

Senate Calendar

TUESDAY, JANUARY 23, 2024

SENATE CONVENES AT: 10:00 A.M.

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ACTION CALENDAR

NEW BUSINESS

GOVERNOR'S VETO

H. 158.

An act relating to the beverage container redemption system

Pending question (to be voted by call of the roll): Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

The text of the Communication from His Excellency, The Governor, whereby he *vetoed* and returned unsigned H. 158 to the House is as follows:

Text of Communication from Governor

“June 29, 2023

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
State House
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning H.158, *An act relating to the beverage container redemption system*, without my signature with my objections stated below.

I'm a long-time advocate of recycling and support a strong system to help Vermonters do so. But as I've consistently said, I believe expanding the labor intensive 1970s-era bottle deposit system would move us backwards, and we should instead focus on investing in and improving zero-sort (or blue bin) recycling.

I'm concerned this bill will result in higher costs for Vermonters due to deposit fees added to a wide range of beverage products; increased handling fees will be passed onto consumers to fund the redemption system; and increased recycling costs for towns, businesses and residents as high-value cans and bottles are removed.

It simply makes no sense to toss aside the progress we've made since the mandatory Universal Recycling Law of 2012, to expand a separate system that diverts the most valuable recyclables away from the blue bin system.

Finally, I'm concerned that even with the bill's efforts to modernize the redemption system, redemption centers are likely to continue to struggle to find the space needed for more storage and the workforce needed to handle and sort the higher volume.

In light of these objections, I'm returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott

Governor

PBS/kp”

Text of bill as passed by Senate and House

H.158.

An act relating to the beverage container redemption system

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 10 V.S.A. chapter 53 is amended to read:

CHAPTER 53. BEVERAGE CONTAINERS; DEPOSIT-REDEMPTION SYSTEM

§ 1521. DEFINITIONS

As used in this chapter:

(1) “Beverage” means ~~beer or other malt beverages and mineral waters, mixed wine drink, soda water and carbonated soft~~ all drinks in liquid form and intended for human consumption, except for milk, dairy products, plant-based beverages, infant formula, meal replacement drinks, or nonalcoholic cider. “Beverage” also means liquor and ready-to-drink spirits beverage.

(2) “Biodegradable material” means material that is capable of being broken down by bacteria into basic elements. [Repealed.]

(3) “Container” means the individual, and separate, bottle, can, or jar, ~~or carton~~ composed of glass, aluminum or other metal, ~~paper,~~ plastic polyethylene terephthalate, high density polyethylene, or any combination of those materials, and containing a consumer product beverage. This definition shall does not include ~~containers made of biodegradable material~~ noncarbonated beverage containers with a volume greater than two and one-half liters and carbonated beverage containers with a volume greater than three liters.

(4) “Distributor” means every person who engages in the sale of consumer products in containers to a dealer in this State, including any manufacturer who engages in such sales. Any dealer or retailer who sells, at the retail level, beverages in containers without having purchased them from a person otherwise classified as a distributor ~~shall be~~ is a distributor.

(5) “Manufacturer” means every person bottling, canning, packing, or otherwise filling containers for sale to distributors or dealers.

(6) “Recycling” means the process of sorting, cleansing, treating, and reconstituting waste and other discarded materials for the purpose of reusing the materials in the same or altered form.

(7) “Redemption center” means a store or other location where any person may, during normal business hours, redeem the amount of the deposit for any empty beverage container labeled or certified pursuant to section 1524 of this title.

(8) “Secretary” means the Secretary of Natural Resources.

(9) “Mixed wine drink” means a beverage containing wine and more than 15 percent added plain, carbonated, or sparkling water and that contains added natural or artificial blended material, such as fruit juices, flavors, flavoring, adjuncts, coloring, or preservatives; that contains not more than 16 percent alcohol by volume; or other similar product marketed as a wine cooler.

(10) “Liquor” means spirits as defined in 7 V.S.A. § 2.

(11) “Cider” has the same meaning as in 7 V.S.A. § 2.

(12) “Hard kombucha” means a fermented beverage produced from a mixture of steeped tea and sugar, combined with a culture of yeast strains and bacteria, that has an alcohol content of 0.5 percent or more alcohol by volume.

(13) “Plant-based beverage” means a liquid intended for human consumption that imitates dairy milk, consists of plant material suspended in water, and the primary protein source in the beverage is from plant material or a derivative of plant materials. Plant-based beverages include beverages made from rice, soy, nuts, oats, and hemp.

(14) “Vinous beverages” means all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar content of fruits or other agricultural product, containing sugar, the total alcoholic content of which is not less than one percent nor more than 16 percent by volume at 60 degrees Fahrenheit. As used in this section, “vinous beverages” does not mean cider, hard kombucha, or a mixed wine drink.

§ 1522. BEVERAGE CONTAINERS; DEPOSIT

(a) Except with respect to beverage containers that contain liquor, a deposit of ~~not less than~~ five cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. With respect to beverage containers that contain a vinous beverage, a deposit of 15 cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. With respect to beverage containers of volume greater than 50 ml. that contain liquor, a deposit of 15 cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. The difference between liquor bottle deposits collected and refunds made is hereby retained by the Liquor Control Enterprise Fund for administration of this subsection. Beginning on January 15, 2024 and annually thereafter, the Commissioner of Liquor and Lottery shall report to the Secretary of Natural Resources:

(1) the amount and tonnage of liquor bottles that the Department of Liquor and Lottery collected in the previous calendar year; and

(2) the redemption rate for liquor bottles in the previous calendar year.

(b) A retailer or a person operating a redemption center who redeems beverage containers shall be reimbursed by the manufacturer or distributor of such beverage containers in an amount that is three and one-half cents per container for containers of beverage brands that are part of a commingling program and ~~four~~ five cents per container for containers of beverage brands that are not part of a commingling program.

(c) Alcoholic beverages permitted to be shipped directly to a consumer under 7 V.S.A. § 277 shall be exempt from:

(1) the beverage container deposit requirement of subsection (a) of this section;

(2) the labeling requirements of section 1524 of this title; and

(3) the abandoned beverage container deposit requirements of section 1530 of this title.

~~(d) Containers shall be redeemed during no fewer than 40 hours per week during the regular operating hours of the establishment. [Repealed.]~~

§ 1522a. RULES

~~The Secretary may adopt rules, in accordance with 3 V.S.A. chapter 25, necessary for the administration of this chapter. These rules may include the following:~~

~~(1) Provisions to ensure that beverage containers not labeled in accordance with section 1524 of this title are not redeemed.~~

~~(2) Provisions to ensure that beverage containers are commingled.~~

~~(3) Administrative penalties for the failure by a redemption center or retailer to remove beverage containers that are not labeled prior to pickup by a distributor or manufacturer. Penalties may include nonpayment of the deposit and handling fee established under section 1522 of this title for a reasonable period of time and for the number of beverage containers that were not labeled.~~

~~(4) Any other provision that may be necessary for the implementation of this chapter. [Repealed.]~~

§ 1523. ACCEPTANCE OF BEVERAGE CONTAINERS

(a) Except as provided in section 1522 of this title:

(1) A retailer shall not refuse to accept from any person any empty beverage containers, labeled in accordance with section 1524 of this title, of the kind, size, and brand sold by the retailer, or refuse to pay to that person the refund value of a beverage container as established by section 1522 of this title, except as provided in subsection (b) of this section.

(2) A manufacturer or distributor ~~may~~ shall not refuse to pick up from a retailer that sells its product or a person operating a certified redemption center any empty beverage containers, labeled in accordance with section 1524 of this title, of the kind, size, and brand sold by the manufacturer or distributor, or refuse to pay the retailer or a person operating a redemption center the refund value of a beverage container as established by section 1522 of this title.

~~(b)(1) A retailer, with the prior approval of the Secretary, may refuse to redeem beverage containers if a redemption center or centers are established that serve the public need stewardship plan that meets the requirements of section 1532 of this title has been implemented by the producer responsibility organization in the State and the retailer's building is less than 5,000 square feet.~~

(2) A manufacturer or distributor that sells directly to a consumer from a retail location may refuse to redeem beverage containers if the retail location where the manufacturer or distributor sells beverage containers is less than 5,000 square feet.

(c) A retailer ~~or that is not exempt~~, a person operating a redemption center, or any other point of redemption may only refuse to redeem beverage containers that are not clean, or are broken, and shall not redeem beverage containers that are not labeled in accordance with section 1524 of this title.

§ 1524. LABELING

(a)(1) Every beverage container sold or offered for sale at retail in this State shall clearly indicate by embossing ~~or on the normal product label~~, imprinting on the normal product label, or ~~in the case of a metal beverage container on the top of the container~~, other approved method secured to the container the word “Vermont” or the letters “VT” and ~~the refund value of the container~~ one of the following in not less than one-eighth inch type size or such other alternate indications as may be approved by the Secretary:

(A) the refund value of the container;

(B) the words “refund value”; or

(C) the letters “RV”.

(2) The label shall be on the top lid of the beverage container, the side of the beverage container, or in a clearly visible location on the beverage container. This subsection does not prohibit including names or abbreviations of other states with deposit legislation comparable to this chapter.

(b) Each beverage container sold or offered for sale in the State that has a deposit pursuant to section 1522 of this title shall include a Universal Product Code and barcode. Each distributor shall provide the Universal Product Code and barcode as part of its beverage registration or within 60 days following March 1, 2025, whichever occurs first.

(c) The Commissioner of Liquor and Lottery may allow, in the case of liquor bottles, a conspicuous, adhesive sticker to be attached to indicate the deposit information required in subsection (a) of this section, provided that the size, placement, and adhesive qualities of the sticker are as approved by the Commissioner. The stickers shall be affixed to the bottles by the manufacturer, except that liquor that is sold in the State in quantities less than 100 cases per year may have stickers affixed by personnel employed by the Division of Liquor Control.

(e) This section shall not apply to permanently labeled beverage containers.

(d) The Secretary may allow a manufacturer, a distributor, or a retailer of vinous beverage containers to attach a conspicuous adhesive sticker to the beverage containers to indicate the deposit information required in subsection (a) of this section, provided that the size, placement, and adhesive qualities of the sticker are as approved by the Secretary. If the Secretary allows the use of an adhesive sticker under this subsection, the sticker shall be affixed by the manufacturer, the distributor, or the retailer.

* * *

§ 1527. PENALTY

~~A person who violates a provision of this chapter shall be fined not more than \$1,000.00 for each violation. [Repealed.]~~

* * *

§ 1529. REDEMPTION CENTER CERTIFICATION

A person operating a redemption center ~~may~~ shall obtain a certification from the Secretary. A redemption center certification shall include the following:

(1) Specification of the name and location of the facility;

~~(2) If the certified redemption center redeems more than 250,000 containers per year, a requirement that the certified redemption center shall participate in an approved commingling agreement; and~~

~~(3) Additional conditions, requirements, and restrictions as the Secretary may deem necessary to implement the requirements of this chapter. This may shall include requirements concerning reporting, recording, and inspections of the operation of the site.~~

* * *

§ 1531. MANUFACTURER PARTICIPATION IN PRODUCER RESPONSIBILITY ORGANIZATION

(a) No manufacturer or distributor may sell or distribute a beverage container in this State without participating in a Secretary-approved producer responsibility organization.

(b) On or before January 1, 2024, manufacturers of beverage containers sold or distributed within the State shall apply to the Secretary to form a producer responsibility organization to fulfill the requirements of manufacturers under this chapter.

(c) The Secretary may approve, for a period not longer than 10 years, the producer responsibility organization, provided that:

(1) the producer responsibility organization has the capacity to administer the requirements of a stewardship plan required by section 1532 of this title; and

(2) the producer responsibility organization does not create any unreasonable barriers to joining the producer responsibility organization and shall take into the consideration the needs of small manufacturers that do not generate a significant volume of containers.

(d) After approval, the producer responsibility organization shall maintain a website that identifies:

(1) the name and principal business address of each manufacturer participating in the producer responsibility organization; and

(2) the name of each beverage and the container size covered by the stewardship plan.

(e) If the producer responsibility organization fails to implement the requirements of this chapter, the rules adopted by the Secretary, or an approved stewardship plan, the Secretary may dissolve the producer responsibility organization.

(f) If no producer responsibility organization is formed, the Secretary shall either require the formation of the producer responsibility organization or adopt and administer a plan that meets the requirements of section 1532 of this title. If the Secretary administers the plan adopted under section 1532, the Secretary shall charge each manufacturer the costs of plan administration, the Agency's oversight costs, and a recycling market development assessment of 10 percent of the plan's total cost to be deposited in the Solid Waste Management Assistance Account of the Waste Management Assistance Fund, for the purpose of providing grants to develop markets to recycle materials.

(g) The producer responsibility organization shall reimburse the Secretary for the costs of overseeing the administration of the program under this chapter as follows:

(1) The Secretary shall annually provide an estimate of the costs of overseeing the administration of the program to the producer responsibility program, including staff costs, compliance, and oversight of the system.

(2) The producer responsibility organization shall provide any comments to the Secretary's budget within 30 days of receipt. The Agency of Natural Resources shall respond to all comments provided by the producer responsibility organization and may make changes to its budget in response to those comments. These comments and the responses shall be provided to the General Assembly as a part of the Secretary's budget.

(3) Reimbursement of Agency of Natural Resources costs under this subsection shall be subject to the State budgeting process, and the producer responsibility organization shall not be required to reimburse any Agency cost unless that cost is approved as a part of the Agency's budget.

(h) Manufacturers and distributors of liquor are exempt from the requirements of this section and the requirement to implement a stewardship plan under section 1532 of this title.

§ 1532. STEWARDSHIP PLAN; MINIMUM REQUIREMENTS

(a) Plan elements. On or before October 1, 2024, an approved producer responsibility organization shall submit a stewardship plan to the Secretary. A stewardship plan shall, at a minimum, meet all of the following requirements of this section:

(1) Convenience of collection. A plan shall ensure that consumers have convenient opportunities to redeem beverage containers. The plan shall take reasonable efforts to site points of redemption equitably across all regions of the State to allow for convenient and reasonable access of all Vermonters to redemption opportunities. A plan shall document how redemption services will be available to consumers as follows:

(A) at least three points of redemption per county that provide an immediate return of a deposit to a consumer unless a waiver is granted by the Secretary;

(B) at least one point of redemption per municipality with a population of 7,000 or more persons that provides an immediate return of a deposit to a consumer unless a waiver is granted by the Secretary; and

(C) how sites of redemption are or will be sited in areas with high population density or located in centers designated under 24 V.S.A. chapter 76A.

(2) Fair operation and compensation to redemption centers. The plan shall satisfy all of the following requirements.

(A) The plan shall describe how all locations that redeem beverage containers are fairly compensated for their participation in the collection program.

(B) There shall not be barriers to the participation in the collection program for a redemption center, except for restrictions that are authorized by the Secretary.

(C) The plan shall describe how management and sorting of containers at redemption centers is minimized. The plan shall document how brand sorting will be eliminated at points of redemption.

(D) The plan shall describe how materials will be picked up from redemption centers on a timely basis.

(E) The plan shall maximize the use of existing infrastructure when establishing points of collection under subdivision (1) of this subsection (a).

(3) Education to consumers. The plan shall describe what education efforts will be undertaken to increase the number of beverage containers redeemed in the State.

(4) Consultation with stakeholders. The producer responsibility organization shall consult with stakeholders on the development of the plan. The plan shall include processes for regular consultation, which shall not be less than annually, with stakeholders including the Agency, redemption centers, municipal and private recycling organizations, and other stakeholders.

(b) Reporting. At a frequency required by the Secretary but not less than annually, the producer responsibility organization shall report the following to the Secretary:

(1) the name, address, and business hours of each redemption center participating in the approved stewardship plan;

(2) the amount, in containers and tons, and material type of beverage containers redeemed under the plan and the redemption rate by the following categories of:

(A) vinous beverage containers; and

(B) all other beverage containers;

(3) the location and amount of beverage container material that was recycled and what products that beverage container material was recycled into;

(4) the carbon impacts associated with the administration of the stewardship plan;

(5) the costs associated with administration of the stewardship plan, including the costs of collection, management, and transportation of redeemed containers and the amount received for commodities;

(6) a description of any improvements made in the reporting year to increase ease and convenience for consumers to return beverage containers for redemption;

(7) efforts taken by or on behalf of the manufacturer or distributor to reduce environmental impacts throughout the product life cycle and to increase reusability or recyclability at the end of the life cycle by material type;

(8) efforts taken by or on behalf of the producer responsibility organization to improve the environmental outcomes of the program by improving operational efficiency, such as reduction of truck trips through improved material handling or compaction or the increased use of refillable containers in a local refilling system;

(9) a description and copies of educational materials and educational strategies the producer responsibility organization uses for the purposes of this program; and

(10) any additional information required by the Secretary.

(c) Secretary of Natural Resources approval. The plan shall be submitted to the Secretary, and, after concluding that the elements of the plan will maximize diversion of recyclable materials, provide convenience to users, and create a more circular economy, the Secretary's approval pursuant to this subsection shall be for a period not greater than five years.

(d) Revision of stewardship goals. If the producer responsibility organization fails to meet the beverage container redemption rate in section 1534 of this title for vinous beverage containers or for all other beverage containers, the Secretary may require the producer responsibility organization to implement activities to enhance the rate of redemption, including additional public education and outreach, additional redemption sites, or additional redemption opportunities.

§ 1533. PROGRAM AND FISCAL AUDIT

(a) Program audit. Beginning on March 1, 2030 and every five years thereafter, the producer responsibility organization shall conduct an independent third-party program audit of the operation of the stewardship plan. The audit shall make recommendations to improve the operation of the collection program established by this chapter.

(b) Fiscal audit. Beginning on March 1, 2026 and annually thereafter, the producer responsibility organization shall conduct an independent third-party fiscal audit of the program. The fiscal audit shall provide a transparent fiscal analysis of the producer responsibility organization, its expenditures, the number of beverage containers collected, and the amount of unclaimed deposits. The audit shall also provide the redemption rate of beverage containers redeemed in the State. The Secretary shall approve the audit results and the redemption rate of beverage containers included in the audit.

(c) Submission to Secretary. The results of each audit required under subsections (a) and (b) of this section shall be submitted to the Secretary for purposes of reviewing performance of the stewardship plan and for oversight of the requirements of this chapter.

§ 1534. BEVERAGE CONTAINER REDEMPTION RATE GOAL;
REPORT

(a) It is a goal of the State that the following minimum beverage container redemption rates shall be satisfied by the specified dates:

- (1) Beginning on July 1, 2026: 75 percent.
- (2) Beginning on July 1, 2030: 80 percent.
- (3) Beginning on July 1, 2035: 85 percent.
- (4) Beginning on July 1, 2040: 90 percent.

(b)(1) Beginning on July 1, 2025 and annually thereafter, the Secretary of Natural Resources shall submit to the Senate Committees on Natural Resources and Energy and on Finance and the House Committees on Environment and Energy and on Ways and Means a written report containing the current beverage container redemption rate in the State for the following three categories of beverage containers:

- (A) liquor bottles;
- (B) vinous beverage containers; and
- (C) all other beverage containers.

(2) Each annual report submitted under subdivision (1) of this subsection shall include a recommendation of whether the beverage container deposit for any of the three beverage categories should be increased to improve redemption of that category of beverage container.

§ 1535. RULEMAKING

The Secretary may adopt rules, in accordance with 3 V.S.A. chapter 25, necessary for the administration of this chapter.

§ 1536. ANTITRUST; CONDUCT AUTHORIZED

(a) Activity authorized. A manufacturer, group of manufacturers, or producer responsibility organization implementing or participating in an approved collection plan under this chapter for the collection, transport, processing, and management of beverage container is individually or jointly immune from liability for conduct under State laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce under 9 V.S.A. chapter 63, subchapter 1 to the extent that the conduct is reasonably necessary to plan, implement, and comply with the producer responsibility organization's chosen system for beverage containers.

(b) Limitations on antitrust activity. Subsection (a) of this section shall not apply to an agreement among producers, groups of manufacturers, retailers, wholesalers, or the producer responsibility organization affecting the price of beverage containers or any agreement restricting the geographic area in which or customers to whom beverage containers shall be sold.

Sec. 2. 10 V.S.A. § 1530(c)(1) is amended to read:

(c)(1) ~~On or before January 1, 2020, and quarterly thereafter, Every quarter,~~ at the time a report is filed pursuant to subsection (d) of this section, each deposit initiator shall remit to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. ~~The Commissioner of Taxes shall deposit the first \$3,000,000.00 of the abandoned beverage container deposits into the Clean Water Fund under 10 V.S.A. § 1388. The Commissioner shall return to the producer responsibility organization implementing the requirements of this chapter any abandoned beverage container deposits in excess of the amount deposited into the Clean Water Fund.~~ The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that the deposit initiator collected in the quarter less the amount of the total refund value paid out by the deposit initiator for beverage containers during the quarter.

Sec. 3. 10 V.S.A. § 1530(c)(1) is amended to read:

(c)(1) Every quarter, at the time a report is filed pursuant to subsection (d) of this section, each deposit initiator shall remit to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The Commissioner of Taxes shall deposit the first ~~\$3,000,000.00~~ \$4,000,000.00 of the abandoned beverage container deposits into the Clean Water Fund under 10

V.S.A. § 1388. The Commissioner shall return to the producer responsibility organization implementing the requirements of this chapter any abandoned beverage container deposits in excess of the amount deposited into the Clean Water Fund. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that the deposit initiator collected in the quarter less the amount of the total refund value paid out by the deposit initiator for beverage containers during the quarter.

Sec. 3a. 10 V.S.A. § 1530(c)(1) is amended to read:

(c)(1) Every quarter, at the time a report is filed pursuant to subsection (d) of this section, each deposit initiator shall remit to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The Commissioner of Taxes annually shall deposit 50 percent or the first \$4,000,000.00, whichever is greater, of the abandoned beverage container deposits into the Clean Water Fund under 10 V.S.A. § 1388. ~~The Commissioner shall return to the producer responsibility organization implementing the requirements of this chapter~~ deposit into the Solid Waste Management Assistance Account of the Waste Management Assistance Fund any abandoned beverage container deposits in excess of the amount deposited into the Clean Water Fund. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that the deposit initiator collected in the quarter less the amount of the total refund value paid out by the deposit initiator for beverage containers during the quarter.

Sec. 4. 10 V.S.A. § 7714 is amended to read:

§ 7714. TYPE 3 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when adopting general permits, except for general permits governed by section 7712 of this chapter, and when considering other permits listed in this section.

(2) The procedures under this section shall be known as Type 3 Procedures. This section governs each of the following:

(A) Each general permit issued pursuant to the Secretary's authority under this title other than a general permit subject to section 7712 of this chapter. However, this section does not apply to a notice of intent under a general permit.

(B) Issuance of a dam safety order under chapter 43 of this title, except for an unsafe dam order under section 1095 of this title.

(C) An application or request for approval of:

(i) an aquatic nuisance control permit under chapter 50 of this title;

(ii) a change in treatment for a public water supply under chapter 56 of this title;

(iii) a collection plan for mercury-containing lamps under section 7156 of this title;

(iv) an individual plan for the collection and recycling of electronic waste under section 7554 of this title; ~~and~~

(v) a primary battery stewardship plan under section 7586 of this title; and

(vi) approval of a stewardship plan required under chapter 53 of this title.

(b) Notice of application. The Secretary shall provide notice of an administratively complete application through the environmental notice bulletin.

(c) Notice of draft decision; comment period. The Secretary shall provide notice of the draft decision through the environmental notice bulletin and shall post the draft decision to the bulletin. The Secretary shall provide a public comment period.

(d) Public meeting. The Secretary shall hold a public meeting whenever any person files a written request for such a meeting. The Secretary otherwise may hold a public meeting at ~~his or her~~ the Secretary's discretion.

(e) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the final decision to the bulletin. The Secretary shall provide a response to comments.

Sec. 5. 10 V.S.A. § 1388 is amended to read:

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the Clean Water Fund to be administered by the Secretary of Administration. The Fund shall consist of:

(1) revenues from the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a;

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration;

(3) the unclaimed beverage container deposits (escheats) ~~remitted to the State~~ required to be deposited to the Fund under chapter 53 of this title;

(4) six percent of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225; and

(5) other revenues dedicated for deposit into the Fund by the General Assembly.

(b) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5, unexpended balances and any earnings shall remain in the Fund from year to year.

Sec. 6. 10 V.S.A. § 6618(a) is amended to read:

(a) There is hereby created in the State Treasury a fund to be known as the Waste Management Assistance Fund, to be expended by the Secretary of Natural Resources. The Fund shall have three accounts: one for Solid Waste Management Assistance, one for Hazardous Waste Management Assistance, and one for Electronic Waste Collection and Recycling Assistance. The Hazardous Waste Management Assistance Account shall consist of a percentage of the tax on hazardous waste under the provisions of 32 V.S.A. chapter 237, as established by the Secretary, the toxics use reduction fees under subsection 6628(j) of this title; and appropriations of the General Assembly. In no event shall the amount of the hazardous waste tax that is deposited to the Hazardous Waste Management Assistance Account exceed 40 percent of the annual tax receipts. The Solid Waste Management Assistance Account shall consist of the franchise tax on waste facilities assessed under the provisions of 32 V.S.A. chapter 151, subchapter 13; the unclaimed beverage container deposits allocated to the Account under chapter 53 of this title; and appropriations of the General Assembly. The Electronic Waste Collection and Recycling Account shall consist of the program and implementation fees required under section 7553 of this title. All balances in the Fund accounts at the end of any fiscal year shall be carried forward and remain a part of the Fund accounts, except as provided in subsection (e) of this section. Interest earned by the Fund shall be deposited into the appropriate Fund account. Disbursements from the Fund accounts shall be made by the State Treasurer on warrants drawn by the Commissioner of Finance and Management.

Sec. 7. SYSTEMS ANALYSIS OF BEVERAGE CONTAINER SYSTEM

(a) The Agency of Natural Resources shall contract with an independent third-party consultant to conduct a systems analysis of the efficacy and cost of Vermont's beverage container redemption system. The analysis shall estimate:

(1) the total system costs and savings associated with the implementation of the expanded beverage container redemption system under 10 V.S.A. chapter 53, including climate impacts;

(2) the cost to consumers of complying with an expanded beverage container redemption system, including transportation costs, compliance costs, carbon impact, and externalities, such as lost time;

(3) the impacts of an expanded beverage container redemption system on the recycling system, including how much additional beverage container material will be collected by the expansion of the beverage container redemption system; the cost to solid waste entities of an expanded beverage container redemption system, including lost revenues from the sale of recyclable materials; the operational savings, if any, on material recovery facilities; the loss to material recovery facilities from the removal of material collected under the beverage container redemption system material from the recycling system; and an estimate of the impacts on tipping fees or solid waste fees at each material recovery facility or solid waste transfer station;

(4) the costs of operating a redemption center and other alternate points of redemption under a stewardship plan and a recommendation on whether the handling fee for redeemed containers should be altered or replaced with an alternative means of compensating points of redemption;

(5) the impact on overall recycling in the State and the redemption rates of beverage containers under 10 V.S.A. chapter 53 if the producer responsibility organization (PRO) implementing the stewardship plan under that chapter were authorized to retain 100 percent, 50 percent, or none of the abandoned beverage container deposits, including:

(A) the estimated number of beverage container redemption sites in the State under the PRO's stewardship plan under each option for the PRO's retention of the abandoned beverage container deposits; and

(B) the geographic distribution of beverage container redemption sites across the State under the PRO's stewardship plan under each option for the PRO's retention of the abandoned beverage container deposits; and

(6) the impact on the Clean Water Fund and State implementation of the State's water quality programs and regulatory requirements if the abandoned beverage container deposits were not deposited into the Clean Water Fund under 10 V.S.A. § 1388.

(b) On or before January 15, 2025, the Agency of Natural Resources shall submit to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy a written report containing the results of the systems analysis required under subsection (a) of this section.

Sec. 7a. ANR REPORT ON STATUS REPORT OF RECYCLING SYSTEM

On or before January 15, 2026, the Secretary of Natural Resources shall submit to the Senate Committees on Natural Resources and Energy and on Finance and the House Committees on Environment and Energy and on Ways and Means a report on the status of the State's recycling system prior to the expansion of the beverage container redemption system required under this act. The report shall include:

(1) a summary of the operation of the Agency of Natural Resources' approved stewardship plan since March 1, 2025 by the producer responsibility organization registered with the Agency;

(2) identification of the points of redemption under the existing stewardship plan, including:

(A) an assessment of whether the existing points of redemption allow for convenient and reasonable access of all Vermonters to redemption opportunities;

(B) an assessment of whether the existing points of redemption are suitable for redemption by all Vermonters under the planned expansion of the beverage container system; and

(C) any recommendations to improve the convenience of redemption prior to the expansion of the beverage container redemption system; and

(3) a summary of the infrastructure in the State, other than points of redemption, available for the management and processing of beverage containers and an assessment of whether additional infrastructure is needed prior to the expansion of the beverage container redemption system.

Sec. 8. REPEAL

10 V.S.A. § 1528 (beverage registration with ANR) and 10 V.S.A. § 1529 (redemption center certification by ANR) are repealed on March 1, 2025.

Sec. 9. IMPLEMENTATION; TRANSITION

(a) In the implementation and enforcement of the requirements of this act, the Secretary of Natural Resources may:

(1) allow beverage containers to be sold or redeemed that do not meet the labeling requirements of 10 V.S.A. § 1524;

(2) determine whether a beverage or container is subject to the requirements of 10 V.S.A. chapter 53 due to the nature of the beverage or the composition or size of the container; and

(3) exercise discretion in the administration and enforcement of the requirements of 10 V.S.A. chapter 53 for categories or types of beverages or beverage containers.

(b) This section shall be repealed on March 1, 2028.

Sec. 10. BOTTLE BILL RECYCLING AND MATERIALS REPORTING

A manufacturer or distributor collecting beverage containers subject to 10 V.S.A. chapter 53 shall report recycling information to the Secretary of Natural Resources in the same manner as recycled materials are reported to the Secretary under 10 V.S.A. chapter 159. The information shall include:

(1) the amount in containers and tons and material type of beverage container collected; and

(2) the location and amount of beverage container material and what products the beverage containers were recycled into.

Sec. 11. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that:

(1) in Sec. 1, 10 V.S.A. § 1521(1) (expansion of the definition of beverage types) and 10 V.S.A. § 1522(a) (deposit for vinous beverages) shall take effect on January 1, 2027;

(2) in Sec. 1, 10 V.S.A. § 1524(b) (requiring a UPC label on containers) shall take effect on March 1, 2025;

(3) in Sec. 1, 10 V.S.A. § 1531(a) (prohibiting the sale or distribution without participating in the producer responsibility organization) shall take effect on March 1, 2025;

(4) Sec. 2 (abandoned beverage container deposits; initial Clean Water Fund amount) shall take effect on January 1, 2026;

(5) Sec. 3 (abandoned beverage container deposit; Clean Water Fund amount on expansion) shall take effect on January 1, 2027;

(6) Sec. 3a (abandoned beverage container deposit; Solid Waste Management Assistance Account) shall take effect on July 1, 2031;

(7) Sec. 5 (deposits to Clean Water Fund) shall take effect January 1, 2026; and

(8) Sec. 6 (Waste Management Assistance Fund) shall take effect on July 1, 2031.

Joint Resolutions For Action

J.R.S. 38.

Joint resolution providing for a Joint Assembly for the election of an Adjutant and Inspector General, and two legislative Trustees of the Vermont State Colleges Corporation.

PENDING ACTION: Shall the Senate adopt the resolution?

(For text of resolution, see Senate Journal of January 19, 2024, page 55.)

J.R.S. 39.

Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2024.

PENDING QUESTION: Shall the resolution be adopted?

(For text of resolution, see Senate Journal of January 19, 2024, page 55.)

NOTICE CALENDAR

Proposed Amendments to the Vermont Constitution

PROPOSAL 1

(Third day on Notice Calendar pursuant to Rule 77)

Subject: Elections; sheriffs; qualifications

Offered by: Senators Hardy, Sears, Baruth, Clarkson, Hashim, Lyons, Vyhovsky, Watson and White

Subject: Elections; sheriffs; qualifications

PENDING ACTION: Second Reading of the proposed amendment

PROPOSAL 1

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to allow the General Assembly to establish by law qualifications for individuals to be elected to and hold the office of sheriff. Currently, there are no specific

qualifications for being a sheriff in Vermont, including no requirement that a sheriff have or maintain law enforcement officer certification.

Sec. 2. Section 50 of Chapter II of the Vermont Constitution is amended to read:

§ 50. ELECTION OF ASSISTANT JUDGES, SHERIFFS, AND STATE'S ATTORNEYS

The Assistant Judges shall be elected by the voters of their respective districts as established by law. Their judicial functions shall be established by law. Their term of office shall be four years and shall commence on the first day of February next after their election.

Sheriffs shall be elected by the voters of their respective districts as established by law. Their term of office shall be four years and shall commence on the first day of February next after their election. The General Assembly may establish by law qualifications for the election to and holding of such office.

State's Attorneys shall be elected by the voters of their respective districts as established by law. Their term of office shall be four years and shall commence on the first day of February next after their election.

Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2026 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

Reported favorably with recommendation of amendment by Senator Hardy for the Committee on Government Operations

The Committee on Government Operations recommends that Proposal 1 be amended by striking out the proposal in its entirety and inserting in lieu thereof the following:

PROPOSAL 1

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to allow the General Assembly to establish by law qualifications for individuals to be elected to and hold certain county offices and to be removed from office for failure to meet or to maintain those qualifications. Further, this proposal would eliminate reference to the office of High Bailiff.

Sec. 2. Section 50 of Chapter II of the Vermont Constitution is amended to read:

§ 50. ELECTION OF ASSISTANT JUDGES, SHERIFFS, AND STATE'S ATTORNEYS

The Assistant Judges shall be elected by the voters of their respective districts as established by law. Their judicial functions shall be established by law. Their term of office shall be four years and shall commence on the first day of February next after their election. The General Assembly may establish by law qualifications for the election to and holding of such office and procedures for removal from such office for failure to meet or to maintain the required qualifications.

Sheriffs shall be elected by the voters of their respective districts as established by law. Their term of office shall be four years and shall commence on the first day of February next after their election. The General Assembly may establish by law qualifications for the election to and holding of such office and procedures for removal from such office for failure to meet or to maintain the required qualifications.

State's Attorneys shall be elected by the voters of their respective districts as established by law. Their term of office shall be four years and shall commence on the first day of February next after their election. The General Assembly may establish by law qualifications for the election to and holding of such office and procedures for removal from such office for failure to meet or to maintain the required qualifications.

Sec. 3. Section 51 of Chapter II of the Vermont Constitution is amended to read:

§ 51. ELECTION OF JUDGES OF PROBATE

Judges of Probate shall be elected by the voters of their respective districts as established by law. The General Assembly may establish by law qualifications for the election to and holding of such office and procedures for removal from such office for failure to meet or to maintain the required qualifications. Their term of office shall be four years and shall commence on the first day of February next after their election.

Sec. 4. Section 43 of Chapter II of the Vermont Constitution is amended to read:

The Governor, Lieutenant-Governor, Treasurer, Secretary of State, Auditor of Accounts, Senators, Town Representatives, Assistant Judges of the County Court, Sheriffs, ~~High Bailiffs~~, State's Attorneys, Judges of Probate and Justices of the Peace, shall be elected biennially on the first Tuesday next after the first Monday of November, beginning in A.D. 1914.

Sec. 5. EFFECTIVE DATE

The amendments set forth in Secs. 2 through 4 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2026 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

(Committee vote: 5-1-0)

ORDERED TO LIE

S. 94.

An act relating to the City of Barre tax increment financing district.

NOTICE OF JOINT ASSEMBLY

January 23, 2024 - 1:00 P.M. – House Chamber – Budget address by the Honorable Philip B. Scott, Governor of the State of Vermont.

March 1, 2024 - 10:30 A.M. – House Chamber - Election of a Sergeant at Arms.

Candidates for the position of Sergeant at Arms must notify the Secretary of State **in writing** of their candidacies not later than February 23, 2024 by 4:00 P.M., pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for this position.

The following rules shall apply to the conduct of this election:

First: All nominations for this office will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.

JFO NOTICE

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3):

JFO #3176: \$250,000.00 to the Agency of Human Services, Department of Mental Health from the National Association of State Mental Health Program Directors. These funds will increase rapid access to behavioral health care by supporting the peer service component of the mental health urgent care clinic being established in Chittenden County. This clinic will offer an alternative to seeking mental health care in emergency departments.

[Received January 11, 2024]

JFO #3177: **\$2,543,564.00** to the Agency of Natural Resources, Secretary's Office from the U.S. Environmental Protection Agency. Funding is phase one of a two-phase funding opportunity aimed to support Vermont with climate change mitigation planning efforts. A comprehensive climate action plan will be developed, to overlap with and be synonymous to the required update to Vermont's Climate Action Plan in 2025.

[Received January 12, 2024]

JFO #3178: **\$456,436.00** to the Agency of Natural Resources, Secretary's Office from the U.S. Environmental Protection Agency. Funds will support (1) limited-service position, Environmental Analyst IV. This position will serve as administrative lead developing the updated Climate Action Plan with the Vermont Climate Council and perform added work required by the EPA grant. Position is funded through 6/30/2027.

[Received January 11, 2024]

FOR INFORMATION ONLY

Discrimination Prevention Training will be held for the Senate in the Senate Chamber on Tuesday, January 23rd from 9:00 AM - 10:00 AM.

FOR INFORMATIONAL PURPOSES

CONSTITUTIONAL AMENDMENTS

The 2023-2024 biennium is the second reading of a proposal of amendment; there is only a second reading this biennium. Third reading is during the 2025-2026 biennium.

Upon being reported by a committee, the proposal is printed in full in the Senate Calendar on the Notice Calendar for five legislative days. Senate Rule 77.

At second reading the proposal of amendment is read in full. Senate Rule 77.

The vote on any constitutional proposal of amendment and any amendment thereto is by yeas and nays. Senate Rules 77 and 80, and Vermont Constitutional §72 (requirement of 2/3 vote of members).

At second reading, the questions is: “Shall the Senate adopt the proposal of amendment to the Constitution of Vermont (as amended) as recommended by the Committee on ____ and request the concurrence of the House?” which requires 20 votes – 2/3 of the Senate. Vermont Constitution §72. Any amendments to the proposal of amendment require a majority. Senate Rule 80.

Amendments recommended by any senator shall be submitted to the committee of reference, in written form, where they shall be acted upon by the committee. Upon adoption or rejection of any amendment by the committee, the amendment and recommendation shall be printed in the calendar at least one legislative day before second reading. Senate Rule 78.