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1 A bill to be entitled
2 An act relating to beverage container deposits; creating
3 s. 403.778, F.S.; providing a short title; providing
4 definitions; establishing a refund value for specified
5 beverage containers; requiring consumers and dealers to
6 pay a deposit fee for specified beverage containers;
7 providing for redemption of beverage containers and
8 deposit fees; authorizing use of reverse vending machines;
9 providing requirements and procedures for redemption
10 centers and beverage container dealers and distributors;
11 providing for reimbursement of certain handling fees;
12 requiring the keeping of specified information and
13 records; preserving the confidentiality of trade secret
14 information; authorizing the Department of Environmental
15 Protection to adopt implementing rules; specifying
16 conditions for violation of the act; providing a civil
17 penalty and providing for its disposition; prohibiting
18 local governments from imposing fees for the same or
19 similar purpose; providing an effective date.

20
21 WHEREAS, the Legislature finds that reducing roadside
22 litter is important for the promotion of tourism and to increase
23 the quality of life for the residents of this state, and

24 WHEREAS, the Legislature finds that recycling is also an
25 important element of an integrated solid waste management
26 system, which can protect and preserve environmental resources
27 and reduce economic costs to residents and businesses within the
28 state, and

29 WHEREAS, the Legislature finds a need to reduce both
 30 roadside and overall litter, as well to expand participation in
 31 recycling programs, and

32 WHEREAS, the purpose of this act is to reduce both roadside
 33 and overall litter, to increase participation and recycling
 34 rates for specified deposit beverage containers, to reduce waste
 35 disposal costs, to provide a connection between manufacturing
 36 decisions and recycling program management, to create local
 37 jobs, to combat climate change, and to save energy, NOW,
 38 THEREFORE,

39
 40 Be It Enacted by the Legislature of the State of Florida:

41
 42 Section 1. Section 403.778, Florida Statutes, is created
 43 to read:

44 403.778 Beverage container deposits.--

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

47 (2) DEFINITIONS.--As used in this section:

48 (a) "Consumer" means a person who buys a deposit beverage
 49 in a deposit beverage container for use or consumption and pays
 50 the deposit.

51 (b) "Dealer" means a person who engages in the sale of
 52 deposit beverages in deposit beverage containers to a consumer
 53 for off-premises consumption in the state.

54 (c) "Department" means the Department of Environmental
 55 Protection.

56 (d) "Deposit beverage" means beer, ale, or other drink

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57 produced by fermenting malt; mixed spirits, mixed wine, wine,
58 distilled spirits, and wine coolers; tea and coffee drinks,
59 regardless of dairy-derived product content; soda; carbonated
60 and noncarbonated water; and all nonalcoholic drinks in liquid
61 form that are intended for internal human consumption and are
62 contained in a deposit beverage container. The term does not
63 include:

64 1. A liquid that is a syrup in a concentrated form or
65 typically added as a minor flavoring ingredient in food or
66 drink, such as extracts, cooking additives, sauces, or
67 condiments.

68 2. A liquid that is a drug, medical food, or infant
69 formula as defined by the Federal Food, Drug, and Cosmetic Act,
70 21 U.S.C. ss. 301 et seq.

71 3. A liquid that is designed and consumed only as a
72 dietary supplement and not as a beverage as defined in the
73 Dietary Supplement Health and Education Act of 1994, Pub. L. No.
74 103-417.

75 4. Products frozen at the time of sale to the consumer or,
76 in the case of institutional users such as hospitals and nursing
77 homes, at the time of sale to the users.

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

79 6. Instant drink powders.

80 7. Seafood, meat, or vegetable broths, or soups, but not
81 juices.

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

84 (e) "Deposit beverage container" means a sealed,

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85 individual container made of glass, aluminum, steel, bimetal, or
86 plastic, including polyethylene terephthalate (PET), high-
87 density polyethylene (HDPE), and all other plastic types and
88 grades, in sizes of at least 6 fluid ounces but no more than 1
89 gallon or 3.8 liters, and used, at the time of sale to the
90 consumer, for containing a deposit beverage intended for use or
91 consumption in this state.

92 (f) "Distributor" means a person who is a manufacturer of
93 deposit beverages in deposit beverage containers in this state
94 or who buys, brings, or accepts delivery of deposit beverage
95 containers from an address, supplier, or any entity outside the
96 state and engages in the sale of filled deposit beverage
97 containers to a dealer or consumer. The term includes federal
98 agencies and military distributors, but does not include
99 airlines and shipping companies that merely transport deposit
100 beverage containers.

101 (g) "Mobile redemption center" means a traveling certified
102 redemption center that offers on-site container redemption to
103 residences or businesses or both, either on a one-time or
104 regular basis. Such centers may or may not be associated with a
105 dealer or a permanent redemption center.

106 (h) "On-premises consumption" means to consume deposit
107 beverages immediately and within the area under control of the
108 establishment, including bars, restaurants, passenger ships, and
109 airplanes.

110 (i) "Person" means an individual, partnership, firm,
111 association, public or private corporation, federal agency, the
112 state, political subdivision, trust, estate, or any other legal

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113 entity.

114 (j) "Recycling facility" means all contiguous land,
115 structures, appurtenances, and improvements on land used for the
116 collection, separation, recovery, and sale or reuse of secondary
117 resources that would otherwise be disposed of as municipal solid
118 waste and is an integral part of a manufacturing process aimed
119 at producing a marketable product made of post-consumer
120 material.

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

124 (l) "Redemption center" or "permanent redemption center"
125 means an operation in a fixed location that accepts empty
126 deposit containers from consumers or redeemers and provides the
127 refund value for empty deposit beverage containers intended to
128 be recycled and ensures that such containers are properly
129 recycled.

130 (m) "Refillable beverage container" means any deposit
131 beverage container that is intended to be returned to the
132 manufacturer to be refilled and resold.

133 (n) "Reverse vending machine" means a mechanical device
134 that accepts one or more types of empty deposit beverage
135 containers and issues cash, electronic credit, or a redeemable
136 credit slip with a value not less than the container's refund
137 value. The refund value shall be aggregated and then paid if
138 more than one container is redeemed in a single transaction.

139 (o) "Satellite drop-off site" means a designated site
140 where participating consumers bring empty containers for

141 processing at a centralized processing facility.

142 (3) REFUND VALUES.--Beginning July 1, 2010, every deposit
 143 beverage container sold or offered for sale in this state shall
 144 have the following refund value when empty:

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

148 (b) Thirty cents for each deposit beverage container with
 149 a volume of at least 25 fluid ounces but not more than 1 gallon
 150 or 3.8 liters.

151 (4) DEPOSIT FEE.--

152 (a) Beginning July 1, 2010, every deposit beverage
 153 distributor shall charge the dealer or consumer a deposit fee
 154 equal to the refund value for each deposit beverage container
 155 sold to the dealer or consumer in the state. The deposit charge
 156 may appear as a separate line item on the invoice.

157 (b) Beginning July 1, 2010, every dealer shall charge the
 158 consumer at the point of sale a deposit fee equal to the refund
 159 value for each deposit beverage container sold to the consumer
 160 in the state, except on beverages intended for on-premises
 161 consumption. The deposit charge may appear as a separate line
 162 item on the invoice.

163 (c) Every deposit beverage container sold or offered for
 164 sale in this state shall be clearly identified by a stamp,
 165 label, or other mark securely affixed to the deposit beverage
 166 container and bearing the word "Florida" or the letters "FL" and
 167 indicating the refund value of the deposit beverage container.
 168 Such stamp, label, or other mark shall be provided by the

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169 beverage distributor.

170 (d) Inventory already in circulation on July 1, 2010,
171 shall be affixed with an adhesive sticker bearing the word
172 "Florida" or the letters "FL" and indicating the refund value of
173 the deposit beverage container. Such sticker shall be provided
174 by the beverage distributors.

175 (e) Once a refund value has been applied to a deposit
176 beverage container, the deposit fee on that container may not be
177 changed.

178 (5) REDEMPTION CENTERS.--

179 (a) A person may not establish or operate a redemption
180 center without registering with the department on a form
181 provided by the department with such information as the
182 department deems necessary, including:

183 1. The name of the business owner of the redemption center
184 and the address of the business.

185 2. The types of deposit beverage containers to be accepted
186 and whether deposit beverage containers will be accepted from
187 redeemers or dealers or both.

188 3. The hours of operation and whether the center will
189 provide mobile on-site or satellite drop-off redemption
190 services.

191 (b) The operator of the redemption center shall report any
192 change in procedure to the department within 48 hours of such
193 change. Any person establishing a redemption center shall have
194 the right to determine what kind, size, or brand of deposit
195 beverage container shall be accepted. Any redemption center may
196 be established to serve all persons or to serve certain

197 specified consumers, redeemers, and dealers.

198 (c) Municipal and county governments, nonprofit agencies,
 199 dealers, and individual persons are eligible to register to
 200 operate a redemption center.

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

203 (e) Except for redemption centers operated by a recovered
 204 materials dealer certified by the department, all redemption
 205 centers must:

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

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

210 3. Ensure all deposit beverage containers collected are
 211 recycled through a contractual agreement with an out-of-state
 212 recycler or an in-state recovered materials dealer certified by
 213 the department.

214 (f) Redemption centers shall be maintained in full
 215 compliance with applicable laws and with the orders and rules of
 216 the department.

217 (g) Redemption centers shall refuse to pay the refund
 218 value on any broken, corroded, dismembered, or flattened deposit
 219 beverage container or any deposit beverage container that
 220 contains a free-flowing liquid, does not properly indicate a
 221 refund value, or contains a significant amount of foreign
 222 material.

223 (h) For the purposes of this section, a redemption center
 224 shall be considered to be sponsored by a dealer if there is an

225 agreement between the dealer and the operator of the redemption
 226 center requiring the redemption center to remove empty deposit
 227 beverage containers from the premises of the dealer.

228 (6) REVERSE VENDING MACHINES.--

229 (a) Reverse vending machines may be used by redemption
 230 centers, provided that the reverse vending machines shall accept
 231 all the same types of empty deposit beverage containers and pay
 232 out appropriate refunds via cash, electronic credit, or a
 233 redeemable voucher for those containers that bear a valid
 234 Florida refund value.

235 (b) Redemption centers or dealers using reverse vending
 236 machines shall ensure that such machines are routinely serviced
 237 to ensure proper operation and continuous acceptance of
 238 containers and payment of refunds.

239 (7) REQUIREMENTS FOR DEALERS.--

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

246 1. The deposit beverage container is broken, corroded,
 247 dismembered, or flattened, contains a free-flowing liquid, does
 248 not properly indicate a refund value, or contains a significant
 249 amount of foreign material.

250 2. There is a redemption center located within 1 mile of
 251 the dealer's place of business that accepts empty deposit
 252 beverage containers of the kind, size, or brand sold by the

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253 dealer at the dealer's place of business. In order for this
254 exemption to apply, the dealer must post a clear and conspicuous
255 sign at each public entrance to the dealer's place of business
256 that specifies the name, address, and hours of operation of the
257 closest redemption center location.

258 (b) A dealer may not refuse to accept and redeem any empty
259 deposit beverage container of the kind, size, or brand
260 previously sold at the dealer's place of business, the sale of
261 which has been discontinued by the dealer for not less than 60
262 days after the last sale by the dealer of that kind, size, or
263 brand of deposit beverage container. Prior to that date, the
264 dealer shall post, at the point of sale, notice of the last date
265 on which the discontinued kind, size, or brand of deposit
266 beverage container may be redeemed.

267 (c) A dealer accepting empty deposit beverage containers
268 must:

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

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

273 3. Ensure that each deposit beverage container collected
274 is recycled through a contractual agreement with an out-of-state
275 recycler or an in-state recovered materials dealer certified by
276 the department.

277 (8) REQUIREMENTS FOR DISTRIBUTORS.--

278 (a) A distributor may not refuse to accept any empty
279 deposit beverage container of the kind, size, or brand sold by
280 the distributor or refuse to pay to a dealer or redemption

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281 center operator the refund value of a deposit beverage container
282 as established by this section, provided that the deposit
283 beverage container is from a dealer or an operator of a
284 redemption center located within the territory of the
285 distributor or an operator of a redemption center that certifies
286 to the distributor that the redeemed container was from a dealer
287 located and operated exclusively within the territory of the
288 distributor.

289 (b) A distributor may refuse to accept and redeem any
290 empty deposit beverage container that is broken, corroded,
291 dismembered, or flattened, contains a free-flowing liquid, does
292 not properly indicate a refund value, or contains a significant
293 amount of foreign material.

294 (c) A distributor shall remove any empty deposit beverage
295 container from the premises of a dealer serviced by the
296 distributor or from the premises of a redemption center
297 sponsored by any dealer serviced by the distributor, provided
298 the premises are located within the territory of the
299 distributor.

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

306 (e) A distributor may not refuse to accept and redeem any
307 empty deposit beverage container of the kind, size, or brand
308 previously offered by the distributor, the sale of which has

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309 been discontinued by the distributor for not less than 150 days
310 after the last delivery of that kind, size, or brand of beverage
311 container. Not less than 120 days before the last date such
312 containers may be redeemed, the distributor shall notify the
313 dealer who bought the discontinued kind, size, or brand of
314 deposit beverage container that the distributor shall not redeem
315 an empty deposit beverage container of that kind, size, or
316 brand.

317 (9) HANDLING FEE REIMBURSEMENT.--Upon redeeming empty
318 deposit beverage containers, a dealer or a redemption center
319 shall be reimbursed a handling fee by the distributor of such
320 deposit beverage containers in an amount that is at least 20
321 percent of the deposit returned to the consumer in addition to
322 the refund.

323 (10) REQUIRED INFORMATION AND RECORDS.--

324 (a) All dealers, distributors, redemption centers, and
325 recycling facilities accepting empty deposit beverage containers
326 shall submit the following information to the department:

327 1. The amount and type of deposit beverage containers
328 accepted and rejected.

329 2. The amount of refunds paid out.

330 3. The amount and weight of each type of deposit beverage
331 container transported to an out-of-state recycler or an in-state
332 recovered materials dealer certified by the department.

333 4. Copies of transport and weight receipts from recycling
334 facilities. If the redemption center and the recycling facility
335 are the same entity, receipts shall be independently verified.

336 Such documentation shall be used for periodic, random audits of

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337 redemption centers.

338 (b) The records of all dealers, distributors, redemption
339 centers, and recycling facilities accepting empty deposit
340 beverage containers shall be made available, upon request, for
341 inspection by the department, a duly authorized agent of the
342 department, or an auditor employed by the state.

343 (c) Information reported pursuant to the requirements of
344 this section or any rule adopted pursuant to this section which,
345 if disclosed, would reveal a trade secret as defined in s.
346 812.081 is confidential and exempt from the provisions of s.
347 119.07(1) and s. 24(a), Art. I of the State Constitution as
348 provided in s. 815.04. For reporting or information purposes,
349 however, the department may provide this information in such
350 form that the names of the persons reporting such information
351 and the specific information reported are not revealed.

352 (11) RULES.--The department shall adopt rules pursuant to
353 ss. 120.536(1) and 120.54 to implement this section. Such rules
354 shall include, but not be limited to, provisions for the
355 redemption of empty deposit beverage containers dispensed
356 through automatic vending machines; the use of reverse vending
357 machines which dispense cash, electronic credit, or a redeemable
358 voucher to consumers for redemption of empty deposit beverage
359 containers; and scheduling for redemption by dealers and
360 distributors and for exemptions or modifications to the labeling
361 requirement of this section.

362 (12) VIOLATION OF SECTION; PENALTY; REQUIRED SIGNAGE.--

363 (a) The obligation to accept or take empty deposit
364 beverage containers and to pay the refund value and handling

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365 fees for such containers as described in this section applies
366 only to deposit beverage containers originally sold in this
367 state as filled deposit beverage containers. A person who,
368 during any single transaction, tenders to a dealer, distributor,
369 redemption center, or bottler more than 24 empty deposit
370 beverage containers that the person knows or has reason to know
371 were not originally sold in this state as filled deposit
372 beverage containers is in violation of this section.

373 (b) A person who violates this section commits a
374 noncriminal infraction, punishable by a civil penalty of \$100,
375 which shall be deposited into the Administrative Trust Fund of
376 the department to be used for the purposes of administering this
377 section.

378 (c) At each location where customers tender empty deposit
379 beverage containers for redemption, dealers and redemption
380 centers must conspicuously display a sign with letters that are
381 at least 1 inch in height advising consumers of the violation
382 and penalty provided in this subsection.

383 (13) PROHIBITION.--A county or municipality may not impose
384 or collect any assessment or fee on deposit beverage containers
385 for the same or similar purpose that is the subject of this
386 section.

387 Section 2. This act shall take effect July 1, 2009.