

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1444

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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 1995

Mr. MARKEY (for himself, Mr. BROWN of California, Mrs. JOHNSON of Connecticut, Mr. PALLONE, Mrs. KENNELLY, Mr. DELLUMS, Mr. FRANK of Massachusetts, Mr. OLVER, and Mr. STUDDS) introduced the following bill; which was referred to the Committee on Commerce

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## 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 1995”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

1           (1) The failure to reuse and recycle empty bev-  
2           verage 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 such  
10          containers.

11          (3) Solid waste resulting from such empty bev-  
12          verage 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 such waste.

16          (4) It is difficult for local communities to raise  
17          the necessary capital needed to initiate comprehen-  
18          sive recycling programs.

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

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 and these have proven inexpensive to administer and  
4 effective at reducing financial burdens on commu-  
5 nities by internalizing the cost of recycling and litter  
6 control to the producers and consumers of bev-  
7 erages.

8 (7) 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 result in a high level of  
12 reuse and recycling of such containers and help re-  
13 duce the costs associated with solid waste manage-  
14 ment.

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

19 (9) The reuse and recycling of empty beverage  
20 containers would eliminate these unnecessary bur-  
21 dens on the Federal Government, local and State  
22 governments, and the environment.

23 (10) The collection of unclaimed refunds from  
24 such a system would provide the resources necessary

1 to assist comprehensive reuse and recycling pro-  
2 grams throughout the Nation.

3 (11) A national system of beverage container  
4 recycling is consistent with the intent of the Solid  
5 Waste Disposal Act (42 U.S.C. 6901 et seq.).

6 (12) The provisions of this Act are consistent  
7 with the goals set in January 1988, by the Environ-  
8 mental Protection Agency, which establish a national  
9 goal of 25 percent source reduction and recycling by  
10 1992, coupled with a substantial slowing of the pro-  
11 jected rate of increase in waste generation by the  
12 year 2000.

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

14 (a) AMENDMENT.—The Solid Waste Disposal Act is  
15 amended by adding the following new subtitle at the end  
16 thereof:

17 “SUBTITLE K—BEVERAGE CONTAINER RECYCLING

18 **“SEC. 12001. DEFINITIONS.**

19 “For purposes of this subtitle—

20 “(1) The term ‘beverage’ means beer or other  
21 malt beverage, mineral water, soda water, wine cool-  
22 er, or a carbonated soft drink of any variety in liq-  
23 uid form intended for human consumption.

24 “(2) The term ‘beverage container’ means a  
25 container constructed of metal, glass, plastic, or  
26 some combination of these materials and having a

1 capacity of up to one gallon of liquid and which is  
2 or has been sealed and used to contain a beverage  
3 for sale in interstate commerce. The opening of a  
4 beverage container in a manner in which it was de-  
5 signed to be opened and the compression of a bev-  
6 erage container made of metal or plastic shall not,  
7 for purposes of this section, constitute the breaking  
8 of the container if the statement of the amount of  
9 the refund value of the container is still readable.

10 “(3) The term ‘beverage distributor’ means a  
11 person who sells or offers for sale in interstate com-  
12 merce to beverage retailers beverages in beverage  
13 containers for resale.

14 “(4) The term ‘beverage retailer’ means a per-  
15 son who purchases from a beverage distributor bev-  
16 erages in beverage containers for sale to a consumer  
17 or who sells or offers to sell in commerce beverages  
18 in beverage containers to a consumer.

19 “(5) The term ‘consumer’ means a person who  
20 purchases a beverage container for any use other  
21 than resale.

22 “(6) The term ‘refund value’ means the amount  
23 specified as the refund value of a beverage container  
24 under section 12002.

1           “(7) The term ‘wine cooler’ means a drink con-  
2           taining less than 7 percent alcohol (by volume), con-  
3           sisting of wine and plain, sparkling, or carbonated  
4           water and containing any one or more of the follow-  
5           ing: non-alcoholic beverage, flavoring, coloring mate-  
6           rials, fruit juices, fruit adjuncts, sugar, carbon diox-  
7           ide, preservatives.

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

9           “Except as otherwise provided in section 12007, no  
10          beverage distributor or beverage retailer may sell or offer  
11          for sale in interstate commerce a beverage in a beverage  
12          container unless there is clearly, prominently, and securely  
13          affixed to, or printed on, the container a statement of the  
14          refund value of the container in the amount of 10 cents.  
15          The Administrator shall promulgate rules establishing  
16          uniform standards for the size and location of the refund  
17          value statement on beverage containers. The 10 cent  
18          amount specified in this section shall be subject to adjust-  
19          ment by the Administrator as provided in section 12008.

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

21          “For each beverage in a beverage container sold in  
22          interstate commerce to a beverage retailer by a beverage  
23          distributor, the distributor shall collect from the retailer  
24          the amount of the refund value shown on the container.  
25          With respect to each beverage in a beverage container sold

1 in interstate commerce to a consumer by a beverage re-  
2 tailer, the retailer shall collect from the consumer the  
3 amount of the refund value shown on the container. No  
4 person other than the persons described in this section  
5 may collect a deposit on a beverage container.

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

7       “(a) PAYMENT BY RETAILER.—If any person tenders  
8 for refund an empty and unbroken beverage container to  
9 a beverage retailer who sells (or has sold at any time dur-  
10 ing the period of 3 months ending on the date of such  
11 tender) the same brand of beverage in the same kind and  
12 size of container, the retailer shall promptly pay such per-  
13 son the amount of the refund value stated on the  
14 container.

15       “(b) PAYMENT BY DISTRIBUTOR.—If any person  
16 tenders for refund an empty and unbroken beverage con-  
17 tainer to a beverage distributor who sells (or has sold at  
18 any time during the period of 3 months ending on the  
19 date of such tender) the same brand of beverage in the  
20 same kind and size of container, the distributor shall  
21 promptly pay such person (1) the amount of the refund  
22 value stated on the container, plus (2) an amount equal  
23 to at least 2 cents per container to help defray the cost  
24 of handling. This subsection shall not preclude any person

1 from tendering beverage containers to persons other than  
2 beverage distributors.

3 “(c) AGREEMENTS.—(1) Nothing in this subtitle  
4 shall preclude agreements between distributors, retailers,  
5 or other persons to establish centralized beverage collec-  
6 tion centers, including centers which act as agents of such  
7 retailers.

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

12 **“SEC. 12005. ACCOUNTING FOR UNCLAIMED REFUNDS AND**  
13 **PROVISIONS FOR STATE RECYCLING FUNDS.**

14 “(a) UNCLAIMED REFUNDS.—At the end of each cal-  
15 endar year each beverage distributor shall pay to each  
16 State an amount equal to the sum by which the total re-  
17 fund value of all containers sold by the distributor for re-  
18 sale in that State during that year exceeds the total sum  
19 paid during that year by the distributor under section  
20 12004(b) to persons in that State. The total of unclaimed  
21 refunds received by any State under this section shall be  
22 available to carry out pollution prevention and recycling  
23 programs in that State.

24 “(b) REFUNDS IN EXCESS OF COLLECTIONS.—If the  
25 total of payments made by a beverage distributor in any

1 calendar year under section 12004(b) for any State exceed  
2 the total refund value of all containers sold by the dis-  
3 tributor for resale in that State, the excess shall be cred-  
4 ited against the amount otherwise required to be paid by  
5 the distributor to that State under subsection (a) for a  
6 subsequent calendar year designated by the beverage dis-  
7 tributor.

8 **“SEC. 12006. PROHIBITIONS ON DETACHABLE OPENINGS**  
9 **AND POST-REDEMPTION DISPOSAL.**

10 “(a) DETACHABLE OPENINGS.—No beverage dis-  
11 tributor or beverage retailer may sell, or offer for sale,  
12 in interstate commerce a beverage in a metal beverage  
13 container a part of which is designed to be detached in  
14 order to open such container.

15 “(b) POST-REDEMPTION DISPOSAL.—No retailer or  
16 distributor or agent of a retailer or distributor may dis-  
17 pose of any beverage container labeled under section  
18 12002 or any metal, glass, or plastic from such a beverage  
19 container (other than the top or other seal thereof) in any  
20 landfill or other solid waste disposal facility.

21 **“SEC. 12007. EXEMPTED STATES.**

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

1           “(1) has adopted and implemented require-  
2           ments applicable to all beverage containers sold in  
3           that State which the Administrator determines to be  
4           substantially identical to the provisions of sections  
5           12002 through 12005 and sections 12008 and  
6           12009 of this subtitle; or

7           “(2) demonstrates to the Administrator that,  
8           for any period of 12 consecutive months following  
9           the date of the enactment of this subtitle, such State  
10          achieved a recycling or reuse rate for beverage con-  
11          tainers of at least 70 percent.

12 If at any time following a determination under paragraph  
13 (2) that a State has achieved a 70 percent recycling or  
14 reuse rate the Administrator determines that such State  
15 has failed, for any 12-consecutive month period, to main-  
16 tain at least a 70 percent recycling or reuse rate of its  
17 beverage containers, the Administrator shall notify such  
18 State that, upon the expiration of the 90-day period fol-  
19 lowing such notification, the provisions under sections  
20 12002 through 12005 and sections 12008 and 12009 shall  
21 be applicable to that State until a subsequent determina-  
22 tion is made under subparagraph (A) or a demonstration  
23 is made under subparagraph (B).

24          “(b) DETERMINATION OF TAX.—No State or political  
25 subdivision which imposes any tax on the sale of any bev-

1 erage container may impose a tax on any amount attrib-  
2 utable to the refund value of such container.

3 “(c) EFFECT ON OTHER LAWS.—Nothing in this  
4 subtitle shall be construed to affect the authority of any  
5 State or political subdivision thereof to enact or enforce  
6 (or continue in effect) any law respecting a refund value  
7 on containers other than beverage containers or from reg-  
8 ulating redemption and other centers which purchase  
9 empty beverage containers from beverage retailers, con-  
10 sumers, or other persons.

11 **“SEC. 12008. REGULATIONS.**

12 “Not later than 12 months after the enactment of  
13 this subtitle, the Administrator shall prescribe regulations  
14 to carry out this subtitle. The regulations shall include a  
15 definition of the term ‘beverage retailer’ in a case in which  
16 beverages in beverage containers are sold to consumers  
17 through beverage vending machines. Such regulations  
18 shall also adjust the 10 cent amount specified in section  
19 12002 to account for inflation. Such adjustment shall be  
20 effective 10 years after the enactment of this subtitle and  
21 additional adjustments shall take effect at 10 year inter-  
22 vals thereafter.

23 **“SEC. 12009. PENALTIES.**

24 “Any person who violates any provision of section  
25 12002, 12003, 12004, or 12006 shall be subject to a civil

1 penalty of not more than \$1,000 for each violation. Any  
 2 person who violates any provision of section 12005 shall  
 3 be subject to a civil penalty of not more than \$10,000 for  
 4 each violation.

5 **“SEC. 12010. EFFECTIVE DATE.**

6 “Except as provided in section 12008, this subtitle  
 7 shall take effect 2 years after the date of its enactment.”.

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

“SUBTITLE K—BEVERAGE CONTAINER RECYCLING

“Sec. 12001. Definitions.

“Sec. 12002. Required beverage containers 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.”.

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