

AMENDED IN ASSEMBLY AUGUST 18, 2000

AMENDED IN SENATE APRIL 24, 2000

SENATE BILL

No. 1906

Introduced by Senator Sher

February 24, 2000

An act to amend Sections ~~14551.5, 14571.8, and 14581~~ 14504, 14529.7, 14541, 14551.5, 14552, 14553, 14561, 14571.8, 14581, 14591, 14591.1, 14591.2, and 14591.4 of, to amend and renumber Section 14595 of, to amend and repeal Section 14549.1 of, to add Sections 14514, 14515.1, 14539.5, 14541.5, and 14591.6 to, to add Chapter 8.5 (commencing with Section 14595) to Division 12.1 of, and to repeal Sections 14571.9 and 14592 of, the Public Resources Code, relating to beverage container recycling, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1906, as amended, Sher. ~~Curbside recycling programs~~
Beverage containers: enforcement.

The

(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 and provides for an increase in that payment, as specified. The money in the fund is continuously appropriated to the department to pay refund values, processing payments, and for other purposes.*

“Beverage” is defined, for purposes of the act, to include, among other things, carbonated and noncarbonated water, noncarbonated soft drinks and sport drinks, specified noncarbonated fruit drinks, coffee and tea drinks, and carbonated fruit drinks, if those products are sold in plastic, glass, bimetal, or aluminum containers in liquid, ready-to-drink form and intended for human consumption. Milk, medical food, and infant formula are excluded from that definition of beverage. The act requires beverage manufacturers to indicate a specified message on every beverage container sold or offered for sale by that beverage manufacturer. A violation of the act is a crime and the penalties for violations of the act are deposited in the fund.

This bill would additionally include, in that definition of beverage, vegetable juice in beverage containers of 16 ounces or less, thereby making an appropriation. The bill would also define the terms “infant formula” and “noncarbonated soft drink” for purposes of that definition of beverage.

The bill would exempt any beverage container included within the coverage of the act on January 1, 2001, from specified labeling requirements, until January 1, 2002.

(2) Existing law excludes from the act any program involving the collection and payment of deposits for beverage containers sold, used, or consumed at national parks and monuments, military installations, or any other property owned by and under the jurisdiction of the United States.

This bill would provide that the act applies to a national park or monument, military installation, or any other property owned by, and under the jurisdiction of, the United States, to the extent permitted by federal law, with regard to a beverage container not otherwise subject to a program involving the collection and payment of deposits for beverage containers. The bill would define the term ‘a program involving the collection and payment of deposits’ for this purpose. The bill would state that these changes do not constitute a change in, but are declaratory of, existing law.

(3) The existing ~~California Beverage Container Recycling and Litter Reduction Act~~ act authorizes the ~~Department of Conservation~~ department to pay a quality glass incentive payment to curbside recycling programs.



This bill would specify that payment is to be made to operators of curbside recycling programs. The bill would repeal that authority on January 1, 2003.

~~The~~

(4) *The* existing act requires the department to register the operators of curbside programs. ~~That~~ *The* act also authorizes the department to take disciplinary action against, among others, any certificate holder.

This bill would provide that a registered operator of a curbside program is deemed a certificate holder for purposes of the act.

~~The~~

(5) *The* existing ~~act~~ *act* requires the department to provide a report to the Legislature on or before January 1, 2002, on the impact of a statewide public education and information campaign and to make recommendations for any future campaigns.

This bill would require that the report and recommendations be made on or before July 1, 2002.

~~The~~

(6) *Existing law requires the processor to pay a dropoff or collection program, or other specified program, the refund value, certain administrative costs, and the processing payment for each empty beverage container received by the processor. Existing law requires the department to certify recycling centers and processors for purposes of the act, and authorizes the department to issue a certificate as a probationary certificate that is limited to a period of one year.*

This bill would require the department to certify dropoff and collection programs, and would require the Director of Conservation to adopt, by regulation, requirements and standards for certification. The bill would prohibit a certified dropoff or collection program from receiving refund values or processing payments on an empty beverage container that was received from a noncertified recycler or on other specified beverage containers not subject to the act.

The bill would revise the provisions for the issuance of a probationary certificate, including authorizing the issuance of a probationary certificate for up to 2 years.



(7) Existing law imposes criminal and civil penalties for specified violations of the act, including submission of false or fraudulent claims for payment. Existing law authorizes the department to take disciplinary action against any certificate holder, officer, director, or managing employee.

The bill would specify procedures for the assessment of civil penalties, and would require the department to take into account specified factors when assessing these penalties. The bill would additionally authorize the department to take disciplinary action against any party responsible for, directing, contributing to, participating in, or otherwise influencing the operations of a certified or registered facility or program and would revise the disciplinary actions the department is authorized to take against that party.

This bill would include, as actions subject to criminal penalties, the redemption of out-of-state containers, as defined.

The bill would authorize the department to issue a cease and desist order when a person is engaged in recycling activity that violates the act, any regulation adopted pursuant to the act, or an order issued under the act. The bill would prescribe procedures for requesting a hearing regarding such an order and would require the Attorney General, upon request of the department, to petition the superior court for the issuance of a preliminary or permanent injunction, if a person fails to comply with the cease and desist order issued by the department.

The bill would prohibit any person from paying, claiming, or receiving any refund value, processing payment, handling fee, or administrative fee for imported beverage container material, previously redeemed containers, rejected containers, line breakage, or other ineligible material. The bill would also prohibit any person from redeeming or attempting to redeem those containers or materials, returning previously redeemed containers to the marketplace for redemption, or bringing these containers or materials to the marketplace for redemption, as specified.

The bill would require any person importing more than a specified amount of beverage container material into the state



to report the material and provide an opportunity for inspection.

The bill would prohibit any person from falsifying documents required pursuant to the act or the regulations adopted by the department. The bill would authorize the department to adopt emergency regulations to implement these prohibitions, and would provide that these emergency regulations are not to be repealed by the Office of Administrative Law and are to remain in effect until revised by the Director of Conservation.

(8) Since a violation of the bill’s requirements would be a crime, the bill would impose a state-mandated local program.

(9) The bill also would repeal obsolete provisions, and delete nonconforming cross-references.

(10) 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: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

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

- 1 SECTION 1. Section 14504 of the Public Resources
- 2 Code is amended to read:
- 3 14504. (a) Except as provided in subdivision (b),
- 4 “beverage” means any of the following products if those
- 5 products are in liquid, ready-to-drink form, and are
- 6 intended for human consumption:
- 7 (1) Beer and other malt beverages.
- 8 (2) Wine and distilled spirit coolers.
- 9 (3) Carbonated water, including soda and carbonated
- 10 mineral water.
- 11 (4) Noncarbonated water, including noncarbonated
- 12 mineral water.
- 13 (5) Carbonated soft drinks.
- 14 (6) Noncarbonated soft drinks and “sport” drinks.



1 (7) Except as provided in paragraph (4) of subdivision
2 (b), noncarbonated fruit drinks that contain any
3 percentage of fruit juice.

4 (8) Coffee and tea drinks.

5 (9) Carbonated fruit drinks.

6 (10) *Vegetable juice in beverage containers of 16*
7 *ounces or less.*

8 (b) “Beverage” does not include any of the following:

9 (1) Any product sold in a container that is not an
10 aluminum beverage container, a glass container, a plastic
11 beverage container, or a bimetal container.

12 (2) Wine, or wine from which alcohol has been
13 removed, in whole or in part, whether or not sparkling or
14 carbonated.

15 (3) Milk, medical food, or infant formula.

16 (4) One hundred percent fruit juice in containers that
17 are 46 ounces or more in volume.

18 (c) ~~This section shall become operative on January 1,~~
19 ~~2000.~~ *For purposes of this section, the following*
20 *definitions shall apply:*

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

24 (2) “*Noncarbonated soft drink*” means a nonalcoholic,
25 noncarbonated naturally or artificially flavored water
26 containing sugar or sweetener or trace amounts of various
27 elements from both natural and synthetic sources.

28 SEC. 2. Section 14514 is added to the Public Resources
29 Code, to read:

30 14514. “*Managing employee*” includes, but is not
31 limited to, any person who manages the operation of a
32 facility or is authorized by the certified operator to sign
33 shipping reports.

34 SEC. 3. Section 14515.1 is added to the Public
35 Resources Code, to read:

36 14515.1. “*Out-of-state container*” means a used
37 beverage container or used beverage container
38 component that is not subject to Section 14560, and that
39 is brought into this state.



1 SEC. 4. Section 14529.7 of the Public Resources Code
2 is amended to read:

3 14529.7. ~~This~~ (a) Except as provided in subdivision
4 (b), this division does not apply to any program involving
5 the collection and payment of deposits for beverage
6 containers sold, used, or consumed at national parks and
7 monuments, military installations, or any other property
8 owned by and under the jurisdiction of the United States.

9 (b) To the extent permitted by federal law, this
10 division, including, but not limited to, Section 14560.5,
11 shall apply to a national park or monument, military
12 installation, or any other property owned by, and under
13 the jurisdiction of, the United States, with regard to a
14 beverage container not otherwise subject to a program
15 involving the collection and payment of deposits for
16 beverage containers.

17 (c) For purposes of this section, “a program involving
18 the collection and payment of deposits” means a
19 program, other than one imposed pursuant to this
20 division, at a national park or monument, military
21 installation, or any other property owned by, and under
22 the jurisdiction of, the United States, that imposes a
23 deposit on a beverage container at the time of sale and
24 provides an opportunity for the beverage container
25 purchaser to redeem the deposit at the national park or
26 monument, military installation, or other property
27 owned by, and under the jurisdiction of, the United
28 States.

29 SEC. 5. Section 14539.5 is added to the Public
30 Resources Code, to read:

31 14539.5. (a) The department shall certify dropoff
32 and collection programs pursuant to this section. The
33 director shall adopt, by regulation, requirements and
34 standards for certification and a dropoff or collection
35 program shall meet all the standards and requirements
36 contained in the regulations for certification. The
37 regulations shall require that all information be
38 submitted to the department under penalty of perjury.
39 The regulations shall require, in addition to any other



1 conditions that may be imposed by the department, that
2 both of the following conditions be met for certification:

3 (1) The dropoff or collection program demonstrates,
4 to the satisfaction of the department, that the dropoff or
5 collection program will operate in accordance with this
6 division.

7 (2) The dropoff or collection program notifies the
8 department promptly of any material change in the
9 nature of its operations that conflicts with the information
10 submitted in the application for certification.

11 (b) A certified dropoff or collection program shall not
12 receive any refund value or processing payment on an
13 empty beverage container that the certified dropoff or
14 collection program knew, or should have known, was
15 received from a noncertified recycler; on any beverage
16 container that the certified dropoff or collection program
17 knew or should have known came from out of this state,
18 or any other beverage container or other product that
19 does not have a refund value established pursuant to
20 Section 14560.

21 (c) The department may recover, in restitution
22 pursuant to paragraph (5) of subdivision (c) of Section
23 14591.2, any payment made from the fund to a dropoff or
24 collection program pursuant to Section 14573.5 that is
25 based on a document that is not prepared or maintained
26 in compliance with any applicable recordkeeping
27 requirements required pursuant to this division or the
28 department's regulations and that does not allow the
29 department to verify the claims for those payments.

30 SEC. 6. Section 14541 of the Public Resources Code is
31 amended to read:

32 14541. (a) The department may issue ~~any~~ a
33 certificate pursuant to an initial or renewal application
34 for certification as a probationary—~~certificate~~, and the
35 department may issue any other certificate as a
36 probationary ~~certificate~~ pursuant to an enforcement
37 action.

38 (b) A probationary certificate issued pursuant to this
39 ~~subdivision~~ section shall be issued for a limited period of
40 not more than ~~one year~~ two years. Before the end of the



1 probationary period, the department shall issue a
2 nonprobationary certificate, extend the probationary
3 period for not more than one year, or, after notice to the
4 probationary certificate holder, ~~terminate~~ *revoke* the
5 probationary certificate. Subsequent to the ~~termination~~
6 *revocation*, the former probationary certificate holder
7 may request a hearing, which, *notwithstanding*, Section
8 *11445.20 of the Government Code*, shall be conducted in
9 the same form as a hearing for an applicant whose original
10 application for certification is denied.

11 (c) If conditions are imposed on the certificate holder
12 as part of a disciplinary proceeding conducted pursuant
13 to Section 14591.2, the ~~certificate holder's certificate~~ shall
14 be considered probationary. If, at any time, the certificate
15 holder violates any term or condition of the probationary
16 certificate, the ~~certification~~ *certificate* may be revoked or
17 suspended, after three days' notice, without any further
18 hearing by the department.

19 *SEC. 7. Section 14541.5 is added to the Public*
20 *Resources Code, to read:*

21 *14541.5. Any certification or registration granted by*
22 *the department is a privilege and not a vested right or*
23 *interest.*

24 *SEC. 8. Section 14549.1 of the Public Resources Code*
25 *is amended to read:*

26 14549.1. (a) In order to improve the quality and
27 marketability of glass containers collected for recycling
28 by curbside recycling programs, the department may,
29 consistent with Section 14581 and subject to the
30 availability of funds, pay a quality glass incentive
31 payment to operators of curbside recycling programs.
32 The total amount shall not exceed three million dollars
33 (\$3,000,000) per calendar year. The department shall
34 make a quality glass incentive payment based on all of the
35 following:

36 (1) The amount of the quality glass incentive payment
37 shall be up to twenty-five dollars (\$25) per ton, as
38 determined by the department.



1 (2) The department shall make a quality glass
2 incentive payment only for color-sorted glass beverage
3 containers that are substantially free of contamination.

4 (3) The department shall make a quality glass
5 incentive payment only for glass beverage containers
6 that are either collected color sorted by curbside
7 recycling programs, or collected commingled by
8 curbside recycling programs and subsequently color
9 sorted by the collector or the operator of a materials
10 recovery facility.

11 (4) Only one payment shall be made for each
12 color-sorted glass beverage container collected.

13 (b) This section shall remain in effect only until
14 January 1, 2003, and as of that date is repealed, unless a
15 later enacted statute that is enacted before January 1,
16 2003, deletes or extends that date.

17 ~~SEC. 2.~~

18 *SEC. 9.* Section 14551.5 of the Public Resources Code
19 is amended to read:

20 14551.5. (a) The department shall register the
21 operators of curbside programs pursuant to this section.

22 (b) Each curbside program that receives refund
23 values and administrative fees from certified processors,
24 or that receives refund values from certified recycling
25 centers, shall register with the department for an
26 identification number. No curbside program may receive
27 refund values or administrative fees without a valid
28 identification number.

29 (c) The director shall adopt, by regulation, a
30 procedure for the registration of curbside programs. This
31 procedure shall include standards and requirements for
32 registration. These regulations shall require that all
33 information be submitted to the department under
34 penalty of perjury. A curbside program shall meet all of
35 the standards and requirements contained in the
36 regulations for registration.

37 (d) The department shall require that the
38 identification numbers received pursuant to this section
39 be used on shipping reports for material collected by
40 curbside programs pursuant to Sections 14538 and 14539



1 and on all other reports or documentation required by the
2 department to administer this division.

3 (e) An operator of a curbside program registered
4 pursuant to this section shall be deemed a certificate
5 holder for purposes of this division.

6 ~~SEC. 3.—~~

7 *SEC. 10. Section 14552 of the Public Resources Code*
8 *is amended to read:*

9 14552. (a) The department shall establish and
10 implement an auditing system to ensure that the
11 information collected, and refund values and redemption
12 payments paid pursuant to this division, comply with the
13 purposes of this division. Notwithstanding Sections 14573
14 and 14573.5, the auditing system adopted by the
15 department may include prepayment or postpayment
16 controls.

17 (b) The department may audit or investigate any
18 action taken during the ~~two-year~~ *five-year* period before
19 the onset of the audit or investigation and may determine
20 if there was compliance with this division during any, or
21 all, of that ~~two-year~~ *five-year* period. Notwithstanding
22 any other provision of law establishing a shorter statute
23 of limitation, the department may take an enforcement
24 action, including, but not limited to, an action for
25 restitution or to impose penalties, at any time within two
26 years after the department discovers, or with reasonable
27 diligence, should have discovered, a violation of this
28 division or the regulations adopted pursuant to this
29 division.

30 (c) During the conduct of *any inspection, including,*
31 *but not limited to, an inspection conducted as part of an*
32 *audit or investigation, the entity ~~which~~ that is the subject*
33 *of the ~~audit or investigation~~ inspection shall, during its*
34 *normal business hours, provide the department with*
35 *immediate access to its facilities, operations, and any*
36 *relevant record, ~~which~~ that, in the department's*
37 *judgment, the department determines ~~is~~ are necessary to*
38 *carry out this section to verify compliance with this*
39 *division and the regulations adopted pursuant to this*
40 *division. ~~The~~*



1 (1) The department may take disciplinary action
2 pursuant to Section 14591.2 against any person who fails
3 to provide the department with access pursuant to this
4 subdivision including, but not limited to, imposing
5 penalties and the immediate suspension or termination of
6 any certificate or registration held by the operator.

7 (2) The department shall protect any information
8 obtained pursuant to this section in accordance with
9 Section 14554, except that this section does not prohibit
10 the department from releasing any information ~~which~~
11 that the department determines to be necessary in the
12 course of an enforcement action.

13 (d) The auditing system adopted by the department
14 shall allow for reasonable shrinkage in material due to
15 moisture, dirt, and foreign material. The department,
16 after an audit by a qualified auditing firm and a hearing,
17 shall adopt a standard to be used to account for shrinkage
18 and shall incorporate this standard in the audit process.

19 (e) If the department prevails against any entity in
20 any civil or administrative action brought pursuant to this
21 division, and money is owed to the department as a result
22 of the action, the department may offset the amount
23 against amounts claimed by the entity to be due to it from
24 the department. The department may take this offset by
25 withholding payments from the entity or by authorizing
26 all processors to withhold payment to a certified recycling
27 center.

28 (f) If the department determines, pursuant to an audit
29 or investigation, that a distributor or beverage
30 manufacturer has overpaid the redemption payment or
31 processing fee, the department may do either of the
32 following:

33 (1) Offset the overpayment against future payments.

34 (2) Refund the payment pursuant to Article 3
35 (commencing with Section 13140) of Chapter 2 of Part 3
36 of Division 3 of Title 2 of the Government Code.

37 *SEC. 11. Section 14553 of the Public Resources Code*
38 *is amended to read:*

39 14553. (a) All reports, claims, and other information
40 required pursuant to this ~~chapter or Sections 14573;~~



1 ~~14573.5, 14574, and 14575~~ *division* and submitted to the
2 department shall be complete, legible, and accurate, as
3 determined by the department by regulation, and shall
4 be signed, by an officer, director, managing employee, or
5 owner of the certified recycling center, processor,
6 distributor, beverage manufacturer, container
7 manufacturer, or other entity.

8 (b) The department may inspect the operations,
9 processes, and records of any entity required to submit a
10 report to the department pursuant to this division to
11 determine the accuracy of the report and compliance
12 with the requirements of this division.

13 (c) A violation of this ~~subdivision~~ *section* is subject to
14 the penalties specified in Section ~~14591~~ *14591.1*.

15 *SEC. 12. Section 14561 of the Public Resources Code*
16 *is amended to read:*

17 14561. (a) (1) A beverage manufacturer shall
18 clearly indicate on every beverage container sold or
19 offered for sale by that beverage manufacturer in this
20 state the message “CA Redemption Value” or “California
21 Redemption Value,” by either printing or embossing the
22 beverage container or by securely affixing a clear and
23 prominent stamp, label, or other device to the beverage
24 container.

25 (2) A beverage manufacturer may affix the message
26 “CA Cash Refund”~~or~~ , “California Cash Refund”~~,”~~ or
27 “CA 2.5c,” if the container is less than 24 ounces, or “CA
28 Cash Refund,” “California Cash Refund,” or “CA 5c,” if
29 the container is 24 ounces or more, on a beverage
30 container sold or offered for sale by the beverage
31 manufacturer, instead of the message specified in
32 paragraph (1), but the message shall be affixed in the
33 manner prescribed in paragraph (1).

34 (b) Any refillable beverage container sold or offered
35 for sale is exempt from this section. However, any
36 beverage manufacturer or container manufacturer may
37 place upon, or affix to, a refillable beverage container, any
38 message that the manufacturer determines to be
39 appropriate relating to the refund value of the beverage
40 container.



1 (c) No person shall offer to sell, or sell to a consumer
2 a beverage container subject to subdivision (a) that has
3 not been labeled pursuant to this section, except for a
4 refillable beverage container that is exempt from labeling
5 pursuant to subdivision (b).

6 (d) The department may require that any beverage
7 container intended for sale in this state be printed,
8 embossed, stamped, labeled, or otherwise marked with a
9 universal product code or similar machine-readable
10 indicia.

11 (e) Any beverage container labeled with the message
12 specified in subdivision (a) shall have the minimum
13 redemption payment established pursuant to Section
14 14560, which shall be paid by the distributor to the
15 department pursuant to Section 14574.

16 (f) To the extent not otherwise authorized by this
17 section, a glass beverage container containing
18 noncarbonated fruit drinks that contain any percentage
19 of fruit juice, made subject to this division pursuant to ~~this~~
20 ~~act amending this section during the 1999 portion of the~~
21 ~~1999-2000 Regular Session Chapter 815 of the Statutes of~~
22 *1999*, may comply with the requirements of this section
23 by embossing the container with the message described
24 in paragraph (1) or (2) of subdivision (a).

25 (g) Notwithstanding any other requirement of this
26 section, any beverage container that is included within
27 the scope of this division on January 1, 2000, but that was
28 not subject to this division before that date, shall be
29 exempt from the labeling requirements of this section
30 until January 1, 2001. However, even though these
31 beverage containers are not required to bear the message
32 required by this section from January 1, 2000, to January
33 1, 2001, inclusive, notwithstanding subdivision (c) of
34 Section 14512, they shall be considered “empty beverage
35 containers” for all of the purposes of this division during
36 that period of time.

37 (h) *Notwithstanding any other requirement of this*
38 *section, any beverage container that is included within*
39 *the scope of this division on January 1, 2001, but that was*
40 *not subject to this division before that date, shall be*



1 *exempt from the labeling requirements of this section*
2 *until January 1, 2002. However, even though these*
3 *beverage containers are not required to bear the message*
4 *required by this section from January 1, 2001, to January*
5 *1, 2002, inclusive, notwithstanding subdivision (c) of*
6 *Section 14512, they shall be considered “empty beverage*
7 *containers” for all of the purposes of this division during*
8 *that period of time.*

9 SEC. 13. Section 14571.8 of the Public Resources Code
10 is amended to read:

11 14571.8. (a) No lease entered into by a dealer after
12 January 1, 1987, may contain a leasehold restriction that
13 prohibits or results in the prohibition of the establishment
14 of a recycling location.

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

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

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

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

39 (4) The requirements of Section 14571 cannot be met
40 in a particular convenience zone due to local zoning or



1 the dealer's leasehold restrictions for leases in effect on
2 January 1, 1987, and the local zoning or leasehold
3 restrictions are not within the authority of the
4 department and the dealer. However, any lease executed
5 after January 1, 1987, shall meet the requirements
6 specified in subdivision (a).

7 (5) The convenience zone has redeemed less than
8 60,000 containers per month for the prior 12 months and,
9 notwithstanding paragraph (2), a certified recycling
10 center is located within one mile of the convenience zone
11 that is the subject of the exemption.

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

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

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

24 (1) The condition or conditions that caused the
25 convenience zone to be exempt no longer exists, and the
26 department determines that the criteria for an
27 exemption specified in this section are not presently
28 applicable to the convenience zone.

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

32 (f) If an exemption is revoked and a recycling center
33 is not certified and operational in the convenience zone,
34 the department shall, within 10 days of the date of the
35 decision to revoke, serve all dealers in the convenience
36 zone with the notice specified in subdivision (a) of
37 Section 14571.7.

38 (g) An exemption shall not be revoked when a
39 recycling center becomes certified and operational
40 within an exempt convenience zone unless either of the



1 events specified in paragraphs (1) and (2) of subdivision
2 (e) occurs.

3 ~~SEC. 4.~~

4 *SEC. 14.* Section 14571.9 of the Public Resources Code
5 is repealed.

6 ~~SEC. 5.~~

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

9 14581. (a) Subject to the availability of funds, and
10 pursuant to subdivision (c), the department shall expend
11 the money set aside in the fund, pursuant to subdivision
12 (c) of Section 14580 for the purposes of this section:

13 (1) Twenty-three million five hundred thousand
14 dollars (\$23,500,00) shall be expended annually for the
15 payment of handling fees required pursuant to Section
16 14585.

17 (2) Fifteen million dollars (\$15,000,000) shall be
18 expended annually for payments for curbside programs
19 and neighborhood dropoff programs pursuant to Section
20 14549.6.

21 (3) (A) Fifteen million dollars (\$15,000,000), plus the
22 proportional share of the cost-of-living adjustment, as
23 provided in subdivision (b), shall be expended annually
24 in the form of grants for beverage container litter
25 reduction programs and recycling programs issued to
26 either of the following:

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

34 (ii) Community conservation corps, that are
35 designated by a county to perform litter abatement,
36 recycling, and related activities, and are certified by the
37 California Conservation Corps as having operated for a
38 minimum of two years and as meeting all other criteria
39 of Section 14507.5.



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

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

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

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

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

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

39 (F) For the purposes of this paragraph, per capita
40 population shall be based on the population of the



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

8 (5) (A) Five hundred thousand dollars (\$500,000)
9 may be expended annually in the form of grants for
10 beverage container recycling and litter reduction
11 programs.

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

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

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

29 (ii) Funds equal to pay 75 percent of the processing
30 payments established in subdivision (b) of Section 14575,
31 in order to reduce the processing fee to the level provided
32 in subdivision (f) of Section 14575.

33 (B) Notwithstanding Section 13340 of the
34 Government Code, the money in each processing fee
35 account is hereby continuously appropriated to the
36 department for expenditure without regard to fiscal year,
37 for purposes of making processing payments, and
38 reducing processing fees, pursuant to Section 14575.

39 (7) (A) Up to ten million dollars (\$10,000,000) shall be
40 expended by the department between January 1, 2000,



1 and January 1, 2002, for the purposes of undertaking a
2 statewide public education and information campaign
3 aimed at promoting increased recycling of beverage
4 containers.

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

9 (8) Up to three million dollars (\$3,000,000) shall be
10 expended annually for the payment of quality glass
11 incentive payments pursuant to Section 14549.1.

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

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

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

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

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



1 (c) (1) The department shall review all funds on a
2 quarterly basis to ensure that there are adequate funds to
3 make the payments specified in this section and the
4 processing fee reductions required pursuant to Section
5 14575.

6 (2) If the department determines, pursuant to a
7 review made pursuant to paragraph (1), that there may
8 be inadequate funds to pay the payments required by this
9 section and the processing fee reductions required
10 pursuant to Section 14575, the department shall
11 immediately notify the appropriate policy and fiscal
12 committees of the Legislature regarding the inadequacy.

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

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

22 (e) Prior to making an expenditure pursuant to
23 paragraph (7) of subdivision (a), the department shall
24 convene an advisory committee consisting of
25 representatives of the beverage industry, beverage
26 container manufacturers, environmental organizations,
27 the recycling industry, nonprofit organizations, and
28 retailers, to advise the department on the most
29 cost-effective and efficient method of the expenditure of
30 the funds for that education and information campaign.

31 ~~SEC. 6. Section 14592 of the Public Resources Code is~~
32 ~~repealed.~~

33 *SEC. 16. Section 14591 of the Public Resources Code*
34 *is amended to read:*

35 14591. (a) Except as provided in subdivision (b), in
36 addition to any other applicable civil or criminal
37 penalties, any person convicted of a violation of this
38 division is guilty of an infraction, which is punishable by
39 a fine of one hundred dollars (\$100) for each initial
40 separate violation and not more than one thousand



1 dollars (\$1,000) for each subsequent separate violation
2 per day.

3 (b) (1) Every person who, with intent to defraud,
4 ~~submits~~ *takes any of the following actions is guilty of*
5 *fraud:*

6 (A) *Submits* a false or fraudulent claim for payment
7 pursuant to Section 14573 or 14573.5 ~~or who, with intent~~
8 ~~to defraud, fails.~~

9 (B) *Fails* to accurately report the number of beverage
10 containers sold, as required by subdivision (b) of Section
11 14550, ~~or who, with intent to defraud, fails.~~

12 (C) *Fails* to make payments as required by Section
13 14574 ~~or who, with intent to defraud, redeems.~~

14 (D) *Redeems out-of-state containers, rejected*
15 *containers, line breakage, or containers which that have*
16 *already been redeemed or returns.*

17 (E) *Returns* redeemed containers to the marketplace
18 for redemption ~~or who submits with intent to defraud.~~

19 (F) *Brings out-of-state containers, rejected containers,*
20 *or line breakage to the marketplace for redemption.*

21 (G) *Submits* a false or fraudulent claim for
22 ~~convenience incentive handling fee~~ payments pursuant
23 to Section 14585, ~~is guilty of fraud. If~~

24 (2) *If* the money obtained or withheld *pursuant to*
25 *paragraph (1)* exceeds four hundred dollars (\$400), the
26 fraud is punishable by imprisonment in the county jail for
27 not more than one year or by a fine not exceeding ten
28 thousand dollars (\$10,000), or by both, or by
29 imprisonment in the state prison for 16 months, two years,
30 or three years, or by a fine not exceeding twenty-five
31 thousand dollars (\$25,000) or twice the late or unmade
32 payments plus interest, whichever is greater, or by both
33 fine and imprisonment. If the money obtained or
34 withheld *pursuant to paragraph (1)* equals, or is less than,
35 four hundred dollars (\$400), the fraud is punishable by
36 imprisonment in the county jail for not more than six
37 months or by a fine not exceeding one thousand dollars
38 (\$1,000), or by both.

39 (c) ~~This section shall become operative on January 1,~~
40 ~~1993.~~ *For purposes of this section and Chapter 8.5*



1 (commencing with Section 14595), “line breakage” and
2 “rejected container” have the same meanings as defined
3 in the regulations adopted or amended by the
4 department pursuant to this division.

5 SEC. 17. Section 14591.1 of the Public Resources Code
6 is amended to read:

7 14591.1. (a) (1) The department may assess
8 ~~penalties~~ a civil penalty upon a person who violates this
9 division in an amount greater than one thousand dollars
10 (\$1,000) pursuant to this division and any regulations
11 adopted pursuant to this division only after notice and
12 hearing in accordance with Chapter 5 (commencing with
13 Section 11500) of Part 1 of Division 3 of Title 2 of the
14 Government Code. ~~Each~~

15 (2) The department may assess a civil penalty upon a
16 person who violates this division in an amount equal to,
17 or less than, one thousand dollars (\$1,000), using a notice
18 of violation process established by regulation and may use
19 an informal hearing process pursuant to Article 10
20 (commencing with Section 11445.10) of Chapter 4.5 of
21 Part 1 of Division 3 of Title 2 of the Government Code.

22 (3) Each violation of this division is a separate violation
23 and each day of the violation is a separate violation. The
24 department shall deposit all revenues from civil penalties
25 in the Penalty Account specified in subdivision ~~(g)~~ (d) of
26 Section 14580.

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

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



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

4 (e) *In determining the amount of penalties to be*
5 *imposed pursuant to this division, the department shall*
6 *take into consideration the nature, circumstances, extent*
7 *and gravity of the violation, the costs associated with*
8 *bringing the action and, with respect to the violator, the*
9 *ability to pay, the degree of culpability, compliance*
10 *history, and any other matters that justice may require.*

11 SEC. 18. *Section 14591.2 of the Public Resources Code*
12 *is amended to read:*

13 14591.2. (a) The department may take disciplinary
14 action against any party responsible for directing,
15 contributing to, participating in, or otherwise influencing
16 the operations of, a certified or registered facility or
17 program. A responsible party includes, but is not limited
18 to, the certificate holder, registrant, officer, director, or
19 managing employee. Except as otherwise provided in this
20 division, the department shall provide a notice and
21 hearing in accordance with Chapter 5 (commencing with
22 Section 11500) of Part 1 of Division 3 of Title 2 of the
23 Government Code before taking any disciplinary action
24 against a certificate holder.

25 (b) All of the following are grounds for disciplinary
26 action, in the form determined by the department in
27 accordance with subdivision (c):

28 (1) ~~The certificate holder~~ responsible party engaged
29 in fraud or deceit to obtain a certificate or registration.

30 (2) ~~The certificate holder~~ responsible party engaged
31 in dishonesty, incompetence, negligence, or fraud in
32 performing the functions and duties of a certificate
33 holder or registrant.

34 (3) ~~The certificate holder~~ responsible party violated
35 this division or any regulation adopted pursuant to this
36 division, including, but not limited to, any requirements
37 concerning auditing, reporting, standards of operation, or
38 being open for business.

39 (4) ~~The certificate holder, any managing employee of~~
40 ~~the certificate holder, or any person or entity with a~~



1 ~~controlling ownership interest in the holder of the~~
2 ~~certificate~~ *responsible party* is convicted of any crime of
3 moral turpitude or fraud, any crime involving dishonesty,
4 or any crime substantially related to the qualifications,
5 functions, or duties of a certificate holder.

6 (c) The department may take disciplinary action
7 pursuant to this section, by taking any one of, or any
8 combination of, the following:

9 (1) Immediate revocation of the certificate *or*
10 *registration*, or revocation of a certificate *or registration*
11 as of a specific date in the future.

12 (2) Immediate suspension of the certificate *or*
13 *registration* for a specified period of time, or suspension
14 of the certificate *or registration* as of a specific date in the
15 future. *Notwithstanding subdivision (a), the department*
16 *may impose a suspension of five days or less through an*
17 *informal notice, if the action is subject to a stay on appeal,*
18 *pending an informal hearing convened in accordance*
19 *with Article 10 (commencing with Section 11445.10) of*
20 *Chapter 4.5 of Part 1 of Division 3 of Title 2 of the*
21 *Government Code.*

22 (3) Imposition on the certificate *or registration* of any
23 condition ~~which~~ *that* the department determines would
24 further the goals of this division.

25 (4) Issuance of a probationary certificate *or*
26 *registration* with conditions determined by the
27 department.

28 (5) Collection of amounts in restitution of any money
29 improperly paid to the certificate holder *or registrant*
30 from the fund.

31 (6) Imposition of civil penalties pursuant to Section
32 14591.1.

33 (d) The department may do any of the following in
34 taking disciplinary action pursuant to this section:

35 (1) If a certificate holder *or registrant* holds
36 certificates *or is registered* to operate at more than one
37 site or ~~is~~ to operate in more than one capacity at one
38 location, such as an entity certified as both a processor and
39 a recycling center, the department may simultaneously
40 revoke, suspend, or impose conditions upon some, or all



1 of, the certificates held by the ~~certificate holder~~
2 *responsible party*.

3 (2) If the ~~certificate holder~~ *responsible party* is an
4 officer, director, partner, manager, employee, or the
5 owner of a controlling ownership interest of another
6 certificate holder *or registrant*, that other ~~certificate~~
7 ~~holder's~~ *operator's certificate or registration* may also be
8 revoked, ~~superseded~~ *suspended*, or conditioned by the
9 department in the same proceeding, if the other
10 certificate holder *or registrant* is given notice of that
11 proceeding, or in a subsequent proceeding.

12 (3) (A) If, pursuant to notice and a hearing
13 conducted by the director or the ~~directors' deputy~~
14 *director's designee in accordance with Article 10*
15 *(commencing with Section 11445.10) of Chapter 4.5 of*
16 *Part 1 of Division 3 of Title 2 of the Government Code*, the
17 department determines that the continued operation of
18 a certified *or registered* entity poses an immediate and
19 significant threat to the fund, the department may order
20 the *immediate suspension or revocation* of the ~~certificate~~
21 ~~of the~~ certificate holder *or registrant, pending revocation*
22 *of the certificate or registration, or the issuance of a*
23 *probationary certificate imposing reasonable terms and*
24 *conditions. The department shall transcribe record the*
25 *testimony at the hearing and, upon request, prepare a*
26 *transcript. For purposes of this section, a an immediate*
27 *and significant threat to the fund means a possible any of*
28 *the following:*

29 (i) A loss to the fund of at least ~~fifty~~ *ten* thousand
30 dollars ~~(\$50,000). The (\$10,000) during the six-month~~
31 *period immediately preceding the order of suspension.*

32 (ii) *Missing or fraudulent records associated with a*
33 *claim or claims totaling at least ten thousand dollars*
34 *(\$10,000) during the six-month period immediately*
35 *preceding the order of suspension.*

36 (iii) *A pattern of deceit, fraud, or intentional*
37 *misconduct in carrying out the duties and responsibilities*
38 *of a certificate holder during the six-month period*
39 *immediately preceding the order of suspension.*



1 (iv) *At least three claims submitted for ineligible*
2 *material in violation of this division, including, but not*
3 *limited to, a violation of Section 14595.5, during the*
4 *six-month period immediately preceding the order of*
5 *suspension.*

6 (B) *An order of suspension or probation may be issued*
7 *to any or all certified or registered facilities or programs*
8 *operated by a person or entity that the department*
9 *determines to be culpable or responsible for the loss or*
10 *conduct identified pursuant to subparagraph (A).*

11 (C) *The order of suspension ~~or revocation~~ or issuance*
12 *of a probationary certificate imposing terms or conditions*
13 *shall become effective upon written notice of the order*
14 *to the certificate holder or registrant. Within 20 days after*
15 *notice of the order of suspension, the department shall*
16 *file an accusation seeking revocation of any or all*
17 *certificates or registrations held by the certificate holder*
18 *or registrant. The certificate holder or registrant may,*
19 *upon receiving the notice of the order of suspension or*
20 *probation, appeal the order by requesting a hearing in*
21 *accordance with Chapter 5 (commencing with Section*
22 *11500) of Part 1 of Division 3 of Title 2 of the Government*
23 *Code. A request for a hearing or appeal from an order of*
24 *the department does not stay the action of the*
25 *department for which the notice of the order is given.*
26 *The department may combine hearings to appeal an*
27 *order of suspension and a hearing for the proposed*
28 *revocation of a certificate or registration into one*
29 *proceeding.*

30 (D) *Nothing in this section shall prohibit the*
31 *department from immediately revoking a probationary*
32 *certificate pursuant to subdivision (b) of Section 14541 or*
33 *from taking other disciplinary action pursuant to Section*
34 *14591.2.*

35 *SEC. 19. Section 14591.4 of the Public Resources Code*
36 *is amended to read:*

37 14591.4. (a) *In addition to any other remedies,*
38 *penalties, and disciplinary actions provided by this*
39 *division or otherwise, the department may seek*
40 *restitution of any money illegally paid to any person from*



1 the fund, plus interest at the rate earned on the Pooled
2 Money Investment Account of the total amount.

3 (b) A certificate holder is liable to the department for
4 restitution pursuant to paragraph (5) of subdivision (c)
5 of Section 14591.2 for payments made by the department
6 to the certificate holder ~~which~~ *that* are based on
7 improperly prepared or maintained documents, as
8 specified in paragraph (7) of subdivision (b) of Section
9 14538 and paragraph (8) of subdivision (b) of Section
10 14539.

11 (c) If the department has a civil cause of action for
12 restitution pursuant to ~~subdivisions~~ *subdivision* (a) ~~and~~ *or*
13 (b), or if the department has a civil cause of action against
14 a certificate holder *or other responsible party* for
15 restitution under any other circumstance, the
16 department may seek restitution *in accordance with the*
17 *following*:

18 (1) *For restitution of an amount of more than one*
19 *thousand dollars (\$1,000), the department shall proceed*
20 *in a hearing ~~conducted~~ in accordance with Chapter 5*
21 *(commencing with Section 11500) of Part 1 of Division 3*
22 *of Title 2 of the Government Code. The hearing may take*
23 *place at the same time as a hearing to impose disciplinary*
24 *action on a certificate holder.*

25 (2) *For restitution of an amount of one thousand*
26 *dollars (\$1,000) or less, the department may use an*
27 *informal hearing in accordance with Article 10*
28 *(commencing with Section 11445.10) of Chapter 4.5 of*
29 *Part 1 of Division 3 of Title 2 of the Government Code.*

30 (d) Notwithstanding subdivisions (b) and (c) of
31 Section 14591.1, if the department collects amounts in full
32 restitution for money paid, the department may impose
33 a penalty of not more than one hundred dollars (\$100) for
34 each separate violation, or for continuing violations, for
35 each day that violation occurs.

36 *SEC. 20. Section 14591.6 is added to the Public*
37 *Resources Code, to read:*

38 *14591.6. (a) When a person is engaged in recycling*
39 *activity that violates this division, any regulation adopted*
40 *pursuant to this division, or an order issued under this*



1 *division, the department may issue an order to that*
2 *person to cease and desist from that activity.*

3 *(b) If a request for a hearing is filed in writing within*
4 *15 days of the date of service of the order described in*
5 *subdivision (a), a hearing shall be held in accordance with*
6 *Chapter 5 (commencing with Section 11500) of Part 1 of*
7 *Division 3 of Title 2 of the Government Code. If no*
8 *written request for a hearing is filed within 15 days from*
9 *the date of service of the order, the order shall be deemed*
10 *the final order of the department and is not subject to*
11 *review by any court or agency.*

12 *(c) Upon the failure of any person or persons to*
13 *comply with any cease and desist order issued by the*
14 *department, the Attorney General, upon request of the*
15 *department, shall petition the superior court for the*
16 *issuance of a preliminary or permanent injunction, or*
17 *both, as may be appropriate, restraining the person from*
18 *continuing the activity in violation of the cease and desist*
19 *order.*

20 *(d) The court shall issue an order directing defendants*
21 *to appear before the court at a certain time and place and*
22 *show cause why the injunction should not be issued. The*
23 *court may grant the prohibitory or mandatory relief that*
24 *may be warranted.*

25 *SEC. 21. Section 14592 of the Public Resources Code*
26 *is repealed.*

27 ~~14592. The department shall include, as part of its~~
28 ~~annual report prepared pursuant to Section 14542, a~~
29 ~~report detailing its enforcement efforts pursuant to~~
30 ~~Sections 14541 and 14591. The report shall include, at a~~
31 ~~minimum, information on the number of civil penalties~~
32 ~~and certification revocations, suspensions and refusals~~
33 ~~imposed, the amount of penalties collected, the types of~~
34 ~~violations cited, the number of each type of violation, the~~
35 ~~number of prior violations by the violators cited, and the~~
36 ~~reasons for violations of each type. The report shall~~
37 ~~include recommendations for legislation, regulations, or~~
38 ~~other mechanisms to improve compliance with this~~
39 ~~division.~~



1 SEC. 22. Section 14595 of the Public Resources Code
2 is amended and renumbered to read:

3 ~~14595.~~

4 14594.5. The department may assess upon any person,
5 entity, or operation which redeems, attempts to redeem,
6 or aids in the redemption of, empty beverage containers
7 ~~which~~ that have already been redeemed, a civil penalty
8 of up to ten thousand dollars (\$10,000) per transaction, or
9 an amount equal to three times the damage or potential
10 damage, whichever is greater, plus costs as provided in
11 Section 14591.3, pursuant to notice and hearing in
12 accordance with Chapter 5 (commencing with Section
13 11500) of Part 1 of Division 3 of Title 2 of the Government
14 Code.

15 SEC. 23. Chapter 8.5 (commencing with Section
16 14595) is added to Division 12.1 of the Public Resources
17 Code, to read:

18
19 CHAPTER 8.5. REPORTING REQUIREMENTS AND PAYMENT
20 PROHIBITIONS RELATED TO OUT-OF-STATE AND OTHER
21 INELIGIBLE CONTAINERS
22

23 14595. The Legislature finds and declares that the
24 redemption of beverage container material imported
25 from out of state, previously redeemed containers,
26 rejected containers, and line breakage presents a
27 significant threat to the integrity of the beverage
28 container recycling program and fund. It is therefore the
29 intent of the Legislature that no refund value or other
30 recycling program payments be paid to any person for
31 this material. It is further the intent of the Legislature
32 that any person participating in conduct intended to
33 defraud the state's beverage container recycling program
34 shall be held accountable for that conduct.

35 14595.4. For purposes of this chapter, the following
36 definitions shall apply:

37 (a) "Person" means any individual, corporation,
38 operation, or entity, whether or not certified or
39 registered pursuant to this division.



1 (b) "Refund value" means, in addition to the
2 definition in Section 14524, any payment by a certified
3 recycler for beverage container material that is at least 15
4 percent more than the statewide average scrap value for
5 that material type, as determined by the department for
6 the month in which the payment was made, unless the
7 department determines that a reasonable basis exists for
8 that payment.

9 14595.5. (a) (1) No person shall pay, claim, or
10 receive any refund value, processing payment, handling
11 fee, or administrative fee for any of the following:

12 (A) Beverage container material that the person
13 knew, or should have known, was imported from out of
14 state.

15 (B) A previously redeemed container, rejected
16 container, line breakage, or other ineligible material.

17 (2) No person shall, with intent to defraud, do any of
18 the following:

19 (A) Redeem or attempt to redeem an out-of-state
20 container, rejected container, line breakage, previously
21 redeemed container, or other ineligible material.

22 (B) Return a previously redeemed container to the
23 marketplace for redemption.

24 (C) Bring an out-of-state container, rejected
25 container, line breakage, or other ineligible material to
26 the marketplace for redemption.

27 (D) Receive, store, transport, distribute, or otherwise
28 facilitate or aid in the redemption of a previously
29 redeemed container, out-of-state container, rejected
30 container, line breakage, or other ineligible material.

31 (b) For purposes of implementing subdivision (a), the
32 department shall take all reasonable steps to exclude
33 beverage container material imported from out of state,
34 previously redeemed containers, rejected containers,
35 and line breakage, when conducting surveys to
36 determine a commingled rate pursuant to Section
37 14549.5.

38 14596. (a) Any person importing more than 100
39 pounds of aluminum, bimetal, or plastic beverage
40 container material, or more than 1,000 pounds of glass



1 beverage container material, into the state, shall report
2 the material to the department and provide the
3 department with an opportunity for inspection, in
4 accordance with the regulations adopted by the
5 department.

6 (b) The department may impose civil penalties
7 pursuant to Section 14591.1 or take disciplinary action
8 pursuant to Section 14591.2 for a violation of this section.

9 14597. (a) No person shall falsify documents
10 required pursuant to this division or pursuant to
11 regulations adopted by the department. The falsification
12 of these documents is evidence of intent to defraud and,
13 for purposes of subdivision (b) of Section 14591.1,
14 constitutes intentional misconduct. The department may
15 also take disciplinary action pursuant to Section 14591.2
16 against a person who engages in falsification including,
17 but not limited to, revocation of any certificate or
18 registration.

19 (b) No person shall submit, or cause to be submitted,
20 a fraudulent claim pursuant to this division. For purposes
21 of this subdivision, a fraudulent claim is a claim based in
22 whole or in part on false information or falsified
23 documents. Any person who submits a fraudulent claim
24 is subject to the assessment of penalties pursuant to
25 subdivision (b) of Section 14591.1. The department may
26 take action for full restitution for a fraudulent claim,
27 pursuant to Section 14591.4, and may also take
28 disciplinary action pursuant to Section 14591.2 including,
29 but not limited to, revocation of any certificate or
30 registration.

31 14599. The department may adopt emergency
32 regulations to implement this chapter. Any emergency
33 regulations, if adopted, shall be adopted in accordance
34 with Chapter 3.5 (commencing with Section 11340) of
35 Part 1 of Division 3 of Title 2 of the Government Code,
36 and for the purposes of that chapter, including Section
37 11349.6 of the Government Code, the adoption of these
38 regulations is an emergency and shall be considered by
39 the Office of Administrative Law as necessary for the
40 immediate preservation of the public peace, health and



1 safety, and general welfare. Notwithstanding Chapter 3.5
2 (commencing with Section 11340) of Part 1 of Division 3
3 of Title 2 of the Government Code, any emergency
4 regulations adopted pursuant to this section shall be filed
5 with, but not repealed by, the Office of Administrative
6 Law, and shall remain in effect until revised by the
7 director.

8 SEC. 24. The amendment to Section 14529.7 of the
9 Public Resources Code by Section 4 of this act does not
10 constitute a change in, but is declaratory of, existing law.

11 SEC. 25. No reimbursement is required by this act
12 pursuant to Section 6 of Article XIII B of the California
13 Constitution because the only costs that may be incurred
14 by a local agency or school district will be incurred
15 because this act creates a new crime or infraction,
16 eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section
18 17556 of the Government Code, or changes the definition
19 of a crime within the meaning of Section 6 of Article
20 XIII B of the California Constitution.

