

By: Lujan, Button, Morales Shaw, Cook, Ordaz,
et al.

H.B. No. 2048

A BILL TO BE ENTITLED

AN ACT

relating to an incentive program to promote beverage container
recycling.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 5, Health and Safety Code, is
amended by adding Chapter 375 to read as follows:

CHAPTER 375. BEVERAGE CONTAINER RECYCLING REFUND PROGRAM

Sec. 375.001. DEFINITIONS. In this chapter:

(1) "Beverage" means an alcoholic, nonalcoholic,
carbonated, or noncarbonated drink prepared in liquid,
ready-to-drink form and intended for human consumption.

(2) "Beverage container" means a glass, metal, or
plastic vessel that is hermetically sealed or capped and that
contains a beverage at the time it is sold or offered for sale. The
term does not include a container that:

(A) has a fluid capacity of more than one gallon;

(B) contains milk or another dairy product;

(C) contains infant formula, including any
liquid food sold as an alternative for human milk for the feeding of
infants; or

(D) contains medical food, including:

(i) a liquid food that is formulated to be
consumed or administered under the supervision of a physician and
that is intended for specific dietary management of diseases or

1 health conditions for which distinctive nutritional requirements,
2 based on recognized scientific principles, are established by
3 medical evaluation; and

4 (ii) a product that meets the definition of
5 a medical food under Section 5(b) of the Orphan Drug Act (21 U.S.C.
6 Section 360ee(b)).

7 (3) "Commission" means the Texas Commission on
8 Environmental Quality.

9 (4) "Consortium" means the Texas Beverage Container
10 Recycling Consortium established under this chapter.

11 (5) "Consumer" means a person who purchases at retail
12 a beverage in a beverage container. The term includes a lodging,
13 eating, or drinking establishment if beverages are generally
14 consumed on the establishment's premises. The term does not
15 include a person who purchases a beverage from a lodging, eating, or
16 drinking establishment for consumption on the establishment's
17 premises.

18 (6) "Redemption center" means a staffed or unstaffed
19 operation approved by the consortium under this chapter that
20 redeems returned empty beverage containers by collecting beverage
21 containers from persons who deliver to the operation beverage
22 containers and issuing to a person delivering beverage containers a
23 refund for each with a value not less than the beverage container's
24 refund value.

25 (7) "Refund" means a payment by a redemption center to
26 a person who presents a beverage container at the redemption
27 center.

1 (8) "Refund program" means the beverage container
2 recycling program established under this chapter.

3 Sec. 375.002. RULES. The commission may adopt rules to
4 administer this chapter. The commission may consult the consortium
5 and the Municipal Solid Waste Management and Resource Recovery
6 Advisory Council in developing for proposal rules to administer
7 this chapter.

8 Sec. 375.003. PRODUCERS. (a) Except as provided by
9 Subsection (b), for purposes of this chapter, the following person
10 is considered to be the producer of a beverage sold, offered for
11 sale, or distributed in or imported into this state:

12 (1) the manufacturer of the beverage, if the beverage
13 is sold in a beverage container:

14 (A) under the brand of the manufacturer; or

15 (B) that does not identify the brand;

16 (2) if a person described by Subdivision (1) cannot be
17 identified, the person licensed to manufacture the beverage and
18 sell or offer to sell the beverage to consumers in this state in a
19 beverage container under the brand or trademark of another person;

20 (3) if a person described by Subdivision (1) or (2)
21 cannot be identified, the owner of the beverage brand;

22 (4) if a person described by Subdivision (1), (2), or
23 (3) cannot be identified, the importer of record for the beverage
24 into the United States for use in a commercial enterprise that
25 sells, offers for sale, or distributes the beverage in this state;
26 or

27 (5) if a person described by Subdivision (1), (2),

1 (3), or (4) cannot be identified, the person that first distributes
2 the beverage in this state.

3 (b) A person is not considered to be a producer for purposes
4 of this chapter if the person:

5 (1) is a state, a federal or state agency, a political
6 subdivision, or another governmental entity;

7 (2) is an organization that is exempt from federal
8 income taxation under Section 501(a), Internal Revenue Code of
9 1986, by being listed as an exempt organization under Section
10 501(c)(3) or (4) of that code; or

11 (3) sells, offers for sale, or distributes in or
12 imports into this state beverages in an amount that the commission
13 determines to be a de minimis amount.

14 Sec. 375.004. CONSORTIUM REQUIRED; NON-JOINING PRODUCERS.

15 (a) Producers shall form, and a producer shall participate in, the
16 Texas Beverage Container Recycling Consortium. The consortium must
17 be a nonprofit corporation under Chapter 22, Business Organizations
18 Code, that is formed for the purpose of creating and implementing a
19 plan to meet and maintain the recycling rate target provided by
20 Section 375.009.

21 (b) The consortium may sue a producer that has not joined
22 the consortium in an appropriate court to require compliance with
23 the duty to join the consortium. The consortium may recover court
24 costs and attorney's fees if it prevails in a suit brought under
25 this subsection.

26 (c) The consortium shall:

27 (1) establish labeling standards for beverage

containers covered by this chapter to inform the consumer of the refund amount provided on return of the beverage container;

(2) establish quality standards for beverage containers accepted for refund; and

(3) collect and provide to the commission information necessary to enable the commission to determine the biennial recycling rate for beverage containers collected through redemption centers, curbside recycling programs, and other means.

Sec. 375.005. RECYCLING REFUND TRUST FUND. Money, including beverage container deposits, collected under this chapter shall be deposited to the credit of a recycling refund trust fund maintained by the consortium in a depository chosen by the consortium. Money in the trust fund may be allocated and spent only for:

(1) the construction, operation, and maintenance of redemption centers;

(2) the operation of technology-based redemption centers, including reverse vending machines and bag-drop receptacles, that provide convenient cost-effective methods of paying refunds;

(3) leasing agreements for and liability insurance on redemption centers;

(4) refund payments to persons, including curbside recycling programs, that return a beverage container to a redemption center, or through other means as determined by the consortium, that meet quality standards determined by the consortium and that receive a refund;

1 (5) reimbursing a local governmental entity or
2 independent entity operating a redemption center, as authorized by
3 the consortium, for refunds paid to persons, including curbside
4 recycling programs, returning beverage containers that meet
5 quality standards determined by the consortium;

6 (6) reimbursing a governmental or other entity that
7 provides beverages free of charge to the public during a declared
8 disaster;

9 (7) providing information to and educating consumers
10 about the refund program; and

11 (8) administering and managing the consortium.

12 Sec. 375.006. COMPTROLLER OVERSIGHT; RESERVES. The
13 comptroller may:

14 (1) require the consortium to provide financial
15 information;

16 (2) conduct financial audits of the refund program;
17 and

18 (3) require the consortium to maintain reserves in an
19 amount determined by the comptroller in accordance with applicable
20 financial accounting standards.

21 Sec. 375.007. LABEL AND DEPOSIT REQUIRED. (a) A person may
22 not sell, offer for sale, or distribute in or import into this state
23 a beverage in a beverage container unless the beverage container
24 meets labeling standards established by the consortium.

25 (b) A person may not sell at retail in this state a beverage
26 in a beverage container unless the person collects or provides for
27 the collection of a deposit on the beverage container in a manner

1 established by the consortium.

2 Sec. 375.008. DEPOSITS AND REFUNDS FOR BEVERAGE CONTAINERS.

3 The consortium shall establish efficient, convenient, and
4 cost-effective procedures for the collection of a beverage
5 container deposit and payment of deposit refunds.

6 Sec. 375.009. RECYCLING RATE TARGET FOR BEVERAGE
7 CONTAINERS. (a) The consortium shall implement a plan to meet and
8 maintain an average biennial recycling rate for beverage containers
9 sold or distributed in or imported into this state of not less than
10 75 percent by January 1, 2035.

11 (b) If the consortium does not meet the recycling rate
12 target provided by Subsection (a) before the second anniversary of
13 the date the consortium was required to meet the target under that
14 subsection, the commission may require the consortium to remit to
15 the state all or part of the money in the recycling refund trust
16 fund established under Section 375.005. The comptroller shall hold
17 money remitted under this subsection until the consortium or
18 another organization provides to the commission a corrective plan
19 to meet the recycling rate target provided by Subsection (a).

20 (c) On approval by the commission of the corrective plan,
21 the comptroller shall release the money remitted and held under
22 Subsection (b) to the consortium or other organization responsible
23 for the plan.

24 (d) The commission may audit the consortium for accuracy and
25 adherence to the recycling rate target provided by Subsection (a).
26 The consortium shall reimburse the commission for the cost incurred
27 by the commission in the audit process.

1 SECTION 2. (a) Not later than September 1, 2026, the Texas
2 Commission on Environmental Quality shall adopt rules for the
3 implementation of Chapter 375, Health and Safety Code, as added by
4 this Act. To facilitate the approval of the structure and
5 organization of the Texas Beverage Container Recycling Consortium
6 and the consortium's initial plan, the commission may adopt the
7 initial rules in the manner provided by law for emergency rules.

8 (b) Except as otherwise provided by this Act, a producer or
9 other person subject to the requirements imposed by the consortium
10 plan adopted under Chapter 375, Health and Safety Code, as added by
11 this Act, shall comply with those requirements beginning January 1,
12 2028.

13 SECTION 3. (a) Except as provided by Subsection (b) of this
14 section, this Act takes effect September 1, 2025.

15 (b) Section 375.007, Health and Safety Code, as added by
16 this Act, takes effect October 1, 2028.