

110TH CONGRESS
1ST SESSION

H. R. 4238

To amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2007

Mr. MARKEY (for himself, Mr. GRIJALVA, Mr. HINCHEY, Mr. VAN HOLLEN, Ms. SLAUGHTER, Mr. DELAHUNT, Ms. ROYBAL-ALLARD, Ms. LORETTA SANCHEZ of California, Ms. LEE, Mr. BLUMENAUER, Mr. DEFazio, and Mr. STARK) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bottle Recycling Cli-
5 mate Protection Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) The energy required to manufacture bev-
2 erage containers from recycled containers is often
3 less than the energy required to create new beverage
4 container materials from raw materials.

5 (2) Recycling beverage containers would reduce
6 municipal solid waste and reduce the energy and
7 heat-trapping emissions generated in the manufac-
8 ture of new aluminum, plastics, and other beverage
9 container materials.

10 (3) An average of 350,000,000 beverage bottles
11 and cans are sent to landfills, incinerated, or littered
12 every day.

13 (4) In 2006, less than half of the
14 100,000,000,000 aluminum beverage cans purchased
15 were recycled, resulting in the waste of 800,000 tons
16 of aluminum. Nine of ten plastic water bottles,
17 30,000,000 bottles a year, end up as garbage or lit-
18 ter, where they take up to 1,000 years to bio-
19 degrade.

20 (5) A national system for requiring a refund
21 value on the sale of all beverage containers would
22 provide a positive incentive to individuals to clean up
23 the environment, and would result in a high level of
24 reuse and recycling of such containers and help re-
25 duce the costs and environmental dangers associated

1 with solid waste management and container manu-
2 facturing.

3 (6) States with bottle bills have container recy-
4 cling rates ranging from 60 percent to over 90 per-
5 cent, compared to the national average recycling rate
6 of 34 percent.

7 (7) A national system of beverage container re-
8 cycling is consistent with the intent of the Solid
9 Waste Disposal Act (42 U.S.C. 6901 et seq.).

10 **SEC. 3. AMENDMENT OF SOLID WASTE DISPOSAL ACT.**

11 (a) AMENDMENT.—The Solid Waste Disposal Act
12 (42 U.S.C. 6901 et seq.) is amended by adding the fol-
13 lowing new subtitle at the end thereof:

14 **“Subtitle K—Beverage Container**
15 **Recycling**

16 **“SEC. 12001. DEFINITIONS.**

17 “For purposes of this subtitle—

18 “(1) The term ‘beverage’ means water, mineral
19 water, soda water, flavored water, sports drinks,
20 juice, iced tea, wine cooler, beer or other malt bev-
21 erage, or a carbonated nonalcoholic beverage of any
22 variety in liquid form intended for human consump-
23 tion, but does not include milk or other dairy prod-
24 ucts or dairy-derived products.

1 “(2) The term ‘beverage container’ means a
2 container constructed of metal, glass, plastic, or
3 some combination of these materials and having a
4 capacity of up to one gallon of liquid and which is
5 or has been sealed and used to contain a beverage
6 for sale in interstate commerce.

7 “(3) The term ‘beverage distributor’ means a
8 person who sells or offers for sale in interstate com-
9 merce to beverage retailers beverages in beverage
10 containers for resale.

11 “(4) The term ‘beverage retailer’ means a per-
12 son who purchases from a beverage distributor bev-
13 erages in beverage containers for sale to a consumer
14 or who sells or offers to sell in commerce beverages
15 in beverage containers to a consumer, but does not
16 include a person who sells or offers to sell the bev-
17 erages for consumption on the premises.

18 “(5) The term ‘consumer’ means a person who
19 purchases a beverage container for any use other
20 than resale.

21 “(6) The term ‘refund value’ means the amount
22 specified as the refund value of a beverage container
23 under section 12002.

24 “(7) The term ‘wine cooler’ means a drink con-
25 taining less than 8 percent alcohol (by volume), con-

1 sisting of wine and plain, sparkling, or carbonated
2 water and containing any one or more of the fol-
3 lowing: nonalcoholic beverage, flavoring, coloring
4 materials, fruit juices, fruit adjuncts, sugar, carbon
5 dioxide, preservatives.

6 **“SEC. 12002. REQUIRED BEVERAGE CONTAINER LABELING.**

7 “Except as otherwise provided in section 12007, no
8 beverage distributor or beverage retailer may sell or offer
9 for sale in interstate commerce a beverage in a beverage
10 container unless there is clearly, prominently, and securely
11 affixed to, or printed on, the container a statement of the
12 refund value of the container in the amount of 5 cents.
13 The Administrator shall promulgate rules establishing
14 uniform standards for the size and location of the refund
15 value statement on beverage containers. The 5 cent
16 amount specified in this section shall be subject to adjust-
17 ment by the Administrator as provided in section 12008.

18 **“SEC. 12003. ORIGINATION OF REFUND VALUE.**

19 “For each beverage in a beverage container sold in
20 interstate commerce to a beverage retailer by a beverage
21 distributor, the distributor shall collect from the retailer
22 the amount of the refund value shown on the container.
23 With respect to each beverage in a beverage container sold
24 in interstate commerce to a consumer by a beverage re-
25 tailer, the retailer shall collect from the consumer the

1 amount of the refund value shown on the container. No
2 person other than the persons described in this section
3 may collect a deposit on a beverage container.

4 **“SEC. 12004. RETURN OF REFUND VALUE.**

5 “(a) PAYMENT BY RETAILER.—

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2), if any person tenders for refund an empty
8 and unbroken beverage container to a beverage re-
9 tailer who sells (or has sold at any time during the
10 period of 3 months ending on the date of such ten-
11 der) the same brand of beverage in the same kind
12 and size of container, the retailer shall promptly pay
13 such person the amount of the refund value stated
14 on the container.

15 “(2) EXCEPTIONS.—A retailer shall not be re-
16 quired to accept tender of a beverage container
17 under paragraph (1)—

18 “(A) if the beverage container contains or
19 is contaminated by a hazardous waste;

20 “(B) in excess of 600 individual beverage
21 containers per day if the retailer occupies a
22 space less than 5,000 square feet; or

23 “(C) in excess of 1,800 individual beverage
24 containers per day if the retailer occupies a
25 space greater than 5,000 square feet.

1 “(b) PAYMENT BY DISTRIBUTOR.—If any person
2 tenders for refund an empty and unbroken beverage con-
3 tainer to a beverage distributor who sells (or has sold at
4 any time during the period of 3 months ending on the
5 date of such tender) the same brand of beverage in the
6 same kind and size of container, the distributor shall
7 promptly pay such person (1) the amount of the refund
8 value stated on the container, plus (2) an amount equal
9 to at least 3 cents per container to help defray the cost
10 of handling. This subsection shall not preclude any person
11 from tendering beverage containers to persons other than
12 beverage distributors.

13 “(c) AGREEMENTS.—(1) Nothing in this subtitle
14 shall preclude agreements between distributors, retailers,
15 or other persons to establish centralized beverage collec-
16 tion centers, including centers which act as agents of such
17 retailers.

18 “(2) Nothing in this subtitle shall preclude agree-
19 ments between beverage retailers, beverage distributors, or
20 other persons for the crushing or bundling (or both) of
21 beverage containers.

22 “(d) BROKEN CONTAINERS.—The opening of a bev-
23 erage container in a manner in which it was designed to
24 be opened and the compression of a beverage container
25 made of metal or plastic shall not, for purposes of this

1 section, constitute the breaking of the container if the
2 statement of the amount of the refund value of the con-
3 tainer is still readable.

4 **“SEC. 12005. ACCOUNTING FOR UNCLAIMED REFUNDS AND**
5 **PROVISIONS FOR STATE RECYCLING FUNDS.**

6 “(a) UNCLAIMED REFUNDS.—At the end of each cal-
7 endar year each beverage distributor shall pay to each
8 State an amount equal to the sum by which the total re-
9 fund value of all containers sold by the distributor for re-
10 sale in that State during that year exceeds the total sum
11 paid during that year by the distributor under section
12 12004(b) to persons in that State. The total of unclaimed
13 refunds received by any State under this section shall be
14 available to carry out programs designed to reduce green-
15 house gas emissions within the State.

16 “(b) REFUNDS IN EXCESS OF COLLECTIONS.—If the
17 total of payments made by a beverage distributor in any
18 calendar year under section 12004(b) for any State exceed
19 the total refund value of all containers sold by the dis-
20 tributor for resale in that State, the excess shall be cred-
21 ited against the amount otherwise required to be paid by
22 the distributor to that State under subsection (a) for a
23 subsequent calendar year designated by the beverage dis-
24 tributor.

1 **“SEC. 12006. PROHIBITIONS ON DISPOSAL.**

2 “No retailer or distributor or agent of a retailer or
3 distributor may dispose of any beverage container labeled
4 under section 12002 or any metal, glass, or plastic from
5 such a beverage container (other than the top or other
6 seal thereof) in any landfill or other solid waste disposal
7 facility.

8 **“SEC. 12007. EXEMPTED STATES.**

9 “(a) IN GENERAL.—The provisions of sections 12002
10 through 12005 and sections 12008 and 12009 of this sub-
11 title shall not apply in any State which—

12 “(1) has adopted and implemented, before the
13 date of enactment of this subtitle, a law requiring
14 beverage container deposits; or

15 “(2) demonstrates to the Administrator that,
16 for any period of 12 consecutive months following
17 the date of enactment of this subtitle, such State
18 achieved a recycling or reuse rate for beverage con-
19 tainers of at least—

20 “(A) 50 percent for the first 3 years after
21 the date of enactment of this subtitle;

22 “(B) 60 percent for the subsequent 2 year
23 period; and

24 “(C) 70 percent during any period there-
25 after.

1 Paragraph (1) shall only apply with respect to the first
2 3 years after the date of enactment of this subtitle. If at
3 any time following a determination under paragraph (2)
4 that a State has achieved the applicable percentage recy-
5 cling or reuse rate the Administrator determines that such
6 State has failed, for any 12-consecutive month period, to
7 maintain at least the applicable percentage recycling or
8 reuse rate of its beverage containers, the Administrator
9 shall notify such State that, upon the expiration of the
10 90-day period following such notification, the provisions
11 under sections 12002 through 12005 and sections 12008
12 and 12009 shall be applicable to that State until a subse-
13 quent determination is made under subparagraph (A) or
14 a demonstration is made under subparagraph (B).

15 “(b) DETERMINATION OF TAX.—No State or political
16 subdivision which imposes any tax on the sale of any bev-
17 erage container may impose a tax on any amount attrib-
18 utable to the refund value of such container.

19 “(c) EFFECT ON OTHER LAWS.—Nothing in this
20 subtitle shall be construed to affect the authority of any
21 State or political subdivision thereof to enact or enforce
22 (or continue in effect) any law respecting a refund value
23 on containers other than beverage containers or from reg-
24 ulating redemption and other centers which purchase

1 empty beverage containers from beverage retailers, con-
2 sumers, or other persons.

3 **“SEC. 12008. REGULATIONS.**

4 “Not later than 12 months after the date of enact-
5 ment of this subtitle, the Administrator shall prescribe
6 regulations to carry out this subtitle. The regulations shall
7 include a definition of the term ‘beverage retailer’ in a case
8 in which beverages in beverage containers are sold to con-
9 sumers through beverage vending machines. Such regula-
10 tions shall also adjust the 5 cent amount specified in sec-
11 tion 12002 and the 2 cent amount specified in section
12 12004 to account for inflation. Such adjustment shall be
13 effective 10 years after the date of enactment of this sub-
14 title and additional adjustments shall take effect at 10
15 year intervals thereafter. The regulations shall also permit
16 the Administrator to increase such amounts by an addi-
17 tional amount after the expiration of 5 years after the date
18 of enactment of this subtitle.

19 **“SEC. 12009. PENALTIES.**

20 “Any person who violates any provision of section
21 12002, 12003, 12004, or 12006 shall be subject to a civil
22 penalty of not more than \$1,000 for each violation. Any
23 person who violates any provision of section 12005 shall
24 be subject to a civil penalty of not more than \$10,000 for
25 each violation.

1 **“SEC. 12010. EFFECTIVE DATE.**

2 “Except as provided in section 12008, this subtitle
3 shall take effect 2 years after the date of its enactment.”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 such Act is amended by adding the following at the end
6 thereof:

“Subtitle K—Beverage Container Recycling

“Sec. 12001. Definitions.

“Sec. 12002. Required beverage container labeling.

“Sec. 12003. Origination of refund value.

“Sec. 12004. Return of refund value.

“Sec. 12005. Accounting for unclaimed refunds and provisions for State recycling funds.

“Sec. 12006. Prohibitions on disposal.

“Sec. 12007. Exempted States.

“Sec. 12008. Regulations.

“Sec. 12009. Penalties.

“Sec. 12010. Effective date.”.

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