
OLR Bill Analysis

sSB 1037 (File 562, as amended by Senate "A")*

AN ACT CONCERNING SOLID WASTE MANAGEMENT.

SUMMARY

This bill revamps the state's beverage container redemption law ("bottle bill," see BACKGROUND) by generally doing the following:

1. expanding the list of beverages subject to the bottle bill's requirements and exempting containers of less than 150mL (§§ 1 & 5);
2. increasing, beginning January 1, 2024, the beverage container deposit amount to at least 10 cents, rather than five cents (in practice the deposit is that specific amount) (§ 2);
3. increasing the handling fee to two and one-half cents or three and one-half cents per beverage container, depending on the type of container involved, that distributors must pay to dealers (e.g., and hereafter, "retailers") and redemption centers, (§ 3);
4. incrementally reduces the amount of unclaimed deposits that distributors must remit to the General Fund from 100% currently to 45% by FY 26, and allows the distributors to keep the remainder (§ 4);
5. requiring certain retailers to install and maintain at least two reverse vending machines (RVMs) at their place of business or have dedicated areas for redeeming beverage containers (§ 7); and
6. requiring, beginning January 1, 2024, (a) all refundable beverage containers sold in Connecticut to have a Universal Product Code (UPC) and barcode and (b) deposit initiators (e.g., the first distributor to collect the deposit) to provide them, with

packaging information, to the RVM system administrators and other system operators at least 30 days before placing the beverage containers on the market (§ 2).

The bill requires the Department of Energy and Environmental Protection (DEEP) to approve stewardship organizations for beverage containers (§ 9). It also requires DEEP to develop terms for a memorandum of agreement (MOA) that provides for in-state processing of at least 80% of the wine and liquor beverage containers sold in-state (§ 8).

The bill establishes a five-cent surcharge on the sale of spirit or liquor beverage containers of 50mL or less (commonly referred to as “nips”). It requires (1) wholesalers to remit the surcharges to the municipalities in which the containers were sold and (2) the municipalities to use the remitted funds for environmental measures aimed at reducing solid waste or reducing the impact of litter (§ 10).

Lastly, the bill requires the DEEP commissioner, by July 1, 2022, to develop an incentive program to help municipalities that want to adopt a unit-based pricing program for solid waste disposal (e.g., “pay-as-you-throw”). She must also identify funding sources to provide the incentives (§ 6).

Lastly, the bill makes technical and conforming changes.

*Senate Amendment “A” principally does the following: (1) delays the expansion to additional beverage containers, increase in the deposit amount and handling fees, reduced unclaimed deposits submitted to the state, and requirement for certain businesses to have RVMs; (2) removes nips and noncarbonated liquids intended for human consumption generally, from the bottle bill expansion; (3) exempts containers of less than 150mL; (4) increases the amount of unclaimed deposits that distributors may keep; (5) decreases by one cent the underlying bill’s handling fee increase for beer or other malt beverages; (6) lowers, from 10,000 to 7,000 square feet, the underlying bill’s size requirement of the area used to display merchandise for sale that may subject a chain business to the bill’s RVM requirements; (7)

replaces the underlying bill's provision on a request for information on programmatic specifications for a redemption management program with the requirement for DEEP to approve the formation of a beverage container stewardship organization and deposit initiators to join one of these organizations; and (8) imposes a separate five-cent surcharge on nips that municipalities must use for certain environmental purposes.

EFFECTIVE DATE: July 1, 2021, except the handling fee increase, RVM requirement, and nip surcharge take effect October 1, 2021; the bottle bill's expansion takes effect January 1, 2023; the deposit increase takes effect January 1, 2024; and the MOA and stewardship organization provisions are effective upon passage.

§§ 1 & 5 — COVERED BEVERAGE CONTAINERS

Under current law, the bottle bill applies to beverage containers of the following: beer, other malt beverages, mineral or soda water, carbonated soft drinks, and water, including flavored or nutritionally enhanced water.

Beginning July 1, 2023, the bill generally expands the bottle bill to include beverage containers for hard cider, plant water or plant infused drink, juice or juice drink, tea, coffee, kombucha, and sports or energy drink. The bill explicitly includes hard seltzer in the bottle bill's scope, which under current law is covered as a malt beverage. It also includes beverages that are identified as these with letters, words, or symbols on the beverages' labels. The bill does so by adding these products to the law's definitions of "carbonated beverage" and "noncarbonated beverage."

Exempt Containers

The bottle bill currently exempts from its requirements (1) noncarbonated beverages of at least three liters in size or (2) containers made of high-density polyethylene (i.e., with an HDPE designation or #2 recycling symbol). It also exempts containers provided on interstate passenger carriers (e.g., planes or trains). The bill modifies some of these exemptions and creates new ones.

The bill generally (1) eliminates the exemption for high-density polyethylene containers, (2) reduces the current size threshold for exempt noncarbonated beverage containers to be exempt, and (3) imposes a size threshold for exempting carbonated beverages. Specifically, it now exempts containers for (1) carbonated beverages of greater than three liters, (2) noncarbonated beverage container of greater than two and one-half liters, and (3) containers of less than 150mL of either carbonated and noncarbonated beverages.

Additionally, by law, manufacturers that annually bottle and sell up to 250,000 noncarbonated beverages of 20 ounces or less in size may apply to the DEEP commissioner for an exemption from the law's provisions (CGS § 22a-245b). The bill extends this exemption, beginning July 1, 2021, to manufacturers of the new noncarbonated beverages covered by the bill (e.g., juice, coffee, tea, or sport or energy drink). And the bill creates a new exemption for juice manufacturers that annually bottle and sell up to 100,000 gallons of juice in beverage containers. These juice manufacturers must also apply to DEEP for the exemption.

§ 3 — HANDLING FEES

Beginning October 1, 2021, the bill increases the handling fees for beverage containers currently redeemed under the bottle bill by setting the minimum handling fee at either two and one-half cents or three and one-half cents, depending on the container involved (see Table 1). It applies the increased fee to the bill's newly covered beverage containers.

Table 1: Bottle Bill Handling Fees, Current Law vs. the Bill

	<i>Current Law</i>	<i>Under the Bill</i>
<i>Beer or other malt beverages, including hard seltzer</i>	\$0.015	\$0.025
<i>Hard cider</i>	N/A	0.025
<i>Noncarbonated beverages, mineral or soda water, and carbonated soft drinks</i>	0.02	0.035

§ 4 — UNCLAIMED DEPOSITS

Under current law, unclaimed deposits are paid quarterly by the distributors to the revenue services commissioner for deposit into the state's General Fund. The bill incrementally reduces the amount of unclaimed funds deposited to the General Fund to 45% by FY 26, as shown in Table 2, and correspondingly allows the distributors to keep the remainder.

Table 2: Percentage Distribution of Unclaimed Deposits

	<i>General Fund</i>	<i>Distributors</i>
Currently – FY 22	100%	0%
FY 23	95	5
FY 24	65	35
FY 25	55	45
FY 26 and beyond	45	55

§ 7 — RETAILER RVMS AND REDEMPTION AREAS

The bill generally requires certain retailers, beginning October 1, 2021, to install and maintain at least two RVMS at their place of business. Under the bill, an RVM is a mechanical device that (1) accepts used beverage containers from consumers and (2) provides a way of refunding the containers' refund value (deposit amount) to the device user.

The requirement to have the RVMS applies to retailers whose place of business (1) is part of a chain engaged in the same general type of business that operates at least 10 units in Connecticut under common ownership and (2) uses at least 7,000 square feet of space to display merchandise for sale to the public.

The bill also requires retailers exempt from the RVM requirement (see below), whose place of business is at least 40,000 square feet and does not use RVMS, to have and maintain a dedicated area at the business to accept and redeem beverage containers. It requires these areas to be adequately staffed so that containers can be efficiently

accepted and processed during business hours. There must also be at least one conspicuous sign posted at each public entrance describing how to find the redemption area.

Exemptions

The bill exempts from the RVM requirement retailers that do the following:

1. sell only beverage containers of 20 ounces or less that are packaged in quantities of less than six;
2. sell beverage containers, but use no more than 5% of their floor space to display and sell consumer products; or
3. get a waiver from the DEEP commissioner allowing them to use an alternative technology to redeem the containers.

For the waiver, the alternative technology must be able to:

1. determine a beverage container's redeemability;
2. protect against fraud by reading a container's UPC and, except for refillable containers, renders the container unredeemable;
3. collect information about the redeemed containers; and
4. issue legal tender or a scrip, receipt, or other credit for the refund value that can be exchanged for legal tender for at least 60 days without needing to purchase other goods.

If the alternative technology does not allow consumers to immediately obtain the refund value, a retailer can only use it if the retailer also allows consumer to conveniently and immediately obtain the refund value through an RVM or another method.

Penalty

The bill subjects retailers who violate these requirements to a civil fine of up to \$1,000, with an additional \$1,000 for each day the violation continues. It requires a hearing held according to the

Uniform Administrative Procedures Act before the DEEP commissioner can assess the fine.

§ 8 — MOA: WINE AND LIQUOR CONTAINERS

Under the bill, DEEP must develop the terms for a MOA that, by January 1, 2023, provides for in-state processing of at least 80% of the wine and liquor beverage containers sold in the state. The processing must turn the containers into furnace-ready cullet or by-product that is melted or otherwise used in cement, glass, or fiberglass products.

The bill requires DEEP, when developing the terms, to (1) identify the parties that must be part of the agreement and (2) engage them in ongoing discussions about establishing systems and methods under the agreement for statewide, cost-effective, and consumer-oriented collection of the wine and liquor beverage containers. The collected materials must also be sufficiently clean and acceptable for use at a facility that produces the glass cullet or byproduct.

Under the bill, the MOA must include provisions, with responsibilities assigned among the parties, for the following:

1. establishing and implementing the collection systems and methods;
2. transporting collected containers to a processing facility;
3. properly recycling and managing containers not accepted by a facility;
4. executing financial obligations among the parties according to the agreement;
5. recordkeeping of the volume, tonnage, and categories of containers annually processed under the agreement; and
6. auditing costs, efficiencies, and benefits of the agreement.

The bill requires the DEEP commissioner to submit a draft of the MOA to the Environment Committee by January 15, 2022.

§ 9 — BEVERAGE CONTAINER STEWARDSHIP ORGANIZATION

The bill requires the DEEP commissioner to approve an application for the formation of a beverage container stewardship organization by deposit initiators if the organization meets the following requirements:

1. is a 501(c)(3) federally tax-exempt organization;
2. has a governing board of deposit initiators that represents the range of beverages and container materials covered by the state's bottle bill; and
3. shows that it has adequate financial responsibility and controls, including fraud prevention and an audit schedule, to properly manage funds.

It also requires each deposit initiator to join and register with an approved beverage container stewardship organization within three months after DEEP approves the organization. Deposit initiators seeking to sell beverage containers in the state after this period must register and join the organization at least 90 days before their sale.

Under the bill, any approved organization must submit a plan for the DEEP commissioner's review and approval to operate a statewide beverage container stewardship program by July 1, 2022. The bill requires the plan to provide detailed information about how the organization will operate and finance a program to redeem and recycle beverage containers. The information must at least include the following:

1. 80% annual redemption rate by a specified timeline;
2. financial self-sustainability;
3. verifiable performance metrics for enhanced customer satisfaction;
4. policies and investments to ensure that recovered materials are returned for their highest and best use;

5. detailed descriptions for how existing collection and redemption centers will be used;
6. redemption rates as of the date of the plan and projected for the next five years, along with a recommended refund value for the containers to achieve these rates;
7. how the plan will cost the state or any other participants;
8. revenues that will be returned to the state and projected diminishment in the state's revenue use or collection in the five fiscal years beginning with FY 22;
9. legislative changes needed to carry out the plan; and
10. other parameters or requirements the commissioner requires.

When developing the plan, the stewardship organization must obtain input from members of the independent redemption center community, municipal resource recovery facilities, municipal leaders, wine and spirits distributors, and RVM operators. The bill prohibits the commissioner from approving a plan without verification of receiving this input.

The bill requires the DEEP commissioner, by October 1, 2022, to submit recommendations on any plan for a proposed stewardship program to the Environment Committee.

§ 10 — NIP SURCHARGE

Beginning October 1, 2021, the bill requires wholesalers of spirit or liquor beverage containers of 50mL or less to assess a five-cent surcharge on each of these containers to retailers. The retailers must then impose the same surcharge on the customers who purchase the containers. The bill specifies that paying the surcharge is a debt by retailers, upon their purchase from the wholesaler, and is subject to posting requirements for delinquencies. Under the Liquor Control Act, a notice of delinquency identifies the delinquent retailer and prohibits manufacturers or wholesalers from crediting the identified retailer

until the notice is satisfied (CGS § 30-48(b)).

Under the bill, the surcharge must be distinct and clearly identified from the container's price. The bill exempts it from sales tax or being treated as income.

Beginning April 1, 2022, and then every six months, each wholesaler must remit to each municipality where these beverage containers were sold during the prior six-month period, five-cents per container the wholesaler sold in the municipality. At the same time as the payment, the wholesaler must file a report with the Department of Revenue Service and the Department of Consumer Protection's Liquor Control Division stating the number of these beverage containers it sold in each municipality during the prior six months.

The bill requires municipalities receiving the surcharge funds to only use the funds for environmental measures to reduce solid waste generation in the municipality or the impact of litter from the solid waste. These measures include such things as hiring a recycling coordinator; installing storm drain filters to block solid waste (including beverage container debris); or purchasing a mechanical street sweeper, vacuum, or broom to remove litter and other debris from streets, sidewalks, and abutting lawn and turf areas.

BACKGROUND

Current Bottle Redemption Process

In general, Connecticut's bottle bill redemption process currently works as follows:

1. a retailer pays a beverage container distributor five cents for each eligible beverage container that the distributor delivers;
2. a consumer pays the retailer five cents for each beverage container that he or she purchases from the retailer;
3. the retailer or a redemption center pays the consumer five cents for each beverage container that he or she returns (i.e., refunding the deposit);

4. the distributor reimburses the retailer or redemption center five cents for each beverage container returned, plus a handling fee; and
5. the distributor pays the state the five cents for each unclaimed deposit, which is deposited into the General Fund (CGS § 22a-243 et seq.).

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 21 Nay 11 (03/31/2021)