SENATE BILL 684

By: Senators Ferguson, Madaleno, Montgomery, and Raskin
Introduced and read first time: February 6, 2015
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Maryland Redeemable Beverage Container and Litter Reduction Program

FOR the purpose of establishing the Maryland Redeemable Beverage Container and Litter Reduction Program; establishing the purpose of the Program; establishing the Maryland Beverage Recycling Organization; establishing the structure, purpose, and membership of the Organization; establishing a Board of Directors for the Organization; providing for the composition of the Board; providing for the election, terms, and staggering of terms of the Board; requiring the Board to carry out the duties and responsibilities of the Organization; specifying the duties and responsibilities of the Organization; requiring that every redeemable beverage container sold in the State indicate a certain refund value in a certain manner on and after a certain date; prohibiting a certain container from being sold before a certain date; requiring that wholesale and certain retail prices of a certain container include a certain refund value on and after a certain date; authorizing certain on-premises sellers to apply to the Organization for a bulk refund rate; authorizing a redeemer to return an empty redeemable beverage container to a certain location for a certain refund on and after a certain date; requiring a certain retailer to accept an empty redeemable beverage container and pay a certain refund value on and after a certain date; authorizing any retailer to participate in the Program; requiring a redemption center to accept an empty redeemable beverage container and pay a certain refund value on and after a certain date; requiring the Organization to establish and collect an exemption fee that a certain retailer may pay in lieu of participating in the Program; specifying the manner in which the exemption fee will be determined; specifying the manner in which a retailer or redemption center will calculate a certain refund value; specifying the manner in which the money collected from an exemption fee will be allocated; requiring the Organization to establish and operate certain redemption centers throughout the State; authorizing a county, municipality, or person to apply to the Organization to operate a certain redemption center; requiring the repayment of a certain loan in a certain manner; specifying the contents of Program revenue; specifying the manner in which unredeemed deposits will be used; establishing a Redeemable Beverage Container Environmental Grant

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Program; establishing the amount of funding for the Grant; requiring the
Chesapeake Bay Trust to administer the Grant; establishing the Reserve Recycling
Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the
State Treasurer to administer the Fund; requiring the State Treasurer to hold the
Fund and the Comptroller to account for the Fund; specifying the contents of the
Fund; specifying the purpose for which the Fund may be used; providing for the
investment of money in and expenditures from the Fund; establishing the Maryland
Recycling Advisory Committee; providing for the membership of the Committee;
providing for the election and term of the chair; specifying the duties and
responsibilities of the Committee; requiring the Department of the Environment to
provide staff for the Committee; requiring the legislative auditor to audit the
accounts and transactions of the Program; requiring the Organization to submit a
certain report to the Legislative Policy Committee of the General Assembly
beginning on a certain date and with a certain frequency; specifying the content of
the report; authorizing the Legislative Policy Committee to initiate a certain review
within a certain number of days after receipt of the report; requiring that certain
investment earnings be credited to the Fund; defining certain terms; and generally
relating to the establishment of the Maryland Redeemable Beverage Container and
Litter Reduction Program.

BY adding to
Article – Environment
Section 9–1733 through 9–1743 to be under the new part “Part V. Maryland
Redeemable Beverage Container and Litter Reduction Program”
Annotated Code of Maryland
(2014 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(i)
Annotated Code of Maryland
(2009 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)81. and 82.
Annotated Code of Maryland
(2009 Replacement Volume and 2014 Supplement)

BY adding to
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)83.
Annotated Code of Maryland
(2009 Replacement Volume and 2014 Supplement)

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. MARYLAND REDEEMABLE BEVERAGE CONTAINER AND LITTER REDUCTION 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:

(I) Beer and other malt beverages;

(II) Liquor;

(III) Wine;

(IV) Carbonated and noncarbonated soft drinks;

(V) Flavored and unflavored bottled water;

(VI) Fruit juice;

(VII) Sports drinks; and

(VIII) Tea and coffee drinks regardless of dairy-derived content.

(3) “Beverage” does not include:

(I) Milk;

(II) Milk substitutes; or
(III) Growlers.

(C) “Bottler” means a person that produces, bottles, and distributes beverages in redeemable beverage containers to sell within the State.

(D) “Committee” means the Maryland Recycling Advisory Committee established under § 9–1742 of this part.

(E) “Consumer” means a person that buys a redeemable beverage container in the State for use or consumption off premises.

(F) (1) “Distributor” means a person that imports, distributes, or sells beverages in redeemable beverage containers within the State.

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

(G) (1) “On-premises seller” means a person that sells a beverage in a redeemable beverage container for on-premises consumption.

(2) “On-premises seller” includes:

   (I) A bar;

   (II) A restaurant;

   (III) A hotel;

   (IV) A sporting venue;

   (V) An entertainment venue; and

   (VI) A gaming venue.

(H) “Organization” means the Maryland Beverage Recycling Organization established under § 9–1735 of this part.

(I) “Participating retailer” means a retailer that is part of the Maryland Redeemable Beverage Container and Litter Reduction Program.
(J) “PRIVATE LABEL DISTRIBUTOR” means an entity that distributes or sells a beverage in a redeemable beverage container that:

(1) Is made by the entity; or

(2) Bares a label displaying the entity’s name or other representation of the entity.

(K) “Program” means the Maryland Redeemable Beverage Container and Litter Reduction Program established under § 9–1734 of this part.

(L) “REDEEMABLE BEVERAGE CONTAINER” means an individual, separate, and sealed glass, aluminum, or plastic jar, can, or bottle that at its time of sale:

(1) Contains not more than 101 fluid ounces and not less than 8 fluid ounces of a beverage intended for human consumption within the State; and

(2) Bares a Maryland–specific refund security mark or bar code for the purpose of deterring fraud.

(M) “REDEEMER” means a person, other than a retailer, distributor, bottler, or private label distributor, that demands the refund value in exchange for an empty redeemable beverage container.

(N) “REDEMPTION CENTER” means a facility operated by a county, a municipality, or the organization that accepts an empty redeemable beverage container from a consumer in exchange for the container’s refund value or a redeemable credit slip not less than the container’s refund value.

(O) “RETAILER” means a person that sells a beverage in a redeemable beverage container to a consumer for off–premises consumption.

(P) “REUSE” does not include using a product in the maintenance of a landfill or as landfill cover.

(Q) “REVERSE VENDING MACHINE” means a mechanical device that:
(1) Accepts one or more types of empty redeemable beverage containers; and

(2) Issues a redeemable credit slip for a value not less than the container’s refund value.

9–1734.

(A) There is a Maryland Redeemable Beverage Container and Litter Reduction Program.

(B) The purpose of the Program is to:

(1) Hold the industries that produce and profit from the sale and distribution of beverage containers responsible for end-of-life management of the beverage containers;

(2) Support the reuse of beverage containers collected under this subtitle;

(3) Increase beverage container recycling from 25% to at least 70% of all redeemable beverage containers sold in the State;

(4) Reduce the volume of beverage container litter in the State; and

(5) Reduce litter collection costs incurred by counties and municipalities.

9–1735.

(A) In this section, “Board” means the Board of Directors for the Maryland Beverage Recycling Organization.

(B) (1) There is a Maryland Beverage Recycling Organization.

(2) The organization is a private for-profit entity.

(3) The purpose of the organization is to develop and operate the Program in a manner to achieve a redeemable beverage container collection rate of at least 70% by 2022.
(C) Distributors, bottlers, and private label distributors shall constitute the membership of the organization.

(D) (1) There is a Board of Directors for the organization.

(2) The Board consists of the following seven members:

   (i) Three distributors;

   (ii) Two bottlers; and

   (iii) Two private label distributors.

(3) The Board shall be elected by the membership of the organization.

(4) (i) Except for the initial terms of the Board members, the term of a member is 5 years.

          (ii) The terms of Board members are staggered as required by the terms provided for members of the Board on October 1, 2015.

          (iii) The terms of the initial Board members shall be staggered as follows:

          1. Two members, as determined by the Board, shall serve a term of 3 years;

          2. Two members, as determined by the Board, shall serve a term of 4 years; and

          3. Three members, as determined by the Board, shall serve a term of 5 years.

(iv) A member may not serve more than two consecutive 5–year terms.

(v) 1. At the end of a term, a member shall continue to serve until a successor is elected.

       2. A member who is elected after a term has begun serves for the rest of the term and until a successor is elected.
(5) (I) The Board shall annually elect a chair from among the members of the Board.

(ii) The term of the chair is 1 year.

(iii) At the end of a term, the chair may be reelected.

(6) The Board shall carry out the duties and responsibilities of the Organization.

(E) The Organization shall:

(1) Oversee the operation and maintenance of the Program, including:

(i) Obtaining funding for the costs associated with beginning Program operation;

(ii) Determining logistics for operating the Program and initiating refund collection and distribution;

(iii) Establishing procedures for marketing, tracking, and sales of redeemable beverage containers; and

(iv) Managing revenue;

(2) Develop and implement a plan for establishing and operating redemption centers throughout the State;

(3) Establish a process for a county or municipality to apply to the Organization to operate a redemption center located within the county’s or municipality’s jurisdiction;

(4) Establish a process for a person to apply to the Organization to operate a redemption center in the State;

(5) Establish the Reserve Recycling Fund as required under § 9–1741 of this part;

(6) Until the first report is filed under § 9–1743 of this part, offset the loss of revenue that a municipality or county normally receives from curbside recycling collection;
(7) Deposit $2,000,000 annually from unredeemed deposits into the Redeemable Beverage Container Environmental Grant Program established under § 9–1740 of this part;

(8) Collect and manage the exemption fee established under § 9–1737(e) of this part;

(9) Coordinate the logistics for collecting redeemable beverage containers from an on–premises seller;

(10) Establish a bulk rate for the redemption of empty redeemable beverage containers by an on–premises seller;

(11) Establish an application process for an on–premises seller to receive a bulk rate;

(12) Develop and implement a plan for the distribution, operation, and maintenance of reverse vending machines; and

(13) Pay a processing cost of 3 cents per redeemable beverage container to a distributor, bottler, private label distributor, and participating retailer.

9–1736.

(A) (1) On and after January 1, 2017, 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.

(2) A container marked in accordance with this section may not be sold to a consumer before January 1, 2017.

(B) (1) Except as provided in paragraph (2) of this subsection, on and after January 1, 2017, the wholesale price and the retail price of a full redeemable beverage container shall include the refund value of 5 cents.

(2) (i) The retail price of a full redeemable beverage container sold by an on–premises seller may not include the refund value of 5 cents.
(II) The following on-premises sellers may apply to the Organization for a bulk refund rate:

1. Casinos;

2. Stadiums with more than 30,000 seats; and

3. Any other large venue approved by the Organization.

9–1737.

(A) On and after January 1, 2017, a redeemer may return an empty redeemable beverage container to a redemption center or a participating retailer for a full refund of the 5-cent deposit paid on the container.

(B) (1) Except as provided in paragraph (2) of this subsection, on and after January 1, 2017, a retailer with a retail building of 5,000 square feet or larger shall accept an empty redeemable beverage container and pay to the redeemer the full refund value in either cash or a redeemable credit slip.

(2) Paragraph (1) of this subsection does not apply to a retailer with a retail building of 5,000 square feet or larger that pays an exemption fee to the Organization under subsection (E) of this section.

(C) Any retailer may participate in the Program.

(D) A retailer or redemption center collecting a redeemable beverage container under this section shall count each redeemable beverage container individually when calculating the refund value to be paid to a redeemer.

(E) (1) The Organization shall establish and collect an exemption fee that a retailer with a premises of 5,000 square feet or larger may pay in lieu of participating in the Program.
(2) The amount of the exemption fee shall be:

(i) determined on an individual basis; and

(ii) based on the retailer’s volume of sales.

(3) The money collected from an exemption fee shall be allocated to the establishment of a redemption center at a location that the organization determines is appropriate based on population density and consumer convenience.

9–1738.

(A) Except as provided in subsections (B) and (C) of this section, the organization shall establish and operate redemption centers throughout the State for the collection and refund of redeemable beverage containers.

(B) A county or municipality may apply to the organization to operate a redemption center located within the county’s or the municipality’s jurisdiction.

(C) A person may apply to the organization to operate a redemption center located in the State.

9–1739.

(A) Any loan taken to assist with establishing the program shall be paid off using unredeemed deposits within 18 months of obtaining the loan.

(B) Program revenue shall consist of:

(1) money collected from the sale of redeemable beverage containers for recycling or reuse;

(2) unredeemed deposits; and

(3) exemption fees collected under § 9–1737(e) of this part.

(C) Unredeemed deposits shall be used to:
(1) Pay off any loan taken to assist with beginning the Program;

(2) Fund the Redeemable Beverage Container Environmental Grant Program established under § 9–1740 of this part;

(3) Provide essential staffing for the organization and redemption centers operated by the organization;

(4) Establish and operate new redemption centers; and

(5) Track deposits and grants awarded under § 9–1740 of this part.

9–1740.

(A) In this section, “Grant” means the Redeemable Beverage Container Environmental Grant Program.

(B) There is a Redeemable Beverage Container Environmental Grant Program.

(C) The Grant shall consist of an annual allocation of $2,000,000 from the organization’s unredeemed deposits.

(D) (1) The Grant shall be administered by the Chesapeake Bay Trust.

(2) (i) Except as provided in subparagraph (II) of this paragraph, the Chesapeake Bay Trust shall have discretion to determine appropriate Grant recipients and the amount of the award.

(ii) The Chesapeake Bay Trust shall award $4,000,000 per year for 3 years to Baltimore City for addressing the Baltimore Harbor trash total maximum daily load.

9–1741.

(A) In this section, “Fund” means the Reserve Recycling Fund.

(B) There is a Reserve Recycling Fund.
(C) The purpose of the Fund is to maintain a reserve to ensure the viability of the Redeemable Beverage Container Environmental Grant Program established under § 9–1740 of this part.

(D) The State Treasurer 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) Up to $30,000,000 from unredeemed deposits collected during the Program’s first 2 years of operation;

(2) Investment earnings; and

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

(G) The Fund may be used only for:

(1) Maintenance of the reserve; and

(2) The Redeemable Beverage Container Environmental Grant Program.

(H) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(I) The Fund shall be invested and reinvested, and any investment earnings shall be:

(1) Paid into the Fund until the Fund reaches $30,000,000; and

(2) Paid out as part of the Grant for funding in the reserve that exceeds $30,000,000.

9–1742.
(A) There is a Maryland Recycling Advisory Committee.

(B) (1) The Committee consists of the following nine members:

   (i) The Secretary, or the Secretary’s designee;

   (ii) The Executive Director of the Chesapeake Bay Trust, or the Executive Director’s designee; and

   (iii) The following members appointed by the Governor:

      1. Two representatives of the Maryland Association of Counties;

      2. Two representatives of the Maryland Municipal League; and

      3. Three representatives of the State who reflect the diverse geographic, socioeconomic, age, race, and gender demographics of the State.

(2) (i) The Committee shall annually elect a chair from among the members of the Committee.

   (ii) The term of the chair is 1 year.

   (iii) At the end of a term, the chair may be reelected.

(C) The Committee shall:

   (1) Advise the Organization on the impact of the Program at the county and municipal level;

   (2) Advise the Organization on issues and concerns arising from the Program;

   (3) Consult with the Organization on best practices for Program operation; and

   (4) Educate State and local governments on Program details.
(D) **The Department shall staff the Committee.**

9–1743.

(A) **The legislative auditor shall audit the accounts and transactions of the Program as provided in § 2–1220 of the State Government Article.**

(B) (1) **Beginning on December 31, 2022, and every 5 years thereafter, the Organization shall submit a report to the Legislative Policy Committee of the General Assembly.**

(2) **The Organization shall report on:**

   (i) Program governance, management, and administration;

   (ii) Program finances;

   (iii) Program successes and challenges; and

   (iv) Any other information that the Organization considers necessary to provide a complete overview of and update on the Program.

(3) **The Legislative Policy Committee shall have 45 days after receipt of the report to initiate a review of the Program.**

**Article – State Finance and Procurement**

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

   81. the Cybersecurity Investment Fund; [and]
82. the Northeastern Maryland Additive Manufacturing Innovation Authority Fund; AND

83. THE RESERVE RECYCLING FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2015.