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LC001417

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO HEALTH AND SAFETY -- BEVERAGE CONTAINER DEPOSIT
RECYCLING ACT OF 2021

Introduced By: Senators Valverde, DiMario, Miller, Euer, Coyne, Paolino, Goldin,
Lawson, Acosta, and Bell

Date Introduced: February 10, 2021

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 2021

5 **23-18.18-1. Findings/Purpose.**

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

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

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

13 (d) Container deposit systems help create environmentally friendly local jobs;

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

17 **23-18.18-2. Definitions.**

18 As used in this chapter:

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

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

7 (ii) Infant formula; or

8 (iii) A meal replacement liquid.

9 (2) "Beverage container" means any sealable bottle, can, or jar which is primarily
10 composed of glass, metal, plastic, or any combination of those materials and is produced for the
11 purpose of containing a beverage. The term "beverage container" does not include:

12 (i) Pouches; or

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

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

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

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

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

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

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

25 (9) "Redeemer" means every person who demands the refund value provided for herein in
26 exchange for the empty beverage container, but shall not include a dealer as defined in this section.

27 (10) "Redemption center" means any person offering to pay the refund value of an empty
28 beverage container to a redeemer, or any person who contracts with one or more dealers or
29 distributors to collect, sort, and obtain the refund value and handling fee of empty beverage
30 containers for, or on behalf of, such dealer or distributor.

31 (11) "Reverse vending machine" means an automated device that uses a laser scanner,
32 microprocessor, or other technology to accurately recognize the universal product code on
33 containers to determine if the container is redeemable and accumulates information regarding
34 containers redeemed, including the number of such containers redeemed, thereby enabling the

1 reverse vending machine to accept containers from redeemers and to issue a scrip or receipt for
2 their refund value.

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

5 (13) "Universal product code" or "UPC code" means a standard for encoding a set of lines
6 and spaces that can be scanned and interpreted into numbers to identify a product. UPC code may
7 also mean any accepted industry barcode which replaces the UPC code including EAN and other
8 codes that may be used to identify a product.

9 **23-18.18-3. Refund value; handling fee.**

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

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

17 **23-18.18-4. Acceptance of beverage containers.**

18 (a) A dealer shall accept at their place of business from a redeemer any empty beverage
19 containers of the design, shape, size, color, composition, and brand sold or offered for sale by the
20 dealer, and shall pay to the redeemer the refund value of each such beverage container.
21 Redemptions of refund value must be in legal tender, or a scrip or receipt from a reverse vending
22 machine, provided that the scrip or receipt can be exchanged for legal tender for a period of not
23 less than sixty (60) days without requiring the purchase of other goods. The use or presence of a
24 reverse vending machine shall not relieve a dealer of any obligations imposed pursuant to this
25 section. If a dealer utilizes a reverse vending machine to redeem containers, the dealer shall provide
26 redemption of beverage containers when the reverse vending machine is full, broken, under repair,
27 or does not accept a type of beverage container sold or offered for sale by such dealer.

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

29 (1) Ten thousand (10,000) but less than thirty thousand square feet (30,000 ft²) devoted to
30 the display of merchandise for sale to the public shall install and maintain at least two (2) reverse
31 vending machines at the dealer's place of business;

32 (2) Thirty thousand (30,000) but less than sixty thousand square feet (60,000 ft²) devoted
33 to the display of merchandise for sale to the public shall install and maintain at least three (3)
34 reverse vending machines at the dealer's place of business; or

1 (3) Sixty thousand square feet (60,000 ft²) devoted to the display of merchandise for sale
2 to the public shall install and maintain at least four (4) reverse vending machines at the dealer's
3 place of business.

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

6 (i) Sells only beverage containers of twenty ounces (20 oz.) or less where such beverage
7 containers are packaged in quantities of fewer than six (6);

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

10 (iii) Obtains a waiver from the department authorizing dealers to provide consumers with
11 an alternative technology that:

12 (A) Determines if the container is redeemable;

13 (B) Provides protections against fraud through a system that validates each container
14 redeemed by reading the UPC code and, except with respect to refillable containers, renders the
15 container unredeemable;

16 (C) Accumulates information regarding containers redeemed; and

17 (D) Issues legal tender, or a scrip, receipt, or other form of credit for the refund value, that
18 can be exchanged for legal tender for a period of not less than sixty (60) days without requiring the
19 purchase of other goods.

20 (c) A dealer to which subsection (b) of this section does not apply and whose place of
21 business is at least thirty thousand square feet (30,000 ft²) which does not utilize reverse vending
22 machines to process empty beverage containers for redemption shall:

23 (i) Establish and maintain a dedicated area within such business to accept beverage
24 containers for redemption;

25 (ii) Adequately staff such area to facilitate efficient acceptance and processing of such
26 containers during business hours; and

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

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

32 (e) A deposit initiator shall accept from a dealer or redemption center any empty beverage
33 container of the design, shape, size, color, composition, and brand sold or offered for sale by the
34 deposit initiator, and shall pay the dealer or redemption center the refund value of each such

1 beverage container. A deposit initiator shall accept and redeem all such empty beverage containers
2 from a dealer or redemption center without limitation on quantity.

3 (f) A deposit initiator's or distributor's failure to pick up empty beverage containers,
4 including containers processed in a reverse vending machine, from a redemption center, dealer, or
5 the operator of a reverse vending machine, shall be a violation of this chapter.

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

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

18 **23-18.18-5. Redemption Centers.**

19 Any person may establish a redemption center and shall have the right to determine what
20 type, size, and brand of beverage container shall be accepted.

21 **23-18.18-6. Labeling.**

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

27 (b) The division of commercial licensing and regulation may allow, in the case of liquor or
28 wine bottles, a conspicuous adhesive sticker to be attached to indicate the deposit information
29 required in subsection (a) of this section, provided that the size, placement, and adhesive qualities
30 of the sticker are as approved by the department.

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

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. Said
3 deposit initiator shall report on a monthly basis to the Rhode Island resource recovery corporation
4 and the division of revenue, the amount of said deposits or handing fees received and the amount
5 refunded.

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

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

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

- 25 (1) Interest income earned on amounts in the account during that month; and
26 (2) The total amount of refund values received by the deposit initiator for beverage
27 containers during that month and the two (2) preceding months shall be deemed to constitute
28 abandoned deposit amounts. Income earned on the fund may be transferred from the fund for use
29 as funds of the deposit initiator.

30 (e) By the tenth day of each month, each deposit initiator shall turn over to the director of
31 the division of revenue any deposit amounts deemed to be abandoned at the close of the preceding
32 month, pursuant to subsection (d) of this section. Such amounts may be paid from the refund value
33 fund. Fifty percent (50%) of the total amounts collected by the director of the division of revenue
34 pursuant to this subsection shall be deposited in this state's general fund and fifty percent (50%) of

1 the total amounts collected shall be paid to the department to fund reduction and reuse grants.

2 (f) In any month the authorized payments from the refund value fund by a deposit initiator
3 pursuant to § 23-18.18-3(a) exceed the funds that are or should be in its deposit transaction fund,
4 the state shall reimburse the deposit initiator from amounts received pursuant to this section, for
5 those refunds paid by the deposit initiator for beverage containers for which the funds that are or
6 should be in its refund value fund are insufficient; provided however, that such reimbursements to
7 a deposit initiator for a month shall not exceed the excess of:

8 (1) Amounts paid by the deposit initiator to the state pursuant to this section in the
9 preceding twenty-four (24) months over;

10 (2) Amounts paid by this state to the deposit initiator pursuant to this section during the
11 preceding twenty-four (24) months.

12 **23-18.18-8. Administration; rules and regulations.**

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

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

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

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

23 (3) Beginning with the calendar year 2025, if the redemption rate for a given calendar year
24 is found by the director to be less than ninety percent (90%), the director shall increase the refund
25 value by at least five cents (\$0.05) before December 31 of the following calendar year.

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

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

32 (d) The director of the division of revenue shall administer the provisions of § 23-18-7.
33 The director shall promulgate rules and regulations to effectuate the purposes of those sections. The
34 rules and regulations shall include a provision to permit bottlers or distributors to borrow, without

1 any interest charge, against their deposit transaction funds subject to such terms and conditions as
2 the director deems appropriate.

3 **23-18.18-9. Enforcement.**

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

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

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

12 (d) Any deposit initiator failing to make full and timely payments as required by § 23-
13 18.18-7(e) shall pay interest on any unpaid amounts at the rate of one and one-half percent (1.5%)
14 for each month or part thereof until payment is made in full.

15 SECTION 2. This act shall take effect on January 1, 2022.

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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 2021

- 1 This act would create a refundable ten cent (\$0.10) deposit for non-reusable beverage
- 2 containers. A four cent (\$0.04) handling fee would be paid by distributors.
- 3 This act would take effect on January 1, 2022.

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