

BILL ANALYSIS

H.B. 2048
By: Lujan
Environmental Regulation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill author has informed the committee that, despite growing demand for recycled materials, Texas lacks a structured system that effectively incentivizes beverage container recycling. The bill author has also informed the committee that traditional curbside recycling programs have struggled to achieve high participation rates, leaving valuable materials such as aluminum and polyethylene terephthalate (PET) plastics underutilized and resulting in increased landfill use, higher cleanup costs for local governments, and lost economic opportunities for Texas-based manufacturers who must import recycled materials from out of state to meet production needs.

The National Association for PET Container Resources estimates that Texas annually loses approximately \$370 million worth of recyclable materials to landfills and litter, exacerbating environmental and economic inefficiencies. H.B. 2048 seeks to address this issue by creating a statewide beverage container recycling refund program to improve recycling rates, reduce taxpayer costs, and strengthen Texas' manufacturing and processing industries.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 of this bill.

ANALYSIS

H.B. 2048 amends the Health and Safety Code to provide for an incentive program to promote beverage container recycling.

Beverage Container Recycling Refund Program

Producers

H.B. 2048 establishes that the following person is considered to be the producer of a beverage sold, offered for sale, or distributed in or imported into Texas for purposes of the bill's provisions:

- the manufacturer of the beverage, if the beverage is sold in a beverage container under the manufacturer's brand or that does not identify the brand;
- the person licensed to manufacture the beverage and sell or offer to sell the beverage to consumers in Texas in a beverage container under the brand or trademark of another person, if the manufacturer cannot be identified;
- the owner of the beverage brand, if the manufacturer or licensee cannot be identified;

- the importer of record for the beverage into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the beverage in Texas, if the manufacturer, licensee, or beverage brand owner cannot be identified; or
- the person that first distributes the beverage in Texas, if the manufacturer, licensee, beverage brand owner, or importer of record cannot be identified.

However, a person is not considered to be a producer for purposes of the bill's provisions under the following circumstances:

- the person is a state, a federal or state agency, a political subdivision, or another governmental entity;
- the person is a 501(c)(3) or 501(c)(4) tax-exempt organization; or
- the person sells, offers for sale, or distributes in or imports into Texas beverages in an amount that the Texas Commission on Environmental Quality (TCEQ) determines to be a de minimis amount.

Required Consortium and Non-Joining Producers

H.B. 2048 requires applicable producers to form and participate in the Texas Beverage Container Recycling Consortium. The consortium must be a nonprofit corporation under applicable Business Organizations Code provisions that is formed for the purpose of creating and implementing a plan to meet and maintain the recycling rate target for beverage containers provided by the bill's provisions. The bill authorizes the consortium to sue a producer that has not joined the consortium in an appropriate court to require compliance with the duty to join the consortium and to recover court costs and attorney's fees if it prevails in such a suit.

H.B. 2048 requires the consortium to do the following:

- establish labeling standards for beverage containers covered by the bill's provisions to inform the consumer of the refund amount provided on return of the beverage container;
- establish quality standards for beverage containers accepted for refund; and
- collect and provide to the TCEQ information necessary to enable the TCEQ to determine the biennial recycling rate for beverage containers collected through redemption centers, curbside recycling programs, and other means.

Recycling Refund Trust Fund

H.B. 2048 requires money, including beverage container deposits, collected under the bill's provisions to 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 the following:

- the construction, operation, and maintenance of redemption centers;
- the operation of technology-based redemption centers, including reverse vending machines and bag-drop receptacles, that provide convenient cost-effective methods of paying refunds;
- leasing agreements for and liability insurance on redemption centers;
- 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;
- reimbursing a local governmental entity or independent entity operating a redemption center, as authorized by the consortium, for refunds paid to persons, including curbside recycling programs, returning beverage containers that meet quality standards determined by the consortium;
- reimbursing a governmental or other entity that provides beverages free of charge to the public during a declared disaster;
- providing information to and educating consumers about the beverage container recycling refund program; and

- administering and managing the consortium.

Comptroller Oversight and Reserves

H.B. 2048 authorizes the comptroller of public accounts to do the following:

- require the consortium to provide financial information;
- conduct financial audits of the beverage container recycling refund program; and
- require the consortium to maintain reserves in an amount determined by the comptroller in accordance with applicable financial accounting standards.

Required Label and Deposit

H.B. 2048, effective October 1, 2028, prohibits a person from selling, offering for sale, or distributing in or importing into Texas a beverage in a beverage container unless the beverage container meets labeling standards established by the consortium and conditions a person's authority to sell at retail in Texas a beverage in a beverage container on the person collecting or providing for the collection of a deposit on the beverage container in a manner established by the consortium.

Deposits and Refunds for Beverage Containers

H.B. 2048 requires the consortium to establish efficient, convenient, and cost-effective procedures for the collection of a beverage container deposit and payment of deposit refunds.

Recycling Rate Target for Beverage Containers

H.B. 2048 requires the consortium to implement a plan to meet and maintain an average biennial recycling rate for beverage containers sold or distributed in or imported into Texas of not less than 75 percent by January 1, 2035. The bill authorizes the TCEQ, if the consortium does not meet that recycling rate target before the second anniversary of the date the consortium was required to meet the target, to require the consortium to remit to the state all or part of the money in the recycling refund trust fund established under the bill's provisions. The bill requires the comptroller to hold money remitted under these provisions until the consortium or another organization provides to the TCEQ a corrective plan to meet the recycling rate target. The comptroller, on approval by the TCEQ of the corrective plan, must release the money remitted and held under these provisions to the consortium or other organization responsible for the plan. The bill authorizes the TCEQ to audit the consortium for accuracy and adherence to the recycling rate target and requires the consortium to reimburse the TCEQ for the cost incurred by the TCEQ in the audit process.

Rules

H.B. 2048 authorizes the TCEQ to adopt rules to administer the bill's provisions and to consult the consortium and the Municipal Solid Waste Management and Resource Recovery Advisory Council in developing such rules for proposal.

Definitions

H.B. 2048 defines the following terms for purposes of the bill's provisions:

- "beverage" means an alcoholic, nonalcoholic, carbonated, or noncarbonated drink prepared in liquid, ready-to-drink form and intended for human consumption;
- "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, excluding a container that, as follows:
 - has a fluid capacity of more than one gallon;
 - contains milk or another dairy product;

- contains infant formula, including any liquid food sold as an alternative for human milk for the feeding of infants; or
- contains medical food, including:
 - 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 health conditions for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation; and
 - a product that meets the definition of a medical food under provisions of the federal Orphan Drug Act relating to grants and contracts for development of drugs for rare diseases and conditions;
- "consumer" means a person who purchases at retail a beverage in a beverage container and includes a lodging, eating, or drinking establishment if beverages are generally consumed on the establishment's premises, excluding a person who purchases a beverage from a lodging, eating, or drinking establishment for consumption on the establishment's premises;
- "redemption center" means a staffed or unstaffed operation approved by the Texas Beverage Container Recycling Consortium under the bill's provisions that redeems returned empty beverage containers by collecting beverage containers from persons who deliver to the operation beverage containers and issuing to a person delivering beverage containers a refund for each with a value not less than the beverage container's refund value; and
- "refund" means a payment by a redemption center to a person who presents a beverage container at the redemption center.

Procedural Provisions

H.B. 2048 requires the TCEQ to adopt rules for the implementation of the beverage container recycling refund program not later than September 1, 2026. To facilitate the approval of the structure and organization of the consortium and the consortium's initial plan, the TCEQ may adopt the initial rules in the manner provided by law for emergency rules. The bill requires a producer or other person subject to the requirements imposed by the consortium plan to meet and maintain the target recycling rate to comply with those requirements beginning January 1, 2028, except as otherwise provided by the bill's provisions.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2025.