

AMENDED IN ASSEMBLY MAY 8, 2013

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1001

Introduced by Assembly Member Gordon
(Coauthor: Assembly Member Stone)

February 22, 2013

An act to amend Sections 14505, 14515.5, 14538, 14549.5, 14550, 14553, ~~14560~~, 14560.5, 14571.2, ~~14571.5~~, 14571.8, 14573, 14574, 14575, 14581, and 14583; of, to amend, repeal, and add Section 14585 of, to add Sections 14526.8, 14528.2, 14528.3, *14560.2*, 14571.6.5, and 14580.5 to, and to add Division 12.5 (commencing with Section 17000) to, the Public Resources Code, relating to recycling, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1001, as amended, Gordon. Recycling: voluntary beverage containers.

(1) Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires a distributor to pay a redemption payment for every beverage container sold or offered for sale in the state to the Department of Resources Recycling and Recovery. The department is required to deposit those amounts in the California Beverage Container Recycling Fund. The act defines the term beverage as including specified types of beverages that are sold in aluminum beverage containers, glass beverage containers, plastic beverage containers, or bimetal containers. *A violation of the act is a crime.*

This bill would define the term “regulated beverage” as a beverage that meets the definition of beverage under the act, but is sold in a beverage container that is not one of those containers. The bill would also include, as a regulated beverage, 100% fruit juice in a container that is 46 ounces or more in volume and vegetable juice in a container that is more than 16 ounces in volume.

The bill would require a distributor of regulated beverage containers to submit a plan, by January 1, 2014, to the department for the implementation of a takeback and recycling system incorporating specified elements; to implement the plan, and to annually demonstrate to the department that not less than 80% of the regulated beverages sold by the distributor in this state are recycled and that the regulated beverage containers sold by the distributor are made from material containing not less than 35% postconsumer recycled content. The bill would authorize the department to require a distributor to pay an annual administrative fee that would be required to be set at an amount that is adequate to cover the department’s full costs of administering and enforcing this program. The bill would require the department to deposit the fees into the Regulated Beverage Account, which the bill would establish in the State Treasury. The bill would authorize the department to expend the moneys in the Regulated Beverage Account, upon appropriation by the Legislature, to cover the department’s costs to implement the program.

The bill would allow a distributor, in lieu of submitting and implementing a takeback and recycling system, to elect to pay a redemption payment to the department pursuant to the act and to otherwise comply with the act. The bill would require the department to deposit the redemption payments by distributors for voluntary beverage containers into the Voluntary Beverage Container Fund, which the bill would create in the State Treasury. The bill would continuously appropriate the money in the Voluntary Beverage Container Fund to the department for the payment of refund values and administrative fees to processors for voluntary beverage containers, and as a reserve for contingencies, thereby making an appropriation. The bill would also provide that the money in the Voluntary Beverage Container Fund may be expended by the department for the administration of the act only upon appropriation by the Legislature.

The bill would require the department to establish a separate processing fee account in the Voluntary Beverage Container Fund for voluntary beverage containers and would require all amounts paid as

processing fees for those voluntary beverage containers be deposited in that account. The bill would continuously appropriate those funds to the department for purposes of making processing payments for voluntary beverage containers. The bill would require the department, once every 3 months, to set aside funds estimated to be needed for the expenditures specified above. The bill would continuously appropriate the remainder of those funds to the department to pay handling fees for voluntary beverage containers and to make payments for the collection of voluntary beverage containers by curbside programs and neighborhood dropoff programs. The bill would make other conforming changes to the act with regard to voluntary beverage containers.

(2) The act requires the department to certify recycling centers and requires, as a condition of certification, that if one or more certified entities have operated at the same location within the past 5 years, the operations at the location of the recycling center exhibit, to the satisfaction of the department, a pattern of operation in compliance with the requirements of the act.

This bill would authorize the department to waive this requirement if it makes a specified determination.

(3) Existing law requires the department to annually review and recalculate commingled rates paid for beverage containers and postfilled containers paid to curbside recycling programs, collection programs, and recycling centers.

This bill would prohibit the department from recalculating commingled rates for the 2014, 2015, and 2016 calendar years paid to recycling centers and would prohibit recycling centers from paying any refund value at a commingled rate.

(4) Existing law specifies requirements for the reports, claims, and information required to be submitted to the department pursuant to the act.

This bill would require the department to make available a process for electronically submitting these reports, claims, and other information and would require those reports, claims, and other information to be submitted electronically to the department pursuant to that process. The bill would make conforming changes with regard to the electronic submission of reports and payments to the department.

(5) Existing law specifies procedures for the reduction of the processing fee for PET containers, as defined. Existing law also requires all rigid plastic bottles and rigid plastic containers to be labeled with a

code that indicates the resin used to produce the rigid plastic bottle or rigid plastic container.

This bill would revise the definition of the term “PET container” for purposes of the act to include a plastic beverage container labeled with the term PETE.

(6) The act defines “convenience zone” for the purposes of the act and requires that every convenience zone be served by at least one certified recycling center, with specified operating hours. Existing law authorizes the department to designate a convenience zone in an area where there is no supermarket and to grant an exemption from the convenience zone requirements of the act.

This bill would define the term “unserved convenience zone” and would require the department to provide assistance and incentives to reduce the number of unserved convenience zones to less than 5% of total convenience zones by January 1, 2015.

This bill would permit the department to authorize an operator of a certified recycling center to be open for business less than 30 hours per week, but not less than 20 hours per week, if the recycling center is located in an unserved convenience zone, as defined, that has been unserved for at least 6 continuous months.

~~This bill would prohibit the director from granting an exemption if a certified recycling center will not be operating in a convenience zone in which is located a supermarket and would repeal the authority to designate a convenience zone in an area where there is no supermarket.~~

(7) Existing law prohibits a lease entered into by a dealer to contain a leasehold restriction that prohibits or results in the prohibition of the establishment of a recycling location. Existing law prohibits the department from making any payments, grants, or loans, to a city or county that has adopted or is enforcing a land use restriction that prevents the siting or operation of a certified recycling center at a supermarket-site *site*.

This bill would prohibit a person from entering into a lease with a supermarket on or after January 1, 2014, that prohibits the operation of a certified recycling center or inhibits the ability of that supermarket to operate as, or contract with, a certified recycling center. This bill would also prohibit a city or county that receives any revenue pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law from a transaction conducted by a supermarket from prohibiting the siting of a certified recycling center in the parking lot of a supermarket.

(8) After setting aside funds for the payment of refund values and administrative fees, and for a reserve for contingencies, the act provides that the remaining moneys in the fund are continuously appropriated to the department for expenditure for designated programs, grants, and fee payments, including annually expending \$15,000,000 for grants for beverage container programs to certain community conservation corps and \$1,500,000 for grants for beverage container programs.

This bill would increase the amount the department is authorized to spend for grants for beverage container programs to certain community conservation corps to \$21,000,000 and would delete the authorization to expend that \$1,500,000 for those other grants, thereby making an appropriation.

(9) The act continuously appropriates to the department the amount necessary to pay handling fees to provide an incentive for the redemption of empty beverage containers in convenience zones. Existing law specifies procedures for determining the number of containers for which a handling fee may be paid and requires the department to set the amount of the handling fee using a specified method, but requires the per-container handling fee to be set until March 1, 2013, at an amount that is not less than the amount of the per-container handling fee that was in effect on July 1, 2011.

This bill would make inoperative the existing provisions regarding the methods for setting and calculating handling fees on July 1, 2014, and would repeal those provisions on January 1, 2015. The bill would provide that for beverage containers returned for recycling on and after July 1, 2014, the handling fee would equal specified amounts, based on the amount of beverage containers a recycling site handles each month. The bill would make an appropriation by changing the terms and conditions under which the department is authorized to make payments from a continuously appropriated fund.

(10) Since a violation of the act is a crime, the bill would impose a state-mandated local program by creating new crimes with regard to the submission of information to the department.

(11) 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. Section 14505 of the Public Resources Code is
2 amended to read:

3 14505. (a) “Beverage container” means both of the following:

4 (1) The individual, separate bottle, can, jar, carton, or other
5 receptacle, however denominated, in which a beverage is sold, and
6 that is constructed of metal, glass, or plastic, or other material, or
7 any combination of these materials.

8 (2) Except as specified otherwise in this division, a voluntary
9 beverage container.

10 (b) “Beverage container” does not include cups or other similar
11 open or loosely sealed receptacles.

12 SEC. 2. Section 14515.5 of the Public Resources Code is
13 amended to read:

14 14515.5. “PET container” means a plastic beverage container
15 labeled with a “1” or with “PETE” for polyethylene terephthalate
16 resin, pursuant to Section 18015 and subject to this division.

17 SEC. 3. Section 14526.8 is added to the Public Resources Code,
18 to read:

19 14526.8. “Unserved convenience zone” means a convenience
20 zone in which there is not in operation a certified recycling center
21 or other location that meets the requirements of subdivision (a) of
22 Section 14571 and the convenience zone is otherwise not exempt
23 pursuant to Section 14571.8.

24 SEC. 4. Section 14528.2 is added to the Public Resources Code,
25 to read:

26 14528.2. “Voluntary beverage container” is a regulated
27 beverage container subject to Division 12.5 (commencing with
28 Section 17000) for which the distributor voluntarily agrees to
29 participate in this division pursuant to Section 17004.

30 SEC. 5. Section 14528.3 is added to the Public Resources Code,
31 to read:

32 14528.3. “Voluntary fund” means the Voluntary Beverage
33 Container Fund established pursuant to Section 14580.5.

34 SEC. 6. Section 14538 of the Public Resources Code is
35 amended to read:

36 14538. (a) The department shall certify the operators of
37 recycling centers pursuant to this section. The director shall adopt,
38 by regulation, a procedure for the certification of recycling centers,

1 including standards and requirements for certification. These
2 regulations shall require that all information be submitted to the
3 department under penalty of perjury. A recycling center shall meet
4 all of the standards and requirements contained in the regulations
5 for certification. The regulations shall require, but shall not be
6 limited to requiring, that all of the following conditions be met for
7 certification:

8 (1) The operator of the recycling center demonstrates, to the
9 satisfaction of the department, that the operator will operate in
10 accordance with this division.

11 (2) (A) If one or more certified entities have operated at the
12 same location within the past five years, the operations at the
13 location of the recycling center exhibit, to the satisfaction of the
14 department, a pattern of operation in compliance with the
15 requirements of this division and regulations adopted pursuant to
16 this division.

17 (B) The department shall waive the requirements of
18 subparagraph (A) if the department determines that the new
19 operator applicant has no relationship or affiliation to a previous
20 certified entity that operated at the same location.

21 (3) The operator of the recycling center notifies the department
22 promptly of any material change in the nature of his or her
23 operations which conflicts with information submitted in the
24 operator's application for certification.

25 (b) A certified recycling center shall comply with all of the
26 following requirements for operation:

27 (1) The operator of the recycling center shall not pay a refund
28 value for, or receive a refund value from any processor for, any
29 food or drink packaging material or any beverage container or
30 other product that does not have a refund value established pursuant
31 to Section 14560.

32 (2) The operator of a recycling center shall take those actions
33 that satisfy the department to prevent the payment of a refund value
34 for any food or drink packaging material or any beverage container
35 or other product that does not have a refund value established
36 pursuant to Section 14560.

37 (3) Unless exempted pursuant to subdivision (b) of Section
38 14572, a certified recycling center shall accept, and pay at least
39 the refund value for, all empty beverage containers, regardless of
40 type.

1 (4) A certified recycling center shall not pay any refund values,
2 processing payments, or administrative fees to a noncertified
3 recycler.

4 (5) A certified recycling center shall not pay any refund values,
5 processing payments, or administrative fees on empty beverage
6 containers or other containers that the certified recycling center
7 knew, or should have known, were coming into the state from out
8 of the state.

9 (6) A certified recycling center shall not claim refund values,
10 processing payments, or administrative fees on empty beverage
11 containers that the certified recycling center knew, or should have
12 known, were received from noncertified recyclers or on beverage
13 containers that the certified recycling center knew, or should have
14 known, come from out of the state.

15 (7) A certified recycling center shall prepare and maintain the
16 following documents involving empty beverage containers, as
17 specified by the department by regulation:

18 (A) Shipping reports that are required to be prepared by the
19 recycling center, or that are required to be obtained from other
20 recycling centers.

21 (B) Consumer transaction receipts.

22 (C) Consumer transaction logs.

23 (D) Rejected container receipts on materials subject to this
24 division.

25 (E) Receipts for transactions with beverage manufacturers on
26 materials subject to this division.

27 (F) Receipts for transactions with beverage distributors on
28 materials subject to this division.

29 (G) Documents authorizing the recycling center to cancel empty
30 beverage containers.

31 (H) Weight tickets.

32 (8) In addition to the requirements of paragraph (7), a certified
33 recycling center shall cooperate with the department and make
34 available its records of scrap transactions when the review of these
35 records is necessary for an audit or investigation by the department.

36 (c) The department may recover, in restitution pursuant to
37 paragraph (5) of subdivision (c) of Section 14591.2, payments
38 made from the fund to the certified recycling center pursuant to
39 Section 14573.5 that are based on the documents specified in
40 paragraph (7) of subdivision (b), that are not prepared or maintained

1 in compliance with the department’s regulations, and that do not
2 allow the department to verify claims for program payments.

3 (d) The department may certify a recycling center that will
4 operate less than 30 hours a week, as specified in paragraph (2) of
5 subdivision (b) of Section 14571.

6 SEC. 7. Section 14549.5 of the Public Resources Code is
7 amended to read:

8 14549.5. (a) Except as provided in subdivision (c), before
9 April 1 of each year, or more frequently as determined to be
10 necessary by the department, the department shall review and, if
11 necessary in order to ensure payment of the most accurate
12 commingled rate feasible, recalculate commingled rates paid for
13 beverage containers and postfilled containers paid to curbside
14 recycling programs, dropoff or collection programs, and recycling
15 centers. Prior to recalculating a commingled rate pursuant to this
16 section, the department shall do all of the following:

17 (1) Consult with private and public operators of curbside
18 recycling programs, dropoff or collection programs, and recycling
19 centers concerning the size of the statewide sample, appropriate
20 sampling methodologies, and alternatives to exclusive reliance on
21 a statewide commingled rate.

22 (2) At least 60 days prior to the effective date of any new
23 commingled rate, hold a public hearing, after giving notice, to
24 make available to the public and affected parties the department’s
25 review and any proposed recalculations of the commingled rate.

26 (3) At least 60 days prior to the effective date of any new
27 commingled rate, and upon the request of any party, make available
28 documentation or studies that were prepared as part of the
29 department’s review of a commingled rate.

30 (b) (1) Notwithstanding this division, the department may
31 calculate a curbside recycling program commingled rate pursuant
32 to this subdivision for bimetal containers and a combined
33 commingled rate for all plastic beverage containers displaying the
34 resin identification code “3,” “4,” “5,” “6,” or “7” pursuant to
35 Section 18015.

36 (2) The department may enter into a contract for the services
37 required to implement the amendments to this section made by
38 Chapter 753 of the Statutes of 2003. The department may not
39 expend more than two hundred fifty thousand dollars (\$250,000)
40 for each year of the contract. The contract shall be paid only from

1 revenues derived from redemption payments and processing fees
2 paid on plastic beverage containers displaying the resin
3 identification code “3,” “4,” “5,” “6,” or “7” pursuant to Section
4 18015. If the department determines that insufficient funds will
5 be available from these revenues, after refund values are paid to
6 processors and the reduction is made in the processing fee pursuant
7 to subdivision (e) of Section 14575 for these containers, the
8 department may determine not to calculate a commingled rate
9 pursuant to this subdivision.

10 (c) Notwithstanding subdivision (a) or (b), for purposes of the
11 2014, 2015, and 2016 calendar years, the department shall not
12 recalculate commingled rates paid to recycling centers for beverage
13 containers, and recycling centers shall not pay any refund value
14 at a commingled rate for beverage containers.

15 SEC. 8. Section 14550 of the Public Resources Code is
16 amended to read:

17 14550. (a) (1) Every processor shall report to the department
18 for each month the amount of empty beverage containers, by
19 material type and weight of container or material, excluding
20 refillable beverage containers, received from recycling centers and
21 curbside programs for recycling, and the scrap value paid for glass,
22 PET, and bimetal containers and any beverage container that is
23 assessed a processing fee. Every processor shall also report to the
24 department for each month the amount of other postfilled
25 aluminum, glass, and plastic food and drink packaging materials
26 sold filled to consumers in this state and returned for recycling.
27 These reports shall be electronically submitted within 10 days after
28 each month, in the form and manner that the department may
29 prescribe.

30 (2) The department shall treat all information reported pursuant
31 to this section by a processor as commercial or financial
32 information subject to the procedures established pursuant to
33 Section 14554.

34 (b) Every distributor who sells or offers for sale in this state
35 beverages in aluminum beverage containers, nonaluminum metal
36 beverage containers, glass beverage containers, plastic beverage
37 containers, or other beverage containers, including refillable
38 beverage containers of these types, shall report to the department
39 for each month the number of beverages sold in these beverage
40 containers in this state that are labeled pursuant to Section 14561,

1 by material type and size and weight of container or any other
2 method as the department may prescribe. These reports shall be
3 submitted by the day when payment is due, consistent with the
4 applicable payment schedule specified in subdivision (a) of Section
5 14574, in the form and manner that the department may prescribe.

6 (c) Every distributor who sells or offers for sale in this state
7 beverages in refillable beverage containers and who pays a refund
8 value to distributors, dealers, or consumers who return these
9 containers for refilling, shall report to the department for each
10 month the number of these beverage containers returned empty to
11 be refilled, by material type and size of container or any other
12 method that the department may prescribe. These reports shall be
13 submitted by the day when payment is due, consistent with the
14 schedule specified in subdivision (a) of Section 14574, in the form
15 and manner that the department may prescribe.

16 (d) Notwithstanding subdivision (b), a distributor who elects to
17 make an annual payment pursuant to subdivision (b) of Section
18 14574 may, upon the approval of the department, submit the reports
19 required by this section annually to the department. The reports
20 shall accompany the annual payment submitted pursuant to Section
21 14574.

22 SEC. 9. Section 14553 of the Public Resources Code is
23 amended to read:

24 14553. (a) (1) All reports, claims, and other information
25 required pursuant to this division and submitted to the department
26 shall be complete, legible, and accurate, as determined by the
27 department by regulation, and shall be signed, by an officer,
28 director, managing employee, or owner of the certified recycling
29 center, processor, distributor, beverage manufacturer, container
30 manufacturer, or other entity.

31 (2) The department shall make available a process for
32 electronically submitting all reports, claims, and other information
33 required pursuant to this division.

34 (3) All reports, claims, and other information required pursuant
35 to this division shall be electronically submitted to the department
36 pursuant to the process made available by the department.

37 (b) The department may inspect the operations, processes, and
38 records of any entity required to submit a report to the department
39 pursuant to this division to determine the accuracy of the report
40 and compliance with the requirements of this division.

1 (c) A violation of this section is subject to the penalties specified
2 in Section 14591.1.

3 ~~SEC. 10. Section 14560 of the Public Resources Code is~~
4 ~~amended to read:~~

5 ~~14560. (a) (1) Except as provided in subdivisions (b) and (c),~~
6 ~~a beverage distributor shall pay the department, for deposit into~~
7 ~~the fund, a redemption payment of four cents (\$0.04) for a beverage~~
8 ~~container with a capacity of less than 24 fluid ounces sold or~~
9 ~~offered for sale in this state by the distributor.~~

10 ~~(2) A beverage container with a capacity of 24 fluid ounces or~~
11 ~~more shall be considered as two beverage containers for purposes~~
12 ~~of redemption payments paid pursuant to paragraph (1).~~

13 ~~(3) Except as provided in subdivision (b), a beverage container~~
14 ~~sold or offered for sale in this state has a refund value of four cents~~
15 ~~(\$0.04) if the beverage container has a capacity of less than 24~~
16 ~~fluid ounces and eight cents (\$0.08) if the beverage container has~~
17 ~~a capacity of 24 fluid ounces or more.~~

18 ~~(b) (1) Except as provided in subdivision (c), if the aggregate~~
19 ~~recycling rate reported pursuant to Section 14551 for all beverage~~
20 ~~containers subject to this division is less than 75 percent for the~~
21 ~~12-month reporting period from January 1 to December 31 for any~~
22 ~~calendar year, a beverage distributor shall pay the department, for~~
23 ~~deposit into the fund, a redemption payment of five cents (\$0.05)~~
24 ~~for a beverage container with a capacity of less than 24 fluid ounces~~
25 ~~sold or offered for sale in this state by a dealer and ten cents (\$0.10)~~
26 ~~for a beverage container with a capacity of 24 fluid ounces or more.~~

27 ~~(2) If the aggregate recycling rate reported pursuant to Section~~
28 ~~14551 for all beverage containers subject to this division is less~~
29 ~~than 75 percent for the 12-month reporting period from January 1~~
30 ~~to December 31 for any calendar year, a beverage container sold~~
31 ~~or offered for sale in this state has a refund value of five cents~~
32 ~~(\$0.05) if the beverage container has a capacity of less than 24~~
33 ~~fluid ounces and ten cents (\$0.10) if the beverage container has a~~
34 ~~capacity of 24 fluid ounces or more.~~

35 ~~(c) (1) A distributor of voluntary beverage containers shall pay~~
36 ~~the department, for deposit into the Voluntary Beverage Container~~
37 ~~Fund, a redemption payment of five cents (\$0.05) for a voluntary~~
38 ~~beverage container with a capacity of less than 24 fluid ounces~~
39 ~~sold or offered for sale in this state by that distributor.~~

1 ~~(2) A voluntary beverage container with a capacity of 24 fluid~~
2 ~~ounces or more shall be considered as two beverage containers for~~
3 ~~purposes of redemption payments paid pursuant to paragraph (1).~~

4 ~~(3) A voluntary beverage container sold or offered for sale in~~
5 ~~this state has a refund value of five cents (\$0.05) if the voluntary~~
6 ~~beverage container has a capacity of less than 24 fluid ounces and~~
7 ~~ten cents (\$0.10) if the voluntary beverage container has a capacity~~
8 ~~of 24 fluid ounces or more.~~

9 ~~(d) This section does not apply to a refillable beverage container.~~

10 *SEC. 10. Section 14560.2 is added to the Public Resources*
11 *Code, to read:*

12 *14560.2. (a) A distributor of voluntary beverage containers*
13 *shall pay the department, for deposit into the Voluntary Beverage*
14 *Container Fund, a redemption payment of five cents (\$0.05) for a*
15 *voluntary beverage container with a capacity of less than 24 fluid*
16 *ounces sold or offered for sale in this state by that distributor.*

17 *(b) A voluntary beverage container with a capacity of 24 fluid*
18 *ounces or more shall be considered as two beverage containers*
19 *for purposes of redemption payments paid pursuant to subdivision*

20 *(a).*

21 *(c) A voluntary beverage container sold or offered for sale in*
22 *this state has a refund value of five cents (\$0.05) if the voluntary*
23 *beverage container has a capacity of less than 24 fluid ounces and*
24 *ten cents (\$0.10) if the voluntary beverage container has a capacity*
25 *of 24 fluid ounces or more.*

26 *SEC. 11. Section 14560.5 of the Public Resources Code is*
27 *amended to read:*

28 *14560.5. (a) (1) Except as provided in paragraph (2), and*
29 *subdivision (e), the invoice or other form of accounting of the*
30 *transaction submitted by a beverage distributor of beverages to a*
31 *dealer shall separately identify the amount of any redemption*
32 *payment imposed on beverage containers pursuant to Section*
33 *14560 and the separate identification of the invoice or other form*
34 *of accounting of the transaction shall not combine or include the*
35 *gross wholesale price with the redemption payment but shall*
36 *separately state the gross amount of the redemption payment for*
37 *each type of container included in each delivery.*

38 *(2) The invoice or other form of accounting of the transaction*
39 *submitted by any distributor of beer and malt beverages or wine*
40 *or distilled spirit coolers to a dealer may separately identify the*

1 portion of the gross wholesale price attributable to any redemption
2 payment imposed on beverage containers pursuant to Section
3 14560 and the separate identification of the invoice or other form
4 of accounting of the transaction may separately state the gross
5 amount of the redemption payment for each type of container
6 included in each delivery. The invoice or other form of accounting
7 of this transaction may separately identify the portion of the gross
8 wholesale price attributable to the redemption payment.

9 (3) Notwithstanding Section 14541, the department shall
10 randomly inspect beverage distributor invoices or other forms of
11 accounting to ensure compliance with this subdivision. However,
12 an unintentional error in addition or subtraction on an invoice or
13 other form of accounting by a route driver of a distributor shall
14 not be deemed a violation of this subdivision.

15 (4) For the purposes of this subdivision, the term “type of
16 container” includes the amount of the redemption payment on
17 containers under 24 ounces and on containers 24 ounces or more.

18 (b) To the extent technically and economically feasible, a dealer
19 may separately identify the amount of any redemption payment
20 on the customer cash register receipt provided to the consumer;
21 by the dealer; that is applied to the purchase of a beverage
22 container.

23 (c) (1) Except as provided in paragraph (6), a dealer shall
24 separately identify the amount of any redemption payment imposed
25 on a beverage container in all advertising of beverage products
26 and on the shelf labels of the dealer’s establishment. The separate
27 identification shall be accomplished by stating one of the following:

28 (A) The price of the beverage product plus a descriptive term,
29 as described in paragraph (2).

30 (B) The price of the beverage product plus the amount of the
31 applicable redemption payment and a descriptive term, as described
32 in paragraph (2).

33 (C) The price of the beverage product plus the amount of the
34 applicable redemption payment, a descriptive term, as described
35 in paragraph (2), and the total of these two amounts.

36 (2) For purposes of paragraph (1), the redemption payment shall
37 be identified by one of the following descriptive terms: “California
38 Redemption Value,” “CA Redemption Value,” “CRV,” “California
39 Cash Refund,” “CA Cash Refund,” or any other message specified
40 in Section 14561.

1 (3) A dealer shall not include the redemption payment in the
2 total price of a beverage container in any advertising or on the
3 shelf of the dealer's establishment.

4 (4) This subdivision applies only to a dealer at a dealer location
5 with a sales and storage area totaling more than 4,000 square feet.

6 (5) The penalties specified in Sections 14591 and 14591.1 shall
7 not be applied to a person who violates this subdivision.

8 (6) This subdivision does not apply to a voluntary beverage
9 container.

10 (d) With regard to the sale of beer and other malt beverages or
11 wine and distilled spirits cooler beverages, any amount of
12 redemption payment imposed by this division is subject to Section
13 25509 of the Business and Professions Code.

14 (e) (1) The invoice or other form of accounting of the
15 transaction submitted by a beverage distributor of voluntary
16 beverages to a dealer may separately identify the amount of any
17 redemption payment imposed on the voluntary beverage container
18 pursuant to Section 14560 and the separate identification of the
19 invoice or other form of accounting of the transaction may
20 separately state the gross amount of the redemption payment for
21 each type of voluntary beverage container included in each
22 delivery.

23 (2) A dealer may separately identify the amount of any
24 redemption payment imposed on a voluntary beverage container
25 in all advertising of beverage products and on the shelf labels of
26 the dealer's establishment.

27 SEC. 12. Section 14571.2 of the Public Resources Code is
28 amended to read:

29 14571.2. (a) The department shall continuously assist dealers
30 and recyclers to establish certified recycling locations within each
31 convenience zone. This assistance includes, but is not limited to,
32 providing information to companies and organizations interested
33 in operating recycling in the convenience zone; providing dealers
34 with names of prospective recyclers for the convenience zone and
35 providing recyclers with the names of dealers in need of a recycler
36 for a convenience zone; providing dealers and recyclers with
37 information on grants, advertising funds, and other resources
38 available; and providing recyclers with advice regarding appearance
39 and image of the recycling center and the efficient handling and
40 transportation of recycled beverage containers.

1 (b) The department shall, when implementing this section,
2 provide assistance and incentives that will reduce the number of
3 unserved convenience zones to less than 5 percent of the total
4 amount of convenience zones in this state by January 1, 2015.

5 ~~SEC. 13. Section 14571.5 of the Public Resources Code is~~
6 ~~amended to read:~~

7 ~~14571.5. The department may, in a rural region, as identified~~
8 ~~pursuant to subparagraph (A) of paragraph (2) of subdivision (b)~~
9 ~~of Section 14571, upon petition by an interested person, do either~~
10 ~~of the following:~~

11 ~~(a) The department may, in a rural region, as identified pursuant~~
12 ~~to subparagraph (A) of paragraph (2) of subdivision (b) of Section~~
13 ~~14571, upon petition by an interested person, increase a~~
14 ~~convenience zone to include the area within a three-mile radius of~~
15 ~~a supermarket, if the expanded convenience zone would then be~~
16 ~~served by a single existing certified recycling center or location.~~

17 ~~(b) This subdivision applies only to a convenience zone that is~~
18 ~~otherwise not being served by a certified recycling center or~~
19 ~~location meeting the requirements of Section 14571.~~

20 ~~SEC. 14:~~

21 ~~SEC. 13. Section 14571.6.5 is added to the Public Resources~~
22 ~~Code, to read:~~

23 ~~14571.6.5. (a) Notwithstanding Section 14571, the department~~
24 ~~may allow the operator of a certified recycling center to be open~~
25 ~~for business for less than 30 hours per week, but not less than 20~~
26 ~~hours per week, if the certified recycling center is located in a~~
27 ~~convenience zone that has been unserved for at least six continuous~~
28 ~~months and the convenience zone is identified by the department~~
29 ~~as an unserved convenience zone.~~

30 ~~(b) A certified recycling center that is authorized by the~~
31 ~~department pursuant to subdivision (a) shall be eligible to apply~~
32 ~~for handling fees pursuant to Section 14585, and a processor shall~~
33 ~~pay refund values, administrative costs, and processing payments~~
34 ~~to the certified recycling center pursuant to subdivision (a) of~~
35 ~~Section 14573.5 in the same manner as to a certified recycling~~
36 ~~center operating in compliance with Section 14571.~~

37 ~~(c) The department may authorize not more than 120 recycling~~
38 ~~centers in unserved convenience zones pursuant to this section.~~

1 ~~SEC. 15.~~

2 *SEC. 14.* Section 14571.8 of the Public Resources Code is
3 amended to read:

4 14571.8. (a) (1) No lease entered into by a dealer after January
5 1, 1987, may contain a leasehold restriction that prohibits or results
6 in the prohibition of the establishment of a recycling location.

7 (2) A person shall not enter into a lease with a supermarket on
8 or after January 1, 2014, that prohibits the operation of a certified
9 recycling center or inhibits the ability of that supermarket to operate
10 as, or contract with, a certified recycling center.

11 (b) ~~Except as provided in subdivision (h), the~~ *The* director may
12 grant an exemption from the requirements of Section 14571 for
13 an individual convenience zone only after the department solicits
14 public testimony on whether or not to provide an exemption from
15 Section 14571. The solicitation process shall be designed by the
16 department to ensure that operators of recycling centers, dealers,
17 and members of the public in the jurisdiction affected by the
18 proposed exemption are aware of the proposed exemption. After
19 evaluation of the testimony and any field review conducted, the
20 department shall base a decision to exempt a convenience zone on
21 one, or any combination, of the following factors:

22 (1) The exemption will not significantly decrease the ability of
23 consumers to conveniently return beverage containers for the
24 refund value to a certified recycling center redeeming all material
25 types.

26 (2) Except as provided in paragraph (5), the nearest certified
27 recycling center is within a reasonable distance of the convenience
28 zone being considered from exemption.

29 (3) The convenience zone is in the area of a curbside recycling
30 program that meets the criteria specified in Section 14509.5.

31 (4) The requirements of Section 14571 cannot be met in a
32 particular convenience zone due to local zoning or the dealer's
33 leasehold restrictions for leases in effect on January 1, 1987, and
34 the local zoning or leasehold restrictions are not within the
35 authority of the department and the dealer. However, any lease
36 executed after January 1, 1987, shall meet the requirements
37 specified in subdivision (a).

38 (5) The convenience zone has redeemed less than 60,000
39 containers per month for the prior 12 months and, notwithstanding

1 paragraph (2), a certified recycling center is located within one
2 mile of the convenience zone that is the subject of the exemption.

3 (c) The department shall review each convenience zone in which
4 a certified recycling center was not located on January 1, 1996, to
5 determine the eligibility of the convenience zone under the
6 exemption criteria specified in subdivision (b).

7 (d) The total number of exemptions granted by the director
8 under this section shall not exceed 35 percent of the total number
9 of convenience zones identified pursuant to this section.

10 (e) The department may, on its own motion, or upon petition
11 by any interested person, revoke a convenience zone exemption
12 if either of the following occurs:

13 (1) The condition or conditions that caused the convenience
14 zone to be exempt no longer exists, and the department determines
15 that the criteria for an exemption specified in this section are not
16 presently applicable to the convenience zone.

17 (2) The department determines that the convenience zone
18 exemption was granted due to an administrative error.

19 (f) If an exemption is revoked and a recycling center is not
20 certified and operational in the convenience zone, the department
21 shall, within 10 days of the date of the decision to revoke, serve
22 all dealers in the convenience zone with the notice specified in
23 subdivision (a) of Section 14571.7.

24 (g) An exemption shall not be revoked when a recycling center
25 becomes certified and operational within an exempt convenience
26 zone unless either of the events specified in paragraphs (1) and (2)
27 of subdivision (e) occurs.

28 ~~(h) The director shall not grant an exemption pursuant to this~~
29 ~~section if a certified recycling center will not be operating in a~~
30 ~~convenience zone in which there is located a supermarket.~~

31 ~~SEC. 16.~~

32 *SEC. 15.* Section 14573 of the Public Resources Code is
33 amended to read:

34 14573. (a) The department shall pay to a processor, for every
35 empty beverage container received by the processor from a certified
36 recycling center, curbside program, or dropoff or collection
37 program, upon presentation of a completed processor invoice
38 accompanied by an electronic shipping report from the supplier
39 of the material, in the form adopted by the department, the sum of
40 all of the following amounts:

1 (1) The refund value.

2 (2) Two and one-half percent of the refund value for
3 administrative costs.

4 (3) The processing payment established pursuant to Section
5 14575.

6 (b) The department shall make the payment required in
7 subdivision (a) within two working days of the date that the
8 department is notified of the delivery or within the time determined
9 by the department to be necessary and adequate. If the payment is
10 not made by the Controller to the certified processor within 20
11 working days of receipt of the claims schedule, the Controller shall
12 pay the processor interest at the current prime lending rate for any
13 period in excess of these 20 working days.

14 ~~SEC. 17:~~

15 *SEC. 16.* Section 14574 of the Public Resources Code is
16 amended to read:

17 14574. (a) (1) A distributor of beverage containers shall pay
18 to the department electronically the redemption payment for every
19 beverage container, other than a refillable beverage container, sold
20 or transferred to a dealer, less 1.5 percent for the distributor's
21 administrative costs.

22 (2) The payment made by a distributor shall be made not later
23 than the last day of the month following the sale. The distributor
24 shall make the payment in the form and manner that the department
25 prescribes.

26 (b) (1) Notwithstanding subdivision (a), if a distributor displays
27 a pattern of operation in compliance with this division and the
28 regulations adopted pursuant to this division, to the satisfaction of
29 the department, the distributor may make a single annual payment
30 of redemption payments, if the distributor's projected redemption
31 payment for a calendar year totals less than seventy-five thousand
32 dollars (\$75,000).

33 (2) An annual redemption payment made pursuant to this
34 subdivision is due and payable on or before February 1 for every
35 beverage container sold or transferred by the distributor to a dealer
36 in the previous calendar year.

37 (3) A distributor shall notify the department of its intent to make
38 an annual redemption payment pursuant to this subdivision on or
39 before January 31 of the calendar year for which the payment will
40 be due.

1 ~~SEC. 18.~~

2 *SEC. 17.* Section 14575 of the Public Resources Code is
3 amended to read:

4 14575. (a) If any type of empty beverage container with a
5 refund value established pursuant to Section 14560 has a scrap
6 value less than the cost of recycling, the department shall, on
7 January 1, 2000, and on or before January 1 annually thereafter,
8 establish a processing fee and a processing payment for the
9 container by the type of the material of the container.

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

15 (1) The actual cost for certified recycling centers, excluding
16 centers receiving a handling fee, of receiving, handling, storing,
17 transporting, and maintaining equipment for each container sold
18 for recycling or, only if the container is not recyclable, the actual
19 cost of disposal, calculated pursuant to subdivision (c). The
20 department shall determine the statewide weighted average cost
21 to recycle each beverage container type, which shall serve as the
22 actual recycling costs for purposes of paragraph (2) of subdivision
23 (c), by conducting a survey of the costs of a statistically significant
24 sample of certified recycling centers, excluding those recycling
25 centers receiving a handling fee, for receiving, handling, storing,
26 transporting, and maintaining equipment.

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

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

30 (1) Except as provided in paragraph (2), for calculating
31 processing payments that will be in effect on and after January 1,
32 2004, the department shall determine the actual costs for certified
33 recycling centers, every second year, pursuant to paragraph (1) of
34 subdivision (b). The department shall adjust the recycling costs
35 annually to reflect changes in the cost of living, as measured by
36 the Bureau of Labor Statistics of the United States Department of
37 Labor or a successor agency of the United States government.

38 (2) On and after January 1, 2010, the department shall use the
39 most recently published, measured actual costs of recycling for a
40 specific beverage material type if the department determines the

1 number of beverage containers for that material type that is returned
2 for recycling pursuant to Section 14551, based on the most recently
3 published calendar year number of beverage containers returned
4 for recycling, is less than 5 percent of the total number of beverage
5 containers returned for recycling for all material types. The
6 department shall determine the actual recycling cost to be used for
7 calculating processing payments for those beverage containers in
8 the following manner:

9 (A) The department shall adjust the costs of recycling that
10 material type every second year by the percentage change in the
11 most recently measured cost of recycling HDPE plastic beverage
12 containers, as determined by the department. The department shall
13 use the percentage change in costs of recycling HDPE plastic
14 beverage containers for this purpose, even if HDPE plastic
15 beverage containers are less than 5 percent of the total volume of
16 returned beverage containers.

17 (B) The department shall adjust the recycling costs annually for
18 that material type to reflect changes in the cost of living, as
19 measured by the Bureau of Labor Statistics of the United States
20 Department of Labor or a successor agency of the United States
21 government.

22 (d) Except as specified in subdivision (e), the actual processing
23 fee paid by a beverage manufacturer or distributor of voluntary
24 beverage containers shall equal 65 percent of the processing
25 payment calculated pursuant to subdivision (b).

26 (e) Except as provided in subdivision (k), the department,
27 consistent with Section 14581 and subject to the availability of
28 funds, shall reduce the processing fee paid by beverage
29 manufacturers by expending funds in each material processing fee
30 account, in the following manner:

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

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

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

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

- 1 (D) Thirteen percent of the processing payment for a container
2 type with a recycling rate equal to or greater than 55 percent, but
3 less than 60 percent.
- 4 (E) Fourteen percent of the processing payment for a container
5 type with a recycling rate equal to or greater than 50 percent, but
6 less than 55 percent.
- 7 (F) Fifteen percent of the processing payment for a container
8 type with a recycling rate equal to or greater than 45 percent, but
9 less than 50 percent.
- 10 (G) Eighteen percent of the processing payment for a container
11 type with a recycling rate equal to or greater than 40 percent, but
12 less than 45 percent.
- 13 (H) Twenty percent of the processing payment for a container
14 type with a recycling rate equal to or greater than 30 percent, but
15 less than 40 percent.
- 16 (I) Sixty-five percent of the processing payment for a container
17 type with a recycling rate less than 30 percent.
- 18 (2) The department shall calculate the recycling rate for purposes
19 of paragraph (1) based on the 12-month period ending on June 30
20 that directly precedes the date of the January 1 processing fee
21 determination.
- 22 (f) Not more than once every three months, the department may
23 make an adjustment in the amount of the processing payment
24 established pursuant to this section notwithstanding any change
25 in the amount of the processing fee established pursuant to this
26 section, for any beverage container, if the department makes the
27 following determinations:
 - 28 (1) The statewide scrap value paid by processors for the material
29 type for the most recent available 12-month period directly
30 preceding the quarter in which the processing payment is to be
31 adjusted is 5 percent more or 5 percent less than the average scrap
32 value used as the basis for the processing payment currently in
33 effect.
 - 34 (2) Funds are available in the processing fee account for the
35 material type.
 - 36 (3) Adjusting the processing payment is necessary to further
37 the objectives of this division.
- 38 (g) (1) Except as provided in paragraphs (2) (3), and ~~(4)~~, (4),
39 every beverage manufacturer shall pay to the department the
40 applicable processing fee for each container sold or transferred to

1 a distributor or dealer within 40 days of the sale in the form and
2 in the manner which the department may prescribe.

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

21 (B) The department shall enter into a contract with the
22 Department of Alcoholic Beverage Control, pursuant to Section
23 14536.5, concerning the implementation of this paragraph, which
24 shall include a provision reimbursing the Department of Alcoholic
25 Beverage Control for its costs incurred in implementing this
26 paragraph.

27 (3) (A) Notwithstanding paragraph (1), if a beverage
28 manufacturer displays a pattern of operation in compliance with
29 this division and the regulations adopted pursuant to this division,
30 to the satisfaction of the department, the beverage manufacturer
31 may make a single annual payment of processing fees, if the
32 beverage manufacturer meets either of the following conditions:

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

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

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

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

10 (4) A distributor of voluntary beverage containers shall pay to
11 the department the applicable processing fee for each container
12 sold or transferred to a dealer within 40 days of the sale in the form
13 and in the manner that the department may prescribe.

14 (5) The department shall pay the processing payments on
15 redeemed containers to processors, in the same manner as it pays
16 refund values pursuant to Sections 14573 and 14573.5. The
17 processor shall pay the recycling center the entire processing
18 payment representing the actual costs and financial return incurred
19 by the recycling center, as specified in subdivision (b).

20 (h) When assessing processing fees pursuant to subdivision (a),
21 the department shall assess the processing fee on each container
22 sold, as provided in subdivisions (d) and (e), by the type of material
23 of the container, assuming that every container sold will be
24 redeemed for recycling, whether or not the container is actually
25 recycled.

26 (i) ~~(1) Except as provided in paragraph (2), a~~ A container
27 manufacturer, or a designated agent, shall pay to, or credit, the
28 account of the beverage manufacturer in an amount equal to the
29 processing fee.

30 ~~(2) This subdivision does not apply to a voluntary beverage~~
31 ~~container.~~

32 (j) Except as provided in subdivision (k), if, at the end of any
33 calendar year for which glass recycling rates equal or exceed 45
34 percent and sufficient surplus funds remain in the glass processing
35 fee account established by the department pursuant to subparagraph
36 (A) of paragraph (5) of subdivision (a) of Section 14581 to make
37 the reduction pursuant to this subdivision or if, at the end of any
38 calendar year for which PET recycling rates equal or exceed 45
39 percent and sufficient surplus funds remain in the PET processing
40 fee account established by the department pursuant to subparagraph

1 (A) of paragraph (5) of subdivision (a) of Section 14581 *to* make
2 the reduction pursuant to this subdivision, the department shall
3 use these surplus funds in the respective processing fee accounts
4 in the following calendar year to reduce the amount of the
5 processing fee that would otherwise be due from glass or PET
6 beverage manufacturers pursuant to this subdivision.

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

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

16 (k) The department shall reduce the processing fee for voluntary
17 beverage containers for the following calendar year if, at the end
18 of the calendar year, the department determines that the recycling
19 rates for voluntary beverage containers equal or exceed 45 percent
20 and there are surplus funds at the end of the previous calendar year
21 in the processing fee account established by the department
22 pursuant to subdivision (c) of Section 14580.5, for those containers.

23 ~~SEC. 19.~~

24 *SEC. 18.* Section 14580.5 is added to the Public Resources
25 Code, to read:

26 14580.5. (a) Except as provided in subdivision (d), the
27 department shall deposit all amounts paid as redemption payments
28 by distributors for voluntary beverage containers pursuant to
29 subdivision (c) of Section 14560 into the Voluntary Beverage
30 Container Fund, which is hereby created in the State Treasury.
31 Notwithstanding Section 13340 of the Government Code, the
32 money in the Voluntary Beverage Container Fund is hereby
33 continuously appropriated to the department for expenditure
34 without regard to fiscal year for the following purposes:

35 (1) The payment of refund values and administrative fees to
36 processors for voluntary beverage containers pursuant to Section
37 14573.

38 (2) For a reserve for contingencies, which shall not be greater
39 than an amount equal to 5 percent of the total amount paid for
40 voluntary beverage containers to processors pursuant to Section

1 14573 during the preceding calendar year, plus the interest earned
2 on that amount.

3 (b) The money in the Voluntary Beverage Container Fund may
4 be expended by the department for the administration of this
5 division only upon appropriation by the Legislature.

6 (c) The department shall establish a separate processing fee
7 account in the Voluntary Beverage Container Fund for voluntary
8 beverage containers and all amounts paid as processing fees for
9 those voluntary beverage containers shall be deposited in that
10 account. Notwithstanding Section 13340 of the Government Code,
11 the moneys in that processing fee account are hereby continuously
12 appropriated to the department for expenditure without regard to
13 fiscal years, for purposes of making processing payments for
14 voluntary beverage containers pursuant to this division.

15 (d) The department shall, once every three months, set aside
16 funds estimated to be needed for expenditures authorized pursuant
17 to subdivisions (a) and (b). Notwithstanding Section 13340 of the
18 Government Code, those remaining funds are hereby continuously
19 appropriated to the department, without regard to fiscal year for
20 the following purposes:

21 (1) The payment of handling fees for voluntary beverage
22 containers, pursuant to Section 14585.

23 (2) Payments for the collection of voluntary beverage containers
24 by curbside programs and neighborhood dropoff programs pursuant
25 to Section 14549.6.

26 ~~SEC. 20:~~

27 *SEC. 19.* Section 14581 of the Public Resources Code is
28 amended to read:

29 14581. (a) Subject to the availability of funds and in
30 accordance with subdivision (c), the department shall expend the
31 moneys set aside in the fund, pursuant to subdivision (c) of Section
32 14580, for the purposes of this section in the following manner:

33 (1) For each fiscal year, the department may expend the amount
34 necessary to make the required handling fee payment pursuant to
35 Section 14585.

36 (2) Fifteen million dollars (\$15,000,000) shall be expended
37 annually for payments for curbside programs and neighborhood
38 dropoff programs pursuant to Section 14549.6.

39 (3) (A) Twenty-one million dollars (\$21,000,000), plus the
40 proportional share of the cost-of-living adjustment, as provided in

1 subdivision (b), shall be expended annually in the form of grants
2 for beverage container litter reduction programs and recycling
3 programs issued to either of the following:

4 (i) Certified community conservation corps that were in
5 existence on September 30, 1999, or that are formed subsequent
6 to that date, that are designated by a city or a city and county to
7 perform litter abatement, recycling, and related activities, if the
8 city or the city and county has a population, as determined by the
9 most recent census, of more than 250,000 persons.

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

15 (B) The grants provided pursuant to this paragraph shall not
16 comprise more than 75 percent of the annual budget of a
17 community conservation corps.

18 ~~(C) For the 2009-10 fiscal year only, the eight million two~~
19 ~~hundred fifty thousand dollars (\$8,250,000) appropriated to the~~
20 ~~California Conservation Corps for certified local conservation~~
21 ~~corps by Item 3340-101-0133 of Sec. 2.00 of the 2009-10 Budget~~
22 ~~Act, as added by Section 166 of Chapter 1 of the Fourth~~
23 ~~Extraordinary Session of the Statutes of 2009, shall be in addition~~
24 ~~to the amounts expended pursuant to this paragraph.~~

25 (4) (A) Ten million five hundred thousand dollars (\$10,500,000)
26 may be expended annually for payments of five thousand dollars
27 (\$5,000) to cities and ten thousand dollars (\$10,000) for payments
28 to counties for beverage container recycling and litter cleanup
29 activities, or the department may calculate the payments to counties
30 and cities on a per capita basis, and may pay whichever amount
31 is greater, for those activities.

32 (B) Eligible activities for the use of these funds may include,
33 but are not necessarily limited to, support for new or existing
34 curbside recycling programs, neighborhood dropoff recycling
35 programs, public education promoting beverage container
36 recycling, litter prevention, and cleanup, cooperative regional
37 efforts among two or more cities or counties, or both, or other
38 beverage container recycling programs.

39 (C) These funds shall not be used for activities unrelated to
40 beverage container recycling or litter reduction.

1 (D) To receive these funds, a city, county, or city and county
2 shall fill out and return a funding request form to the department.
3 The form shall specify the beverage container recycling or litter
4 reduction activities for which the funds will be used.

5 (E) The department shall annually prepare and distribute a
6 funding request form to each city, county, or city and county. The
7 form shall specify the amount of beverage container recycling and
8 litter cleanup funds for which the jurisdiction is eligible. The form
9 shall not exceed one double-sided page in length, and may be
10 submitted electronically. If a city, county, or city and county does
11 not return the funding request form within 90 days of receipt of
12 the form from the department, the city, county, or city and county
13 is not eligible to receive the funds for that funding cycle.

14 (F) For the purposes of this paragraph, per capita population
15 shall be based on the population of the incorporated area of a city
16 or city and county and the unincorporated area of a county. The
17 department may withhold payment to any city, county, or city and
18 county that has prohibited the siting of a supermarket site, caused
19 a supermarket site to close its business, or adopted a land use policy
20 that restricts or prohibits the siting of a supermarket site within its
21 jurisdiction.

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

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

33 (ii) Funds equal to the difference between the amount in clause
34 (i) and the amount of the processing payments established in
35 subdivision (b) of Section 14575, and adjusted pursuant to
36 paragraph (2) of subdivision (c) of, and subdivision (f) of, Section
37 14575, to reduce the processing fee to the level provided in
38 subdivision (e) of Section 14575, or to reflect the agreement by a
39 willing purchaser to pay a voluntary artificial scrap value pursuant
40 to Section 14575.1.

1 (B) Notwithstanding Section 13340 of the Government Code,
2 the moneys in each processing fee account are hereby continuously
3 appropriated to the department for expenditure without regard to
4 fiscal years, for purposes of making processing payments pursuant
5 to Section 14575.

6 (C) Notwithstanding the other provisions of this section and
7 Section 14575, for the 2010 and 2011 calendar years, the total
8 amount that the department may expend to reduce the amount of
9 processing fees for each container type shall not exceed the total
10 amount expended to reduce processing fees in the 2008 calendar
11 year.

12 (6) ~~(A)~~ Up to five million dollars (\$5,000,000) may be annually
13 expended by the department for the purposes of undertaking a
14 statewide public education and information campaign aimed at
15 promoting increased recycling of beverage containers.

16 ~~(B) Notwithstanding subdivision (f), the department shall not~~
17 ~~expend funds pursuant to this paragraph for the 2010 and 2011~~
18 ~~calendar years.~~

19 (7) Up to ten million dollars (\$10,000,000) may be expended
20 annually by the department for quality incentive payments for
21 empty glass beverage containers pursuant to Section 14549.1.

22 (8) (A) Up to ten million dollars (\$10,000,000) may be
23 expended annually by the department for market development
24 payments for empty plastic beverage containers pursuant to Section
25 14549.2, until January 1, 2017.

26 (B) In addition to the amount specified in subparagraph (A),
27 the department may expend the amount calculated pursuant to
28 subparagraph (C) for market development payments for empty
29 plastic beverage containers pursuant to Section 14549.2.

30 (C) The department shall calculate the amount authorized for
31 expenditure pursuant to subparagraph (B) in the following manner:

32 (i) The department shall determine, on or before January 1,
33 2012, and annually thereafter, whether the amount of funds
34 estimated to be necessary pursuant to clause (ii) of subparagraph
35 (A) of paragraph (5) for deposit to a processing fee account
36 established by the department for plastic beverage containers to
37 make processing payments for plastic beverage containers for the
38 current calendar year is less than the total amount of funds that
39 were estimated to be necessary the previous calendar year pursuant

1 to clause (ii) of subparagraph (A) of paragraph (5) for deposit to
2 that processing fee account.

3 (ii) If the amount estimated to be necessary for the current
4 calendar year, as specified in clause (i), is less than the amount
5 estimated to be necessary for the previous calendar year, the
6 department shall calculate the amount of that difference.

7 (iii) The department shall expend an amount that is not greater
8 than 50 percent of the amount calculated pursuant to clause (ii)
9 for purposes of subparagraph (B).

10 (iv) If the department determines that the amount of funds
11 authorized for expenditure pursuant to this subparagraph is not
12 needed to make plastic market development payments pursuant to
13 subparagraph (B) in the calendar year for which that amount is
14 allocated, the department may expend those funds during the
15 following year.

16 (v) If the department determines that there are insufficient funds
17 to both make the market development payments pursuant to
18 subparagraph (B) and to deposit the amount required by clause (ii)
19 of subparagraph (A) of paragraph (5), for purposes of making the
20 processing payments and reducing the processing fees pursuant to
21 Section 14575 for plastic beverage containers, the department shall
22 suspend the implementation of this subparagraph and subparagraph
23 (B).

24 (D) Subparagraphs (B) and (C) shall remain operative only until
25 January 1, 2017.

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

31 (c) (1) If the department determines, pursuant to a review made
32 pursuant to Section 14556, that there may be inadequate funds to
33 pay the payments required by this division, the department shall
34 immediately notify the appropriate policy and fiscal committees
35 of the Legislature regarding the inadequacy.

36 (2) On or before 180 days, but not less than 80 days, after the
37 notice is sent pursuant to paragraph (1), the department may reduce
38 or eliminate expenditures, or both, from the funds as necessary,
39 according to the procedure set forth in subdivision (d).

1 (d) If the department determines that there are insufficient funds
2 to make the payments specified pursuant to this section and Section
3 14575, the department shall reduce all payments proportionally.

4 (e) Prior to making an expenditure pursuant to paragraph (6) of
5 subdivision (a), the department shall convene an advisory
6 committee consisting of representatives of the beverage industry,
7 beverage container manufacturers, environmental organizations,
8 the recycling industry, nonprofit organizations, and retailers to
9 advise the department on the most cost-effective and efficient
10 method of the expenditure of the funds for that education and
11 information campaign.

12 ~~(f) The department shall not make any payments for voluntary
13 beverage containers pursuant to this section.~~

14 ~~SEC. 21.~~

15 *SEC. 20.* Section 14583 of the Public Resources Code is
16 amended to read:

17 14583. (a) Notwithstanding Section 14581, ~~on and after July~~
18 ~~1, 2012,~~ the department shall not make any payments, grants, or
19 loans, as provided in that section, to a city, county, or city and
20 county, if the city, county, or city and county has adopted or is
21 enforcing a land use restriction that prevents the siting or operation
22 of a certified recycling center at a supermarket site, as defined in
23 Section 14526.6, as may be required pursuant to Section 14571.

24 (b) A city or county that receives any revenue pursuant to the
25 Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5
26 (commencing with Section 7200) of Division 2 of the Revenue
27 and Taxation Code) from a transaction conducted by a supermarket
28 shall not prohibit the siting of a certified recycling center in the
29 parking lot of a supermarket.

30 ~~SEC. 22.~~

31 *SEC. 21.* Section 14585 of the Public Resources Code is
32 amended to read:

33 14585. (a) The department shall adopt guidelines and methods
34 for paying handling fees to supermarket sites, nonprofit
35 convenience zone recyclers, or rural region recyclers to provide
36 an incentive for the redemption of empty beverage containers in
37 convenience zones. The guidelines shall include, but not be limited
38 to, all of the following:

1 (1) Handling fees shall be paid in the form and manner adopted
2 by the department. The department shall require that claims for
3 the handling fee be filed electronically with the department.

4 (2) Except as provided in paragraph (3), the department shall
5 determine the number of eligible containers per site for which a
6 handling fee will be paid in the following manner:

7 (A) Each eligible site’s combined monthly volume of glass and
8 plastic beverage containers shall be divided by the site’s total
9 monthly volume of all empty beverage container types.

10 (B) If the quotient determined pursuant to subparagraph (A) is
11 equal to, or more than, 10 percent, the total monthly volume of
12 the site shall be the maximum volume which is eligible for a
13 handling fee for that month.

14 (C) If the quotient determined pursuant to subparagraph (A) is
15 less than 10 percent, the department shall divide the volume of
16 glass and plastic beverage containers by 10 percent. That quotient
17 shall be the maximum volume that is eligible for a handling fee
18 for that month.

19 (3) The department shall determine the number of eligible
20 voluntary beverage containers per site for which a handling fee
21 will be paid in the following manner:

22 (A) Each eligible site’s combined monthly volume of voluntary
23 beverage containers shall be divided by the site’s total monthly
24 volume of all empty voluntary beverage containers.

25 (B) If the quotient determined pursuant to subparagraph (A) is
26 equal to, or more than, 10 percent, the total monthly volume of
27 the site shall be the maximum volume that is eligible for a handling
28 fee for that month.

29 (C) If the quotient determined pursuant to subparagraph (A) is
30 less than 10 percent, the department shall divide the volume of
31 voluntary beverage containers by 10 percent. That quotient shall
32 be the maximum volume that is eligible for a handling fee for that
33 month.

34 (4) (A) On and after September 25, 2012, and until March 1,
35 2013, the department shall pay a handling fee per eligible container
36 in the amount determined pursuant to subdivisions (f) and (g).

37 (B) On and after July 1, 2014, the department shall pay a
38 handling fee per eligible container in the amount determined
39 pursuant to subdivision (f).

1 (5) If the eligible volume in any given month would result in
2 handling fee payments that exceed the allocation of funds for that
3 month, as provided in subdivision (b), sites with higher eligible
4 monthly volumes shall receive handling fees for their entire eligible
5 monthly volume before sites with lower eligible monthly volumes
6 receive any handling fees.

7 (6) (A) If a dealer where a supermarket site, nonprofit
8 convenience zone recycler, or rural region recycler is located ceases
9 operation for remodeling or for a change of ownership, the operator
10 of that supermarket site, nonprofit convenience zone recycler, or
11 rural region recycler shall be eligible to apply for handling fees
12 for that site for a period of three months following the date of the
13 closure of the dealer.

14 (B) Every supermarket site operator, nonprofit convenience
15 zone recycler, or rural region recycler shall promptly notify the
16 department of the closure of the dealer where the supermarket site,
17 nonprofit convenience zone recycler, or rural region recycler is
18 located.

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

22 (b) (1) Except as provided in paragraph (2), the department
23 shall not carryover unexpended monthly allocations for the
24 payment of handling fees over to a subsequent fiscal year for the
25 purpose of paying handling fees but may carry over those
26 allocations for any other purpose pursuant to Section 14581.

27 (2) The department shall not carryover unexpended monthly
28 allocations for the payment of handling fees for a voluntary
29 beverage container over to a subsequent fiscal year for the purpose
30 of paying handling fees but may carryover those allocations for
31 any other purpose pursuant to Section 14580.5.

32 (c) (1) The department shall not make handling fee payments
33 to more than one certified recycling center in a convenience zone.
34 If a dealer is located in more than one convenience zone, the
35 department shall offer a single handling fee payment to a
36 supermarket site located at that dealer. This handling fee payment
37 shall not be split between the affected zones. The department shall
38 stop making handling fee payments if another recycling center
39 certifies to operate within the convenience zone without receiving
40 payments pursuant to this section, if the department monitors the

1 performance of the other recycling center for 60 days and
2 determines that the recycling center is in compliance with this
3 division. Any recycling center that locates in a convenience zone,
4 thereby causing a preexisting recycling center to become ineligible
5 to receive handling fee payments, is ineligible to receive any
6 handling fee payments in that convenience zone.

7 (2) The department shall offer a single handling fee payment
8 to a rural region recycler located anywhere inside a convenience
9 zone, if that convenience zone is not served by another certified
10 recycling center and the rural region recycler does either of the
11 following:

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

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

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

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

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

21 (d) The department may require the operator of a supermarket
22 site or rural region recycler receiving handling fees to maintain
23 records for each location where beverage containers are redeemed,
24 and may require the supermarket site or rural region recycler to
25 take any other action necessary for the department to determine
26 that the supermarket site or rural region recycler does not receive
27 an excessive handling fee.

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

31 (f) (1) On or before January 1, 2008, and every two years
32 thereafter, the department shall conduct a survey pursuant to this
33 subdivision of a statistically significant sample of certified
34 recycling centers that receive handling fee payments to determine
35 the actual cost incurred for the redemption of empty beverage
36 containers by those certified recycling centers. The department
37 shall conduct these cost surveys in conjunction with the cost
38 surveys performed by the department pursuant to subdivision (b)
39 of Section 14575 to determine processing payments and processing
40 fees. The department shall include, in determining the actual costs,

1 only those allowable costs contained in the regulations adopted
2 pursuant to this division that are used by the department to conduct
3 cost surveys pursuant to subdivision (b) of Section 14575.

4 (2) Using the information obtained pursuant to paragraph (1),
5 the department shall then determine the statewide weighted average
6 cost incurred for the redemption of empty beverage containers,
7 per empty beverage container, at recycling centers that receive
8 handling fees.

9 (3) Except as provided in subdivision (g), the department shall
10 determine the amount of the handling fee to be paid for each empty
11 beverage container by subtracting the amount of the statewide
12 weighted average cost per container to redeem empty beverage
13 containers by recycling centers that do not receive handling fees
14 from the amount of the statewide weighted average cost per
15 container determined pursuant to paragraph (2).

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

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

25 (g) (1) On and after September 12, 2012, and until March 1,
26 2013, the per-container handling fee shall not be less than the
27 amount of the per-container handling fee that was in effect on July
28 1, 2011.

29 (2) The department may update the methodology and scrap
30 values used for calculating the handling fee from the most recent
31 cost survey if it finds that the handling fee resulting from the most
32 recent cost survey does not accurately represent the actual cost
33 incurred for the redemption of empty beverage containers by those
34 certified recycling centers.

35 (h) This section shall become inoperative on July 1, 2014, and,
36 as of January 1, 2015, is repealed, unless a later enacted statute,
37 that becomes operative on or before January 1, 2015, deletes or
38 extends the dates on which it becomes inoperative and is repealed.

1 ~~SEC. 23.~~

2 SEC. 22. Section 14585 is added to the Public Resources Code,
3 to read:

4 14585. (a) The department shall adopt guidelines and methods
5 for paying handling fees to supermarket sites, nonprofit
6 convenience zone recyclers, and rural region recyclers to provide
7 an incentive for the redemption of empty beverage containers in
8 convenience zones. The guidelines shall include, but not be limited
9 to, all of the following:

10 (1) Handling fees shall be paid in the form and manner adopted
11 by the department. The department shall require that claims for
12 the handling fee be filed electronically as part of the shipping report
13 with the department.

14 (2) (A) If a dealer where a supermarket site, nonprofit
15 convenience zone recycler, or rural region recycler is located ceases
16 operation for remodeling or for a change of ownership, the operator
17 of that supermarket site, nonprofit convenience zone recycler, or
18 rural region recycler shall be eligible to apply for handling fees
19 for that site for a period of three months following the date of the
20 closure of the dealer.

21 (B) Every supermarket site operator, nonprofit convenience
22 zone recycler, or rural region recycler shall promptly notify the
23 department of the closure of the dealer where the supermarket site,
24 nonprofit convenience zone recycler, or rural region recycler is
25 located.

26 (C) Notwithstanding subparagraph (A), an operator who fails
27 to provide notification to the department pursuant to subparagraph
28 (B) shall not be eligible to apply for handling fees.

29 (b) (1) The department shall not make handling fee payments
30 to more than one certified recycling center in a convenience zone.

31 (A) If a dealer is located in more than one convenience zone,
32 the department shall offer a single handling fee payment to a
33 supermarket site located at that dealer. The department shall not
34 split the handling fee payment between the affected convenience
35 zones.

36 (B) The department shall stop making handling fee payments
37 if another recycling center is certified to operate within a
38 convenience zone and does not receive handling fees pursuant to
39 this section, and if the department monitors the performance of

1 the other certified recycling center for 60 days and determines that
2 the recycling center is in compliance with this division.

3 (C) A recycling center that locates in a convenience zone,
4 thereby causing a preexisting recycling center to become ineligible
5 to receive handling fee payments, is ineligible to receive any
6 handling fee payments in that convenience zone.

7 (2) The department shall pay a single handling fee to a rural
8 region recycler located anywhere inside a convenience zone, if
9 that convenience zone is not served by another certified recycling
10 center and the rural region recycler does either of the following:

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

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

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

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

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

20 (c) The department may require the operator of a supermarket
21 site or rural region recycler receiving handling fees to maintain
22 records for each location where beverage containers are redeemed,
23 and may require the supermarket site or rural region recycler to
24 take any other action necessary for the department to determine
25 that the supermarket site or rural region recycler does not receive
26 an excessive handling fee.

27 (d) The department may determine and utilize a standard
28 container per pound rate, for each material type, for the purpose
29 of calculating volumes and making handling fee payments.

30 (e) (1) For beverage containers returned for recycling on and
31 after July 1, 2014, the handling fee shall equal the following
32 amounts:

33 (A) The amount of one and two hundred nineteen ~~thousandths~~
34 *hundredths* of one cent (~~(\$0.001219)~~ *(\$0.01219)*) per beverage
35 container for a recycling site handling ~~less than _____~~ *fewer than*
36 *325,000* beverage containers per month.

37 (B) The amount of five hundred eighty-one thousandths of one
38 cent (\$0.00581) per container for a recycling site handling ~~more~~
39 ~~than _____~~ *325,000 or more* beverage containers per month but ~~less~~
40 ~~than _____~~ *fewer than 572,000* containers per month.

1 (C) The amount of five hundred twenty-two thousandths of one
2 cent (\$0.00522) per beverage container for a recycling site handling
3 ~~more than _____ 572,000 or more containers per month but less~~
4 ~~than 335,000 containers per month.~~

5 (2) For purposes of this subdivision, “recycling site” means a
6 single location of a supermarket site, nonprofit convenience zone
7 recycler, or rural region recycler.

8 (f) This section shall become operative on July 1, 2014.

9 ~~SEC. 24.~~

10 ~~SEC. 23.~~ Division 12.5 (commencing with Section 17000) is
11 added to the Public Resources Code, to read:

12

13 DIVISION 12.5. REGULATED BEVERAGE CONTAINERS

14

15 Article 1. Definitions

16

17 17000. For purposes of this division, the following definitions
18 shall apply:

19 (a) “Dealer” means a retail establishment that sells, or offers to
20 sell, regulated beverages in regulated beverage containers to
21 consumers. A lodging, eating, or drinking establishment, or soft
22 drink vending machine operator who engages in the sale of
23 regulated beverages in regulated beverage containers to consumers
24 shall not be deemed a dealer for the purposes of this division.

25 (b) “Department” means the Department of Resources Recycling
26 and Recovery.

27 (c) “Distributor” means a person who engages in the sale of
28 regulated beverages in regulated beverage containers to a dealer
29 in this state, including any manufacturer who engages in these
30 sales. “Distributor” includes a person who imports beverages from
31 outside of this state for sale to dealers or consumers in this state.

32 (d) “Recycle” or “recycled” means the reuse or refilling of empty
33 regulated beverage containers, or the process of sorting, cleansing,
34 treating, and reconstituting empty postfilled regulated beverage
35 containers for the purpose of using the altered form. “Recycle” or
36 “recycled” does not include merely sorting, shredding, stripping,
37 compressing, storing, landfilling with, or disposing of an empty
38 regulated beverage container.

39 (e) “Regulated beverage” means any of the following products:

1 (1) A beverage that otherwise meets the definition of beverage
2 for purposes of Section 14504 and is sold in a beverage container
3 that is not an aluminum beverage container, a glass beverage
4 container, a plastic beverage container, or a bimetal container.

5 (2) One hundred percent fruit juice in a container that is 46
6 ounces or more in volume.

7 (3) Vegetable juice in a container that is more than 16 ounces
8 in volume.

9 (f) “Regulated beverage container” means the individual,
10 separate bottle, can, jar, carton, or other receptacle, however
11 denominated, in which a regulated beverage is sold, and that is
12 constructed of metal, glass, or plastic, or other material, or a
13 combination of these materials. “Beverage container” does not
14 include cups or other similar open or loosely sealed receptacles.

15
16 Article 2. Mandatory Takeback and Recycling System
17

18 17001. (a) Except as provided in Article 3 (commencing with
19 Section 17004), on and after January 1, 2014, a distributor shall
20 submit a plan to the department for the implementation of a
21 takeback and recycling system incorporating all of the following
22 elements:

23 (1) A description of how the distributor will obtain a written
24 agreement with each dealer to whom the regulated beverage is
25 sold that provides that the dealer will take back empty regulated
26 containers either inside the store or at a recycling location in the
27 dealer’s parking lot.

28 (2) A description of how the distributor will provide the
29 equipment for a recycling location that would be located in the
30 dealer’s parking lot.

31 (3) Provisions to ensure that every empty regulated beverage
32 container sold or distributed by the distributor that is returned to
33 a dealer is recycled.

34 (4) Provisions to ensure that not less than 80 percent of the
35 regulated beverage containers sold by the distributor in this state
36 are recycled.

37 (5) Provisions to ensure the regulated beverage containers sold
38 by the distributor are made from materials that contain no less than
39 35 percent postconsumer recycled content.

1 (b) The distributor shall implement the plan submitted to the
 2 department and, on or before January 1, 2015, and annually
 3 thereafter, demonstrate to the department, in a form and manner
 4 specified by the department, both of the following:

5 (1) Not less than 80 percent of the containers of the regulated
 6 beverages sold by the distributor in this state are recycled.

7 (2) The regulated beverage containers sold by the distributor
 8 are made from materials containing no less than 35 percent
 9 postconsumer recycled content.

10 17002. (a) The department may require a distributor to pay
 11 the department an annual administrative fee. The department shall
 12 set the fee at an amount that is adequate to cover the department’s
 13 full costs of administering and enforcing this article.

14 (b) The department shall deposit the fees collected pursuant to
 15 this section into the Regulated Beverage Account, which is hereby
 16 established in the State Treasury. The department may expend the
 17 moneys in *the* Regulated Beverage Account, upon appropriation
 18 by the Legislature, to cover the department’s costs to implement
 19 this article.

20 17003. The department may adopt regulations, including
 21 emergency regulations, to implement this article.

22

23 Article 3. Voluntary Beverage Containers

24

25 17004. (a) In lieu of submitting and implementing a takeback
 26 and recycling system pursuant to Article 2 (commencing with
 27 Section 17001), a distributor may elect to pay a redemption
 28 payment to the department pursuant to ~~subdivision (e) of Section~~
 29 ~~14560~~ *Section 14560.2* and otherwise comply with the requirements
 30 of Division 12.1 (commencing with Section 14500).

31 (b) A regulated beverage container for which a distributor elects
 32 to make the election specified in subdivision (a) is a voluntary
 33 beverage container for purposes of Section 14528.2.

34 ~~SEC. 25.~~

35 *SEC. 24.* No reimbursement is required by this act pursuant
 36 to Section 6 of Article XIII B of the California Constitution because
 37 the only costs that may be incurred by a local agency or school
 38 district will be incurred because this act creates a new crime or
 39 infraction, eliminates a crime or infraction, or changes the penalty
 40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

O