

AMENDED IN SENATE JUNE 25, 2013
AMENDED IN ASSEMBLY MAY 28, 2013
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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 ~~Section~~ *Sections* 14538 and 14585 of the Public Resources Code, relating to recycling, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

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

~~Existing~~

(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 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.

(2) The act continuously appropriates from the California Beverage Container Recycling Fund to the department the amount necessary to pay handling fees monthly, in the form and manner adopted by the department, to certain supermarket sites and recyclers 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 pursuant to a claim filed as specified and 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. Existing law requires the department to conduct a survey of beverage container recycling costs every two years and requires the department, after July 1, 2014, to determine the handling fee by conducting this survey and using the statewide weighted average costs incurred for the redemption of empty beverage containers.

This bill would delete the requirement that the handling fees be paid monthly and would instead require that claims for handling fees be filed electronically as part of a specified shipping report provided to the department. The bill would establish the amount of the handling fees the department is required to pay on and after January 1, 2014, based on the volume of beverage containers redeemed at each eligible recycling site, as defined.

The bill would authorize the department, on and after January 1, 2017, to adjust the amount of handling fees based on costs determined pursuant to a survey that department would be authorized to conduct on and after January 1, 2016, and not more frequently than every 2 years thereafter. 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.

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

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

- 1 SECTION 1. Section 14538 of the Public Resources Code is
- 2 amended to read:

1 14538. (a) The department shall certify the operators of
2 recycling centers pursuant to this section. The director shall adopt,
3 by regulation, a procedure for the certification of recycling centers,
4 including standards and requirements for certification. These
5 regulations shall require that all information be submitted to the
6 department under penalty of perjury. A recycling center shall meet
7 all of the standards and requirements contained in the regulations
8 for certification. The regulations shall require, but shall not be
9 limited to requiring, that all of the following conditions be met for
10 certification:

11 (1) The operator of the recycling center demonstrates, to the
12 satisfaction of the department, that the operator will operate in
13 accordance with this division.

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

20 (B) The department ~~shall~~ *may* waive the requirements of
21 subparagraph (A) if the department determines that the new
22 operator applicant has no relationship or affiliation to a previous
23 certified entity that operated at the same location.

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

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

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

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

1 (3) Unless exempted pursuant to subdivision (b) of Section
2 14572, a certified recycling center shall accept, and pay at least
3 the refund value for, all empty beverage containers, regardless of
4 type.

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

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

13 (6) A certified recycling center shall not claim refund values,
14 processing payments, or administrative fees on empty beverage
15 containers that the certified recycling center knew, or should have
16 known, were received from noncertified recyclers or on beverage
17 containers that the certified recycling center knew, or should have
18 known, ~~come~~ *came* from out of the state.

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

22 (A) Shipping reports that are required to be prepared by the
23 recycling center, or that are required to be obtained from other
24 recycling centers.

25 (B) Consumer transaction receipts.

26 (C) Consumer transaction logs.

27 (D) Rejected container receipts on materials subject to this
28 division.

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

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

33 (G) Documents authorizing the recycling center to cancel empty
34 beverage containers.

35 (H) Weight tickets.

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

1 (c) The department may recover, in restitution pursuant to
2 paragraph (5) of subdivision (c) of Section 14591.2, payments
3 made from the fund to the certified recycling center pursuant to
4 Section 14573.5 that are based on the documents specified in
5 paragraph (7) of subdivision (b), that are not prepared or maintained
6 in compliance with the department's regulations, and that do not
7 allow the department to verify claims for program payments.

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

11 *SEC. 2. Section 14585 of the Public Resources Code is*
12 *amended to read:*

13 14585. (a) The department shall adopt guidelines and methods
14 for paying handling fees to supermarket sites, nonprofit
15 convenience zone recyclers, or rural region recyclers to provide
16 an incentive for the redemption of empty beverage containers in
17 convenience zones. The guidelines shall include, but not be limited
18 to, all of the following:

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

26 (2) The department shall determine the number of eligible
27 containers per site for which a handling fee will be paid *pursuant*
28 *to subdivision (e) or (g)* in the following manner:

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

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

36 (C) If the quotient determined pursuant to subparagraph (A) is
37 less than 10 percent, the department shall divide the volume of
38 glass and plastic beverage containers by 10 percent. That quotient
39 shall be the maximum volume that is eligible for a handling fee
40 for that month.

1 ~~(3) (A) On and after the effective date of the act amending this~~
 2 ~~section during the 2011-12 Regular Session, and until March 1,~~
 3 ~~2013, the department shall pay a handling fee per eligible container~~
 4 ~~in the amount determined pursuant to subdivisions (f) and (g).~~

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

8 ~~(4) If the eligible volume in any given month would result in~~
 9 ~~handling fee payments that exceed the allocation of funds for that~~
 10 ~~month, as provided in subdivision (b), sites with higher eligible~~
 11 ~~monthly volumes shall receive handling fees for their entire eligible~~
 12 ~~monthly volume before sites with lower eligible monthly volumes~~
 13 ~~receive any handling fees.~~

14 ~~(5)~~

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

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

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

30 ~~(b) The department may allocate the amount authorized for~~
 31 ~~expenditure for the payment of handling fees pursuant to paragraph~~
 32 ~~(1) of subdivision (a) of Section 14581 on a monthly basis and~~
 33 ~~may carry over any unexpended monthly allocation to a subsequent~~
 34 ~~month or months. However, unexpended monthly allocations shall~~
 35 ~~not be carried over to a subsequent fiscal year for the purpose of~~
 36 ~~paying handling fees but may be carried over for any other purpose~~
 37 ~~pursuant to Section 14581.~~

38 ~~(e)~~

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

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

14 (2) The department shall offer a single handling fee payment
15 to a rural region recycler located anywhere inside a convenience
16 zone, if that convenience zone is not served by another certified
17 recycling center and the rural region recycler does either of the
18 following:

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

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

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

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

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

28 ~~(d)~~

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

36 ~~(e)~~

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

1 (e) (1) Except as provided in subdivision (g), on and after
2 January 1, 2014, the department shall pay handling fees in the
3 following amounts:

4 (A) Two and one-tenth cents (\$0.021) per beverage container
5 for the first 100,000 empty beverage containers redeemed per
6 month at each eligible recycling site.

7 (B) Five tenths of one cent (\$0.005) per beverage container for
8 the next 100,000 empty beverage containers redeemed per month
9 at each eligible recycling site.

10 (C) Four tenths of one cent (\$0.004) per beverage container
11 for any additional empty beverage containers redeemed per month
12 at each eligible recycling site.

13 (2) For purposes of this subdivision, "recycling site" means a
14 single location of a supermarket site, nonprofit convenience zone
15 recycler, or rural region recycler.

16 (f) (1) ~~On or before January 1, 2008, and~~ and after January 1,
17 2016, but not more frequently than every two years thereafter, the
18 department ~~shall~~ may conduct a survey pursuant to this subdivision
19 of a statistically significant sample of certified recycling centers
20 that receive handling fee payments to determine the actual cost
21 incurred for the redemption of empty beverage containers by those
22 certified recycling centers. ~~The~~ If the department elects to conduct
23 a survey, the department shall conduct ~~these cost surveys~~ the survey
24 in conjunction with the cost surveys performed by the department
25 pursuant to subdivision (b) of Section 14575 to determine
26 processing payments and processing fees. The department shall
27 include, in determining the actual costs, only those allowable costs
28 contained in the regulations adopted pursuant to this division that
29 are used by the department to conduct cost surveys pursuant to
30 subdivision (b) of Section 14575.

31 ~~(2) Using the information obtained pursuant to paragraph (1),~~
32 ~~the department shall then determine the statewide weighted average~~
33 ~~cost incurred for the redemption of empty beverage containers,~~
34 ~~per empty beverage container, at recycling centers that receive~~
35 ~~handling fees.~~

36 ~~(3) Except as provided in subdivision (g), the department shall~~
37 ~~determine the amount of the handling fee to be paid for each empty~~
38 ~~beverage container by subtracting the amount of the statewide~~
39 ~~weighted average cost per container to redeem empty beverage~~
40 ~~containers by recycling centers that do not receive handling fees~~

1 from the amount of the statewide weighted average cost per
2 container determined pursuant to paragraph (2).

3 (4)

4 (2) The department shall *may* adjust the statewide average cost
5 costs determined pursuant to ~~paragraph (2)~~ for each beverage
6 container *paragraph (1)* annually to reflect changes in the cost of
7 living, as measured by the Bureau of Labor Statistics of the United
8 States Department of Labor or a successor agency of the United
9 States government.

10 (5)

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

15 (g) (1) ~~On and after the effective date of the act amending this~~
16 ~~section during the 2011–12 Regular Session, and until March 1,~~
17 ~~2013, the per-container handling fee shall not be less than the~~
18 ~~amount of the per-container handling fee that was in effect on July~~
19 ~~1, 2011.~~

20 (2) ~~The department may update the methodology and scrap~~
21 ~~values used for calculating the handling fee from the most recent~~
22 ~~cost survey if it finds that the handling fee resulting from the most~~
23 ~~recent cost survey does not accurately represent the actual cost~~
24 ~~incurred for the redemption of empty beverage containers by those~~
25 ~~certified recycling centers.~~

26 (g) (1) *On and after January 1, 2017, the department may adjust*
27 *the amount of handling fees specified in subdivision (e) to better*
28 *reflect the cost of recycling at eligible recycling sites, using the*
29 *costs surveyed pursuant to subdivision (f).*

30 (2) *The department may, when adjusting the handling fee*
31 *amounts, establish one or more handling fee amounts using*
32 *categories based on the monthly recycling center volume, as*
33 *determined by the department, in a manner similar to the method*
34 *for the calculation of handling fees provided in subdivision (e).*

35 (3) *When adjusting handling fees pursuant to this subdivision,*
36 *the department shall adjust the handling fee amounts to reflect*
37 *any higher net cost per beverage container for the redemption of*
38 *empty beverage containers at recycling centers receiving handling*
39 *fees, as compared to the average net cost per container for the*

- 1 *redemption of empty beverage containers at recycling centers*
- 2 *surveyed pursuant to subdivision (b) of Section 14575.*

O