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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO HEALTH AND SAFETY -- BEVERAGE CONTAINER DEPOSIT
RECYCLING ACT OF 2023

Introduced By: Senators Valverde, McKenney, DiMario, Miller, Murray, Euer,
Sosnowski, Gallo, Gu, and Kallman

Date Introduced: March 22, 2023

Referred To: Senate Special Legislation and Veterans Affairs

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 2023

5 **23-18.18-1. Findings of fact.**

6 The general assembly makes the following findings of fact:

7 (1) Single-use beverage containers are significant contributors to litter and marine debris;

8 (2) Recycling collection rates for beverage containers in Rhode Island are significantly
9 lower than recycling collection rates for beverage containers in states with container deposit
10 systems;

11 (3) Source-separated beverage containers collected via container deposit systems are more
12 likely to be recycled into new beverage containers than are containers collected via mixed-stream
13 recycling;

14 (4) Container deposit systems help create environmentally friendly local jobs;

15 (5) It is in the best interests of the health, safety, and welfare of residents of and visitors to
16 Rhode Island to protect our environment and our natural resources by improving recycling rates
17 and waste diversion through a container deposit system.

18 **23-18.18-2. Definitions.**

1 As used in this chapter:

2 (1) "Beverage" means drinkable liquid intended for human consumption, including, but not
3 limited to beer or other malt beverages, wine, liquor, hard seltzer, other alcoholic drink as defined
4 in § 3-1-1, soda water or other carbonated soft drinks, water, mineral water, dairy drinks, fruit
5 juices, sports drinks, energy drinks, and iced teas or coffees. The term beverage does not include:

6 (i) A drug regulated under the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et
7 seq.);

8 (ii) Infant formula; or

9 (iii) A meal replacement liquid.

10 (2) "Beverage container" means any sealable bottle, can, or jar which is primarily
11 composed of glass, metal, plastic, or any combination of those materials and is produced for the
12 purpose of containing a beverage, and has a volume which is not less than fifty milliliters (50 ml),
13 nor greater than three (3) liters. The term "beverage container" does not include:

14 (i) Cartons;

15 (ii) Pouches; or

16 (ii) Aseptic packaging, such as drink boxes.

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

19 (4) "Consumer " means any person who purchases a beverage in a beverage container for
20 use or consumption with no intent to resell such beverage.

21 (5) "Dealer" means any person who engages in the sale of beverages in beverage
22 containers, including beverage containers sold through a vending machine, to a consumer at the
23 retail level.

24 (6) "Department" means the department of environmental management.

25 (7) "Deposit initiator" or "initiator" means the first distributor to collect the deposit on a
26 beverage container sold to any person within this state.

27 (8) "Distributor" means any person who engages in the sale of beverages in beverage
28 containers to dealers in this state, including any bottler or manufacturer who engages in such sales.

29 (9) "Processing payment" means the amount of money that a distributor shall pay the Rhode
30 Island resource recovery corporation as determined by the department pursuant to § 23-18.18-8.

31 (10) "Redeemer" means every person who demands the refund value provided for in § 23-
32 18.18-4, in exchange for the empty beverage container, but shall not include a dealer as defined in
33 this section.

34 (11) "Redemption center" means any person offering to pay the refund value of an empty

1 beverage container to a redeemer, or any person who contracts with one or more dealers or
2 distributors to collect, sort, and obtain the refund value and handling fee of empty beverage
3 containers for, or on behalf of, such dealer or distributor.

4 (12) "Reusable beverage container" means any beverage container that is:

5 (i) Feasible for reuse or refill in current United States market conditions; and

6 (ii) Is reusable or refillable for such a number of cycles as determined to be appropriate by
7 the department.

8 (13) "Reverse vending machine" means an automated device that uses a laser scanner,
9 microprocessor, or other technology to accurately recognize the universal product code on
10 containers to determine if the container is redeemable and accumulates information regarding
11 containers redeemed, including the number of such containers redeemed, thereby enabling the
12 reverse vending machine to accept containers from redeemers and to issue a scrip or receipt for
13 their refund value.

14 (14) "State-specific UPC code" means a UPC code that is unique to this state or used only
15 in this state and any other states that have a substantially similar refund value law.

16 (15) "Universal product code" or "UPC code" means a standard for encoding a set of lines
17 and spaces that can be scanned and interpreted into numbers to identify a product. UPC code may
18 also mean any accepted industry barcode which replaces the UPC code including, European Article
19 Numbers (EAN) and other codes that may be used to identify a product.

20 **23-18.18-3. Refund value - handling fee.**

21 (a) A deposit of not less than ten cents (\$0.10) shall be paid by the consumer to the dealer
22 on each beverage container sold at retail in this state, except for any such beverage containers sold
23 or offered for sale for consumption on an interstate passenger carrier, and refunded to the consumer
24 upon the return of the empty beverage container.

25 (b) A retailer or redemption center who redeems beverage containers shall be reimbursed
26 by the deposit initiator of such beverage containers a handling fee in the amount of three and one-
27 half cents (\$0.035) per container.

28 **23-18.18-4. Acceptance of beverage containers.**

29 (a) A dealer shall accept at their place of business from a redeemer any empty beverage
30 containers of the design, shape, size, color, composition, and brand sold or offered for sale by the
31 dealer, and shall pay to the redeemer the refund value of each such beverage container.
32 Redemptions of refund value shall be in legal tender, or a scrip or receipt from a reverse vending
33 machine; provided that, the scrip or receipt can be exchanged for legal tender for a period of not
34 less than sixty (60) days without requiring the purchase of other goods. The use or presence of a

1 reverse vending machine shall not relieve a dealer of any obligations imposed pursuant to this
2 section. If a dealer utilizes a reverse vending machine to redeem containers, the dealer shall provide
3 redemption of beverage containers when the reverse vending machine is full, broken, under repair,
4 or does not accept a type of beverage container sold or offered for sale by the dealer. The
5 requirements to accept empty beverage containers shall not apply to:

6 (1) Hotels and other lodging establishments, restaurants, and bars that provide on-premises
7 consumption of beverages in beverage containers; or

8 (2) Retail establishments with less than two thousand square feet (2,000 sq. ft) devoted to
9 the display of merchandise for sale to the public. If an establishment otherwise exempt, chooses to
10 accept empty beverage containers, they will be subject to the requirements of this section.

11 (b) A dealer whose place of business has at least:

12 (1) Ten thousand (10,000), but less than thirty thousand square feet (30,000 sq. ft) devoted
13 to the display of merchandise for sale to the public shall install and maintain at least two (2) reverse
14 vending machines at the dealer's place of business; or

15 (2) Thirty thousand (30,000), but less than sixty thousand square feet (60,000 sq. ft) or
16 more devoted to the display of merchandise for sale to the public shall install and maintain at least
17 three (3) reverse vending machines at the dealer's place of business; or

18 (3) Sixty thousand square feet (60,000 sq. ft) or more devoted to the display of merchandise
19 for sale to the public shall install and maintain at least four (4) reverse vending machines at the
20 dealer's place of business.

21 (c) The requirements of subsection (b) of this section to install and maintain reverse
22 vending machines shall not apply to a dealer that:

23 (1) Sells only beverage containers of twenty ounces (20 oz.) or less where all beverage
24 containers are packaged in quantities of fewer than six (6);

25 (2) Sells beverage containers and devotes no more than five percent (5%) of its floor space
26 to the display and sale of consumer commodities; or

27 (3) Obtains a waiver from the department authorizing dealers to provide consumers with
28 an alternative technology that:

29 (i) Determines if the container is redeemable;

30 (ii) Provides protections against fraud through a system that validates each container
31 redeemed by reading the UPC code and, except with respect to refillable containers, renders the
32 container unredeemable;

33 (iii) Accumulates information regarding containers redeemed; and

34 (iv) Issues legal tender, or a scrip, receipt, or other form of credit for the refund value, that

1 can be exchanged for legal tender for a period of not less than sixty (60) days without requiring the
2 purchase of other goods.

3 (d) A dealer to which subsection (b) of this section does not apply and whose place of
4 business is at least thirty thousand square feet (30,000 sq. ft) which does not utilize reverse vending
5 machines to process empty beverage containers for redemption shall:

6 (1) Establish and maintain a dedicated area within such business to accept beverage
7 containers for redemption;

8 (2) Adequately staff an area to facilitate efficient acceptance and processing of such
9 containers during business hours; and

10 (3) Post one or more conspicuous signs at each public entrance to the business which
11 describes where in the business the redemption area is located.

12 (e) For the purposes of this subsection, on any day that a dealer is open for less than twenty-
13 four (24) hours, the dealer may restrict or refuse the payment of refund values during the first and
14 last hour the dealer is open for business.

15 (f)(1) A deposit initiator shall accept from a dealer or redemption center any empty
16 beverage container of the design, shape, size, color, composition, and brand sold or offered for sale
17 by the deposit initiator, and shall pay the dealer or redemption center the refund value of each
18 accepted beverage container.

19 (2) A deposit initiator shall accept and redeem all empty beverage containers, subject to
20 the provisions of subsection (f)(1) of this section, from a dealer or redemption center without
21 limitation on quantity.

22 (g) A deposit initiator's or distributor's shall pick up empty beverage containers, including
23 containers processed in a reverse vending machine, from a redemption center, dealer, or the
24 operator of a reverse vending machine. A violation of the provisions of this subsection may be
25 punishable pursuant to the provisions of § 23-18.18-11.

26 (h) Except as provided in subsection (i) of this section, a bottler shall accept from a dealer
27 or distributor any empty reusable beverage container of the type, size, and brand sold by the bottler
28 within the past sixty (60) days and shall pay the distributor or dealer the refund value of the reusable
29 beverage container plus a handling fee of three and one-half cents (\$0.035) per container if the
30 empty reusable container is presented at the time and location where the distributor or dealer obtains
31 filled reusable beverage containers from the bottler.

32 (i) A dealer, retailer, or redemption center may refuse to accept from a redeemer any empty
33 beverage container that is not clean, is broken, or contains material foreign to the normal contents
34 of the container.

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

10 **23-18.18-5. Redemption centers.**

11 The department shall allow for the establishment, operation, and licensure of redemption
12 centers. A redemption center established pursuant to this section shall accept all types of beverage
13 containers.

14 **23-18.18-6. Labeling.**

15 (a) Every beverage container sold or offered for sale at retail in this state shall clearly
16 indicate by embossing or imprinting on the normal product label, or in the case of a metal beverage
17 container on the top of the container, the words "Rhode Island" or the letters "RI" and the refund
18 value of the container in not less than one-eighth inch (1/8") type size or such other alternate
19 indications as may be approved by the department.

20 (b) The department of business regulation division of commercial licensing may allow, in
21 the case of liquor or wine bottles, a conspicuous adhesive sticker to be attached to indicate the
22 deposit information required in subsection (a) of this section. The division may specify the size,
23 placement and adhesive qualities of any stickers authorized pursuant to the provisions of this
24 section.

25 (c) A bottler may place on a beverage container a state-specific UPC code as a means of
26 preventing the sale or redemption of beverage containers on which no deposit was initiated.

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

33 **23-18.18-7. Deposit and disposition of refund values, reports, abandoned deposits,**
34 **and reimbursement.**

1 (a) Each deposit initiator who receives deposits under this chapter shall segregate said
2 deposits in a refund value fund which shall be maintained separately from all other revenues.
3 Amounts in refund value fund shall not be used to pay the handling fees required by this chapter.
4 The refund value fund shall not be regarded as income of the deposit initiator. Every deposit
5 initiator shall report on a monthly basis to the Rhode Island resource recovery corporation and the
6 division of revenue, the amount of said deposits or handling fees received and the amount refunded
7 and the existing balance of the refund value fund.

8 (b) Each deposit initiator shall report to the director of the division of revenue by the tenth
9 day of each month, concerning transactions of its refund value fund in the preceding month. The
10 report shall be made in a form prescribed by the director and shall include and specify all the
11 reporting information required pursuant to subsection (a) of this section and specify the number of
12 beverage containers sold and the number of beverage containers returned in said month, the amount
13 of deposits received in and payments made from said fund in said month and the most recent three
14 (3) month period, any income earned on amounts in the refund value fund during said preceding
15 month, the balance in the refund value fund at the close of the preceding month, and other
16 information as the director of revenue may require in furtherance of the director's duties pursuant
17 to this chapter.

18 (c) Each deposit initiator shall provide a report to the department describing all the types
19 of beverage containers on which the initiator initiates deposits. The report shall include the product
20 name, type of beverage, size, and composition of the beverage container, the presence of any state-
21 specific UPC code and the percentage of products covered by such code, the methods used to
22 prevent the fraudulent sale and redemption of beverage containers, and any other information the
23 department may require. Upon request, a depositor initiator shall also provide to the department a
24 copy of the container label or a picture of any beverage container sold or offered for sale in this
25 state on which it initiates a deposit.

26 (d) At the end of each month, any amounts that are or should be in a deposit initiator's
27 refund value fund and that are in the excess of the sum of:

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

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

33 (e) By the tenth day of each month, each deposit initiator shall turn over to the director of
34 the division of revenue any deposit amounts deemed to be abandoned at the close of the preceding

1 month, pursuant to subsection (d) of this section. Amounts deemed abandoned shall be paid directly
2 from the refund value fund to the division for deposit in the beverage container recycling fund
3 restricted receipts account. The money in the beverage container recycling fund shall be used to
4 reimburse the department for all costs incurred in administering the requirements of this chapter.
5 All remaining money in the beverage container recycling fund, after reimbursements to the
6 department, shall be used by the department to establish a forgivable loan and/or grant program to
7 assist persons, businesses, municipalities, organizations, or other institutions, including the Rhode
8 Island resource recovery corporation, to fund education efforts related to the beverage container
9 deposit recycling program; the creation and operation of redemption centers and other redemption
10 sites; for other infrastructure, technology (including reverse vending machines), and costs
11 associated with container redemption, recycling, or reuse; or to provide education related to
12 container collection and redemption pursuant to this chapter. The department is authorized to
13 promulgate rules, regulations and criteria for the awarding of forgivable loans and/or the awarding
14 of grants to carry out the purpose of this section. The department may issue loans and grants
15 pursuant to the provisions of rules, regulations and criteria established by the department. When
16 awarding loans or grants pursuant to this subsection, the department shall consider whether an
17 application for funding shall improve access to or information regarding beverage container
18 redemption, and whether it shall improve beverage container redemption and recycling.

19 (f) In any month the authorized payments from the refund value fund by a deposit initiator
20 pursuant to § 23-18.18-3(a) exceed the funds that are or should be in its deposit transaction fund,
21 the state shall reimburse said deposit initiator from amounts received pursuant to this section, for
22 those refunds paid by the deposit initiator for beverage containers for which the funds that are or
23 should be in its refund value fund are insufficient; provided however, that reimbursements to a
24 deposit initiator for a month shall not exceed the amount paid by said deposit initiator to the state
25 pursuant to this section in the preceding twenty-four (24) months less amounts previously paid by
26 this state to said deposit initiator pursuant to this section during said twenty-four (24) months.

27 **23-18.18-8. Rhode Island resource recovery corporation processing fees.**

28 (a) The department may approve procedures allowing for the Rhode Island resource
29 recovery corporation to be paid a processing payment for beverage containers collected, processed,
30 sorted, and delivered to distributors for recycling, so long as the beverage containers collected are
31 clean, sorted, and baled. The processing payment shall not exceed the value of the handling fee
32 prescribed by this chapter.

33 (b) Beverage containers collected, processed, sorted and delivered to distributors by the
34 Rhode Island resource recovery corporation shall not be included in the calculations of the

1 performance requirements set pursuant to this chapter.

2 **23-18.18-9. Producer responsibility organization.**

3 A group of distributors may elect to create or appoint a nonprofit producer responsibility
4 organization to fulfill their obligations under the requirements of this chapter; provided that, the
5 producer responsibility organization shall not be delegated any authority by the department to
6 oversee, enforce, or manage the requirements of this chapter.

7 **23-18.18-10. Administration; rules and regulations.**

8 (a) The director of the department of environmental management shall administer the
9 provisions of §§ 23-18.18-1 through 23-18.18-6. The director shall promulgate rules and
10 regulations to effectuate the purposes of those sections.

11 (b) The director of the department of environmental management shall have the power to
12 adjust the refund value described in § 23-18.18-3 as follows:

13 (1) The director shall establish a process for determining the redemption rate of beverage
14 containers subject to this chapter. The director may establish guidelines or regulations necessary or
15 expedient to determine this rate.

16 (2) Not later than the final day of June of each year, the director shall determine the
17 redemption rate for the previous calendar year.

18 (3) Beginning with the calendar year 2026, if the redemption rate for a given calendar year
19 is found by the director to be less than ninety percent (90%), the director shall increase the refund
20 value by at least five cents (\$0.05) before December 31 of the following calendar year.

21 (4) At their discretion, the director may require an increased refund value for any beverage
22 container.

23 (c) The director of the department of environmental management shall have the power to
24 increase the handling fee value described in § 23-18.18-3 if, in the director's discretion, the director
25 determines that a higher handling fee value is necessary to support redemption centers, retailers, or
26 the redemption rate for containers in this state.

27 (d) The director of the department of environmental management shall require each
28 distributor, or the designated producer responsibility organization, to work with dealers within the
29 state to develop a plan that ensures that:

30 (1) Beginning January 1, 2028, at least ten percent (10%) of all beverage containers sold
31 by the distributor or the distributors that are members of the producer responsibility organization
32 are returned and refilled.

33 (2) Beginning January 1, 2030, at least twenty percent (20%) of all beverage containers
34 sold by the distributor or the distributors that are members of the producer responsibility

1 organization are returned and refilled.

2 (3) Beginning January 1, 2032, at least thirty-five percent (35%) of all beverage containers
3 sold by the distributor or the distributors that are members of the producer responsibility
4 organization are returned and refilled.

5 (4) Beginning January 1, 2034, at least fifty percent (50%) of all beverage containers sold
6 by the distributor or the distributors that are members of the producer responsibility organization
7 are returned and refilled.

8 (e) The division of revenue shall administer the collection, deposit and disbursement of
9 funds in accordance with the provisions of § 23-18-7. The director of the department of
10 environmental management shall promulgate rules and regulations to effectuate the beverage
11 container recycling fund program. The rules and regulations shall include a provision to permit
12 bottlers or distributors to borrow, without any interest charge, against their deposit transaction funds
13 subject to such terms and conditions as the director deems appropriate.

14 **23-18.18-11. Enforcement.**

15 (a) The attorney general shall enforce the provisions of this chapter.

16 (b) Any bottler, distributor, retailer, dealer, or redemption center who violates any
17 provisions of this chapter shall be subject to a civil penalty for each violation of not more than one
18 thousand dollars (\$1,000).

19 (c) Any person, including a bottler, distributor, retailer, dealer, or redemption center, who
20 violations the provisions § 23-18.18-4(j) shall be subject to a civil penalty of the greater of one
21 hundred dollars (\$100) for each container or twenty-five thousand dollars (\$25,000) for each tender
22 of containers.

23 (d) Any deposit initiator failing to make full and timely payments as required by § 23-
24 18.18-7(e) shall pay interest on any unpaid amounts at the rate of one and one-half percent (1.5%)
25 for each month or part thereof until payment is made in full.

26 SECTION 2. This act shall take effect on January 1, 2025.

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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 2023

1 This act would establish a system for the recycling of beverage containers working with
2 the department of environmental management. Deposits would be paid by the consumer and
3 retailers or redemption centers would be reimbursed a handling fee. The department would allow
4 for the establishment, operation, and licensure of redemption centers.

5 This act would take effect on January 1, 2025.

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