



Senate

General Assembly

File No. 441

February Session, 2008

Substitute Senate Bill No. 357

Senate, April 4, 2008

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE EXPANSION OF THE BEVERAGE CONTAINER REDEMPTION PROVISIONS TO INCLUDE NONCARBONATED BEVERAGES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

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 Section 22a-243 of the general statutes is repealed and the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

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

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

8 (2) "Noncarbonated beverage" means water and any other
9 noncarbonated, nonalcoholic, nondairy drinks in liquid form intended
10 for human consumption, excluding liquid that is (A) a syrup, (B) in
11 concentrated form, (C) a minor flavoring ingredient for food or drink,
12 such as extracts, cooking additives, sauces or condiments but

13 excluding juice, (D) a seafood, meat or vegetable broth or soup, or (E) a
14 soy milk or rice milk;

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

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

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

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

30 [(6)] (7) "Manufacturer" means every person bottling, canning or
31 otherwise filling beverage containers for sale to distributors or dealers
32 or, in the case of private label brands, the owner of the private label
33 trademark, except that "manufacturer" does not include any person
34 who bottles and sells two hundred fifty thousand or fewer beverage
35 containers of water each calendar year where such containers are
36 twenty ounces or less in size;

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

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

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

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

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

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

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

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

69 (a) No person shall establish a redemption center without
70 registering with the commissioner on a form provided by the
71 commissioner with such information as the commissioner deems
72 necessary including (1) the name of the business principals of the
73 redemption center and the address of the business; (2) the name and
74 address of the sponsors and dealers to be served by the redemption

75 center; (3) the types of beverage containers to be accepted; (4) the hours
76 of operation; and (5) whether beverage containers will be accepted
77 from consumers. The operator of the redemption center shall report
78 any change in procedure to the commissioner within forty-eight hours
79 of such change. Any person establishing a redemption center shall
80 have the right to determine what kind, size and brand of beverage
81 container shall be accepted. Any redemption center may be established
82 to serve all persons or to serve certain specified dealers.

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

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

124 [(c)] (d) A distributor shall not refuse to accept from a dealer or from
125 an operator of a redemption center, located and operated exclusively
126 within the territory of the distributor or whose operator certifies to the
127 distributor that redeemed containers were from a dealer located within
128 such territory, any empty beverage containers of the kind, size and
129 brand sold by the distributor, or refuse to pay to such dealer or
130 redemption center operator the refund value of a beverage container as
131 established by subsection (a) of section 22a-244 unless such container
132 contains materials which are foreign to the normal contents of the
133 container or unless such container is not labeled in accordance with
134 subsection (b) of section 22a-244. A distributor shall remove any empty
135 beverage container from the premises of a dealer serviced by the
136 distributor or from the premises of a redemption center sponsored by
137 dealers serviced by the distributor, provided such premises are located
138 within the territory of the distributor. The distributor or manufacturer
139 shall pay the refund value to dealers in accordance with the schedule
140 for payment by the dealer to the distributor for full beverage
141 containers and shall pay such refund value to operators of redemption
142 centers not more than twenty days after receipt of the empty container
143 unless such refund value has already been paid by the manufacturer.
144 For the purposes of this subsection, a redemption center shall be

145 considered to be sponsored by a dealer if (1) the dealer refuses to
146 redeem beverage containers and refers consumers to the redemption
147 center, or (2) there is an agreement between the dealer and the
148 operator of the redemption center requiring the redemption center to
149 remove empty beverage containers from the premises of the dealer. A
150 distributor shall redeem an empty container of a kind, size or brand of
151 beverage container the sale of which has been discontinued by the
152 distributor for not less than one hundred fifty days after the last
153 delivery of such kind, size or brand of beverage container. Not less
154 than one hundred twenty days before the last date such containers
155 may be redeemed, the distributor shall notify such dealer who bought
156 the discontinued kind, size or brand of beverage container that such
157 distributor shall not redeem an empty beverage container of such kind,
158 size or brand of beverage containers.

159 (e) A redemption center or dealer that uses reverse vending
160 machines to redeem beverage containers shall use only a reverse
161 vending accounting system that has been subjected to an agreed upon
162 procedures review by an independent certified public accountant
163 during the preceding twelve months.

164 ~~[(d)]~~ (f) In addition to the refund value of a beverage container as
165 provided in subsection (a) of section 22a-244, a distributor shall pay to
166 any dealer or operator of a redemption center a handling fee of at least
167 one and one-half cents for each beverage container of beer or other
168 malt beverage and ~~[two]~~ three cents for each beverage container of
169 [mineral waters, soda water and similar carbonated soft drinks] a
170 noncarbonated beverage or a carbonated beverage other than beer or
171 other malt beverage returned for redemption. A distributor shall not
172 be required to pay to a manufacturer the refund value of a
173 nonrefillable beverage container.

174 ~~[(e)]~~ (g) The Commissioner of Environmental Protection shall adopt
175 regulations, in accordance with the provisions of chapter 54, to
176 implement the provisions of sections 22a-243 to 22a-245, inclusive, as
177 amended by this act. Such regulations shall include, but not be limited

178 to, provisions for the redemption of beverage containers dispensed
179 through automatic vending machines, the use of vending machines
180 which dispense cash to consumers for redemption of beverage
181 containers, scheduling for redemption by dealers and distributors and
182 for exemptions or modifications to the labeling requirement of section
183 22a-244.

| | | |
|---|------------------------|---------|
| 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 |

ENV *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 09 \$ | FY 10 \$ |
|--|------------------------|-----------------|-----------------|
| Connecticut Resources Recovery Authority (CRRA) quasi-public | Various - Revenue Loss | 200,000 | 400,000 |

Municipal Impact:

| Municipalities | Effect | FY 09 \$ | FY 10 \$ |
|------------------------|---------------|-----------------|-----------------|
| Various Municipalities | See Below | See Below | See Below |

State and Municipal Impact

Since the bill expands the beverage types whose containers have a refund value, there is anticipated to be a revenue loss to the Connecticut Resources Recovery Authority (CRRA) of about \$200,000 in FY 09 and about \$400,000 in FY 10 since there would be less revenue generated from curbside recycling.

Since there could be a reduction in the volume of recyclables at CRRA's Stratford and Mid-CT regional recycling centers, it could result in increased trash disposal tip fees charged to municipalities, since CRRA revenues are directly related to the tip fee charged to municipalities. There could also be increased costs to various municipalities, if minimum collection contract commitment levels were not met.

CRRA administers a \$10 per ton rebate to each of the 70 municipalities included in the Mid-CT project for FY 08 and beyond. Since there could be less tonnage of recyclables delivered to the Mid-CT project, there could also be an indeterminate revenue loss to these municipalities due to decreased rebates.

The impact depends upon the exact market value for materials at the time of recycling (glass, aluminum and plastic), and the structure and content of various municipal recycling contracts.

The expansion of the bottle redemption law could also reduce collection costs for various municipalities, since there could be less volume of curbside materials for recycling collections.

Due to the variables identified above, it is unclear what the overall impact to CRRA and municipalities would be at this time.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the volume of certain beverage containers remitted for deposit, subject to the volume of containers recycled at curbside, subject to member municipality recycling contract commitment levels, and subject to the amount of CRRA rebates disbursed to municipalities.

OLR Bill Analysis**sSB 357*****AN ACT CONCERNING THE EXPANSION OF THE BEVERAGE CONTAINER REDEMPTION PROVISIONS TO INCLUDE NONCARBONATED BEVERAGES.*****SUMMARY:**

This bill expands the beverage container redemption law to include containers for water and other non-carbonated, non-alcoholic, non-dairy drinks intended for human consumption (e.g., flavored water, juice, ice teas, and sport drinks). It excludes syrups, concentrates, and similar liquids and limits redeemable containers by size. Under current law, redeemable bottles include only those for beer, other malt beverages, mineral waters, soda water, and similar carbonated soft drinks intended for human consumption.

The bill also raises the handling fee to three cents for all redeemed containers except beer and other malt beverages, beginning October 1, 2008. It makes several other changes to the bottle redemption law, including:

1. requiring dealers of such beverages to have on-site redemption centers if they establish or expand their place of business after October 1, 2008;
2. excluding restaurants from redemption requirements, unless the beverage was consumed on the restaurant's fixed premises;
3. requiring redemption centers or dealers using reverse vending machines to have their accounting systems reviewed by an independent certified public accountant every 12 months; and
4. requiring dealers using off-site redemption centers to post,

within 10 feet of the entrances and exits, the name, location, hours of operation, and telephone number of the off-site redemption center.

The bill also makes technical changes to the beverage redemption law.

EFFECTIVE DATE: October 1, 2008

BEVERAGE CONTAINERS

The bill specifies that it does not apply to containers for (1) syrup; (2) concentrates; (3) minor flavoring ingredients, such as extracts, cooking additives, sauces, or condiments; (4) a seafood, meat, or vegetable broths or soups; or (5) soy or rice milk.

The bill also limits redeemable containers to certain sizes based on what they contain, specifying that redeemable beverage containers are (1) two liters or less in size if they contain a carbonated beverage and (2) 20 ounces or less in size if they contain a noncarbonated beverage. Thus, for example, it excludes larger water containers and juice bottles. It also specifies that redeemable cans are aluminum, rather than any metal, and plastic bottles are only those made of polyethylene terephthalate.

HANDLING FEE AND THE DEPOSIT SYSTEM

Under current law, distributors pay dealers or redemption centers a handling fee of 1.5 cents on each beer container and two cents on each carbonated soft drink container consumers return. The bill raises this amount to three cents for all containers except beer and other malt beverages.

By law, anyone who violates the law's deposit and redemption requirements is subject to a fine of between (1) \$50 and \$100 for a first offense, (2) \$100 and \$200 for a second offense, and (3) \$250 and \$500 for a third offense.

REDEEMED BEVERAGE CONTAINERS

Distributor and Manufacturer

The law defines a “distributor” as anyone who sells beverage containers to a state dealer, including (1) any manufacturer who also sells and (2) a dealer who sells beverage containers on which no deposit has been collected before retail sale. The bill specifies that the latter provision applies when the manufacturer has not initiated the deposit, making the next entity to sell the product a distributor.

The bill defines “manufacturer” as every person bottling, canning or otherwise filling beverage containers for sale to distributors or dealers, including the owners of private label trademarks. The bill excludes people who bottle and sell 250,000 or fewer 20-ounce or less beverage containers of water each calendar year from the definition.

Dealer Redemption Area Size and Location

The bill expands redemption area requirements for dealers. By law, a dealer is anyone who sells beverages in beverage containers to a consumer. The law requires dealers to take back any beverage containers that (1) they sell and (2) are subject to the redemption law, except for those containing foreign material or that are not properly labeled. If there is a redemption center that accepts the beverage containers a dealer sells and it is within a one-mile radius of the dealer’s business, the dealer does not have to accept the beverage containers.

The bill requires a dealer operating a business that has at least 75,000 square feet to certify to the Department of Environmental Protection (DEP) that their beverage container redemption capacity equals or exceeds 70% of sales capacity of redeemable beverage containers. Under the bill, dealers with a redemption facility established or significantly expanded on or after October 1, 2008, must locate it no more than 200 feet from the business' main entrance.

The bill specifies that a dealer with an off-site redemption center established prior to October 1, 2008 and more than 200 feet from the dealer’s location must post, within 10 feet of the entrances and exits,

notices stating the name, location, hours of operation, and telephone number of the redemption center. The bill specifies that an “off-site redemption center” is a redemption center that is located within a one-mile radius of a dealer that accepts beverage containers of the kind, size, and brand the dealer sells.

Restaurants

The bill excludes restaurants from the beverage redemption center requirement when the beverage has not been consumed on the premises. The bill defines “restaurant” as a business with the sole purpose of preparing and selling food and beverages intended for individual portion service. It includes the site at which such portions are sold, regardless of whether the consumption of food or beverages occurs on or off site.

Reverse Vending Machines

A redemption center or dealer who uses reverse vending machines to redeem beverage containers must use only a reverse vending accounting system that has been evaluated for accuracy by an independent certified public accountant within the preceding 12 months. Redemption centers must take reasonable measures to ensure that they redeem only beverage containers that people purchased in Connecticut.

Under the bill, a “reverse vending machine” means an automated device that accepts beverage containers from consumers and issues scrip for the refund value. It uses a laser scanner, microprocessor, or other technology to determine if the container is redeemable and accumulate information regarding containers redeemed by recognizing the Universal Product Code or other accepted industry barcode on beverage containers (i.e., the machines into which consumers place bottles to ultimately get back the deposit amount).

BACKGROUND

Bottle and Can Deposit System

Under current law, Connecticut’s deposit system works as follows:

1. a dealer (retailer) pays beverage container distributors five cents for each beer or carbonated soft drink container that the distributors deliver;
2. the consumer pays the dealer five cents for each beer or carbonated soft drink container that he or she purchases from the dealer;
3. the dealer or redemption center pays the consumer five cents for each container that he or she returns;
4. the distributor reimburses the dealer or redemption center five cents for each beer and carbonated soft drink container, plus a handling fee of 1.5 cents on each beer container and two cents on each carbonated soft drink container returned;
5. the distributor keeps the five cents for each unclaimed deposit.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 18 Nay 10 (03/14/2008)