AMENDED IN SENATE SEPTEMBER 9, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 983

Introduced by Assembly Member Skinner
(Principal coauthor: Senator Corbett)
(Coauthors: Assembly Members Chesbro and John A. Perez)

February 27, 2009

~~An act to amend Sections 8482, 8483, 8483.1, 8483.2, 8483.7, and 8483.75 of the Education Code, relating to before and after school programs.~~ *An act to amend Sections 14560, 14571.2, 14571.8, 14574, 14575, 14581, and 14585 of, to add Sections 14515.3, 14526.8, 14571.6.5, 14571.6.6, 14571.6.7, and 14580.5 to, and to amend, repeal, and add Section 14504 of, the Public Resources Code, relating to recycling, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 983, as amended, Skinner. ~~Before and after school programs.~~ *Recycling: California redemption value containers.*

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

"Beverage" is defined, for purposes of the act, to include, among other things, beer and other malt beverages, wine and distilled spirit coolers, carbonated mineral and soda waters, noncarbonated fruit drinks, and vegetable juices, in liquid form that are intended for human consumption, but excludes from that definition vegetable drinks in beverage containers of more than 16 ounces. The act also excludes, from the definition of beverage, any product sold in a container that is not an aluminum beverage container, a glass container, a plastic beverage container, or a bimetal container.

This bill would, as of April 1, 2010, revise the term beverage to include vegetable, fruit, nut, grain, or soy drinks or juices or noncarbonated drinks that contain any percentage of those drinks or juices, and would delete the requirement that a vegetable, drink, subject to the act, be sold in a container of 16 ounces or less. The bill would delete the exclusion from the term beverage, for a product that is not sold in the above-specified types of containers. The bill would additionally exclude from the definition a beverage in a flexible foil, plastic pouch, or aseptic container delivering 7 or less fluid ounces.

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

(2) Existing law requires a distributor of specified beverage containers to pay a redemption payment to the Department of Conservation for each beverage container 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, administrative fees to processors, and a reserve for contingencies.

This bill would raise the amount of the redemption payment paid by the distributor and the refund value, as specified. Since the increased payments for the beverage containers that are subject to the act would be deposited in a continuously appropriated fund, the bill would make an appropriation.

Existing law requires that a distributor pay the redemption payment not later than the last day of the 3rd month following the sale and authorizes a distributor, upon the approval of the department, to elect to make a single annual payment if the distributor meets specified *conditions and notifies the department of its intent to make annual redemption payments.*

This bill would require all beverage distributors to make the redemption payment no later than the last day of the 2nd month following the sale of the beverages. This bill would revise the conditions under which a distributor would be authorized to make a single annual payment.

(3) Existing law authorizes the Department of Conservation to expend moneys in the fund, upon appropriation by the Legislature, for administration of the act.

This bill would require the department to expend 10% less for administration of the act than the amount that was appropriated for administration for the 2008–09 fiscal year.

(4) The department is authorized to make specified expenditures from the moneys remaining in the fund after the moneys for certain purposes have been set aside.

This bill would increase the amount of moneys for grants to certified community conservation corps for beverage container litter reduction programs and recycling programs.

The bill would suspend, for the 2009–10 fiscal year, expenditures for grants for beverage container recycling and litter reduction programs and a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

The bill would eliminate funds the department is authorized to expend for grants for specified beverage container recycling and litter reduction programs.

The bill would prohibit the department from reducing expenditures for handling fees and conservation corps grants for the 2009–10 and 2010–11 fiscal years.

(5) Existing law requires the department to continuously assist dealers and recyclers to establish certified recycling centers within in each convenience zone.

This bill would provide assistance and incentives to reduce the number of zones not serviced by a certified recycling center.

(6) The bill would delete obsolete provisions and make conforming changes.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

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

~~(1) The After School Education and Safety Program Act of 2002, enacted by the initiative measure Proposition 49, establishes the After School Education and Safety Program to serve pupils in kindergarten and grades 1 to 9, inclusive, at participating public elementary, middle, junior high, and charter schools. The act authorizes the administrators of a program established pursuant to the act to operate during any combination of summer, intersession, or vacation periods for a minimum of 3 hours per day for the regular school year.~~

~~This bill, in addition, would authorize the administrators of a before or after school program to operate during weekends. Costs associated with providing after school activities on weekends would be paid from a program's maximum or supplemental grant, and would not be included in the program's attendance reported to the department for calculation of either the maximum grant amount or supplemental grant amount.~~

~~(2) This bill also would make conforming changes.~~

~~(3) This bill would include a finding and declaration of the Legislature that the bill's provisions further the purposes of the After School Education and Safety Program Act of 2002.~~

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:

SECTION 1. It is the intent of the Legislature that projects under contract be fully completed for the thirty-five million dollars ($35,000,000) in market development grants awarded under Section 14851 of the Public Resources Code during the 2008–09 fiscal year for which partial or complete encumbrance of funds has taken place by September 1, 2009.

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

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

(1) Beer and other malt beverages.

(2) Wine and distilled spirit coolers.

(3) Carbonated water, including soda and carbonated mineral water.

(4) Noncarbonated water, including noncarbonated mineral water.

(5) Carbonated soft drinks.

(6) Noncarbonated soft drinks and "sport" drinks.

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

(8) Coffee and tea drinks.

(9) Carbonated fruit drinks.

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

(b) "Beverage" does not include any of the following:

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

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

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

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

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

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

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

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

(C) "Medical food" includes any product that meets the definition of "medical food" in the ~~federal~~ *Federal* Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360ee ~~(b)(3)~~ *(b)(3))*.

(3) "Noncarbonated soft drink" means a nonalcoholic, noncarbonated naturally or artificially flavored water containing

sugar or sweetener or trace amounts of various elements from both natural and synthetic sources.

(d) This section shall remain in effect only until April 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before April 1, 2010, deletes or extends that date.

SEC. 3. Section 14504 is added to the Public Resources Code, to read:

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

(1) Beer and other malt beverages.

(2) Wine and distilled spirit coolers.

(3) Carbonated water, including soda and carbonated mineral water.

(4) Noncarbonated water, including noncarbonated mineral water.

(5) Carbonated soft drinks.

(6) Noncarbonated soft drinks and "sport" drinks.

(7) Vegetable, fruit, nut, grain, or soy drinks or juices, or noncarbonated drinks that contain any percentage of those drinks or juices.

(8) Coffee and tea drinks.

(9) Carbonated fruit drinks.

(b) "Beverage" does not include any of the following:

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

(2) Milk, medical food, or infant formula.

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

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

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

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

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

(C) "Medical food" includes any product that meets the definition of "medical food" in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360ee (b)(3)).

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

(d) This section shall become operative on April 1, 2010.

SEC. 4. Section 14515.3 is added to the Public Resources Code, to read:

14515.3. "Paper beverage container" means a paperboard carton, gable-top, aseptic, poly-coated paperboard, or other beverage container made primarily of paper.

SEC. 5. Section 14526.8 is added to the Public Resources Code, to read:

14526.8. "Unserved convenience zone" means a convenience zone where there is not in operation a certified recycling center or other location that meets the requirements of subdivision (a) of Section 14571, and where the zone is not exempt pursuant to Section 14571.8.

SEC. 6. Section 14560 of the Public Resources Code is amended to read:

14560. (a) (1) Except as provided in paragraph ~~(3)~~ *(4)*, a beverage distributor shall pay the department, for deposit into the fund, a redemption payment of ~~four cents ($0.04)~~ *five cents ($0.05)* for a beverage container sold or offered for sale in this state by the distributor*, on or after January 1, 2010*.

(2) A beverage container with a capacity of ~~24~~ *20* fluid ounces or more shall be considered as two beverage containers for purposes of redemption payments paid pursuant to paragraph (1).

(3) For beverage containers sold on or after January 1, 2010, the amount of the redemption payment and refund value for a beverage container with a capacity of less than 20 fluid ounces sold or offered for sale in this state by a dealer shall equal five cents ($0.05) and the amount of redemption payment and refund

value for a beverage container with a capacity of 20 fluid ounces or more shall be ten cents ($0.10).

~~(3) On and after July 1, 2007,~~

(4) For beverage containers sold on or after July 1, 2007, and before January 1, 2010, the amount of the redemption payment and refund value for a beverage container with a capacity of less than 24 fluid ounces sold or offered for sale in this state by a dealer shall equal five cents ($0.05) and the amount of redemption payment and refund value for a beverage container with a capacity of 24 fluid ounces or more shall be ten cents ($0.10)~~, if the aggregate recycling rate reported pursuant to Section 14551 for all beverage containers subject to this division is less than 75 percent for the 12-month reporting period from January 1, 2006, to December 31, 2006, or for any calendar year thereafter~~.

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

~~(c) Notwithstanding subdivision (b), the department may, on and after January 1, 2007, but not after July 1, 2007, increase the amount of the refund value specified in subdivision (b), by no more than one cent ($0.01), if the container has a capacity of less than 24 fluid ounces, and by two cents ($0.02) if the container has a capacity of 24 fluid ounces or more, if the department determines, as specified in subdivision (f) of Section 14581, there are sufficient moneys remaining in the fund to make these increased payments.~~

(5) This section does not discharge the responsibility of a beverage distributor to pay the department the appropriate redemption payment as this section read on January 1, 2009, for a beverage container sold before January 1, 2010.

~~(d)~~

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

(2) 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 Legislature of the need for urgent legislative action.

(3) On or before 180 days, *but not less than 90 days,* after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the fund as necessary, according to the procedure set forth in Section 14581, to ensure that there are adequate funds in the fund to pay the refund values and other disbursements required by this division.

~~(e)~~

(c) This section does not apply to a refillable beverage container.

~~(f) The repeal and reenactment of this section by Chapter 815 of the Statutes of 1999 do not affect any obligations or penalties imposed by this section, as it read on January 1, 1999.~~

SEC. 7. Section 14571.2 of the Public Resources Code is amended to read:

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

(b) It shall be the goal and responsibility of the department to provide assistance and incentives to reduce the number of unserved zones to less than 5 percent of total zones by January 1, 2011.

(c) (1) Notwithstanding Section 14571.6, for any zone that was unserved on July 1, 2009, the obligation of dealers in that zone to redeem empty beverage containers in the store shall be suspended until December 31, 2010.

(2) Notwithstanding Section 14585, any dealer that chooses to redeem empty beverage containers inside the store shall be eligible to receive handling fees pursuant to Section 14585 and a processor shall pay refund values, administrative costs, and processing payments to the recycling center pursuant to subdivision (a) of Section 14573.5 in the same manner as a recycling center operating in compliance with Section 14571.

SEC. 8. Section 14571.6.5 is added to the Public Resources Code, to read:

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

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

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

SEC. 9. Section 14571.6.6 is added to the Public Resources Code, to read:

14571.6.6. (a) Notwithstanding Sections 14571 and 14585, the department may authorize the operator of a certified recycling center to be eligible to apply for the payment of handling fees if the recycling center is located in a convenience zone that has been unserved for at least six continuous months, but is not located in a supermarket parking lot, and the convenience zone is identified by the department as an unserved convenience zone.

(b) The department shall authorize not more than 120 recycling centers in unserved convenience zones pursuant to this section.

SEC. 10. Section 14571.6.7 is added to the Public Resources Code, to read:

14571.6.7. (a) Notwithstanding Sections 14585, the department may authorize the operator of a certified recycling center to be eligible for a handling fee equivalent to 120 percent of the current level for a period of 24 months if the recycling center is located in a convenience zone that has been unserved for at least six continuous months and the convenience zone is identified by the department as an unserved convenience zone.

(b) The department shall authorize not more than 120 recycling centers in unserved convenience zones pursuant to this section.

SEC. 11. 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~~ *40* percent of the total number of convenience zones identified pursuant to this section.

(e) 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 that caused the convenience zone to be exempt no longer exists, and the department determines that the criteria for an exemption specified in this section are not presently applicable to the convenience zone.

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

(f) 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.

(g) 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 (e) occurs.

SEC. 12. Section 14574 of the Public Resources Code is amended to read:

14574. (a) (1) 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 1.5 percent for the distributor's administrative costs.

(2) The payment made by a distributor shall be made not later than the last day of the ~~third~~ *second* month following the sale. The distributor shall make the payment in the form and manner that the department prescribes.

(b) (1) Notwithstanding subdivision (a), if a distributor displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of the department, the distributor may make a single annual payment of redemption payments, if the ~~distributor meets either of the following requirements:~~ *distributor's projected redemption payment for a calendar year totals less than seventy-five thousand dollars ($75,000).*

~~(A) If the redemption payment and refund value is not increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the distributor's projected redemption payment for a calendar year totals less than fifty thousand dollars ($50,000).~~

~~(B) If the redemption payment and refund value is increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the distributor's projected redemption payment for a calendar year totals less than seventy-five thousand dollars ($75,000).~~

(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 for which the payment will be due.

SEC. 13. Section 14575 of the Public Resources Code 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, on January 1, 2000, and on or before January 1 annually thereafter, establish a processing fee and a processing payment for the container by the type of the material of the container.

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

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

centers receiving a handling fee, for receiving, handling, storing, transporting, and maintaining equipment.

(2) A reasonable financial return for recycling centers.

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

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

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

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

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

(3) Notwithstanding the provisions of this section, for the 2010 and 2011 calendar years only, the processing payment for each paper beverage container recycled shall be the equivalent of one

hundred thirty-five dollars ($135) per ton and the processing fee for each paper beverage container sold shall be the equivalent of 35 percent of one hundred thirty-five dollars ($135) per ton.

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

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

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

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

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

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

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

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

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

(G) Eighteen percent of the processing payment for a container type with a recycling rate equal to or greater than 40 percent, but less than 45 percent.

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

(I) Sixty-five percent of the processing payment for a container type with a recycling rate less than 30 percent.

(2) The department shall calculate the recycling rate for purposes of paragraph (1) based on the 12-month period ending on June 30

that directly precedes the date of the January 1 processing fee determination.

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

(1) The statewide scrap value paid by processors for the material type for the most recent available 12-month period directly preceding the quarter in which the processing payment is to be adjusted is 5 percent more or 5 percent less than the average scrap value used as the basis for the processing payment currently in effect.

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

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

(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, return receipt requested, 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 for 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), if a beverage manufacturer displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of the department, the beverage manufacturer may make a single annual payment of processing fees, if the beverage manufacturer meets either of the following conditions:

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

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

(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 for 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 costs and financial return incurred by the recycling center, as specified in subdivision (b).

(h) When assessing processing fees pursuant to subdivision (a), the department shall assess the processing fee on each container sold, as provided in subdivisions (d) and (e), 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.

(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) If, at the end of any calendar year for which glass recycling rates equal or exceed 45 percent and sufficient surplus funds remain in the glass processing fee account to make the reduction pursuant to this subdivision or if, at the end of any calendar year for which PET recycling rates equal or exceed 45 percent and sufficient surplus funds remain in the PET processing fee account to make the reduction pursuant to this subdivision, the department shall use these surplus funds in the respective processing fee accounts in the following calendar year to reduce the amount of the processing fee that would otherwise be due from glass or PET beverage manufacturers pursuant to this subdivision.

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

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

SEC. 14. Section 14580.5 is added to the Public Resources Code, to read:

14580.5. (a) Notwithstanding any appropriation made in the annual Budget Act, the department shall only expend an amount for the administration of this division that is 10 percent less than the amount appropriated for the administration of this division for the 2008–09 fiscal year.

(b) It is the intent of the Legislature that revenues that otherwise would have been spent by the department for administration of this division shall be expended for the purposes set forth in Section 14581.

SEC. 15. 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 shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580, for the purposes of this section:

~~(1) (A) On and after July 1, 2005, to June 30, 2006, inclusive, up to thirty-one million dollars ($31,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.~~

~~(B) On and after July 1, 2006, to June 30, 2007, inclusive, up to thirty-three million dollars ($33,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.~~

~~(C) On and after July 1, 2007, to June 30, 2008, inclusive, up to thirty-five million dollars ($35,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.~~

~~(D)~~

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

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

(3) (A) ~~Fifteen million dollars ($15,000,000)~~ *Nineteen million dollars ($19,000,000)*, plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), shall be expended annually 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, 1999, 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.

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

~~(4) (A) On or after July 1, 2007, until June 30, 2008, for only that fiscal year, up to twenty million dollars ($20,000,000) may be expended in the form of competitive grants issued to community conservation corps that are designated by a city or county, and that meet all of the following criteria:~~

~~(i) Are certified by the California Conservation Corps as having operated for a minimum of two years.~~

~~(ii) Meet all other requirements under Section 14507.5.~~

~~(B) The department shall prepare and adopt criteria and procedures for evaluating grant applications on a competitive basis. Eligible activities for the use of these funds shall include developing new projects, or enhancing or assisting existing projects, to increase beverage container recycling and increasing the quality of recycled material at the following locations:~~

~~(i) Multifamily dwellings.~~

~~(ii) Schools.~~

~~(iii) Commercial, state, and local government buildings.~~

~~(iv) Bars, restaurants, hotels, and lodging establishments, and entertainment venues.~~

~~(v) Parks and beaches.~~

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

~~(D) Any grants provided pursuant to this paragraph shall support one-time capital improvement projects and shall not be used to support ongoing staff activities.~~

~~(E) Any grant funds appropriated pursuant to this paragraph that have not been awarded to a grantee prior to the end of the 2007–08 fiscal year shall revert to the fund.~~

~~(5)~~

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

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

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

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

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

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

(ii) The department shall withhold all or a portion of the payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction, resulting in an unserved zone.

~~(6)~~

(5) One million five hundred thousand dollars ($1,500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs. *The expenditure of these funds is suspended for the 2009–10 fiscal year.*

~~(7)~~

(6) (A) The department shall expend the amount necessary to pay the processing payment ~~and supplemental processing payment established pursuant to Sections 14575 and 14575.5 and pay processing fee rebates pursuant to Section 14575.2~~ *established pursuant to Section 14575*. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee are calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited all of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to *subdivisions (d) and (e) of* Section 14575.

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

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

(ii) Funds equal to the difference between the amount in clause (i) and the amount needed to make processing payments pursuant to subdivision (b) of Section 14575.

(B) Notwithstanding Section 13340 of the Government Code, the moneys in each processing fee account are hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments ~~and supplemental processing payments,~~ and reducing processing fees, pursuant to ~~Sections~~ *Section* 14575 ~~and 14575.5, and paying processing fee rebates pursuant to Section 14575.2~~.

~~(8)~~

(7) Up to five million dollars ($5,000,000) may be annually expended by the department for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers. *The expenditure of these funds is suspended for the 2009–10 fiscal year.*

~~(9) Until January 1, 2008, the department may expend up to five million dollars ($5,000,000) for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers that meets both of the following requirements:~~

~~(A) The public education and information campaign is multimedia and includes print, radio, and television.~~

~~(B) The public education and information campaign is multilingual.~~

~~(10)~~

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

~~(11)~~

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

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

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

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

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

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

~~(12) Up to ten million dollars ($10,000,000) may be transferred on a one-time basis by the department to the Recycling~~

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

~~(13)~~

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

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

(H) Payments to manufacturers located in this state that utilize material from the types of recycled beverage containers that are generated in this state and that were not subject to this division before January 1, 2010, but that became subject to this division on and after January 1, 2010.

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

~~(14)~~

(11) Up to five million dollars ($5,000,000) may be expended annually by the department for market development payments for empty plastic beverage containers pursuant to Section 14549.2, until January 1~~, 2012~~ *2015*.

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

~~(16) Up to five million dollars ($5,000,000) may be expended, from January 1, 2007, to January 1, 2008, to provide grants to local governments or nonprofit agencies to place multifamily housing source separated beverage container recycling receptacles in low-income communities.~~

~~(17) (A) Up to fifteen million dollars ($15,000,000) may be expended from January 1, 2008, to January 1, 2009, to provide grants to place source separated beverage container recycling receptacles in multifamily housing.~~

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

~~(18) (A) Up to twenty million dollars ($20,000,000) may be expended from July 1, 2009, to January 1, 2012, inclusive, for either of the following:~~

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

~~(ii) Focused, regional community beverage container recycling and litter reduction programs that enable the department to more effectively organize the amount and type of resources needed for regional and statewide efforts to increase recycling.~~

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

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

(b) The ~~fifteen million dollars ($15,000,000)~~ *amount* that is set aside pursuant to paragraph (3) 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) (1) The department shall review all funds on a quarterly basis to ensure that there are adequate funds to make the payments specified in this section and the processing fee reductions required pursuant to Section 14575.

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

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

(d) ~~If~~ *(1) Except as provided in paragraph (2), if* the department determines that there are insufficient funds to make the payments specified pursuant to this section and *the reduction in processing fees pursuant to subdivisions (d) and (e) of* Section 14575, the department shall reduce all payments *and expenditures authorized by this section* proportionally.

(2) For the 2009–10 and 2010–11 fiscal years, the department shall not reduce the handling fee and conservation corps expenditures provided pursuant to paragraphs (1) and (3) of subdivision (a).

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

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

SEC. 16. 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, nonprofit convenience zone recyclers, or rural region recyclers 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) (A) To be eligible for any handling fee, a supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler shall redeem not less than 60,000 beverage containers, during the calendar month in which the handling fee is claimed or have redeemed not less than an average of 60,000 beverage containers per month during the previous 12 months.

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

(3) (A) A beverage container with a capacity of ~~24~~ *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.

(B) Subparagraph (A) shall not apply on and after July 1, ~~2008~~ *2012*.

(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 eligible 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) (A) From the effective date of the statute enacted by Assembly Bill 3056 of the 2005–06 Regular Session to June 30, 2008, inclusive, the department shall pay a handling fee of 1.8

cents ($0.018) per eligible beverage container, as determined pursuant to paragraph (4).

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

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

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

(7) If the eligible volume in any given month would result in handling fee payments that 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, nonprofit convenience zone recycler, or rural region recycler is located ceases operation for remodeling or for a change of ownership, the operator of that supermarket site nonprofit convenience zone recycler, or rural region recycler 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, nonprofit convenience zone recycler, or rural region recycler shall promptly notify the department of the closure of the dealer where the supermarket site, nonprofit convenience zone recycler, or rural region recycler 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 amount 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) (1) 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.

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

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

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

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

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

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

(d) The department may require the operator of a supermarket site or rural region recycler receiving handling fees to maintain records for each location where beverage containers are redeemed, and may require the supermarket site or rural region recycler to take any other action necessary for the department to determine that the supermarket site or rural region recycler 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) On or before January 1, 2008, and every two years thereafter, the department shall conduct a survey pursuant to this subdivision of a statistically significant sample of certified recycling centers that receive handling fee payments to determine the actual cost incurred for the redemption of empty beverage containers by those certified recycling centers. The department shall conduct these cost surveys in conjunction with the cost surveys performed by the department pursuant to subdivision (b) of Section 14575 to determine processing payments and processing fees. The department shall include, in determining the actual costs, only those allowable costs contained in the regulations adopted pursuant to this division that are used by the department to conduct cost surveys pursuant to subdivision (b) of Section 14575.

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

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

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

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

SEC. 17. For the 2009–10 fiscal year, twenty million dollars ($20,000,000) shall revert to the Department of Conservation from grants made pursuant to Section 14581 of the Public Resources Code in the 2008–09 fiscal year or before that have not been encumbered, expended, or liquidated. The department shall expend the twenty million dollars ($20,000,000) reverted to the department *by this section during the 2009–10 fiscal year for the purposes of Section 14581 of the Public Resources Code.*

SEC. 18. 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.

All matter omitted in this version of the bill appears in the bill as introduced in the Assembly, February 27, 2009. (JR11)

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