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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO HEALTH AND SAFETY - THE PRODUCT STEWARDSHIP BOTTLE
RECYCLING ACT

Introduced By: Representatives Barros, Shanley, Cunha, Tobon, and Blazejewski

Date Introduced: March 01, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 18.18

4 THE PRODUCT STEWARDSHIP BOTTLE RECYCLING ACT

5 **23-18.18-1. Definitions.**

6 As used in this chapter unless the context otherwise indicates, the following words and
7 phrases shall have the following meanings:

8 (1) "Beverage" means beer, ale or other drink produced by fermenting malt, spirits, wine,
9 wine coolers, soda or noncarbonated water, and all nonalcoholic carbonated or noncarbonated
10 drinks in liquid form and intended for internal human consumption.

11 (i) The term "beverage" excludes the following:

12 (A) A liquid which is (i) a syrup;

13 (B) In a concentrated form; or

14 (C) Typically added as a minor flavoring ingredient in food or drink, such as extracts,
15 cooking additives, sauces or condiments;

16 (ii) A liquid which is a drug or infant formula as defined by the Food, Drug and Cosmetic
17 Act. (21 U.S.C.);

18 (iii) A liquid which is designed and consumed only as a nutrition supplement and not as a

1 beverage:

2 (iv) Products frozen at the time of sale to the consumer, or, in the case of institutional
3 users such as hospitals and nursing homes, at the time of sale to such users;

4 (v) Products designed to be consumed in a frozen state;

5 (vi) Instant drink powders;

6 (vii) Seafood, meat or vegetable broths, or soups, but not juices; and

7 (viii) Milk and dairy derived products.

8 (2) "Brand" means the designation of product as determined by a separate label and/or
9 Universal Product Code.

10 (3) "Director" means the director of the department of health.

11 (4) "Contracted agent" means a public or private company or individual who enters into
12 an agreement with the initiator of deposit to pick up empty beverage containers from redemption
13 centers and dealers.

14 (5) "Dealer" means a business entity that sells, offers to sell or engages in the sale of
15 beverages in a beverage container to a consumer from a retail food establishment licensed by the
16 department of environmental management or the department of health.

17 (6) "Department" means the department of health.

18 (7) "Initiator of deposit" means a business entity, either a manufacturer, distributor, or
19 seller that is licensed by the department of health.

20 (8) "Kind" means the general composition of a beverage container, such as plastic, glass
21 or metal.

22 (9) "Member dealer" means any dealer who is included in the license approving a local
23 redemption center as issued by the director.

24 (10) "Milk" and "dairy-derived products" means whole milk, skim milk, cream, low-fat
25 milk, or any combination and includes other products of which the single largest ingredient is
26 whole milk or milk fat or milk with varying percentages of milk fat.

27 (11) "Paper or cardboard container" means a container which is composed of at least
28 eighty percent (80%) by volume of paper material and does not require a deposit.

29 (12) "Private label" means the label on a beverage container which is manufactured for
30 exclusive sale or use by a retailer, organization or entity.

31 (13) "Redemption center" means any place of business that accepts empty returnable
32 beverage containers from either consumers or from dealers, or both, and that is licensed by the
33 Rhode Island department of health as a redemption center:

34 (i) Reverse vending machines are considered to be a redemption center if they are used as

1 "stand alone" devices and not as a part of a licensed redemption center:

2 (ii) If a reverse vending machine is used as a "stand alone" device and not as part of a
3 licensed redemption center, it will be the responsibility of the lessee or device owner to license
4 the location as a redemption center as required in this chapter.

5 (14) "Retailer" means a dealer that sells, offers, or exposes for retail sale, beverages in
6 beverage containers.

7 (15) "Reverse vending machine" or "RVM" means an automated device that uses a laser
8 scanner, microprocessor, or other technology to accurately recognize the Universal Product Code
9 (UPC) on containers and accumulates information regarding containers redeemed, thereby
10 enabling the RVM to accept containers from redeemers and to issue script for their refund value.

11 (16) "Shell" means the standard trade package made of fiberboard, wood or plastic
12 designed for packaging, carrying or transporting glass or plastic beverage containers.

13 (17) "Shipping carton" means the standard trade package made of cardboard or other
14 material designed for packaging, carrying or transporting all types of beverage containers, and
15 includes plastic bags used for the return of such containers.

16 (18) "Size" means the liquid content of a beverage container, such as five hundred
17 milliliters (500 ml.) or two (2) liter.

18 (19) "Type" means the unique physical design or construction of a beverage container,
19 such as a flip top container.

20 (20) "Universal Product Code" or "UPC Code" means a standard for encoding a set of
21 lines and spaces that can be scanned and interpreted into numbers to identify a product. Universal
22 Product Code may also mean any accepted industry barcode which replaces the UPC code
23 including, but not limited to, Universal Product Code (UPC), European Article Number (EAN)
24 and other codes that may be used to identify a product.

25 **23-18.18-2. Licensing of redemption centers.**

26 (a) All redemption centers within the state of Rhode Island must be licensed with the
27 Rhode Island department of health prior to beginning operation. Applications for approval of
28 redemption centers shall be filed with the department. A fifty dollar (\$50.00) annual license fee
29 shall accompany each application. Redemption centers must be inspected by the department of
30 environmental management (DEM) and meet all applicable requirements prior to licensure.

31 (b) Applications shall be made on a form to be provided by the department pursuant to
32 rules and regulations promulgated by the director.

33 (c) The director may approve an application for a redemption center if they find that the
34 center will provide a convenient service for the return of empty beverage containers, has

1 agreements with local retailers (dealers), and meets all other licensing requirements enumerated
2 in this chapter and pursuant to department rules and regulations. In making this determination
3 with respect to an existing center, the director may consider its compliance with the requirements
4 of this chapter and the quality of the service provided.

5 (d) After a license has been issued to a redemption center, the owner shall apply to the
6 department for approval of any additional dealers not named in the application. The director's
7 decision as to whether such dealers may be member dealers shall be made according to the
8 criteria set forth in this section.

9 (e) All licenses are subject to suspension or nonrenewal for good cause shown, including,
10 but not limited to, unsafe practices, falsification of reports, or serious or continued violation of
11 this chapter pursuant to and in accordance with chapter 35 of title 42, (administrative procedures
12 act).

13 (f) The director may approve only one application for a redemption center license in a
14 municipality with a population of five thousand (5,000) or less.

15 (g) Any operating redemption center destroyed as a result of a catastrophic event, such as
16 a fire, flood or other natural disaster, may rebuild and obtain a license to operate a redemption
17 center on the same property or open a redemption center in an already existing structure within
18 the same municipality as the original redemption center, it is in operation within six (6) months of
19 the catastrophic event and in compliance with all other provisions of this chapter.

20 (h) Agreements to serve local dealers shall be in writing and shall state the name and
21 address of the dealer to be served and the distance from the dealer to the redemption center. The
22 agreements must be signed by both parties. For purposes of compliance with this section only,
23 local dealers with a permanent presence in a "brick and mortar" retail food establishment or
24 eating establishment will be considered for an approved agreement.

25 **23-18.18-3. Licensing of initiators of deposit.**

26 (a) All initiators of deposit distributing or selling beverages in the state must be licensed
27 with the department of health prior to beginning operation. Applications for approval of initiators
28 of deposit, with the exception of small brewers and vintners who produce no more than fifty
29 thousand (50,000) gallons of its product or a bottler of water who annually sells no more than two
30 hundred fifty thousand (250,000) containers each containing no more than one gallon of its
31 product, and a small beverage manufacturer whose total production of all beverages from all
32 combined manufacturing locations is less than fifty thousand (50,000) gallons annually shall be
33 filed with the department. A five hundred dollar (\$500) annual license fee shall accompany each
34 application.

1 (1) Applications for approval of initiators of deposit of small brewers and vintners who
2 produce no more than fifty thousand (50,000) gallons of its product or a bottler of water who
3 annually sells no more than two hundred fifty thousand (250,000) containers each containing no
4 more than one gallon of its product shall be filed with the department. A fifty dollar (\$50.00)
5 annual license fee shall accompany each application.

6 (2) Applications for approval of initiators of deposit of small beverage manufacturers
7 whose total production of all beverages from all combined manufacturing locations is less than
8 fifty thousand (50,000) gallons annually shall be filed with the department. A fifty dollar (\$50.00)
9 annual license fee shall accompany each application.

10 (b) Applications shall be made on a department form entitled "Beverage Container
11 Licensing/Label Registration" and shall supply the information requested thereon.

12 (c) Initiators of deposit shall annually provide current lists of beverages on which they
13 initiate deposit.

14 (d) Initiators of deposit must notify the department whenever products on which they
15 initiate deposits are added or discontinued.

16 **23-18.18-4. Licensing of contracted agents.**

17 (a) All contracted agents operating in the state must be licensed with the department of
18 health prior to beginning operation. Applications for approval of contracted agents shall be filed
19 with the department. A five hundred dollar (\$500) annual license fee shall accompany each
20 application.

21 (b) A contracted agent is required to perform all of the pickup functions of the initiator of
22 deposit with whom they contract unless expressly exempted in the contractual agreement between
23 the initiator and the contracted agent.

24 (c) Applications shall be made on a department form entitled "Beverage Container
25 Licensing/Label Registration" and shall supply the information requested thereon.

26 (d) Contracted agents shall annually provide current lists of initiators of deposit with
27 whom they have contracts and beverage containers which they pick up.

28 (e) Contracted agents shall notify the department of whenever initiators of deposit with
29 whom they have contracts and/or beverages containers which they pick up are added or
30 discontinued.

31 **23-18.18-5. Registration of beverage container labels.**

32 (a) Registration of beverage container labels must take place at the manufacturer level.
33 However, if the beverage container has a "private label", the brand owner shall be responsible for
34 label registration.

1 (b) Any beverage must have affixed a label that is registered with the department that
2 bears a universal product code, that shall be unique for each combination of kind, size, brand and
3 flavor of beverage offered for sale in the state. UPC codes must be in compliance with current
4 standards for seasonal beverages and variety packaging outlined in Global Standards 1, (GSI) a
5 global nonprofit dedicated to developing standards for UPC use.

6 (c) Any wine requiring a deposit and refund value must have affixed, a label that is
7 registered with the department.

8 (d) Wine and spirits, unless labeled by the manufacturer with the deposit and refund
9 value, must be labeled with a refund/deposit sticker that clearly identifies the initiator of deposit
10 and the refund value. Prior to the sale of a wine or spirit container to which a separate sticker
11 stating the refund value is to be affixed, the manufacturer or initiator of deposit must submit a
12 sample of the sticker to the department for approval.

13 (e) The registration of beer, wine and spirits beverage container labels shall be
14 coordinated, to the maximum extent possible, to eliminate duplicate registration with any other
15 state law.

16 (f) The registration period for each beverage label shall be from January 1 to December
17 31 and applications for label registration shall be on forms or in an electronic format provided by
18 the department. Labels may be registered for a one, two (2), or three (3) year period.

19 (g) If a universal product code on a beverage container is changed during the registration
20 period it will be considered to be discontinued and an application for registration of the label
21 bearing the new UPC code and appropriate registration fee must be submitted to the department.

22 (h) Fees shall be applied as follows:

23 (1) Wine labels one dollar (\$1.00) annually.

24 (2) All other beverage labels four dollars (\$4.00) annually.

25 **23-18.18-6. Operation of redemption centers.**

26 (a) All empty beverage containers shall be separated from food products sold on the
27 premises by a solid partition.

28 (b) Redemption centers shall be operated in such a manner as not to be a nuisance to the
29 surrounding area and shall:

30 (1) Have all necessary precautions to eliminate and protect against insect and rodent
31 infestation inside and surrounding the premises.

32 (2) Store unsorted and sorted beverage containers to protect beverage containers from
33 adverse environmental conditions including, but not limited to, rain, snow, and mud.

34 (3) Provide sanitary facilities to ensure adequate personal hygiene for employees, which

1 comply with United States Department of Labor standards in 29 CFR 1910.141. Sanitary
2 facilities include toilet, hand wash sink, approved septic system and hot and cold potable water
3 under pressure.

4 (4) A redemption center is exempt from the requirements of §23-18.8-6(b)(3) if the
5 redemption center is operated by the owner and immediate family members only and has no other
6 employees.

7 (5) Hold a valid retail food establishment license issued by the department if foods or
8 beverages are sold, and meet all applicable sanitation requirements.

9 (6) Comply with the inspection standards contained on the department form entitled
10 "Redemption Center Inspection." These standards are incorporated herein by reference.

11 (c) Redemption centers shall be open for business accepting empty beverage containers a
12 reasonable number of hours, the volume of returns and area population considered. Redemption
13 centers shall post their hours of operation in a conspicuous place.

14 (d) The location of proposed and existing redemption centers shall be convenient to
15 member dealers and their customers to be served.

16 (e) Redemption centers may charge a fee to members.

17 (f) A redemption center may pick up beverage containers from nonmembers.

18 (g) A redemption center shall tender beverage containers to a distributor or third party
19 contracted agent by making reasonable accommodations that allow for the distributor or third
20 party contracted agent to have ease of access to those beverage containers being tendered or, in
21 the event that storage is not convenient to the loading area, by assisting in the loading of the
22 transportation vehicle by moving the properly sorted bags or boxes of containers to a
23 predetermined loading area during pickup of said containers.

24 **23-18.18-7. Reverse vending machines.**

25 (a) Reverse vending machines must identify, cancel, and destroy one-way deposit
26 containers and reject refillable containers. Reverse vending machines shall collect accounting
27 information for deposit and scrap settlement.

28 (b) Reverse vending machines must meet the Rhode Island standards on weights and
29 measures pursuant to title 47 and be designed to provide an accurate printed report containing all
30 of the following:

31 (1) The number of containers placed in the reverse vending machine over a
32 predetermined time period.

33 (2) The brand name of each beverage container placed in the reverse vending machine.

34 (3) The kind, size, and brand of each beverage container placed in the reverse vending

1 machine.

2 (c) A reverse vending machine and any report that it provides are subject to inspection
3 and audit by the department.

4 (d) Each distributor of beverage containers which have been processed through a reverse
5 vending machine shall have the opportunity to pick up their share of scrap material, as determined
6 from information gathered from the reverse vending machine.

7 (e) In a reverse vending machine (RVM) system, the RVM provider shall be required to
8 accumulate and maintain data to allow for geographical allocation of scrap pick up equal to a
9 distributor's share of containers.

10 **23-18.18-8. Acceptance of beverage containers by distributors from dealers and**
11 **redemption centers.**

12 (a) A dealer or redemption center shall tender to a distributor only empty, unbroken and
13 reasonably clean beverage containers of the kind, size, and brand sold by the distributor, unless
14 the containers have been processed through an approved reverse vending machine which meets
15 the requirements of this chapter. For purposes of this section, unbroken when used in reference to
16 cans and plastic containers shall mean not previously crushed prior to tendering back to a
17 distributor.

18 (b) With the exception of beverages specifically exempted in definitions §23-18.18-1, a
19 dealer or redemption center shall sort beverage containers by kind, size, and brand unless a
20 mutually acceptable agreement, as described in §23-18.18-11, is reached between the dealer or
21 redemption center and the distributor.

22 (1) Empty containers, unless they have been processed through an approved reverse
23 vending machine that meets the requirements of this chapter, shall be tendered to the distributor
24 in shells or shipping cartons provided by the distributor, or other containers mutually agreed upon
25 by the distributor and retailer.

26 (c) Pick up of such beverage containers from a dealer or local redemption center shall be
27 the responsibility and expense of the distributor, unless the distributor has made other
28 arrangements satisfactory to the dealer or redemption center for recycling or disposal of beverage
29 containers.

30 (d) Containers may be sorted in any other manner that is consistent with §23-18.18- 11.

31 **23-18.18-9. Frequency of pick up by distributors from redemption centers.**

32 (a) The initiator of deposit or initiators of deposit who are members of a commingling
33 agreement and contracted agents representing an initiator of deposit shall pick up empty,
34 unbroken and reasonably clean beverage containers of the particular kind, size, and brand sold by

1 the initiator from dealers to whom a distributor has sold those beverages and from licensed
2 redemption centers designated to serve those dealers every fifteen (15) calendar days.

3 (b) A redemption center after collecting ten thousand (10,000) beverage containers
4 belonging to an initiator of deposit or from the initiators of deposit who are members of a
5 commingling agreement may request an additional pick up from the initiator of deposit or
6 initiators of deposit who are members of a commingling agreement and contracted agents
7 representing an initiator of deposit.

8 (c) When a redemption center makes a request for beverage container pick up, the
9 initiator of deposit or initiators of deposit who are members of a commingling agreement and
10 contracted agents shall fulfill the request no later than three (3) business days starting the day
11 after the request was made.

12 **23-18.18-10. Time for payment by distributors or contracted agent to dealers and**
13 **redemption centers.**

14 (a) The distributor or contracted agent shall pay the dealer or local redemption center all
15 applicable refunds, deposits and handling charges no later than ten (10) business days after
16 acceptance.

17 (b) If payment is made by mail, payment shall be deemed to take place upon mailing.

18 **23-18.18-11. Private contracts and business transactions.**

19 These rules shall not be interpreted to prohibit any other arrangements for sorting,
20 delivery, acceptance of payment or other matter related to beverage containers when the
21 arrangement is consistent with the general laws or rules and regulations provided by the
22 department of business regulation and is mutually agreed upon in writing between the distributor
23 and the dealer or redemption center, or reverse vending provider and the distributor and/or dealer
24 or redemption center.

25 **23-18.18-12. Refusing payment when a distributor discontinues a specific beverage**
26 **product.**

27 Distributors, contracted agents, dealers, and redemption centers shall not refuse to pay the
28 refund value of the returned beverage container as established by this chapter except that
29 distributors, dealers and redemption centers may refuse to pay such refund value in the following
30 situations:

31 (1) A distributor may refuse to pay the refund value if the distributor has given notice, in
32 writing, to dealers to whom the distributor sold similar beverage containers and the licensed
33 redemption centers serving those dealers that the particular kind, size, and brand offered for
34 refund has been discontinued and at least four (4) months have elapsed since the mailing of such

1 notice:

2 (2) A dealer or redemption center may refuse to pay the refund value of beverages
3 discontinued by a distributor in accordance with subsection (1) of this section, no sooner than
4 three (3) months after the distributor has mailed the notice required by subsection (1); and

5 (3) In no event shall a dealer or redemption center refuse to pay the refund value of
6 discontinued beverages unless such dealer or redemption center shall have posted for at least
7 thirty (30) days a conspicuous notice advising consumers of the final date of acceptance.

8 **23-18.18-13. Refund value initiation.**

9 Initiation of the deposit for non-refillable containers sold through distributorships which
10 have no exclusive geographic area may take place at the manufacturer level at the manufacturer's
11 discretion; otherwise initiation of the deposit shall take place at the distributor level. Initiators of
12 deposit must be licensed with the department prior to distribution of any beverage requiring
13 deposit within the state.

14 **23-18.18-14. Clearly defined labeling requirements.**

15 (a) Placement of label; method of labeling. On printed labels, the refund value and the
16 word "Rhode Island" or the abbreviation "RI" shall be clearly and conspicuously displayed on
17 every beverage container using letters, numerals and symbols not less than one eighth (1/8) inch
18 high in clear and prominent typeface and a color contrasting with its background. The refund
19 value shall not be indicated on the bottom of the container.

20 (1) On metal beverage containers the refund value and the word "Rhode Island" or the
21 abbreviation "RI" shall be embossed, incised, or printed clearly and conspicuously on the top of
22 every beverage container using letters, numerals and symbols not less than one eighth (1/8) inch
23 high.

24 (b) Approval of container labels. Prior to sale within the state, manufacturers or
25 distributors must submit the entire label (including any printed material on the container) to the
26 department for approval.

27 (c) If a manufacturer directly prints, embosses, or incises the Rhode Island redemption
28 value on the beverage container, the manufacturer, or in the case of a private label the brand
29 owner, must submit such labeled container to the department for approval.

30 (d) With the exception of wine products and seasonally produced malt liquor products
31 and variety packages of malt liquor products, all beverage containers sold in the state of Rhode
32 Island shall bear a universal product code (UPC) that shall be unique to each combination of
33 beverage brand, kind, size, and flavor.

34 **23-18.18-15. Exempt facilities.**

1 Certain producers of products made in Rhode Island as determined by the director are
2 exempt from the required refund and deposit provisions of this chapter. Local producers
3 providing beverages in containers that do not bear a deposit/refund statement shall receive empty
4 containers from consumers who voluntarily return them without deposit. The opportunity for
5 consumers to return empty containers shall be conspicuously posted at the producer's place of
6 business and should encourage the return of containers to the processor for recycling.

7 **23-18.18-16. Plastic Bag Specifications.**

8 Plastic bags used to tender beverage containers by redemption centers to distributors or
9 third party agents shall be of uniform dimensions that are thirty-six inches (36") in width by sixty
10 inches (60") long with a minimum thickness of one and two millionths of an inch (1.2 mils) and
11 with flat bottoms.

12 **23-18.18-17. Signs Conspicuously Posted.**

13 (a) Each area of a redemption center where consumers tender returnable containers must
14 have a "Warning Sign" conspicuously posted. Warning signs shall be constructed of durable
15 materials and printed in horizontal block form. Each letter of the warning sign shall be of bold
16 type measuring a minimum of one inch (1") in height.

17 (b) Member dealers shall conspicuously post the name and address of the local
18 redemption center, which serves the dealer for purposes of redeeming returnable beverage
19 containers of the kind, size, and brand sold by the dealer.

20 **23-18.18-18. Audits.**

21 (a) Initiators, distributors and third party contracted agents may conduct audits to
22 determine accuracy of container counts for bags tendered as full bags by dealers and redemption
23 centers.

24 (b) The audits must follow accepted weights and measures laws and procedures pursuant
25 to title 47 and necessary rule or regulation promulgated by the director.

26 **23-18.18-19. Rules and regulations.**

27 The director is hereby empowered and directed to promulgate rules and regulations
28 necessary to administer and enforce the provisions of this chapter.

29 **23-18.18-20. Severability.**

30 If any provision of this chapter or the application thereof to any person or circumstances
31 is held invalid, the invalidity does not affect other provisions or applications of the chapter which
32 can be given effect without the invalid provision or application, and to this end the provisions of
33 this chapter are declared to be severable.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY - THE PRODUCT STEWARDSHIP BOTTLE
RECYCLING ACT

- 1 This act would create a beverage container recycling program using redemption centers
- 2 which would include the use of automated devices to accept containers for recycling.
- 3 This act would take effect upon passage.

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