

111TH CONGRESS
1ST SESSION

H. R. 2046

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 HOUSE OF REPRESENTATIVES

APRIL 22, 2009

Mr. MARKEY of Massachusetts (for himself and Mr. MORAN of Virginia) introduced the following bill; which was referred to the Committee on Energy and Commerce

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 “Bottle Recycling Cli-
5 mate Protection Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) The energy required to manufacture bev-
2 erage containers from recycled containers is often
3 less than the energy required to create new beverage
4 container materials from raw materials.

5 (2) Recycling beverage containers would reduce
6 municipal solid waste and reduce the energy and
7 heat-trapping emissions generated in the manufac-
8 ture of new aluminum, plastics, and other beverage
9 container materials.

10 (3) An average of 350,000,000 beverage bottles
11 and cans are sent to landfills, incinerated, or littered
12 every day.

13 (4) In 2006, less than half of the
14 100,000,000,000 aluminum beverage cans purchased
15 were recycled, resulting in the waste of 800,000 tons
16 of aluminum. Nine of ten plastic water bottles, at
17 least 27,000,000,000 bottles a year, end up as gar-
18 bage or litter, where they take up to 1,000 years to
19 biodegrade.

20 (5) A national system for requiring a refund
21 value on the sale of all beverage containers would
22 provide a positive incentive to individuals to clean up
23 the environment, and would result in a high level of
24 reuse and recycling of such containers and help re-
25 duce the costs and environmental dangers associated

1 with solid waste management and container manu-
2 facturing.

3 (6) Many Americans do not have access to recy-
4 cling programs. States that combine container de-
5 posit incentives with convenient redemption locations
6 have beverage container recycling rates ranging from
7 65 percent to over 90 percent. This is significantly
8 higher than the average recycling rates of 35 percent
9 for aluminum cans, 14 percent for plastic bottles,
10 and 12 percent for glass bottles in States without
11 container deposit systems.

12 (7) Many domestic industries are dependent on
13 recycled steel, aluminum, glass and paper. A con-
14 tainer deposit system would yield greater access for
15 recyclers to high grade recycling products, pre-
16 venting these industries from competitive disadvan-
17 tages in international recycling.

18 (8) States with bottle bills have container recy-
19 cling rates ranging from 60 percent to over 90 per-
20 cent, compared to the national average recycling rate
21 of 34 percent.

22 (9) A national system of beverage container re-
23 cycling is consistent with the intent of the Solid
24 Waste Disposal Act (42 U.S.C. 6901 et seq.).

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

2 (a) AMENDMENT.—The Solid Waste Disposal Act
3 (42 U.S.C. 6901 et seq.) is amended by adding the fol-
4 lowing new subtitle at the end thereof:

5 **“Subtitle K—Beverage Container**
6 **Recycling**

7 **“SEC. 12001. DEFINITIONS.**

8 “For purposes of this subtitle—

9 “(1) The term ‘beverage’ means an alcoholic or
10 non-alcoholic, carbonated or uncarbonated liquid
11 that is intended for human consumption.

12 “(2) The term ‘beverage container’ means a
13 container constructed of metal, glass, plastic, or
14 some combination of these materials and having a
15 capacity of up to one gallon of liquid and which is
16 or has been sealed and used to contain a beverage
17 for sale in interstate commerce.

18 “(3) The term ‘beverage distributor’ means a
19 person who sells or offers for sale in interstate com-
20 merce to beverage retailers beverages in beverage
21 containers for resale.

22 “(4) The term ‘beverage manufacturer’ means a
23 person who manufactures and sells or offers for sale
24 in interstate commerce to beverage distributors or
25 beverage retailers beverages in beverage containers
26 for resale.

1 “(5) The term ‘beverage retailer’ means a per-
2 son who purchases from a beverage distributor bev-
3 erages in beverage containers for sale to a consumer
4 or who sells or offers to sell in commerce beverages
5 in beverage containers to a consumer, but does not
6 include a person who sells or offers to sell the bev-
7 erages for consumption on the premises.

8 “(6) The term ‘deposit initiator’ means a per-
9 son who is a beverage manufacturer, beverage im-
10 porter or beverage distributor, the domestic beverage
11 manufacturer or the first domestic entity selling the
12 beverage to the retailer.

13 “(7) The term ‘consumer’ means a person who
14 purchases a beverage container for any use other
15 than resale.

16 “(8) The term ‘refund value’ means the amount
17 specified as the refund value of a beverage container
18 under section 12002.

19 “(9) The term ‘recovery for beverage con-
20 tainers’ includes both beverage containers and other
21 containers that are made of beverage container ma-
22 terials.

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

24 “Except as otherwise provided in section 12007, no
25 beverage distributor or beverage retailer may sell or offer

1 for sale in interstate commerce a beverage in a beverage
2 container unless there is clearly, prominently, and securely
3 affixed to, or printed on, the container a statement of the
4 refund value of the container in the amount of 5 cents.
5 The Administrator shall promulgate rules establishing
6 uniform standards for the size and location of the refund
7 value statement on beverage containers. The 5 cent
8 amount specified in this section shall be subject to adjust-
9 ment by the Administrator as provided in section 12008.

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

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

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

22 “(a) PAYMENT BY RETAILER.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), if any person tenders for refund an empty
25 and unbroken beverage container to a beverage re-

1 tailer who sells (or has sold at any time during the
2 period of 3 months ending on the date of such ten-
3 der) the same brand of beverage in the same kind
4 and size of container, the retailer shall promptly pay
5 such person the amount of the refund value stated
6 on the container.

7 “(2) EXCEPTIONS.—A retailer shall not be re-
8 quired to accept tender of a beverage container from
9 any person under paragraph (1)—

10 “(A) if the beverage container contains or
11 is contaminated by a hazardous waste;

12 “(B) in excess of 600 individual beverage
13 containers per day if the retailer occupies a
14 space less than 5,000 square feet; or

15 “(C) in excess of 1,800 individual beverage
16 containers per day if the retailer occupies a
17 space greater than 5,000 square feet.

18 “(b) PAYMENT BY DISTRIBUTOR.—If any person
19 tenders for refund an empty and unbroken beverage con-
20 tainer to a beverage distributor who sells (or has sold at
21 any time during the period of 3 months ending on the
22 date of such tender) the same brand of beverage in the
23 same kind and size of container, the distributor shall
24 promptly pay such person (1) the amount of the refund
25 value stated on the container, plus (2) an amount equal

1 to at least 3 cents per container to help defray the cost
2 of handling. This subsection shall not preclude any person
3 from tendering beverage containers to persons other than
4 beverage distributors.

5 “(c) AGREEMENTS.—(1) Nothing in this subtitle
6 shall preclude agreements between distributors, retailers,
7 or other persons to establish centralized or co-located bev-
8 erage collection centers, including centers which act as
9 agents of such retailers.

10 “(2) Nothing in this subtitle shall preclude agree-
11 ments between beverage retailers, beverage distributors, or
12 other persons for the crushing or bundling (or both) of
13 beverage containers.

14 “(d) BROKEN CONTAINERS.—The opening of a bev-
15 erage container in a manner in which it was designed to
16 be opened and the compression of a beverage container
17 made of metal or plastic shall not, for purposes of this
18 section, constitute the breaking of the container if the
19 statement of the amount of the refund value of the con-
20 tainer is still readable.

21 “(e) REPORTS.—Deposit initiators shall provide an-
22 nual reports to the Administrator or designated State
23 agency documenting their rate of redemption.

1 **“SEC. 12005. ACCOUNTING FOR UNCLAIMED REFUNDS AND**
2 **PROVISIONS FOR STATE RECYCLING FUNDS.**

3 “(a) UNCLAIMED REFUNDS.—At the end of each fis-
4 cal quarter, each deposit initiator shall pay to each State
5 an amount equal to the sum by which the total refund
6 value of all containers sold by the deposit initiator for re-
7 sale in that State during that year exceeds the total sum
8 paid during that period by the initiator under section
9 12004(b) to persons in that State. The total of unclaimed
10 refunds received by any State under this section shall be
11 available to carry out programs designed to reduce green-
12 house gas emissions within the State, including but not
13 limited to State and local recycling programs.

14 “(b) REFUNDS IN EXCESS OF COLLECTIONS.—If the
15 total of payments made by a deposit initiator in any cal-
16 endar year under section 12004(b) for any State exceed
17 the total refund value of all containers sold by the initiator
18 for resale in that State, the excess shall be credited
19 against the amount otherwise required to be paid by the
20 initiator to that State under subsection (a) for a subse-
21 quent fiscal year quarter designated by the deposit
22 initiator.

23 **“SEC. 12006. PROHIBITIONS ON DISPOSAL.**

24 “No retailer or distributor or agent of a retailer or
25 distributor may intentionally dispose of any beverage con-
26 tainer labeled under section 12002 or any metal, glass,

1 or plastic from such a beverage container (other than the
2 top or other seal thereof) in any landfill or other solid
3 waste disposal facility.

4 **“SEC. 12007. EXEMPTED STATES.**

5 “(a) IN GENERAL.—The provisions of sections 12002
6 through 12005 and sections 12008 and 12009 of this sub-
7 title shall not apply in any State which—

8 “(1) has adopted and implemented, before the
9 date of enactment of this subtitle, a law requiring
10 beverage container deposits;

11 “(2) demonstrates to the Administrator that,
12 for any period of 12 consecutive months following
13 the date of enactment of this subtitle, such State
14 achieved a recycling or reuse rate for beverage con-
15 tainers of at least—

16 “(A) 50 percent for the first 3 years after
17 the date of enactment of this subtitle;

18 “(B) 60 percent for the subsequent 2 year
19 period; and

20 “(C) 70 percent during any period there-
21 after; or

22 “(3) has adopted and implemented a law re-
23 quiring a recovery rate of 70 percent within one year
24 of enactment of this subtitle. Such law shall require
25 recertification of this recovery rate every 3 years.

1 Paragraph (1) shall only apply with respect to the first
2 3 years after the date of enactment of this subtitle. If at
3 any time following a determination under paragraph (2)
4 that a State has achieved the applicable percentage recy-
5 cling or reuse rate the Administrator determines that such
6 State has failed, for any 12-consecutive-month period, to
7 maintain at least the applicable percentage recycling or
8 reuse rate of its beverage containers, the Administrator
9 shall notify such State that, upon the expiration of the
10 90-day period following such notification, the provisions
11 under sections 12002 through 12005 and sections 12008
12 and 12009 shall be applicable to that State until a subse-
13 quent determination is made under subparagraph (A) or
14 a demonstration is made under subparagraph (B).

15 “(b) DETERMINATION OF TAX.—No State or political
16 subdivision which imposes any tax on the sale of any bev-
17 erage container may impose a tax on any amount attrib-
18 utable to the refund value of such container.

19 “(c) EFFECT ON OTHER LAWS.—Nothing in this
20 subtitle shall be construed to affect the authority of any
21 State or political subdivision thereof to enact or enforce
22 (or continue in effect) any law respecting a refund value
23 on containers other than beverage containers or from reg-
24 ulating redemption and other centers which purchase

1 empty beverage containers from beverage retailers, con-
2 sumers, or other persons.

3 **“SEC. 12008. REGULATIONS.**

4 “Not later than 12 months after the date of enact-
5 ment of this subtitle, the Administrator shall prescribe
6 regulations to carry out this subtitle. The regulations shall
7 include a definition of the term ‘beverage retailer’ in a case
8 in which beverages in beverage containers are sold to con-
9 sumers through beverage vending machines. Such regula-
10 tions shall also adjust the 5 cent amount specified in sec-
11 tion 12002 and the 2 cent amount specified in section
12 12004 to account for inflation. Such adjustment shall be
13 effective 10 years after the date of enactment of this sub-
14 title and additional adjustments shall take effect at 10
15 year intervals thereafter. The regulations shall also permit
16 the Administrator to increase such amounts by an addi-
17 tional amount after the expiration of 5 years after the date
18 of enactment of this subtitle.

19 **“SEC. 12009. PENALTIES.**

20 “Any person who violates any provision of section
21 12002, 12003, 12004, or 12006 shall be subject to a civil
22 penalty of not more than \$1,000 for each violation. Any
23 person who violates any provision of section 12005 shall
24 be subject to a civil penalty of not more than \$10,000 for
25 each violation.

1 **“SEC. 12010. EFFECTIVE DATE.**

2 “Except as provided in section 12007 abd 12008, this
3 subtitle shall take effect 2 years after the date of its enact-
4 ment.”.

5 (b) TABLE OF CONTENTS.—The table of contents for
6 such Act is amended by adding the following at the end
7 thereof:

“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 disposal.

“Sec. 12007. Exempted States.

“Sec. 12008. Regulations.

“Sec. 12009. Penalties.

“Sec. 12010. Effective date.”.

