

Date of Hearing: August 29, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 1013 (Atkins) – As Amended August 25, 2022

SENATE VOTE: 39-0

SUBJECT: Beverage container recycling

SUMMARY: Includes wine and distilled spirits in the Beverage Container and Litter Reduction Act (Bottle Bill). Establishes a dealer cooperative program to allow beverage dealers to jointly form an organization to arrange for the redemption of beverage containers as an alternative to in-store take-back.

EXISTING LAW establishes the Bottle Bill, which:

- 1) Requires beverage containers, as defined, sold in-state to have a California redemption value (CRV) of 5 cents for containers that hold fewer than 24 ounces and 10 cents for containers that hold 24 ounces or more. Requires beverage distributors to pay a redemption payment to the Department of Resources Recycling and Recovery (CalRecycle) for every beverage container sold in the state.
- 2) Provides that these funds are continuously appropriated to CalRecycle for, among other things, the payment of refund values and processing payments.
- 3) Requires CalRecycle to establish a processing payment for a beverage container covered under the Bottle Bill that has a scrap value less than the cost of recycling, to be determined as specified, that is at least equal to the difference between the scrap value of the material and the sum of the cost of recycling and a reasonable financial return. Establishes a processing fee, paid by beverage manufacturers, to cost of the processing fee. Specifies reductions in the fee, known as “offsets,” based on the recycling rate of the material and caps the maximum processing fee at 65% of the processing payment.
- 4) Defines “beverage” as:
 - a) Beer and other malt beverages;
 - b) Wine and distilled spirit coolers;
 - c) Carbonated water;
 - d) Noncarbonated water;
 - e) Carbonated soft drinks;
 - f) Noncarbonated soft drinks and sports drinks;
 - g) Noncarbonated fruit juice drinks that contain any percentage of fruit juice;
 - h) Coffee and tea drinks;
 - i) Carbonated fruit drinks; and,
 - j) Vegetable juice in beverage containers of 16 ounces or less.
- 5) Specifies that “beverage” does not include:

- a) Any product sold in a container that is not aluminum, glass, plastic, or bimetal, as specified;
 - b) Wine and wine from which the alcohol has been removed, in whole or in part;
 - c) Milk, medical food, and infant formula; and,
 - d) 100% fruit juice sold in containers that are 46 ounces or more in volume.
- 6) Defines “beverage container” as the individual, separate bottle, can, jar, carton, or other receptacle in which a beverage is sold, and which is constructed of metal, glass, plastic, or any other material, or any combination of these materials. Specifies that “beverage container” does not include cups or other similar open or loosely sealed receptacles.
- 7) Requires plastic beverage containers subject to the Bottle Bill to contain the following percentages of postconsumer recycled plastic annually:
- a) From January 1, 2022 until December 31, 2024, no less than 15%;
 - b) From January 1, 2025 until December 31, 2029, no less than 25%; and,
 - c) On and after January 1, 2030, no less than 50%.
- 8) Requires glass beverage containers to contain a minimum of 35% postfilled (recycled) glass, as specified.
- 9) Requires CalRecycle to annually designate all “convenience zones,” defined as an area one-half mile around a dealer.
- 10) Requires, in a convenience zone where a recycling center or location does not exist and until one has been established in that zone (unserved zone), all dealers in the zone to either redeem empty beverage containers or pay CalRecycle an in-lieu fee of \$100 per day until a recycling location is established.
- 11) Defines “dealer” as a retail establishment that offers the sale of beverages in beverage containers to consumers. Exempts lodging, eating, or drinking establishments and soft drink vending machines.
- 12) Defines “recycling center” as an operation that is certified by CalRecycle and accepts from consumers and pays the CRV for empty beverage containers.
- 13) Requires CalRecycle to establish a processing payment for a beverage container covered under the program that has a scrap value less than the cost of recycling, to be determined as specified, that is at least equal to the difference between the scrap value of the material and the sum of the cost of recycling and a reasonable financial return.
- 14) Requires CalRecycle to pay handling fees to supermarket sites, non-profit convenience zone recyclers, and rural region recyclers to provide an incentive for the redemption of empty beverage containers in a convenience zone.

THIS BILL:

- 1) Adds wine and distilled spirits to the definition of “beverage” for purposes of the Bottle Bill and makes related technical and clarifying changes to the definition beginning January 1, 2024.
- 2) Establishes the Recycled Glass Processing Incentive Grant Program to provide grants to applicants who demonstrate the ability to expand glass cullet processing in the state. Appropriates \$4 million annually for this program.
- 3) Establishes the Increased Recycling of Empty Glass Beverage Containers Grant Program to provide grants to assist in funding regional pilot programs furnishing bins for collection of empty glass beverage containers from restaurants and on-sale retail licensed establishments, as specified. Appropriates \$4 million annually for this program.
- 4) Establishes the Empty Glass Beverage Transportation Grant Program to provide grants to facilitate the transportation by rail of empty glass beverage containers. Appropriates \$1 million annually for this program.
- 5) Grants an additional two years for wine or distilled spirits contained in a beverage container that is a box, bladder, or pouch, or similar container, to comply with the recycled content requirements for beverage containers.
- 6) Clarifies that glass quality incentive payments may be awarded for glass beverage containers that are substantially free of contamination and are used for the manufacturing of glass beverage containers in this state. Increases the amount available for the quality incentive payments from \$10 million to \$15 million annually.
- 7) Establishes a glass market development payment up to \$50 per ton for glass beverage container manufacturers who purchase recycled glass collected within this state for use in manufacturing new beverage containers in this state. Appropriates \$60 million annually for this program. Sunsets this provision on January 1, 2028.
- 8) Extends plastic market development payments until the 2025-26 fiscal year.
- 9) Establishes a CRV of 25 cents for wine and distilled spirits sold in a box, bag, or pouch. Sets the processing fee for wine and distilled spirits sold in a box, bag, or pouch at the same amount as the processing fee for high density polyethylene containers for two years, until January 1, 2026.
- 10) Expands the size of recycling convenience zones for purposes of the Bottle Bill from one-half mile to one mile around a supermarket. Clarifies that existing recycling centers in the expanded zones continue to be eligible for handling fees. Due to the reduction in the number of zones by the expansion, reduces the maximum percentage of zones that may be exempted from 35% to 15%. Expands the size of convenience zones in rural areas, based on specified factors, from three miles to five miles.
- 11) Establishes the dealer cooperative program:

- a) Defines “dealer cooperative” as a stewardship organization formed for the purpose of providing redemption opportunities, as specified.
 - b) Authorizes dealers to comply with the take-back requirements of the Bottle Bill by either direct take-back in store or by forming a dealer cooperative to arrange for the collection of beverage containers for recycling.
 - c) Requires a dealer cooperative to submit a plan to CalRecycle that ensures the collection and recycling of beverage containers in the zone the cooperative covers.
 - d) Exempts dealers with less than \$1.5 million in gross annual sales or 5,000 square feet. Exempts fuel sales from gross annual sales.
 - e) Requires CalRecycle to prepare model plans.
 - f) Requires the dealer cooperative to:
 - i) Submit a redemption plan for CalRecycle’s approval;
 - ii) Assess fees on dealers in the zone or zones covered by the plan;
 - iii) Redeem all beverage container types;
 - iv) Be operational and fully implement the plan;
 - v) Register as a dealer cooperative with CalRecycle; and,
 - vi) Provide reporting as required by CalRecycle.
 - g) Specifies that dealer cooperatives may be eligible for handling fees and processing payments.
 - h) Authorizes CalRecycle to revoke a dealer cooperative’s registration or plan for failure to provide redemption for consumers.
 - i) Requires CalRecycle to audit the cooperatives at least once every two years.
 - j) Authorizes CalRecycle to assess civil penalties under the Bottle Bill for violations of the dealer cooperative program.
- 12) Increases penalties for violations of the Bottle Bill from \$1,000 to \$5,000 per day for violations and from \$5,000 to \$10,000 per day for intentional or negligent violations.
- 13) Appropriates \$10 million for community conservation corps for grants for beverage container litter reduction and recycling programs.

FISCAL EFFECT:

According to the Assembly Appropriations Committee:

- 1) CalRecycle estimates adding wine and spirits to the Bottle Bill program will add approximately \$17.6 million annually in revenue to the (Beverage Container Recycling Fund) BCRF. CalRecycle further notes that adding wine and spirits to the program will add

more glass to the system, increasing processing payments, processing fees, and processing fee offsets from the BCRF.

- 2) CalRecycle estimates costs of approximately \$6.65 million in fiscal year (FY) 2022-23, \$7.86 million in FY 2023-24, and \$6.39 million in FY 2024-25 and ongoing (BCRF) to implement SB 1013.

COMMENTS:

- 1) **Bottle Bill.** The Bottle Bill was established in 1986 to be a self-funded program that encourages consumers to recycle beverage containers and to prevent littering. The program accomplishes this goal by requiring consumers to pay a deposit for each eligible container purchased. Then the program guarantees consumers repayment of that deposit, the CRV, for each eligible container returned to a certified recycler. Statute includes two main goals for the program: (1) reducing litter; and, (2) achieving a recycling rate of 80% for eligible containers. Containers recycled through the Bottle Bill's certified recycling centers also provides a consistent, clean, uncontaminated stream of recycled materials with minimal processing.
- 2) **Eligible beverage containers.** Only certain containers containing certain beverages are part of the CRV program. Most containers made from glass, plastic, aluminum, and bimetal (consisting of one or more metals) are included. Containers for wine, spirits, milk, fruit juices over 46 ounces, vegetable juice over 16 ounces, and soy drinks are not part of the program. Container types that are not included in the CRV program are cartons, pouches, and any container that holds 64 ounces or more. Although the Bottle Bill program includes beer and malt beverages, it does not include wine or distilled spirits.
- 3) **Ways to redeem containers.** Consumers have four potential options to redeem their empty beverage containers:
 - a) Return the container to a "convenience zone" recycling center located within ½-mile radius of a supermarket. These are generally small centers that only accept beverage containers and receive handling fees from the BCRF. During 2019-20 FY, convenience zone recyclers redeemed about 30% of beverage containers.
 - b) Return to a dealer that accepts them. In convenience zones without a convenience zone recycler, beverage dealers, primarily supermarkets, are required to either accept containers for redemption or pay CalRecycle an "in lieu" fee of \$100 per day. Few stores accept beverage containers for redemption.
 - c) Return the container to an "old line" recycling center, which refers to a recycler that does not receive handling fees and usually accepts large quantities of materials, frequently by truckload from municipal or commercial waste collection services. Traditional recyclers collect a little more than half of all CRV containers (58%).
 - d) Consumers can also forfeit their CRV and "donate" their containers to residential curbside recycling collection. In the 2019-20 FY, curbside programs collected about 12% of CRV containers. Curbside programs keep the CRV on these containers.

- 4) **Recycling center closures.** The largest challenge facing the Bottle Bill is the closure of recycling centers, which makes it difficult for consumers to redeem the CRV. In August 2019, rePlanet closed all 284 of its recycling centers in California. Before its closure, rePlanet was the largest recycling network in California. Following the closures, rePlanet stated, “With the continued reduction in State fees, the depressed pricing of recycled aluminum and PET plastic, and the rise in operating costs resulting from minimum wage increases and required health and workers compensation insurance, the Company has concluded that operation of these recycling centers is no longer sustainable.” In total, over 1,000 recycling centers have closed since 2013. According to CalRecycle, as of February 26, 2021, there are 1,224 recycling centers in the state. Some counties, such as Trinity, Sierra, and Alpine, have no recycling centers.

Several factors contributed to the closure of these recyclers. Commodity prices have dropped significantly, causing low scrap value for recycled materials. Additionally, the methods to determine processing payments do not accurately reflect the cost of recycling or provide a reasonable financial return. Processing payments also lag behind the steady decline in scrap values. Processing payments are intended to cover the difference between a container’s scrap value and the cost of recycling it (including a reasonable rate of return). The calculation to determine the “cost of recycling” does not consider things like transportation costs, putting rural recyclers at a significant disadvantage. Large recyclers that process high numbers of containers generally have lower costs, on average, than smaller centers. Current statute requires CalRecycle to use the average cost of all recycling centers, which results in some centers receiving higher payments than are necessary, while other centers do not receive enough support to remain in business.

- 5) **Wine and spirits.** This bill adds wine and spirits to the definition of beverage, beginning January 1, 2024. This change will require wine and spirit containers to be subject to the CRV and manufacturers to participate in the program, thereby increasing revenue for the BCRF through new processing fees that will be paid by wine and spirit distributors and unredeemed CRV deposits by consumers. Including wine and spirits in the Bottle Bill will encourage consumers to redeem their empty wine and spirits containers at a recycling center rather than placing the bottles with curbside collection or throwing them away. Glass bottles that go through curbside collection often break and become contaminated, making recycling the glass difficult and contaminating other materials in the curbside stream, particularly paper. By keeping the bottles separate from other curbside materials and redeeming at recycling centers, the bottles are more likely to remain intact, be recycled, and cause less contamination. Increased collection at recycling centers could also help those centers stay open.

The majority of wine and spirit containers are glass. This bill establishes a variety of new grants and payments to improve the quality and availability of recycled glass in the state to facilitate the collection and recycling of the additional containers that this bill adds to the program. This bill revises the current market development payment program for glass recycling to specify that payments are available for the in-state recycling of glass into new beverage containers. This change is consistent with the state’s shift toward encouraging in-state circular recycling systems by ensuring funds are used for bottle to bottle recycling rather than “down-cycling” glass into non-recyclable materials.

Additionally, there has been a significant increase in the packaging and sale of wine and spirits in aluminum cans in recent years. This is partially due to the rise of alcohol consumption at home and consumers' desire to purchase ready-to-drink cocktails. The International Wines and Spirits Record (IWSR) found the premixed cocktail category grew by 50% in the United States in 2019 and 2020. Similarly, the NielsenIQ Beverage Alcohol Practice states that canned wine sales increased from 0.7% of wine sales in March 2020 to 1.2% this past summer. The overall category of ready-to-drink alcoholic beverages, which includes cocktails, hard kombuchas, and flavored alcoholic beverages, documented an 80% growth rate between April 2019 and April 2020. Although these beverages take up a small percentage of total alcohol sales, their growth is expected to continue.

Wine and distilled spirits with aluminum beverage containers have faced difficulty sourcing cans that are not pre-labeled with the CA CRV stamp, which makes them indistinguishable from cans that are already included in the program. While this bill goes into effect in 2024, and gives wine and distilled spirit manufacturers until July 1, 2025 to comply with labeling requirements, CalRecycle should consider allowing these products to comply with the requirements of this bill earlier than January 1, 2024 to minimize potential fraud and unnecessary enforcement actions due to the current labeling challenges.

- 6) **Improving redemption.** Beginning January 1, 2025, this bill will replace the in lieu fee option for dealers in unserved zones with a new option for dealers to form one or more cooperatives to arrange for redemption opportunities within unserved zones. The cooperatives would operate under a plan approved by CalRecycle to redeem empty beverage containers in one or more unserved zones. Based on the collection system used in Oregon, this model allows dealers greater flexibility and the ability to work together to establish redemption opportunities in unserved zones with the intent of also increasing consumer access to redemption opportunities.

This bill additionally reduces the number of unserved zones by expanding the size of the zones from one-half mile to one mile.

- 7) **Other changes.** This bill makes a number of related technical, clarifying, and complimentary changes to the Bottle Bill program, including, among other things, extending the plastic market development payment program until July 1, 2026, updating labeling requirements for beverage containers, clarifying the definition of "dealer," and clarifying CalRecycle's authority to adopt regulations to implement the bill's provisions.
- 8) **Related legislation.** AB 2779 (Irwin) would have added wine and distilled spirit coolers sold in aluminum beverage containers to the Bottle Bill. This bill was held in the Senate Appropriations Committee.
- 9) **Author's statement:**

SB 1013 will measurably increase glass and PET container recycling, improve the financial viability of recycling centers, and reduce consumer confusion by extending the scope of California's Bottle Bill to include all wine and distilled spirit containers. SB 1013 is projected to increase total glass and PET recycling by 200,000 tons or more annually. Data from the California Bottle Bill and other states suggests that the extension of the 5 to 10 cent CRV value, will increase

wine and distilled spirit container recycling from the current 30% to 65%, 70% or even 80% recycling. We know that using increased levels of recycled content in glass and plastic container manufacturing will save energy and reduce pollution, including reducing carbon emissions.

We recognize that there has been a need to provide adequate redemption opportunities for consumers while balancing the challenges that dealers face. SB 1013 supplies dealers with a new path to compliance through dealer cooperatives, which any dealer in an unserved zone can join and collectively provide sufficient redemption opportunities in those zones.

REGISTERED SUPPORT / OPPOSITION:

Support

5 Gyres Institute
Active San Gabriel Valley
Anheuser-busch Companies
Ball Corporation
California Association of Local Conservation Corps
California Environmental Voters
California Grocers Association
California Product Stewardship Council
California Resource Recovery Association
California Retailers Association
California Teamsters
Californians Against Waste
Can Manufacturers Institute
Container Recycling Institute
Distilled Spirits Council of The United States
Heal the Bay
MillerCoors LLC
Ming's Resources - East Bay
Monterey Regional Waste Management District
Natural Resources Defense Council
Northern California Recycling Association
Plastic Oceans International
Plastic Pollution Coalition
Recology
Recycling Upstream
Republic Services - Western Region
RethinkWaste
Save Our Shores
Save the Albatross Coalition
Seventh Generation Advisors
Sierra Club California
Strategic Materials, INC
The Center for Oceanic Awareness, Research, and Education
The Last Beach Cleanup

The Last Plastic Straw
Tri-CED Community Recycling
Waste Management
Wine Institute
Wishtoyo Chumash Foundation
Zero Waste USA

Opposition

None on file

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /