

**Assembly Bill No. 468**

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Passed the Assembly August 31, 1998

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*Chief Clerk of the Assembly*

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Passed the Senate August 30, 1998

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_ day  
of \_\_\_\_\_, 1998, at \_\_\_ o'clock \_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*



## CHAPTER \_\_\_\_

An act to amend Sections 14549, 14560, 14571.8, 14573, 14573.5, 14574, 14575, 14580, 14581, 14585, and 14591.1 of, to amend and repeal Section 14549.6 of, and to add Sections 14514.4.1, 14549.7, and 14571.5 to, the Public Resources Code, relating to beverage containers, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

AB 468, Wayne. Beverage containers.

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

A violation of the act is a crime and the penalties for violations of the act are deposited in the fund.

Existing law requires each glass container manufacturer to use a 35% minimum percentage of California postfilled glass in the manufacturing of glass food, drink, or beverage containers. A manufacturer is authorized to seek a reduction or waiver of this requirement from the department.

This bill would reduce the minimum percentage of postfilled glass to 25% if the glass container manufacturer makes a specified demonstration to the department with regard to its use of mixed color cullet, as defined.

The bill would require the department to fund a curbside recycling pilot program in the City of San Diego to study the impact of curbside recycling programs on beverage container recycling rates and, as part of the study, the department would be required to annually pay a total of up to \$3,000,000 per fiscal year to the City of San Diego for a pilot program to expand that city's curbside



recycling program, thereby making an appropriation. The department would be required to submit a report to the Legislature, by January 1, 2001, on the impact of the expansion of curbside recycling on beverage container recycling rates in the City of San Diego.

(2) Existing law requires that, for purposes of calculating redemption payments, refund values, and handling fees, a beverage container with a capacity of 24 fluid ounces is considered as 2 beverage containers.

This bill would require that, for purposes of calculating redemption payments, refund values, and handling fees, a beverage container with 20 fluid ounces is considered as 2 beverage containers.

(3) Existing law defines “convenience zone” for the purposes of the act and requires that every convenience zone is to be served by at least one certified recycling center. The Director of Conservation is authorized to grant an exemption from these convenience zone requirements based on specified factors, including that the nearest certified recycling center is within a reasonable distance of the convenience zone being considered for the exemption.

This bill would additionally include, as a factor to be considered in issuing an exemption from convenience zone requirements, that the convenience zone has redeemed less than 60,000 containers per month in the prior 12 months and a certified recycling center is located within one mile of the convenience zone that is the subject of the exemption.

The bill would provide that a mobile recycling program in a rural county, as defined, that operates in compliance with specified requirements would be considered a certified recycling center and would also provide that a mobile recycling program approved by the department is eligible to apply for handling fees, if specified conditions are met with regard to the recycling center and dealers in that zone.

(4) Existing law requires the department to pay to a processor, for every empty beverage container received by the processor from a certified recycling center or other



program, the sum of the refund value,  $1\frac{3}{4}\%$  of the refund value for administrative costs, and a processing payment. Existing law requires the processor to pay to a certified recycling center or other program the refund value,  $\frac{1}{2}$  of 1% of the refund value for administrative costs, and the processing payment. Existing law also requires a distributor of beverage containers to pay a redemption payment to the department, less  $\frac{1}{2}$  of 1% for the distributor's administrative costs. The redemption payment made to the department by a distributor of beer and other malt beverages is required to be made not later than the first day of the second month following the sale.

This bill would increase the amount of administrative costs paid to the processor to  $2\frac{1}{2}\%$  of the refund value, and the administrative costs paid to the recycling center to  $\frac{3}{4}$  of 1% and would increase the administrative costs retained by the distributor to 1%. The bill would increase the time when the redemption payment by beer and malt beverage distributors is required to be made to not later than the first day of the third month following the sale.

(5) Under the act, the department is required to calculate a processing fee for each beverage container with a specified scrap value, which is required to be paid by beverage manufacturers for each beverage container sold or transferred to a dealer. Until January 1, 1999, a processing fee is required to be imposed annually only if the scrap value for the material is less than the cost of recycling, and, after that date, a processing fee is required to be established pursuant to different criteria. Under existing law, the processing fee is reduced in an amount equal to 25% of the redemption payments projected to be paid by distributors of beverages sold in that container type for the previous calendar year.

This bill would delete the January 1, 1999, repeal of the existing processing fee calculation provisions, and would extend those provisions until January 1, 2001. This bill would revise the cost data used by the department for purposes of calculating the processing fee and would also provide, until January 1, 2001, for the reduction of the processing fee to 35% of the amount of those payments,



except as specified, with regard to the rate of recycling for the particular type of beverage container.

(6) Existing law requires the department to transfer an amount equal to 25% of the redemption payments, and all processing fees, made for glass, PET, and bimetal beverage containers to, respectively, the Glass Processing Fee Account, the PET Processing Fee Account, and the Bimetal Processing Fee Account, for making processing payments for, and reducing processing fees paid for, these container types. After setting aside funds needed for the payment to refund values and administrative fees, and for these expenditures, the department is authorized to expend \$18,500,000 of the moneys in the fund, until January 1, 1999, for the payment of handling fees and \$5,000,000, for payments for curbside programs, until January 1, 1999, and to expend \$7,000,000 annually for grants to community conservation corps.

This bill would increase these amounts to \$23,500,000, \$10,000,000, and \$10,000,000, respectively, and would extend the authorization to expend these funds for handling fees and curbside programs until January 1, 2001, thereby making an appropriation. The bill would include neighborhood dropoff programs, as defined, as being eligible for those payments for curbside programs.

The bill would delete the requirement that the department transfer 25% of the redemption values to those accounts and would instead require the department to transfer a specified percentage of the redemption values and all of the processing fees to those accounts, depending upon the recycling rate for that type of container, thereby making an appropriation.

The bill would create the Penalty Account in the fund, would require all civil penalties and fines collected by the department to be deposited in that account, and would require the department to transfer the existing fines and civil penalties in the fund to that account. The revenues in the account would be available to the department, only upon appropriation by the Legislature, to carry out the act. The bill would make conforming changes.



(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would impose a state-mandated local program by creating new crimes.

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

Appropriation: yes.

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

SECTION 1. Section 14514.4.1 is added to the Public Resources Code, to read:

14514.4.1. “Neighborhood dropoff program” means a recycling program that meets all of the following criteria:

(a) The program is certified by the department as a dropoff or collection program, as defined by Section 14511.7, or as a nonprofit dropoff program, as defined by Section 14514.5.

(b) The program has been designated by a city, county, or city and county to provide a recycling opportunity in residential neighborhoods specified by the city, county, or city and county.

(c) The program is located in a rural county, as defined by Section 40184.

SEC. 1.5. Section 14549 of the Public Resources Code is amended to read:

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

(b) Each glass container manufacturer in the state shall use a minimum percentage of 35 percent of postfilled glass in the manufacturing of their glass food, drink, or beverage containers measured in the aggregate, on an annual basis, except that if a glass container



manufacturer demonstrates to the satisfaction of the department that its use of postfilled glass during the annual period is made up of at least 85 percent mixed color cullet, then that manufacturer shall use a minimum percentage of 25 percent postfilled glass in the manufacturing of its glass, food, drink, or beverage containers, measured in the aggregate, on an annual basis.

(c) A glass container manufacturer may seek a reduction or waiver of the minimum postfilled glass percentage required to be used in the manufacture of glass food, drink, or beverage containers pursuant to subdivision (b). The department may grant a reduction or waiver of the percentage requirement if it finds and determines that it is technologically infeasible for the glass container manufacturer to achieve the percentage requirement or if the department determines that a glass container manufacturer cannot achieve the minimum percentage because of a lack of available glass cullet.

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

SEC. 2. Section 14549.6 of the Public Resources Code is amended to read:

14549.6. (a) The department, consistent with Section 14581 and subject to the availability of funds, shall annually pay a total of ten million dollars (\$10,000,000) each fiscal year to operators of curbside programs registered with the department pursuant to Section 14509.5 and to neighborhood dropoff programs. The payments shall be for each container collected by the curbside programs and neighborhood dropoff programs and properly reported to the department by processors, based upon all of the following:

(1) The payment amount shall be calculated based upon the volume of beverage containers collected by curbside programs and neighborhood dropoff programs and reported to the department by processors during the



reporting period of October 1 to December 31, inclusive, of the fiscal year for which those payments are made.

(2) The per-container rate shall be calculated by dividing the total volume of beverage containers collected, as determined pursuant to paragraph (1), into the sum of ten million dollars (\$10,000,000).

(3) The amount to be paid to each operator of a curbside program or neighborhood dropoff program shall be based upon the per-container rate, calculated pursuant to paragraph (2), multiplied by the curbside program's or neighborhood dropoff program's total reported beverage container volume during the period specified in paragraph (1).

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

(c) The department shall disburse payments pursuant to this section not sooner than the 11th month of the fiscal year for which the payments are being made, subject to the availability of funds.

(d) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 3. Section 14549.7 is added to the Public Resources Code, to read:

14549.7. (a) The department shall fund a curbside recycling pilot program in the City of San Diego to study the impact of curbside recycling programs on beverage container recycling rates.

(b) As part of the study required by this section, the department shall do all of the following:

(1) Determine the recycling rate for beverage containers within those areas of the City of San Diego currently not served by curbside recycling.

(2) Consistent with Section 14581, and subject to the availability of funds, annually pay a total of up to three million dollars (\$3,000,000) per fiscal year to the City of San Diego for a pilot program to expand that city's



curbside recycling program. Payments shall be in the form of matching funds not to exceed twelve dollars (\$12) annually for each new household served by curbside recycling in the City of San Diego.

(3) Notwithstanding Section 7550.5 of the Government Code, on or before January 1, 2001, report to the Legislature on the impact of the expansion of curbside recycling on beverage container recycling rates in the City of San Diego. That report shall include an assessment of any change in the recycling rate for beverage containers in those areas of the City of San Diego previously unserved by curbside recycling.

(c) In order to be eligible for matching funds pursuant to this section, the City of San Diego shall use a competitive bid process for providing any new households that will be served by curbside recycling under the pilot program.

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

14560. (a) (1) Except as provided in subdivisions (d), (e), (f), (g), and (h), every beverage distributor shall pay the department, for deposit into the fund, a redemption payment of two cents (\$0.02) for every beverage container sold or offered for sale in this state by the distributor.

(2) A beverage container with a capacity of 20 fluid ounces or more shall be considered as two beverage containers for purposes of redemption payments and refund values.

(b) Except as provided in subdivision (c), every beverage container sold or offered for sale in this state has a minimum refund value of five cents (\$0.05) for every two beverage containers redeemed and two cents (\$0.02) for every single or unpaired beverage container redeemed in a single transaction.

(c) Every beverage container sold or offered for sale in this state has a minimum refund value of five cents (\$0.05) for every beverage container redeemed, except as provided in subdivision (g), if the beverage container does not reach the redemption rate for that type of



beverage container, as determined by the procedure set forth in subdivision (d).

(d) Except as provided in subdivisions (f) and (h), every distributor shall pay the department for deposit into the fund, a minimum redemption payment of three cents (\$0.03) for every beverage container sold or offered for sale in this state if both of the following conditions are met for that specific type of beverage container:

(1) For the reporting period beginning January 1, 1992, and ending June 30, 1992, the redemption rate determined pursuant to Section 14551 for that type of beverage container is less than 65 percent.

(2) The average redemption rate for the highest two of any four reporting periods, the fourth period of which is the period ending June 30, 1992, is less than 65 percent.

(e) (1) The department shall periodically review the fund to ensure that there are adequate funds in the fund to pay the refund values and other disbursements required by this division.

(A) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the refund values and necessary disbursements required by this division, the department shall immediately notify the Chairpersons of the Natural Resources and Wildlife Committee of the Senate, the Natural Resources Committee of the Assembly, the Budget Committee of the Assembly, and the Budget and Fiscal Review Committee of the Senate of the need for urgent legislative action.

(B) On or before 180 days after the notice is sent pursuant to subparagraph (A), the department may eliminate expenditures from the fund as necessary, according to the order of priorities specified in Section 14581, to ensure there are adequate funds in the fund to pay the refund values and other disbursements required by this division.

(C) If the department determines that there will not be adequate funds in the fund for the payment of the refund values and other disbursements required in this division, the department shall increase the redemption



payment by an additional one-half cent (\$0.005) for a total redemption payment of two and one-half cents (\$0.025) per beverage container. The department shall provide at least 60 days' notice to distributors of a redemption payment increase made pursuant to this subparagraph. Prior to increasing redemption payments, the director shall make available to the public written findings with supporting data which show the reasons which necessitate the increase. The findings and supporting data shall be reviewed by the Department of Finance.

(2) If, at any time after the department has increased the redemption payment pursuant to subparagraph (C) of paragraph (1), the department determines that the increase in the redemption payment is no longer needed to ensure that there are adequate funds to pay the refund values and other disbursements required by this division for the ensuing 180 days, plus a 10-percent reserve, the department shall reduce the redemption payment by not more than one-half cent (\$0.005). The department shall provide to distributors at least 60 days' notice of a redemption payment decrease made pursuant to this paragraph.

(f) Notwithstanding subdivisions (c) and (d), every distributor of a beverage container shall pay the department for deposit into the fund, a minimum redemption payment of three cents (\$0.03) for every beverage container sold or offered for sale in this state, and every beverage container sold or offered for sale in this state has a minimum refund value of five cents (\$0.05) for every beverage container redeemed, if all of the following conditions are met for that specific type of beverage container:

(1) The beverage container type had less than a 2-percent redemption rate on September 29, 1986.

(2) The department determines that the beverage container type achieved an increase in redemption rates during each six-month reporting period.

(3) The type of beverage container maintained an average redemption rate of at least 60 percent for both



the reporting period of July 1, 1991, to December 31, 1991, and the reporting period of January 1, 1992, to June 30, 1992.

(4) The type of beverage container is accepted by over 75 percent of curbside programs in the state.

(5) For the reporting period beginning January 1, 1993, and ending June 30, 1993, the redemption rate pursuant to Section 14551 for that type of beverage container is less than 65 percent.

(g) Except as provided in subdivision (h), once any redemption payment is established for any type of beverage container, the redemption payment shall not be decreased based upon the redemption rate.

(h) The redemption payment for a specific type of beverage container established pursuant to subdivision (d) shall be decreased to not less than two and one-half cents (\$0.025) per beverage container if the redemption rate for that type of beverage container is 80 percent or more during all of four consecutive reporting periods and the refund value for that type of beverage container shall be five cents (\$0.05) for every two beverage containers redeemed and two cents (\$0.02) for every single or unpaired beverage container redeemed in a single transaction. The decrease shall occur six months following the end of the fourth reporting period. If the redemption rate for that type of beverage container thereafter falls below 65 percent for any two of any four consecutive reporting periods, the redemption payment for that type of beverage container shall be increased to three cents (\$0.03) per container until a redemption rate of 80 percent or more, during all of four consecutive reporting periods, is established for that type of beverage container and the refund value for that type of beverage container shall be five cents (\$0.05) for each beverage container redeemed.

(i) This section does not apply to any refillable beverage container.

(j) The repeal and reenactment of this section by Chapter 730 of the Statutes of 1992 shall not affect any



obligations or penalties imposed by this section, as it read on January 1, 1992.

SEC. 5. Section 14571.5 is added to the Public Resources Code, to read:

14571.5. (a) A mobile recycling program located in a rural county shall be considered a certified recycling center in compliance with the requirements of Section 14538, if all of the following conditions are met:

(1) The mobile recycling program designates two or more recycling locations within the county to be served by the program.

(2) The mobile recycling program serves each designated location at least once per week.

(3) The mobile recycling program agrees to accept, and pay the refund value for, all eligible beverage container types, at each recycling location.

(4) The mobile recycling program is open for business at least eight hours per day at each location.

(5) The mobile recycling program is open for business at least 40 hours per week.

(b) All dealers within the service area of the mobile recycling program, as determined by the department, shall post a clear and conspicuous sign of at least 10 inches by 15 inches at each public entrance to the dealer's place of business, indicating the location, hours, and day of operation for each mobile recycling location in the service area of the mobile recycling program.

(c) A mobile recycling program approved by the department that meets the conditions prescribed in subdivision (a), shall be eligible to apply for handling fees pursuant to Section 14585 if all of the following conditions are met:

(1) All of the designated recycling locations are located within a single, unserved convenience zone.

(2) All dealers within the zone post a clear and conspicuous sign of at least 10 inches by 15 inches at each public entrance to the dealer's place of business, indicating the locations, hours, and day of operation for each mobile recycling location.



(d) Notwithstanding Section 14585, the department shall adopt a method to determine the reasonable amount of handling fee that shall be paid to a mobile recycling program within a convenience zone.

(e) For purposes of this section, “rural county” means a county with 300,000 residents or less.

SEC. 6. Section 14571.8 of the Public Resources Code is amended to read:

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

(b) The director may grant an exemption from the requirements of Section 14571 for an individual convenience zone only after the department solicits public testimony on whether or not to provide an exemption from Section 14571. The solicitation process shall be designed by the department to ensure that operators of recycling centers, dealers, and members of the public in the jurisdiction affected by the proposed exemption are aware of the proposed exemption. After evaluation of the testimony and any field review conducted, the department shall base a decision to exempt a convenience zone on one, or any combination, of the following factors:

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

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

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

(4) The requirements of Section 14571 cannot be met in a particular convenience zone due to local zoning or the dealer’s leasehold restrictions for leases in effect on January 1, 1987, and the local zoning or leasehold



restrictions are not within the authority of the department and the dealer. However, any lease executed after January 1, 1987, shall meet the requirements specified in subdivision (a).

(5) The convenience zone has redeemed less than 60,000 containers per month for the prior 12 months and, notwithstanding paragraph (2), a certified recycling center is located within one mile of the convenience zone that is the subject of the exemption.

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

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

(e) The department shall include in its annual report prepared pursuant to Section 14542 a report on curbside recycling programs and on the potential need for exemption authority additional to that provided by subdivision (d).

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

(1) The condition or conditions which caused the convenience zone to be exempt no longer exists, and the department determines that the criteria for an exemption specified in this section, or Section 2715 of Title 14 of the California Code of Regulations, are not presently applicable to the convenience zone.

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

(g) If an exemption is revoked and a recycling center is not certified and operational in the convenience zone, the department shall, within 10 days of the date of the decision to revoke, serve all dealers in the convenience



zone with the notice specified in subdivision (a) of Section 14571.7.

(h) An exemption shall not be revoked when a recycling center becomes certified and operational within an exempt convenience zone unless either of the events specified in paragraphs (1) and (2) of subdivision (f) occur.

SEC. 7. Section 14573 of the Public Resources Code is amended to read:

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

(1) The refund value.

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

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

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

SEC. 8. Section 14573.5 of the Public Resources Code is amended to read:

14573.5. (a) Except as provided in Section 14573.6, a processor shall pay to a certified recycling center, dropoff or collection program, or curbside program, for all types of empty beverage containers, by type of beverage container, received by the processor from a recycling center, curbside program, or dropoff or collection program, upon receipt by the certified processor of a



shipping report from the supplier of the material, in the form adopted by the regulations adopted by the department, the sum of all of the following amounts:

(1) The refund value.

(2) Three-fourths of 1 percent of the refund value for administrative costs.

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

(b) The processor shall make the payment required in subdivision (a) within two working days of the date that the processor receives these empty beverage containers, or within the time which the department determines to be necessary and adequate. Under the procedures authorized by the department, the department may authorize a certified recycling center to cancel containers, and a certified processor may authorize a certified recycling center to cancel containers on behalf of the certified processor.

(c) If the department has set up an accounts receivable procedure or other procedure for seeking the payment of money improperly obtained by a certified recycling center from the fund, the department may reimburse the processor for its payments to that certified recycling center.

SEC. 9. Section 14574 of the Public Resources Code is amended to read:

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

(1) Except as provided in paragraph (2), the payment shall be made within 40 days of any sale, or in the form and manner which the department may prescribe.

(2) The payment made by a distributor of beer and other malt beverages shall be made not later than the first day of the third month following the sale.

(b) (1) Notwithstanding subdivision (a), a distributor may, upon the approval of the department, elect to make a single annual payment of redemption payments, if the



distributor's projected redemption payment for a calendar year totals less than ten thousand dollars (\$10,000).

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

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

SEC. 10. Section 14575 of the Public Resources Code, as amended by Section 25 of Chapter 624 of the Statutes of 1995, is amended to read:

14575. (a) If any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the cost of recycling, the department shall establish a processing fee and a processing payment for the container, by the type of the material of the container.

(b) Notwithstanding subdivision (a), costs to recycle shall be adjusted annually commencing on January 1, 1999, to reflect changes in the cost of living, as measured by the Department of Labor or a successor agency of the United States government.

(c) Except for the adjustments made pursuant to subdivision (b), the department shall calculate the processing fee in an amount so that the processing payment will equal sixty-nine dollars and forty-one cents (\$69.41) for each ton of glass containers and three hundred ninety-eight dollars and forty-five cents (\$398.45) for each ton of bimetal containers, based upon all of the following assumptions:

(1) The estimated average scrap value is thirty dollars (\$30) per ton for glass containers and ten dollars and sixty-seven cents (\$10.67) per ton for bimetal containers.

(2) The certified cost for recyclers is ninety-nine dollars and forty-one cents (\$99.41) for each ton of glass



containers and four hundred nine dollars and twelve cents (\$409.12) for each ton of bimetal containers.

(d) If the scrap value surveyed by the department pursuant to paragraph (2) of subdivision (k) for PET containers is less than seven hundred ninety-nine dollars and sixty-eight cents (\$799.68) for each ton of PET containers, as adjusted pursuant to subdivision (b), the department shall establish a processing fee and processing payment for each PET container sold.

(e) Once the annual processing payment has been determined utilizing the calculations made pursuant to subdivisions (a), (b), (c), and (d), the actual processing fee paid by beverage manufacturers, subject to modification pursuant to subdivision (f), shall be the per-container fee multiplied by the sum of the following:

(1) An estimate of the number of containers redeemed by recyclers during the previous calendar year, divided by an estimate of the number of nonrefillable beverage containers sold or transferred to a distributor or dealer during the previous calendar year, based on the latest available data.

(2) Five percentage points (0.05), except that whenever a surplus of unexpended money exists in the fund sufficient to equal the estimate of the previous three months, expenditures of processing payments for each material type as determined by the department, then zero percentage points (0.00) shall be used.

(f) (1) The department shall reduce the processing fee paid by beverage manufacturers pursuant to subdivisions (d) and (e), and the voluntary artificial scrap value paid by a willing purchaser pursuant to Section 14575.1, by expending the funds in the Glass Processing Fee Account, the PET Processing Fee Account, and the Bimetal Processing Fee Account.

(2) The total amount of funds expended in each calendar year to reduce the amount of processing fees or the voluntary artificial scrap value paid by a willing purchaser pursuant to Section 14575.1 paid for each container type shall be equal to the funds available in the Glass Processing Fee Account, the PET Processing Fee



Account, or the Bimetal Processing Fee Account, for each container type. This amount of the redemption payments paid for a container type that may be expended to reduce the amount of processing fees or willing artificial scrap value otherwise required to be paid for a container type shall be determined as follows:

(A) The amount shall equal 31.5 percent of the redemption payments projected to be paid by distributors of beverages sold in that container type in the previous fiscal year.

(B) On January 1, 2000, if the recycling rate for a particular type of beverage container, for the 12-month period ending on June 30, 1999, as determined pursuant to Section 14551, decreases 5 percent or more from the recycling rate for a container type that was achieved for the 12-month period ending June 30, 1998, the total amount of funds expended to reduce the processing fee shall not exceed an amount equal to 25 percent of redemption payments projected to be paid by distributors of beverages sold in that container type the previous calendar year.

(C) On January 1, 2000, if the recycling rate for a particular type of beverage container for the 12-month period ending on June 30, 1999, as determined pursuant to Section 14551, increases 5 percent or more from the recycling rate for a container type that was achieved for the 12-month period ending June 30, 1998, the total amount of funds expended to reduce the processing fee shall not exceed an amount equal to 35 percent of redemption payments projected to be paid by distributors of beverages sold in that container type the previous calendar year.

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

(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt



beverages manufactured outside the state, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering or sale of that beverage brand within the state.

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

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

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

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



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

(h) When assessing processing fees pursuant to subdivision (a), the department shall assess the processing fee on each container sold, as provided in subdivision (e), by the type of material of the container.

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

(j) Prior to the January 1, 1999, recalculation of the processing fee, the department shall do both of the following:

(1) Consult with container manufacturers, beverage manufacturers, operators of recycling centers and processing facilities, and other interested parties concerning the size of the statewide sample, appropriate sampling methodologies, and other topics of concern related to the imposition of the processing fee.

(2) At least 60 days prior to the effective date of any new processing fee, hold a public hearing, after giving notice, to make available to the public and affected parties the department's proposed recalculation of the processing fee.

(k) (1) The department shall annually, on or before January 1, determine the statewide average scrap values paid by beneficiating and nonbeneficiating processors for glass containers during the 12-month period ending September 30. If the department determines that the statewide average scrap values paid for glass containers is 10 percent or more above or below the scrap value specified in paragraph (1) of subdivision (c), the department shall adjust the processing payment to equal the difference between the cost of recycling, as specified in subdivision (b) and paragraph (2) of subdivision (c), and the new statewide average scrap value.



(2) The department shall, by the first of each month, make either an upward or downward adjustment of a processing fee established pursuant to this section for PET plastic beverage containers if the department determines that the average statewide scrap values paid by processors, for any monthly period, are more or less than the average scrap values used as the basis for the processing fee currently in effect.

(l) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

SEC. 11. Section 14575 of the Public Resources Code, as amended by Section 26 of Chapter 624 of the Statutes of 1995, is amended to read:

14575. (a) If any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the sum of paragraphs (1) and (2), the department shall establish a processing fee and a processing payment for the container, by the type of the material of the container, at least equal to the difference between the scrap value offered by a statistically significant sample of container manufacturers, beverage manufacturers, processors, or willing purchasers, for each container sold by the beverage manufacturer, and the sum of both of the following:

(1) The actual cost for certified recycling centers, excluding those recycling centers receiving a convenience incentive payment, and certified processors which did not receive convenience incentive payments in the year in which the processing fee is calculated or recalculated, of receiving, handling, processing, storing, transporting, and maintaining equipment for each container sold for recycling or, only if the container is not recyclable, for disposal, calculated pursuant to subdivision (c).

(2) A reasonable financial return for recycling centers and processors, calculated pursuant to subdivision (b).

(b) The department shall annually, on or before January 1, calculate weighted statewide average values



for the amounts specified in paragraphs (1) and (2) of subdivision (a) for each type of container material sold and a new processing fee, which shall be effective on that same date.

(c) A processing fee established pursuant to this section shall be based upon all of the following:

(1) The average scrap values paid by willing purchasers during the 1990 calendar year for the initial calculation and the average scrap values paid by willing purchasers during the calendar year directly preceding the year in which the processing fee is calculated for any subsequent calculation.

(2) The latest available data indicating the volumes of beverage containers collected by certified processors and recycling centers.

(3) The actual recycling costs for certified recycling centers and processors, as determined pursuant to paragraph (1) of subdivision (a) for the 1989 calendar year for the initial calculation, and for the second calendar year preceding the year in which the processing fee is calculated for any subsequent calculation.

(d) Every six months, or more frequently as determined to be necessary by the department, the department may adjust a processing fee established pursuant to this section if both of the following occur:

(1) The department determines that the average statewide scrap values paid by willing purchasers are less than the average scrap values used as the basis for the processing fee calculation.

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

(e) The calculations of the statewide weighted average values and processing fee made pursuant to subdivision (b) shall be based on audited surveys of the costs specified in subdivision (a) at existing certified recycling centers, reverse vending machines, and processors, with standardized modifications for transportation distances and factors specific to a particular region, as determined by the department, and,



if the container is not recyclable, local disposal fees. The processing fee shall be calculated in a manner which furthers the purposes of this division and the fee shall be sufficient to establish sufficient recycling locations and processors to achieve the goals established pursuant to subdivision (c) of Section 14501 and Section 14571. Except for the first calculation of a processing fee made pursuant to this section, 60 days prior to the annual calculation of the processing fee, the department shall submit a report to the Chairperson of the Assembly Natural Resources Committee and the Chairperson of the Senate Natural Resources and Wildlife Committee. The report shall include a summary of the fluctuations of costs and scrap values necessitating the recalculation. The report shall also highlight changes in markets, new technologies, and other business and economic factors. The report shall include a description of the average per container statewide costs of recycling beverage containers, by each material type, for the following recycling systems, including a description of any assumptions used to allocate undifferentiated costs among material types, and a brief statement of the reason for the adoption of these assumptions:

- (1) Automated recycling centers.
  - (2) Staffed recycling centers.
  - (3) Recycling centers established since September 29, 1988.
  - (4) Recycling centers established prior to September 29, 1988.
  - (5) Recyclers receiving convenience incentive payments, as feasible.
  - (6) Nonprofit dropoff programs.
  - (7) Curbside recycling programs.
- (f) (1) Except as provided in paragraphs (2) and (3), every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.

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

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

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

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

(C) A beverage manufacturer shall notify the department of its intent to make an annual processing fee payment pursuant to this paragraph on or before January



31 of the calendar year preceding the year in which the payment will be due.

(4) The department shall pay the processing payments on redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5. The department shall pay the processing fees collected on unredeemed containers into the fund. The department shall not use processing fees collected on unredeemed beverage containers to pay all or a portion of the processing costs determined pursuant to subdivision (a). The processor shall pay the recycling center that portion of the processing payment representing the actual cost and financial return incurred by the recycling center, as specified in subdivision (a).

(g) When assessing processing fees pursuant to subdivision (b), the department shall assess the processing fee on each container sold, by the type of material of the container, assuming that every container sold will be redeemed for recycling, whether or not the container is actually recycled. When calculating and assessing processing fees, the department also shall not assume that redemption bonuses will be kept by recycling centers or locations.

(h) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing payment.

(i) This section shall become operative on January 1, 2001.

SEC. 12. Section 14580 of the Public Resources Code is amended to read:

14580. (a) Except as provided in subdivision (d), the department shall deposit all amounts paid as redemption payments by distributors pursuant to Section 14574, and all other revenues received into the California Beverage Container Recycling Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is hereby continuously appropriated to the department for



expenditure without regard to fiscal year for the following purposes:

(1) The payment of refund values and administrative fees to processors pursuant to Section 14573.

(2) For a reserve for contingencies, which shall not be greater than an amount equal to 5 percent of the total amount paid to processors pursuant to Section 14573 during the preceding calendar year, plus any interest earned on that amount.

(b) Except as provided in Section 14580.5, the money in the fund may be expended by the department for the administration of this division only upon appropriation by the Legislature in the annual Budget Act.

(c) After setting aside funds estimated to be needed for expenditures authorized pursuant to this section, the department shall set aside funds on a quarterly basis for the purposes specified in Section 14581. Notwithstanding Section 13340 of the Government Code, that money is hereby continuously appropriated to the department, without regard to fiscal year, for the purposes specified in Section 14581.

(d) The department shall deposit all civil penalties or fines collected pursuant to this division into the Penalty Account, which is hereby created in the fund. The money in the Penalty Account may be expended by the department only upon appropriation by the Legislature, for purposes of this division.

SEC. 13. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds, and pursuant to subdivision (c), the department may annually expend the money set aside in the fund, pursuant to subdivision (c) of Section 14580 for the purposes of this section:

(1) Twenty-three million five hundred thousand dollars (\$23,500,000) may be expended, until January 1, 2001, for the payment of handling fees required pursuant to Section 14585.

(2) Ten million dollars (\$10,000,000) may be expended, until January 1, 2001, for payments for



curbside and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) Ten million dollars (\$10,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), may be expended in the form of grants for beverage container litter reduction programs and recycling programs issued to either of the following:

(i) Certified community conservation corps, that were in existence on September 30, 1992, or that are formed subsequent to that date, that are designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the city or the city and county has a population, as determined by the most recent census, of more than 250,000 persons.

(ii) Community conservation corps, that are designated by a county to perform litter abatement, recycling, and related activities, and are certified by the California Conservation Corps as having operated for a minimum of two years and as meeting all other criteria of Section 14507.5. more than 75 percent of the annual budget of a community conservation corps.

(4) Two million dollars (\$2,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), may be expended, in the form of grants for beverage container litter reduction programs and recycling programs to nonprofit organizations or governmental entities, as determined by the department.

(5) Up to three million dollars (\$3,000,000) may be expended, until January 1, 2001, to help offset the cost of the Curbside Recycling Pilot Study pursuant to Section 14549.7.

(6) Subject to the availability of providing adequate funds to pay refund values, the department shall, over the course of each calendar year, transfer from the fund an amount determined in accordance with paragraph (2) of subdivision (f) of Section 14575 of redemption values made for glass beverage containers in the prior calendar year, and shall deposit all amounts paid as processing fees



pursuant to Section 14575 for glass beverage containers, into the Glass Processing Fee Account, which is hereby created in the fund. Notwithstanding Section 13340 of the Government Code, the money in the Glass Processing Fee Account is hereby continuously appropriated to the department and shall be available without regard to fiscal year for purposes of making processing payments for, and reducing processing fees paid for, glass beverage containers pursuant to Section 14575.

(7) Subject to the availability of providing adequate funds to pay refund values, the department shall, over the course of each calendar year, transfer from the fund an amount equal to a percentage determined in accordance with paragraph (2) of subdivision (f) of Section 14575 of redemption values made for PET beverage containers in the prior calendar year, and shall deposit all amounts paid as processing fees pursuant to Section 14575 for PET beverage containers, into the PET Processing Fee Account, which is hereby created in the fund. Notwithstanding Section 13340 of the Government Code, the money in the PET Processing Fee Account is hereby continuously appropriated to the department and shall be available without regard to fiscal year for purposes of making processing payments for, and reducing processing fees paid for, PET beverage containers pursuant to Section 14575 and reducing the voluntary artificial scrap value for PET containers pursuant to Section 14575.1, and for reducing processing fees for PET containers pursuant to paragraph (3) of subdivision (e) of Section 14575.

(8) Subject to the availability of providing adequate funds to pay refund values, the department shall, over the course of each calendar year, transfer an amount equal to a percentage determined in accordance with paragraph (2) of subdivision (f) of Section 14575 of redemption values made for bimetal beverage containers in the prior calendar year, and shall deposit all amounts paid as processing fees pursuant to Section 14575 for bimetal beverage containers, into the Bimetal Processing Fee Account, which is hereby created in the fund.



Notwithstanding Section 13340 of the Government Code, the money in the Bimetal Processing Fee Account is hereby continuously appropriated to the department and shall be available without regard to fiscal year for purposes of making processing payments for, and reducing processing fees paid for, bimetal beverage containers pursuant to Section 14575.

(b) The twelve million dollars (\$12,000,000) that is set aside pursuant to paragraphs (3) and (4) of subdivision (a), is a base amount that the department shall adjust annually to reflect any increases or decreases in the cost of living, as measured by the Department of Labor, or a successor agency, of the federal government.

(c) If the department determines that there are insufficient funds to make the payments specified pursuant to this section, the department shall reduce all payments proportionally.

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

14585. (a) The department shall adopt guidelines and methods for paying handling fees to supermarket sites to provide an incentive for the redemption of empty beverage containers in convenience zones. The guidelines shall include, but not be limited to, all of the following:

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

(2) To be eligible for any handling fee, a supermarket site recycling center shall redeem not less than 60,000 beverage containers, and, except for operators of certified recycling centers that are nonprofit organizations, not more than 500,000 beverage containers, during the calendar month in which the handling fee is claimed.



(3) A beverage container with a capacity of 20 fluid ounces or more shall be considered as two beverage containers for purposes of determining the eligibility percentage, any handling fee calculations, and payments.

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

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

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

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

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

(6) Notwithstanding paragraph (5), the total handling fee payment to a supermarket site shall not exceed two thousand three hundred dollars (\$2,300) per month.

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

(8) (A) If a dealer where a supermarket site is located ceases operation for remodeling or for a change of ownership, the operator of that supermarket site shall be eligible to apply for handling fees for that site for a period



of three months following the date of the closure of the dealer.

(B) Every supermarket site operator shall promptly notify the department of the closure of the dealer where the supermarket site is located.

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

(b) The department may allocate the twenty-three million five hundred thousand dollars (\$23,500,000) authorized for expenditure for the payment of handling fees pursuant to paragraph (1) of subdivision (a) of Section 14581 on a monthly basis and may carry over any unexpended monthly allocation to a subsequent month or months. However, unexpended monthly allocations shall not be carried over to a subsequent fiscal year for the purpose of paying handling fees but may be carried over for any other purpose pursuant to Section 14581.

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

(d) The department may require the operator of a supermarket site receiving handling fees to maintain records for each location where beverage containers are



redeemed, and may require the supermarket site to take any other action necessary for the department to determine that the supermarket site does not receive an excessive handling fee.

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

(f) (1) It is the intent of the Legislature that handling fees paid to supermarket site recycling centers be only used to offset the unique costs of providing convenient recycling opportunities to consumers, and that those fees shall not be expended for the purpose of engaging in unfair and predatory pricing intended to increase the recycling of beverage containers at those centers.

(2) To ensure that handling fees, paid to supermarket site recycling centers, are not used for the purpose of engaging in unfair and predatory pricing and to otherwise further the intent of paragraph (1), the department shall, upon the complaint of any person other than the department, convene an informal hearing before the director or a designee, in accordance with the following:

(A) At the hearing, the complainant shall present evidence that a respondent handling fee recipient has engaged in unfair and predatory pricing and that the complainant has suffered substantial and quantifiable economic damages as a result of that pricing. Upon the director's determination that there is credible evidence of unfair and predatory pricing and of resulting damages, the complainant is entitled to a rebuttable presumption that the respondent has engaged in unfair and predatory pricing.

(B) At the hearing, the respondent shall have the opportunity to respond to the complaint by presenting evidence that the respondent has not engaged in unfair and predatory pricing and has not caused any damage to the complainant.

(C) Based upon the evidence presented at the hearing and any presumption pursuant to subparagraph (A), the



director or the director's designee shall determine if there is clear and convincing evidence that a violation of this division has occurred, and, if so, the respondent shall not be eligible to receive handling fees for three months.

(D) The complainant or respondent may obtain review of the director's action taken pursuant to this subdivision by filing in the superior court a petition for writ of mandate within 30 days following the issuance of the director's decision. Section 1094.5 of the Code of Civil Procedure shall govern judicial proceedings pursuant to this subdivision, except that in every case the court shall exercise its independent judgment. If a petition for a writ of mandate is not filed within the time limits set by this subdivision, the director's action under this subdivision shall not be subject to review by any court or agency.

(E) If either party appeals the director's or designee's decision pursuant to subparagraph (D), and the department prevails, the department may recover any costs associated with its defense of the petition.

(g) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

SEC. 15. Section 14591.1 of the Public Resources Code is amended to read:

14591.1. (a) The department may assess penalties pursuant to this division only after notice and hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Each violation of this division is a separate violation and each day of the violation is a separate violation. The department shall deposit all revenues from civil penalties in the Penalty Account specified in subdivision (g) of Section 14580.

(b) Any person who intentionally or negligently violates this division may be assessed a civil penalty by the department of up to five thousand dollars (\$5,000) for each separate violation, or for continuing violations, for each day that violation occurs.



(c) Any person who violates this division by an action not subject to subdivision (b) may be assessed a civil penalty by the department of up to one thousand dollars (\$1,000) for each separate violation, or for continuing violations, for each day that violation occurs.

(d) No person may be liable for a civil penalty imposed under subdivision (b) and for a civil penalty imposed under subdivision (c) for the same act or failure to act.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved \_\_\_\_\_, 1998

\_\_\_\_\_  
*Governor*

