

116TH CONGRESS
2D SESSION

S. 3281

To amend the Solid Waste Disposal Act to require recycling of beverage containers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2020

Mr. MERKLEY (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Solid Waste Disposal Act to require recycling of beverage containers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Original Recycling
5 Bottle Act of 2020”.

6 **SEC. 2. BEVERAGE CONTAINER COLLECTION.**

7 (a) IN GENERAL.—The Solid Waste Disposal Act (42
8 U.S.C. 6901 et seq.) is amended by adding at the end
9 the following:

1 **“Subtitle K—Beverage Container**
2 **Collection**

3 **“SEC. 12001. DEFINITIONS.**

4 “In this subtitle:

5 “(1) AREA.—When used in the context of space
6 occupied by a retailer, the term ‘area’ means—

7 “(A) the number of square feet of the
8 building or portion of the building leased or
9 owned by the retailer; and

10 “(B) only includes retail space if—

11 “(i) the retail space is less than 5,000
12 square feet;

13 “(ii) the retail space occupies less
14 than 50 percent of the leased or owned
15 space where retail operations are located;
16 and

17 “(iii) the nonretail space is used in
18 whole or in part for the manufacturing of
19 beverages.

20 “(2) BEVERAGE CONTAINER.—

21 “(A) IN GENERAL.—The term ‘beverage
22 container’ means an individual, separate, and
23 sealed glass, metal, or plastic bottle or can
24 (other than a carton, foil pouch, drink box, or

1 metal container that requires a tool to be
2 opened) that—

3 “(i) contains a beverage that is in-
4 tended for human consumption and in a
5 quantity less than or equal to 3 fluid liters
6 that is—

7 “(I) water or flavored water;

8 “(II) beer or other malt bev-
9 erages;

10 “(III) mineral water, soda water,
11 or similar carbonated soft drinks;

12 “(IV) kombucha; or

13 “(V) hard seltzer; and

14 “(ii) does not contain—

15 “(I) dairy milk or plant-based
16 milk;

17 “(II) infant formula; or

18 “(III) any other beverage that is
19 exempted by a rule of the Adminis-
20 trator.

21 “(B) EXCLUSION.—The term ‘beverage
22 container’ does not include a container that
23 contains infant formula intended solely for in-
24 fant feeding.

1 “(3) CATEGORY OF BEVERAGE.—The term ‘cat-
2 egory of beverage’ means one of the following cat-
3 egories of beverage in a beverage container:

4 “(A) Water.

5 “(B) Carbonated soft drinks.

6 “(C) All other non-alcoholic beverages (ex-
7 cluding dairy milk and plant-based milk, infant
8 formula, and liquid meal replacements).

9 “(D) Alcoholic beverages.

10 “(E) Beverages containing marijuana or
11 hemp.

12 “(4) DAIRY MILK.—

13 “(A) IN GENERAL.—The term ‘dairy milk’
14 means a beverage that consists of only dairy
15 milk, flavorings, or nutritional additives.

16 “(B) INCLUSIONS.—The term ‘dairy milk’
17 includes flavored milk beverages, such as choco-
18 late milk and lactose free milk.

19 “(C) EXCLUSIONS.—The term ‘dairy milk’
20 does not include kefir, drinkable yogurt, butter-
21 milk, smoothies, shakes, a beverage that is pri-
22 marily milk but includes other ingredients such
23 as fruit, or a beverage that is primarily milk
24 but is marketed as a beverage other than milk,
25 such as a smoothie or shake.

1 “(5) DISTRIBUTOR.—The term ‘distributor’
2 means a person who engages in the sale of beverages
3 in beverage containers to a retailer, including any
4 manufacturer who engages in those sales.

5 “(6) CONVENIENCE ZONE.—The term ‘conven-
6 ience zone’ means a convenience zone specified by
7 the Administrator under section 12002(e)(1)(A).

8 “(7) HARD SELTZER.—The term ‘hard seltzer’
9 means a sugar-based alcoholic beverage that con-
10 tains carbonated water or any malt-based alcoholic
11 beverage that contains carbonated water and is not
12 a malt beverage.

13 “(8) IMPORTER.—The term ‘importer’ means
14 any retailer or manufacturer who directly imports
15 into the United States beverage containers.

16 “(9) KOMBUCHA.—The term ‘kombucha’ means
17 a fermented beverage that is made from tea and
18 does not contain more than 21 percent alcohol by
19 volume.

20 “(10) LIQUID MEAL REPLACEMENT.—The term
21 ‘liquid meal replacement’ means a ready-to-drink liq-
22 uid with caloric and nutritional value intended to re-
23 place a regular meal.

24 “(11) MANUFACTURER.—The term ‘manufac-
25 turer’ means a person bottling, canning, or otherwise

1 filling beverage containers for sale to distributors,
2 importers, or retailers.

3 “(12) PLANT-BASED MILK.—

4 “(A) IN GENERAL.—The term ‘plant-based
5 milk’ means a beverage consisting primarily of
6 liquid extracted from nuts, grains, legumes, or
7 seeds and flavorings or nutritional additives.

8 “(B) EXCLUSIONS.—The term ‘plant-based
9 milk’ does not include kefir, drinkable yogurt,
10 smoothies, shakes, coconut water, a beverage
11 that is primarily plant-based milk but includes
12 other ingredients such as fruit, or a beverage
13 that is primarily plant-based milk but is mar-
14 keted as a beverage other than a plant-based
15 milk, such as a smoothie or shake.

16 “(13) RECOVERY RATE.—The term ‘recovery
17 rate’ means the quantity of beverage containers col-
18 lected divided by the quantity of beverage containers
19 produced, expressed as a percentage.

20 “(14) REDEMPTION CENTER.—The term ‘re-
21 demption center’ means a redemption center de-
22 scribed in section 12002(d).

23 “(15) RETAILER.—The term ‘retailer’ means a
24 person that sells or offers for sale beverages in bev-
25 erage containers to a consumer.

1 “(16) RETURN RATE.—The term ‘return rate’
 2 means the number of beverage containers returned
 3 for the refund value in accordance with section
 4 12003(e) during a calendar year and the number of
 5 beverage containers that carry a refund value sold
 6 during that calendar year, calculated separately.

7 “(17) WINE.—

8 “(A) IN GENERAL.—The term ‘wine’
 9 means a fermented vinous liquor or fruit juice,
 10 or other fermented beverage fit for beverage
 11 purposes that is not a malt beverage, containing
 12 more than 0.5 percent alcohol by volume and
 13 not more than 21 percent alcohol by volume.

14 “(B) INCLUSIONS.—The term ‘wine’ in-
 15 cludes fortified wine, cider more than 8.5 per-
 16 cent alcohol by volume, and mead.

17 “(C) EXCLUSIONS.—The term ‘wine’ does
 18 not include cider that is not more than 8.5 per-
 19 cent alcohol by volume, hard seltzer, or
 20 kombucha.

21 **“SEC. 12002. BEVERAGE CONTAINER RECOVERY PRO-**
 22 **GRAMS.**

23 “(a) IN GENERAL.—Subject to subsection (b), not
 24 later than 5 years after the date of enactment of this sub-
 25 title—

1 “(1) every beverage container sold or offered
2 for sale by a retailer shall clearly indicate by em-
3 bossing, a stamp, a label, or other method securely
4 affixed to the beverage container, the refund value
5 of the container;

6 “(2) each retailer shall pay distributors the re-
7 fund value for each beverage container delivered;

8 “(3) on the sale of each beverage container by
9 a retailer, the retailer may collect a refund value in
10 accordance with section 12003(e);

11 “(4) on return of the beverage container to a
12 retailer or a redemption center by a person, the re-
13 tailer or redemption center, as applicable, shall
14 repay a refund value to the person;

15 “(5) retailers that are participating in a re-
16 demption center in accordance with subsection (d)
17 shall collectively pay not less than 50 percent of the
18 cost of operating the redemption center, which
19 amount shall be apportioned among the retailers
20 based on the total volume of beverage containers
21 sold by each retailer;

22 “(6) a distributor that is a member of a dis-
23 tributor cooperative under subsection (c) shall re-
24 trieve containers from retailers or redemption cen-

1 ters and pay refunds through the distributor cooper-
2 ative in accordance with that subsection;

3 “(7) a distributor that is not a member of a
4 distributor cooperative under subsection (c) shall—

5 “(A) in a timely manner and consistent
6 with commercial best practices, collect beverage
7 containers that—

8 “(i) the distributor distributes to a re-
9 tailer; and

10 “(ii) the retailer or an applicable re-
11 demption center has collected from con-
12 sumers; and

13 “(B) on receipt of each beverage container
14 under subparagraph (A), pay the retailer or the
15 redemption center, as applicable, the refund
16 value; and

17 “(8) by June 1 of each calendar year, a dis-
18 tributor or importer shall provide to the Adminis-
19 trator a report that lists the beverage container re-
20 turn data for the previous calendar year of the dis-
21 tributor or importer, calculated separately for glass,
22 metal, and plastic beverage containers.

23 “(b) EXCEPTION FOR STATES WITH EXISTING PRO-
24 GRAMS.—

1 “(1) IN GENERAL.—A State that has in effect
2 a beverage container recovery program the require-
3 ments of which are substantially similar to, or more
4 stringent than, the requirements of this section may
5 submit to the Administrator a request to waive the
6 applicability of this section in that State.

7 “(2) REQUIREMENT.—The Administrator may
8 approve a waiver under paragraph (1) if the State
9 demonstrates that the beverage container recovery
10 rate for the program in that State is more than 75
11 percent.

12 “(c) DISTRIBUTOR COOPERATIVES.—

13 “(1) IN GENERAL.—The Administrator may ap-
14 prove the formation of a distributor cooperative by
15 2 or more distributors or importers for the purposes
16 of—

17 “(A) collecting the refund value of bev-
18 erage containers specified from distributors or
19 importers and refunding to retailers the amount
20 the retailers paid for the refund value of empty
21 beverage containers;

22 “(B) paying the refund value for beverage
23 containers redeemed; and

24 “(C) processing beverage containers.

25 “(2) APPLICATIONS.—

1 “(A) IN GENERAL.—Applications to be-
2 come a distributor cooperative described in
3 paragraph (1) shall be submitted to the Admin-
4 istrator.

5 “(B) CONTENTS.—An application under
6 subparagraph (A) shall include—

7 “(i) evidence of consultation with
8 stakeholders prior to submitting the appli-
9 cation for approval;

10 “(ii) assurances that—

11 “(I) the distributor cooperative
12 will provide an opportunity for stake-
13 holder input in the implementation
14 and operation of the activities de-
15 scribed in paragraph (1);

16 “(II) distributors will pay the
17 costs of collecting and managing bev-
18 erage containers;

19 “(III) reasonable and free con-
20 sumer access to collection facilities or
21 collection services will be provided;

22 “(IV) the distributor cooperative
23 will make consumers aware of—

24 “(aa) the activities described
25 in paragraph (1);

1 “(bb) the location of collec-
2 tion facilities or the availability
3 of collection services; and

4 “(cc) how to manage bev-
5 erage containers in a safe man-
6 ner;

7 “(V) the distributor cooperative
8 will have the ability to track the re-
9 turn rate, the management of costs
10 incurred by the program, and the
11 management of environmental impacts
12 of the program; and

13 “(VI) the distributor cooperative
14 will have a dispute resolution proce-
15 dure for disputes that arise during
16 implementation of the activities under
17 paragraph (1); and

18 “(iii) such other information as the
19 Administrator may require.

20 “(3) CONSIDERATIONS.—In deciding whether to
21 approve an application under paragraph (2), the Ad-
22 ministrator may consider any of the following:

23 “(A) The population and geographical area
24 of the markets in which the distributor coopera-
25 tive operates.

1 “(B) The quantity of beverage containers
2 that distributors expect will be used in a com-
3 mercial enterprise, sold, offered for sale, or dis-
4 tributed each year.

5 “(C) The quantity of beverage containers
6 that the distributor cooperative expects to col-
7 lect each year.

8 “(D) The size of the population intended
9 to be served by collection facilities or collection
10 services of the distributor cooperative.

11 “(E) The provision of convenient options
12 for the collection of beverage containers in
13 urban centers and small, isolated communities,
14 and for persons with disabilities or who have no
15 access to transportation.

16 “(F) The manner, kind, and quantity of
17 advertising and consumer education planned by
18 the distributor to inform consumers of—

19 “(i) the location and operation of col-
20 lection facilities;

21 “(ii) the availability of collection serv-
22 ices; and

23 “(iii) the environmental and economic
24 benefits of participating in the activities
25 under paragraph (1).

1 “(G) The methods of beverage container
2 collection, storage, transportation, and manage-
3 ment.

4 “(H) Distributor cooperatives in the same
5 geographical area.

6 “(I) The structure of financial and oper-
7 ational cooperation with 2 or more distributors
8 or importers.

9 “(4) REQUIREMENTS.—A distributor coopera-
10 tive under paragraph (1) shall—

11 “(A) outline a plan to achieve, or to be ca-
12 pable of achieving by a reasonable date, which
13 shall be not later than 2 years after the date of
14 enactment of this subtitle—

15 “(i) a 75 percent recovery rate or any
16 performance measures, performance re-
17 quirements, or targets established by the
18 Administrator; and

19 “(ii) any performance measures, per-
20 formance requirements, or targets in the
21 plan; and

22 “(B) submit the plan described in subpara-
23 graph (A) and such additional documentation
24 as the Administrator determines to be necessary

1 with each report provided to the Administrator
2 under paragraph (9).

3 “(5) COMPLIANCE.—

4 “(A) IN GENERAL.—Not later than 2 years
5 after the date of enactment of this subtitle,
6 each distributor and distributor cooperative
7 shall achieve the applicable target recovery
8 rates established under paragraph (4)(A)(i).

9 “(B) NONCOMPLIANCE.—If a distributor
10 or distributor cooperative does not achieve an
11 applicable target recovery rate in accordance
12 with subparagraph (A), the distributor or dis-
13 tributor cooperative shall—

14 “(i) submit to the Administrator a
15 plan to achieve the applicable target recov-
16 ery rate; and

17 “(ii) forfeit to the Administrator the
18 amount of any unredeemed beverage con-
19 tainer deposits received by the distributor
20 or distributor cooperative.

21 “(C) USE OF FORFEITED AMOUNTS.—The
22 Administrator shall use amounts forfeited under
23 subparagraph (B)(ii) for marketing and out-
24 reach relating to the program under this sub-
25 title.

1 “(6) MULTIPLE ORGANIZATIONS.—A distributor
2 may participate in more than 1 distributor coopera-
3 tive only if each distributor cooperative is established
4 for a different category of beverage containers or ge-
5 ographic area.

6 “(7) PARTICIPATION FEES.—

7 “(A) IN GENERAL.—A distributor coopera-
8 tive may charge each distributor fees for mem-
9 bership that include, with respect to a dis-
10 tributor, the costs of collecting or cleaning up
11 the beverage containers of the distributor.

12 “(B) CONSIDERATIONS.—In determining
13 the costs of collection and cleanup described in
14 subparagraph (A), the distributor cooperative
15 shall take into account—

16 “(i) the cost to properly manage the
17 applicable category of beverage container
18 waste; and

19 “(ii) the environmental benefits of
20 beverage containers that—

21 “(I) are specifically designed to
22 be reusable or refillable; and

23 “(II) have a high reuse or refill
24 rate.

1 “(8) REVOCATION.—The Administrator may re-
2 voke the approval of a distributor cooperative for
3 continued or persistent noncompliance with the re-
4 quirements of this subtitle.

5 “(9) REPORTS.—Not later than July 1 of each
6 calendar year, a distributor cooperative shall provide
7 to the Administrator a report that lists, in aggregate
8 form for all distributors and importers that partici-
9 pate in the distributor cooperative, the fee structure,
10 and the beverage container return data for the pre-
11 vious calendar year, calculated separately for glass,
12 metal, and plastic beverage containers.

13 “(d) REDEMPTION CENTERS.—

14 “(1) IN GENERAL.—The Administrator shall
15 approve a redemption center if the Administrator de-
16 termines that the redemption center will provide a
17 convenient service to consumers for the return of
18 empty beverage containers.

19 “(2) REQUIREMENTS.—A redemption center
20 shall—

21 “(A) be staffed and open—

22 “(i) each day; and

23 “(ii) not less than 10 hours each day;

24 “(B) accept—

25 “(i) any beverage container; and

1 “(ii) not less than 350 beverage con-
2 tainers per person per day;

3 “(C) provide—

4 “(i) hand counts by staff of the facil-
5 ity;

6 “(ii) a drop door for consumers who
7 are bottle drop account holders to drop off
8 bags of beverage containers for staff of the
9 facility to count for a fee; or

10 “(iii) any other convenient means of
11 receiving beverage containers, as deter-
12 mined by the Administrator; and

13 “(D) be sited in a conveniently accessible
14 commercial zone, unless the Administrator de-
15 termines that another location provides sub-
16 stantially equivalent service for consumers.

17 “(3) FACTORS.—In determining whether to ap-
18 prove a redemption center under paragraph (1), the
19 Administrator shall consider—

20 “(A)(i) the location of the redemption cen-
21 ter; and

22 “(ii) if the redemption center is not located
23 in a commercial zone, whether the location will
24 have similar return convenience for consumers
25 as a commercial zone location;

1 “(B) the category of beverage containers
2 accepted at the redemption center;

3 “(C) retailers occupying 5,000 or more
4 square feet within a redemption center zone
5 that will be served by the redemption center
6 and the distance of the retailers from the re-
7 demption center;

8 “(D) retailers occupying 5,000 or more
9 square feet within a redemption center zone
10 that will not be served by the redemption center
11 and the distance of the retailers from the re-
12 demption center;

13 “(E) days and hours of operation of the
14 redemption center;

15 “(F) parking facilities serving the redemp-
16 tion center;

17 “(G) evidence showing that the redemption
18 center meets all applicable local ordinances and
19 zoning requirements;

20 “(H) the limitation, if any, on the number
21 of beverage containers per person per day that
22 the redemption center will accept;

23 “(I) 1 or more payment methods offered
24 by the redemption center for redeemed beverage
25 containers;

1 “(J) the projected volume of beverage con-
2 tainer returns at the redemption center as com-
3 pared to the actual returns at the retailers to
4 be served by the redemption center;

5 “(K) a description of how consumers will
6 be notified of the location, services, and service
7 hours of the redemption center; and

8 “(L) any other relevant factor that the Ad-
9 ministrators determines to be fundamental to
10 the operation of a redemption center.

11 “(4) APPLICATIONS.—

12 “(A) IN GENERAL.—Any person desiring
13 approval of a redemption center shall submit an
14 application to the Administrator.

15 “(B) CONTENTS.—An application under
16 subparagraph (A) shall include—

17 “(i) the name and address of each
18 person to be responsible for the establish-
19 ment and operation of the redemption cen-
20 ter;

21 “(ii) the exact location and mailing
22 address of the redemption center;

23 “(iii) the category of beverage con-
24 tainers that will be accepted at the re-
25 demption center;

1 “(iv) the names and addresses of the
2 retailers occupying 5,000 or more square
3 feet within a redemption center zone that
4 will be served by the redemption center;

5 “(v) the names and addresses of the
6 retailers occupying 5,000 or more square
7 feet within a redemption center zone that
8 will not be served by the redemption cen-
9 ter;

10 “(vi) the distances from the redemp-
11 tion center to the retailers occupying 5,000
12 or more square feet within a redemption
13 center zone that will be served;

14 “(vii) the distances from the redemp-
15 tion center to retailers occupying 5,000 or
16 more square feet within a redemption cen-
17 ter zone that will not be served;

18 “(viii) the days and hours of operation
19 of the redemption center;

20 “(ix) a description of parking facilities
21 to serve the redemption center;

22 “(x) evidence showing that a redemp-
23 tion center meets the zoning requirements
24 and other applicable State and local ordi-
25 nances of the regulating jurisdiction;

1 “(xi) the limitation, if any, on the
2 number of beverage containers per person
3 per day that will be accepted at the re-
4 demption center;

5 “(xii) the 1 or more payment methods
6 for redeemed beverage containers;

7 “(xiii) the projected volume of bev-
8 erage container returns at the redemption
9 center as compared to the actual returns
10 at the retailers to be served by the redemp-
11 tion center;

12 “(xiv) a description of how consumers
13 will be notified of the location, services,
14 and service hours of the redemption center;
15 and

16 “(xv) such additional information as
17 the Administrator may require.

18 “(5) ANNUAL REGISTRATION.—

19 “(A) IN GENERAL.—The 1 or more per-
20 sons responsible for the operation of a redemp-
21 tion center approved by the Administrator
22 under paragraph (1) shall register the redemp-
23 tion center with the Administrator and pay the
24 fee determined by the Administrator not later
25 than July 1 of each calendar year, which reg-

1 istration shall be in effect for the next calendar
2 year.

3 “(B) CONTENTS.—A registration under
4 subparagraph (A)—

5 “(i) shall be on a form provided by
6 the Administrator; and

7 “(ii) shall contain, at a minimum—

8 “(I) a list and exact address of
9 each redemption center that the per-
10 son is responsible for operating during
11 the next calendar year;

12 “(II) the fee for each redemption
13 center that the person is responsible
14 for operating during the next calendar
15 year; and

16 “(III) such additional informa-
17 tion as may be required by the Ad-
18 ministrator.

19 “(C) WITHDRAWAL OF APPROVAL.—

20 “(i) IN GENERAL.—The Administrator
21 shall withdraw approval of a redemption
22 center if a person responsible for operating
23 the redemption center fails to submit the
24 required information or pay the required

1 fee by July 1 of each calendar year in ac-
2 cordance with subparagraph (A).

3 “(ii) CESSATION OF OPERATIONS.—
4 On withdraw of approval of a redemption
5 center under clause (i), the redemption
6 center shall cease all operations until the
7 person responsible for operating the re-
8 demption center submits the required in-
9 formation or required fee to the Adminis-
10 trator.

11 “(6) STANDARDS OF CLEANLINESS FOR RE-
12 DEMPTION CENTERS.—All persons responsible for
13 the establishment and operation of the redemption
14 center shall at all times use commercially reasonable
15 practices to keep the redemption center premises, in-
16 cluding the parking facilities serving the redemption
17 center, in accordance with applicable law, in good re-
18 pair, painted, clean, well-lighted, free of litter and
19 trash, and free of rodents, vermin, infestations of in-
20 sects, and their harborages or breeding places.

21 “(e) RETAILERS WITHIN CONVENIENCE ZONES.—

22 “(1) IN GENERAL.—

23 “(A) IN GENERAL.—For each redemption
24 center, the Administrator shall specify not less
25 than 1 and not more than 2 convenience zones.

1 “(B) DETERMINATION.—The area of each
2 convenience zone shall be an area surrounding
3 the redemption center that is based, to the
4 maximum extent practicable, on the proposal
5 submitted as part of an application for approval
6 of a redemption center under subsection (d)(1).

7 “(C) GUIDELINES.—The Administrator
8 shall establish guidelines for determining the
9 surface area sizes of convenience zones.

10 “(D) LOCATION.—If the Administrator
11 specifies a second convenience zone for a re-
12 demption center under subparagraph (A), any
13 point along the interior border of the second
14 convenience zone shall be not closer to the re-
15 demption center than the exterior border of the
16 first convenience zone.

17 “(2) ELIGIBILITY.—Any retailer doing business
18 within a convenience zone that occupies a space of
19 not less than 5,000 square feet in a single area may
20 participate in, be served by, and be charged the cost
21 of participation in the redemption center in accord-
22 ance with subsection (a)(5).

23 “(3) PARTICIPATING RETAILERS.—

24 “(A) FIRST CONVENIENCE ZONE.—A re-
25 tailer described in paragraph (2) within the

1 first convenience zone that participates in, is
2 served by, and pays the cost of participation in
3 the redemption center may refuse to accept and
4 to pay the refund value of empty beverage con-
5 tainers.

6 “(B) SECOND CONVENIENCE ZONE.—A re-
7 tailer described in paragraph (2) within the sec-
8 ond convenience zone, if any, that participates
9 in, is served by, and pays the cost of participa-
10 tion in the redemption center may refuse to ac-
11 cept and to pay the refund value of more than
12 24 individual empty beverage containers re-
13 turned by any 1 person during any 1 day.

14 “(4) SMALL RETAILERS.—Any retailer doing
15 business within a convenience zone that occupies a
16 space of less than 5,000 square feet in a single area
17 may refuse to accept and to pay the refund value of
18 more than 24 individual empty beverage containers
19 returned by any 1 person during any 1 day.

20 “(5) NONPARTICIPATING RETAILERS.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), any retailer doing business
23 within a convenience zone that occupies a space
24 of not less than 5,000 square feet in a single

1 area and does not participate in and is not
2 served by a redemption center—

3 “(i) may refuse to accept and to pay
4 the refund value of more than 350 indi-
5 vidual empty beverage containers returned
6 by any 1 person during any 1 day; and

7 “(ii) shall, beginning on the date on
8 which the redemption center begins accept-
9 ing beverage containers—

10 “(I) provide services equivalent to
11 the services provided by the redemp-
12 tion center, including hand counting
13 and drop off service;

14 “(II) post in each area where
15 beverage containers are received a
16 clearly visible and legible sign that
17 contains the list of services that shall
18 be provided by the retailer under this
19 subparagraph; and

20 “(III) provide not less than the
21 greater of—

22 “(aa) 2 automated reverse
23 vending machines capable of
24 processing metal, plastic, and
25 glass beverage containers; and

1 “(bb) 1 automated reverse
 2 vending machine described in
 3 item (aa) for each 500,000 bev-
 4 verage containers sold by the re-
 5 tailer in the previous calendar
 6 year.

7 “(B) EXCEPTION.—

8 “(i) IN GENERAL.—Subject to clause
 9 (ii), subparagraph (A) shall not apply to a
 10 retailer described in that subparagraph
 11 that sold fewer than 100,000 beverage con-
 12 tainers during the previous calendar year.

13 “(ii) SUBMISSION.—To be eligible for
 14 an exemption under clause (i), a retailer
 15 shall submit to the Administrator an appli-
 16 cation describing the number of beverage
 17 containers sold by the retailer during the
 18 previous calendar year.

19 **“SEC. 12003. ACCEPTANCE AND RETRIEVAL REQUIRE-**
 20 **MENTS.**

21 “(a) IN GENERAL.—Except as provided in subsection
 22 (c)—

23 “(1) a retailer or redemption center may not—

1 “(A) refuse to accept from any person any
2 beverage container described in subsection (b);
3 or

4 “(B) refuse to pay in cash the refund value
5 of a returned beverage container; and

6 “(2) a distributor may not refuse to retrieve
7 from a retailer or redemption center any beverage
8 container that—

9 “(A) has been returned to the retailer or
10 redemption center in accordance with this sub-
11 title; and

12 “(B) is of the category of beverage con-
13 tainer, brand of beverage container, and size of
14 beverage container distributed by the dis-
15 tributor.

16 “(b) BEVERAGE CONTAINER REQUIREMENTS.—To
17 be eligible for a refund under this subtitle, a beverage con-
18 tainer—

19 “(1) in the case of a refund provided by a re-
20 tailer, shall be the category of beverage sold by the
21 retailer; and

22 “(2) shall not—

23 “(A) visibly contain or be contaminated by
24 a substance other than water, residue of the
25 original contents, or ordinary dust; or

1 “(B) be damaged to the extent that the
2 brand appearing on the container cannot be
3 identified.

4 “(c) REFUSAL.—

5 “(1) IN GENERAL.—A retailer or redemption
6 center may refuse to accept from a person a bev-
7 erage container if—

8 “(A) the retailer or redemption center has
9 reasonable grounds to believe that—

10 “(i) the beverage container was ob-
11 tained from or through a distributor with-
12 out paying the refund value; or

13 “(ii) the beverage container has al-
14 ready been redeemed, such as through a
15 reverse vending process; or

16 “(B) in the case of a retailer that is not
17 within a convenience zone—

18 “(i) the beverage container exceeds an
19 applicable limitation described in para-
20 graph (2); and

21 “(ii) the retailer posts a clearly visible
22 and legible sign describing the applicable
23 limitation described in paragraph (2).

1 “(2) LIMITATIONS.—A retailer described in
2 paragraph (1)(B) may refuse to accept under that
3 paragraph—

4 “(A) more than 144 individual beverage
5 containers returned by any 1 person during any
6 1 day, if the retailer occupies a space of 5,000
7 or more square feet in a single area;

8 “(B) more than 50 individual beverage
9 containers returned by any 1 person during any
10 1 day, if the retailer occupies a space of less
11 than 5,000 square feet in a single area; or

12 “(C) a beverage container if the retailer
13 has not offered that category of beverage con-
14 tainer for sale within the 180-day period pre-
15 ceding the attempted return.

16 “(d) NOTICE.—Any requirements established under
17 subsections (b) and (c) shall be posted in each area where
18 beverage containers are received on a clearly visible and
19 legible sign.

20 “(e) REFUND VALUE.—The refund value for a bev-
21 erage container shall be not less than 10 cents for each
22 beverage container.

23 **“SEC. 12004. ADMINISTRATION.**

24 “(a) IN GENERAL.—The Administrator shall ensure
25 that—

1 “(1) consumers are able to return redeemable
2 beverage containers to retailers or redemption cen-
3 ters; and

4 “(2) redemption centers and retailers are able
5 to return beverage containers to distributors and
6 distributor cooperatives.

7 “(b) REGULATIONS.—

8 “(1) IN GENERAL.—Not later than 2 years
9 after the date of enactment of this subtitle, the Ad-
10 ministrator shall promulgate regulations to carry out
11 this subtitle.

12 “(2) REVIEW REQUIRED.—In promulgating or
13 revising regulations pursuant to paragraph (1), the
14 Administrator shall—

15 “(A) review the minimum refund value es-
16 tablished under section 12003(e) not less fre-
17 quently than once every 5 years; and

18 “(B) revise that value as the Administrator
19 determines to be appropriate.

20 “(c) ACCOUNTING.—

21 “(1) IN GENERAL.—Not later than August 1 of
22 each calendar year, using the beverage container re-
23 turn data provided in section 12002(a)(8), the Ad-
24 ministrator shall—

1 “(A) calculate for the previous calendar
2 year the percentage of beverage containers re-
3 turned for the refund value specified by mate-
4 rial type; and

5 “(B) post the percentages on the website
6 of the Environmental Protection Agency.

7 “(2) REQUIREMENTS.—The Administrator shall
8 calculate return data under paragraph (1)—

9 “(A) for each distributor cooperative;

10 “(B) for each distributor or importer that
11 does not participate in a distributor cooperative;
12 and

13 “(C) for all distributors and importers.

14 “(d) NONDISCLOSURE.—

15 “(1) IN GENERAL.—Except for the percentages
16 described in subsection (c), in a proceeding for a vio-
17 lation of subsection (f), or as provided in paragraph
18 (2), the Administrator may not disclose any informa-
19 tion provided by a distributor, an importer, or a dis-
20 tributor cooperative under section 12002(a)(8).

21 “(2) EXCEPTION.—The Administrator may re-
22 lease aggregate data of information described in
23 paragraph (1) in such a manner that does not reveal
24 the sales of any individual distributor.

25 “(e) AUDIT.—

1 “(1) IN GENERAL.—Not later than 180 days
2 after the date on which the Administrator receives a
3 report required under section 12002(a)(8), the Ad-
4 ministrator may review or audit the records of, as
5 applicable, each reporting distributor cooperative or
6 each reporting distributor or importer that does not
7 participate in a distributor cooperative.

8 “(2) INDEPENDENT AUDIT.—If in the course of
9 a review described in paragraph (1) the Adminis-
10 trator determines that an audit of a distributor co-
11 operative, distributor, or importer is necessary, the
12 Administrator shall require the distributor coopera-
13 tive, distributor, or importer to retain an inde-
14 pendent financial audit firm to determine the accu-
15 racy of information contained in the report required
16 under section 12002(a)(8).

17 “(3) COSTS.—The distributor cooperative, dis-
18 tributor, or importer that is the subject of review
19 under this subsection shall pay the costs of an audit
20 under paragraph (2).

21 “(4) LIMITATION.—An audit under paragraph
22 (2) shall be limited to the records described in sec-
23 tion 12002(a)(8).

24 “(f) ENFORCEMENT.—

1 “(1) PROHIBITION.—It shall be unlawful for
2 any person that is a distributor, distributor coopera-
3 tive, manufacturer, importer, retailer, or redemption
4 center—

5 “(A) to sell, use, import into the United
6 States, or distribute any beverage container in
7 commerce except in compliance with this sub-
8 title; or

9 “(B) to fail to comply with this subtitle.

10 “(2) CIVIL PENALTY.—Any person that violates
11 paragraph (1) shall be subject to a fine in the
12 amount of \$500 for each violation.

13 “(3) SEPARATE VIOLATIONS.—Each day on
14 which a person violates paragraph (1) shall be con-
15 sidered a separate violation.”.

16 (b) CONFORMING AMENDMENT.—The table of con-
17 tents of the Solid Waste Disposal Act (42 U.S.C. 6901
18 note) is amended by adding at the end the following:

 “Subtitle K—Beverage Container Collection

 “Sec. 12001. Definitions.

 “Sec. 12002. Beverage container recovery programs.

 “Sec. 12003. Acceptance and retrieval requirements.

 “Sec. 12004. Administration.”.

○