



Senate

General Assembly

File No. 572

February Session, 2010

Substitute Senate Bill No. 127

Senate, April 15, 2010

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE ACCOUNTING SYSTEM FOR REDEEMED BEVERAGE CONTAINERS.

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

1 Section 1. Subsection (e) of section 22a-245 of the 2010 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective July 1, 2010*):

4 (e) [(1)] The Commissioner of Environmental Protection shall adopt
5 regulations, in accordance with the provisions of chapter 54, to
6 implement the provisions of sections 22a-243 to [22a-245a] 22a-245,
7 inclusive, as amended by this act. Such regulations shall include, but
8 not be limited to, provisions for the redemption of beverage containers
9 dispensed through automatic vending machines, the use of vending
10 machines that dispense cash to consumers for redemption of beverage
11 containers, scheduling for redemption by dealers and distributors and
12 for exemptions or modifications to the labeling requirement of section
13 22a-244.

14 [(2) The regulations adopted pursuant to subdivision (1) of this
15 subsection shall also include provisions creating a prescribed
16 accounting system for the reimbursement of the refund value for a
17 redeemed beverage container. The commissioner shall adopt written
18 policies and procedures to implement the provisions creating such
19 prescribed accounting system while in the process of adopting such
20 policies and procedures in regulation form, and the commissioner shall
21 print a notice of intention to adopt the regulations in the Connecticut
22 Law Journal not later than twenty days prior to implementing such
23 policies and procedures. The commissioner shall submit final
24 regulations to implement such policies and procedures to the
25 legislative regulation review committee not later than May 1, 2009,
26 unless a later date is approved by a majority vote of the members
27 present of said committee. Policies and procedures implemented
28 pursuant to this subdivision shall be valid until (A) May 1, 2009, or, if
29 applicable, the later date approved by said committee pursuant to this
30 subdivision, or (B) the time that the proposed final regulations are
31 adopted or disapproved by said committee, whichever is earlier.]

32 Sec. 2. Section 22a-245a of the 2010 supplement to the general
33 statutes is repealed and the following is substituted in lieu thereof
34 (*Effective July 1, 2010*):

35 (a) Each deposit initiator shall open a special interest-bearing
36 account at a Connecticut branch of a financial institution, as defined in
37 section 45a-557a, to the credit of the deposit initiator. Each deposit
38 initiator shall deposit in such account an amount equal to the refund
39 value established pursuant to subsection (a) of section 22a-244, for each
40 beverage container sold by such deposit initiator. Such deposit shall be
41 made not more than one month after the date such beverage container
42 is sold, provided for any beverage container sold during the period
43 from December 1, 2008, to December 31, 2008, inclusive, such deposit
44 shall be made not later than January 5, 2009. All interest, dividends
45 and returns earned on the special account shall be paid directly into
46 such account. Such moneys shall be kept separate and apart from all
47 other moneys in the possession of the deposit initiator. The amount

48 required to be deposited pursuant to this section, when deposited,
49 shall be held to be a special fund in trust for the state.

50 (b) (1) Any reimbursement of the refund value for a redeemed
51 beverage container shall be paid from the deposit initiator's special
52 account, with such payment to be computed, subject to the provisions
53 of subdivision (2) of this subsection, under the cash receipts and
54 disbursements method of accounting, as described in Section 446(c)(1)
55 of the Internal Revenue Code of 1986, or any subsequent
56 corresponding Internal Revenue Code of the United States, as
57 amended from time to time. [Upon the Commissioner of
58 Environmental Protection's adoption of written policies and
59 procedures establishing an accounting system under section 22a-245,
60 any such reimbursement shall be paid in the manner prescribed in
61 such policies and procedures until the adoption of final regulations
62 under said section 22a-245. Upon the adoption of such regulations, any
63 such reimbursement shall be paid in accordance with such
64 regulations.]

65 (2) A deposit initiator may petition the Commissioner of Revenue
66 Services for an alternate method of accounting by filing with such
67 deposit initiator's return a statement of objections and other proposed
68 alternate method of accounting, as such deposit initiator believes
69 proper and equitable under the circumstances that is accompanied by
70 supporting details and proof. The Commissioner of Revenue Services
71 shall promptly notify such deposit initiator whether the proposed
72 alternate method is accepted as reasonable and equitable and, if so,
73 accepted, shall adjust such deposit initiator's return, and payment of
74 reimbursement, accordingly.

75 (c) (1) Each deposit initiator shall submit a report on March 15, 2009,
76 for the period from December 1, 2008, to February 28, 2009, inclusive.
77 Each deposit initiator shall submit a report on July 31, 2009, for the
78 period from March 1, 2009, to June 30, 2009, inclusive, and thereafter
79 shall submit a quarterly report for the immediately preceding calendar
80 quarter one month after the close of such quarter. Each such report

81 shall be submitted to the Commissioner of Environmental Protection,
82 on a form prescribed by the commissioner and with such information
83 as the commissioner deems necessary, including, but not limited to:
84 [(1)] (A) The balance in the special account at the beginning of the
85 quarter for which the report is prepared; [(2)] (B) a list of all deposits
86 credited to such account during such quarter, including all refund
87 values paid to the deposit initiator and all interest, dividends or
88 returns received on the account; [(3)] (C) a list of all withdrawals from
89 such account during such quarter, all service charges and overdraft
90 charges on the account and all payments made pursuant to subsection
91 (d) of this section; and [(4)] (D) the balance in the account at the close
92 of the quarter for which the report is prepared.

93 (2) Each deposit initiator shall submit a report on October 31, 2010,
94 for the calendar quarter beginning July 1, 2010. Subsequently, each
95 deposit initiator shall submit a quarterly report for the immediately
96 preceding calendar quarter, on or before the last day of the month next
97 succeeding the close of such quarter. Each such report shall be
98 submitted to the Commissioner of Revenue Services, on a form
99 prescribed by the commissioner, and with such information as the
100 commissioner deems necessary, including, but not limited to, the
101 following information: (A) The balance in the special account at the
102 beginning of the quarter for which the report is prepared, (B) all
103 deposits credited to such account during such quarter, including all
104 refund values paid to the deposit initiator and all interest, dividends or
105 returns received on such account, (C) all withdrawals from such
106 account during such quarter, including all service charges and
107 overdraft charges on such account and all payments made pursuant to
108 subsection (d) of this section, and (D) the balance in such account at the
109 close of the quarter for which the report is prepared. Such quarterly
110 report shall be filed electronically with the Commissioner of Revenue
111 Services, in the manner provided by chapter 228g.

112 (d) (1) On or before April 30, 2009, each deposit initiator shall pay
113 the balance outstanding in the special account that is attributable to the
114 period from December 1, 2008, to March 31, 2009, inclusive, to the

115 Commissioner of Environmental Protection for deposit in the General
116 Fund. Thereafter the balance outstanding in the special account that is
117 attributable to the immediately preceding calendar quarter shall be
118 paid by the deposit initiator one month after the close of such quarter
119 to the Commissioner of Environmental Protection for deposit in the
120 General Fund. If the amount of the required payment pursuant to this
121 [subsection] subdivision is not paid by the date seven days after the
122 due date, a penalty of ten per cent of the amount due shall be added to
123 the amount due. The amount due shall bear interest at the rate of one
124 and one-half per cent per month or fraction thereof, from the due date.
125 Any such penalty or interest shall not be paid from funds maintained
126 in the special account.

127 (2) On or before October 31, 2010, each deposit initiator shall pay the
128 balance outstanding in the special account that is attributable to the
129 period from July 1, 2010, to September 30, 2010, inclusive, to the
130 Commissioner of Revenue Services for deposit in the General Fund.
131 Subsequently, the balance outstanding in the special account that is
132 attributable to the immediately preceding calendar quarter shall be
133 paid by the deposit initiator on or before the last day of the month next
134 succeeding the close of such quarter to the commissioner for deposit in
135 the General Fund. If the amount of the required payment pursuant to
136 this subdivision is not paid on or before the due date, a penalty of ten
137 per cent of the amount due and unpaid, or fifty dollars, whichever is
138 greater, shall be imposed. The amount due and unpaid shall bear
139 interest at the rate of one per cent per month or fraction thereof, from
140 the due date. Any such penalty or interest shall not be paid from funds
141 maintained in such special account. Such required payment shall be
142 made by electronic funds transfer to the commissioner, in the manner
143 provided by chapter 228g.

144 (e) If moneys deposited in the special account are insufficient to pay
145 for withdrawals authorized pursuant to subsection (b) of this section,
146 the amount of such deficiency shall be subtracted from the next
147 succeeding payment or payments due pursuant to subsection (d) of
148 this section until the amount of the deficiency has been subtracted in

149 full.

150 (f) The [State Treasurer may, independently or upon request of the
151 commissioner,] Commissioner of Revenue Services may examine the
152 accounts and records of any deposit initiator maintained under this
153 section or sections 22a-243 to 22a-245, inclusive, as amended by this
154 act, and any related accounts and records, including receipts,
155 disbursements and such other items as the [State Treasurer]
156 commissioner deems appropriate.

157 (g) The Attorney General may, independently or upon complaint of
158 the [commissioner] Commissioner of Environmental Protection or the
159 Commissioner of Revenue Services, institute any appropriate action or
160 proceeding to enforce any provision of this section or any regulation
161 adopted pursuant to section 22a-245, as amended by this act, to
162 implement the provisions of this section.

163 (h) The provisions of sections 12-548, 12-550 to 12-554, inclusive, and
164 section 12-555a shall be deemed to apply to the provisions of this
165 section, except any provision of sections 12-548, 12-550 to 12-554,
166 inclusive, and section 12-555a that is inconsistent with the provision in
167 this section.

168 (i) Any payment required pursuant to this section shall be treated as
169 a tax for purposes of sections 12-30b, 12-33a, 12-35a, 12-39g and 12-39h.

170 Sec. 3. (NEW) (*Effective July 1, 2010*) The Commissioner of Revenue
171 Services, in consultation with the Commissioner of Environmental
172 Protection, may adopt regulations, in accordance with the provisions
173 of chapter 54 of the general statutes, to implement the provisions of
174 section 22a-245a of the general statutes, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2010	22a-245(e)
Sec. 2	July 1, 2010	22a-245a
Sec. 3	July 1, 2010	New section

ENV *Joint Favorable Subst. C/R*

FIN

FIN *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Department of Revenue Services	GF - Impact	See Below	See Below
Department of Environmental Protection	GF - Impact	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The cost to the Department of Revenue Services to administer this program is approximately \$75,000. This cost will be fully offset under an agreement with the Department of Environmental Protection (DEP) to transfer resources that are currently being used by DEP to perform these duties.

There is no fiscal impact associated with the provisions in the bill pertaining to the requirements of recycling of organic food waste.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Department of Revenue Services

OLR Bill Analysis**sSB 127*****AN ACT CONCERNING THE ACCOUNTING SYSTEM FOR REDEEMED BEVERAGE CONTAINERS.*****SUMMARY:**

This bill replaces the Department of Environmental Protection (DEP) commissioner as primary administrator for deposit initiators under the Bottle Bill with the Department of Revenue Services (DRS). It requires (1) Bottle Bill deposits to be held in a special trust fund for the state; (2) quarterly reporting on account balances, credits, and withdrawals; and (3) initiators to pay outstanding balances quarterly. The bill also eliminates the state treasurer's right to examine records and allows both DEP and DRS to file a complaint with the attorney general to institute action.

The bill also requires the commissioner to adopt the IRS cash receipts and disbursements accounting method. It allows the DRS commissioner to accept an alternate accounting method if a deposit initiator petitions for one. The bill treats any required payments as a tax for the purpose of specified sections.

EFFECTIVE DATE: July 1, 2010

DRS REGULATIONS

The bill eliminates the DEP commissioner's sole authority to create regulations governing deposit initiators. Instead, it allows the DRS commissioner, in consultation with the DEP commissioner, to adopt such regulations.

SPECIAL TRUST FUND AND ACCOUNTING METHODS

The bill requires Bottle Bill deposits to be held in a special trust fund for the state. It eliminates the requirement that the DEP commissioner

adopt written accounting policies and procedures and instead applies the cash receipts and disbursements accounting method. It also allows deposit initiators to petition the DRS commissioner for an alternate accounting method. The petitioner must file his or her return with (1) a statement of objections and (2) the proposed alternative accounting method, with supporting details and proof, that the petitioner believes is proper and equitable. The DRS commissioner must promptly notify the petitioner whether the alternative method is accepted as reasonable and equitable and, if so, adjust the return and pay any necessary reimbursements.

QUARTERLY REPORTING

The bill also requires deposit initiators to submit, beginning October 31, 2010, a quarterly report for the immediately preceding calendar quarter, to the DRS commissioner. Reports must be filed electronically by the last day of the month after the quarter closes. The report, on a DRS-prescribed form, must include:

1. the special account balance at the beginning of the quarter for which the report is prepared;
2. all deposits credited during that quarter, including refund values paid;
3. all interest, dividends, or returns received;
4. all withdrawals, service charges, and overdraft charges; and
5. the balance at the close of the quarter.

OUTSTANDING BALANCE PAYMENT AND PENALTIES

Beginning October 31, 2010, a deposit initiator must electronically transfer the outstanding balance in the special account attributable to the previous calendar quarter to the DRS commissioner for deposit in the General Fund. If the required payment is not paid by the due date, the deposit initiator will be fined the greater of 10% of the amount due or \$50. The amount due and unpaid bears interest at 1% per month

from the due date. Penalties or interest cannot be paid with funds in the special account.

RIGHT TO EXAMINE RECORDS AND FILE COMPLAINTS

The bill transfers the state treasurer’s right to examine accounts and records to the DRS commissioner. It allows both the DEP and DRS commissioners to file a complaint with the attorney general to institute action. The bill applies provisions of the law relating to inspection of records, deficiency assessments, penalties, refunds, hearings, and appeals to these provisions.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute Change of Reference
Yea 29 Nay 0 (03/19/2010)

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 55 Nay 0 (04/05/2010)