

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 839 (Delegate Hammen, *et al.*)
 Environmental Matters

Environment - Recycling - Bottle Deposits, Returns, and Refunds

This bill establishes a container deposit law. Dealers that sell specified beverage containers to consumers must collect a deposit on each container of not less than 5 cents. Consumers would be refunded the deposits when they return empty containers to redemption centers. The bill establishes various provisions governing the program. The bill also establishes civil penalties for violations. The Maryland Department of the Environment (MDE) must adopt regulations to implement the bill by January 1, 2009. Finally, the bill modifies the revenue sources and uses of the State Recycling Trust Fund.

Fiscal Summary

State Effect: Special fund revenue increase of \$86.8 million in FY 2009 and \$173.5 million annually thereafter from deposits, assuming an implementation date of January 1, 2009. General/special fund expenditures for payments to redemption centers could total \$85.8 million in FY 2009 and \$171.5 million annually thereafter. Special fund expenditure increase of \$150,400 in FY 2009 for MDE’s administrative costs. General fund expenditure increase of \$460,100 in FY 2009 for the Comptroller’s Office. Future year expenditure estimates are adjusted for inflation and reflect ongoing costs.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
SF Revenue	\$0	\$86,757,800	\$173,515,500	\$173,515,500	\$173,515,500
GF Expenditure	0	460,100	252,200	264,200	276,900
SF Expenditure	0	150,400	129,500	136,100	143,000
GF/SF Exp.	0	85,751,400	171,502,800	171,502,800	171,502,800
Net Effect	\$0	\$395,900	\$1,631,000	\$1,612,400	\$1,592,800

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential significant increase in county costs to establish redemption centers; some or all of these costs may be offset by the handling fee that would be paid to

them by the State. Local grant revenues for public awareness campaigns could increase to the extent funding is available. Local revenues from the sale of recyclables would likely decrease. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Deposits

Dealers that originate deposits on containers must remit those funds to the Comptroller for deposit into the State Recycling Trust Fund and prepare an annual report by March 1 of each year. A dealer is authorized to waive the deposit under specified conditions.

Redemption Centers and Refunds

In general, consumers would take empty returnable containers to redemption centers to collect the refund value. A redemption center may refuse to accept containers or pay refunds under specified conditions. The bill authorizes redemption centers to use reverse vending machines under specified conditions.

Each county must set up and run at least one redemption center. Private retail stores or dealers may apply to MDE to be redemption centers. MDE must maintain a list of all available redemption centers and make the list accessible to the public. Redemption centers must be certified by MDE. MDE must adopt regulations to implement the certification requirements. MDE may review a certification after giving notice and may withdraw a certification under specified conditions.

The bill establishes various requirements for redemption centers. Among other things, a redemption center must:

- accept containers for refund during regular business hours;
- ensure that each container is recycled through a recycling facility in the State or with an out-of-state recycling facility that is approved by MDE;
- maintain documentation; and

- establish a segregated refund value account for the deposit of funds.

Payments of refund values to consumers must be paid from that account. Redemption centers must file quarterly reports with MDE and the Comptroller regarding account activity and other specified information. Unclaimed deposits must be submitted to the Comptroller for deposit into the State Recycling Trust Fund.

State Payments to Redemption Centers

The Comptroller must pay to a redemption center the refund value plus a handling fee of 2 cents per container accepted. A redemption center may request payment no more than two times per month.

The State must appropriate general funds for the payment to redemption centers. Once unclaimed deposits are collected and deposited into the State Recycling Trust Fund, the State may reduce the general funds appropriated for that purpose and must use the State Recycling Trust Fund to make those payments.

Other

A beverage container sold in the State must have a specified label. A redemption center may refuse to accept an empty returnable container that does not have such a label.

The bill establishes signage requirements for dealers and redemption centers. MDE must adopt regulations governing the signage requirements.

The bill also requires the State Recycling Trust Fund to be used to:

- provide grants to counties and municipalities for public awareness campaigns regarding beverage container recycling; and
- from fines collected under the bill's penalty provisions, disburse 50% of such fines to carry out the bill's purposes and 50% to train and educate the operator of the redemption center where the violation occurred on how to watch and report fraudulent redemptions.

The bill also repeals the existing general fund reversion provision relating to the State Recycling Trust Fund.

Violations and Penalties

A redemption center, dealer, distributor, or manufacturer that violates any provision of the bill or its implementing regulations is liable to the State for a civil penalty of up to \$10,000 per violation. The State must recover the civil penalties in a civil action in any county.

A person may not willfully tender to a dealer or redemption center an empty beverage container that the person knows or reasonably knows was not originally sold in the State as a filled beverage container or did not have a deposit paid at the time of purchase. A person who violates that prohibition may be assessed a civil penalty by MDE of up to \$100 if the person returns between 25 and 100 containers. If the person returns more than 100 containers for one particular violation or the person has previously been assessed a civil penalty under the bill, the person may be assessed a civil penalty of up to \$500.

The bill requires redemption centers to post signs regarding the penalties; if there are no signs posted, the penalties do not apply. Fines collected under the bill must be deposited in the State Recycling Trust Fund.

Current Law: The State does not currently have a container deposit law. However, in 1988, the Maryland Recycling Act required each county to submit a recycling plan. Jurisdictions with over 150,000 residents were required to reduce their solid waste by 20%, and jurisdictions with less than 150,000 residents were required to reduce their solid waste by 15%. Legislation enacted in 2000 established a voluntary statewide diversion goal of 40% by 2005. Counties have the flexibility to determine the best way to reach the required recycling rates.

The State Recycling Trust Fund consists of revenues from the newsprint recycling incentive fee, the telephone directory recycling incentive fee, the computer manufacturer registration fee, money appropriated in the State budget, and any other money from any other sources. The fund is used to provide grants to the counties for the development and implementation of local recycling plans and for the separation, collection, and recycling of computers.

Background: Data from the American Beverage Association and the Container Recycling Institute indicate that beverage containers constitute, on average, 3.2% of the municipal solid waste stream.

Eleven states (California, Connecticut, Delaware, Hawaii, Iowa, Maine, Massachusetts, Michigan, New York, Oregon, and Vermont) currently have container deposit programs in place. Container deposit laws require a minimum refundable deposit on beer, soft

drink, and other beverage containers in order to ensure a high rate of recycling or reuse. According to a 2002 report issued by Businesses and Environmentalists Allied for Recycling (BEAR), 191 beverage containers were recycled per capita in the 40 nondeposit states at a cost of 1.25 cents per unit, whereas 490 beverage containers were recycled per capita in the 10 states with deposit laws at a cost of 1.53 cents per unit. In other words, at an additional cost of 1.5 cents per six-pack, beverage container recovery rates in deposit states are more than two and half times higher than in states without bottle bills. After passage of container deposit legislation, states such as New York, Oregon, Vermont, Maine, Michigan, and Iowa all realized a significant reduction in beverage container litter.

MDE reports that, in 2005, Maryland had a recycling rate of 39.2% and a waste diversion rate of 42.6%. The 39.2% recycling rate included the recycling of 104,652 tons of containers.

This legislation is modeled after proposed legislation in West Virginia.

State Fiscal Effect:

Deposits and Payments to Redemption Centers

Assuming regulations to implement the bill take effect January 1, 2009, special fund revenues to the State Recycling Trust Fund from initial deposits paid by consumers could total an estimated \$86.8 million in fiscal 2009 and \$173.5 million annually thereafter. This estimate assumes:

- 1,100 containers per household per year are used, per data from the National Recycling Coalition;
- 2,145,283 households in Maryland, per the 2000 Census;
- beverage containers from households account for 68% of all beverage containers from all sources; and
- a deposit of 5 cents per container.

Although the bill is unclear, it is assumed that, for each container accepted by a redemption center, the State would reimburse the redemption center the refund value (assumed to be 5 cents per container) plus a 2-cent handling fee per container. Based on data from states with container deposit laws, it is reasonable to assume that approximately 70.6% of containers could be returned to redemption centers. Based on that figure, payments to redemption centers could total an estimated \$85.8 million in fiscal 2009 and \$171.5 million annually thereafter; this includes the 2-cent handling fee, estimated at \$24.5 million in fiscal 2009 and \$49.0 million annually thereafter.

Assuming 29.4% of containers are not returned to redemption centers, unclaimed deposits would total an estimated \$25.5 million in fiscal 2009 and \$51.0 million annually thereafter. Essentially, the monies available from unclaimed deposits would be used to cover the 2-cent handling fee.

The estimates above indicate that deposits would be sufficient to cover the State's payments to redemption centers; nevertheless the general fund would be used to pay some portion of the payments until the fund balance could cover those costs itself. In addition, Legislative Services notes that, if the redemption rate is much higher than 70.6%, general fund support would likely be required in the out-years as well to cover the costs of the 2-cent handling fee.

Special fund revenues could also increase due to any penalties assessed under the bill; a reliable estimate of any such increase cannot be made at this time.

Maryland Department of the Environment

Special fund expenditures could increase by an estimated \$150,443 in fiscal 2009, which reflects a July 1, 2008 implementation date. This estimate reflects the cost of hiring one natural resources planner and one agency budget specialist to ensure that beverage containers are properly labeled, draft regulations, review and approve redemption center certifications, train and educate redemption centers, monitor redemption centers, review reports, manage funds, and provide grants to local governments if sufficient funding is available. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$113,451
Automobile Purchase and Operations	22,970
Equipment and Other Operating Expenses	<u>14,022</u>
Total FY 2009 MDE Administrative Expenditures	\$150,443
Positions	2

This estimate does not include any grant awards to local governments for public awareness campaigns regarding beverage container recycling. To the extent sufficient special funds are available, MDE would provide such grants to local governments. Accordingly, MDE expenditures could be higher.

For purposes of this fiscal note, it is assumed that MDE's administrative costs would be covered by special funds from the State Recycling Trust Fund. However, to the extent

there is not enough money in the special fund to cover such costs, general funds would be needed.

Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Comptroller

General fund expenditures could increase by an estimated \$460,095 in fiscal 2008, which reflects a July 1, 2008 implementation date. This estimate reflects the cost of hiring one accountant to audit dealers for collections and two accountants to process returns and reports and to issue payments to redemption centers. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including technical costs for the development and implementation of a separate computer system or modification to several existing systems to account for dealer collections, generating communications, posting accounting records, and issuing payments. The information and assumptions used in calculating the estimate are stated below:

- at least 8,000 retailers sell beverage containers; and
- at least 24 redemption centers statewide.

Salaries and Fringe Benefits	\$213,677
Technical Costs – System Development	205,500
Equipment and Other Operating Expenses	<u>40,918</u>
Total FY 2009 Comptroller Administrative Expenditures	\$460,095
Positions	3

Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Judiciary

The number of additional case filings the Judiciary would receive as a result of the bill is unknown. Although the bill could result in an increase in workload for the Judiciary, it is assumed that any such increase could be handled with existing budgeted resources.

Local Fiscal Effect: Counties could incur additional capital and operating costs in order to set up and operate at least one redemption center each and to ensure that containers are

recycled, maintain accounts, maintain documentation, and submit reports, as required by the bill. Although total costs are unknown at this time, some counties report the potential for moderate to significant costs:

- Montgomery County reports that it would likely incur costs estimated at \$300,000 to hire a contractor to facilitate drop-offs and pickups at redemption centers. In addition, Montgomery County reports that the county could incur costs of approximately \$150,000 to hire fiscal assistants to handle reimbursements to customers.
- Prince George's County reports that, in order to construct and operate a redemption center, it would cost at least \$5,000 to place a facility at its existing Brown Station Road Landfill and approximately another \$25,000 to staff it.

These costs could be offset, at least in part, by the 2-cent per container handling fee that would be paid to redemption centers by the State.

Several counties also report the potential for adverse impacts on their existing recycling programs, stemming from a decrease in revenue from the sale of recyclable materials currently processed; such revenues help offset the cost of county recycling programs. For example, Montgomery County reports that, in fiscal 2006, the county generated over \$3.3 million in revenue from the sale of recyclable materials processed at the county's recycling center.

Local governments could benefit from any grants received from MDE for public awareness campaigns, to the extent any funding is available.

Small Business Effect: The extent to which bottlers are small businesses is unknown; however, bottlers would incur costs to label bottles in accordance with the bill. Dealers, many of whom are likely small businesses, would incur costs to post signs, collect deposits, and remit deposits to the Comptroller. Private dealers, large or small, that wish to become redemption centers may apply to do so under the bill and would then incur all the responsibilities of redemption centers, as described above. Container recyclers would likely benefit from an increase in the demand for their services.

Additional Information

Prior Introductions: Several bills relating to container deposit laws were introduced in the 1970s and 1980s. The most recent introduction of statewide container deposit

legislation was SB 485 of 1992; the bill received an unfavorable report from the Senate Economic and Environmental Affairs Committee.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Judiciary (Administrative Office of the Courts), Comptroller's Office, Allegany County, Montgomery County, Prince George's County, Talbot County, National Conference of State Legislatures, Businesses and Environmentalists Allied for Recycling, Container Recycling Institute, Department of Legislative Services

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