

103D CONGRESS
1ST SESSION

S. 818

To amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 22 (legislative day, APRIL 19), 1993

Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. MITCHELL, Mrs. BOXER, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. KENNEDY, Mr. METZENBAUM, Mr. KERRY, Mr. LEVIN, Mr. HARKIN, Mr. LEAHY, and Mr. RIEGLE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, 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 “National Beverage
5 Container Reuse and Recycling Act of 1993”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The failure to reuse and recycle empty bev-
2 erage containers represents a significant and unnec-
3 essary waste of important national energy and mate-
4 rial resources.

5 (2) The littering of empty beverage containers
6 constitutes a public nuisance, safety hazard, and
7 aesthetic blight and imposes upon public agencies,
8 private businesses, farmers, and landowners unnec-
9 essary costs for the collection and removal of the
10 containers.

11 (3) Solid waste resulting from the empty bev-
12 erage containers constitutes a significant and rapidly
13 growing proportion of municipal solid waste and in-
14 creases the cost and problems of effectively manag-
15 ing the disposal of the waste.

16 (4) It is difficult for local communities to raise
17 the necessary capital to initiate comprehensive recy-
18 cling programs.

19 (5) The reuse and recycling of empty beverage
20 containers would help eliminate unnecessary burdens
21 on individuals, local governments, and the environ-
22 ment.

23 (6) Several States have previously enacted and
24 implemented State laws designed to protect the envi-
25 ronment, conserve energy and material resources,

1 and promote resource recovery of waste by requiring
2 a refund value on the sale of all beverage containers.

3 (7) The laws referred to in paragraph (6) have
4 proven inexpensive to administer and effective at re-
5 ducing financial burdens on communities by inter-
6 nalizing the cost of recycling and litter control to the
7 producers and consumers of beverages.

8 (8) A national system for requiring a refund
9 value on the sale of all beverage containers would
10 act as a positive incentive to individuals to clean up
11 the environment and would—

12 (A) result in a high level of reuse and recy-
13 cling of the containers; and

14 (B) help reduce the costs associated with
15 solid waste management.

16 (9) A national system for requiring a refund
17 value on the sale of all beverage containers would re-
18 sult in significant energy conservation and resource
19 recovery.

20 (10) The reuse and recycling of empty beverage
21 containers would eliminate unnecessary burdens on
22 the Federal Government, local and State govern-
23 ments, and the environment.

24 (11) The collection of unclaimed refunds from
25 a national system of beverage container recycling

1 would provide the resources necessary to assist com-
2 prehensive reuse and recycling programs throughout
3 the United States.

4 (12) A national system of beverage container
5 recycling is consistent with the intent of the Re-
6 source Conservation and Recovery Act of 1976 (42
7 U.S.C. 6901 et seq.).

8 (13) The provisions of this Act are consistent
9 with the goals established by the Administrator of
10 the Environmental Protection Agency in January
11 1988. The goals include a national goal of 25 per-
12 cent source reduction and recycling by 1992, coupled
13 with a substantial slowing of the projected rate of
14 increase in waste generation by the year 2000.

15 **SEC. 3. AMENDMENT OF SOLID WASTE DISPOSAL ACT.**

16 (a) IN GENERAL.—The Solid Waste Disposal Act is
17 amended by adding at the end thereof the following new
18 subtitle:

19 **“Subtitle K—Beverage Container**
20 **Recycling**

21 **“SEC. 12001. DEFINITIONS.**

22 As used in this subtitle:

23 “(1) BEVERAGE.—The term ‘beverage’ means
24 beer or other malt beverage, mineral water, soda
25 water, wine cooler, or a carbonated soft drink of any

1 variety in liquid form intended for human consump-
2 tion.

3 “(2) BEVERAGE CONTAINER.—The term ‘bev-
4 erage container’ means a container—

5 “(A) constructed of metal, glass, or plastic
6 (or a combination of the materials);

7 “(B) having a capacity of up to one gallon
8 of liquid; and

9 “(C) that is or has been sealed and used
10 to contain a beverage for sale in interstate com-
11 merce.

12 “(3) BEVERAGE DISTRIBUTOR.—The term ‘bev-
13 erage distributor’ means a person who sells or offers
14 for sale in interstate commerce to beverage retailers
15 beverages in beverage containers for resale.

16 “(4) BEVERAGE RETAILER.—The term ‘bev-
17 erage retailer’ means a person who purchases from
18 a beverage distributor beverages in beverage contain-
19 ers for sale to a consumer or who sells or offers to
20 sell in commerce beverages in beverage containers to
21 a consumer.

22 “(5) CONSUMER.—The term ‘consumer’ means
23 a person who purchases a beverage container for any
24 use other than resale.

1 “(6) REFUND VALUE.—The term ‘refund value’
2 means the amount specified as the refund value of
3 a beverage container under section 12002.

4 “(7) UNBROKEN BEVERAGE CONTAINER.—The
5 term ‘unbroken beverage container’ shall include a
6 beverage container opened in a manner in which the
7 container was designed to be opened. A beverage
8 container made of metal or plastic that is com-
9 pressed shall constitute an unbroken beverage con-
10 tainer if the statement of the amount of the refund
11 value of the container is still readable.

12 “(8) WINE COOLER.—The term ‘wine cooler’
13 means a drink containing less than 7 percent alcohol
14 (by volume)—

15 “(A) consisting of wine and plain, spar-
16 kling, or carbonated water; and

17 “(B) containing a non-alcoholic beverage,
18 flavoring, coloring material, fruit juice, fruit ad-
19 junct, sugar, carbon dioxide, or preservatives
20 (or any combination thereof).

21 **“SEC. 12002. REQUIRED BEVERAGE CONTAINER LABELING.**

22 “Except as otherwise provided in section 12007, no
23 beverage distributor or beverage retailer may sell or offer
24 for sale in interstate commerce a beverage in a beverage
25 container unless there is clearly, prominently, and securely

1 affixed to, or printed on, the container a statement of the
2 refund value of the container in the amount of 10 cents.
3 The Administrator shall promulgate regulations establish-
4 ing uniform standards for the size and location of the re-
5 fund value statement on beverage containers. The 10 cent
6 amount specified in this section shall be subject to adjust-
7 ment by the Administrator, as provided in section 12008.

8 **“SEC. 12003. ORIGINATION OF REFUND VALUE.**

9 “For each beverage in a beverage container sold in
10 interstate commerce to a beverage retailer by a beverage
11 distributor, the distributor shall collect from the retailer
12 the amount of the refund value shown on the container.
13 With respect to each beverage in a beverage container sold
14 in interstate commerce to a consumer by a beverage re-
15 tailer, the retailer shall collect from the consumer the
16 amount of the refund value shown on the container. No
17 person other than a person described in this section may
18 collect a deposit on a beverage container.

19 **“SEC. 12004. RETURN OF REFUND VALUE.**

20 “(a) PAYMENT BY RETAILER.—If a person tenders
21 for refund an empty and unbroken beverage container to
22 a beverage retailer who sells (or has sold at any time dur-
23 ing the 3-month period ending on the date of tender) the
24 same brand of beverage in the same kind and size of con-

1 tainer, the retailer shall promptly pay the person the
2 amount of the refund value stated on the container.

3 “(b) PAYMENT BY DISTRIBUTOR.—

4 “(1) IN GENERAL.—If a person tenders for re-
5 fund an empty and unbroken beverage container to
6 a beverage distributor who sells (or has sold at any
7 time during the 3-month period ending on the date
8 of tender) the same brand of beverage in the same
9 kind and size of container, the distributor shall
10 promptly pay the person—

11 “(A) the amount of the refund value stated
12 on the container, plus

13 “(B) an amount equal to at least 2 cents
14 per container to help defray the cost of han-
15 dling.

16 “(2) TENDERING BEVERAGE CONTAINERS TO
17 OTHER PERSONS.—This subsection shall not pre-
18 clude any person from tendering beverage containers
19 to persons other than beverage distributors.

20 “(c) AGREEMENTS.—

21 “(1) IN GENERAL.—Nothing in this subtitle
22 shall preclude agreements between distributors, re-
23 tailers, or other persons to establish centralized bev-
24 erage collection centers, including centers that act as
25 agents of the retailers.

1 “(2) AGREEMENT FOR CRUSHING OR BUN-
2 DLING.—Nothing in this subtitle shall preclude
3 agreements between beverage retailers, beverage dis-
4 tributors, or other persons for the crushing or bun-
5 dling (or both) of beverage containers.

6 **“SEC. 12005. ACCOUNTING FOR UNCLAIMED REFUNDS AND**
7 **PROVISIONS FOR STATE RECYCLING FUNDS.**

8 “(a) UNCLAIMED REFUNDS.—At the end of each cal-
9 endar year, each beverage distributor shall pay to each
10 State an amount equal to the sum by which the total re-
11 fund value of all containers sold by the distributor for re-
12 sale in that State during the year exceeds the total sum
13 paid during that year by the distributor under section
14 12004(b) to persons in the State. The total amount of un-
15 claimed refunds received by any State under this section
16 shall be available to carry out pollution prevention and re-
17 cycling programs in the State.

18 “(b) REFUNDS IN EXCESS OF COLLECTIONS.—If the
19 total amount of payments made by a beverage distributor
20 in any calendar year under section 12004(b) for any State
21 exceeds the total amount of the refund values of all con-
22 tainers sold by the distributor for resale in the State, the
23 excess shall be credited against the amount otherwise re-
24 quired to be paid by the distributor to that State under

1 subsection (a) for a subsequent calendar year, designated
2 by the beverage distributor.

3 **“SEC. 12006. PROHIBITIONS ON DETACHABLE OPENINGS**
4 **AND POST-REDEMPTION DISPOSAL.**

5 “(a) DETACHABLE OPENINGS.—No beverage dis-
6 tributor or beverage retailer may sell, or offer for sale,
7 in interstate commerce a beverage in a metal beverage
8 container a part of which is designed to be detached in
9 order to open the container.

10 “(b) POST-REDEMPTION DISPOSAL.—No retailer or
11 distributor or agent of a retailer or distributor may dis-
12 pose of any beverage container labeled pursuant to section
13 12002 or any metal, glass, or plastic from the beverage
14 container (other than the top or other seal thereof) in any
15 landfill or other solid waste disposal facility.

16 **“SEC. 12007. EXEMPTED STATES.**

17 “(a) IN GENERAL.—

18 “(1) EXEMPTION.—Sections 12002 through
19 12005 and sections 12008 and 12009 shall not
20 apply in any State that—

21 “(A) has adopted and implemented re-
22 quirements applicable to all beverage containers
23 sold in the State if the Administrator deter-
24 mines the requirements to be substantially simi-
25 lar to the provisions of sections 12002 through

1 12005 and sections 12008 and 12009 of this
2 subtitle; or

3 “(B) demonstrates to the Administrator
4 that, for any period of 12 consecutive months
5 following the date of enactment of this subtitle,
6 the State achieved a recycling or reuse rate for
7 beverage containers of at least 70 percent.

8 “(2) TERMINATION OF EXEMPTION.—If at any-
9 time following a determination by the Administrator
10 under paragraph (1)(B) that a State has achieved a
11 70 percent recycling or reuse rate, the Administrator
12 determines that the State has failed, for any 12-con-
13 secutive month period, to maintain at least a 70 per-
14 cent recycling or reuse rate of beverage containers,
15 the Administrator shall notify the State that, on the
16 expiration of the 90-day period following the notifi-
17 cation, sections 12002 through 12005 and sections
18 12008 and 12009 shall apply with respect to the
19 State until a subsequent determination is made
20 under paragraph (1)(A) or a demonstration is made
21 under paragraph (1)(B).

22 “(b) DETERMINATION OF TAX.—No State or political
23 subdivision thereof that imposes a tax on the sale of any
24 beverage container may impose a tax on any amount at-
25 tributable to the refund value of the container.

1 “(c) EFFECT ON OTHER LAWS.—Nothing in this
2 subtitle is intended to affect the authority of any State
3 or political subdivision thereof—

4 “(1) to enact or enforce (or continue in effect)
5 any law concerning a refund value on containers
6 other than beverage containers; or

7 “(2) to regulate redemption and other centers
8 that purchase empty beverage containers from bev-
9 erage retailers, consumers, or other persons.

10 **“SEC. 12008. REGULATIONS.**

11 “(a) IN GENERAL.—Not later than 12 months after
12 the date of enactment of this subtitle, the Administrator
13 shall prescribe regulations to carry out this subtitle.

14 “(b) BEVERAGE RETAILER.—The regulations shall
15 include a definition of the term ‘beverage retailer’ for any
16 case in which beverages in beverage containers are sold
17 to consumers through beverage vending machines.

18 “(c) ADJUSTMENT FOR INFLATION.—The regulations
19 shall adjust the 10 cent amount specified in section 12002
20 to account for inflation. The initial adjustment shall be-
21 come effective on the date that is 10 years after the date
22 of enactment of this subtitle, and additional adjustments
23 shall become effective every 10 years thereafter.

1 **“SEC. 12009. PENALTIES.**

2 “Any person who violates any provision of section
3 12002, 12003, 12004, or 12006 shall be subject to a civil
4 penalty of not more than \$1,000 for each violation. Any
5 person who violates any provision of section 12005 shall
6 be subject to a civil penalty of not more than \$10,000 for
7 each violation.

8 **“SEC. 12010. EFFECTIVE DATE.**

9 “Except as provided in section 12008, this subtitle
10 shall take effect on the date that is 2 years after the date
11 of enactment of this subtitle.”.

12 (b) TABLE OF CONTENTS.—The table of contents for
13 the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is
14 amended by adding at the end thereof the following new
15 items:

“SUBTITLE K—BEVERAGE CONTAINER RECYCLING

“Sec. 12001. Definitions.

“Sec. 12002. Required beverage container labeling.

“Sec. 12003. Origination of refund value.

“Sec. 12004. Return of refund value.

“Sec. 12005. Accounting for unclaimed refunds and provisions for State recycling funds.

“Sec. 12006. Prohibitions on detachable openings and post-redemption disposal.

“Sec. 12007. Exempted States.

“Sec. 12008. Regulations.

“Sec. 12009. Penalties.

“Sec. 12010. Effective date.”.

