

By Senator Rader

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1 A bill to be entitled
2 An act relating to beverage container deposits;
3 creating s. 403.778, F.S.; providing a short title;
4 defining terms; establishing a refund value for
5 specified beverage containers; requiring consumers and
6 dealers to pay a deposit fee for specified beverage
7 containers; requiring certain information to be
8 affixed to or printed on deposit beverage containers;
9 providing for the redemption of beverage containers
10 and the refunding of deposit fees; providing
11 requirements and procedures for redemption centers;
12 authorizing the use of reverse vending machines;
13 specifying requirements and procedures for deposit
14 beverage dealers and distributors; requiring payment
15 of a certain handling fee; requiring dealers,
16 distributors, redemption centers, and recycling
17 facilities to keep specified information and records;
18 authorizing the Department of Environmental Protection
19 or other specified entities to conduct certain audits;
20 clarifying that certain trade secret information is
21 confidential but authorizing the release of that
22 information in a manner that would not reveal the
23 trade secret; requiring the department to adopt rules;
24 specifying which containers are subject to redemption,
25 deposit refunds, and handling fees; specifying
26 conditions for violation of the act; providing a civil
27 penalty for tendering more than a specified number of
28 containers not sold in this state; providing for
29 disposition of the penalty; prohibiting local

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30 governments from imposing fees for the same or similar
31 purpose; providing an effective date.

32
33 WHEREAS, the Legislature finds that reducing roadside
34 litter is important for the promotion of tourism and to increase
35 the quality of life for the residents of this state, and

36 WHEREAS, the Legislature further finds that recycling is an
37 important element of an integrated solid waste management system
38 that protects and preserves environmental resources and reduces
39 economic costs to residents and businesses in this state, and

40 WHEREAS, the Legislature further finds that the reduction
41 of litter and the expansion of recycling program participation
42 is in the best interest of Floridians and visitors to this
43 state, and

44 WHEREAS, the purposes of this act are to reduce litter, to
45 increase recycling rates for specified deposit beverage
46 containers, to encourage recycling, to reduce waste disposal
47 costs, to provide a connection between manufacturing decisions
48 and recycling program management, to create local jobs, to
49 combat climate change, and to save energy, NOW, THEREFORE,

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Section 403.778, Florida Statutes, is created to
54 read:

55 403.778 Beverage container deposits.-

56 (1) SHORT TITLE.-This section may be cited as the "Florida
57 Beverage Container Deposit Act."

58 (2) DEFINITIONS.-As used in this section, the term:

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59 (a) "Certified recovered materials dealer" has the same
60 meaning as in s. 403.7046.

61 (b) "Consumer" means a person who buys a deposit beverage
62 in a deposit beverage container for use or consumption and pays
63 the deposit.

64 (c) "Dealer" means a person who engages in the sale of
65 deposit beverages in deposit beverage containers to a consumer
66 for off-premises consumption in the state.

67 (d) "Deposit beverage" means beer, ale, or other drink
68 produced by fermenting malt; mixed spirits, mixed wine, wine,
69 distilled spirits, and wine coolers; tea and coffee drinks,
70 regardless of dairy-derived product content; soda; carbonated
71 and noncarbonated water; and all nonalcoholic drinks in liquid
72 form which are intended for internal human consumption and are
73 contained in a deposit beverage container. The term does not
74 include:

75 1. A liquid that is a syrup in a concentrated form or
76 typically added as a minor flavoring ingredient in food or
77 drink, such as extracts, cooking additives, sauces, or
78 condiments.

79 2. A liquid that is a drug, medical food, or infant formula
80 as defined by the Federal Food, Drug, and Cosmetic Act, 21
81 U.S.C. ss. 301 et seq.

82 3. A liquid that is designed and consumed only as a dietary
83 supplement and not as a beverage as defined in the Dietary
84 Supplement Health and Education Act of 1994, Pub. L. No. 103-
85 417.

86 4. Products frozen at the time of sale to the consumer or,
87 in the case of institutional users such as hospitals and nursing

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88 homes, at the time of sale to the user.

89 5. Products designed to be consumed in a frozen state.

90 6. Instant drink powders.

91 7. Seafood, meat, or vegetable broths or soups, but not
92 juices made or derived from these products.

93 8. Milk and all other dairy-derived products, except tea
94 and coffee drinks containing such products.

95 (e) "Deposit beverage container" means a sealed, individual
96 container made of glass, aluminum, steel, bimetals, or plastic,
97 including polyethylene terephthalate, high-density polyethylene,
98 and all other plastic types and grades, in sizes of at least 6
99 fluid ounces but no more than 1 gallon, and used, at the time of
100 sale to the consumer, for containing a deposit beverage intended
101 for use or consumption in this state.

102 (f) "Distributor" means a person who is a manufacturer of
103 deposit beverages in deposit beverage containers in this state
104 or who buys, brings, or accepts delivery of deposit beverage
105 containers from an address, supplier, or any entity outside the
106 state and who engages in the sale of filled deposit beverage
107 containers to a dealer or consumer. The term includes federal
108 agencies and military distributors, but does not include
109 airlines and shipping companies that merely transport deposit
110 beverage containers.

111 (g) "Mobile redemption center" means a traveling certified
112 redemption center that offers on-site container redemption to
113 residences, businesses, or both, either on a one-time or regular
114 basis, regardless of whether the mobile service is associated
115 with a dealer or permanent redemption center.

116 (h) "On-premises consumption" means to consume deposit

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117 beverages immediately and within the area under control of the
118 establishment, including bars, restaurants, cafes, passenger
119 ships, and airplanes.

120 (i) "Person" means a federal agency; the state or a
121 political subdivision of the state; an individual, partnership,
122 firm, association, public or private corporation, trust, or
123 estate; or any other legal entity.

124 (j) "Recycling facility" means all contiguous land,
125 structures, appurtenances, and improvements on land that is:

126 1. Used for the collection, separation, recovery, and sale
127 or reuse of secondary resources that would otherwise be disposed
128 of as municipal solid waste; and

129 2. An integral part of a manufacturing process aimed at
130 producing a marketable product made of post-consumer material.

131 (k) "Redeemer" means a person, other than a dealer or
132 distributor, who demands the refund value in exchange for the
133 empty deposit beverage container.

134 (l) "Redemption center" or "permanent redemption center"
135 means an operation in a fixed location which accepts empty
136 deposit containers from consumers or redeemers, provides the
137 refund value for empty deposit beverage containers intended to
138 be recycled, and ensures that such containers are properly
139 recycled.

140 (m) "Reverse vending machine" means a mechanical device
141 that accepts one or more types of empty deposit beverage
142 containers and issues cash, electronic credit, or a redeemable
143 credit slip with a value not less than the container's refund
144 value.

145 (n) "Satellite drop-off site" means a designated site where

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146 participating consumers bring empty containers for processing at
147 a centralized processing facility.

148 (3) REFUND VALUES.—Beginning July 1, 2019, every deposit
149 beverage container sold or offered for sale in this state shall
150 have the following refund value when empty:

151 (a) Twenty cents for each deposit beverage container with a
152 volume of at least 6 fluid ounces but less than 25 fluid ounces.

153 (b) Thirty cents for each deposit beverage container with a
154 volume of at least 25 fluid ounces but not more than 1 gallon.

155 (4) DEPOSIT FEE.—

156 (a) Beginning July 1, 2019, every deposit beverage
157 distributor must charge the dealer or consumer a deposit fee
158 equal to the refund value for each deposit beverage container
159 sold to the dealer or consumer in the state. The deposit charge
160 may appear as a separate line item on the invoice.

161 (b) Beginning July 1, 2019, every dealer must charge the
162 consumer at the point of sale a deposit fee equal to the refund
163 value for each deposit beverage container sold to the consumer
164 in the state, except on beverages intended for on-premises
165 consumption. The deposit charge may appear as a separate line
166 item on the invoice.

167 (c) Every deposit beverage container sold or offered for
168 sale in this state must be clearly identified by a stamp, label,
169 or other mark securely affixed to or printed on the deposit
170 beverage container bearing the word "Florida" or the letters
171 "FL" and indicating the refund value of the deposit beverage
172 container. Such stamp, label, or other mark must be provided by
173 the beverage distributor.

174 (d) Inventory already in circulation on July 1, 2019, must

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175 be affixed with an adhesive sticker bearing the word "Florida"
176 or the letters "FL" and indicating the refund value of the
177 deposit beverage container. Such sticker must be provided by the
178 beverage distributor.

179 (e) Once a refund value has been affixed to a deposit
180 beverage container, the deposit fee on that container may not be
181 changed.

182 (5) REDEMPTION CENTERS.—

183 (a) A person may not establish or operate a redemption
184 center without registering with the department, on a form
185 provided by the department, and providing such information as
186 the department deems necessary to register a redemption center.
187 At a minimum, the department must obtain the following
188 information from a redemption center registrant:

189 1. The name and business address of the business owner of
190 the redemption center.

191 2. The types of deposit beverage containers to be accepted
192 and whether deposit beverage containers will be accepted from
193 redeemers, dealers, or both.

194 3. The hours of operation and whether the center will
195 operate a mobile redemption center or provide a satellite drop-
196 off site.

197 (b) The operator of the redemption center shall report any
198 change in procedure to the department within 48 hours of the
199 change. A person establishing a redemption center has the right
200 to determine what kind, size, or brand of deposit beverage
201 container to accept. A redemption center may be established to
202 serve all persons or to serve certain specified consumers,
203 redeemers, and dealers.

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204 (c) Municipal and county governments, nonprofit agencies,
205 dealers, and individuals may register to operate a redemption
206 center.

207 (d) The department, at any time, may review the
208 registration of a redemption center.

209 (e) Except for redemption centers operated by a certified
210 recovered materials dealer, a redemption center shall:

211 1. Verify that all deposit beverage containers to be
212 redeemed bear a valid Florida refund value.

213 2. Pay to the redeemer the full refund value for all
214 deposit beverage containers as provided for by this section.

215 3. Ensure all deposit beverage containers collected are
216 recycled through a contractual agreement with an out-of-state
217 recycler or an in-state certified recovered materials dealer.

218 (f) A redemption center must be maintained in full
219 compliance with applicable laws and with the orders and rules of
220 the department.

221 (g) A redemption center shall refuse to pay the refund
222 value on any broken, corroded, dismembered, or flattened deposit
223 beverage container or any deposit beverage container that
224 contains a free-flowing liquid, does not properly indicate a
225 refund value, or contains a significant amount of foreign
226 material.

227 (h) For purposes of this section, a redemption center is
228 deemed to be sponsored by a dealer if there is an agreement
229 between the dealer and the operator of the redemption center
230 requiring the redemption center to remove empty deposit beverage
231 containers from the premises of the dealer.

232 (6) REVERSE VENDING MACHINES.—

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233 (a) A reverse vending machine may be used by a redemption
234 center if the machine accepts all of the same types of empty
235 deposit beverage containers and pays out appropriate refunds in
236 cash, electronic credit, or a redeemable voucher for those
237 containers that bear a valid Florida refund value. The refund
238 value shall be aggregated and then paid if more than one
239 container is redeemed in a single transaction.

240 (b) A redemption center or dealer that uses reverse vending
241 machines must ensure that the machines are routinely serviced to
242 maintain proper operation, continuous acceptance of containers,
243 and payment of refunds.

244 (7) REQUIREMENTS FOR DEALERS.—

245 (a) A dealer may not refuse to accept from any person and
246 redeem at the dealer's place of business any empty deposit
247 beverage container of the kind, size, or brand sold by the
248 dealer or refuse to pay to such person the refund value of the
249 deposit beverage container as established by this section,
250 unless:

251 1. The deposit beverage container is broken, corroded,
252 dismembered, or flattened; contains a free-flowing liquid; does
253 not properly indicate a refund value; or contains a significant
254 amount of foreign material; or

255 2. There is a redemption center located within 1 mile of
256 the dealer's place of business which accepts empty deposit
257 beverage containers of the kind, size, or brand sold by the
258 dealer at the dealer's place of business. This subparagraph does
259 not apply unless the dealer posts a clear and conspicuous sign
260 at each public entrance to its place of business which specifies
261 the name, address, and hours of operation of the closest

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262 redemption center location.

263 (b) If a dealer discontinues the sale of a deposit beverage
264 container of the kind, size, or brand previously sold at the
265 dealer's place of business, the dealer may not refuse to accept
266 and redeem such containers for the 60-day period immediately
267 after the dealer's last sale of that kind, size, or brand of
268 deposit beverage container. The dealer shall post at the point
269 of sale a notice of the last date on which the discontinued
270 kind, size, or brand of deposit beverage container may be
271 redeemed. Such notice must be so posted for the entire 60-day
272 period.

273 (c) A dealer accepting empty deposit beverage containers
274 shall:

275 1. Verify that all empty deposit beverage containers to be
276 redeemed bear a valid Florida refund value.

277 2. Pay to the redeemer the full refund value for all empty
278 deposit beverage containers as provided by this section.

279 3. Ensure that each deposit beverage container collected is
280 recycled through a contractual agreement with an out-of-state
281 recycler or an in-state certified recovered materials dealer.

282 (8) REQUIREMENTS FOR DISTRIBUTORS.—

283 (a) A distributor may not refuse to accept any empty
284 deposit beverage container of the kind, size, or brand sold by
285 the distributor or refuse to pay to a dealer or redemption
286 center operator the refund value of a deposit beverage container
287 established by this section when the deposit beverage container
288 is from a dealer or the operator of a redemption center if such
289 dealer or operator is located within the territory of the
290 distributor, or from an operator of a redemption center who

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291 certifies to the distributor that the redeemed container was
292 from a dealer located and operated exclusively within the
293 territory of the distributor.

294 (b) A distributor may refuse to accept and redeem an empty
295 deposit beverage container that is broken, corroded,
296 dismembered, or flattened; contains a free-flowing liquid; does
297 not properly indicate a refund value; or contains a significant
298 amount of foreign material.

299 (c) A distributor shall remove any empty deposit beverage
300 containers from the premises of a dealer serviced by the
301 distributor or from the premises of a redemption center
302 sponsored by any dealer serviced by the distributor when such
303 premises are located within the territory of the distributor.

304 (d) The distributor shall pay the refund value to a dealer
305 in accordance with a schedule for payment agreed to by the
306 dealer and the distributor for full deposit beverage containers.
307 The distributor shall pay the refund value to an operator of a
308 redemption center not more than 20 days after receipt of the
309 empty deposit beverage container.

310 (e) If a distributor discontinues the sale of a deposit
311 beverage container of the kind, size, or brand previously sold
312 at the dealer's place of business, the distributor may not
313 refuse to accept and redeem such containers for the 150-day
314 period immediately after the distributor's last day of delivery
315 of that kind, size, or brand of deposit beverage container. Not
316 less than 120 days before the last date such containers may be
317 redeemed, the distributor must notify the dealer who bought the
318 discontinued kind, size, or brand of deposit beverage container
319 that the distributor no longer redeems that empty container.

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320 (9) HANDLING FEE REIMBURSEMENT.—Upon a dealer or a
321 redemption center redeeming empty deposit beverage containers, a
322 distributor must pay the dealer or redemption center a handling
323 fee in an amount that is at least 20 percent of the deposit
324 returned to the consumer in addition to the refund for such
325 beverage containers.

326 (10) REQUIRED INFORMATION AND RECORDS.—

327 (a) All dealers, distributors, redemption centers, and
328 recycling facilities that accept empty deposit beverage
329 containers shall submit the following information to the
330 department:

331 1. The amount and type of deposit beverage containers
332 accepted and rejected;

333 2. The amount of refunds paid out;

334 3. The amount and weight of each type of deposit beverage
335 container transported to each out-of-state recycler and in-state
336 certified recovered materials dealer;

337 4. Copies of transport and weight receipts from recycling
338 facilities. If the redemption center and the recycling facility
339 are the same entity, receipts must be independently verified.
340 Such documentation may be used for periodic, random department
341 audits of redemption centers.

342 (b) The records of dealers, distributors, redemption
343 centers, and recycling facilities that accept empty deposit
344 beverage containers must be made available, upon request, for
345 inspection by the department, a duly authorized agent of the
346 department, or an auditor employed by the state.

347 (c) Pursuant to s. 815.04, information that, if disclosed,
348 would reveal a trade secret as defined in s. 812.081, and that

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349 must be reported in accordance with this section or rules
350 adopted pursuant to this section, is confidential and exempt
351 from s. 119.07(1) and s. 24(a), Art. I of the State
352 Constitution. However, for reporting or other informational
353 purposes, the department may provide potential trade secret
354 information in such a form that the names of the persons
355 reporting the information and the specific trade secret
356 information are not revealed.

357 (11) RULES.—The department shall adopt rules pursuant to
358 chapter 120 to implement this section. Such rules must include,
359 but need not be limited to, provisions for the redemption of
360 empty deposit beverage containers dispensed through vending
361 machines; the use of reverse vending machines that dispense
362 cash, electronic credit, or a redeemable voucher to consumers
363 for redemption of empty deposit beverage containers; the
364 scheduling of redemption by dealers and distributors; and
365 exemptions or modifications to the labeling requirement of this
366 section.

367 (12) OBLIGATION; VIOLATION OF SECTION; PENALTY; REQUIRED
368 SIGNAGE.—

369 (a) The obligation of a distributor or dealer to accept or
370 take empty deposit beverage containers and to pay the refund
371 value and handling fees for such containers applies only to
372 deposit beverage containers originally sold in this state as
373 filled deposit beverage containers.

374 (b) A person may not, during a single transaction, tender
375 to a dealer, distributor, or redemption center more than 24
376 empty deposit beverage containers that the person knows, or has
377 reason to know, were not originally sold in this state as filled

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378 deposit beverage containers. A person who violates this
379 paragraph commits a noncriminal infraction, punishable by a
380 civil penalty of \$100, which must be deposited in the
381 Administrative Trust Fund of the department and used to
382 administer this section.

383 (c) At each location where customers tender empty deposit
384 beverage containers for redemption, dealers and redemption
385 centers must conspicuously display a sign with letters that are
386 at least 1 inch in height advising consumers of the prohibition
387 and penalty in paragraph (b).

388 (13) PREEMPTION.—A county or municipality may not impose or
389 collect any assessment or fee on deposit beverage containers for
390 the same or similar purpose that is the subject of this section.

391 Section 2. This act shall take effect upon becoming a law.