

AMENDED IN SENATE APRIL 22, 2009

SENATE BILL

No. 55

Introduced by Senator Corbett

January 15, 2009

An act to amend Sections 14504, 14551, 14575, 14581, and 14585 of, to add ~~Sections 14518.6, and~~ *Section* 14575.5 to, and to repeal Section 14523.5 of, the Public Resources Code, relating to recycling, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 55, as amended, Corbett. Recycling: California redemption value containers.

(1) Under existing law, the California Beverage Container Recycling and Litter Reduction Act, every beverage container sold or offered for sale in this state is required to have a minimum refund value. A distributor is required to pay a redemption payment for every beverage container sold or offered for sale in the state to the Department of Conservation and the department is required to deposit those amounts in the California Beverage Container Recycling Fund. The money in the fund is continuously appropriated to the department for the payment of refund values and processing fees. A violation of the act is a crime.

Beverage is defined, for purposes of the act, to include, among other things, beer and other malt beverages, wine and distilled spirit coolers, carbonated mineral and soda waters, noncarbonated fruit drinks, and vegetable juices, in liquid form that are intended for human consumption, but excludes from that definition vegetable drinks in beverage containers of more than 16 ounces. The act also excludes, from the definition of beverage, any product sold in a container that is

not an aluminum beverage container, a glass container, a plastic beverage container, or a bimetal container.

This bill would revise the term beverage to include vegetable, nut, grain, or soy drinks that contain any percentage of juice, and would delete the requirement that a vegetable drink subject to the act be sold in a container of 16 ounces or less. The bill would delete the exclusion from the term beverage, for a product that is not sold in the above-specified types of containers. The bill would additionally exclude from the definition a beverage in a flexible foil, plastic pouch, or aseptic container delivering 7 or less fluid ounces. The bill would also make conforming changes to other definitions, for purposes of the act.

Since the payments for the plastic beverage containers and other beverage containers that this bill would make subject to the act would be deposited in a continuously appropriated fund, the bill would make an appropriation. The bill would also impose a state-mandated local program by creating new crimes relating to beverage containers.

(2) The Department of Conservation is required to establish reporting periods of 6 months each for redemption rates and recycling rates for specified types of beverage containers. The act also requires the department to determine the redemption rates and recycling rates for those beverage containers for each reporting period and to issue a report on those determinations. The act defines ~~various words~~ *terms* for purposes of those provisions, including redemption rate.

This bill would delete the provisions that require the department to establish reporting periods for redemption rates and that require the department to determine redemption rates for specified types of beverage containers. The bill also would delete the definition of redemption rate.

(3) The act requires the department to calculate a processing fee and a processing payment for each beverage container with a specified scrap value. The processing fee is required to be paid by beverage manufacturers for each beverage container sold or transferred to a dealer. Existing law authorizes, subject to the availability of funds, a reduction in the processing fee paid by beverage manufacturers for container types with certain recycling rates. Existing law requires the department to pay processing payments for redeemed containers to processors, for each type of beverage container, in a specified manner. The department is also required to pay a handling fee to specified recyclers.

The bill would make changes with regard to the processing fee reductions for container types with certain recycling rates. The bill would include provisions for determining a supplemental processing

payment, based on the volume of redeemed containers, which would be paid to processors and ultimately to recyclers.

This bill would revise the provisions for the payment of handling fees with regard to payments for beverage containers with a 24-ounce capacity.

(4) The department is authorized to make other specified expenditures from the moneys remaining in the fund after the moneys for certain purposes have been set aside, including ~~\$10,000,000~~ *\$10,500,000* annually for payments to cities and counties for beverage container recycling and litter cleanup activities. Existing law requires the department to expend \$15,000,000 annually, plus a proportional cost-of-living adjustment, for grants for eligible community conservation corps beverage container litter reduction and recycling programs.

This bill would increase the payments to cities and counties to \$15,000,000 to be paid as specified. The bill would require the department to expend \$17,500,000 annually, plus a proportional cost-of-living adjustment, for grants for eligible community conservation corps beverage container litter reduction and recycling programs.

(5) The department is authorized to expend up to \$20,000,000 to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers.

This bill would additionally include, as activities eligible for these grants, the upgrading or retrofitting of existing facilities or construction of new facilities that process or use postconsumer beverage container material and payments to manufacturers located in this state who utilize material from the types of recycled beverage containers that are generated in this state and that became subject to the act pursuant to this bill.

(6) The bill would make conforming changes.

(7) 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.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California has demonstrated a more than 20-year
4 commitment to reducing and recycling materials that would
5 otherwise become waste.

6 (b) California's commitment to waste reduction and recycling
7 has demonstrated itself in the development and implementation
8 of a comprehensive waste reduction and recycling policy that has
9 succeeded in achieving a 50 percent diversion of solid waste from
10 landfills.

11 (c) California's commitment has further demonstrated itself in
12 the development and implementation of the nation's most
13 expansive and cost-effective beverage container recycling system
14 that has succeeded in recycling 60 percent of beverage containers
15 generated.

16 (d) Despite the commitment and efforts of the public, local
17 agencies, and the state to reduce waste and increase recycling, the
18 lack of incentives and opportunities for the recycling of most plastic
19 bottles has resulted in a recycling failure.

20 (e) Studies by the California Integrated Waste Management
21 Board (CIWMB) and the United States Environmental Protection
22 Agency reveal that each year California generates more than 13
23 billion plastic bottles and disposes of more than 315,000 tons of
24 plastic bottle waste.

25 (f) A recent study by the CIWMB further revealed that while
26 96 percent of the plastic bottles not currently covered by the state's
27 container recycling law are made from readily recyclable and
28 marketable polyethylene terephthalate (PET) and high density
29 polyethylene (HDPE) plastic, less than 12 percent of these plastic
30 bottles are currently recycled.

31 (g) Relying exclusively on California's curbside recycling
32 infrastructure to collect the more than six billion non-California
33 Refund Value (CRV) plastic bottles littered throughout and
34 landfilled in California annually has proven unsuccessful and even
35 moderate success, 50 percent recycling, if it were possible, would
36 cost local agencies and ratepayers in excess of thirty-five million
37 dollars (\$35,000,000) annually in higher collection and processing
38 costs.

1 (h) Compounding the problem of plastic litter and waste, the
2 California Ocean Protection Council (OPC) has determined that
3 marine debris poses a serious threat to California’s marine
4 environment and ocean-based economies, and that 60 to 80 percent,
5 inclusive, of all marine debris and 90 percent of all floating debris
6 is plastic.

7 (i) To help reduce the problem of plastic marine debris, the OPC
8 unanimously adopted a resolution stating in part: “The state should
9 look closely at extending the CRV or similar Extended Producer
10 Responsibility programs to include other plastics commonly found
11 in marine debris.”

12 (j) California’s 20 years of experience demonstrates that
13 extending the financial incentives and convenient return
14 opportunities of the state’s successful container recycling and litter
15 reduction law to all plastic bottles regardless of content represents
16 the single most expeditious and cost-effective means of reducing
17 and recycling the more than six billion non-CRV plastic bottles
18 that are littered and landfilled in California annually.

19 SEC. 2. Section 14504 of the Public Resources Code is
20 amended to read:

21 14504. (a) Except as provided in subdivision (b), “beverage”
22 means any of the following products if those products are in liquid,
23 ready-to-drink form, and are intended for human consumption:

- 24 (1) Beer and other malt beverages.
- 25 (2) Wine and distilled spirit coolers.
- 26 (3) Carbonated water, including soda and carbonated mineral
27 water.
- 28 (4) Noncarbonated water, including noncarbonated mineral
29 water.
- 30 (5) Carbonated soft drinks.
- 31 (6) Noncarbonated soft drinks and “sport” drinks.
- 32 (7) Vegetable, nut, grain, soy, or noncarbonated fruit drinks that
33 contain any percentage of juice.
- 34 (8) Coffee and tea drinks.
- 35 (9) Carbonated fruit drinks.

- 36 (b) “Beverage” does not include any of the following:
 - 37 (1) Wine, or wine from which alcohol has been removed, in
38 whole or in part, whether or not sparkling or carbonated.
 - 39 (2) Milk, medical food, or infant formula.

1 (3) Beverages in a flexible foil, plastic pouch, or aseptic
2 container that delivers seven or less fluid ounces of beverage in
3 the container.

4 (c) For purposes of this section, the following definitions shall
5 apply:

6 (1) “Infant formula” means any liquid food described or sold
7 as an alternative for human milk for the feeding of infants.

8 (2) (A) “Medical food” means a food or beverage that is
9 formulated to be consumed, or administered enterally under the
10 supervision of a physician, and that is intended for specific dietary
11 management of diseases or health conditions for which distinctive
12 nutritional requirements, based on recognized scientific principles,
13 are established by medical evaluation.

14 (B) A “medical food” is a specially formulated and processed
15 product, for the partial or exclusive feeding of a patient by means
16 of oral intake or enteral feeding by tube, and is not a naturally
17 occurring foodstuff used in its natural state.

18 (C) “Medical food” includes any product that meets the
19 definition of “medical food” in the federal Food, Drug, and
20 Cosmetic Act (21 U.S.C. Sec. 360ee(b)(3)).

21 (3) “Noncarbonated soft drink” means a nonalcoholic,
22 noncarbonated naturally or artificially flavored water containing
23 sugar or sweetener or trace amounts of various elements from both
24 natural and synthetic sources.

25 ~~SEC. 3. Section 14518.6 is added to the Public Resources Code,
26 to read:~~

27 ~~14518.6. “Product manufacturer” means a person that bottles
28 or otherwise fills a plastic bottle or imports a filled plastic bottle,
29 for sale to a distributor, dealer, or consumer.~~

30 ~~SEC. 4.~~

31 ~~SEC. 3.~~ Section 14523.5 of the Public Resources Code is
32 repealed.

33 ~~SEC. 5.~~

34 ~~SEC. 4.~~ Section 14551 of the Public Resources Code is
35 amended to read:

36 14551. (a) The department shall establish reporting periods
37 for the reporting of recycling rates. Each reporting period shall be
38 six months. The department shall determine all of the following
39 for each reporting period and shall issue a report on its
40 determinations, within 130 days of the end of each reporting period:

1 (1) Sales of beverages in aluminum beverage containers, bimetal
2 beverage containers, glass beverage containers, plastic beverage
3 containers, and other beverage containers in this state, including
4 refillable beverage containers.

5 (2) Returns for recycling, and returns not for recycling, of empty
6 aluminum beverage containers, bimetal beverage containers, glass
7 beverage containers, plastic beverage containers, and other
8 beverage containers in this state, including refillable beverage
9 containers returned to distributors pursuant to Section 14572.5.
10 These numbers shall be calculated using the average current
11 weights of beverage containers, as determined and reported by the
12 department.

13 (3) An aluminum beverage container recycling rate, the
14 numerator of which shall be the number of empty aluminum
15 beverage containers returned for recycling, including refillable
16 aluminum beverage containers, and the denominator of which shall
17 be the number of aluminum beverage containers sold in this state.

18 (4) A bimetal beverage container recycling rate, the numerator
19 of which shall be the number of empty bimetal containers returned
20 for recycling, including refillable bimetal beverage containers, and
21 the denominator of which shall be the number of bimetal beverage
22 containers sold in this state.

23 (5) A glass beverage container recycling rate, the numerator of
24 which shall be the number of empty glass beverage containers
25 returned for recycling, including refillable glass beverage
26 containers, and the denominator of which shall be the number of
27 glass beverage containers sold in this state.

28 (6) A plastic beverage container recycling rate, the numerator
29 of which shall be the number of empty plastic beverage containers
30 returned for recycling, including refillable plastic beverage
31 containers, and the denominator of which shall be the number of
32 plastic beverage containers sold in this state.

33 (7) A recycling rate for other beverage containers, the numerator
34 of which shall be the number of empty beverage containers other
35 than those containers specified in paragraphs (1) to (6), inclusive,
36 returned for recycling, and the denominator of which shall be the
37 number of beverage containers, other than those containers
38 specified in paragraphs (1) to (6), inclusive, sold in this state.

1 (8) The department may define categories of other beverage
2 containers, and report a recycling rate for each of those categories
3 of other beverage containers.

4 (9) The volumes of materials collected from certified recycling
5 centers, by city or county, as requested by the city or county, if
6 the reporting is consistent with the procedures established pursuant
7 to Section 14554 to protect proprietary information.

8 (b) The department shall determine the manner of collecting
9 the information for the reports specified in subdivision (a),
10 including establishing procedures, to protect any proprietary
11 information concerning the sales and purchases.

12 ~~SEC. 6.~~

13 *SEC. 5.* Section 14575 of the Public Resources Code is
14 amended to read:

15 14575. (a) If any type of empty beverage container with a
16 refund value established pursuant to Section 14560 has a scrap
17 value less than the cost of recycling, the department shall, on
18 January 1, 2000, and on or before January 1 annually thereafter,
19 establish a processing fee and a processing payment for the
20 container by the type of the material of the container.

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

26 (1) The actual cost for certified recycling centers, excluding
27 centers receiving a handling fee, of receiving, handling, storing,
28 transporting, and maintaining equipment for each container sold
29 for recycling or, only if the container is not recyclable, the actual
30 cost of disposal, calculated pursuant to subdivision (c). The
31 department shall determine the statewide weighted average cost
32 to recycle each beverage container type, which shall serve as the
33 actual recycling costs for purposes of paragraph (2) of subdivision
34 (c), by conducting a survey of the costs of a statistically significant
35 sample of certified recycling centers, excluding those recycling
36 centers receiving a handling fee, for receiving, handling, storing,
37 transporting, and maintaining equipment.

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

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

1 (1) Except as provided in paragraph (2), for calculating
2 processing payments that will be in effect on and after January 1,
3 2004, the department shall determine the actual costs for certified
4 recycling centers, every second year, pursuant to paragraph (1) of
5 subdivision (b). The department shall adjust the recycling costs
6 annually to reflect changes in the cost of living, as measured by
7 the Bureau of Labor Statistics of the United States Department of
8 Labor or a successor agency of the United States government.

9 (2) On and after January 1, 2010, the department shall use the
10 most recently published, measured actual costs of recycling for a
11 specific beverage material type if the department determines the
12 number of beverage containers for that material type that is returned
13 for recycling pursuant to Section 14551, based on the most recently
14 published calendar year number of beverage containers returned
15 for recycling, is less than 5 percent of the total number of beverage
16 containers returned for recycling for all material types. The
17 department shall determine the actual recycling cost to be used for
18 calculating processing payments for those beverage containers in
19 the following manner:

20 (A) The department shall adjust the costs of recycling that
21 material type every second year by the percentage change in the
22 most recently measured cost of recycling HDPE plastic beverage
23 containers, as determined by the department. The department shall
24 use the percentage change in costs of recycling HDPE plastic
25 beverage containers for this purpose, even if HDPE plastic
26 beverage containers are less than 5 percent of the total volume of
27 returned beverage containers.

28 (B) The department shall adjust the recycling costs annually for
29 that material type to reflect changes in the cost of living, as
30 measured by the Bureau of Labor Statistics of the United States
31 Department of Labor or a successor agency of the United States
32 government.

33 (d) Except as specified in subdivision (e), the actual processing
34 fee paid by a beverage manufacturer shall equal 65 percent of the
35 processing payment calculated pursuant to subdivision (b).

36 (e) The department, consistent with Section 14581 and subject
37 to the availability of funds, shall reduce the processing fee paid
38 by beverage manufacturers by expending funds in each material
39 processing fee account, in the following manner:

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

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

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

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

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

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

17 (F) Thirty percent of the processing payment for a container
18 type with a recycling rate equal to or greater than 45 percent, but
19 less than 50 percent.

20 (G) Thirty-six percent of the processing payment for a container
21 type with a recycling rate equal to or greater than 40 percent, but
22 less than 45 percent.

23 (H) Forty percent of the processing payment for a container
24 type with a recycling rate equal to or greater than 30 percent, but
25 less than 40 percent.

26 (I) One hundred percent of the processing payment for a
27 container type with a recycling rate less than 30 percent.

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

32 (f) Not more than once every three months, the department may
33 make an adjustment in the amount of the processing payment
34 established pursuant to this section notwithstanding any change
35 in the amount of the processing fee established pursuant to this
36 section, for any beverage container, if the department makes the
37 following determinations:

38 (1) The statewide scrap value paid by processors for the material
39 type for the most recent available 12-month period directly
40 preceding the quarter in which the processing payment is to be

1 adjusted is 5 percent more or 5 percent less than the average scrap
2 value used as the basis for the processing payment currently in
3 effect.

4 (2) Funds are available in the processing fee account for the
5 material type.

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

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

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

31 (B) The department shall enter into a contract with the
32 Department of Alcoholic Beverage Control, pursuant to Section
33 14536.5, concerning the implementation of this paragraph, which
34 shall include a provision reimbursing the Department of Alcoholic
35 Beverage Control for its costs incurred in implementing this
36 paragraph.

37 (3) (A) Notwithstanding paragraph (1), if a beverage
38 manufacturer displays a pattern of operation in compliance with
39 this division and the regulations adopted pursuant to this division,
40 to the satisfaction of the department, the beverage manufacturer

1 may make a single annual payment of processing fees, if the
2 beverage manufacturer meets either of the following conditions:

3 (i) If the redemption payment and refund value is not increased
4 pursuant to paragraph (3) of subdivision (a) of Section 14560, the
5 beverage manufacturer's projected processing fees for a calendar
6 year total less than ten thousand dollars (\$10,000).

7 (ii) If the redemption payment and refund value is increased
8 pursuant to paragraph (3) of subdivision (a) of Section 14560, the
9 beverage manufacturer's projected processing fees for a calendar
10 year total less than fifteen thousand dollars (\$15,000).

11 (B) An annual processing fee payment made pursuant to this
12 paragraph is due and payable on or before February 1 for every
13 beverage container sold or transferred by the beverage
14 manufacturer to a distributor or dealer in the previous calendar
15 year.

16 (C) A beverage manufacturer shall notify the department of its
17 intent to make an annual processing fee payment pursuant to this
18 paragraph on or before January 31 of the calendar year for which
19 the payment will be due.

20 (4) The department shall pay the processing payments on
21 redeemed containers to processors, in the same manner as it pays
22 refund values pursuant to Sections 14573 and 14573.5. The
23 processor shall pay the recycling center the entire processing
24 payment representing the actual costs and financial return incurred
25 by the recycling center, as specified in subdivision (b).

26 (h) When assessing processing fees pursuant to subdivision (a),
27 the department shall assess the processing fee on each container
28 sold, as provided in subdivisions (d) and (e), by the type of material
29 of the container, assuming that every container sold will be
30 redeemed for recycling, whether or not the container is actually
31 recycled.

32 (i) The container manufacturer, or a designated agent, shall pay
33 to, or credit, the account of the beverage manufacturer in an amount
34 equal to the processing fee.

35 (j) If, at the end of any calendar year for which glass recycling
36 rates equal or exceed 45 percent and sufficient surplus funds remain
37 in the glass processing fee account to make the reduction pursuant
38 to this subdivision or if, at the end of any calendar year for which
39 PET recycling rates equal or exceed 45 percent and sufficient
40 surplus funds remain in the PET processing fee account to make

1 the reduction pursuant to this subdivision, the department shall
2 use these surplus funds in the respective processing fee accounts
3 in the following calendar year to reduce the amount of the
4 processing fee that would otherwise be due from glass or PET
5 beverage manufacturers pursuant to this subdivision.

6 (1) The department shall reduce the glass or PET processing
7 fee amount pursuant to this subdivision in addition to any reduction
8 for which the glass or PET beverage container qualifies under
9 subdivision (e).

10 (2) The department shall determine the processing fee reduction
11 by dividing two million dollars (\$2,000,000) from each processing
12 fee account by an estimate of the number of containers sold or
13 transferred to a distributor during the previous calendar year, based
14 upon the latest available data.

15 ~~SEC. 7.~~

16 *SEC. 6.* Section 14575.5 is added to the Public Resources Code,
17 to read:

18 14575.5. (a) The department shall establish a supplemental
19 processing payment to be paid to a processor. The processor shall
20 pay the entire supplemental processing payment to a recycler that
21 receives processing payments pursuant to Section 14575. The
22 department shall determine the supplemental processing payment
23 based on the volume of redeemed containers that the recycler
24 reports for each whole month pursuant to subdivision (b),
25 commencing on January 1, 2010, and continuing for a period of
26 12 consecutive months.

27 (1) Consistent with Section 14581 and subject to the availability
28 of funds, the department shall establish a supplemental processing
29 payment for glass, PET plastic containers, and HDPE plastic
30 containers as follows:

31 (A) Twenty dollars (\$20) for each ton of glass beverage
32 containers.

33 (B) Thirty-five dollars (\$35) for each ton of PET plastic
34 beverage containers.

35 (C) Thirty-five dollars (\$35) for each ton of HDPE plastic
36 beverage containers.

37 (2) The department shall not make a supplemental processing
38 payment to a recycler for any volume reported for a whole month
39 that is not within the 12-month consecutive time period established
40 in this subdivision.

1 (b) A recycler shall report to a processor the volume of redeemed
2 containers subject to the supplemental processing payments
3 established pursuant to paragraph (1) of subdivision (a) no later
4 than the 10th day following the end of the 12-month period
5 established in subdivision (a).

6 (c) The department shall pay the supplemental processing
7 payments on eligible redeemed containers to processors in the
8 same manner as it pays refund values pursuant to Sections 14573
9 and 14573.5, except that paragraph (3) of subdivision (a) of Section
10 14573.5 is not applicable. The processor shall pay a recycler the
11 entire supplemental processing payment as specified in subdivision
12 (a).

13 ~~SEC. 8.~~

14 *SEC. 7.* Section 14581 of the Public Resources Code is
15 amended to read:

16 14581. (a) (1) Subject to the availability of funds, and pursuant
17 to subdivision (c), the department shall expend the moneys set
18 aside in the fund, pursuant to subdivision (c) of Section 14580, for
19 the purposes of this section.

20 (2) For each fiscal year commencing July 1, 2008, the
21 department may expend the amount necessary to make the required
22 handling fee payment pursuant to Section 14585.

23 (3) Fifteen million dollars (\$15,000,000) shall be expended
24 annually for payments for curbside programs and neighborhood
25 dropoff programs pursuant to Section 14549.6.

26 (4) (A) Seventeen million five hundred thousand dollars
27 (\$17,500,000), plus the proportional share of the cost-of-living
28 adjustment, as provided in subdivision (b), shall be expended
29 annually in the form of grants for beverage container litter
30 reduction programs and recycling programs issued to either of the
31 following:

32 (i) Certified community conservation corps that were in
33 existence on September 30, 1999, or that are formed subsequent
34 to that date, that are designated by a city or a city and county to
35 perform *beverage container* litter abatement, recycling, and related
36 activities, if the city or the city and county has a population, as
37 determined by the most recent census, of more than 250,000
38 persons.

39 (ii) Community conservation corps that are designated by a
40 county to perform *beverage container* litter abatement, recycling,

1 and related activities, and are certified by the California
2 Conservation Corps as having operated for a minimum of two
3 years and as meeting all other criteria of Section 14507.5.

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

7 (5) (A) Fifteen million dollars (\$15,000,000) may be expended
8 annually for payments of seven thousand five hundred dollars
9 (\$7,500) to each city and payments of fifteen thousand dollars
10 (\$15,000) to each county for beverage container recycling and
11 litter cleanup activities, or the department may calculate the
12 payments to counties and cities on a per capita basis, and may pay
13 whichever amount is greater, for those activities.

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

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

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

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

38 (F) For the purposes of this paragraph, per capita population
39 shall be based on the population of the incorporated area of a city
40 or city and county and the unincorporated area of a county. The

1 department may withhold payment to any city, county, or city and
2 county that has prohibited the siting of a supermarket site, caused
3 a supermarket site to close its business, or adopted a land use policy
4 that restricts or prohibits the siting of a supermarket site within its
5 jurisdiction.

6 (6) One million five hundred thousand dollars (\$1,500,000)
7 may be expended annually in the form of grants for beverage
8 container recycling and litter reduction programs.

9 (7) (A) The department shall expend the amount necessary to
10 pay the processing payment and supplemental processing payment
11 established pursuant to Sections 14575 and 14575.5. The
12 department shall establish separate processing fee accounts in the
13 fund for each beverage container material type for which a
14 processing payment and processing fee are calculated pursuant to
15 Section 14575, or for which a processing payment is calculated
16 pursuant to Section 14575 and a voluntary artificial scrap value is
17 calculated pursuant to Section 14575.1, into which account shall
18 be deposited all of the following:

19 (i) All amounts paid as processing fees for each beverage
20 container material type pursuant to Section 14575.

21 (ii) Funds equal to the difference between the amount in clause
22 (i) and the amount of the processing payments established in
23 subdivision (b) of Section 14575, and adjusted pursuant to
24 paragraph (2) of subdivision (c) of, and subdivision (f) of, Section
25 14575, to reduce the processing fee to the level provided in
26 subdivision (f) of Section 14575, or to reflect the agreement by a
27 willing purchaser to pay a voluntary artificial scrap value pursuant
28 to Section 14575.1.

29 (iii) Funds equal to an amount sufficient to pay the total amount
30 of the supplemental processing payments established pursuant to
31 Section 14575.5.

32 (B) Notwithstanding Section 13340 of the Government Code,
33 the moneys in each processing fee account are hereby continuously
34 appropriated to the department for expenditure without regard to
35 fiscal years, for purposes of making processing payments and
36 supplemental processing payments, and reducing processing fees,
37 pursuant to Sections 14575 and 14575.5.

38 (8) Up to five million dollars (\$5,000,000) may be annually
39 expended by the department for the purposes of undertaking a

1 statewide public education and information campaign aimed at
2 promoting increased recycling of beverage containers.

3 (9) Up to fifteen million dollars (\$15,000,000) may be expended
4 annually by the department for quality incentive payments for
5 empty beverage containers pursuant to Section 14549.1.

6 (10) Up to twenty million dollars (\$20,000,000) may be
7 expended annually by the department, until January 1, 2012, to
8 issue grants for recycling market development and
9 expansion-related activities aimed at increasing the recycling of
10 beverage containers, including, but not limited to, the following:

11 (A) Research and development of collecting, sorting, processing,
12 cleaning, or otherwise upgrading the market value of recycled
13 beverage containers.

14 (B) Identification, development, and expansion of markets for
15 recycled beverage containers.

16 (C) Research and development for products manufactured using
17 recycled beverage containers.

18 (D) Research and development to provide high-quality materials
19 that are substantially free of contamination.

20 (E) Payments to California manufacturers who recycle beverage
21 containers that are marked by resin type identification code “3,”
22 “4,” “5,” “6,” or “7,” pursuant to Section 18015.

23 (F) Upgrading or retrofitting of existing facilities that process
24 or use postconsumer beverage container material, to increase the
25 amount of postconsumer beverage container material being used
26 or to meet or exceed standards set in state environmental laws,
27 regulations, and policies.

28 (G) Construction of new facilities that process or use
29 postconsumer beverage container material, including, but not
30 limited to, aseptic beverage container materials, and that will meet
31 or exceed standards set in state environmental laws, regulations,
32 and policies.

33 (H) Payments to manufacturers located in this state that utilize
34 material from the types of recycled beverage containers that are
35 generated in this state and that were not subject to this division
36 before January 1, 2009, but which became subject to this division
37 on and after January 1, 2009.

38 (11) Up to ten million dollars (\$10,000,000) may be transferred
39 on a one-time basis by the department to the Recycling

1 Infrastructure Loan Guarantee Account, for expenditure pursuant
2 to Section 14582.

3 (12) Up to ten million dollars (\$10,000,000) may be expended
4 annually by the department for the payment of recycling incentive
5 payments pursuant to Section 14549.7 until payments for eligible
6 beverage containers redeemed or collected for recycling on or
7 before December 31, 2009, have been paid.

8 (13) Up to five million dollars (\$5,000,000) may be expended
9 annually by the department for market development payments for
10 empty plastic beverage containers pursuant to Section 14549.2,
11 until January 1, 2012.

12 (14) Up to five million dollars (\$5,000,000) may be expended,
13 by the department, on a one-time basis beginning on January 1,
14 2007, in coordination with the Department of Parks and Recreation
15 for the purposes of installing source separated beverage container
16 recycling receptacles at each of the state parks, starting with those
17 parks that have the highest day use.

18 (15) Up to five million dollars (\$5,000,000) may be expended,
19 from January 1, 2007, to January 1, 2008, to provide grants to local
20 governments or nonprofit agencies to place multifamily housing
21 source separated beverage container recycling receptacles in
22 low-income communities.

23 (16) (A) Up to fifteen million dollars (\$15,000,000) may be
24 expended from January 1, 2008, to January 1, 2009, to provide
25 grants to place source separated beverage container recycling
26 receptacles in multifamily housing.

27 (B) Notwithstanding subdivision (b) of Section 14580, the
28 amount of one hundred ninety-eight thousand dollars (\$198,000)
29 may be expended by the department from the fund, on a one-time
30 basis, for the administrative costs of implementing the grant
31 program established by subparagraph (A).

32 (17) (A) Up to twenty million dollars (\$20,000,000) may be
33 expended from July 1, 2009, to January 1, 2012, inclusive, for
34 either of the following:

35 (i) Grants for beverage container recycling and litter reduction
36 programs that emphasize the greatest and most effective collection
37 of beverage containers per dollar spent to ensure the program's
38 performance and accountability.

39 (ii) Focused, regional community beverage container recycling
40 and litter reduction programs that enable the department to more

1 effectively organize the amount and type of resources needed for
2 regional and statewide efforts to increase recycling.

3 (B) The department shall require, as a condition of receiving
4 grant funds pursuant to subparagraph (A), each grant recipient to
5 submit a final report including, but not limited to, the grant
6 recipient's reported volumes of beverage containers recycled,
7 where applicable.

8 (C) On or before July 1, 2014, the department shall publish an
9 evaluation of all grants made pursuant to paragraph (A). At a
10 minimum, the evaluation shall summarize each final report
11 submitted by each grantee pursuant to subparagraph (B) and assess
12 whether the grantee adequately met the scope and objectives
13 outlined in the grant agreement.

14 (b) The seventeen million five hundred thousand dollars
15 (\$17,500,000) that is set aside pursuant to paragraph (4) of
16 subdivision (a) is a base amount. The department shall adjust the
17 proportional share of the cost-of-living adjustment annually to
18 reflect any increases or decreases in the cost of living, as measured
19 by the Department of Labor, or a successor agency, of the federal
20 government.

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

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

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

35 (d) If the department determines that there are insufficient funds
36 to make the payments specified pursuant to this section and Section
37 14575, the department shall reduce all payments proportionally.

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

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

6 (f) After setting aside money for the expenditures required
7 pursuant to subdivisions (a) and (b) and Section 14580, the
8 department may, on and after January 1, 2007, but not after July
9 1, 2007, expend remaining moneys in the fund to pay a refund
10 value in an amount greater than the refund value established
11 pursuant to subdivision (b) of Section 14560.

12 ~~SEC. 9.~~

13 *SEC. 8.* Section 14585 of the Public Resources Code is
14 amended to read:

15 14585. (a) The department shall adopt guidelines and methods
16 for paying handling fees to supermarket sites, nonprofit
17 convenience zone recyclers, or rural region recyclers to provide
18 an incentive for the redemption of empty beverage containers in
19 convenience zones. The guidelines shall include, but not be limited
20 to, all of the following:

21 (1) Handling fees shall be paid on a monthly basis, in the form
22 and manner adopted by the department. The department shall
23 require that claims for the handling fee be filed with the department
24 not later than the first day of the second month following the month
25 for which the handling fee is claimed as a condition of receiving
26 any handling fee.

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

31 (B) Subparagraph (A) shall not apply until January 1, 2010, and
32 shall not apply on and after July 1, 2012.

33 (3) 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

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

8 (4) (A) From the effective date of the statute enacted by
9 Assembly Bill 3056 of the 2005–06 Regular Session to June 30,
10 2008, inclusive, the department shall pay a handling fee of 1.8
11 cents (\$0.018) per eligible beverage container, as determined
12 pursuant to paragraph (3).

13 (B) On and after July 1, 2008, the department shall pay a
14 handling fee per eligible container in the amount determined
15 pursuant to subdivision (f).

16 (5) (A) Notwithstanding paragraph (4), the total handling fee
17 payment to a supermarket site, nonprofit convenience zone
18 recycler, or rural region recycler shall not exceed two thousand
19 three hundred dollars (\$2,300) per month.

20 (B) Subparagraph (A) shall not apply on and after July 1, 2008.

21 (6) If the eligible volume in any given month would result in
22 handling fee payments that exceed the allocation of funds for that
23 month, as provided in subdivision (b), sites with higher eligible
24 monthly volumes shall receive handling fees for their entire eligible
25 monthly volume before sites with lower eligible monthly volumes
26 receive any handling fees.

27 (7) (A) If a dealer where a supermarket site, nonprofit
28 convenience zone recycler, or rural region recycler is located ceases
29 operation for remodeling or for a change of ownership, the operator
30 of that supermarket site, nonprofit convenience zone recycler, or
31 rural region recycler shall be eligible to apply for handling fees
32 for that site for a period of three months following the date of the
33 closure of the dealer.

34 (B) Every supermarket site operator, nonprofit convenience
35 zone recycler, or rural region recycler shall promptly notify the
36 department of the closure of the dealer where the supermarket site,
37 nonprofit convenience zone recycler, or rural region recycler is
38 located.

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

4 (b) The department may allocate the amount authorized for
5 expenditure for the payment of handling fees pursuant to paragraph
6 (1) of subdivision (a) of Section 14581 on a monthly basis and
7 may carry over any unexpended monthly allocation to a subsequent
8 month or months. However, unexpended monthly allocations shall
9 not be carried over to a subsequent fiscal year for the purpose of
10 paying handling fees but may be carried over for any other purpose
11 pursuant to Section 14581.

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

27 (2) The department shall offer a single handling fee payment
28 to a rural region recycler located anywhere inside a convenience
29 zone, if that convenience zone is not served by another certified
30 recycling center and the rural region recycler does either of the
31 following:

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

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

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

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

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

1 (d) The department may require the operator of a supermarket
2 site or rural region recycler receiving handling fees to maintain
3 records for each location where beverage containers are redeemed,
4 and may require the supermarket site or rural region recycler to
5 take any other action necessary for the department to determine
6 that the supermarket site or rural region recycler does not receive
7 an excessive handling fee.

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

11 (f) (1) On or before January 1, 2008, and every two years
12 thereafter, the department shall conduct a survey pursuant to this
13 subdivision of a statistically significant sample of certified
14 recycling centers that receive handling fee payments to determine
15 the actual cost incurred for the redemption of empty beverage
16 containers by those certified recycling centers. The department
17 shall conduct these cost surveys in conjunction with the cost
18 surveys performed by the department pursuant to subdivision (b)
19 of Section 14575 to determine processing payments and processing
20 fees. The department shall include, in determining the actual costs,
21 only those allowable costs contained in the regulations adopted
22 pursuant to this division that are used by the department to conduct
23 cost surveys pursuant to subdivision (b) of Section 14575.

24 (2) Using the information obtained pursuant to paragraph (1),
25 the department shall then determine the statewide weighted average
26 cost incurred for the redemption of empty beverage containers,
27 per empty beverage container, at recycling centers that receive
28 handling fees.

29 (3) On and after July 1, 2008, the department shall determine
30 the amount of the handling fee to be paid for each empty beverage
31 container by subtracting the amount of the statewide weighted
32 average cost per container to redeem empty beverage containers
33 by recycling centers that do not receive handling fees from the
34 amount of the statewide weighted average cost per container
35 determined pursuant to paragraph (2).

36 (4) The department shall adjust the statewide average cost
37 determined pursuant to paragraph (2) for each beverage container
38 annually to reflect changes in the cost of living, as measured by
39 the Bureau of Labor Statistics of the United States Department of
40 Labor or a successor agency of the United States government.

1 (5) The cost information collected pursuant to this section at
2 recycling centers that receive handling fees shall not be used in
3 the calculation of the processing payments determined pursuant
4 to Section 14575.

5 ~~SEC. 10.~~

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