AN ACT ESTABLISHING A BOTTLE RECYCLING FEE IN LIEU OF A REFUNDABLE DEPOSIT.

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

Section 1. Section 22a-243 of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2018):

For purposes of sections 22a-243 to 22a-245c, inclusive, as amended by this act:

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

(2) "Noncarbonated beverage" means juice, tea, sports drink, spirit or liquor and water, including flavored water, nutritionally enhanced water and any beverage that is identified through the use of letters, words or symbols on such beverage's product label as a type of water, but excluding [juice and] mineral water;

(3) "Beverage container" means the individual, separate, sealed
glass, metal or plastic bottle, can, jar or carton containing a carbonated or noncarbonated beverage, but does not include a bottle, can, jar or carton (A) three liters or more in size if containing a noncarbonated beverage, [or] (B) made of high-density polyethylene, or (C) fifty milliliters or more in size if containing a spirit or liquor;

(4) "Consumer" means every person who purchases a beverage in a beverage container for use or consumption;

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

(6) "Distributor" means every person who engages in the sale of beverages in beverage containers to a dealer in this state including any manufacturer who engages in such sale and includes a dealer who engages in the sale of beverages in beverage containers on which no [deposit] recycling fee has been collected prior to retail sale;

(7) "Manufacturer" means every person bottling, canning or otherwise filling beverage containers for sale to distributors or dealers or, in the case of private label brands, the owner of the private label trademark;

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

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

[(10)] (8) "Use or consumption" includes the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for the purposes of sale; and
(11) "Nonrefillable beverage container" means a beverage container which is not designed to be refilled and reused in its original shape;
and]

(12) "Deposit initiator" (9) "Recycling fee initiator" means the first distributor to collect the [deposit] recycling fee on a beverage container sold to any person within this state.

Sec. 2. Section 22a-244 of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2018):

(a) (1) Every beverage container containing a carbonated beverage sold or offered for sale in this state, except for any such beverage containers sold or offered for sale for consumption on an interstate passenger carrier, shall have a refund value recycling fee. Such refund value recycling fee shall not be less than five four cents and shall be a uniform amount throughout the distribution process in this state. (2) Every beverage container containing a noncarbonated beverage sold or offered for sale in this state shall have a refund value recycling fee, except for beverage containers containing a noncarbonated beverage that are [(A)] sold or offered for sale for consumption on an interstate passenger carrier, [], or (B) that comprise any dealer's existing inventory as of March 31, 2009. Such refund value] Such recycling fee shall not be less than five four cents and shall be a uniform amount throughout the distribution process in this state.

(b) Every beverage container sold or offered for sale in this state, that has a refund value recycling fee pursuant to subsection (a) of this section, shall clearly indicate by embossing or by a stamp or by a label or other method securely affixed to the beverage container (1) either the refund value recycling fee of the container [or] and the words ["return for deposit"] "do not return for deposit" or ["return for refund"] "recycle this container" or other words as approved by the Department of Energy and Environmental Protection, and (2) either
the word "Connecticut" or the abbreviation "Ct.", provided this subdivision shall not apply to glass beverage containers permanently marked or embossed with a brand name.

(c) No person shall sell or offer for sale in this state any metal beverage container (1) a part of which is designed to be detached in order to open such container, or (2) that is connected to another beverage container by a device constructed of a material which does not decompose by photodegradation, chemical degradation or biodegradation within a reasonable time after exposure to the elements.

Sec. 3. Section 22a-245a of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2018):

(a) Each deposit recycling fee initiator shall open a special interest-bearing account at a Connecticut branch of a financial institution, as defined in section 45a-557a, to the credit of the deposit recycling fee initiator. Each deposit recycling fee initiator shall deposit in such account an amount equal to the refund value recycling fee established pursuant to subsection (a) of section 22a-244, as amended by this act, for each beverage container sold by such deposit recycling fee initiator. Such deposit recycling fee shall be made not more than one month after the date such beverage container is sold, [provided for any beverage container sold during the period from December 1, 2008, to December 31, 2008, inclusive, such deposit shall be made not later than January 5, 2009.] All interest, dividends and returns earned on the special account shall be paid directly into such account. Such moneys shall be kept separate and apart from all other moneys in the possession of the deposit recycling fee initiator. The amount required to be deposited pursuant to this section, when deposited, shall be held to be a special fund in trust for the state.

[(b) (1) Any reimbursement of the refund value for a redeemed beverage container shall be paid from the deposit initiator's special

account, with such payment to be computed, subject to the provisions of subdivision (2) of this subsection, under the cash receipts and disbursements method of accounting, as described in Section 446(c)(1) of the Internal Revenue Code of 1986, or any subsequent corresponding Internal Revenue Code of the United States, as amended from time to time.

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

[(c)] (b) (1) [Each deposit initiator shall submit a report on March 15, 2009, for the period from December 1, 2008, to February 28, 2009, inclusive.] Each deposit initiator shall submit a report on [July 31, 2009] October 31, 2018, for the period from [March 1, 2009, to June 30, 2009] July 1, 2018, to September 30, 2018, inclusive, and thereafter shall submit a quarterly report for the immediately preceding calendar quarter one month after the close of such quarter. Each such report shall be submitted to the Commissioner of Energy and Environmental Protection, on a form prescribed by the commissioner and with such information as the commissioner deems necessary, including, but not limited to: (A) The balance in the special account at the beginning of the quarter for which the report is prepared; (B) a list of all [deposits] recycling fees credited to such account during such quarter, including all [refund values] recycling fees paid to the [deposit] recycling fee initiator and all interest, dividends or returns received on the account; (C) a list of all withdrawals from such account during such quarter, all service charges and overdraft charges on the account and all payments
made pursuant to subsection [(d)] (c) of this section; and (D) the balance in the account at the close of the quarter for which the report is prepared.

(2) Each deposit initiator shall submit a report on October 31, [2010] 2018, for the calendar quarter beginning July 1, [2010] 2018. Subsequently, each deposit initiator shall submit a quarterly report for the immediately preceding calendar quarter, on or before the last day of the month next succeeding the close of such quarter. Each such report shall be submitted to the Commissioner of Revenue Services, on a form prescribed by the Commissioner of Revenue Services, and with such information as the Commissioner of Revenue Services deems necessary, including, but not limited to, the following information: (A) The balance in the special account at the beginning of the quarter for which the report is prepared, (B) all [deposits] recycling fees credited to such account during such quarter, including all [refund values] recycling fees paid to the [deposit] recycling fee initiator and all interest, dividends or returns received on such account, (C) all withdrawals from such account during such quarter, including all service charges and overdraft charges on such account and all payments made pursuant to subsection [(d)] (c) of this section, and (D) the balance in such account at the close of the quarter for which the report is prepared. Such quarterly report shall be filed electronically with the Commissioner of Revenue Services, in the manner provided by chapter 228g.

[(d) (1) On or before April 30, 2009, each deposit initiator shall pay the balance outstanding in the special account that is attributable to the period from December 1, 2008, to March 31, 2009, inclusive, to the Commissioner of Energy and Environmental Protection for deposit in the General Fund. Thereafter, the balance outstanding in the special account that is attributable to the immediately preceding calendar quarter shall be paid by the deposit initiator one month after the close of such quarter to the Commissioner of Energy and Environmental Protection for deposit in the General Fund. If the amount of the
required payment pursuant to this subdivision is not paid by the date
seven days after the due date, a penalty of ten per cent of the amount
due shall be added to the amount due. The amount due shall bear
interest at the rate of one and one-half per cent per month or fraction
thereof, from the due date. Any such penalty or interest shall not be
paid from funds maintained in the special account.]

[(2)] (c) On or before October 31, [2010] 2018, each [deposit]
recycling fee initiator shall pay the balance outstanding in the special
account that is attributable to the period from July 1, [2010] 2018, to
September 30, [2010] 2018, inclusive, to the Commissioner of Revenue
Services for deposit in the General Fund. Subsequently, the balance
outstanding in the special account that is attributable to the
immediately preceding calendar quarter shall be paid by the deposit
initiator on or before the last day of the month next succeeding the
close of such quarter to the Commissioner of Revenue Services for
deposit in the General Fund. If the amount of the required payment
pursuant to this subdivision is not paid on or before the due date, a
penalty of ten per cent of the amount due and unpaid, or fifty dollars,
whichever is greater, shall be imposed. The amount due and unpaid
shall bear interest at the rate of one per cent per month or fraction
thereof, from the due date. Any such penalty or interest shall not be
paid from funds maintained in such special account. Such required
payment shall be made by electronic funds transfer to the
Commissioner of Revenue Services, in the manner provided by
chapter 228g.

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

[(f)] (d) The Commissioner of Revenue Services may examine the
accounts and records of any [deposit] recycling fee initiator maintained under this section or sections 22a-243 [to 22a-245, inclusive.] or 22a-244, as amended by this act, and any related accounts and records, including receipts, disbursements and such other items as the Commissioner of Revenue Services deems appropriate.

[(g) (e)] The Attorney General may, independently or upon complaint of the Commissioner of Energy and Environmental Protection or the Commissioner of Revenue Services, institute any appropriate action or proceeding to enforce any provision of this section, or any regulation adopted pursuant to section 22a-245 to implement the provisions of this section.

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

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

[(j) Not later than July 1, 2010, the Department of Energy and Environmental Protection or successor agency shall establish a procedure that allows each such deposit initiator to take a credit against any payment made pursuant to subsection (d) of this section in the amount of the deposits refunded on beverage containers which such deposit initiator donated for any charitable purpose.]
exemption from the requirements of sections 22a-244 [to] and 22a-245a, [inclusive] as amended by this act, with regard to such beverage containers containing noncarbonated beverages. Such application shall be accompanied by a sworn affidavit signed by such manufacturer or such manufacturer's authorized agent certifying such manufacturer bottles and sells two hundred fifty thousand or fewer of such beverage containers per calendar year. [Any such application filed on or before April 1, 2009, shall be deemed automatically approved and such exemption shall remain valid until December 31, 2009.] Not later than [November 1, 2009] October 31, 2018, and each year thereafter, each such manufacturer or such manufacturer's authorized agent may apply to the commissioner for an exemption in accordance with this section on a form prescribed by the commissioner. The commissioner shall approve each such application not later than thirty days after the receipt of the application by the commissioner, provided the applicant satisfies the requirements of this section.

Sec. 5. Section 22a-245c of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2018):

Any manufacturer, dealer or distributor of beverage containers containing noncarbonated beverages may apply to the Governor or the Secretary of the Office of Policy and Management for a delay in the implementation of the requirements imposed by the provisions of sections 22a-244 [to] and 22a-245a, [inclusive] as amended by this act, with regard to such beverage containers containing noncarbonated beverages. Such application may be on a form prescribed by the Governor or the secretary. The Governor or the secretary may delay the implementation of such requirements upon the showing of undue hardship to the industries affected by such requirements, but in no case shall such requirements be implemented later than October 1, [2009] 2019.

Sec. 6. Section 22a-246 of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2018):
Any person who violates any provision of section 22a-244 [22a-245] or 22a-245a, as amended by this act, shall be fined not less than fifty dollars nor more than one hundred dollars, and for a second offense shall be fined not less than one hundred dollars nor more than two hundred dollars and for a third or subsequent offense shall be fined not less than two hundred fifty dollars or more than five hundred dollars.

Sec. 7. Subsection (b) of section 22a-251 of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2018):

(b) The provisions of sections 22a-247 to 22a-249, inclusive, and 22a-250 shall be in addition to and shall not supersede any provision of [sections] section 22a-243 [to 22a-245, inclusive] or 22a-244, as amended by this act.

Sec. 8. Subdivision (8) of section 12-407 of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2018):

(8) (A) "Sales price" means the total amount for which tangible personal property is sold by a retailer, the total amount of rent for which occupancy of a room is transferred by an operator, the total amount for which any service described in subdivision (2) of this subsection is rendered by a retailer or the total amount of payment or periodic payments for which tangible personal property is leased by a retailer, valued in money, whether paid in money or otherwise, which amount is due and owing to the retailer or operator and, subject to the provisions of subdivision (1) of section 12-408, whether or not actually received by the retailer or operator, without any deduction on account of any of the following: (i) The cost of the property sold; (ii) the cost of materials used, labor or service cost, interest charged, losses or any other expenses; (iii) for any sale occurring on or after July 1, 1993, any charges by the retailer to the purchaser for shipping or delivery,
notwithstanding whether such charges are separately stated in a written contract, or on a bill or invoice rendered to such purchaser or whether such shipping or delivery is provided by the retailer or a third party. The provisions of subparagraph (A) (iii) of this subdivision shall not apply to any item exempt from taxation pursuant to section 12-412. Such total amount includes any services that are a part of the sale; except as otherwise provided in subparagraph (B)(v) or (B)(vi) of this subdivision, any amount for which credit is given to the purchaser by the retailer, and all compensation and all employment-related expenses, whether or not separately stated, paid to or on behalf of employees of a retailer of any service described in subdivision (2) of this subsection.

(B) "Sales price" does not include any of the following: (i) Cash discounts allowed and taken on sales; (ii) any portion of the amount charged for property returned by purchasers, which upon rescission of the contract of sale is refunded either in cash or credit, provided the property is returned within ninety days from the date of purchase; (iii) the amount of any tax, not including any manufacturers' or importers' excise tax, imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the purchaser; (iv) the amount charged for labor rendered in installing or applying the property sold, provided such charge is separately stated and exclusive of such charge for any service rendered within the purview of subparagraph (I) of subdivision (37) of this subsection; (v) unless the provisions of subdivision (4) of section 12-430 or of section 12-430a are applicable, any amount for which credit is given to the purchaser by the retailer, provided such credit is given solely for property of the same kind accepted in part payment by the retailer and intended by the retailer to be resold; (vi) the full face value of any coupon used by a purchaser to reduce the price paid to a retailer for an item of tangible personal property, whether or not the retailer will be reimbursed for such coupon, in whole or in part, by the manufacturer of the item of tangible personal property or by a third party; (vii) the amount
charged for separately stated compensation, fringe benefits, workers' compensation and payroll taxes or assessments paid to or on behalf of employees of a retailer who has contracted to manage a service recipient's property or business premises and renders management services described in subparagraph (I) or (J) of subdivision (37) of this subsection, provided, the employees perform such services solely for the service recipient at its property or business premises and "sales price" shall include the separately stated compensation, fringe benefits, workers' compensation and payroll taxes or assessments paid to or on behalf of any employee of the retailer who is an officer, director or owner of more than five per cent of the outstanding capital stock of the retailer. Determination whether an employee performs services solely for a service recipient at its property or business premises for purposes of this subdivision shall be made by reference to such employee's activities during the time period beginning on the later of the commencement of the management contract, the date of the employee's first employment by the retailer or the date which is six months immediately preceding the date of such determination; (viii) the amount charged for separately stated compensation, fringe benefits, workers' compensation and payroll taxes or assessments paid to or on behalf of (I) a leased employee, or (II) a worksite employee by a professional employer organization pursuant to a professional employer agreement. For purposes of this subparagraph, an employee shall be treated as a leased employee if the employee is provided to the client at the commencement of an agreement with an employee leasing organization under which at least seventy-five per cent of the employees provided to the client at the commencement of such initial agreement qualify as leased employees pursuant to Section 414(n) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, or the employee is added to the client's workforce by the employee leasing organization subsequent to the commencement of such initial agreement and qualifies as a leased employee pursuant to Section 414(n) of said Internal Revenue Code of 1986 without regard to...
subparagraph (B) of paragraph (2) thereof. A leased employee, or a worksite employee subject to a professional employer agreement, shall not include any employee who is hired by a temporary help service and assigned to support or supplement the workforce of a temporary help service's client; (ix) any amount received by a retailer from a purchaser as the battery deposit that is required to be paid under subsection (a) of section 22a-245h; the [refund value] recycling fee of a beverage container that is required to be paid under subsection (a) of section 22a-244, as amended by this act; or a deposit that is required by law to be paid by the purchaser to the retailer and that is required by law to be refunded to the purchaser by the retailer when the same or similar tangible personal property is delivered as required by law to the retailer by the purchaser, if such amount is separately stated on the bill or invoice rendered by the retailer to the purchaser; and (x) the amount charged for separately stated compensation, fringe benefits, workers' compensation and payroll taxes or assessments paid to a media payroll services company, as defined in this subsection.

Sec. 9. (NEW) (Effective July 1, 2018) (a) There is established a separate, nonlapsing account within the General Fund, known as the "recycling fee account". The Commissioner of Revenue Services shall credit three cents of every recycling fee received by the commissioner in accordance with the provisions of sections 22a-244 and 22a-245a of the general statutes, as amended by this act, to the recycling fee account. Said account may also receive funds from private or public sources, including the federal government or a municipal government.

(b) Within the recycling fee account, there shall be the following subaccounts, the: (1) Collectors' subaccount, (2) tipping fee subaccount, and (3) beverage container reuse subaccount. The commissioner shall credit one cent of each recycling fee received in the recycling fee account, pursuant to subsection (a) of this section, to each of the three subaccounts established pursuant to this subsection.

(c) Any funds credited to the collectors' subaccount in accordance
with the provisions of subsection (b) of this section shall be utilized to
make payments to collectors registered to haul solid waste pursuant to
section 22a-220a of the general statutes. Such payments shall be made
in a manner that reflects any verifiable increased volume in the
number of beverage containers, as defined in section 22a-243 of the
general statutes, as amended by this act, that a collector hauls as a
result of the provisions of section 10 of this act. The Commissioners of
Revenue Services and Energy and Environmental Protection shall
determine the terms and amount of any such payment, including but
not limited to, the frequency of any such payments. The Commissioner
of Energy and Environmental Protection, in consultation with the
Commissioner of Revenue Services, may adopt regulations, in
accordance with the provisions of chapter 54 of the general statutes, to
implement the provisions of this subsection.

(d) Any funds credited to the tipping fee subaccount in accordance
with the provisions of subsection (b) of this section shall be utilized to
make payments to municipalities that realize an increase in tipping
fees paid by such municipalities that are verifiably attributable to the
provisions of section 10 of this act. The Commissioners of Revenue
Services and Energy and Environmental Protection shall determine the
terms and amount of any such payment, including, but not limited to,
the frequency of any such payments. The Commissioner of Energy and
Environmental Protection, in consultation with the Commissioner of
Revenue Services, may adopt regulations, in accordance with the
provisions of chapter 54 of the general statutes, to implement the
provisions of this subsection. Nothing in this subsection shall be
deemed to affect the payment of any grant to a municipality pursuant
to section 22a-219b or 22a-219c of the general statutes.

(e) Any funds credited to the beverage container reuse subaccount
in accordance with the provisions of subsection (b) of this section shall
be utilized by the Commissioner of Energy and Environmental
Protection and the Recycle CT Foundation, Inc. to fund the
development of reuses for beverage containers, as defined in section
22a-243 of the general statutes, as amended by this act, that are recycled in accordance with the provisions of section 22a-241b of the general statutes. Such funds shall be expended to fund research, projects, purposes, including but not limited to, industry and businesses, and other efforts that result in the reuse of such beverage containers in this state. The Commissioner of Energy and Environmental Protection, in consultation with the Recycle CT Foundation Council, shall determine the requirements and terms for any funds awarded to any person pursuant to the provisions of this subsection, including, but not limited to, the amount of any funds awarded pursuant to this subsection. In developing such requirements, the commissioner may consult with Connecticut Innovations, Incorporated. Such quasi-public agency shall provide the commissioner with any information that the commissioner determines is necessary for the performance of the commissioner's responsibilities pursuant to this subsection. The Commissioner of Energy and Environmental Protection may adopt regulations in accordance with the provisions of chapter 54 of the general statutes to implement the provisions of this subsection.

Sec. 10. Section 22a-245 of the general statutes is repealed. (Effective July 1, 2018)

This act shall take effect as follows and shall amend the following sections:

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Statement of Purpose:
To replace the redemption fee on bottles with a recycling fee, similar to
the state of Delaware, and have such bottles recycled through curb-
side recycling rather than redemption centers and use the funds from
such recycling fee to, in part, fund the reuse of such bottles in the state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline,
except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is
not underlined.]