



General Assembly

Amendment

January Session, 2007

LCO No. 9008

SB0135609008SD0

Offered by:
SEN. FINCH, 22nd Dist.

To: Subst. Senate Bill No. 1356 File No. 195 Cal. No. 194

(As Amended)

**"AN ACT CONCERNING THE ESTABLISHMENT OF A
CONNECTICUT MILK COMMISSION."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 22a-243 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2008*):

5 For purposes of sections 22a-243 to 22a-245, inclusive, as amended
6 by this act, unless the context clearly indicates otherwise:

7 (1) ["Beverage"] "Carbonated beverage" means beer or other malt
8 beverages, [and mineral waters,] soda water and similar carbonated
9 soft drinks in liquid form and intended for human consumption;

10 (2) "Noncarbonated beverage" means water, including mineral
11 water, flavored water and nutritionally enhanced water and any other
12 beverage that is identified through the use of letters, words or symbols

13 on its product label as water, but excluding juice;

14 [(2)] (3) "Beverage container" means the individual, separate, sealed
15 glass, [metal] aluminum or polyethylene terephthalate plastic bottle,
16 can, jar or carton (A) two liters or less in size if containing a carbonated
17 beverage, and (B) one liter or less in size if containing a noncarbonated
18 beverage;

19 [(3)] (4) "Consumer" means every person who purchases a beverage
20 in a beverage container for use or consumption;

21 [(4)] (5) "Dealer" means every person who engages in the sale of
22 beverages in beverage containers to a consumer;

23 [(5)] (6) "Distributor" means every person who engages in the sale of
24 beverages in beverage containers to a dealer in this state including any
25 manufacturer who engages in such sale and includes a dealer who
26 engages in the sale of beverages in beverage containers on which no
27 deposit has been collected prior to retail sale or where the deposit has
28 not been initiated by the manufacturer;

29 [(6)] (7) "Manufacturer" means every person bottling, canning or
30 otherwise filling beverage containers for sale to distributors or dealers
31 or, in the case of private label brands, the owner of the private label
32 trademark except that "manufacturer" does not include any person
33 who bottles water and sells not more than two hundred fifty thousand
34 containers of water per calendar year in containers containing no more
35 than one liter of water;

36 [(7)] (8) "Place of business of a dealer" means the fixed location at
37 which a dealer sells or offers for sale beverages in beverage containers
38 to consumers;

39 [(8)] (9) "Redemption center" means any facility established to
40 redeem empty beverage containers from consumers or to collect and
41 sort empty beverage containers from dealers and to prepare such
42 containers for redemption by the appropriate distributors;

43 (10) "Restaurant" means a business that has the sole purpose of
44 preparing and selling food and beverages intended for individual
45 portion service and includes the site at which individual portions are
46 sold, regardless of whether the consumption of the food or beverage
47 occurs on or off of the business' premises;

48 [(9)] (11) "Use or consumption" includes the exercise of any right or
49 power over a beverage incident to the ownership thereof, other than
50 the sale or the keeping or retention of a beverage for the purposes of
51 sale;

52 [(10)] (12) "Nonrefillable beverage container" means a beverage
53 container which is not designed to be refilled and reused in its original
54 shape;

55 (13) "Reverse vending machine" means an automated device that
56 accepts beverage containers from redeemers and issues scrip for any
57 beverage container refund value by using a laser scanner,
58 microprocessor or other technology to recognize the Universal Product
59 Code (UPC) or other accepted industry barcode on beverage
60 containers to determine if the container is redeemable and that
61 accumulates information regarding containers redeemed;

62 (14) "Off-site redemption center" means a redemption center that is
63 located within a one-mile radius of a dealer, and that accepts beverage
64 containers of the kind, size and brand sold by such dealer at the
65 dealer's place of business; and

66 (15) "Deposit initiator" means the first distributor or manufacturer to
67 pay the deposit of a beverage container sold to any person within
68 Connecticut.

69 Sec. 2. Section 22a-245 of the general statutes is repealed and the
70 following is substituted in lieu thereof (*Effective October 1, 2008*):

71 (a) No person shall establish a redemption center without
72 registering with the commissioner on a form provided by the

73 commissioner with such information as the commissioner deems
74 necessary including (1) the name of the business principals of the
75 redemption center and the address of the business; (2) the name and
76 address of the sponsors and dealers to be served by the redemption
77 center; (3) the types of beverage containers to be accepted; (4) the hours
78 of operation; and (5) whether beverage containers will be accepted
79 from consumers. The operator of the redemption center shall report
80 any change in procedure to the commissioner within forty-eight hours
81 of such change. Any person establishing a redemption center shall
82 have the right to determine what kind, size and brand of beverage
83 container shall be accepted. Any redemption center may be established
84 to serve all persons or to serve certain specified dealers.

85 (b) A dealer shall not refuse to accept at such dealer's place of
86 business, from any person any empty beverage containers of the kind,
87 size and brand sold by the dealer, or refuse to pay to such person the
88 refund value of a beverage container as established by subsection (a) of
89 section 22a-244 unless (1) such container contains materials which are
90 foreign to the normal contents of the container [or unless] (2) such
91 container is not labeled in accordance with subsection (b) of section
92 22a-244, [or unless] (3) such dealer sponsors, solely or with others, a
93 redemption center which is located within a one-mile radius of such
94 place of business and which accepts beverage containers of the kind,
95 size and brand sold by such dealer at such place of business, or
96 [unless] (4) there is established by others, a redemption center which is
97 located within a one-mile radius of such place of business and which
98 accepts beverage containers of the kind, size and brand sold by such
99 dealer at such place of business. A dealer that is a restaurant shall not
100 be required to redeem any beverage container, the contents of which
101 were not consumed on the premises of such restaurant. A dealer that
102 sponsors an off-site redemption center shall post in a conspicuous
103 location within ten feet of the entrances and exits of such dealer's place
104 of business a notice stating the name, location, hours of operation and
105 telephone number of the off-site redemption center. A dealer shall
106 redeem an empty container of a kind, size or brand the sale of which

107 has been discontinued by such dealer for not less than sixty days after
108 the last sale by the dealer of such kind, size or brand of beverage
109 container. Sixty days before such date, the dealer shall post, at the
110 point of sale, notice of the last date on which the discontinued kind,
111 size or brand of beverage container shall be redeemed.

112 (c) Dealers operating a place of business of not less than seventy-
113 five thousand square feet in size shall certify to the Department of
114 Environmental Protection that their beverage container redemption
115 capacity equals or exceeds seventy per cent of their sales capacity of
116 redeemable beverage containers. Dealers who establish or significantly
117 expand their place of business or redemption center, excluding an off-
118 site redemption center, on or after October 1, 2008, shall locate such
119 redemption center not more than two hundred feet from the business'
120 main entrance. Dealers with a redemption center, other than an of-site
121 redemption center, established prior to October 1, 2008, where such
122 redemption center is located more than two hundred feet from the
123 business' main entrance shall post notices stating the location of such
124 redemption center not more than ten feet from the business' entrances
125 and exits.

126 [(c)] (d) A distributor shall not refuse to accept from a dealer or from
127 an operator of a redemption center, located and operated exclusively
128 within the territory of the distributor or whose operator certifies to the
129 distributor that redeemed containers were from a dealer located within
130 such territory, any empty beverage containers of the kind, size and
131 brand sold by the distributor, or refuse to pay to such dealer or
132 redemption center operator the refund value of a beverage container as
133 established by subsection (a) of section 22a-244 unless such container
134 contains materials which are foreign to the normal contents of the
135 container or unless such container is not labeled in accordance with
136 subsection (b) of section 22a-244. A distributor shall remove any empty
137 beverage container from the premises of a dealer serviced by the
138 distributor or from the premises of a redemption center sponsored by
139 dealers serviced by the distributor, provided such premises are located
140 within the territory of the distributor. The distributor or manufacturer

141 shall pay the refund value to dealers in accordance with the schedule
142 for payment by the dealer to the distributor for full beverage
143 containers and shall pay such refund value to operators of redemption
144 centers not more than twenty days after receipt of the empty container
145 unless such refund value has already been paid by the manufacturer.
146 For the purposes of this subsection, a redemption center shall be
147 considered to be sponsored by a dealer if (1) the dealer refuses to
148 redeem beverage containers and refers consumers to the redemption
149 center, or (2) there is an agreement between the dealer and the
150 operator of the redemption center requiring the redemption center to
151 remove empty beverage containers from the premises of the dealer. A
152 distributor shall redeem an empty container of a kind, size or brand of
153 beverage container the sale of which has been discontinued by the
154 distributor for not less than one hundred fifty days after the last
155 delivery of such kind, size or brand of beverage container. Not less
156 than one hundred twenty days before the last date such containers
157 may be redeemed, the distributor shall notify such dealer who bought
158 the discontinued kind, size or brand of beverage container that such
159 distributor shall not redeem an empty beverage container of such kind,
160 size or brand of beverage containers.

161 (e) Each redemption center or a dealer receiving a refund value
162 pursuant to subsection (d) of this section shall provide sufficient
163 information to the distributor in order to enable the distributor to
164 fulfill the requirements of this section. Such information shall include,
165 but not be limited to: The redemption center or dealer name and
166 address, the number of beverage containers redeemed, the total
167 amount of deposits paid by the dealer and the amount of the handling
168 fee collected per beverage container. A dealer or redemption center
169 who has multiple locations shall provide such information for each
170 individual location. Each dealer or redemption center shall grant a
171 distributor reasonable access to such dealers' or redemption centers'
172 business premises to allow inspection of such distributors' beverage
173 containers. A redemption center or dealer that uses reverse vending
174 machines to redeem beverage containers shall use only a reverse

175 vending accounting system that has been subjected to an agreed upon
176 procedures reviewed by an independent certified public accountant
177 not later than the preceding twelve months. Redemption centers shall
178 take reasonable measures to ensure that they redeem only beverage
179 containers that were purchased in Connecticut.

180 [(d)] (h) In addition to the refund value of a beverage container as
181 provided in subsection (a) of section 22a-244, on and after October 1,
182 2008, a distributor shall pay to any dealer or operator of a redemption
183 center a handling fee of at least one and one-half cents for each
184 beverage container [of beer or other malt beverage] and two and one-
185 quarter cents for each container [of mineral waters, soda water and
186 similar carbonated soft drinks] of a noncarbonated beverage or a
187 carbonated beverage other than beer or other malt beverage returned
188 for redemption. A distributor shall not be required to pay to a
189 manufacturer the refund value of a nonrefillable beverage container.

190 [(e)] (i) The Commissioner of Environmental Protection shall adopt
191 regulations, in accordance with the provisions of chapter 54, to
192 implement the provisions of sections 22a-243 to 22a-245, inclusive, as
193 amended by this act. Such regulations shall include, but not be limited
194 to, provisions for the redemption of beverage containers dispensed
195 through automatic vending machines, the use of vending machines
196 which dispense cash to consumers for redemption of beverage
197 containers, scheduling for redemption by dealers and distributors and
198 for exemptions or modifications to the labeling requirement of section
199 22a-244.

200 (f) Each operator of a redemption center shall conspicuously display
201 a sign in letters that are at least one inch in height that reads:
202 "WARNING: Persons knowingly tendering containers for redemption
203 that were not originally purchased in a jurisdiction where a deposit
204 was tendered may be subject to a fine the greater of one dollar per
205 container or ninety dollars."

206 (g) A deposit initiator may retain any unredeemed deposits to offset

207 the handling and transportation costs associated with the collection
 208 and recycling of beverage containers.

209 Sec. 3. Subsection (a) of section 22a-244 of the general statutes is
 210 repealed and the following is substituted in lieu thereof (*Effective*
 211 *October 1, 2008*):

212 (a) Every beverage container sold or offered for sale in this state, or
 213 sold or offered for sale in another state that has established an equal or
 214 greater refund value for such beverage container, except beverage
 215 containers sold or offered for sale for consumption on an interstate
 216 passenger carrier, shall have a refund value. Such refund value shall
 217 not be less than five cents and shall be a uniform amount throughout
 218 the distribution process in this state.

219 Sec. 4. (NEW) (*Effective October 1, 2008*) (a) No person shall tender to
 220 a dealer, distributor or redemption center more than fifty empty
 221 beverage containers for redemption that such person knows or has
 222 reason to know were not originally sold in a state that requires the
 223 payment of an equivalent or higher deposit. Any person who violates
 224 this section may be assessed a civil penalty in an amount equivalent to
 225 the greater of one dollar per beverage container tendered, or ninety
 226 dollars.

227 (b) No dealer shall knowingly sell beverage containers subject to the
 228 refund value established in section 22a-244 without having paid such
 229 refund value to the distributor or manufacturer of such beverage
 230 containers. Any dealer who violates this subsection shall be subject to a
 231 civil penalty the greater of one hundred dollars per beverage container
 232 sold in violation, or ten thousand dollars."

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2008</i> | 22a-243 |
| Sec. 2 | <i>October 1, 2008</i> | 22a-245 |
| Sec. 3 | <i>October 1, 2008</i> | 22a-244(a) |

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| Sec. 4 | October 1, 2008 | New section |
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