**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA BEVERAGE CONTAINER RECYCLING ACT” BY ADDING CHAPTER 97 TO TITLE 44 SO AS TO DEFINE NECESSARY TERMS; TO REQUIRE A DEPOSIT FOR CERTAIN TYPES OF BEVERAGE CONTAINERS THAT IS REFUNDABLE UPON THE RETURN OF THE BEVERAGE CONTAINER AND TO PROVIDE THAT A MANUFACTURER OR DISTRIBUTOR REIMBURSE A RETAILER OR REDEMPTION CENTER; TO PROHIBIT A RETAILER AND MANUFACTURER FROM REJECTING BEVERAGE CONTAINERS AND TO PROVIDE EXCEPTIONS; TO ESTABLISH LABELING REQUIREMENTS FOR BEVERAGE CONTAINERS SOLD IN THIS STATE; TO REQUIRE DISTRIBUTORS AND MANUFACTURERS TO REGISTER BEVERAGE CONTAINERS SOLD IN THIS STATE; TO ESTABLISH REQUIREMENTS FOR REDEMPTION CENTERS; TO PROHIBIT A DISTRIBUTOR FROM SELLING AN IMPROPERLY LABELED BEVERAGE CONTAINER AND THE REDEMPTION OF A BEVERAGE CONTAINER THAT WAS PURCHASED OUTSIDE OF THIS STATE; TO AUTHORIZE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO PROMULGATE REGULATIONS; AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF THIS CHAPTER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act is known and may be cited as the “South Carolina Beverage Container Recycling Act”.

SECTION 2. Title 44 of the 1976 Code is amended by adding:

“CHAPTER 97

South Carolina Beverage Container Recycling Act

Section 44‑97‑10. As used in this chapter:

(1) ‘Beverage’ means beer or other malt beverages and mineral waters, mixed wine drinks, liquor, soda water and carbonated soft drinks in liquid form and intended for human consumption.

(2) ‘Biodegradable material’ means material which is capable of being broken down by bacteria into basic elements.

(3) ‘Commingling’ means the sorting of beverage containers at a redemption center by material type rather than by beverage brand in accordance with the requirements of an approved commingling agreement.

(4) ‘Container’ means the individual, separate bottle, can, jar or carton composed of glass, metal, paper, plastic or any combination of those materials containing a consumer product. This definition shall not include containers made of biodegradable material.

(5) ‘Department’ means the Department of Health and Environmental Control.

(6) ‘Distributor’ means every person who engages in the sale of consumer products in containers to a dealer in this State including any manufacturer who engages in such sales. Any dealer or retailer who sells, at the retail level, beverages in containers without having purchased them from a person otherwise classified as a distributor is considered to be a distributor.

(7) ‘Manufacturer’ means every person bottling, canning, packing or otherwise filling containers for sale to distributors or dealers.

(8) ‘Recycling’ means the process of sorting, cleansing, treating and reconstituting waste and other discarded materials for the purpose of reusing the materials in the same or altered form.

(9) ‘Redemption center’ means a store or other location where any person may, during normal business hours, redeem the amount of the deposit for any empty beverage container labeled or certified pursuant to this chapter.

(10) ‘Mixed wine drink’ means a beverage containing wine and more than fifteen percent added plain, carbonated or sparkling water; and which contains added natural or artificial blended material, such as fruit juices, flavors, flavoring, adjuncts, coloring or preservatives; which contains not more than sixteen percent alcohol by volume; or other similar product marketed as a wine cooler.

Section 44‑97‑20. (A) Except with respect to beverage containers which contain liquor, a deposit of not less than five cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. With respect to beverage containers of volume greater than fifty milliliters containing liquor, a deposit of fifteen cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. The deposit may be collected upon the return of the beverage container by someone other than the consumer.

(B) A retailer or a person operating a redemption center who redeems beverage containers must be reimbursed by the manufacturer or distributor of such beverage containers in an amount which is three and one‑half cents per container for containers of beverage brands that are part of a commingling program and four cents per container for containers of beverage brands that are not part of a commingling program.

(C) Containers must be redeemed during no fewer than forty hours per week during the regular operating hours of the establishment.

Section 44‑97‑30. (A) Except as provided in Section 44‑97‑20, a:

(1) retailer may not refuse to accept from a person empty beverage containers, labeled in accordance with the provisions of this chapter, of the kind, size, and brand sold by the retailer, or refuse to pay to that person the refund value of a beverage container as established by Section 44‑97‑20, except as provided in subsection (B).

(2) manufacturer or distributor may not refuse to pick up from a retailer that sells its product or a person operating a certified redemption center empty beverage containers, labeled in accordance with the provisions of this chapter, of the kind, size, and brand sold by the manufacturer or distributor, or refuse to pay the retailer or a person operating a redemption center the refund value of a beverage container as established by Section 44‑97‑20.

(B) A retailer, with the prior approval of the department, may refuse to redeem beverage containers if a certified redemption center is established within five miles of the retailer’s establishment.

(C) A retailer or a person operating a redemption center may refuse to redeem beverage containers that are not clean, or are broken, and may not redeem beverage containers that are not labeled in accordance with the provisions of this chapter.

Section 44‑97‑40. (A) Every beverage container sold or offered for sale at retail in this State shall clearly indicate by embossing or imprinting on the normal product label, or in the case of a metal beverage container on the top of the container, the words ‘South Carolina’ or the letters ‘SC’ and the refund value of the container in not less than one‑eighth inch type size or such other alternate indications as may be approved by the department. This subsection does not prohibit including names or abbreviations of other states with deposit legislation comparable to this chapter.

(B) The Director of the Department of Revenue may allow, in the case of liquor bottles, a conspicuous, adhesive sticker to be attached to indicate the deposit information required in subsection (A), provided that the size, placement and adhesive qualities of the sticker are as approved by the director. The stickers must be affixed to the bottles by the manufacturer, except that liquor which is sold in the State in quantities less than one hundred cases per year may have stickers affixed by personnel employed by the Department of Revenue.

(C) This section does not apply to permanently labeled beverage containers.

Section 44‑97‑50. A distributor or manufacturer may not sell a beverage container in the State of South Carolina without the manufacturer registering the beverage container with the Department of Health and Environmental Control prior to sale. This registration must take place on a form provided by the department and include the following:

(1) the name and principal business address of the manufacturer;

(2) the name of the beverage and the container size;

(3) whether the beverage is a part of an approved commingling agreement; and

(4) the name of the person picking up the empty beverage container, if that person is different from the manufacturer.

Section 44‑97‑60. A person operating a redemption center must obtain an annual certification from the department. The application for certification must include:

(1) the name and location of the facility;

(2) whether the certified redemption center redeems more than two hundred and fifty thousand containers per year and, if so, proof of participation in an approved commingling agreement; and

(3) additional conditions, requirements, and restrictions as the department may deem necessary to implement the requirements of this chapter. This may include, but is not limited to, requirements concerning reporting, recording, and inspections of the operation of the site.

Section 44‑97‑70. (A) No distributor shall sell or offer for sale in this State a brand of beverage in a beverage container labeled in compliance with Section 44‑97‑40 if the distributor sells that beverage container containing that brand of beverage in a state that does not have a deposit redemption system similar to the one established by this chapter and that is adjacent to this State. A distributor that violates this subsection is prohibited from selling or offering those beverages for sale in this State until the violation is corrected.

(B) A person may not knowingly attempt to redeem a container to a retailer or a redemption center for deposit return if that container was purchased outside this State.

Section 44‑97‑80. The department is authorized to promulgate regulations necessary for the administration of this chapter. These regulations may include, but are not limited to:

(1) provisions to ensure that beverage containers not labeled in accordance with this chapter are not redeemed;

(2) provisions to ensure that beverage containers are commingled;

(3) administrative penalties for the failure by a redemption center or retailer to remove beverage containers that are not labeled prior to pick‑up by a distributor or manufacturer. Penalties may include nonpayment of the deposit and handling fee established under Section 44‑97‑20 for a reasonable period of time and for the number of beverage containers that were not labeled; and

(4) any other provision that may be necessary for the implementation of this chapter.

Section 44‑97‑90. A person who violates a provision of this chapter shall be fined not more than one thousand dollars for each violation.”

SECTION 3. This act takes effect upon approval by the Governor.

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