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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO HEALTH AND SAFETY -- BEVERAGE CONTAINER DEPOSIT
RECYCLING ACT OF 2020

Introduced By: Senators McKenney, Sheehan, Cano, Valverde, and Sosnowski

Date Introduced: February 25, 2020

Referred To: Senate Environment & Agriculture

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 BEVERAGE CONTAINER DEPOSIT RECYCLING ACT OF 2020

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

6 As used in this chapter:

7 (1) "Beverage" means an alcoholic beverage as defined in § 3-1-1 including, but not limited
8 to, beer and other malt beverages, wine, and liquor; and any nonalcoholic carbonated or
9 noncarbonated drinks in liquid form intended for internal human consumption including, but not
10 limited to, soda water or similar carbonated soft drinks, water, mineral water, dairy drinks, fruit
11 juices, sports drinks and energy drinks.

12 (2) "Beverage container" means any sealable bottle, can, jar, or carton which is primarily
13 composed of glass, metal, plastic or any combination of those materials and is produced for the
14 purpose of containing a beverage. This definition shall not include containers made of
15 biodegradable material.

16 (3) "Bottler" means any person filling beverage containers for sale to distributors or dealers,
17 including dealers who bottle or sell their own brand of beverage.

18 (4) "Consumer" means any person who purchases a beverage in a beverage container for

1 use or consumption with no intent to resell such beverage.

2 (5) "Dealer" means any person, including any operator of a vending machine, who engages
3 in the sale of beverages in beverage containers to consumers in this state.

4 (6) "Distributor" means any person who engages in the sale of beverages in beverage
5 containers to dealers in this state including any bottler who engages in such sales.

6 (7) "Label" means a molded imprint or raised symbol on or near the bottom of a plastic
7 product.

8 (8) "Plastic" means any material made of polymeric organic compounds and additives that
9 can be shaped by flow.

10 (9) "Plastic bottle" means a plastic container that has a neck that is smaller than the body
11 of the container, accepts a screw type, snap cap or other closure and has a capacity of sixteen fluid
12 ounces (16 fl. oz.) or more, but less than five gallons (5 gal.).

13 (10) "Rigid plastic container" means any formed or molded container, other than a bottle,
14 intended for single use, composed predominantly of plastic resin and having a relatively inflexible
15 finite shape or form with a capacity of eight ounces (8 oz.) or more, but less than five gallons (5
16 gal.).

17 (11) "Reusable beverage container" means any beverage container so constructed and
18 designed that it is structurally capable of being refilled and resold by a bottler at least ten (10) times
19 after its initial use.

20 **23-18.18-2. Refund value; Exemption.**

21 Every beverage container sold or offered for sale in the state shall have a refund value of
22 not less than ten cents (\$0.10). The provisions of this section shall not apply to such containers sold
23 by a distributor for use by a common carrier in the conduct of interstate passenger service.

24 **23-18.18-3. Refund of container refund; Refusal to accept container.**

25 (a) Every consumer shall deposit with the dealer the refund value of each beverage
26 container purchased from that dealer.

27 (b) Except as provided in subsection (f) of this section, a dealer shall accept from any
28 person during business hours any empty beverage container of the type, size and brand sold by the
29 dealer within the past sixty (60) days and shall pay that person the refund value of each beverage
30 container returned.

31 (c) Except as provided in subsection (f) of this section, a distributor shall accept from any
32 dealer any empty beverage container of the type, size and brand sold by the distributor within the
33 past sixty (60) days and shall pay the dealer the refund value of the beverage container plus a
34 handling fee of at least four cents (\$0.04) per container if the empty beverage container is presented

1 at the time of and at the location at which the dealer obtains filled beverage containers from the
2 distributor.

3 (d) Except as provided in subsection (f) of this section, a bottler shall accept from a
4 distributor or a dealer any empty reusable beverage container of the type, size, and brand sold by
5 the bottler within the past sixty (60) days and shall pay the distributor or dealer the refund value of
6 the reusable beverage container plus a handling fee of at least four cents (\$0.04) per container if
7 the empty reusable beverage container is presented at the time and at the location where the
8 distributor or dealer obtains filled reusable beverage containers from the bottler; provided,
9 however, that a bottler other than a bottler of soft drinks manufacturing in this state who offers to
10 refund deposits in accordance with this section, shall not require a distributor to deposit with the
11 bottler the refund value of a beverage container which is not reusable, nor shall a bottler require of
12 a distributor that beverage containers which are not reusable, be presented to the bottler at the
13 location where the distributor obtains filled beverage containers.

14 (e) Any person may establish a redemption center and shall have the right to determine
15 what type, size and brand of beverage container shall be accepted. Except as provided in subsection
16 (f) of this section, a distributor shall take from any redemption center any empty beverage container
17 of the type, size and brand sold by the distributor within the past sixty (60) days and shall pay the
18 redemption center the refund value of the container plus a handling fee of at least four cents (\$0.04)
19 per container.

20 (f) A dealer, distributor, redemption center or bottler may refuse to accept any beverage
21 container which contains material foreign to the normal contents of the container.

22 (g) Any bottler or distributor who receives deposits and/or handling charges under this
23 chapter shall segregate said deposits or handling charges in a fund which shall be maintained
24 separately from all other revenues. Said bottler or distributor shall report on a monthly basis to the
25 Rhode Island resource recovery corporation and the division of revenue, the amount of said deposits
26 or handling charges received and the amount refunded.

27 (h) Any bottler or distributor who is subject to the provisions of subsection (c), (d) or (e)
28 of this section shall maintain a separate account to be known as the deposit transaction fund. Said
29 fund shall be kept separate from all other revenues and accounts. Each bottler or distributor shall
30 place in said fund the refund value for all non-reusable beverage containers it sells subject to the
31 provisions of this chapter.

32 Except as specified in subsection (d) of this section, amounts in such fund may only be
33 expended to pay refund values paid after January 1, 2021, for returned non-reusable beverage
34 containers pursuant to subsection (c), (d) or (e) of this section. Amounts in such fund shall not be

1 used to pay the handling fees required by subsection (c), (d) or (e) of this section. Each such fund
2 shall be maintained by said bottlers and distributors on behalf of consumers who have purchased
3 refundable non-reusable beverage containers and on behalf of the state; except as specified in § 23-
4 18.18-6, for no purpose are amounts in such fund to be regarded as income of said bottlers or
5 distributors.

6 (i) The obligations to accept or take empty beverage containers and to pay the refund value
7 and handling fees for such containers as described in subsections (b), (c), (d) and (e) of this section
8 shall apply only to containers originally sold in this state as filled beverage containers. Any person
9 who tenders to a dealer, distributor, redemption center or bottler more than ten (10) cases of twenty-
10 four (24) empty beverage containers each, which a person knows or has reason to know were not
11 originally sold in this state as filled beverage containers, for the purpose of obtaining a refund value
12 or handling fee, shall be subject to the enforcement action and civil penalties set forth in § 23-
13 18.18-10. For the purpose of this section and § 23-18.18-10, the term person shall include any
14 individual, partnership, corporation, or other combination or entity.

15 **23-18.18-4. Reports by bottlers and distributors of transactions affecting deposit**
16 **transaction fund.**

17 Every bottler or distributor shall report to the director of the division of revenue by the
18 tenth day of each month, concerning transactions affecting its deposit transaction fund in the
19 preceding month. Such report shall be made in a form prescribed by said director and shall include
20 the number of non-reusable beverage containers sold and the number of non-reusable beverage
21 containers returned in said month, the amount of deposits received in and payments made from said
22 fund in said month and the most recent three (3) month period, any income earned on amounts in
23 the deposit transaction fund during said preceding month, the balance in said deposit transaction
24 fund at the close of said preceding month, and such other information as the director of revenue
25 may require in furtherance of the director's duties pursuant to this chapter.

26 **23-18.18-5. Abandoned deposit amounts; Determination and transfer.**

27 (a) At the end of each month, any amounts that are or should be in a bottler's or distributor's
28 deposit transaction fund and that are in excess of the sum of:

29 (1) Interest income earned on amounts in said account during that month; and

30 (2) The total amount of refund values received by said bottler or distributor for non-
31 reusable beverage containers during that month and the two (2) preceding months shall be deemed
32 to constitute abandoned deposit amounts. Income earned on said fund may be transferred from said
33 fund for use as funds of the bottler or distributor.

34 (b) By the tenth day of each month, each bottler or distributor shall turn over to the director

1 of the division of revenue any deposit amounts deemed to be abandoned at the close of the
2 preceding month, pursuant to subsection (a) of this section. Such amounts may be paid from the
3 deposit transaction fund. Amounts collected by the director of the division of revenue pursuant to
4 this subsection shall be deposited in the water pollution control revolving fund established by § 46-
5 12.2-6.

6 **23-18.18-6. Reimbursements to bottlers or distributors.**

7 If in any month the authorized payments from the deposit transaction fund by a bottler or
8 distributor pursuant to § 23-18.18-2 exceed the funds that are or should be in its deposit transaction
9 fund, the state shall reimburse said bottler or distributor, from amounts received pursuant to § 23-
10 18.18-5, for those refunds paid by the bottler or distributor for non-reusable beverage containers
11 for which the funds that are or should be in its deposit transaction fund are insufficient; provided,
12 however, that such reimbursements to a bottler or distributor for a month shall not exceed the excess
13 of:

14 (1) Amounts paid by said bottler or distributor to the state pursuant to § 23-18.18-5 in the
15 preceding twenty-four (24) months over;

16 (2) Amounts paid by this state to said bottler or distributor pursuant to this section during
17 said twenty-four (24) months.

18 **23-18.18-7. Holding or connecting devices; Break down by bacteria or light.**

19 No dealer shall sell or offer for sale in the state containers connected to each other by a
20 separate holding device constructed of plastic rings or any other device or material which cannot
21 be broken down by bacteria and or by light into constituent parts as provided in chapter 38 of this
22 title.

23 **23-18.18-8. Refund value; Statement on container; Vending machines.**

24 (a) Every beverage container, except permanently labelled reusable glass containers,
25 imported into, or offered for sale in the state by a bottler, distributor, or dealer shall clearly indicate
26 in at least eight (8) point type, by embossing or by stamp, or by label, or other method securely
27 affixed to any portion except the bottom of the beverage container, the refund value of the container.
28 A permanently labelled reusable glass beverage container first imported into, or offered for sale in
29 this state after the effective date of this chapter by a bottler, distributor, or dealer shall clearly
30 indicate in at least eight (8) point type, by embossing or by stamp, or by label, or other method
31 securely affixed to any portion except the bottom of the permanently labelled reusable glass
32 beverage container, that the container may be returned for deposit. A dealer, distributor, redemption
33 center, or bottler, may refuse to accept from any person any empty beverage container, except a
34 permanently labelled reusable glass beverage container, which does not state thereon a refund value

1 and may refuse to accept any permanently labelled reusable glass beverage container which does
2 not state thereon that the container may be returned for deposit.

3 (b) Every operator of a vending machine which sells beverages in beverage containers shall
4 post a conspicuous notice on each vending machine indicating that a refund of not less than ten
5 cents (\$0.10) is available on each beverage container purchased and where and from whom that
6 refund may be obtained. The provisions of this subsection shall not be construed to require such
7 vending machine operators to provide refunds at the premises wherein such vending machines are
8 located.

9 **23-18.18-9. Administration of provisions relating to bottlers and distributors; rules**
10 **and regulations.**

11 (a) The director of the department of environmental management shall administer the
12 provisions of §§ 23-18.18-1, 23-18.18-2, 23-18.18-3(a) through (f), inclusive, 23-18.18-7, and 23-
13 18.18-8. Said director shall promulgate rules and regulations to effectuate the purposes of said
14 sections.

15 (b) The director of the division of revenue shall administer the provisions of §§ 23-18.18-
16 3 (g) through (i), 23-18.18-4, 23-18.18-5 and 23-18.18-6.

17 The director of the division of revenue shall promulgate and from time to time revise rules
18 and regulations to effectuate the purposes of said sections. Said rules and regulations shall include
19 a provision to permit bottlers or distributors to borrow, without any interest charge, against their
20 deposit transaction funds subject to such terms and conditions as the director deems appropriate.

21 **23-18.18-10. Enforcement.**

22 (a) The attorney general shall enforce the provisions of this chapter. Any bottler,
23 distributor, redemption center or dealer who violates any provisions of this chapter or any person
24 who violates § 23-18.1-3 shall be subject to a civil penalty for each violation of not more than one
25 thousand dollars (\$1,000).

26 (b) Any bottler or distributor failing to make full and timely payments as required by § 23-
27 18.18-5 shall pay interest on any unpaid amounts at the rate of one and one-half percent (1.5%) for
28 each month or part thereof until payment is made in full; provided, however, that any person,
29 including a bottler, distributor, redemption center or dealer, who violates the provisions of § 23-
30 18.18-3(i) shall be subject to a civil penalty of not less than one hundred dollars (\$100) for each
31 container or twenty-five thousand dollars (\$25,000) for each tender of containers.

1 SECTION 2. This act shall take effect on January 1, 2021.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- BEVERAGE CONTAINER DEPOSIT
RECYCLING ACT OF 2020

- 1 This act would create a refundable ten cent (\$0.10) deposit for non-reusable beverage
- 2 containers. A four cents (\$0.04) handling fee would be paid by distributors.
- 3 This act would take effect on January 1, 2021.

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