

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 House Bill No. 175 entitled “An act relating to the beverage container
4 redemption system” respectfully reports that it has considered the same and
5 recommends that the Senate propose to the House that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

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

9 CHAPTER 53. BEVERAGE CONTAINERS; DEPOSIT-REDEMPTION
10 SYSTEM

11 § 1521. DEFINITIONS

12 ~~For the purpose of~~ As used in this chapter:

13 (1) “Beverage” means ~~beer or other malt beverages and mineral waters,~~
14 ~~mixed wine drink, soda water and carbonated soft~~ all drinks in liquid form and
15 intended for human consumption, except for milk, dairy products, plant-based
16 beverages, infant formula, meal replacement drinks, nonalcoholic cider, or
17 wine in glass containers. As of January 1, 1990, “beverage” also ~~shall mean~~
18 means liquor.

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

1 (3) “Container” means the individual, separate, bottle, can, or jar,~~or~~
2 ~~carton~~ composed of glass, metal, ~~paper,~~ plastic, or any combination of those
3 materials and containing a ~~consumer product~~ beverage. This definition ~~shall~~
4 does not include:

5 (A) containers made of biodegradable material;

6 (B) noncarbonated beverage containers with a volume greater than
7 two and one-half liters and carbonated beverage containers with a volume
8 greater than three liters; or

9 (C) pouches.

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

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

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

20 (7) “Redemption center” means a store or other location where any
21 person may, during normal business hours, redeem the amount of the deposit

1 for any empty beverage container labeled or certified pursuant to section 1524
2 of this title.

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

4 (9) “Mixed wine drink” means a beverage containing wine and more
5 than 15 percent added plain, carbonated, or sparkling water; and that contains
6 added natural or artificial blended material, such as fruit juices, flavors,
7 flavoring, adjuncts, coloring, or preservatives; that contains not more than
8 16 percent alcohol by volume; or other similar product marketed as a wine
9 cooler.

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

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

16 § 1522. BEVERAGE CONTAINERS; DEPOSIT

17 (a) Except with respect to beverage containers that contain liquor, a deposit
18 **of not less than five cents** shall be paid by the consumer on each beverage
19 container sold at the retail level and refunded to the consumer upon return of
20 the empty beverage container. With respect to beverage containers of volume
21 greater than 50 ml. that contain liquor, a deposit of 15 cents shall be paid by

1 the consumer on each beverage container sold at the retail level and refunded
2 to the consumer upon return of the empty beverage container. The difference
3 between liquor bottle deposits collected and refunds made is hereby retained
4 by the Liquor Control Enterprise Fund for administration of this subsection.

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

11 (c) [Repealed.]

12 (d) Containers shall be redeemed during no fewer than 40 hours per week
13 during the regular operating hours of the establishment.

14 § 1522a. ~~RULES~~

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

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

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

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

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

8 § 1523. ACCEPTANCE OF BEVERAGE CONTAINERS

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

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

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

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

7 (c) A retailer or a person operating a redemption center may refuse to
8 redeem beverage containers that are not clean, or are broken, and shall not
9 redeem beverage containers that are not labeled in accordance with
10 section 1524 of this title.

11 § 1524. LABELING

12 (a) Every beverage container sold or offered for sale at retail in this State
13 shall clearly indicate by embossing ~~or~~, imprinting on the normal product label,
14 ~~or in the case of a metal beverage container on the top of the container,~~ other
15 approved method secured to the container the word “Vermont” or the letters
16 “VT” ~~and the refund value of the container~~ in not less than one-eighth inch
17 type size or such other alternate indications as may be approved by the
18 Secretary. The label shall be on the top lid of the beverage container, the side
19 of the beverage container, or in a clearly visible location of the beverage
20 container. This subsection does not prohibit including names or abbreviations
21 of other states with deposit legislation comparable to this chapter.

1 § 1528. BEVERAGE REGISTRATION

2 No distributor or manufacturer shall sell a beverage container in the State of
3 Vermont without ~~the manufacturer registering the beverage container with the~~
4 ~~Agency of Natural Resources prior to sale, registering 30 days in advance of~~
5 initiating sale of the beverage container and participating in a stewardship plan
6 approved by the Secretary unless distributed by the Department of Liquor and
7 Lottery. ~~This registration shall take place on a form provided by the Secretary~~
8 ~~and include the following:~~

9 (1) ~~the name and principal business address of the manufacturer;~~

10 (2) ~~the name of the beverage and the container size;~~

11 (3) ~~whether the beverage is a part of an approved commingling~~
12 ~~agreement; and~~

13 (4) ~~the name of the person picking up the empty beverage container, if~~
14 ~~that person is different from the manufacturer.~~

15 § 1529. REDEMPTION CENTER CERTIFICATION

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

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

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

1 shall take into the consideration the needs of small manufacturers that do not
2 generate a significant volume of containers.

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

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

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

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

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

1 (g) The producer responsibility organization shall reimburse the Agency of
2 Natural Resources for all oversight costs in administering this chapter.

3 § 1532. STEWARDSHIP PLAN; MINIMUM REQUIREMENTS

4 (a) Plan elements. On or before October 1, 2023, an approved producer
5 responsibility organization shall submit a stewardship plan to the Secretary. A
6 stewardship plan shall, at a minimum, meet all of the following the
7 requirements of this section:

8 (1) Convenience of collection. A plan shall ensure that consumers have
9 convenient opportunities to redeem beverage containers. The plan shall take
10 reasonable efforts to site points of collection in areas with high population
11 density or located in centers designated under 24 V.S.A. chapter 76A. A plan
12 shall document how redemption services will be available to consumers as
13 follows:

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

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

1 (C) statewide coverage of points of redemption so that consumers are
2 not required to drive more than 15 minutes unless a waiver is granted by the
3 Secretary.

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

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

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

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

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

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

19 (3) Impacts to municipal recycling. The plan shall document how
20 facilities certified under chapter 159 of this title that process beverage

1 containers to make them usable as recycled commodities will be compensated
2 by the producer responsibility organization.

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

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

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

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

16 (2) the amount, in containers and tons, and material type of beverage
17 containers redeemed under the plan;

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

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

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

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

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

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

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

17 (10) any additional information required by the Secretary.

18 (c) Secretary of Natural Resources approval. The plan shall be submitted
19 to the Secretary, and after concluding that the elements of the plan will
20 maximize diversion of recyclable materials, provide convenience to users, and

1 create a more circular economy, the Secretary’s approval pursuant to this
2 subsection shall be for a period not greater than five years.

3 § 1533. PROGRAM AND FISCAL AUDIT

4 (a) Program audit. Every five years, the producer responsibility
5 organization shall conduct an independent third-party program audit of the
6 operation of the stewardship plan. The audit shall make recommendations to
7 improve the operation of the collection program established by this chapter.

8 (b) Fiscal audit. Annually, the producer responsibility organization shall
9 conduct an independent third-party fiscal audit of the program. The fiscal
10 audit shall provide a transparent fiscal analysis of the producer responsibility
11 organization, its expenditures, the number of beverage containers collected,
12 and the amount of unclaimed deposits. The audit shall also provide the
13 redemption rate of beverage containers redeemed in the State after approval by
14 the Secretary.

15 § 1534. BEVERAGE CONTAINER REDEMPTION RATE GOAL:

16 REPORT

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

19 (1) Beginning on July 1, 2025: 75 percent.

20 (2) Beginning on July 1, 2030: 80 percent.

21 (3) Beginning on July 1, 2035: 85 percent.

1 (4) Beginning on July 1, 2050: 90 percent.

2 (b) Beginning July 1, 2025 and every five years thereafter, the Secretary of
3 Natural Resources shall submit to the Senate Committees on Natural
4 Resources and Energy and on Finance and the House Committees on Natural
5 Resources, Fish, and Wildlife and on Ways and Means a written report
6 containing:

7 (1) the current beverage container redemption rate in the State; and

8 (2) a recommendation of whether the beverage container deposit should
9 be increased to improve redemption of beverage containers.

10 § 1535. RULEMAKING

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

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

14 (c)(1) ~~On or before January 1, 2020, and quarterly thereafter,~~ Every quarter,
15 at the time a report is filed pursuant to subsection (d) of this section, each
16 deposit initiator shall remit to the Commissioner of Taxes ~~any~~ 50 percent of the
17 abandoned beverage container deposits from the preceding quarter. The
18 remaining 50 percent of the abandoned beverage container deposits shall be
19 retained by the producer responsibility organization implementing the
20 requirements of this chapter for the deposit initiator. The amount of
21 abandoned beverage container deposits for a quarter is the amount equal to the

1 amount of deposits that the deposit initiator collected in the quarter less the
2 amount of the total refund value paid out by the deposit initiator for beverage
3 containers during the quarter.

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

5 (c)(1) Every quarter, at the time a report is filed pursuant to subsection (d)
6 of this section, each deposit initiator shall remit to the Commissioner of Taxes
7 50 percent of the any abandoned beverage container deposits from the
8 preceding quarter. ~~The remaining 50 percent of the abandoned beverage~~
9 ~~container deposits shall be retained by the producer responsibility organization~~
10 ~~implementing the requirements of this chapter for the deposit initiator.~~ The
11 amount of abandoned beverage container deposits for a quarter is the amount
12 equal to the amount of deposits that the deposit initiator collected in the quarter
13 less the amount of the total refund value paid out by the deposit initiator for
14 beverage containers during the quarter.

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

16 § 7714. TYPE 3 PROCEDURES

17 (a) Purpose; scope.

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

1 (2) The procedures under this section shall be known as Type 3

2 Procedures. This section governs each of the following:

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

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

9 (C) An application or request for approval of:

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

12 (ii) a change in treatment for a public water supply under chapter
13 56 of this title;

14 (iii) a collection plan for mercury-containing lamps under section
15 7156 of this title;

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

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

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

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

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

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

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

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

15 § 1388. CLEAN WATER FUND

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

18 (1) revenues from the Property Transfer Tax surcharge established under
19 32 V.S.A. § 9602a;

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

4 (3) 50 percent of the unclaimed beverage container deposits (escheats)
5 remitted to the State under chapter 53 of this title;

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

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

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

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

14 (a) There is hereby created in the State Treasury a fund to be known as the
15 Waste Management Assistance Fund, to be expended by the Secretary of
16 Natural Resources. The Fund shall have three accounts: one for Solid Waste
17 Management Assistance, one for Hazardous Waste Management Assistance,
18 and one for Electronic Waste Collection and Recycling Assistance. The
19 Hazardous Waste Management Assistance Account shall consist of a
20 percentage of the tax on hazardous waste under the provisions of 32 V.S.A.
21 chapter 237, as established by the Secretary, the toxics use reduction fees

1 under subsection 6628(j) of this title, and appropriations of the General
2 Assembly. In no event shall the amount of the hazardous waste tax that is
3 deposited to the Hazardous Waste Management Assistance Account exceed
4 40 percent of the annual tax receipts. The Solid Waste Management
5 Assistance Account shall consist of the franchise tax on waste facilities
6 assessed under the provisions of 32 V.S.A. chapter 151, subchapter 13;
7 50 percent of the unclaimed beverage container deposits remitted to the State
8 under chapter 53 of this title, and appropriations of the General Assembly. The
9 Electronic Waste Collection and Recycling Account shall consist of the
10 program and implementation fees required under section 7553 of this title. All
11 balances in the Fund accounts at the end of any fiscal year shall be carried
12 forward and remain a part of the Fund accounts, except as provided in
13 subsection (e) of this section. Interest earned by the Fund shall be deposited
14 into the appropriate Fund account. Disbursements from the Fund accounts
15 shall be made by the State Treasurer on warrants drawn by the Commissioner
16 of Finance and Management.

17 **Sec. 7. SYSTEMS ANALYSIS OF BEVERAGE CONTAINER SYSTEM**

18 On or before January 15, 2028, the Agency of Natural Resources shall
19 submit to the House Committee on Natural Resources, Fish, and Wildlife and
20 the Senate Committee on Natural Resources and Energy a written report on the
21 total system costs associated with the implementation of the beverage

1 container redemption system under 10 V.S.A. chapter 53, including climate
2 impacts.

3 Sec. 8. BEVERAGE CONTAINER IMPLEMENTATION STUDY

4 (a) On or before January 15, 2023, the Secretary of Natural Resources shall
5 submit to the House Committee on Natural Resources, Fish, and Wildlife and
6 the Senate Committee on Natural Resources and Energy a written report
7 including all of the following:

8 (1) Recommendations on whether a minimum size limit should be
9 included under 10 V.S.A. chapter 53 (beverage containers; deposit redemption
10 system).

11 (2) A recommendation on whether glass wine bottles should be included
12 under 10 V.S.A. chapter 53 and recommendations on the deposit amount for
13 glass wine bottles. If the recommendation is to not include wine bottles under
14 10 V.S.A. chapter 53, the report shall explain the impacts of wine bottles on
15 municipal recycling infrastructure, the costs in handling wine bottles within the
16 municipal recycling infrastructure, and recommendation on an assessment on
17 wine bottles to address the impacts of wine bottles on municipal recycling
18 infrastructure and to develop markets for the use of recycled glass.

19 (b) The Secretary of Natural Resources shall convene a stakeholder process
20 or processes when developing recommendations required by subsection (a) of
21 this section.

1 Sec. 9. EFFECTIVE DATES

2 This act shall take effect July 1, 2022, except that:

3 (1) In Sec. 1, 10 V.S.A. § 1521(1) (expansion of the definition of
4 beverage types) shall take effect on January 1, 2025;

5 (2) In Sec. 1, 10 V.S.A. § 1523 (requiring product registration to take
6 place with the producer responsibility organization) shall take effect on
7 March 1, 2024;

8 (3) In Sec. 1, 10 V.S.A. § 1524(b) (requiring a UPC label on containers)
9 shall take effect on March 1, 2024;

10 (4) In Sec. 1, 10 V.S.A. § 1531(a) (prohibiting the sale or distribution
11 without participating in a producer responsibility organization) shall take effect
12 on March 1, 2024;

13 (5) Sec. 2 (remittance of abandoned beverage container deposits) shall
14 take effect on January 1, 2025.

15 (6) Sec. 3. (repeal of remittance of beverage container deposit) shall
16 take effect on July 1, 2030.

17 (7) Sec. 5 (changing the amount of funds deposited in the Clean Water
18 Fund) shall take effect on January 1, 2025; and

19 (8) Sec. 6 (Waste Management Assistance Fund) shall take effect on
20 July 1, 2030.

1 (Committee vote: _____)

2

3

Senator _____

4

FOR THE COMMITTEE