

H.158. An Act Relating to the Beverage Container Redemption System
Section by Section Summary of Senate Natural Resources Proposal of Amendment

Section 1. Amends 10 V.S.A. Chapter 53, Beverage Container Redemption.

§ 1521. Definitions.

- Amends the definition of “beverage.” Because the container deposit is on beverage containers, the definition of “beverage” generally establishes the scope of the Bottle Bill.
- § 1521(1) would amend the definition of “beverage” to read: “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.”
 - The change to the definition would go into effect on January 1, 2017.
 - The expansion includes vinous beverage containers (i.e. wine).
- § 1521(3) would amend the definition of “container” to focus on the material the container is made from.
 - Container would now be defined as:
 - the individual, and separate, bottle, can, or jar composed of glass, aluminum or other metal, polyethylene terephthalate (i.e. PTE), high density polyethylene (i.e. HDPE), or any combination of those materials, and containing a beverage.
 - Noncarbonated beverage containers with a volume greater than 2.5 liters would be exempt and carbonated beverage containers with a volume of 3 liters would be exempt.
- §§ 1521(11) and (12) adds definitions of cider (i.e. hard cider) and hard kombucha. These products are technically vinous beverages under state law as they are fermented fruit. If they are not defined and exempted from the definition of “vinous beverage” they would be subject to the deposit amount for vinous beverages—15 cents, instead of 5 cents.
- § 1521(13) adds a definition of “plant-based beverage” to mean “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.”
 - Plant-based beverages are exempt from the definition of “beverage”.
- § 1521(14) adds a definition of vinous beverage. This definition largely consistent with the definition of “vinous beverage” under the state alcohol laws in Title 7, except that it excludes hard cider, hard kombucha, and mixed wine drinks so that those beverage containers are subject to a 5 cent deposit.

[**Note:** Be prepared for the question of who is a “distributor” or “manufacturer”

“Distributor”: 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, is a distributor.

“Manufacturer”: every person bottling, canning, packing, or otherwise filling containers for sale.]

§1522. Beverage Container Deposit

- § 1522(a) establishes the container deposit amount for vinous beverages at 15 cents per container. The deposit does not change for other containers—15 cents for liquor and 5 cents for all other containers.
- § 1522(a) also requires the Department of Liquor and Lottery (DLL) to report to ANR annually with the amount of liquor bottles collected and the redemption rate for liquor bottles. DLL runs a program to collect redeemed liquor bottles and retains the abandoned deposits from these bottles.
- § 1522(b) increases from 4 to 5 cents per container the handling fee manufacturers and distributors pay retailers and redemption centers that redeem containers that are not in a commingling program.

[**Note:** Be prepared for questions about what is commingling. “Commingling” means the sorting of beverage containers at a redemption center by material type and size rather than by beverage brand in accordance with the requirements of an approved commingling agreement.]
- 1522(d), requiring redemption centers and retailers to redeem beverages at least 40 hours a week is repealed because it is not being implemented or enforced.

§1522a. Current Beverage Container Redemption Rules Authority

- The current ANR rulemaking authority for the bottle bill is repealed. The changes in the bill make the directives in this section obsolete. A subsequent section grants ANR general rulemaking authority.

§ 1523. Acceptance of Beverage Containers

- § 1523(b)(1) authorizes a retailer to refuse to redeem beverage containers if a stewardship plan that meets the requirements of the act has been implemented by a producer responsibility organization in the State and the retailer’s building is less than 5,000 square feet.
- *§ 1523(b)(2) was added by SNRE to exempt from the requirement to accept and redeem beverage containers those manufacturers or distributors that sell directly to a consumer if the retail location where the manufacturer or distributor sells beverage containers is less than 5,000 square feet.*

§1524. Labeling

- Currently, all beverage containers subject to the deposit must include the word Vermont or the letters VT and the refund value of the container.
- Metal containers are required to have this information on the top of the container. But, more beverages are produced in aluminum bottles and other containers where it is hard to label the top of the container.
- § 1524(a) would strike the requirement that metal containers be labeled on their top and instead allows for any container to be labeled with an ANR approved method that secures the information to the container.
- § 1524(a) also authorizes the label to be on the top lid of the beverage container, the side of the beverage container, or in a clearly visible location of the beverage container.
- § 1524(a) also allows a manufacturer or distributor alternatives to listing the refund value. The section allows for listing the actual refund value (e.g. 5 cents), the words “refund value, or the letters “RV”.
- § 1524(b) requires each beverage container sold or offered for sale in the State that has a deposit to 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 of March 1, 2024, whichever occurs first.
- § 1524(d) authorizes ANR to allow a manufacturer distributor, or retailer of vinous beverages to attach a sticker to the container to meet the container label requirements.

§ 1527. Repeal of Current Penalty

- SNRE proposes that the specific \$1,000 cap on penalties under current law be struck, and that ANR have authority to impose penalties under its default enforcement authority in 10 V.S.A. ch. 201.

§ 1529. Redemption Center Certification

- Repeals a requirement that a redemption center must participate in an approved commingling program if the redemption center redeems more than 250,000 containers per year.

§1531. Manufacturer Participation in Producer Responsibility Organization

- § 1531(a) provides that no manufacturer or distributor may sell or distribute a beverage container in this State without participating in an ANR-approved producer responsibility organization (PRO).
- § 1531(b) on or before Jan. 1, 2024, a manufacturer shall apply to the Secretary to form a PRO that will fulfill the requirements of manufacturers under the chapter.
- § 1531(c) the Secretary may approve, for a period not longer than 10 years, a PRO, provided that:
 - the PRO has the capacity to administer the requirements of a stewardship plan; and
 - The PRO does not create any unreasonable barriers to manufacturers or distributors joining the PRO and shall take into the consideration the needs of small manufacturers that do not generate a significant volume of containers.
- § 1531(d) after approval, a PRO shall maintain a website that identifies:
 - the name and principal business address of each manufacturer participating in the PRO; and
 - the name of each beverage and the container size covered by the stewardship plan.
- § 1531(e) if the PRO does not meet its requirements or the stewardship plan, ANR may dissolve the PRO.
- If no PRO is formed, ANR may require formation of a PRO or adopt its own stewardship plan.
 - If ANR administers the plan adopted, ANR shall charge each manufacturer the costs of plan administration, ANR's oversight costs, and a recycling market development assessment of 10% of the plan's total cost to be deposited in the Waste Management Assistance Fund, Solid Waste Account for the purpose of providing grants to develop markets to recycle materials.
- The PRO shall reimburse ANR for all oversight costs in administering the chapter.

§ 1532. Stewardship Plan; Minimum Requirements

- § 1532(a) provides the required elements of any PRO stewardship plan. Under § 1532(a), the PRO shall submit a plan to ANR or before October 1, 2024.
- A stewardship plan shall, at a minimum, meet all of the following the requirements:
 1. Convenience of collection.
 - A plan shall ensure that consumers have convenient redemption opportunities.
 - 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 for all Vermonters to redemption.
 - A plan shall document how redemption services will be available to consumers as follows:

- 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;
- at least 1 point of redemption per municipality with a population of 7,000 or more that provides immediate return of a deposit to a consumer unless a waiver is granted by ANR; and
- The plan shall take reasonable efforts to site points of collection in areas with high population density or located in designated centers.

2. Fair operation and compensation to redemption centers.

- The plan shall satisfy all of the following requirements.
 - The plan shall describe how all locations that redeem beverage containers are fairly compensated for their participation in the collection program.
 - 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, by rule.
 - 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 redemption.
 - The plan shall describe how materials will be timely picked up from redemption centers.
 - The plan shall maximize use of existing infrastructure when establishing collection points.

3. Education to consumers.

- The plan shall describe the education efforts to be undertaken to increase redemption.

4. Consultation with stakeholders.

- The PRO shall consult with stakeholders on plan development and at least annually.

• § 1532(b) Reporting.

- No less than annually, the PRO shall report the following to ANR:
 1. the name, address, and business hours of each participating redemption center;
 2. the amount, in containers and tons, and material type of beverage containers redeemed by the categories of vinous beverage containers and all other beverage containers (not including liquor);
 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 costs of collection, management, and transportation and the amount received for commodities;
 6. improvements made in that year to increase convenience of consumer redemption;
 7. efforts to reduce environmental impacts and to increase reusability or recyclability of materials;
 8. PRO efforts to improve the environmental outcomes of the program;
 9. the educational materials and educational strategies the PRO uses; and
 10. any additional information required by the Secretary.

- § 1532(c). ANR shall approve a plan if the plan will maximize diversion of recyclable materials, provide convenience to users, and create a more circular economy. Approval is for five years.
- *§ 1532(d). SNRE added the authority for ANR to require a PRO to conduct additional education and outreach, provide additional redemption site, or additional redemption opportunities if the PRO fails to meet the beverage container redemption rate for vinous beverage containers or for all other beverage containers.*

§1533. Program and Fiscal Audit

- § 1533(a) requires an independent-third party program audit of a PRO stewardship plan every five years. The audit shall make recommendations to improve the operation of the collection program.
- § 1533(b) requires the PRO to conduct a fiscal audit annually to analyze the PRO, 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 results of each audit are submitted to ANR.

§1534. Beverage Container Redemption Rate Goal; Report

- § 1534(a) sets the State goals for minimum beverage container redemption rates. The goals shall be:
 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, 2050: 90 percent.
- § 1534(b)(1) beginning on July 1, 2025 ANR annually reports to the Legislature the current beverage container redemption rate in the State for the following three categories of beverage containers:
 - liquor bottles;
 - vinous beverage containers; and
 - all other beverage containers.
- *§ 1534(b)(1), SNRE added that as part of the annual report, ANR shall recommend whether the beverage container deposit for an category of containers should increase.*
- *The Senate removed § 1534(c) as passed the House. § 1534(c) would have automatically increased the beverage container deposit for a category of containers if ANR determined that the redemption rate goal was not met for one or more of the beverage container categories for two consecutive years*
 - *H.158 as passed the Senate does not include an automatic escalator for the deposit.*
- **§ 1535. Rulemaking**
- ANR may adopt rules necessary for administration of the beverage redemption system.

Section 2 and 3. Amends 10 V.S.A. § 1530(c)(1) Regarding Remission of Escheats

- Section 2 amends 10 V.S.A. § 1530(c)(1) to allow a PRO, beginning in 2026, to retain 50% of the abandoned beverage container deposits to aid in funding implementation of the stewardship plan.
- Section 3 amends 10 V.S.A. § 1530(c)(1), effective July 1, 2031 to revert to the requirement that 100% of the abandoned beverage container deposits to the State.

Section 4. ANR Standard Notice and Comment Procedures

- Section 4 amends 10 V.S.A. § 7714 to provide that ANR's approval of a PRO stewardship plan for beverage container redemption shall be subject to Type 3 notice and comment.
- Under Type 3 notice, ANR provides notice of an application or decision through the environmental notice bulletin, provides for a public comment period, and holds a public meeting when requested.

Section 5. Clean Water Fund 10 V.S.A. § 1388

- Section 5 amends 10 V.S.A. § 1388 to provide that 50% of the escheats received by the State shall be deposited in the Clean Water Fund. The effective date for Sec. 5 is Jul 1, 2031.

Section 6. Waste Management Assistance Fund. 10 V.S.A. § 6618

- Section 6 would require deposit of 50% of the escheats to the Waste Management Assistance Fund beginning July 1, 2031.

Section 7. ANR Systems Analysis

- Section 7 requires ANR on or before January 15, 2028 to submit to the Legislature a report ***completed by an independent third party consultant*** on the total system costs associated with the implementation of the beverage container redemption system, including: ***[Senate added third party consultant requirement]***
 - an estimate of the total system costs and savings associated with the implementation of the expanded beverage container redemption system;
 - ***Senate added requirement that systems analysis address the cost to consumers of complying with the expanded beverage container redemption system;***
 - an estimate of the impacts of an expanded beverage container redemption system on the recycling system;
 - an estimate of 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 should be altered or replaced with an alternative means of compensating points of redemption. ***Senate added that the cost analysis should also assess the cost to solid waste entities of an expanded container redemption system, including lost revenue;***
 - an estimate of the impact on overall recycling in the State and the redemption rates of beverage containers if the PRO implementing the stewardship plan were authorized to retain 100 percent, 50 percent, or none of the abandoned beverage container deposits;
 - an estimate of 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.

Section 7a. Report on Status of Recycling System Prior to Expansion

The Senate added a new section requiring ANR to report on the status of the recycling system prior to expansion of the scope of beverage container subject to deposit. The report shall include:

- *a summary of the operation of ANR's approved stewardship plan since March 1, 2025 by the producer responsibility organization registered with the Agency;*
- *identification of the points of redemption under the existing stewardship plan, including:*
 - *an assessment of whether the existing points of redemption allow for convenient and reasonable access of all Vermonters to redemption opportunities;*
 - *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*
 - *any recommendations to improve the convenience of redemption prior to the expansion of the beverage container redemption system; and*
- *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.*

Section 8. Repeal of Beverage Registration and Redemption Center Certification with ANR

- Currently, manufacturers and distributors must register their beverages with ANR prior to sale in the State.
- Redemption centers also need to be certified by ANR in order to operate.
- In 2025, when the PRO is operating, a beverage cannot be sold in the state unless it is covered by the PRO's plan and is listed on the PRO website. At that point, registration with ANR is not necessary.
- Similarly, the PRO must identify all redemption centers working under the plan. Certification from ANR is not necessary.
- Sec. 8 repeals the two current statutes that require beverage registration with ANR, 10 V.S.A. § 1528, and repeals the requirement for certification of redemption centers, 10 V.S.A. § 1529.

Section 9. Transition; Implementation

- When implementing the changes in this act, especially when the scope of the bottle bill is expanded, ANR will need some discretion in implementation and enforcement.
- Section 9 allows ANR to:
 - allow beverage containers to be sold or redeemed that do not meet labeling requirements;
 - determine whether a beverage or container is subject to the bottle bill due to the nature of the beverage or the composition or size of the container; and
 - exercise discretion in the administration and enforcement of the requirements of the bottle bill.
- This discretion is not permanent and shall be repealed on March 1, 2028.

Section 10. Bottle Bill Recycling Materials Reporting

- Currently, manufacturers and distributors subject to the bottle bill are not required to report the containers or material types of containers collected.
- But, the bill requires ANR to do a systems analysis prior to Jan. 1, 2015 that will require information on the containers and materials collected by current manufacturers and distributors subject to the bottle bill.

- Section 10 requires manufacturers and distributors that are currently subject to the bottle bill to report recycling information to ANR in the same manner as recycled materials are reported to ANR by materials recovery facilities and similar facilities. The information shall include:
 - the amount in containers and tons and material type of beverage container collected; and
 - the location and amount of beverage container material and what products the beverage containers were recycled into.

Section. 11. Effective Dates

- The act takes effect July 1, 2023, except that:
 - 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;
 - In Sec. 1, 10 V.S.A. § 1524(b) (requiring a UPC label on containers) shall take effect on March 1, 2025;
 - In Sec. 1, 10 V.S.A. § 1531(a) (prohibiting the sale or distribution without participating in a producer responsibility organization) shall take effect on March 1, 2025;
 - Sec. 2 (remittance of abandoned beverage container deposits) shall take effect on January 1, 2026.
 - Sec. 3. (repeal of remittance of beverage container deposit) shall take effect on July 1, 2031.
 - Sec. 5 (changing the amount of funds deposited in the Clean Water Fund) shall take effect on January 1, 2031; and
 - Sec. 6 (Waste Management Assistance Fund) shall take effect on July 1, 2031.