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**SENATE COMMITTEE ON ENVIRONMENTAL QUALITY**

**Senator Allen, Chair**

**2021 - 2022 Regular**

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**Bill No:** SB 895  
**Author:** Laird  
**Version:** 2/1/2022  
**Urgency:** No  
**Consultant:** Genevieve M. Wong

**Hearing Date:** 3/28/2022  
**Fiscal:** Yes

**SUBJECT:** Solid waste: nonprofit convenience zone recycler: definition

**DIGEST:** Redefines the definition of “nonprofit convenience zone recycler,” for purposes of the California Beverage Container Recycling and Litter Reduction Act, potentially making more entities eligible for the payment of handling fees by the program.

**ANALYSIS:**

Existing law:

- 1) Under the California Beverage Container Recycling and Litter Reduction Act (Bottle Bill), 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, and requires distributors to pay a redemption payment to the Department of Resources Recycling and Recovery (CalRecycle) for every beverage container sold in the state. These funds are deposited into the Beverage Container Recycling Fund (BCRF) and are continuously appropriated to CalRecycle for the payment of refund values, handling fees, and other recycling-related activities. (PRC §14500 et seq.)
- 2) Requires there to be at least one certified recycling center or location within every convenience zone. Allows CalRecycle to grant an exemption from the requirement that there be at least one certified recycling center per convenience zone for an individual convenience zone after soliciting public testimony on whether to provide an exemption and based on specified factors. (PRC §§ 14571, 14571.8)
- 3) Requires CalRecycle to pay handling fees to operators of supermarket sites, nonprofit convenience zone recyclers, or rural regional recyclers, that are located in a convenience zone, for every beverage container redeemed to provide an incentive for the redemption of empty beverage containers in convenience zones. Prohibits CalRecycle from making handling fee payments

to more than one certified recycling center in a convenience zone. (PRC §§14513.4, 14585)

- 4) Defines “nonprofit convenience zone recycler” as a recycling center that is either of the following:
  - a) A recycling center that is all of the following:
    - i) Operated by either a 501(c) or 501(d) organization.
    - ii) Certified by CalRecycle.
    - iii) Located within a convenience zone, but is not necessarily a supermarket site.
  - b) A recycling center that is all of the following:
    - i) Operated by either a 501(c) or 501(d) organization.
    - ii) Has operated in the same location for at least 5 years.
    - iii) Certified by CalRecycle.
    - iv) Located within one mile of a supermarket that is in a convenience zone that is exempt from the requirement that there be at least one certified recycling center or location within every convenience zone.

This bill changes the definition of “nonprofit convenience zone recycler” by:

- a) Removing the requirement that a recycling center operate in the same location for 5 years.
- b) Requiring that a recycling center be located within two miles, instead of one mile, of a supermarket site that is within the exempt convenience zones.

## Background

- 1) *Background on the Bottle Bill program.* The Bottle Bill was established by AB 2020 (Margolin, Chapter 1290, Statutes of 1986). The purpose of the program is to be a self-funded program that encourages consumers to recycle beverage containers 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 California Redemption Value (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.
- 2) *Handling Fees.* Supermarkets with more than \$2 million in gross annual sales are required to have a recycling center within a ½ mile radius, which is referred

to as the “convenience zone” Certified recycling centers within a CZ, known as “CZ recyclers” receive a “handling fee” from CalRecycle based on the number of containers they redeem. The handling fees are intended to provide supermarket sites, nonprofit convenience zone recyclers, and rural region recyclers with an incentive to redeem empty beverage containers in the convenience zones.

Dealers (those that sell beverages subject to the Bottle Bill program) that do not have a CZ recycler are required to take back containers themselves or pay an “in lieu” fee of \$100 per day.

- 3) *Exempt CZs and nonprofit convenience zone recyclers.* Bottle Bill authorizes CalRecycle to grant an exemption to individual CZs, thus exempting dealers within those unserved CZs from the requirement that they either takeback the containers or pay the in-lieu fee. The decision to exempt a CZ must be based on at least one of specified factors, including that the exemption will not significantly decrease the ability of consumers to conveniently return their beverage containers and the nearest certified recycling center is within a reasonable distance of the CZ being considered for exemption. Nonprofit convenience zone recyclers, which by definition are within one-mile of a supermarket within an exempt CZ, help the CZs qualify for the exemption. These nonprofit convenience zone recyclers, which help provide convenient redemption opportunities to consumers within unserved CZs, in turn, receive handling fees.
- 4) *Recent recycling center closures.* 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.”

Various causes have attributed to the closure of these recyclers. One reason may be the drop in commodity prices, which have been declining over several years. Also, oil prices have declined significantly and reached historically low levels in 2016. In 2011, PET plastic scrap prices were at a peak of \$500/ton and have steadily dropped to \$200/ton in 2016. By November 2020, the price dropped further to \$101/ton. New plastic is manufactured from oil, so when the price of oil is very low, virgin plastic prices are low, making recycled plastic

unable to compete economically.

Additionally, changes to processing payments have not kept pace with the 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). Both the costs of recycling and the scrap value of beverage containers can fluctuate significantly based on changing market prices. As a result, processing payments vary over time. Some contend that processing payments have failed to keep up with real time prices and includes a minimum three-month gap, resulting in recycling centers receiving insufficient state payments to make up for the income they may lose from the decline in scrap value.

Further, 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.

## Comments

- 1) *Purpose of Bill.* According to the author, "Grey Bears Thrift Store, located in Santa Cruz is a locally owned and operated nonprofit that has operated a certified drop-off recycling station for over 40 years and continuously promotes conservation of resources, diversion of material from landfills and community engagement.

"SB 895 updates the definition of a nonprofit convenience zone recycler to ensure Grey Bears has access to handling fees, that defray operating and infrastructure costs, so they can meet the needs of the currently underserved communities of Santa Cruz, Capitola, and unincorporated mid-Santa Cruz County. This bill supports the recycling of reusable materials for a greener California economy by ensuring Grey Bears, an established recycling center, is included in the definition of a nonprofit convenience zone recycler."

- 2) *Other tangential effects.* While the intent of this bill is to enable a recycler in the author's district to qualify for handling fees so that they may offer redemption opportunities to consumers, other indirect outcomes may result.
  - a) *Additional recyclers that were previously ineligible for handling fees may become eligible.* According to CalRecycle, in addition to making Grey

Bear eligible for handling fees, the change in definition may make 1 or 2 more recyclers eligible as well.

- b) *More recycling centers may open.* By loosening the requirements that a recycler must meet in order to become a “nonprofit convenience zone recycler” and therefore eligible for handling fees, this bill may encourage other similar recyclers to open near unserved convenience zones.
- c) *Relief for dealers in previously unserved zones.* If a nonprofit convenience zone recycler opens in a previously unserved convenience zone, that convenience zone is considered “served.” As long as that convenience zone continues to be “served,” dealers within that convenience zone will no longer be required to choose between redeeming beverage containers or paying the in-lieu fee.

### **Related/Prior Legislation**

AB 1067 (Ting) requires CalRecycle to submit a report to the Legislature regarding the dealer “in lieu” fee collected pursuant to the Bottle Bill. AB 1067 is currently in the Senate Rules Committee pending referral.

SB 38 (Wieckowski, 2021) establishes an industry-run bottle and can recycling program that would replace the current Bottle Bill program July 1, 2024. SB 38 has been referred to the Assembly Natural Resources Committee.

AB 1311 (Wood, Chapter 506, Statutes of 2021) expands redemption opportunities under the Bottle Bill by allowing the use of “bag drop” operations as certified recycling centers and authorizing alternative schedules for recycling centers.

AB 1454 (Bloom, 2021) makes various changes to the state’s Bottle Bill program including incorporating bag drop redemption programs, temporarily increasing processing payments to recycling centers, providing incentives to dealers to redeem beverage containers from consumers, and making various appropriations out of the BCRF to recycling-related activities. AB 1454 has been referred to this committee.

AB 1840 (Ting, 2020) would have required CalRecycle to make recommendations to the Legislature on how to improve the Bottle Bill program to increase recycling of beverage container materials within the state and increase consumer redemption convenience. AB 1840 was held in the Assembly Natural Resources Committee.

AB 2381 (Choi, 2020) would have required processing payments and handling fees be set at a certain rate until 2024 and would have required CalRecycle to pay

supplemental handling fees to recycling centers. AB 2381 was held in the Assembly Natural Resources Committee.

AB 2562 (Holden, 2020) would have required dealers to submit an affidavit to CalRecycle stating that the beverage container redemption requirements are being met and would have imposed a civil penalty on dealers who failed to comply with the redemption requirements. AB 2562 was held in Assembly Natural Resources Committee.

SB 724 (Stern, 2019) would have amended the Bottle Bill program to provide temporary financial assistance to recycling centers while providing permanent exemptions to dealers from various consumer redemption opportunities. SB 724 was held in Senate Appropriations Committee.

SB 452 (Glazer, 2018) is nearly identical to SB 724 (Stern, 2019). The committee heard the bill under Senate Rule 29.10 and the bill passed this committee with a vote of 7 – 0. SB 452 was vetoed by the Governor.

AB 2493 (Bloom, Chp. 715, Stats. 2018) allows payments made under the California Beverage Container Recycling and Litter Reduction Act to be made electronically and authorizes a recycling center that is a reverse vending machine (RVM) that accepts all beverage containers, except as specified, to be considered “open for business” if the recycling center meets certain requirements.

**SOURCE:** Author

**SUPPORT:**

Californians Against Waste

**OPPOSITION:**

None received

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