

AMENDED IN ASSEMBLY AUGUST 28, 2002

AMENDED IN ASSEMBLY AUGUST 24, 2002

SENATE BILL

No. 441

Introduced by Senator Sher

February 21, 2001

~~An act to amend Section 41781.3 of the Public Resources Code, relating to recycling.~~ *An act to amend Sections 14528.1, 14549, 14549.1, 14549.5, 14549.6, 14552.5, 14552.51, 14571, 14573.51, 14575, 14575.1, 14581, and 14585 of, to add Sections 14549.3 and 14571.5 to, and to add and repeal Section 14576 of, the Public Resources Code, relating to beverage containers and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 441, as amended, Sher. ~~Solid waste management~~ *Beverage containers: recycling.*

(1) The existing California Beverage Container Recycling and Litter Reduction Act requires a distributor of specified beverage containers to pay a redemption payment to the Department of Conservation, for each beverage container, as defined, sold or transferred, for deposit in the California Beverage Container Recycling Fund. The money in the fund is continuously appropriated to the department to pay refund values, processing payments, and for other purposes.

A violation of the act is a crime.

The existing act authorizes the department to pay a quality glass incentive payments of up to \$25 per ton, not to exceed a total amount of \$3,000,000 annually. The department is authorized to make these

payments to an operator of any curbside recycling program or any certified entity that color-sorts glass beverage containers for recycling or processes mixed-color cullet, and the act authorizes those incentive payments only for glass beverage containers that are either collected color-sorted by curbside recycling programs, or that are collected commingled by curbside recycling programs and subsequently color-sorted by the collector or any other certified entity or processed.

This bill would increase the annual limit to \$3,500,000 and would authorize the department to pay the quality glass incentive payment to any operator that processes mixed color cullet to enable glass beverage containers to be utilized in the production of glass containers or fiberglass. The bill would increase the amount of the payments to \$40 per ton for color-sorted cullet and establish a payment of \$35 per ton for mixed-color cullet. The bill would also permit those incentive payments to be made for glass beverage containers that are collected commingled by curbside recycling programs and subsequently processed in order to enable the glass to be utilized in the production of glass containers or fiberglass.

The bill would also authorize the department to the extent existing funds are available, to increase recycling rates for plastic beverage containers by paying a plastic beverage container recycling incentive payment to eligible certified entities, as defined, in an amount not to exceed \$3,000,000 per fiscal year, thereby making an appropriation.

The bill would establish, to the extent that existing funds are available, a recycling incentive payment for beverage container types that have a scrap value less than the cost of recycling.

(2) The act authorizes the department to annually pay curbside programs and neighborhood dropoff programs up to \$15,000,000, based on the volume of containers collected during the fiscal year.

This bill would revise the method of determining the volume of beverage containers collected, for purposes of these payments, to the volume collected during the calendar year.

(3) Under the act, whenever a glass container manufacturer rejects a load of redeemed glass, the glass container manufacturer is required to fill out a standardized rejection form. A certified processor seeking to dispose of those containers is prohibited from disposing of those rejected postfilled containers unless the certified processor first submits to the department, in writing, a request to dispose of the rejected material. Existing law requires glass container manufacturers and



processors to take all possible steps to avert the disposal of the loads of postfilled containers, as determined by the department.

This bill would revise these provisions to instead require every container manufacturer to fill out a standardized rejection form and would include all beverage container materials within those disposal prohibitions. Because a violation of the act is a crime, the bill would impose a state-mandated local program by changing the definition of a crime.

(4) The existing act requires the department to calculate a processing fee and a processing payment for each beverage container with a specified scrap value. The scrap value is required to be based upon the actual costs for recycling a container type and the department is required to make this determination every 3rd year. The processing fee is required to be paid by beverage manufacturers for each beverage container sold or transferred to a dealer. The department is required to set the processing fee to equal 65% of the processing payment that the department pays to processors, but the department is required to reduce the amount of the processing fee, based upon the availability of funds in each materials processing fee account for that beverage material type, so that the amount of the processing fee equals 25% of the processing payment.

Existing law requires the department to deposit the processing fees and an amount of funds equal to 75% of the processing payments in separate processing fee accounts in the fund, and the money in each processing fee account is continuously appropriated to the department to pay processing payments. A processing fee is not imposed on a PET plastic beverage container if a willing purchaser offers to purchase empty plastic beverage containers at a voluntary artificial scrap value, as defined, that, when combined with specified payments, is equal to or less than the recycling cost.

This bill would require the department to calculate the processing payments for January 1, 2003, based on the January 1, 2002, recycling costs, as adjusted for inflation, and to determine the actual costs for certified recycling centers, on and after January 1, 2004, every second year, as annually adjusted for inflation.

The bill would delete the requirement that the department reduce the amount of the processing fee to equal 25% of the processing payment, and would instead require that the processing fee be reduced to a specified percentage of the processing payment, based on the recycling rate of that container type. The bill would also revise the amount of



funds that the department is required to deposit in the separate processing fee accounts in accordance with the changes made by the bill, thereby making an appropriation. The bill would prescribe the recycling costs for non-PET plastic containers for the January 1, 2002, calculation of the processing fee.

The bill would authorize the department to adjust the amount of the processing payment not more than once every 3 months, if the department makes certain determinations.

This bill would revise the definition of voluntary artificial scrap value and would instead prohibit the imposition of a processing fee on those PET plastic containers if a willing purchaser offers to purchase empty PET containers at a voluntary artificial scrap value that is equal to the reduced processing fee when applied to all containers sold.

(5) Existing law requires the department to pay handling fees to supermarket sites and certain recyclers to provide an incentive to redeem beverage containers, and requires, as a condition of eligibility for these payments, that the site or recycler redeem not less than 60,000 beverage containers during the calendar month in which the handling fee is paid.

This bill would provide for an alternative handling fee eligibility requirement of redeeming an average of not less than 60,000 beverage containers per month during the previous 12 months.

(6) Existing law requires the department to annually expend \$300,000 until January 1, 2003, pursuant to a cooperative agreement with Keep California Beautiful, to conduct a statewide public education campaign and to submit a report by July 1, 2002, regarding the campaign. Under the existing program, \$500,000 may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

This bill would extend the date for the statewide public education campaign to January 1, 2004, and the date of the report to July 1, 2003. The bill would increase to \$1,500,000, the sum authorized to be spent annually in the form of grants for beverage container recycling and litter reduction programs, thereby making an appropriation. The bill would authorize the department to spend up to \$10,000,000 annually, until January 1, 2006, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers, thereby making an appropriation.

(7) Existing law defines "convenience zone" for the purposes of the act and requires that every convenience zone is to be served by at least



one certified recycling center, with specified operating hours. Existing law requires, if the recycling center consists of reverse vending machines or other unmanned automated equipment, that the equipment be properly functioning, accept all types of empty beverage containers at the recycling location, and pay posted refund values.

This bill would require the department, on and after January 1, 2003, until December 31, 2005, to establish a pilot program using supermarket sites that use both reverse vending machines and staffed recycling centers to determine whether or not these recycling centers increase recycling rates. The bill would provide that a recycling center that is a supermarket site and consists of reverse vending machines is open for business for purposes of the act if the department authorizes the supermarket site to participate in the pilot program, pursuant to specified eligibility requirements, and the supermarket site complies with specified operating requirements. The bill would require a supermarket site participating in the pilot program to be operational at least 95% of operable time as defined, to provide a receptacle adjacent to the reverse vending machine for certain types of beverage containers larger than 3 liters, and to be open for business at least 20 hours per week.

The bill would require a supermarket site participating in the pilot project to be open for business for at least 30 hours each week if the department determines that the volume of beverage containers redeemed at the supermarket site has decreased by a specified amount, unless the department makes a specified determination.

The bill would require the department to monitor the volume of beverage containers redeemed at each supermarket site participating in the pilot program at least once every 3-month period, and to conduct an annual review of each supermarket site participating in the pilot program.

The bill would repeal the authorization for the pilot program January 1, 2006, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends that date.

The bill would require the department to report to the Governor and Legislature on the effectiveness of the pilot program and make recommendations.

The bill would also impose operating requirements upon all recycling centers that consist of reverse vending machines.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.



Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(1) Under existing law, the use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including the use of alternative daily cover, that reduces or eliminates the amount of solid waste being disposed pursuant to specified provisions of existing law constitutes diversion through recycling and is not considered disposal for the purposes of the law governing waste management. Existing law requires the California Integrated Waste Management Board to provide guidance to local enforcement agencies on any conditions and restrictions on the utilization of alternative daily cover so as to ensure proper enforcement of rules and regulations governing waste management.~~

~~This bill would require that the functional use of all types of alternative daily cover be restricted to a cumulative tonnage amount of not more than 10% of the amount of solid waste by weight that is being covered averaged over a quarterly period, and be mechanically processed where 95% of the green waste material is less than 3 inches in size, and 95% of the construction and demolition material is less than 12 inches in size. The bill would require that the amount and type of alternative daily cover be fully described in the operational document and approved by the local enforcement agencies prior to use, thereby imposing a state-mandated local program. The bill would provide that the amount of alternative daily cover used in excess of 10% constitutes disposal.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no yes. Fiscal committee: yes. State-mandated local program: no.~~



The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 41781.3 of the Public Resources Code~~
2 ~~is~~

3 *SECTION 1. Section 14528.1 of the Public Resources Code is*
4 *amended to read:*

5 14528.1. “Voluntary artificial scrap value” means a price
6 paid by a willing purchaser of empty PET containers, ~~pursuant to~~
7 ~~Section 14575.1, that reflects the payment of the scrap value for~~
8 ~~all PET containers sold, and that, when combined with payments~~
9 ~~made from the PET Processing Fee Account pursuant to~~
10 ~~subdivision (f) of Section 14575-processing fee account pursuant~~
11 ~~to clause (ii) of subparagraph (A) of paragraph (6) of subdivision~~
12 ~~(a) of Section 14581, is equal to, or more than, the recycling cost~~
13 ~~for empty PET containers, as determined in subdivision (d) of~~
14 ~~Section 14575.~~

15 *SEC. 2. Section 14549 of the Public Resources Code is*
16 *amended to read:*

17 14549. (a) Every glass container manufacturer shall report to
18 the department each month, by a method as determined by the
19 department, the amount of total tons of new glass food, drink, and
20 beverage containers made in California by that glass container
21 manufacturer and the tons of California postfilled glass used in the
22 manufacturing of those new containers.

23 (b) Each glass container manufacturer in the state shall use a
24 minimum percentage of 35 percent of postfilled glass in the
25 manufacturing of their glass food, drink, or beverage containers
26 measured in the aggregate, on an annual basis, except that if a glass
27 container manufacturer demonstrates to the satisfaction of the
28 department that its use of postfilled glass during the annual period
29 is made up of at least ~~75~~ 50 percent mixed color cullet, then that
30 manufacturer shall use a minimum percentage of 25 percent
31 postfilled glass in the manufacturing of its glass, food, drink, or
32 beverage containers, measured in the aggregate, on an annual
33 basis.

34 (c) A glass container manufacturer may seek a reduction or
35 waiver of the minimum postfilled glass percentage required to be
36 used in the manufacture of glass food, drink, or beverage
37 containers pursuant to subdivision (b). The department may grant
38 a reduction or waiver of the percentage requirement if it finds and



1 determines that it is technologically infeasible for the glass
 2 container manufacturer to achieve the percentage requirement or
 3 if the department determines that a glass container manufacturer
 4 cannot achieve the minimum percentage because of a lack of
 5 available glass cullet.

6 (d) For the purposes of this section, “mixed color cullet”
 7 means cullet that does not meet the American Society for Testing
 8 and Materials (ASTM) standard specifications for color mix of
 9 color sorted postfilled glass as raw material for the manufacture of
 10 glass containers.

11 *SEC. 3. Section 14549.1 of the Public Resources Code is*
 12 *amended to read:*

13 14549.1. In order to improve the quality and marketability of
 14 glass containers collected for recycling in the state by curbside
 15 recycling programs, the department may, consistent with Section
 16 14581 and subject to the availability of funds, pay a quality glass
 17 incentive payment to either an operator of a curbside recycling
 18 program registered pursuant to Section 14551.5, or to any other
 19 entity certified pursuant to this division, ~~that color-sorts color-sorts~~
 20 glass beverage containers for recycling *or that processes*
 21 *mixed-color cullet to enable glass beverage containers to be*
 22 *utilized in the production of glass containers or fiberglass.* The
 23 total amount ~~paid~~ *expended* by the department pursuant to this
 24 section ~~shall~~ *may* not exceed three million *five hundred thousand*
 25 ~~dollars—(\$3,000,000)~~ *(\$3,500,000)* per calendar year. The
 26 department shall make a quality glass incentive payment based on
 27 all of the following:

28 (a) The amount of the quality glass incentive payment shall be
 29 up to ~~twenty-five dollars (\$25)~~ *forty dollars (\$40)* per ton for
 30 *color-sorted cullet and thirty-five dollars (\$35)* per ton for quality
 31 *mixed-color glass beverage containers*, as determined by the
 32 department.

33 (b) The department shall make a quality glass incentive
 34 payment only for color-sorted *or mixed-color cullet* glass beverage
 35 containers that are substantially free of contamination.

36 (c) The department shall make a quality glass incentive
 37 payment only for glass beverage containers that ~~are either~~ *meet, at*
 38 *a minimum, one of the following conditions:*

39 (1) ~~Are collected color-sorted~~ *color-sorted* by curbside
 40 recycling programs, ~~or~~.



1 (2) *Are collected commingled by curbside recycling programs*
2 *and subsequently ~~color-sorted~~ color-sorted by the collector or any*
3 *other entity certified pursuant to this division.*

4 (3) *Are collected commingled by curbside recycling programs*
5 *and subsequently processed by a beneficiating processor in order*
6 *to enable the glass to be utilized in the production of glass*
7 *containers or fiberglass.*

8 (d) *Only one payment shall be made for each color-sorted glass*
9 *beverage container collected.*

10 *SEC. 4. Section 14549.3 is added to the Public Resources*
11 *Code, to read:*

12 *14549.3. (a) To increase recycling rates the department may,*
13 *consistent with Section 14581 and subject to the availability of*
14 *funds, pay up to three million dollars (\$3,000,000) per fiscal year*
15 *to make plastic incentive payments to eligible certified entities for*
16 *the redemption of empty plastic beverage containers. The plastic*
17 *incentive payment shall be made as determined by the department,*
18 *and shall be based on all of the following:*

19 (1) *The payment amount shall be calculated every six months*
20 *based upon the volume of empty plastic beverage containers*
21 *redeemed by the certified entity during each six-month period,*
22 *commencing July 1, 2001.*

23 (2) *The per-ton rate shall be calculated by dividing the total*
24 *volume of empty plastic beverage containers redeemed by all*
25 *eligible certified entities for each six-month period, as determined*
26 *by the department, into the sum of one million five hundred*
27 *thousand dollars (\$1,500,000).*

28 (3) *The amount of the plastic incentive payment to be paid to*
29 *each certified entity shall be based upon the per-ton rate,*
30 *calculated pursuant to paragraph (2), multiplied by the certified*
31 *entity's total reported volume of empty plastic beverage containers*
32 *redeemed during the six-month period for which those payments*
33 *are made.*

34 (b) *The department shall pay a plastic incentive payment to an*
35 *eligible certified entity that increases the average monthly volume*
36 *of empty plastic beverage containers redeemed in any applicable*
37 *six-month period by a minimum of 10 percent as compared to the*
38 *average monthly volume of empty plastic beverage containers*
39 *redeemed by the certified entity in the immediately preceding*
40 *six-month period, as determined by the department.*



1 (c) A certified entity receiving a plastic incentive payment shall
2 make available for inspection and review any relevant record that
3 the department determines is necessary to verify the accuracy of
4 data upon which plastic incentive payments are based and the
5 certified entity's compliance with any applicable regulation.

6 (d) For purposes of this section "certified entity" means a
7 recycling center certified pursuant to Section 14538 and a dropoff
8 and collection program certified pursuant to Section 14539.5.

9 SEC. 5. Section 14549.5 of the Public Resources Code is
10 amended to read:

11 14549.5. ~~Within 90 days after the effective date of this section~~
12 *On or before April 1, 2001*, and annually thereafter, or more
13 frequently as determined to be necessary by the department, the
14 department shall review and, if necessary in order to ensure
15 payment of the most accurate commingled rate feasible,
16 recalculate commingled rates paid for beverage containers and
17 postfilled containers paid to curbside recycling programs,
18 collection programs, and recycling centers. Prior to recalculating
19 a commingled rate pursuant to this section, the department shall do
20 all of the following:

21 (a) Consult with private and public operators of curbside
22 recycling programs, collection programs, and recycling centers
23 concerning the size of the statewide sample, appropriate sampling
24 methodologies, and alternatives to exclusive reliance on a
25 statewide commingled rate.

26 (b) At least 60 days prior to the effective date of any new
27 commingled rate, hold a public hearing, after giving notice, to
28 make available to the public and affected parties the department's
29 review and any proposed recalculations of the commingled rate.

30 (c) At least 60 days prior to the effective date of any new
31 commingled rate, and upon the request of any party, make
32 available documentation or studies which were prepared as part of
33 the department's review of a commingled rate.

34 (d) ~~This section shall become operative on January 1, 2001~~ *In*
35 *order to facilitate the most accurate reporting and maximum*
36 *recycling of all beverage container types, the department shall*
37 *calculate a curbside recycling program commingled rate for*
38 *bimetal containers and a single commingled rate for all plastic*
39 *beverage containers displaying resin identification codes 3 to 7,*
40 *inclusive, as required under Section 18015. The department may*



1 use statistical sampling, error factors, and other mechanisms to
2 ensure that the commingled rate calculated pursuant to this
3 subdivision is as accurate as is feasible.

4 SEC. 6. Section 14549.6 of the Public Resources Code is
5 amended to read:

6 14549.6. (a) The department, consistent with Section 14581
7 and subject to the availability of funds, shall annually pay a total
8 of fifteen million dollars (\$15,000,000) per fiscal year to operators
9 of curbside programs and neighborhood dropoff programs that
10 accept all types of empty beverage containers for recycling. The
11 payments shall be for each container collected by the curbside or
12 neighborhood dropoff programs and properly reported to the
13 department by processors, based upon all of the following:

14 (1) The payment amount shall be calculated based upon the
15 volume of beverage containers collected ~~during the fiscal year~~ by
16 curbside and neighborhood dropoff programs *during the*
17 *12-month calendar year ending on December 31 of the fiscal year*
18 *for which payments are to be made.*

19 (2) The per-container rate shall be calculated by dividing the
20 total volume of beverage containers collected, as determined
21 pursuant to paragraph (1), into the sum of fifteen million dollars
22 (\$15,000,000).

23 (3) The amount to be paid to each operator of a curbside and
24 neighborhood dropoff program shall be based upon the
25 per-container rate, calculated pursuant to paragraph (2),
26 multiplied by the curbside program's total reported beverage
27 container volume ~~during the fiscal year for which those payments~~
28 *are made calculated pursuant to paragraph (1).*

29 (b) The amounts paid pursuant to this section shall be expended
30 by operators of curbside and neighborhood dropoff programs only
31 for activities related to beverage container recycling.

32 (c) The department shall disburse payments pursuant to this
33 section ~~not sooner than the 6th month~~ *later than the end* of the
34 fiscal year following the ~~fiscal year~~ *calendar year* for which the
35 payments are ~~being made~~ *calculated pursuant to paragraph (1) of*
36 *subdivision (a),* subject to the availability of funds.

37 (d) The operator of a curbside program or neighborhood
38 dropoff program shall make available for inspection and review
39 any relevant record that the department determines is necessary to
40 verify compliance with this section.

1 SEC. 7. Section 14552.5 of the Public Resources Code is
2 amended to read:

3 14552.5. (a) The department shall supply all certified
4 processors with a standardized rejection form ~~which~~ *that* shall
5 include, but not be limited to, the name of the parties rejecting the
6 postfilled ~~glass~~ *beverage container* material, the date of the
7 rejections, the reasons for the rejections, the amount of rejected
8 material, and a detailed accounting of the steps taken by the
9 processor and ~~glass~~ container manufacturer to avert landfilling or
10 disposal of the material, as required by subdivision (c) of Section
11 14552.51.

12 (b) Every ~~glass~~ container manufacturer shall fill out the
13 standardized rejection form specified in subdivision (a) whenever
14 that ~~glass~~ container manufacturer rejects a load of redeemed ~~glass~~
15 *beverage container* materials physically delivered to the
16 manufacturer's place of business and offered for sale by a certified
17 processor. The rejection form shall be filled out by the ~~glass~~
18 container manufacturer at the time of the rejection and
19 immediately given to the certified processor for submittal to the
20 department. Any ~~glass~~ container manufacturer who refuses to fill
21 out the standardized rejection form required by this subdivision is
22 in violation of this division and is subject to the fines and penalties
23 in ~~Section~~ *Sections 14591 and 14591.1*.

24 (c) If a processor has made a good faith effort, as determined
25 by the department, to locate a willing purchaser and is
26 unsuccessful, the processor may fill out the standardized rejection
27 form specified in subdivision (a) and submit it to the department.
28 The processor rejection form shall include, but is not limited to, the
29 name of the processor, the ~~glass~~ container manufacturers and other
30 potential purchasers contacted, a detailed accounting of the
31 methods used to contact the potential buyers, the date of the
32 rejections, the reasons given for the rejections, the amount of
33 postfilled ~~glass~~ *beverage container material* rejected, and any
34 other steps taken to avert landfilling or disposal of the material.

35 (d) If a ~~glass~~ container manufacturer rejects a load of postfilled
36 ~~glass~~ containers by telephone, written correspondence of any kind,
37 or other similar method, the glass container manufacturer shall, in
38 a manner prescribed by the department, keep accurate logbooks of
39 the offer of loads by the certified processor, and make that logbook
40 available for inspection by the department upon demand. The



1 logbook shall contain, but is not limited to, the same information
2 required in the rejection form pursuant to subdivision (a).

3 (e) The standardized rejection form specified in subdivision (a)
4 shall be submitted to the department by the certified processor with
5 the written request to dispose of the redeemed material submitted
6 pursuant to Section 14552.51. This material shall not be disposed
7 of without a written authorization to do so by the department
8 pursuant to Section 14552.51.

9 (f) Nothing in this section shall be interpreted to lessen certified
10 processors' and ~~glass~~ container manufacturer's responsibilities
11 relating to ~~glass beverage~~ container recycling, or diminish in any
12 way the department's authority to carry out the intent and goals of
13 this division.

14 *SEC. 8. Section 14552.51 of the Public Resources Code is*
15 *amended to read:*

16 14552.51. (a) ~~On or after January 1, 1991, no~~ A certified
17 processor seeking to dispose of rejected postfilled containers ~~may~~
18 *shall not* dispose of rejected postfilled containers unless the
19 certified processor first submits to the department, in writing, a
20 request to dispose of the rejected material. No certified processor
21 shall dispose of the rejected material prior to obtaining written
22 permission from the department. If the department fails to respond
23 to a written request to dispose of rejected postfilled ~~glass beverage~~
24 *container materials* within 10 days of receipt of the request, the
25 processor's request for disposal is deemed approved by the
26 department.

27 (b) All rejected loads of postfilled containers shall be available
28 and subject to inspection by the department.

29 (c) All possible steps to avert the disposal of the loads of
30 postfilled containers, as determined by the department, shall be
31 taken by all glass container manufacturers and processors. All
32 transactions or attempted transactions involving rejecting
33 postfilled containers shall be thoroughly documented on the
34 standardized rejection form pursuant to Section 14552.5. The
35 glass container manufacturer and the certified processor are jointly
36 and severally responsible for this effort.

37 *SEC. 9. Section 14571 of the Public Resources Code is*
38 *amended to read:*

39 14571. (a) Except as otherwise provided in this chapter, there
40 shall be at least one certified recycling center or location within



1 every convenience zone which accepts and pays the refund value,
2 if any, at one location for all types of empty beverage containers
3 and is open for business during at least 30 hours per week with a
4 minimum of five hours of operation occurring during periods
5 other than from Monday to Friday, from 9 a.m. to 5 p.m.

6 (b) (1) Notwithstanding subdivision (a), the department may
7 require a certified recycling center to operate 15 of its 30 hours of
8 operation other than during 9 a.m. to 5 p.m.

9 (2) Notwithstanding subdivision (a) and paragraph (1), the
10 department may certify a recycling center that will operate less
11 than 30 hours per week, if all of the following conditions are met:

12 (A) The recycling center is in a rural region. For purposes of
13 this subparagraph, “rural region” means a nonurban area
14 identified by the department on an annual basis using Farmers
15 Home Loan Administration criteria. Those criteria include, but are
16 not limited to, places, open country, cities, towns, or census
17 designated places with populations that are less than 10,000
18 persons. The department may designate an area with a population
19 of between 10,000 and 50,000 persons as a rural region, unless the
20 area is identified as part of, or associated with, an urban area, as
21 determined by the department on an individual basis.

22 (B) The recycling center agrees to post a sign indicating the
23 location of the nearest recycling center which is open at least 30
24 hours per week and which will accept all material types.

25 (C) The needs of the community and the goals of this division
26 will be best served by certification of the operation as a recycling
27 center.

28 (c) Before establishing operating hours for a certified recycling
29 center pursuant to subdivision (b), the department shall make a
30 determination that this action is necessary to further the goals of
31 this division and that the proposed operating hours will not
32 significantly decrease the ability of consumers to conveniently
33 return beverage containers for the refund value to a certified
34 recycling center redeeming all material types.

35 (d) For purposes of this section, if the recycling center is staffed
36 and is not a reverse vending machine, a center is “open for
37 business” if all of the following requirements are met:

38 (1) An employee of the certified recycling center or location is
39 present during the hours of operation and available to the public
40 to accept containers and to pay the refund values.



1 (2) In addition to the sign specified in subdivision (h), a sign
2 having a minimum size of two feet by two feet is posted at the
3 certified recycling center or location indicating that the center or
4 location is open. Where allowed by local zoning requirements or
5 where zoning restrictions apply, the sign shall be of the maximum
6 allowable size.

7 (3) The prices paid, by weight or per container, are posted at the
8 location.

9 (e) Except as provided in subdivision (f), for the purpose of this
10 section, if the recycling center consists of reverse vending
11 machines or other unmanned automated equipment, the center is
12 “open for business” if the equipment is properly functioning,
13 accepting all types of empty beverage containers at the recycling
14 location, and paying posted refund values no less than the
15 minimums required by this division.

16 (f) If a recycling center consists of reverse vending machines
17 or other automated equipment, the recycling center is “open for
18 business” if the *recycling center meets all the following*
19 *requirements:*

20 (1) *The equipment is properly functioning, and accepting all*
21 *types of empty beverage containers at one physical recycling*
22 *location within the recycling location.*

23 (2) *The operator of the recycling center makes monthly service*
24 *records available to the department, showing the number of*
25 *complaints per site, if any, and the response time for each service*
26 *call.*

27 (3) (A) *The recycling center is operational at least 95 percent*
28 *of operable time.*

29 (B) *For purposes of this paragraph “operable time” means the*
30 *actual operating hours, divided by the total hours the recycling*
31 *center is required to be open for business each month. The*
32 *recycling center’s operable hours shall be determined consistent*
33 *with the operational hours of any supermarket that is the basis of*
34 *the convenience zone, subject to applicable curfew requirements*
35 *imposed by local ordinance.*

36 (4) *The recycling center site is not inoperative more than once*
37 *a month, and if that breakdown rate is exceeded, the recycling*
38 *center replaces the reverse vending machine within three business*
39 *days.*



1 (5) *The operator of the recycling center responds to a*
2 *complaint of a broken vending machine within five business hours*
3 *of receiving a notice of a breakdown by a consumer, the dealer, or*
4 *the department.*

5 (6) *The operator of the recycling center provides instructions*
6 *for use of the reverse vending machine at the recycling center in*
7 *appropriate languages and in pictorial representations*
8 *demonstrating how to use the reverse vending machine.*

9 (7) *The operator of the recycling center maintains a telephone*
10 *number during operable time to answer calls from any person*
11 *regarding the performance of its reverse vending machines.*

12 (8) *The operator of the recycling center site has an attendant*
13 *present at the recycling center site a minimum of 20 hours per*
14 *week, including no fewer than three hours on a Saturday or a*
15 *Sunday between the hours of 9 a.m. and 5 p.m. and no fewer than*
16 *three evening hours between the hours of 5 p.m. and 9 p.m. during*
17 *one weekday evening.*

18 (9) *The operator of the recycling center shall post a sign*
19 *identifying the nearest location of a recycling center that does not*
20 *consist of reverse vending machines and the hours of operation of*
21 *that recycling center.*

22 (g) *Whenever a recycling center which is a reverse vending*
23 *machine is not “open for business” during the 30 hours of*
24 *operation required and posted pursuant to this section and Section*
25 *14570, the dealer which is hosting the reverse vending machine at*
26 *its place of business shall redeem all empty beverage container*
27 *types at all open cash registers or one designated location in the*
28 *store, as specified on the sign required pursuant to subdivision (h).*

29 (h) *In addition to the sign specified in paragraph (2) of*
30 *subdivision (d), each reverse vending machine shall be posted with*
31 *a clear and conspicuous sign on or near the reverse vending*
32 *machine which states that beverage containers may be redeemed*
33 *by the host dealer if the machine is nonoperational at any time*
34 *during the required 30 hours of operation, pursuant to subdivision*
35 *(g). The department shall determine the size and location of the*
36 *sign and the message required to be printed on the sign.*

37 *SEC. 10. Section 14571.5 is added to the Public Resources*
38 *Code, to read:*

39 *14571.5. (a) To the extent that existing funds are available*
40 *for this purpose, the department shall establish a recycling*



1 *incentive payment for any beverage container type that has a scrap*
2 *value less than the cost of recycling, as determined under Section*
3 *14575.*

4 *(b) The recycling incentive payment shall meet all of the*
5 *following criteria:*

6 *(1) The amount of the payment shall be equal to three-tenths of*
7 *a cent (\$0.003) for any beverage container recycled per month that*
8 *does not exceed the number of beverage containers recycled*
9 *during the same month in the previous year and equal to*
10 *seven-tenths of a cent (\$0.007) for each beverage container*
11 *recycled each month that exceed the number of beverage*
12 *containers recycled during the same month in the previous year.*

13 *(2) (A) The department shall make a payment only for recycled*
14 *beverage containers that are of sufficient quality to be utilized by*
15 *end-use markets.*

16 *(B) For purposes of subparagraph (A), a glass beverage*
17 *container is of sufficient quality to be utilized by the end-use*
18 *market if the glass beverage container is determined by a*
19 *beneficiating processor as being of acceptable quality to enable*
20 *the glass beverage container to be used in the production of glass*
21 *containers or fiberglass without the need for extraordinary effort*
22 *by the beneficiating processor.*

23 *(3) The department may suspend the payments of recycling*
24 *incentive payments to any recycler whose recycling rate has not*
25 *increased for any 12-month period during which payments were*
26 *received.*

27 *(4) The department shall pay the recycling incentive payment*
28 *to processors, who shall pay the amount to eligible recyclers, in the*
29 *same form and manner as redemption payments and processing*
30 *payments are paid pursuant to Section 14573.5.*

31 *(5) The department may make the recycling incentive payments*
32 *only to recyclers whose monthly volume of any container type is*
33 *greater, by 2 percent or more, than the monthly volume of that*
34 *container type for the same month in the previous year.*

35 *(c) This section shall become inoperative during any period for*
36 *which the department determines that processing fees may not be*
37 *reduced under subdivision (f) of Section 14575.*

38 *SEC. 11. Section 14573.51 of the Public Resources Code is*
39 *amended to read:*



1 14573.51. (a) Notwithstanding any other provision of this
2 division, recycling centers and processors shall not pay curbside
3 programs more than the applicable statewide average curbside
4 commingled rate unless the curbside program has received an
5 individual commingled rate from the department pursuant to
6 subdivision (b).

7 (b) The department shall establish a procedure whereby the
8 operators of curbside programs may apply for an individual
9 commingled rate *for any material type with or without a statewide*
10 *commingled rate, including, but not limited to, glass, aluminum,*
11 *bimetal, or any of the individual plastic resin types identified by*
12 *resin identification codes under Section 18015.* These procedures
13 shall require, at a minimum, all of the following:

14 (1) The individual rate shall be valid for no more than one year
15 from the date the individual rate is authorized.

16 (2) The methodology used by the operator of the curbside
17 program to determine the commingled rate shall be approved by
18 the department, in advance.

19 (c) Curbside programs ~~which~~ *that* have acquired an individual
20 commingled rate, pursuant to this section, shall not be surveyed by
21 the department to determine the statewide average curbside
22 commingled rate during the period the individual commingled rate
23 is effective.

24 *SEC. 12. Section 14575 of the Public Resources Code is*
25 *amended to read:*

26 14575. (a) If any type of empty beverage container with a
27 refund value established pursuant to Section 14560 has a scrap
28 value less than the cost of recycling, the department shall, on
29 January 1, 2000, and on or before January 1 annually thereafter,
30 establish a processing fee and a processing payment for the
31 container; by the type of the material of the container.

32 (b) The processing payment shall be at least equal to the
33 difference between the scrap value offered to a statistically
34 significant sample of recyclers by willing purchasers, and except
35 for the initial calculation made pursuant to subdivision (d), the sum
36 of both of the following:

37 (1) The actual cost for certified recycling centers, excluding
38 centers receiving a handling fee, of receiving, handling, storing,
39 transporting, and maintaining equipment for, each container sold
40 for recycling or, only if the container is not recyclable, the actual



1 cost of disposal, calculated pursuant to subdivision (c). The
2 department shall determine the statewide weighted average cost to
3 recycle each beverage container type, which shall serve as the
4 actual recycling costs for purposes of paragraphs ~~(3)~~(2) and ~~(4)~~(3)
5 of subdivision (c), by conducting a survey of the costs of a
6 statistically significant sample of certified recycling centers,
7 excluding those recycling centers receiving a handling fee, for
8 receiving, handling, storing, transporting, and maintaining
9 equipment.

10 (2) A reasonable financial return for recycling centers.

11 (c) The department shall base the processing payment pursuant
12 to this section upon all of the following:

13 ~~(1) Except as specified in paragraph (2), the~~ The department
14 shall use the average scrap values paid to recyclers between
15 October 1, ~~1998~~2001, and September 30, ~~1999~~2002, for the initial
16 *January 1, 2003*, calculation and the same 12-month period
17 directly preceding the year in which the processing fee is
18 calculated for any subsequent calculation.

19 ~~(2) For material types not included in the program on January~~
20 ~~1, 1999, the department shall estimate the scrap value for the initial~~
21 ~~calculation based on a sample of average scrap values paid to~~
22 ~~recyclers between July 1, 1999, and September 30, 1999.~~

23 ~~(3) Except as specified in subdivision (d), the department shall~~
24 ~~use the actual recycling costs for certified recycling centers, as~~
25 ~~determined pursuant to paragraph (1) of subdivision (b) by the~~
26 ~~department on or before January 1, 2000, for the initial calculation.~~

27 ~~(4) The department shall make all subsequent determinations~~
28 ~~of the actual costs for certified recycling centers, pursuant to~~
29 ~~paragraph (1) of subdivision (b), on before January 1, 2001, and~~
30 ~~every third year thereafter.~~

31 ~~(d) Except as provided in subparagraph (B) of paragraph (4),~~
32 ~~the department shall use the following cost data for certified~~
33 ~~recycling centers for the January 1, 2000, calculation:~~

34 ~~(1) Eighty-five dollars and nineteen cents (\$85.19) for each ton~~
35 ~~of glass containers.~~

36 ~~(2) Four hundred seventeen dollars and ninety-six cents~~
37 ~~(\$417.96) for each ton of bimetal containers.~~

38 ~~(3) Six hundred forty-two dollars and sixty-nine cents~~
39 ~~(\$642.69) for each ton of PET plastic containers.~~



1 ~~(4) (A) Six hundred forty-two dollars and sixty-nine cents~~
2 ~~(\$642.69) for each ton of non-PET plastic containers.~~

3 ~~(B) Notwithstanding this subdivision, in calculating the~~
4 ~~January 1, 2001, processing payment for non-PET plastic~~
5 ~~containers, the department shall also use the same cost data~~
6 ~~specified in subparagraph (A).~~

7 ~~(e) Except as specified in subdivision (f), the actual processing~~
8 ~~fee paid by beverage manufacturers shall equal 65 percent of the~~
9 ~~processing payment calculated pursuant to subdivision (b).~~

10 ~~(f) The department, consistent with Section 14581 and subject~~
11 ~~to the availability of funds, shall reduce the processing fee paid by~~
12 ~~beverage manufacturers pursuant to subdivision (e) by expending~~
13 ~~funds in each material processing fee account, established~~
14 ~~pursuant to subparagraph (A) of paragraph (6) of subdivision (a)~~
15 ~~of Section 14581, so that the amount of the processing fee equals~~
16 ~~25 percent of the processing payment calculated pursuant to~~
17 ~~subdivision (b).~~

18 ~~(g) Prior to January 1, 2001, the department may adjust a~~
19 ~~processing fee established pursuant to this section for any plastic~~
20 ~~beverage container, if both of the following occur:~~

21 ~~(1) The department determines that the average statewide scrap~~
22 ~~values paid by willing purchasers for that beverage container~~
23 ~~materials type are less than the average scrap values used as the~~
24 ~~basis for the processing fee calculation.~~

25 ~~(2) The department determines that adjusting the processing~~
26 ~~fee is necessary to further the objectives of this division.~~

27 ~~(2) To calculate the January 1, 2003, processing payments, the~~
28 ~~department shall use the recycling costs for certified recycling~~
29 ~~centers used to calculate the January 1, 2002, processing~~
30 ~~payments as adjusted to reflect changes as of January 1, 2003, in~~
31 ~~the cost of living as measured by the Bureau of Labor Statistics of~~
32 ~~the United States Department of Labor, or a successor agency of~~
33 ~~the United States Government.~~

34 ~~(3) For calculating processing payments that will be in effect~~
35 ~~on and after January 1, 2004, the department shall determine the~~
36 ~~actual costs for certified recycling centers every second year,~~
37 ~~pursuant to paragraph (1) of subdivision (b). The department shall~~
38 ~~adjust the recycling costs annually to reflect changes in the cost of~~
39 ~~living, as measured by the Bureau of Labor Statistics of the United~~



1 *States Department of Labor, or a successor agency of the United*
2 *States Government.*

3 *(d) Notwithstanding paragraph (1) of subdivision (b) and*
4 *subdivision (c), for the purpose of setting the cost for recycling*
5 *non-PET plastic containers by certified recycling centers, to*
6 *determine the processing payment for those containers, the*
7 *department shall use a recycling cost of six hundred forty-two*
8 *dollars and sixty-nine cents (\$642.69) per ton for the January 1,*
9 *2002, calculation of the processing payment.*

10 *(e) Except as specified in subdivision (f), the actual processing*
11 *fee paid by a beverage manufacturer shall equal 65 percent of the*
12 *processing payment calculated pursuant to subdivision (b).*

13 *(f) The department, consistent with Section 14581 and subject*
14 *to the availability of funds, shall reduce the processing fee paid by*
15 *beverage manufacturers by expending funds in each material*
16 *processing fee account, in the following manner:*

17 *(1) The processing fee effective in January 2003, and January*
18 *1, 2004, shall equal the following amounts:*

19 *(A) For a container type that was subject to this division on*
20 *January 1, 1999, 12 percent of the processing payment, if the*
21 *recycling rate of that container type was equal to, or greater than,*
22 *60 percent for the 1999 calendar year.*

23 *(B) For a container type that was not subject to this division on*
24 *January 1, 1999, 12 percent of the processing payment, if the*
25 *recycling rate of that container type was equal to, or greater than,*
26 *60 percent for the 2001 calendar year.*

27 *(C) For a container type that was not subject to this division on*
28 *January 1, 1999, 15 percent of the processing payment if the*
29 *recycling rate for that container type was equal to, or greater than,*
30 *45 percent, but less than 60 percent, for the 2001 calendar year.*

31 *(D) For a container type that was not subject to this division on*
32 *January 1, 1999, 20 percent of the processing payment if the*
33 *recycling rate for that container type was equal to, or greater than,*
34 *30 percent, but less than 45 percent, for the 2001 calendar year.*

35 *(2) On January 1, 2005, and annually thereafter, the processing*
36 *fee shall equal the following amounts:*

37 *(A) Ten percent of the processing payment for a container type*
38 *with a recycling rate equal to or greater than 75 percent.*



1 (B) Eleven percent of the processing payment for a container
2 type with a recycling rate equal to or greater than 65 percent, but
3 less than 75 percent.

4 (C) Twelve percent of the processing payment for a container
5 type with a recycling rate equal to or greater than 60 percent, but
6 less than 65 percent.

7 (D) Thirteen percent of the processing payment for a container
8 type with a recycling rate equal to or greater than 55 percent, but
9 less than 60 percent.

10 (E) Fourteen percent of the processing payment for a container
11 type with a recycling rate equal to or greater than 50 percent, but
12 less than 55 percent.

13 (F) Fifteen percent of the processing fee payment for a
14 container type with a recycling rate equal to or greater than 45
15 percent, but less than 50 percent.

16 (G) Eighteen percent of the processing payment for a container
17 type with a recycling rate equal to or greater than 40 percent, but
18 less than 45 percent.

19 (H) Twenty percent of the processing payment for a container
20 type with a recycling rate equal to or greater than 30 percent, but
21 less than 40 percent.

22 (I) Sixty-five percent of the processing payment for a container
23 type with a recycling rate less than 30 percent.

24 (3) The department shall calculate the recycling rate for
25 purposes of paragraph (2) based on the 12-month period ending
26 on June 30 that directly precedes the date of the January 1
27 processing fee determination.

28 (g) Not more than once every three months, the department may
29 make an adjustment in the amount of the processing payment
30 established pursuant to this section, notwithstanding any change
31 in the amount of the processing fee established pursuant to this
32 section, for any beverage container, if the department makes all of
33 the following determinations:

34 (1) The statewide scrap value paid by processors for the
35 material type for the most recent available 12-month period
36 directly preceding the quarter in which the processing payment is
37 to be adjusted is 5 percent more or 5 percent less than the average
38 scrap value used as the basis for the processing payment currently
39 in effect.



1 (2) *Funds are available in the processing fee account for the*
2 *material type.*

3 (3) *Adjusting the processing payment is necessary to further the*
4 *objectives of this division.*

5 (h) (1) Except as provided in paragraphs (2) and (3), every
6 beverage manufacturer shall pay to the department the applicable
7 processing fee for each container sold or transferred to a distributor
8 or dealer within 40 days of the sale in the form and in the manner
9 which the department may prescribe.

10 (2) (A) Notwithstanding Section 14506, with respect to the
11 payment of processing fees for beer and other malt beverages
12 manufactured outside the state, the beverage manufacturer shall be
13 deemed to be the person or entity named on the certificate of
14 compliance issued pursuant to Section 23671 of the Business and
15 Professions Code. If the department is unable to collect the
16 processing fee from the person or entity named on the certificate
17 of compliance, the department shall give written notice by
18 certified mail to that person or entity. The notice shall state that the
19 processing fee shall be remitted in full within 30 days of issuance
20 of the notice or the person or entity shall not be permitted to offer
21 that beverage brand for sale within the state. If the person or entity
22 fails to remit the processing fee within 30 days of issuance of the
23 notice, the department shall notify the Department of Alcoholic
24 Beverage Control that the certificate holder has failed to comply,
25 and the Department of Alcoholic Beverage Control shall prohibit
26 the offering or sale of that beverage brand within the state.

27 (B) The department shall enter into a contract with the
28 Department of Alcoholic Beverage Control, pursuant to Section
29 14536.5, concerning the implementation of this paragraph, which
30 shall include a provision reimbursing the Department of Alcoholic
31 Beverage Control for its costs incurred in implementing this
32 paragraph.

33 (3) (A) Notwithstanding paragraph (1), a beverage
34 manufacturer may, upon the approval of the department, elect to
35 make a single annual payment of processing fees, if the beverage
36 manufacturer's projected processing fees for a calendar year total
37 less than one thousand dollars (\$1,000).

38 (B) An annual processing fee payment made pursuant to this
39 paragraph is due and payable on or before February 1 for every
40 beverage container sold or transferred by the beverage



1 manufacturer to a distributor or dealer in the previous calendar
2 year.

3 (C) A beverage manufacturer shall notify the department of its
4 intent to make an annual processing fee payment pursuant to this
5 paragraph on or before January 31 of the calendar year preceding
6 the year in which the payment will be due.

7 (4) The department shall pay the processing payments on
8 redeemed containers to processors, in the same manner as it pays
9 refund values pursuant to Sections 14573 and 14573.5. The
10 processor shall pay the recycling center the entire processing
11 payment representing the actual cost and financial return incurred
12 by the recycling center, as specified in subdivision ~~(a)~~ (b).

13 (i) When assessing processing fees pursuant to subdivision (a),
14 the department shall assess the processing fee on each container
15 sold, as provided in ~~subdivision (e)~~ subdivisions (e) and (f), by the
16 type of material of the container, *assuming that every container*
17 *sold will be redeemed for recycling, whether or not the container*
18 *is actually recycled.*

19 (j) The container manufacturer, or a designated agent, shall pay
20 to, or credit, the account of the beverage manufacturer in an
21 amount equal to the processing fee.

22 ~~The department shall annually, on or before January 1,~~
23 ~~determine the statewide average scrap values paid to recyclers by~~
24 ~~processors for beverage containers during the 12-month period~~
25 ~~ending September 30. If the department determines that the~~
26 ~~statewide average scrap values paid for glass containers is 10~~
27 ~~percent or more above or below the previous year's scrap value,~~
28 ~~the department shall adjust the processing payment to equal the~~
29 ~~difference between the cost of recycling and the new statewide~~
30 ~~average scrap value. If, at the end of any calendar year for which~~
31 ~~glass recycling rates equal or exceed 45 percent and surplus funds~~
32 ~~remain in the glass processing fee account, the department may use~~
33 ~~these surplus funds in the following calendar year to reduce the~~
34 ~~amount of the processing fee that would otherwise be due from~~
35 ~~glass beverage manufacturers pursuant to this subdivision.~~

36 (1) *The department shall reduce the processing fee amount*
37 *pursuant to this subdivision in addition to any reduction for which*
38 *the glass beverage container qualifies under subdivision (g).*

39 (2) *The department shall determine the processing fee*
40 *reduction by dividing the amount of the surplus by an estimate of*



1 *the number of containers redeemed during the previous calendar*
2 *year, divided by an estimate of the number of nonrefillable*
3 *beverage containers sold or transferred to a distributor during the*
4 *previous calendar year, based on latest available data.*

5 (3) *The total amount of the surplus used to reduce the*
6 *processing fee shall not exceed two million dollars (\$2,000,000)*
7 *in any one year regardless of the amount of funds in the processing*
8 *fee account.*

9 *SEC. 13. Section 14575.1 of the Public Resources Code is*
10 *amended to read:*

11 14575.1. (a) Notwithstanding subdivision ~~(d)~~ (b) of Section
12 14575, if a willing purchaser offers to purchase empty PET
13 containers at a voluntary artificial scrap value that, ~~when~~
14 ~~combined with payments made from the PET Processing Fee~~
15 ~~Account pursuant to subdivision (f) of Section 14575, is equal to,~~
16 ~~or more than, the recycling cost for empty PET containers, as~~
17 ~~determined in subdivision (d) of Section 14575, is equal to the~~
18 *processing fee reduced pursuant to subdivision (f) of Section*
19 *14575 when applied to all containers sold, no processing fee shall*
20 *be imposed on PET containers pursuant to Section 14575.*

21 (b) If a willing purchaser offers to pay a voluntary artificial
22 scrap value, the department shall, on a monthly basis, determine
23 whether the sum of the voluntary artificial scrap value and
24 payments made from the PET Processing Fee Account pursuant to
25 subdivision (f) of Section 14575, are equal to, or more than, the
26 recycling cost for empty PET containers determined pursuant to
27 subdivision (d) of Section 14575.

28 (c) If the department determines that, for any monthly period,
29 the sum of the voluntary artificial scrap value and payments made
30 from the PET Processing Fee Account pursuant to subdivision (f)
31 of Section 14575, is less than the recycling cost for empty PET
32 containers, determined pursuant to ~~subdivision (d) of Section~~
33 *14575, the following requirements shall apply:*

34 (1) The department shall immediately provide written
35 notification of the deficiency for that monthly period and the
36 amount of that deficiency to any willing purchaser.

37 (2) A willing purchaser shall correct the deficiency in the next
38 monthly period by adjusting the voluntary artificial scrap value by
39 an amount sufficient to equal the recycling cost for empty PET
40 containers plus the previous monthly period's deficiency.



1 (3) If the deficiency and amount in arrears is not corrected
2 within 30 days of providing written notice to willing purchasers of
3 empty PET containers, the department shall impose a processing
4 fee pursuant to Section 14575 which includes any amount
5 necessary, including any amount in arrears, to cover the cost of
6 recycling empty PET containers.

7 (d) If the department determines that, for any monthly period,
8 the sum of the voluntary artificial scrap value and payments made
9 from the PET Processing Fee Account pursuant to subdivision (f)
10 of Section 14575, is greater than the recycling cost for empty PET
11 containers, the department shall do both of the following:

12 (1) Immediately provide written notification of the deviation
13 for that monthly period and the amount of that deviation to any
14 willing purchaser.

15 (2) Provide a credit equal to the amount of the deviation for any
16 future monthly period wherein the voluntary artificial scrap value,
17 and payments made from the PET Processing Fee Account, are
18 less than the recycling cost of empty PET containers determined
19 pursuant to subdivision (d) of Section 14575.

20 (e) Nothing in this section is intended to affect any pending
21 litigation in which the department is a party of record.

22 *SEC. 14. Section 14576 is added to the Public Resources*
23 *Code, to read:*

24 *14576. (a) On and after January 1, 2003, until December 31,*
25 *2005, the department shall establish a pilot program using*
26 *supermarket sites that use both reverse vending machines and*
27 *staffed recycling centers to determine whether or not these*
28 *recycling centers increase recycling rates and provide greater*
29 *convenience and ease of use for consumers.*

30 *(b) The pilot program shall comply with all of the following*
31 *criteria:*

32 *(1) The program shall consist of not more than 50 supermarket*
33 *sites that represent a valid statistical sampling of the state, as*
34 *determined by the department.*

35 *(2) Each dealer where the supermarket site is located certifies*
36 *to the department in writing that it has authorized the recycling*
37 *center to participate in the pilot program.*

38 *(3) Each supermarket site in the pilot program has at least two*
39 *reverse vending machines that accept all types of beverage*
40 *containers, except those beverage containers that are labeled with*



1 a “2,” as specified in subdivision (a) of Section 18015 and are
2 larger than three liters.

3 (4) The department authorizes each supermarket site as being
4 a site suitable for inclusion in the pilot program based upon the
5 volume of beverage containers recycled and the volume of
6 beverage containers recycled through reverse vending machines.

7 (c) Each supermarket site participating in the pilot program
8 shall comply with all of the following requirements:

9 (1) The supermarket site is inspected by the operator that
10 participates in the pilot program at least once each day to maintain
11 the machines, merchandise the material, and ensure that the site
12 is kept clean.

13 (2) The supermarket site makes monthly service records
14 available to the department, showing the number of complaints per
15 site, if any, and the response time for each service call.

16 (3) (A) The supermarket site is operational at least 95 percent
17 of operable time.

18 (B) For purposes of this paragraph, “operable time” means
19 the actual operating hours, divided by the total hours the
20 supermarket site is required to be open for business each month.
21 A supermarket site’s operable hours shall be determined consistent
22 with the supermarket’s operational hours, subject to applicable
23 curfew requirements imposed by local ordinance.

24 (4) The supermarket site is not inoperative more than once a
25 month, and if that breakdown rate is exceeded, the supermarket
26 site replaces the reverse vending machine within three business
27 days.

28 (5) The supermarket site responds to a complaint of a broken
29 vending machine within five business hours of receiving a notice
30 of a breakdown by a consumer, the dealer, or the department.

31 (6) The supermarket site provides a receptacle adjacent to the
32 reverse vending machine for beverage containers that are labeled
33 with a “2,” as specified in subdivision (a) of Section 18015, and
34 that are larger than three liters. This receptacle shall meet both of
35 the following requirements:

36 (A) Provide clear instructions as to its purpose in the major
37 languages spoken within that community, as determined by the
38 department.

39 (B) State the hours in which a consumer may return the
40 container to the site and receive a redemption payment.



1 (7) *The operator of the supermarket site has an attendant*
2 *present at the supermarket site a minimum of 20 hours per week,*
3 *including no fewer than three hours on a Saturday or a Sunday*
4 *between the hours of 9 a.m. and 5 p.m. and no fewer than three*
5 *evening hours between the hours of 5 p.m. and 9 p.m. during one*
6 *weekday evening.*

7 (8) *The operator of the supermarket site provides instructions*
8 *for use of the reverse vending machine at the supermarket site in*
9 *appropriate languages and in pictorial representations*
10 *demonstrating how to use the reverse vending machine.*

11 (9) *The operator of the supermarket site maintains a telephone*
12 *number during operable time to answer calls from any person*
13 *regarding the performance of its reverse vending machines.*

14 (d) *If the department determines that the total volume of*
15 *beverage containers redeemed at a supermarket site authorized to*
16 *participate in the pilot program decreases by more than 10 percent*
17 *from the volume reported for the prior year, the supermarket site*
18 *shall be staffed for at least 30 hours per week, unless the*
19 *department determines that the site may continue staffed*
20 *operations for at least 20 hours per week.*

21 (e) (1) *The department shall monitor the volume of beverage*
22 *containers redeemed at each supermarket site participating in the*
23 *pilot program at least once every three-month period.*

24 (2) *The department shall conduct an annual review of each*
25 *supermarket site participating in the pilot program to determine*
26 *overall performance and make operational adjustments.*

27 (3) *The department shall disqualify an individual site from*
28 *participation in the pilot program, effective within seven calendar*
29 *days of notice provided to the operator, upon a determination that*
30 *the continued operation of the supermarket site within the pilot*
31 *program does not further the goals of the division.*

32 (4) *The department shall, upon the request of the dealer at the*
33 *supermarket site and within seven calendar days of the request*
34 *made by the dealer to the department, disqualify the operator for*
35 *further participation in the pilot program at that supermarket site.*

36 (f) *The department may adopt emergency regulations to*
37 *implement this section. Any emergency regulations, if adopted,*
38 *shall be adopted in accordance with Chapter 3.5 (commencing*
39 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
40 *Government Code, and for the purposes of that chapter, including*



1 *Section 11349.6 of the Government Code, the adoption of these*
2 *regulations is an emergency and shall be considered by the Office*
3 *of Administrative Law as necessary for the immediate preservation*
4 *of the public peace, health and safety, and general welfare.*

5 (g) *Notwithstanding Sections 14570 and 14571, a supermarket*
6 *site that consists of reverse vending machines is “open for*
7 *business” within the meaning of this chapter if the supermarket*
8 *site is approved by the department to participate in the pilot*
9 *program pursuant to paragraph (4) of subdivision (b) and the*
10 *supermarket site complies with the operating requirements*
11 *specified in subdivision (c).*

12 (h) *On or before July 1, 2005, the department shall report to the*
13 *Governor and Legislature on the effectiveness of the pilot program*
14 *and make recommendations on whether the program should be*
15 *continued, expanded, or modified to ensure compliance with this*
16 *division.*

17 (i) *This section shall remain in effect only until January 1,*
18 *2006, and as of that date is repealed, unless a later enacted statute,*
19 *that is enacted before January 1, 2006, deletes or extends that date.*

20 *SEC. 15. Section 14581 of the Public Resources Code is*
21 *amended to read:*

22 14581. (a) *Subject to the availability of funds, and pursuant*
23 *to subdivision (c), the department shall expend the money set aside*
24 *in the fund, pursuant to subdivision (c) of Section 14580 for the*
25 *purposes of this section:*

26 (1) *Twenty-three million five hundred thousand dollars*
27 *(\$23,500,000) shall be expended annually for the payment of*
28 *handling fees required pursuant to Section 14585.*

29 (2) *Fifteen million dollars (\$15,000,000) shall be expended*
30 *annually for payments for curbside programs and neighborhood*
31 *dropoff programs pursuant to Section 14549.6.*

32 (3) (A) *Fifteen million dollars (\$15,000,000), plus the*
33 *proportional share of the cost-of-living adjustment, as provided in*
34 *subdivision (b), shall be expended annually in the form of grants*
35 *for beverage container litter reduction programs and recycling*
36 *programs issued to either of the following:*

37 (i) *Certified community conservation corps that were in*
38 *existence on September 30, 1999, or that are formed subsequent*
39 *to that date, that are designated by a city or a city and county to*
40 *perform litter abatement, recycling, and related activities, if the*



1 city or the city and county has a population, as determined by the
2 most recent census, of more than 250,000 persons.

3 (ii) Community conservation corps that are designated by a
4 county to perform litter abatement, recycling, and related
5 activities, and are certified by the California Conservation Corps
6 as having operated for a minimum of two years and as meeting all
7 other criteria of Section 14507.5.

8 (B) Any grants provided pursuant to this paragraph shall not
9 comprise more than 75 percent of the annual budget of a
10 community conservation corps.

11 (4) (A) Ten million five hundred thousand dollars
12 (\$10,500,000) may be expended annually for payments of five
13 thousand dollars (\$5,000) to cities and ten thousand dollars
14 (\$10,000) for payments to counties for beverage container
15 recycling and litter cleanup activities, or the department may
16 calculate the payments to counties and cities on a per capita basis,
17 and may pay whichever amount is greater, for those activities.

18 (B) Eligible activities for the use of these funds may include,
19 but are not necessarily limited to, support for new or existing
20 curbside recycling programs, neighborhood dropoff recycling
21 programs, public education promoting beverage container
22 recycling, litter prevention, and cleanup, cooperative regional
23 efforts among two or more cities or counties, or both, or other
24 beverage container recycling programs.

25 (C) These funds may not be used for activities unrelated to
26 beverage container recycling or litter reduction.

27 (D) To receive these funds, a city, county, or city and county
28 shall fill out and return a funding request form to the Department
29 of Conservation. The form shall specify the beverage container
30 recycling or litter reduction activities for which the funds will be
31 used.

32 (E) The Department of Conservation shall annually prepare
33 and distribute a funding request form to each city, county, or city
34 and county. The form shall specify the amount of beverage
35 container recycling and litter cleanup funds for which the
36 jurisdiction is eligible. The form shall not exceed one double-sided
37 page in length, and may be submitted electronically. If a city,
38 county, or city and county does not return the funding request form
39 within 90 days of receipt of the form from the department, the city,



1 county, or city and county is not eligible to receive the funds for
2 that funding cycle.

3 (F) For the purposes of this paragraph, per capita population
4 shall be based on the population of the incorporated area of a city
5 or city and county and the unincorporated area of a county. The
6 department may withhold payment to any city, county, or city and
7 county that has prohibited the siting of a supermarket site, caused
8 a supermarket site to close its business, or adopted a land use policy
9 that restricts or prohibits the siting of a supermarket site within its
10 jurisdiction.

11 (5) (A) ~~Five~~ *One million five* hundred thousand dollars
12 ~~(\$500,000)~~ *(\$1,500,000)* may be expended annually in the form
13 of grants for beverage container recycling and litter reduction
14 programs.

15 (B) Up to a total of six million eight hundred forty thousand
16 dollars (\$6,840,000) shall be paid to the City of San Diego,
17 between January 1, 2000, and January 1, 2004, for a curbside
18 recycling program conducted pursuant to Section 14549.7.

19 (6) (A) The department shall expend the amount necessary to
20 pay the processing payment established pursuant to ~~subdivision~~
21 ~~(b) of~~ Section 14575. The department shall establish separate
22 processing fee accounts in the fund for each beverage container
23 material type for which a processing payment and processing fee
24 is calculated pursuant to Section 14575, *or for which a processing*
25 *payment is calculated pursuant to Section 14575 and a voluntary*
26 *artificial scrap value is calculated pursuant to Section 14575.1,*
27 into which account shall be deposited both of the following:

28 (i) All amounts paid as processing fees for each beverage
29 container material type pursuant to ~~subdivision (g) of~~ Section
30 14575.

31 (ii) Funds equal to pay ~~75 percent~~ *the balance* of the processing
32 payments established in subdivision (b) of Section 14575 *and*
33 *adjusted pursuant to paragraphs (2) and (3) of subdivision (c) of,*
34 *and subdivision (f) of, Section 14575,* in order to reduce the
35 processing fee to the level provided in subdivision (f) of Section
36 14575 *or to reflect the agreement by a willing purchaser to pay a*
37 *voluntary artificial scrap value pursuant to Section 14575.1.*

38 (B) Notwithstanding Section 13340 of the Government Code,
39 the money in each processing fee account is hereby continuously
40 appropriated to the department for expenditure without regard to



1 fiscal years, for purposes of making processing payments, and
2 reducing processing fees, pursuant to Section 14575.

3 (7) (A) Up to ten million dollars (\$10,000,000) shall be
4 expended by the department between January 1, 2000, and January
5 1, 2002, for the purposes of undertaking a statewide public
6 education and information campaign aimed at promoting
7 increased recycling of beverage containers.

8 (B) On or before July 1, 2002, the department shall provide a
9 report to the Legislature on the impact of the statewide public
10 education and information campaign and make recommendations
11 for any future campaigns.

12 (8) Up to three million *five hundred thousand* dollars
13 ~~(\$3,000,000)~~ (\$3,500,000) shall be expended annually for the
14 payment of quality glass incentive payments pursuant to Section
15 14549.1.

16 (9) (A) Three hundred thousand dollars (\$300,000) shall be
17 expended annually by the department, until January 1, ~~2003~~ 2004,
18 pursuant to a cooperative agreement entered into between the
19 department and Keep California Beautiful, a nonprofit 501(c)(3)
20 organization chartered by the State of California in 1990, for the
21 purpose of conducting statewide public education campaigns
22 aimed at preventing and cleaning up beverage containers and
23 related litter. The campaigns shall include, but not be limited to,
24 coordination of Keep California Beautiful month.

25 (B) Prior to making an expenditure pursuant to this paragraph,
26 the department shall enter into a cooperative agreement with Keep
27 California Beautiful.

28 (C) As part of the cooperative agreement, Keep California
29 Beautiful shall provide the department with an annual campaign
30 plan and budget, and a report of previous year campaign activities.

31 ~~(D) On or before July 1, 2002,~~ the department shall make a
32 recommendation to the Legislature on future funding for beverage
33 container litter prevention and cleanup activities by Keep
34 California Beautiful.

35 (10) *Up to three million dollars (\$3,000,000) may be annually*
36 *expended by the department from the PET plastic processing fee*
37 *account for the payment of plastic incentive payments pursuant to*
38 *Section 14549.3.*

39 (11) *Up to ten million dollars (\$10,000,000) may be expended*
40 *annually by the department, until January 1, 2007, to issue grants*



1 *for recycling market development and expansion-related activities*
2 *aimed at increasing the recycling of beverage containers,*
3 *including, but not limited to, the following:*

4 (A) *Research and development of collecting, sorting,*
5 *processing, cleaning, or otherwise upgrading the market value of*
6 *recycled beverage containers.*

7 (B) *Identification, development, and expansion of markets for*
8 *recycled beverage containers.*

9 (C) *Research and development for products manufactured*
10 *using recycled beverage containers.*

11 (D) *Payments to California manufacturers who recycle*
12 *beverage containers that are marked by resin type identification*
13 *codes “3,” “4,” “5,” “6,” or “7,” pursuant to Section 18015.*

14 (b) The fifteen million dollars (\$15,000,000) that is set aside
15 pursuant to paragraph (3) of subdivision (a) is a base amount that
16 the department shall adjust annually to reflect any increases or
17 decreases in the cost of living, as measured by the Department of
18 Labor, or a successor agency, of the federal government.

19 (c) (1) The department shall review all funds on a quarterly
20 basis to ensure that there are adequate funds to make the payments
21 specified in this section and the processing fee reductions required
22 pursuant to Section 14575.

23 (2) If the department determines, pursuant to a review made
24 pursuant to paragraph (1), that there may be inadequate funds to
25 pay the payments required by this section and the processing fee
26 reductions required pursuant to Section 14575, the department
27 shall immediately notify the appropriate policy and fiscal
28 committees of the Legislature regarding the inadequacy.

29 (3) On or before 180 days after the notice is sent pursuant to
30 paragraph (2), the department may reduce or eliminate
31 expenditures, or both, from the funds as necessary, according to
32 the procedure set forth in subdivision (d).

33 (d) If the department determines that there are insufficient
34 funds to make the payments specified pursuant to this section and
35 Section 14575, the department shall reduce all payments
36 proportionally.

37 (e) Prior to making an expenditure pursuant to paragraph (7) of
38 subdivision (a), the department shall convene an advisory
39 committee consisting of representatives of the beverage industry,
40 beverage container manufacturers, environmental organizations,



1 the recycling industry, nonprofit organizations, and retailers, to
2 advise the department on the most cost-effective and efficient
3 method of the expenditure of the funds for that education and
4 information campaign.

5 *SEC. 16. Section 14585 of the Public Resources Code is*
6 *amended to read:*

7 14585. (a) The department shall adopt guidelines and
8 methods for paying handling fees to supermarket sites, nonprofit
9 convenience zone recyclers, or rural region recyclers to provide an
10 incentive for the redemption of empty beverage containers in
11 convenience zones. The guidelines shall include, but not be limited
12 to, all of the following:

13 (1) Handling fees shall be paid on a monthly basis, in the form
14 and manner adopted by the department. The department shall
15 require that claims for the handling fee be filed with the
16 department not later than the first day of the second month
17 following the month for which the handling fee is claimed as a
18 condition of receiving any handling fee.

19 (2) To be eligible for any handling fee, a supermarket site
20 recycling center, nonprofit convenience zone recycler, or rural
21 region recycler shall redeem not less than 60,000 beverage
22 containers, *during the calendar month in which the handling fee*
23 *is claimed, or have redeemed not less than an average of 60,000*
24 *beverage containers per month during the previous 12 months,*
25 and, except for operators of certified recycling centers that are
26 nonprofit organizations, not more than 500,000 beverage
27 containers, during the calendar month in which the handling fee is
28 claimed.

29 (3) A beverage container with a capacity of 24 fluid ounces or
30 more shall be considered as two beverage containers for purposes
31 of determining the eligibility percentage, any handling fee
32 calculations, and payments.

33 (4) The department shall determine the number of eligible
34 containers per site for which a handling fee will be paid in the
35 following manner:

36 (A) Each eligible site's combined monthly volume of glass and
37 plastic beverage containers shall be divided by the site's total
38 monthly volume of all empty beverage container types.

39 (B) If the quotient determined pursuant to subparagraph (A) is
40 equal to, or more than, 10 percent, the total monthly volume of the



1 site shall be the maximum volume which is eligible for a handling
2 fee for that month.

3 (C) If the quotient determined pursuant to subparagraph (A) is
4 less than 10 percent, the department shall divide the volume of
5 glass and plastic beverage containers by 10 percent. That quotient
6 shall be the maximum volume that is eligible for a handling fee for
7 that month.

8 (5) The department shall pay a handling fee of 1.8 cents
9 (\$0.018) per eligible beverage container, as determined pursuant
10 to paragraph (4).

11 (6) Notwithstanding paragraph (5), the total handling fee
12 payment to a supermarket site, nonprofit convenience zone
13 recycler, or rural region recycler shall not exceed two thousand
14 three hundred dollars (\$2,300) per month.

15 (7) If the eligible volume in any given month would result in
16 handling fee payments which exceed the allocation of funds for
17 that month, as provided in subdivision (b), sites with higher
18 eligible monthly volumes shall receive handling fees for their
19 entire eligible monthly volume before sites with lower eligible
20 monthly volumes receive any handling fees.

21 (8) (A) If a dealer where a supermarket site, nonprofit
22 convenience zone recycler, or rural region recycler is located
23 ceases operation for remodeling or for a change of ownership, the
24 operator of that supermarket site nonprofit convenience zone
25 recycler, or rural region recycler shall be eligible to apply for
26 handling fees for that site for a period of three months following
27 the date of the closure of the dealer.

28 (B) Every supermarket site operator, nonprofit convenience
29 zone recycler, or rural region recycler shall promptly notify the
30 department of the closure of the dealer where the supermarket site,
31 nonprofit convenience zone recycler, or rural region recycler is
32 located.

33 (C) Notwithstanding subparagraph (A), any operator who fails
34 to provide notification to the department pursuant to subparagraph
35 (B) shall not be eligible to apply for handling fees.

36 (b) The department may allocate the twenty-three million five
37 hundred thousand dollars (\$23,500,000) authorized for
38 expenditure for the payment of handling fees pursuant to
39 paragraph (1) of subdivision (a) of Section 14581 on a monthly
40 basis and may carry over any unexpended monthly allocation to a



1 subsequent month or months. However, unexpended monthly
2 allocations shall not be carried over to a subsequent fiscal year for
3 the purpose of paying handling fees but may be carried over for
4 any other purpose pursuant to Section 14581.

5 (c) (1) The department shall not make handling fee payments
6 to more than one certified recycling center in a convenience zone.
7 If a dealer is located in more than one convenience zone, the
8 department shall offer a single handling fee payment to a
9 supermarket site located at that dealer. This handling fee payment
10 shall not be split between the affected zones. The department shall
11 stop making handling fee payments if another recycling center
12 certifies to operate within the convenience zone without receiving
13 payments pursuant to this section, if the department monitors the
14 performance of the other recycling center for 60 days and
15 determines that the recycling center is in compliance with this
16 division. Any recycling center that locates in a convenience zone,
17 thereby causing a preexisting recycling center to become
18 ineligible to receive handling fee payments, is ineligible to receive
19 any handling fee payments in that convenience zone.

20 (2) The department shall offer a single handling fee payment to
21 a rural region recycler that is located anywhere inside a
22 convenience zone that is not served by another certified recycling
23 center and does either of the following:

24 (A) Operates a minimum of 30 hours per week in one
25 convenience zone.

26 (B) Serves two or more convenience zones, and meets all of the
27 following criteria:

28 (i) Is the only certified recycler within each convenience zone.

29 (ii) Is open and operating at least eight hours per week in each
30 convenience zone and is certified at each location.

31 (iii) Operates at least 30 hours per week in total for all
32 convenience zones served.

33 (d) The department may require the operator of a supermarket
34 site or rural region recycler receiving handling fees to maintain
35 records for each location where beverage containers are redeemed,
36 and may require the supermarket site or rural region recycler to
37 take any other action necessary for the department to determine
38 that the supermarket site or rural region recycler does not receive
39 an excessive handling fee.



1 (e) The department may determine and utilize a standard
2 container per pound rate, for each material type, for the purpose
3 of calculating volumes and making handling fee payments.

4 *SEC. 16. No reimbursement is required by this act pursuant*
5 *to Section 6 of Article XIII B of the California Constitution*
6 *because the only costs that may be incurred by a local agency or*
7 *school district will be incurred because this act creates a new crime*
8 *or infraction, eliminates a crime or infraction, or changes the*
9 *penalty for a crime or infraction, within the meaning of Section*
10 *17556 of the Government Code, or changes the definition of a*
11 *crime within the meaning of Section 6 of Article XIII B of the*
12 *California Constitution.*

13 ~~amended to read:~~

14 ~~41781.3.— (a) The use of solid waste for beneficial reuse in the~~
15 ~~construction and operation of a solid waste landfill, including use~~
16 ~~of alternative daily cover, which reduces or eliminates the amount~~
17 ~~of solid waste being disposed pursuant to Section 40124, shall~~
18 ~~constitute diversion through recycling and shall not be considered~~
19 ~~disposal for the purposes of this division.~~

20 ~~(b) Prior to December 31, 1997, pursuant to the board's~~
21 ~~authority to adopt rules and regulations pursuant to Section 40502,~~
22 ~~the board shall, by regulation, establish conditions for the use of~~
23 ~~alternative daily cover that are consistent with this division. In~~
24 ~~adopting the regulations, the board shall consider, but is not~~
25 ~~limited to, all of the following criteria:~~

26 ~~(1) Those conditions established in past policies adopted by the~~
27 ~~board affecting the use of alternative daily cover.~~

28 ~~(2) Those conditions necessary to provide for the continued~~
29 ~~economic development, economic viability, and employment~~
30 ~~opportunities provided by the composting industry in the state.~~

31 ~~(3) Those performance standards and limitations on maximum~~
32 ~~functional thickness necessary to ensure protection of public~~
33 ~~health and safety consistent with state minimum standards.~~

34 ~~(c) Until the adoption of additional regulations, the use of~~
35 ~~alternative daily cover shall be governed by the conditions~~
36 ~~established by the board in its existing regulations set forth in~~
37 ~~paragraph (3) of subdivision (b) of, and paragraph (3) of~~
38 ~~subdivision (c) of, Section 18813 of Title 14 of the California Code~~
39 ~~of Regulations, as those sections read on the effective date of this~~



1 section, and by the conditions established in the board's policy
2 adopted on January 25, 1995.

3 (d) In adopting rules and regulations pursuant to this section,
4 Section 40124, and this division, including, but not limited to, Part
5 2 (commencing with Section 40900), the board shall provide
6 guidance to local enforcement agencies on any conditions and
7 restrictions on the utilization of alternative daily cover so as to
8 ensure proper enforcement of those rules and regulations. The
9 functional use of all types of alternative daily cover shall be
10 restricted to a cumulative tonnage amount of not more than 10
11 percent of the amount of solid waste by weight that is being
12 covered averaged over a quarterly period, and shall be
13 mechanically processed where 95 percent of the green waste
14 material is less than 3 inches in size, and 95 percent of the
15 construction and demolition material is less than 12 inches in size.
16 The amount and type of alternative daily cover shall be fully
17 described in the operational document and approved by the local
18 enforcement agencies prior to use. The amount of alternative daily
19 cover used in excess of 10 percent, as described in this section,
20 constitutes disposal.

21 SEC. 2. — Notwithstanding Section 17610 of the Government
22 Code, if the Commission on State Mandates determines that this
23 act contains costs mandated by the state, reimbursement to local
24 agencies and school districts for those costs shall be made pursuant
25 to Part 7 (commencing with Section 17500) of Division 4 of Title
26 2 of the Government Code. If the statewide cost of the claim for
27 reimbursement does not exceed one million dollars (\$1,000,000),
28 reimbursement shall be made from the State Mandates Claims
29 Fund.

