beverage containers in the United States, leading to reductions in greenhouse gas emissions and litter pollution; and

WHEREAS, The purpose of this Act is to incentivize the reuse and repurpose of beverage containers to encourage recycling, prevent litter, and reduce greenhouse gas emissions affecting Maryland and the Chesapeake Bay watershed; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
Article – Environment

9–1731. Reserved.

9–1732. Reserved.

PART V. STATEWIDE CONTAINER RECYCLING INCENTIVE PROGRAM.

9–1733.

(A) In this part the following words have the meanings indicated.

(B) (1) “Beverage” means an alcoholic or a nonalcoholic drink intended for human consumption and packaged for sale in a redeemable beverage container.

(2) “Beverage” includes beer and other malt beverages, wine, distilled spirits regardless of dairy–derived content, carbonated and noncarbonated soft drinks, flavored and unflavored bottled water, fruit juice, and tea and coffee drinks regardless of dairy–derived content.

(3) “Beverage” does not include:

(I) A syrup, a liquid concentrate, a condiment, or any other additive intended primarily as a flavoring ingredient in food or drink;

(II) A liquid that is a drug, a medical food, or an infant formula as defined by the Federal Food, Drug, and Cosmetic Act;

(III) A liquid that is a dietary supplement as defined in the Dietary Supplement Health and Education Act of 1994;

(iv) Milk and other dairy–derived products; or

(v) A product frozen at the time of sale to the consumer.

(C) “Comptroller” means the Comptroller of the State.
(D) “Consumer” means a person who buys a redeemable beverage container in the State for use or consumption off-premises.

(E) (1) “Distributor” means a person that manufactures beverages in redeemable beverage containers, or that imports beverages in redeemable beverage containers to sell within the State.

(2) “Distributor” does not include airlines and shipping companies that transport redeemable beverage containers.

(F) “Program” means the statewide container recycling incentive program.

(G) “Redeemable beverage container” means an individual, separate, and sealed glass, metal, aluminum, steel, or plastic jar, can, or bottle that, at its time of sale, contains not more than 33.8 fluid ounces and not less than 6 fluid ounces of a beverage intended for consumption within the State.

(H) “Redeemer” means a person, other than a retailer or distributor, who demands the refund value in exchange for an empty redeemable beverage container.

(I) “Redemption center” means a facility licensed or operated by a county to accept empty redeemable beverage containers from consumers in exchange for the containers’ refund value.

(J) “Redemption rate” means the percentage of redeemable beverage containers redeemed in the State over a reporting period, which is calculated by dividing the number of redeemable beverage containers redeemed by the number of redeemable beverage containers sold, then multiplying that number by 100.

(K) “Retailer” means a person who sells a beverage in a redeemable beverage container to a consumer for off-premises consumption.

(L) (1) “On-premise seller” means a person who sells a beverage in a redeemable beverage container for on-premise consumption.
(2) "On-premise seller includes a bar, restaurant, hotel, sporting venue, entertainment venue, and gaming venue.

(M) "Reverse vending machine" means a mechanical device that accepts one or more types of empty redeemable beverage containers and issues a redeemable credit slip for a value not less than the containers' refund value.

9–1734.

(A) (1) On or before April 1, 2014, every distributor operating within the State shall register with the Department.

(2) After April 1, 2014, any person who desires to conduct business in the State as a distributor shall register with the Department no later than 1 month before commencing business.

(B) (1) A distributor registered under this section shall maintain records of:

(I) The quantity of any beverage in a redeemable beverage container that the distributor manufactures, sells, or transfers; and

(II) The importation and exportation of any redeemable beverage container.

(2) Records kept in accordance with this subsection shall be made available for inspection at the request of the Department.

9–1735.

(A) Beginning October 1, 2014, except as provided in subsection (c) of this section, every redeemable beverage container sold in the State shall clearly indicate a refund value of 5 cents and the word "Maryland" or the letters "MD" on the redeemable beverage container.

(B) The refund value shall be clearly, prominently, and indelibly marked by painting, printing, scratch embossing, or raised–letter embossing, or by securely affixed stickers, and shall
APPEAR ON THE TOP OR SIDE OF THE REDEEMABLE BEVERAGE CONTAINER IN
LETTERS AT LEAST ONE-EIGHTH INCH IN SIZE.

(C) THIS SECTION DOES NOT APPLY TO A REFILLABLE BEVERAGE
CONTAINER THAT HAS:

(1) A BRAND NAME PERMANENTLY MARKED ON THE CONTAINER; AND

(2) THE EQUIVALENT OF A REFUND VALUE OF AT LEAST 5 CENTS
THAT IS PAID ON RECEIPT OF THE CONTAINER BY A RETAILER OR DISTRIBUTOR.

(D) NO CONTAINER MARKED IN ACCORDANCE WITH THIS SECTION MAY
BE SOLD TO A CONSUMER BEFORE OCTOBER 1, 2014.

9–1736.

(A) ON OR BEFORE APRIL 1, 2014, EACH COUNTY IN CONSULTATION
WITH THE DEPARTMENT SHALL DESIGNATE CONVENIENCE ZONES BASED ON
POPULATION DENSITY FOR THE PURPOSE OF ESTABLISHING REDEMPTION
CENTERS.

(B) ON OR BEFORE APRIL 1 OF EACH YEAR, EACH COUNTY SHALL
PREPARE AND MAKE AVAILABLE TO THE PUBLIC AN UPDATED MAP SHOWING
THE CONVENIENCE ZONES WITHIN ITS JURISDICTION.

9–1737.

(A) (1) BEGINNING OCTOBER 1, 2014, EVERY DISTRIBUTOR SHALL
PAY TO THE COMPTROLLER A DEPOSIT OF 5 CENTS FOR EVERY REDEEMABLE
BEVERAGE CONTAINER THAT THE DISTRIBUTOR SELLS, DONATES, OR
TRANSFERS WITHIN THE STATE.

(2) PAYMENT OF DEPOSITS SHALL BE MADE ON THE FIFTEENTH
BUSINESS DAY OF EACH MONTH FOR ALL SALES, DONATIONS, AND TRANSFERS
OCcurring DURING THE PRECEDING MONTH.

(3) THE COMPTROLLER SHALL DEPOSIT THE PAYMENTS
COLLECTED UNDER THIS SUBSECTION IN THE CONTAINER RECYCLING
INCENTIVE FUND, IN ACCORDANCE WITH § 9–1740 OF THIS PART.

(B) (1) BEGINNING OCTOBER 1, 2014, EVERY DISTRIBUTOR THAT
PAYS A DEPOSIT TO THE COMPTROLLER UNDER THIS SECTION SHALL COLLECT
FROM A RETAILER OR AN ON-PREMISE SELLER A DEPOSIT OF 5 CENTS ON EACH
REDEEMABLE BEVERAGE CONTAINER THE DISTRIBUTOR SELLS WITHIN THE
STATE.

(2) A RETAILER SHALL CHARGE A CONSUMER THE 5–CENT
REDEEMABLE BEVERAGE CONTAINER DEPOSIT AT THE POINT OF SALE OF THE
BEVERAGE.

(3) A DEPOSIT CHARGE MADE IN ACCORDANCE WITH THIS
SUBSECTION SHALL APPEAR AS A SEPARATE LINE ITEM ON A BILL OR INVOICE
AND MAY NOT BE INCLUDED IN THE CALCULATION OF ANY SALES TAX ON THE
BEVERAGE.

(C) BEGINNING OCTOBER 1, 2014, A REDEEMER MAY RETURN AN
EMPTY REDEEMABLE BEVERAGE CONTAINER TO A REDEMPTION CENTER
ESTABLISHED UNDER § 9–1738 OF THIS PART FOR A FULL REFUND OF THE
5–CENT DEPOSIT PAID ON THE CONTAINER.

9–1738.

(A) (1) BEGINNING OCTOBER 1, 2014, AT LEAST ONE LICENSED
REDEMPTION CENTER SHALL BE LOCATED WITHIN EVERY CONVENIENCE ZONE
DESIGNATED UNDER § 9–1736 OF THIS PART.

(2) A REDEMPTION CENTER MAY BE OPERATED BY:

(I) A COUNTY;

(II) A MUNICIPALITY; OR

(III) A PRIVATE BUSINESS OR NONPROFIT ORGANIZATION
LICENSED BY A COUNTY.

(3) A REDEMPTION CENTER SHALL:

(I) ACCEPT ALL TYPES OF EMPTY REDEEMABLE BEVERAGE
CONTAINERS FOR WHICH A DEPOSIT HAS BEEN PAID;

(II) VERIFY THAT ALL CONTAINERS TO BE REDEEMED BEAR
A VALID MARYLAND REFUND VALUE;

(III) PAY TO THE REDEEMER THE FULL REFUND VALUE IN
EITHER CASH OR A REDEEMABLE VOUCHER;
(IV) Ensure each redeemable beverage container the redemption center accepts is recycled through a contractual agreement with an in–State recycling facility, or on–premises if the redemption center is a recycling facility;

(V) Remain open at least 40 hours per week, of which at least 5 hours shall be on Saturday or Sunday; and

(VI) Forward to the Comptroller all documentation necessary to support claims for payment, in accordance with § 9–1739 of this part.

(4) A redemption center shall refuse to pay the refund value on any redeemable beverage container that:

(I) Is broken or corroded;

(II) Contains a free–flowing liquid;

(III) Does not properly indicate a Maryland refund value; or

(IV) Exhibits characteristics of having been processed and baled previously.

(5) (I) Except as provided in subparagraph (II) of this paragraph, a redemption center shall accept from a single redeemer no more than 450 redeemable beverage containers at one time.

(II) 1. A redemption center may accept more than 450 redeemable beverage containers from a redeemer that is a curbside recycling service provider or an on–premise seller.

2. A redemption center may estimate the quantity of redeemable beverage containers accepted from a curbside recycling provider or an on–premise seller using volume–to–weight conversion tables published by the United States Environmental Protection Agency.

(6) (I) A redemption center may use a reverse vending machine to satisfy the requirements of this subsection.
(II) A REVERSE VENDING MACHINE SHALL:

1. ACCEPT ANY TYPE OF EMPTY REDEEMABLE BEVERAGE CONTAINER AND PAY OUT THE FULL REFUND VALUE IN EITHER CASH OR A REDEEMABLE VOUCHER FOR ANY CONTAINER THAT BEARS A VALID MARYLAND REFUND VALUE;

2. REJECT A CONTAINER IF THE REVERSE VENDING MACHINE IS UNABLE TO READ THE BARCODE ON THE CONTAINER; AND

3. BE ROUTINELY SERVICED TO ENSURE PROPER OPERATION AND CONTINUOUS ACCEPTANCE OF EMPTY REDEEMABLE BEVERAGE CONTAINERS AND PAYMENT OF REFUND VALUES.

(B) EACH COUNTY, IN CONSULTATION WITH THE DEPARTMENT, SHALL ADOPT RULES AND PROCEDURES FOR THE LICENSING OF REDEMPTION CENTERS.

(C) TO PROTECT AGAINST FRAUD, EACH COUNTY, IN CONSULTATION WITH THE DEPARTMENT, SHALL ESTABLISH RANDOM THIRD–PARTY VERIFICATION PROCEDURES FOR REDEMPTION CENTERS THAT COUNT REDEEMABLE BEVERAGE CONTAINERS MANUALLY.

(D) EACH COUNTY SHALL BE GIVEN CREDIT FOR THE REDEEMABLE BEVERAGE CONTAINERS COLLECTED FROM CURBSIDE AND DIVERTED FROM MUNICIPAL SOLID WASTE STREAMS UNDER THIS PROGRAM TOWARDS THE RECYCLING REDUCTION RATE GOALS ESTABLISHED BY § 9–505 OF THIS TITLE.

9–1739.

(A) THE COMPTROLLER SHALL REMIT TO A REDEMPTION CENTER THE FULL REFUND VALUE OF EACH REDEEMABLE BEVERAGE CONTAINER THE REDEMPTION CENTER ACCEPTS.

(B) IN ADDITION TO THE REFUND VALUE, THE COMPTROLLER SHALL PAY TO A REDEMPTION CENTER OPERATED BY A PRIVATE ENTITY A HANDLING FEE OF 0.025 CENTS FOR EACH REDEEMABLE BEVERAGE CONTAINER THE REDEMPTION CENTER COLLECTS.

(C) IN ADDITION TO THE REFUND VALUE, THE COMPTROLLER SHALL PAY TO A REDEMPTION CENTER OPERATED BY A COUNTY OR A MUNICIPALITY A HANDLING FEE OF:
(1) 3 CENTS FOR EACH REDEEMABLE BEVERAGE CONTAINER THE
REDEMPTION CENTER ACCEPTS DURING ITS FIRST 3 YEARS OF OPERATION; AND

(2) 2.5 CENTS FOR EACH REDEEMABLE BEVERAGE CONTAINER
THE REDEMPTION CENTER ACCEPTS AFTER ITS FIRST 3 YEARS OF OPERATION.

(D) PAYMENTS TO REDEMPTION CENTERS SHALL BE MADE ON A
PER–UNIT BASIS AND NOT ON THE BASIS OF WEIGHT, EXCEPT AS AUTHORIZED IN
§ 9–1738(A)(5)(II) OF THIS PART.

(E) (1) A REDEMPTION CENTER SHALL SUBMIT REQUESTS TO THE
COMPTROLLER FOR PAYMENT NO MORE THAN TWO TIMES PER MONTH.

(2) (I) A REDEMPTION CENTER SHALL SUBMIT REQUESTS FOR
PAYMENT ALONG WITH SUPPORTING DOCUMENTATION ON FORMS REQUIRED BY
THE COMPTROLLER.

(II) REQUESTS SHALL INCLUDE, AT A MINIMUM:

1. THE NUMBER OF REDEEMABLE BEVERAGE
CONTAINERS OF EACH MATERIAL TYPE ACCEPTED AT THE REDEMPTION
CENTER DURING THE REPORTING PERIOD;

2. THE AMOUNT OF REFUNDS PAID OUT BY
MATERIAL TYPE; AND

3. THE NUMBER OF REDEEMABLE BEVERAGE
CONTAINERS OF EACH MATERIAL TYPE TRANSPORTED TO AN IN–STATE
RECYCLING FACILITY.

(3) THE COMPTROLLER MAY REFUSE PAYMENT ON ANY REQUEST
THAT CONTAINS SIGNIFICANT DISCREPANCIES OR THAT DOES NOT INCLUDE
SUFFICIENT SUPPORTING DOCUMENTATION.

9–1740.

(A) IN THIS SECTION, “FUND” MEANS THE CONTAINER RECYCLING
INCENTIVE FUND.

(B) THERE IS A CONTAINER RECYCLING INCENTIVE FUND.
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(C) The purpose of the Fund is to provide financial assistance for the Program in accordance with this part.

(D) The Comptroller shall administer the Fund.

(E) (1) The Fund is a special, nonlapsing fund that is not subject to §7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(F) The Fund consists of:

(1) Redeemable beverage container deposits collected under §9–1737 of this part;

(2) Money appropriated in the State budget to the Fund;

(3) Any investment earnings of the Fund; and

(4) Any other money from any other source accepted for the benefit of the Fund.

(G) The Fund shall be used only:

(1) To pay handling fees and refunds on redeemable beverage containers to redemption centers, in accordance with §9–1739 of this part;

(2) To implement and administer the Program; and

(3) To provide funding for State and local recycling centers, recycling equipment, recycling education, and marketing; and

(4) To provide funding for State and local environmental programs.

(H) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.
(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE SPECIAL FUND AND MAY NOT BE TRANSFERRED TO THE GENERAL FUND OF THE STATE.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(J) MONEY EXPENDED FROM THE FUND FOR THE PROGRAM IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THE PROGRAM.

9–1741.

(A) THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS PART.

(B) THE OFFICE OF RECYCLING SHALL WORK WITH THE COUNTIES TO:

(1) ASSIST WITH THE IMPLEMENTATION OF THE PROGRAM;

(2) ACHIEVE A STATEWIDE REDEEMABLE BEVERAGE CONTAINER REDEMPTION RATE OF 75% BY DECEMBER 31, 2019;

(3) DEVELOP STRATEGIES FOR PROTECTING AGAINST FRAUD IN THE PAYMENT OF HANDLING FEES AND REFUNDS; AND

(4) FACILITATE THE EXCHANGE OF INFORMATION BETWEEN REDEEMABLE BEVERAGE CONTAINER MANUFACTURERS, DISTRIBUTORS, RETAILERS, AND LICENSED REDEMPTION CENTERS, INCLUDING UNIVERSAL PRODUCT CODE INFORMATION FOR REVERSE VENDING MACHINE PURPOSES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.