

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0156.01 Kate Meyer

HOUSE BILL 11-1247

HOUSE SPONSORSHIP

Pabon, Court, Duran, Gardner D., Vigil

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Schwartz,

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING IMPLEMENTATION OF A DEPOSIT BEVERAGE CONTAINER**
102 **PROGRAM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billssummaries>.)

The bill creates a deposit beverage container program (program), which will be fully implemented by January 1, 2013. A "deposit beverage container" is an individual, separate, polyethylene terephthalate or high-density polyethylene or glass container with a total capacity less than or equal to 64 fluid ounces that contains beer, ale, or other drinks

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

produced by fermenting malt; mixed spirits; mixed wine; tea and coffee drinks; soda; noncarbonated water; and all nonalcoholic drinks in liquid form and intended for internal human consumption.

Deposit beverage distributors. A "deposit beverage distributor" (distributor) is a person who manufactures beverages put into deposit beverage containers or who imports and engages in the sale of filled deposit beverage containers to a dealer or consumer.

Beginning September 1, 2011, distributors must register with the department of revenue (department), maintain records regarding the manufacture, importation, and exportation of beverage and deposit beverage containers (containers), and make such records available to the department.

Beginning October 1, 2011, distributors will be required to pay to the department a beverage container fee for each deposit beverage container that the distributor manufactures in, or imports into, the state.

Consumers. By January 1, 2013, the bill requires consumers to pay to the dealer (a person who engages in the sale of beverages in deposit beverage containers to a consumer for off-premises consumption) from whom the consumer purchases a deposit beverage a deposit on each deposit beverage container. Consumers will be able to recover the amount of such deposits by turning in containers to redemption centers.

Dealers. The bill requires a dealer to redeem deposits unless the dealer, among other things:

- ! Is located within 2 miles of a redemption center in a highly populated area;
- ! Sells refundable containers through vending machines only; or
- ! Has less than 5,000 square feet of retail space.

Redemption centers. With regard to a "redemption center", which is defined as a person or facility that accepts from consumers, in exchange for the refund value, empty deposit beverage containers intended for recycling, the bill:

- ! Requires redemption centers to apply for certification by the department prior to operation and to ensure that each collected container is recycled;
- ! Allows redemption centers to use reverse vending machines for the purpose of redeeming deposits; and
- ! Directs the department to pay each redemption center a handling fee of not less than the prevailing container fee in addition to the refund value of each redeemed container.

Program administration. In order to implement, administer, and oversee the program, the bill:

- ! Requires the department to adopt rules to implement the program;
- ! Allows the department to contract the services of a third

- party in order to administer the program;
- ! Requires the department to convene an advisory committee to aid in the implementation of the program;
- ! Authorizes the department and the state auditor to inspect the records of distributors, dealers, redemption centers, and recycling facilities; and
- ! Directs the state auditor to conduct an audit of the program on or before July 1, 2014.

Deposit beverage container fund. The bill creates the deposit beverage container fund (fund), which fund will be used to finance the program and will consist of container fees, deposits, and interest earned. The bill requires that a portion of the moneys in the fund resulting from any unredeemed deposit refund values be transferred as follows:

- ! 10% to the recycling resources economic opportunity fund;
- ! 40% to the state education fund to defray the costs of K-12 education; and
- ! The remaining 50% for administrative costs, including recycling education.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Return deposit laws create environmental benefits, including
5 litter reduction and energy and resource conservation;

6 (b) Return deposit systems are effective and necessary recycling
7 programs, and they complement other types of recycling programs, such
8 as curbside programs and aluminum can buy-back centers;

9 (c) Return deposit laws correct a false economic price signal by
10 appropriately placing the costs of recycling and waste disposal on the
11 producers and consumers of beverage containers who incur these costs,
12 rather than on government and taxpayers who do not;

13 (d) Return deposit systems produce energy cost savings because
14 it takes less energy to produce beverages in returnable, reusable
15 containers; and

1 (e) Local governments also benefit from a substantial reduction
2 in the amount of roadside litter and lower handling costs on recyclable
3 materials.

4 (2) Therefore, it is the intent of the general assembly to implement
5 a deposit beverage container program in Colorado, to be administered by
6 the department of revenue.

7 **SECTION 2.** Article 35 of title 24, Colorado Revised Statutes, is
8 amended BY THE ADDITION OF A NEW PART to read:

9 **PART 7**

10 **DEPOSIT BEVERAGE CONTAINER PROGRAM**

11 **24-35-701. Definitions.** AS USED IN THIS PART 7, UNLESS THE
12 CONTEXT OTHERWISE REQUIRES:

13 (1) "BEVERAGE CONTAINER" MEANS AN INDIVIDUAL, SEPARATE,
14 POLYTHYLENE TEREPHTHALTE OR HIGH-DENSITY POLYETHYLENE OR GLASS
15 DEPOSIT BEVERAGE CONTAINER WITH A TOTAL CAPACITY LESS THAN OR
16 EQUAL TO SIXTY-FOUR FLUID OUNCES.

17 (2) "CONSUMER" MEANS A NATURAL PERSON WHO BUYS A
18 BEVERAGE IN A DEPOSIT BEVERAGE CONTAINER FOR USE OR CONSUMPTION
19 AND PAYS THE DEPOSIT.

20 (3) "DEALER" MEANS A PERSON WHO ENGAGES IN THE SALE OF
21 BEVERAGES IN DEPOSIT BEVERAGE CONTAINERS TO A CONSUMER FOR
22 OFF-PREMISES CONSUMPTION.

23 (4) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE
24 CREATED IN SECTION 24-1-117.

25 (5) "DEPOSIT BEVERAGE" MEANS BEER, ALE, OR OTHER DRINKS
26 PRODUCED BY FERMENTING MALT; MIXED SPIRITS; MIXED WINE; TEA AND
27 COFFEE DRINKS; SODA; WATER, REGARDLESS OF CARBONATION; AND ALL

1 NONALCOHOLIC DRINKS IN LIQUID FORM AND INTENDED FOR INTERNAL
2 HUMAN CONSUMPTION. "DEPOSIT BEVERAGE" DOES NOT INCLUDE MILK OR
3 OTHER DAIRY-DERIVED PRODUCTS, BUT DOES NOT INCLUDE TEA AND
4 COFFEE DRINKS THAT THE DEPARTMENT, ACTING BY RULE, DETERMINES
5 CONTAIN ONLY TRACE AMOUNTS OF DAIRY PRODUCTS.

6 (6) "DEPOSIT BEVERAGE CONTAINER" MEANS A BEVERAGE
7 CONTAINER THAT IS USED FOR OR CONTAINS A DEPOSIT BEVERAGE.

8 (7) (a) "DEPOSIT BEVERAGE DISTRIBUTOR" MEANS A PERSON WHO:

9 (I) MANUFACTURES BEVERAGES IN DEPOSIT BEVERAGE
10 CONTAINERS;

11 (II) IMPORTS AND ENGAGES IN THE SALE OF FILLED DEPOSIT
12 BEVERAGE CONTAINERS TO A DEALER OR CONSUMER; OR

13 (III) PRIOR TO JANUARY 1, 2013:

14 (A) IS A MANUFACTURER OF BEVERAGES IN BEVERAGE
15 CONTAINERS; OR

16 (B) IMPORTS AND ENGAGES IN THE SALE OF FILLED BEVERAGE
17 CONTAINERS TO A DEALER OR CONSUMER.

18 (b) "DEPOSIT BEVERAGE DISTRIBUTOR" INCLUDES FEDERAL
19 AGENCIES AND MILITARY DISTRIBUTORS, BUT DOES NOT INCLUDE AIRLINES
20 AND SHIPPING COMPANIES THAT MERELY TRANSPORT DEPOSIT BEVERAGE
21 CONTAINERS OR BEVERAGE CONTAINERS.

22 (8) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, FIRM,
23 ASSOCIATION, PUBLIC OR PRIVATE CORPORATION, FEDERAL AGENCY,
24 TRUST, ESTATE, OR ANY OTHER LEGAL ENTITY. "PERSON" INCLUDES THE
25 STATE AND ANY OF ITS POLITICAL SUBDIVISIONS.

26 (9) "RECYCLING FACILITY" MEANS ALL CONTIGUOUS LAND AND
27 STRUCTURES AND OTHER APPURTENANCES AND IMPROVEMENTS ON THE

1 LAND USED FOR THE COLLECTION, SEPARATION, RECOVERY, AND SALE OR
2 REUSE OF SECONDARY RESOURCES THAT WOULD OTHERWISE BE DISPOSED
3 OF AS MUNICIPAL SOLID WASTE. A RECYCLING FACILITY IS AN INTEGRAL
4 PART OF A MANUFACTURING PROCESS AIMED AT PRODUCING A
5 MARKETABLE PRODUCT MADE OF POSTCONSUMER MATERIAL.

6 (10) "REDEEMER" MEANS A PERSON, OTHER THAN A DEALER OR
7 DEPOSIT BEVERAGE DISTRIBUTOR, WHO DEMANDS THE REFUND VALUE IN
8 EXCHANGE FOR AN EMPTY DEPOSIT BEVERAGE CONTAINER.

9 (11) "REDEMPTION CENTER" MEANS A PERSON OR FACILITY THAT
10 ACCEPTS FROM REDEEMERS, IN EXCHANGE FOR THE REFUND VALUE, EMPTY
11 DEPOSIT BEVERAGE CONTAINERS FOR RECYCLING AND THAT IS CERTIFIED
12 BY THE DEPARTMENT PURSUANT TO SECTION 24-35-710.

13 (12) "REVERSE VENDING MACHINE" MEANS A MECHANICAL DEVICE
14 THAT ACCEPTS ONE OR MORE TYPES OF EMPTY DEPOSIT BEVERAGE
15 CONTAINERS AND ISSUES A REDEEMABLE CREDIT SLIP WITH A VALUE NOT
16 LESS THAN THE REFUND VALUE OF EACH CONTAINER THAT IS ACCEPTED.
17 THE REFUND VALUE PAYMENTS MUST BE AGGREGATED AND THEN PAID IF
18 MORE THAN ONE CONTAINER IS REDEEMED IN A SINGLE TRANSACTION.

19 (13) "UNREDEEMED REFUND VALUE" MEANS THE DIFFERENCE
20 BETWEEN THE TOTAL AMOUNT OF DEPOSITS PAID BY CONSUMERS
21 PURSUANT TO SECTION 24-35-707 AND THE TOTAL AMOUNT PAID AT A
22 LATER TIME TO REDEEMERS PURSUANT TO SECTION 24-35-709.

23 **24-35-702. Deposit beverage container fee.**

24 (1) (a) (I) BEGINNING OCTOBER 1, 2011, AND ENDING OCTOBER 1, 2013,
25 EVERY DEPOSIT BEVERAGE DISTRIBUTOR SHALL PAY TO THE DEPARTMENT
26 A DEPOSIT BEVERAGE CONTAINER FEE OF ONE-HALF CENT ON EACH
27 DEPOSIT BEVERAGE CONTAINER MANUFACTURED IN OR IMPORTED INTO

1 THE STATE.

2 (II) BEGINNING OCTOBER 1, 2013, AND ENDING JANUARY 1, 2014,
3 EVERY DEPOSIT BEVERAGE DISTRIBUTOR SHALL PAY TO THE DEPARTMENT
4 A DEPOSIT BEVERAGE CONTAINER FEE OF ONE CENT ON EACH DEPOSIT
5 BEVERAGE CONTAINER MANUFACTURED IN OR IMPORTED INTO THE STATE.

6 (III) ON AND AFTER JANUARY 1, 2014, THE DEPOSIT BEVERAGE
7 CONTAINER FEE MUST BE BASED ON THE PREVIOUS CALENDAR QUARTER'S
8 RECYCLING RATES. THE RATE IS AS FOLLOWS, BASED ON THE NUMBER OF
9 CONTAINERS SOLD AND NUMBER RECOVERED DURING THE PREVIOUS
10 QUARTER:

11 (A) IF THE RECOVERY RATE IS SEVENTY PERCENT OR LESS, ONE
12 CENT PER CONTAINER; OR

13 (B) IF THE RECOVERY RATE IS GREATER THAN SEVENTY PERCENT,
14 ONE AND ONE-HALF CENTS PER CONTAINER.

15 (b) THE DEPOSIT BEVERAGE CONTAINER FEE REQUIRED UNDER THIS
16 SUBSECTION (1) SHALL BE IMPOSED ONLY ONCE ON THE SAME BEVERAGE
17 CONTAINER.

18 (2) A COUNTY OR LOCAL GOVERNMENT SHALL NOT IMPOSE OR
19 COLLECT A FEE ASSESSMENT ON DEPOSIT BEVERAGE CONTAINERS FOR THE
20 SAME OR SIMILAR PURPOSE THAT IS THE SUBJECT OF THIS PART 7.

21 **24-35-703. Deposit beverage distributors - registration -**
22 **record-keeping requirements.** (1) ON OR BEFORE SEPTEMBER 1, 2011,
23 ALL BEVERAGE DISTRIBUTORS AND DEPOSIT BEVERAGE DISTRIBUTORS
24 OPERATING WITHIN THE STATE SHALL REGISTER WITH THE DEPARTMENT,
25 USING FORMS PRESCRIBED BY THE DEPARTMENT, AND SHALL NOTIFY THE
26 DEPARTMENT OF A CHANGE IN ADDRESS OR OTHER INFORMATION
27 PREVIOUSLY SUBMITTED. AFTER SEPTEMBER 1, 2011, A PERSON WHO

1 DESIRES TO CONDUCT BUSINESS IN THIS STATE AS A BEVERAGE
2 DISTRIBUTOR OR DEPOSIT BEVERAGE DISTRIBUTOR SHALL REGISTER WITH
3 THE DEPARTMENT NO LATER THAN ONE MONTH PRIOR TO THE
4 COMMENCEMENT OF THE BUSINESS.

5 (2) ALL BEVERAGE DISTRIBUTORS AND DEPOSIT BEVERAGE
6 DISTRIBUTORS SHALL MAINTAIN RECORDS REFLECTING THE MANUFACTURE
7 OF THEIR BEVERAGES IN BEVERAGE CONTAINERS AND DEPOSIT BEVERAGE
8 CONTAINERS AS WELL AS THE IMPORTATION AND EXPORTATION OF SUCH
9 CONTAINERS. UPON REQUEST BY THE DEPARTMENT, THE RECORDS MUST
10 BE MADE AVAILABLE FOR INSPECTION. THE DEPARTMENT SHALL KEEP
11 CONFIDENTIAL AND NOT DISCLOSE TO ANY OTHER PERSON ANY
12 PROPRIETARY INFORMATION OBTAINED BY THE DEPARTMENT, EXCEPT:

13 (a) AS MAY BE REASONABLY REQUIRED IN AN ADMINISTRATIVE OR
14 JUDICIAL PROCEEDING TO ENFORCE THE PROVISIONS OF THIS PART 7 OR
15 RULES ADOPTED PURSUANT TO THIS PART 7; OR

16 (b) UNDER AN ORDER ISSUED BY A COURT OR ADMINISTRATIVE
17 AGENCY HEARINGS OFFICER.

18 **24-35-704. Deposit beverage container fund - use of funds.**

19 (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE DEPOSIT
20 BEVERAGE CONTAINER FUND. ALL REVENUES GENERATED FROM THE
21 DEPOSIT BEVERAGE CONTAINER FEE PURSUANT TO SECTION 24-35-702,
22 ALL REVENUES GENERATED FROM THE DEPOSIT BEVERAGE CONTAINER
23 DEPOSIT PURSUANT TO SECTION 24-35-707, AND ALL ACCRUED INTEREST
24 SHALL BE DEPOSITED INTO THE FUND. ALL MONEYS REMAINING IN THE
25 FUND AT THE END OF ANY FISCAL QUARTER SHALL REMAIN IN THE FUND
26 AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

27 (2) MONEYS IN THE DEPOSIT BEVERAGE CONTAINER FUND SHALL

1 BE ALLOCATED TO THE DEPARTMENT FOR THE PURPOSES OF THIS PART 7.
2 TEN PERCENT OF THE MONEYS IN THE FUND RESULTING FROM ANY
3 UNREDEEMED REFUND VALUES PAID BY THE CONSUMER SHALL BE
4 TRANSFERRED TO THE RECYCLING RESOURCES ECONOMIC OPPORTUNITY
5 FUND CREATED IN SECTION 25-16.5-106.5, C.R.S. FORTY PERCENT OF THE
6 MONEYS IN THE FUND RESULTING FROM ANY UNREDEEMED REFUND
7 VALUES PAID BY THE CONSUMER SHALL BE TRANSFERRED TO THE STATE
8 EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE
9 STATE CONSTITUTION, TO BE USED FOR KINDERGARTEN THROUGH TWELFTH
10 GRADE EDUCATION PURPOSES, AS DETERMINED BY THE STATE
11 DEPARTMENT OF EDUCATION CREATED UNDER SECTION 24-1-115. THE
12 DEPARTMENT SHALL USE THE REMAINING FIFTY PERCENT OF THE MONEYS
13 IN THE FUND TO:

14 (a) FUND ADMINISTRATIVE, AUDIT, AND COMPLIANCE ACTIVITIES
15 ASSOCIATED WITH COLLECTION AND PAYMENT OF THE DEPOSITS AND
16 HANDLING FEES OF THE DEPOSIT BEVERAGE CONTAINER PROGRAM;

17 (b) CONDUCT RECYCLING EDUCATION AND DEMONSTRATION
18 PROJECTS;

19 (c) PROMOTE RECYCLABLE MARKET DEVELOPMENT ACTIVITIES;

20 (d) SUPPORT THE HANDLING AND TRANSPORTATION OF THE
21 DEPOSIT BEVERAGE CONTAINERS TO END MARKETS;

22 (e) HIRE PERSONNEL TO OVERSEE THE IMPLEMENTATION OF THE
23 DEPOSIT BEVERAGE CONTAINER PROGRAM, INCLUDING PERMITTING AND
24 ENFORCEMENT ACTIVITIES; AND

25 (f) DEVELOP, PRINT, AND DISTRIBUTE SIGNS THAT DEALERS ARE
26 REQUIRED TO POST UNDER SECTION 24-35-709 (3).

27 **24-35-705. Inventory report - payment.** (1) BEGINNING

1 OCTOBER 1, 2011, THE DEPARTMENT MUST MAKE MONTHLY PAYMENT OF
2 THE DEPOSIT BEVERAGE CONTAINER FEE AND DEPOSITS, AS DESCRIBED IN
3 SECTION 24-35-707, BASED ON INVENTORY REPORTS OF THE DEPOSIT
4 BEVERAGE DISTRIBUTORS. ALL DEPOSIT BEVERAGE DISTRIBUTORS MUST
5 SUBMIT TO THE DEPARTMENT DOCUMENTATION IN DETAIL SUFFICIENT TO
6 IDENTIFY:

7 (a) THE NUMBER OF BEVERAGES IN DEPOSIT BEVERAGE
8 CONTAINERS, BY CONTAINER SIZE AND TYPE, MANUFACTURED IN OR
9 IMPORTED INTO THE STATE; AND

10 (b) THE NUMBER OF SUCH DEPOSIT BEVERAGE CONTAINERS, BY
11 CONTAINER SIZE AND TYPE, EXPORTED AND INTENDED FOR CONSUMPTION
12 OUTSIDE THE STATE DURING THE REPORTING PERIOD.

13 (2) THE AMOUNT DUE FROM DEPOSIT BEVERAGE DISTRIBUTORS IS
14 THE NET NUMBER OF DEPOSIT BEVERAGE CONTAINERS IMPORTED INTO OR
15 MANUFACTURED IN THE STATE MULTIPLIED BY THE SUM OF THE
16 PREVAILING DEPOSIT BEVERAGE CONTAINER FEE AND THE REFUND VALUE
17 OF FIVE CENTS. PAYMENT MUST BE MADE BY CHECK OR MONEY ORDER,
18 PAYABLE TO THE DEPARTMENT. ALL INVENTORY REPORTS AND PAYMENTS
19 MUST BE MADE NO LATER THAN THE FIFTEENTH DAY OF THE MONTH
20 FOLLOWING THE END OF THE PAYMENT PERIOD OF THE PREVIOUS MONTH.

21 **24-35-706. Contract administrator.** THE DEPARTMENT MAY
22 CONTRACT THE SERVICES OF A THIRD PARTY TO ADMINISTER THE DEPOSIT
23 BEVERAGE CONTAINER PROGRAM UNDER THIS PART 7.

24 **24-35-707. Payment and application of deposits - sale of**
25 **beverages in deposit beverage containers.** (1) (a) BEGINNING JANUARY
26 1, 2013, EVERY DEPOSIT BEVERAGE CONTAINER SOLD IN THIS STATE HAS
27 A REFUND VALUE OF FIVE CENTS. EACH CONTAINER MUST HAVE THE

1 REFUND VALUE CLEARLY INDICATED ON IT AS PROVIDED IN SECTION
2 24-35-708.

3 (b) THE REFUND VALUE IS EQUAL TO THE AMOUNT OF THE DEPOSIT
4 REQUIRED. ONCE A REFUND HAS BEEN APPLIED TO A DEPOSIT BEVERAGE
5 CONTAINER, THE DEPOSIT ON THAT CONTAINER MUST NOT BE CHANGED
6 AND MUST BE PAID TO THE STATE.

7 (c) THE DEPOSIT BEVERAGE DISTRIBUTOR WHO MANUFACTURES OR
8 IMPORTS BEVERAGES IN DEPOSIT BEVERAGE CONTAINERS SHALL PAY TO
9 THE DEPARTMENT THE DEPOSIT ON EACH FILLED DEPOSIT BEVERAGE
10 CONTAINER. PAYMENT AND REPORTING OF THE DEPOSITS MUST BE IN
11 ACCORDANCE WITH SECTION 24-35-705. THE DEPARTMENT SHALL
12 DEPOSIT THE DEPOSITS INTO THE DEPOSIT BEVERAGE CONTAINER FUND
13 CREATED IN SECTION 24-35-704.

14 (d) A DEPOSIT BEVERAGE DISTRIBUTOR WHO SHALL PAY A DEPOSIT
15 SHALL PAY A DEPOSIT BEVERAGE CONTAINER FEE AND REGISTER WITH THE
16 DEPARTMENT.

17 (2) (a) BEGINNING JANUARY 1, 2013, EVERY DEPOSIT BEVERAGE
18 DISTRIBUTOR WHO PAYS A DEPOSIT SHALL CHARGE THE DEALER OR
19 CONSUMER A DEPOSIT EQUAL TO THE REFUND VALUE FOR EACH DEPOSIT
20 BEVERAGE CONTAINER SOLD IN THE STATE. THE DEPOSIT CHARGE MAY
21 APPEAR AS A SEPARATE LINE ITEM ON THE INVOICE.

22 (b) EACH DEALER SHALL CHARGE THE CONSUMER THE DEPOSIT
23 BEVERAGE CONTAINER DEPOSIT AT THE POINT OF SALE OF THE BEVERAGE,
24 EXCLUDING SALES FOR ON-PREMISES CONSUMPTION. THE DEPOSIT CHARGE
25 MAY APPEAR AS A SEPARATE LINE ITEM ON THE INVOICE.

26 **24-35-708. Deposit beverage container requirements - rules.**
27 BEGINNING JANUARY 1, 2013, EVERY DEPOSIT BEVERAGE CONTAINER

1 SOLD IN THIS STATE MUST CLEARLY INDICATE THE REFUND VALUE OF THE
2 CONTAINER AND THE WORD "COLORADO" OR THE LETTERS "CO". THE
3 NAMES OR LETTERS REPRESENTING THE NAMES OF OTHER STATES WITH
4 COMPARABLE DEPOSIT BEVERAGE CONTAINER PROGRAM STATUTES ALSO
5 MAY BE INCLUDED IN THE INDICATION OF REFUND VALUE. OTHER
6 INDICATIONS MAY BE REQUIRED AS SPECIFIED BY RULES OF THE
7 DEPARTMENT.

8 **24-35-709. Redemption of empty deposit beverage containers**

9 **- rules.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, A
10 DEALER SHALL:

11 (a) OPERATE A REDEMPTION CENTER BY ACCEPTING ALL TYPES OF
12 EMPTY DEPOSIT BEVERAGE CONTAINERS WITH A COLORADO REFUND
13 VALUE;

14 (b) PAY TO THE REDEEMER THE FULL REFUND VALUE FOR DEPOSIT
15 BEVERAGE CONTAINERS THAT BEAR A VALID COLORADO REFUND VALUE;

16 (c) ENSURE THAT EACH DEPOSIT BEVERAGE CONTAINER
17 COLLECTED IS RECYCLED; AND

18 (d) FORWARD DOCUMENTATION NECESSARY TO SUPPORT CLAIMS
19 FOR PAYMENT AS STATED IN SECTION 24-35-714 OR RULES ADOPTED
20 UNDER THIS PART 7.

21 (2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO A
22 DEALER:

23 (a) WHO IS LOCATED IN A HIGH-DENSITY POPULATION AREA, AS
24 DEFINED BY THE DEPARTMENT BY RULE, AND WITHIN TWO MILES OF A
25 CERTIFIED REDEMPTION CENTER THAT IS OPERATED INDEPENDENTLY FROM
26 A DEALER;

27 (b) WHO SUBCONTRACTS WITH A CERTIFIED REDEMPTION CENTER

1 FOR OPERATION ON THE DEALER'S PREMISES;

2 (c) WHOSE SALES OF DEPOSIT BEVERAGE CONTAINERS ARE ONLY
3 THROUGH THE USE OF VENDING MACHINES;

4 (d) WHOSE PLACE OF BUSINESS HAS LESS THAN FIVE THOUSAND
5 SQUARE FEET OF INTERIOR SPACE;

6 (e) WHO CAN DEMONSTRATE PHYSICAL HARDSHIP, FINANCIAL
7 HARDSHIP, OR BOTH, BASED ON SPECIFIC CRITERIA ESTABLISHED BY THE
8 DEPARTMENT BY RULE; OR

9 (f) WHO MEETS OTHER CRITERIA ESTABLISHED BY THE
10 DEPARTMENT BY RULE.

11 (3) ALL DEALERS, REGARDLESS OF THE SQUARE FOOTAGE OF THE
12 DEALER'S PLACE OF BUSINESS, SHALL POST A CLEAR AND CONSPICUOUS
13 SIGN AT EACH PUBLIC ENTRANCE TO THE DEALER'S PLACE OF BUSINESS
14 THAT SPECIFIES THE NAME, ADDRESS, AND HOURS OF OPERATION OF THE
15 NEAREST REDEMPTION CENTER. THE DEPARTMENT SHALL, BY RULE,
16 DEVELOP AND PROVIDE SIGNS TO DEALERS.

17 (4) IF THERE IS NO REDEMPTION CENTER WITHIN THE TWO-MILE
18 RADIUS OF A DEALER'S PLACE OF BUSINESS, THE DEPARTMENT SHALL
19 DETERMINE THE NEED FOR A REDEMPTION CENTER IN THAT AREA. IF A
20 REDEMPTION CENTER IS DEEMED NECESSARY, THE STATE, WITH
21 ASSISTANCE FROM THE COUNTY, SHALL ESTABLISH THE REDEMPTION
22 CENTER USING MONEYS DRAWN FROM THE DEPOSIT BEVERAGE CONTAINER
23 FUND CREATED IN SECTION 24-35-704.

24 **24-35-710. Redemption centers.** (1) PRIOR TO OPERATION, A
25 REDEMPTION CENTER MUST BE CERTIFIED BY THE DEPARTMENT.

26 (2) AN APPLICATION FOR CERTIFICATION AS A REDEMPTION CENTER
27 MUST BE FILED WITH THE DEPARTMENT ON FORMS PRESCRIBED BY THE

1 DEPARTMENT.

2 (3) THE DEPARTMENT MAY REVIEW THE CERTIFICATION OF A
3 REDEMPTION CENTER. AFTER WRITTEN NOTICE TO THE PERSON
4 RESPONSIBLE FOR THE ESTABLISHMENT AND OPERATION OF THE
5 REDEMPTION CENTER AND TO THE DEALERS SERVED BY THE REDEMPTION
6 CENTER, THE DEPARTMENT, AFTER IT HAS AFFORDED THE REDEMPTION
7 CENTER OPERATOR A HEARING IN ACCORDANCE WITH ARTICLE 4 OF THIS
8 TITLE, MAY WITHDRAW THE CERTIFICATION OF THE CENTER IF IT FINDS
9 THAT THE REDEMPTION CENTER HAS NOT COMPLIED WITH APPLICABLE
10 LAWS, RULES, PERMIT CONDITIONS, OR CERTIFICATION REQUIREMENTS.

11 (4) A REDEMPTION CENTER SHALL:

12 (a) ACCEPT ALL TYPES OF EMPTY DEPOSIT BEVERAGE CONTAINERS
13 FOR WHICH A DEPOSIT HAS BEEN PAID;

14 (b) VERIFY THAT ALL CONTAINERS TO BE REDEEMED BEAR A VALID
15 COLORADO REFUND VALUE;

16 (c) PAY TO THE REDEEMER THE FULL REFUND VALUE FOR ALL
17 BEVERAGE CONTAINERS, EXCEPT AS PROVIDED IN SECTION 24-35-712;

18 (d) CRUSH ALL PLASTIC DEPOSIT BEVERAGE CONTAINERS, OR
19 DESTROY ALL DEPOSIT BEVERAGE CONTAINERS, THAT ARE ACCEPTED AT
20 THE TIME OF REDEMPTION;

21 (e) ENSURE THAT EACH DEPOSIT BEVERAGE CONTAINER
22 COLLECTED IS RECYCLED THROUGH A CONTRACTUAL AGREEMENT WITH AN
23 OUT-OF-STATE RECYCLER OR AN IN-STATE FACILITY PERMITTED BY THE
24 DEPARTMENT; EXCEPT THAT THIS PARAGRAPH (e) DOES NOT APPLY IF THE
25 REDEMPTION CENTER IS OPERATED BY A RECYCLER PERMITTED BY THE
26 DEPARTMENT; AND

27 (f) FORWARD THE DOCUMENTATION NECESSARY TO SUPPORT

1 CLAIMS FOR PAYMENT AS STATED IN SECTION 24-35-714.

2 (5) A REDEMPTION CENTER'S REDEMPTION AREA MUST BE
3 MAINTAINED IN FULL COMPLIANCE WITH APPLICABLE LAWS AND WITH THE
4 ORDERS AND RULES OF THE DEPARTMENT, INCLUDING PERMITTING
5 REQUIREMENTS, IF DEEMED NECESSARY, UNDER THIS PART 7.

6 **24-35-711. Reverse vending machines.** A REDEMPTION CENTER
7 MAY USE A REVERSE VENDING MACHINE TO COMPLY WITH SECTION
8 24-35-709, SO LONG AS THE REVERSE VENDING MACHINE ACCEPTS ANY
9 TYPE OF EMPTY DEPOSIT BEVERAGE CONTAINER AND PAYS OUT
10 APPROPRIATE REFUNDS THROUGH A REDEEMABLE VOUCHER FOR THOSE
11 CONTAINERS THAT BEAR A VALID COLORADO REFUND VALUE. A
12 REDEMPTION CENTER SHALL ROUTINELY SERVICE THE REVERSE VENDING
13 MACHINE TO ENSURE PROPER OPERATION AND CONTINUOUS ACCEPTANCE
14 OF CONTAINERS AND PAYMENT OF REFUNDS. ALL DEPOSIT BEVERAGE
15 CONTAINERS ACCEPTED BY A REVERSE VENDING MACHINE MUST BE EITHER
16 CRUSHED OR DESTROYED, AS APPLICABLE, AT THE POINT OF REDEMPTION.

17 **24-35-712. Refusal of refund value payment for a deposit**
18 **beverage container.** (1) REDEMPTION CENTERS SHALL REFUSE TO PAY
19 THE REFUND VALUE ON A DEPOSIT BEVERAGE CONTAINER THAT:

20 (a) IS DEEMED, BY RULE OF THE DEPARTMENT, TO BE IN
21 UNACCEPTABLE OR UNSAFE CONDITION, INCLUDING A CONTAINER THAT IS
22 BROKEN, CORRODED, DISMEMBERED, OR FLATTENED TO SUCH EXTENT SO
23 AS TO BE UNACCEPTABLE;

24 (b) CONTAINS A FREE-FLOWING LIQUID;

25 (c) DOES NOT PROPERLY INDICATE A REFUND VALUE; OR

26 (d) CONTAINS A SIGNIFICANT AMOUNT OF FOREIGN MATERIAL.

27 **24-35-713. Handling fees - refund values.** (1) THE

1 DEPARTMENT SHALL PAY TO EACH REDEMPTION CENTER A HANDLING FEE
2 OF NOT LESS THAN THE PREVAILING BEVERAGE CONTAINER FEE FOR EACH
3 DEPOSIT BEVERAGE CONTAINER REDEEMED BY A CONSUMER THAT IS
4 TRANSPORTED OUT OF STATE OR RECEIVED BY AN APPROVED IN-STATE
5 COMPANY FOR AN APPROVED END USE FOR RECYCLING OR RECEIVED BY A
6 DEPARTMENT-PERMITTED RECYCLING FACILITY.

7 (2) NOT LESS THAN THIRTY DAYS BEFORE PAYING THE HANDLING
8 FEES REQUIRED BY THIS SECTION, THE DEPARTMENT SHALL PUBLISH A
9 NOTICE STATEWIDE, IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE, OF
10 THE RECOVERY RATE FOR THE CALENDAR QUARTER FOR WHICH THE
11 HANDLING FEE WILL BE PAID. PAYMENTS FOR HANDLING FEES MUST BE
12 MADE NO LATER THAN SIX MONTHS AFTER THE COMPLETION OF THE
13 CALENDAR QUARTER TO WHICH THE PAYMENTS APPLY.

14 (3) THE HANDLING FEE MUST BE PAID IN ADDITION TO THE REFUND
15 VALUE OF EACH EMPTY DEPOSIT BEVERAGE CONTAINER. THE
16 DEPARTMENT MAY CHOOSE TO PAY THE HANDLING FEE AND REFUND
17 VALUE ON THE BASIS OF THE TOTAL WEIGHT OF THE CONTAINERS RECEIVED
18 DETERMINED BY MATERIAL TYPE AND THE AVERAGE WEIGHT OF EACH
19 CONTAINER TYPE.

20 (4) THE HANDLING FEE AND REFUND VALUE MAY BE PAID ONLY
21 ONCE FOR EACH CONTAINER REDEEMED AND CLAIMED BY A REDEMPTION
22 CENTER IN ACCORDANCE WITH SECTION 24-35-709.

23 **24-35-714. Redemption centers - reporting.** (1) THE
24 DEPARTMENT SHALL PAY TO A REDEMPTION CENTER HANDLING FEES AND
25 REFUND VALUES AS DESCRIBED IN SECTION 24-35-713, BASED ON
26 COLLECTION REPORTS SUBMITTED BY THE REDEMPTION CENTER. A
27 REDEMPTION CENTER SHALL SUBMIT TO THE DEPARTMENT INFORMATION

1 ON FORMS PRESCRIBED BY THE DEPARTMENT. THE INFORMATION SHALL
2 INCLUDE, AT A MINIMUM:

3 (a) THE AMOUNT AND TYPE OF CONTAINERS ACCEPTED AND
4 REJECTED;

5 (b) THE AMOUNT OF REFUNDS PAID OUT;

6 (c) THE AMOUNT AND WEIGHT OF EACH TYPE OF CONTAINER
7 TRANSPORTED OUT OF STATE OR TO A PERMITTED RECYCLING FACILITY;
8 AND

9 (d) COPIES OF OUT-OF-STATE TRANSPORT AND WEIGHT RECEIPTS
10 OR ACCEPTANCE RECEIPTS FROM PERMITTED RECYCLING FACILITIES. IF
11 THE REDEMPTION CENTER AND THE RECYCLING FACILITY ARE THE SAME
12 ENTITY, COPIES OF OUT-OF-STATE TRANSPORT AND WEIGHT RECEIPTS, OR
13 DOCUMENTATION OF END USE ACCEPTED BY THE DEPARTMENT, ALSO MUST
14 BE INCLUDED. REQUESTS FOR PAYMENT MUST BE MADE NO MORE
15 FREQUENTLY THAN TWICE PER MONTH. BEGINNING JANUARY 1, 2014,
16 EACH CENTER SHALL REPORT THE PREVIOUS QUARTER'S INFORMATION NO
17 LATER THAN THIRTY DAYS AFTER THE END OF THAT QUARTER SO THAT THE
18 HANDLING RATE CAN BE CALCULATED. FAILURE TO TIMELY SUBMIT THE
19 REPORT WILL POSTPONE PAYMENT FOR THOSE CONTAINERS UNTIL THEY
20 ARE SUBMITTED FOR A SUBSEQUENT QUARTER.

21 **24-35-715. Audit authority.** (1) THE RECORDS OF EACH DEPOSIT
22 BEVERAGE DISTRIBUTOR, DEALER, REDEMPTION CENTER, AND RECYCLING
23 FACILITY MUST BE MADE AVAILABLE, UPON REQUEST, FOR INSPECTION BY
24 THE DEPARTMENT, A DESIGNATED REPRESENTATIVE OF THE DEPARTMENT,
25 OR THE OFFICE OF THE STATE AUDITOR. ANY PROPRIETARY INFORMATION
26 OBTAINED BY THE DEPARTMENT, THE DEPARTMENT'S REPRESENTATIVE, OR
27 THE OFFICE OF THE STATE AUDITOR MUST BE KEPT CONFIDENTIAL AND

1 SHALL NOT BE DISCLOSED TO ANY OTHER PERSON, EXCEPT:

2 (a) AS MAY BE REASONABLY REQUIRED IN AN ADMINISTRATIVE OR
3 JUDICIAL PROCEEDING TO ENFORCE THE PROVISIONS OF THIS PART 7 OR
4 RULES ADOPTED UNDER THIS PART 7; OR

5 (b) UNDER AN ORDER ISSUED BY A COURT OR ADMINISTRATIVE
6 AGENCY HEARING OFFICER.

7 (2) THE STATE AUDITOR SHALL CONDUCT AN AUDIT OF THE
8 DEPOSIT BEVERAGE CONTAINER PROGRAM ON OR BEFORE JULY 1, 2014.

9 **24-35-716. Advisory committee - rules - repeal.** (1) THERE IS
10 HEREBY CREATED THE DEPOSIT BEVERAGE CONTAINER ADVISORY
11 COMMITTEE. THE DEPARTMENT SHALL CONVENE THE COMMITTEE TO
12 ASSIST IN DEVELOPING RULES TO IMPLEMENT THIS PART 7. THE
13 DEPARTMENT SHALL SELECT MEMBERS OF THE COMMITTEE TO OBTAIN
14 INPUT ON THE STATE LEVEL AS WELL AS TO ASSESS THE IMPACT ON EACH
15 INDIVIDUAL COUNTY AND ON CONSUMERS, RECYCLERS, AND THE
16 BEVERAGE INDUSTRY. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT
17 SHALL APPOINT THE MEMBERS OF THE COMMITTEE. MEMBERS SERVE AT
18 THE EXECUTIVE DIRECTOR'S PLEASURE. A SIMPLE MAJORITY OF THE
19 COMMITTEE MEMBERS CONSTITUTES A QUORUM FOR THE PURPOSES OF
20 RECOMMENDING RULES AND PROVIDING INPUT TO THE EXECUTIVE
21 DIRECTOR OF THE DEPARTMENT.

22 (2) (a) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2020.

23 (b) PRIOR TO SUCH REPEAL, THE ADVISORY COMMITTEE SHALL BE
24 REVIEWED AS PROVIDED IN SECTION 2-3-1203, C.R.S.

25 **24-35-717. Rules - program implementation deadline.** THE
26 DEPOSIT BEVERAGE CONTAINER PROGRAM MUST BE FULLY IMPLEMENTED
27 ON OR BEFORE JANUARY 1, 2013. THE DEPARTMENT SHALL ADOPT RULES

1 AS NECESSARY TO ADMINISTER THIS PART 7.

2 **SECTION 3.** 2-3-1203 (3), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **2-3-1203. Sunset review of advisory committees.** (3) The
5 following dates are the dates for which the statutory authorization for the
6 designated advisory committees is scheduled for repeal:

7 (gg.5) SEPTEMBER 1, 2020:

8 (I) THE DEPOSIT BEVERAGE CONTAINER ADVISORY COMMITTEE TO
9 THE DEPARTMENT OF REVENUE CREATED IN SECTION 24-35-716, C.R.S.

10 **SECTION 4.** The introductory portion to 25-16.5-106.5 (1) (a),
11 Colorado Revised Statutes, is amended, and the said 25-16.5-106.5 (1) (a)
12 is further amended BY THE ADDITION OF A NEW
13 SUBPARAGRAPH, to read:

14 **25-16.5-106.5. Recycling resources economic opportunity fund**
15 **- creation - repeal.** (1) (a) The recycling resources economic
16 opportunity fund is hereby created in the state treasury, referred to in this
17 section as the "fund". The fund ~~shall consist~~ CONSISTS of:

18 (I.5) MONEYS TRANSFERRED PURSUANT TO SECTION 24-35-704,
19 C.R.S.;

20 **SECTION 5. Act subject to petition - effective date.** This act
21 shall take effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly (August
23 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
24 referendum petition is filed pursuant to section 1 (3) of article V of the
25 state constitution against this act or an item, section, or part of this act
26 within such period, then the act, item, section, or part shall not take effect
27 unless approved by the people at the general election to be held in

1 November 2012 and shall take effect on the date of the official
2 declaration of the vote thereon by the governor.