

106TH CONGRESS
1ST SESSION

S. 859

To amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, to provide resources for State pollution prevention and recycling programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 1999

Mr. JEFFORDS (for himself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, to provide resources for State pollution prevention and recycling programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Beverage
5 Container Reuse and Recycling Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the failure to reuse and recycle empty bev-
2 erage containers represents a significant and unnec-
3 essary waste of important national energy and mate-
4 rial resources;

5 (2) the littering of empty beverage containers
6 constitutes a public nuisance, safety hazard, and
7 aesthetic blight and imposes on public agencies, pri-
8 vate businesses, farmers, and landowners unneces-
9 sary costs for the collection and removal of the con-
10 tainers;

11 (3) solid waste resulting from the empty bev-
12 erage containers constitutes a significant and rapidly
13 growing proportion of municipal solid waste and in-
14 creases the cost and problems of effectively man-
15 aging the disposal of the waste;

16 (4) it is difficult for local communities to raise
17 the necessary capital to initiate comprehensive recy-
18 cling programs;

19 (5) the reuse and recycling of empty beverage
20 containers would help eliminate unnecessary burdens
21 on individuals, local governments, and the environ-
22 ment;

23 (6) several States have previously enacted and
24 implemented State laws designed to protect the envi-
25 ronment, conserve energy and material resources,

1 and promote resource recovery of waste by requiring
2 a refund value on the sale of all beverage containers;

3 (7) the laws referred to in paragraph (6) have
4 proven inexpensive to administer and effective at re-
5 ducing financial burdens on communities by inter-
6 nalizing the cost of recycling and litter control to the
7 producers and consumers of beverages;

8 (8) a national system for requiring a refund
9 value on the sale of all beverage containers would
10 act as a positive incentive to individuals to clean up
11 the environment and would—

12 (A) result in a high level of reuse and recy-
13 cling of the containers; and

14 (B) help reduce the costs associated with
15 solid waste management;

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

20 (10) the reuse and recycling of empty beverage
21 containers would eliminate unnecessary burdens on
22 the Federal Government, State and local govern-
23 ments, and the environment;

24 (11) the collection of unclaimed refunds from a
25 national system of beverage container recycling

1 would provide the resources necessary to assist com-
 2 prehensive reuse and recycling programs throughout
 3 the United States;

4 (12) a national system of beverage container re-
 5 cycling is consistent with the intent of the Solid
 6 Waste Disposal Act (42 U.S.C. 6901 et seq.); and

7 (13) this Act is consistent with the goals estab-
 8 lished by the Administrator of the Environmental
 9 Protection Agency during January 1988 that include
 10 a national goal of 25 percent source reduction and
 11 recycling by 1992, coupled with a substantial slow-
 12 ing of the projected rate of increase in waste genera-
 13 tion by 2000.

14 **SEC. 3. BEVERAGE CONTAINER RECYCLING.**

15 (a) IN GENERAL.—The Solid Waste Disposal Act (42
 16 U.S.C. 6901 et seq.) is amended by adding at the end
 17 the following:

18 **“Subtitle K—Beverage Container**
 19 **Recycling**

20 **“SEC. 12001. DEFINITIONS.**

21 “In this subtitle:

22 “(1) BEVERAGE.—The term ‘beverage’ means
 23 beer or other malt beverage, mineral water, soda
 24 water, wine cooler, or a carbonated soft drink of any

1 variety in liquid form intended for human consump-
 2 tion.

3 “(2) BEVERAGE CONTAINER.—The term ‘bev-
 4 erage container’ means a container—

5 “(A) constructed of metal, glass, or plastic
 6 (or a combination of the materials);

7 “(B) having a capacity of up to 1 gallon
 8 of liquid; and

9 “(C) that is or has been sealed and used
 10 to contain a beverage for sale in interstate com-
 11 merce.

12 “(3) BEVERAGE DISTRIBUTOR.—The term ‘bev-
 13 erage distributor’ means a person who sells or offers
 14 for sale in interstate commerce to beverage retailers
 15 beverages in beverage containers for resale.

16 “(4) BEVERAGE RETAILER.—

17 “(A) IN GENERAL.—The term ‘beverage
 18 retailer’ means a person who—

19 “(i) purchases from a beverage dis-
 20 tributor beverages in beverage containers
 21 for sale to a consumer; or

22 “(ii) sells or offers to sell in commerce
 23 beverages in beverage containers to a con-
 24 sumer.

1 “(B) BEVERAGE VENDING MACHINES.—

2 The Secretary shall promulgate regulations that
3 define ‘beverage retailer’ for any case in which
4 a beverage in a beverage container is sold to a
5 consumer through a beverage vending machine.

6 “(5) CONSUMER.—The term ‘consumer’ means
7 a person who purchases a beverage container for any
8 use other than resale.

9 “(6) REFUND VALUE.—The term ‘refund value’
10 means the amount specified as the refund value of
11 a beverage container under section 12002.

12 “(7) UNBROKEN BEVERAGE CONTAINER.—The
13 term ‘unbroken beverage container’ includes—

14 “(A) a beverage container opened in a
15 manner in which the container was designed to
16 be opened; and

17 “(B) a beverage container made of metal
18 or plastic that is compressed if the statement of
19 the amount of the refund value of the container
20 is still readable.

21 “(8) WINE COOLER.—The term ‘wine cooler’
22 means a drink containing less than 7 percent alcohol
23 (by volume)—

24 “(A) consisting of wine and plain, spar-
25 kling, or carbonated water; and

1 “(B) containing a non-alcoholic beverage,
 2 flavoring, coloring material, fruit juice, fruit ad-
 3 junct, sugar, carbon dioxide, or preservatives
 4 (or any combination thereof).

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

6 “(a) IN GENERAL.—Except as provided in section
 7 12007, no beverage distributor or beverage retailer may
 8 sell or offer for sale in interstate commerce a beverage
 9 in a beverage container unless there is clearly, promi-
 10 nently, and securely affixed to, or printed on, the con-
 11 tainer a statement of the refund value of the container
 12 in the amount of 10 cents (as adjusted under subsection
 13 (c)).

14 “(b) SIZE AND LOCATION OF STATEMENT.—The Ad-
 15 ministrators shall promulgate regulations establishing uni-
 16 form standards for the size and location of the refund
 17 value statement on beverage containers.

18 “(c) ADJUSTMENTS OF REFUND VALUE.—

19 “(1) IN GENERAL.—The Secretary shall adjust
 20 the amount of the refund value of the container
 21 under subsection (a)—

22 “(A) on the date that is 10 years after the
 23 date of enactment of this subtitle, to reflect
 24 changes in the Consumer Price Index for all-
 25 urban consumers published by the Department

1 of Labor since the date of enactment of this
 2 subtitle; and

3 “(B) on the date that is 10 years after the
 4 initial adjustment made under paragraph (1),
 5 and each 10 years thereafter, to reflect changes
 6 in the Consumer Price Index for all-urban con-
 7 sumers published by the Department of Labor
 8 since the most recent adjustment.

9 “(2) ROUNDING.—The Secretary shall round
 10 any adjustment under paragraph (1) to the nearest
 11 5 cent increment.

12 **“SEC. 12003. COLLECTION OF REFUND VALUE.**

13 “(a) COLLECTION FROM RETAILERS BY DISTRIBUTU-
 14 TORS.—In the case of each beverage in a beverage con-
 15 tainer sold in interstate commerce to a beverage retailer
 16 by a beverage distributor, the distributor shall collect from
 17 the retailer the amount of the refund value shown on the
 18 container.

19 “(b) COLLECTION FROM CONSUMERS BY RETAIL-
 20 ERS.—In the case of each beverage in a beverage container
 21 sold in interstate commerce to a consumer by a beverage
 22 retailer, the retailer shall collect from the consumer the
 23 amount of the refund value shown on the container.

1 “(c) OTHER COLLECTIONS.—No person other than
 2 a person described in subsection (a) or (b) may collect a
 3 deposit on a beverage container.

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

5 “(a) PAYMENT BY RETAILER.—If a person tenders
 6 for refund an empty and unbroken beverage container to
 7 a beverage retailer who sells (or has sold at any time dur-
 8 ing the 90-day period ending on the date of tender) the
 9 same brand of beverage in the same kind and size of con-
 10 tainer, the retailer shall promptly pay the person the
 11 amount of the refund value stated on the container.

12 “(b) PAYMENT BY DISTRIBUTOR.—

13 “(1) IN GENERAL.—If a person tenders for re-
 14 fund an empty and unbroken beverage container to
 15 a beverage distributor who sells (or has sold at any
 16 time during the 90-day period ending on the date of
 17 tender) the same brand of beverage in the same kind
 18 and size of container, the distributor shall promptly
 19 pay the person—

20 “(A) the amount of the refund value stated
 21 on the container; plus

22 “(B) an amount equal to at least 2 cents
 23 per container to help defray the cost of han-
 24 dling.

1 “(2) TENDERING BEVERAGE CONTAINERS TO
2 OTHER PERSONS.—This subsection shall not pre-
3 clude any person from tendering a beverage con-
4 tainer to a person other than a beverage distributor.

5 “(c) AGREEMENTS.—

6 “(1) IN GENERAL.—Nothing in this subtitle
7 precludes an agreement between a distributor, a re-
8 tailer, or other person to establish a centralized bev-
9 erage collection center, including a center that acts
10 as an agent of the retailer.

11 “(2) AGREEMENT FOR CRUSHING OR BUN-
12 DLING.—Nothing in this subtitle precludes an agree-
13 ment between a beverage retailer, a beverage dis-
14 tributor, or other person for the crushing or bun-
15 dling (or both) of beverage containers.

16 **“SEC. 12005. ACCOUNTING FOR UNCLAIMED REFUNDS AND**
17 **PROVISIONS FOR STATE RECYCLING FUNDS.**

18 “(a) UNCLAIMED REFUNDS.—

19 “(1) PAYMENTS TO STATES.—At the end of
20 each calendar year, each beverage distributor shall
21 pay to each State an amount equal to the sum by
22 which the total refund value of all containers sold by
23 the distributor for resale in that State during the
24 year exceeds the total sum paid during that year by

1 the distributor under section 12004(b) to persons in
2 the State.

3 “(2) USE BY STATES.—The total amount of un-
4 claimed refunds received by any State under this
5 section shall be available to carry out pollution pre-
6 vention and recycling programs in the State.

7 “(b) REFUNDS IN EXCESS OF COLLECTIONS.—If the
8 total amount of payments made by a beverage distributor
9 for any calendar year under section 12004(b) for any
10 State exceeds the total amount of the refund values of all
11 containers sold by the distributor for resale in the State,
12 the excess shall be credited against the amount otherwise
13 required to be paid by the distributor to that State under
14 subsection (a) for a subsequent calendar year, designated
15 by the beverage distributor.

16 **“SEC. 12006. PROHIBITIONS ON DETACHABLE OPENINGS**
17 **AND POST-REDEMPTION DISPOSAL.**

18 “(a) DETACHABLE OPENINGS.—No beverage dis-
19 tributor or beverage retailer may sell, or offer for sale,
20 in interstate commerce a beverage in a metal beverage
21 container a part of which is designed to be detached in
22 order to open the container.

23 “(b) POST-REDEMPTION DISPOSAL.—No retailer or
24 distributor or agent of a retailer or distributor may dis-
25 pose of any beverage container labeled pursuant to section

1 12002 or any metal, glass, or plastic from the beverage
 2 container (other than the top or other seal of the con-
 3 tainer) in any landfill or other solid waste disposal facility.

4 **“SEC. 12007. EXEMPTED STATES.**

5 “(a) IN GENERAL.—

6 “(1) EXEMPTION.—Sections 12002 through
 7 12005 and sections 12008 and 12009 shall not
 8 apply in any State that—

9 “(A) has adopted and implemented re-
 10 quirements applicable to all beverage containers
 11 sold in the State if the Administrator deter-
 12 mines the requirements to be substantially simi-
 13 lar to the requirements of sections 12002
 14 through 12005 and sections 12008 and 12009;
 15 or

16 “(B) demonstrates to the Administrator
 17 that, for any 1-year period following the date of
 18 enactment of this subtitle, the State achieved a
 19 recycling or reuse rate for beverage containers
 20 of at least 70 percent.

21 “(2) TERMINATION OF EXEMPTION.—If (fol-
 22 lowing a determination by the Administrator under
 23 paragraph (1)(B) that a State has achieved a 70
 24 percent recycling or reuse rate) the Administrator
 25 determines that the State has failed, for any 1-year

1 period, to maintain at least a 70 percent recycling
 2 or reuse rate of beverage containers, the Adminis-
 3 trator shall notify the State that, on the expiration
 4 of the 90-day period following the notification, sec-
 5 tions 12002 through 12005 and sections 12008 and
 6 12009 shall apply with respect to the State until a
 7 subsequent determination is made under paragraph
 8 (1)(A) or a demonstration is made under paragraph
 9 (1)(B).

10 “(b) DETERMINATION OF TAX.—No State or political
 11 subdivision of a State that imposes a tax on the sale of
 12 any beverage container may impose a tax on any amount
 13 attributable to the refund value of the container.

14 “(c) EFFECT ON OTHER LAWS.—Nothing in this
 15 subtitle affects the authority of any State or political sub-
 16 division of a State—

17 “(1) to enact or enforce (or continue in effect)
 18 any law concerning a refund value on containers
 19 other than beverage containers; or

20 “(2) to regulate redemption and other centers
 21 that purchase empty beverage containers from bev-
 22 erage retailers, consumers, or other persons.

1 **“SEC. 12008. PENALTIES.**

2 “(a) IN GENERAL.—A person who violates section
3 12002, 12003, 12004, or 12006 shall be subject to a civil
4 penalty of not more than \$1,000 for each violation.

5 “(b) ACCOUNTING FOR UNCLAIMED REFUNDS AND
6 PROVISIONS FOR STATE RECYCLING FUNDS.—A person
7 who violates section 12005 shall be subject to a civil pen-
8 alty of not more than \$10,000 for each violation.

9 **“SEC. 12009. REGULATIONS.**

10 “Not later than 1 year after the date of enactment
11 of this subtitle, the Administrator shall promulgate regula-
12 tions to carry out this subtitle.

13 **“SEC. 12010. EFFECTIVE DATE.**

14 “Except as provided in section 12009, this subtitle
15 takes effect on the date that is 2 years after the date of
16 enactment of this subtitle.”.

17 (b) TABLE OF CONTENTS.—The table of contents for
18 the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is
19 amended by adding at the end the following:

“Subtitle K—Beverage Container Recycling

“Sec. 12001. Definitions.

“Sec. 12002. Required beverage container labeling.

“Sec. 12003. Collection of refund value.

“Sec. 12004. Return of refund value.

“Sec. 12005. Accounting for unclaimed refunds and provisions for State recy-
cling funds.

“Sec. 12006. Prohibitions on detachable openings and post-redemption disposal.

“Sec. 12007. Exempted States.

“Sec. 12008. Penalties.

“Sec. 12009. Regulations.

“Sec. 12010. Effective date.”.

