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(Original Signature of Member)

107TH CONGRESS
2^D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Ms. RIVERS introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Solid Waste Disposal Act to require implemen-
tation by brand owners of management plans that pro-
vide refund values for certain beverage containers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Beverage
5 Producer Responsibility Act of 2002”.



1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the beverage industry has an established
4 and effective marketing infrastructure that provides
5 a wide range of beverage products at affordable
6 prices to consumers in the United States;

7 (2) the absence of a beverage industry infra-
8 structure for recovering used beverage containers
9 has—

10 (A) placed undue burdens on local waste
11 authorities;

12 (B) failed to provide any incentive for the
13 beverage industry to reduce waste; and

14 (C) resulted in tens of billions of
15 unrecycled beverage containers per year, includ-
16 ing 114,000,000,000 unrecycled beverage con-
17 tainers in 1999;

18 (3) of particular concern—

19 (A) glass beverage containers are difficult
20 and costly to recycle through municipal
21 curbside programs because of breakage;

22 (B) valuable beverage container types are
23 being replaced with low-value plastics and com-
24 posite packaging; and

25 (C) removing glass or other valuable bev-
26 erage container types from curbside programs



1 has been found to reduce the public costs of
2 those programs;

3 (4) an efficient, industry-operated system of
4 beverage container collection, recycling, and reuse
5 would—

6 (A) reduce the overall burden placed on
7 taxpayers and municipal waste management
8 systems; and

9 (B) shift the responsibility for that collec-
10 tion, recycling, and reuse to beverage producers
11 and consumers;

12 (5) deposit systems, originally devised by the
13 beverage industry to recover used bottles, have been
14 shown to be an effective and sustainable means for
15 recovering used beverage containers, especially the
16 increasing proportion of beverage containers the bev-
17 erages contained by which are consumed away from
18 the home;

19 (6) greater reuse and recycling of beverage con-
20 tainers would—

21 (A) significantly improve the energy and
22 emissions performance of the beverage industry
23 of the United States; and



1 (B) in each year, conserve an amount of
2 electrical energy equivalent to that required to
3 serve millions of homes in the United States;

4 (7) 10 States have enacted and implemented
5 laws designed to protect the environment, conserve
6 energy and material resources, and reduce waste by
7 requiring—

8 (A) beverage consumers to pay a deposit
9 on the purchase of beverage containers; and

10 (B) the beverage industry to pay a refund
11 on used beverage containers that are returned
12 for reuse and recycling;

13 (8) those laws—

14 (A) enjoy strong public support; and

15 (B) have proven to be effective in achieving
16 high rates of beverage container reuse and recy-
17 cling;

18 (9) a national standard for beverage container
19 reuse and recycling would ensure that beverage con-
20 sumers in all regions of the United States would
21 enjoy access to beverage container reuse and recy-
22 cling services;

23 (10) a beverage container reuse and recycling
24 system designed by brand owners could—



1 (A) be seamlessly integrated with the na-
2 tional and regional marketing systems of the
3 brand owners;

4 (B) maximize efficiency of the brand own-
5 ers; and

6 (C) minimize unproductive costs of compli-
7 ance with requirements of several different re-
8 cycling programs;

9 (11) a national system of beverage container
10 reuse and recycling is consistent with the intent of
11 the Solid Waste Disposal Act (42 U.S.C. 6901 et
12 seq.); and

13 (12) this Act is consistent with the goals estab-
14 lished by the Administrator of the Environmental
15 Protection Agency, including the national goal of 35
16 percent source reduction and recycling by 2005.

17 **SEC. 3. BEVERAGE CONTAINER REUSE AND RECYCLING.**

18 (a) IN GENERAL.—The Solid Waste Disposal Act (42
19 U.S.C. 6901 et seq.) is amended by adding at the end
20 the following:

21 **“Subtitle K—Beverage Container**
22 **Reuse and Recycling**

23 **“SEC. 12001. DEFINITIONS.**

24 “In this subtitle:

25 “(1) BEVERAGE.—



1 “(A) IN GENERAL.—The term ‘beverage’
2 means a nonalcoholic or alcoholic carbonated or
3 noncarbonated liquid that is intended for
4 human consumption.

5 “(B) EXCLUSIONS.—The term ‘beverage’
6 does not include milk or any other dairy or
7 dairy-derived product.

8 “(2) BEVERAGE CONTAINER.—The term ‘bev-
9 erage container’ means a container that—

10 “(A) is constructed primarily of metal,
11 glass, plastic, or paper (or a combination of
12 those materials);

13 “(B) has a capacity of not more than 1
14 gallon of liquid; and

15 “(C) on or after the date of enactment of
16 this subtitle—

17 “(i) may contain or contains a bev-
18 erage; and

19 “(ii) is offered for sale or sold in
20 interstate commerce.

21 “(3) BEVERAGE CONTAINER AGENCY.—The
22 term ‘beverage container agency’ means, as deter-
23 mined by a brand owner—

24 “(A) the brand owner; or



1 “(B) an entity appointed by the brand
2 owner to act as an agent on behalf of the brand
3 owner.

4 “(4) BRAND OWNER.—The term ‘brand owner’
5 means a person that owns the trademark for, manu-
6 factures, distributes, or imports for resale in inter-
7 state commerce, a beverage sold in a beverage con-
8 tainer.

9 “(5) MANAGEMENT PLAN.—The term ‘manage-
10 ment plan’ means a management plan submitted
11 under section 12004.

12 “(6) RECOVERY RATE.—The term ‘recovery
13 rate’ means the percentage obtained by dividing—

14 “(A) the number of beverage containers of
15 a brand owner returned for a refund under sec-
16 tion 12005(b)(2) in a calendar year; by

17 “(B) the number of beverage containers of
18 the brand owner for which a deposit was col-
19 lected under section 12005(a)(1) in the cal-
20 endar year.

21 “(7) REFUND VALUE.—The term ‘refund value’
22 means the refund value of a beverage container de-
23 termined in accordance with section 12006.

24 “(8) RETURN SITE.—The term ‘return site’
25 means an operation, facility, or retail store, or an



1 association of operations, facilities, or retail stores,
2 that—

3 “(A) is identified in an approved manage-
4 ment plan; and

5 “(B) is operating under contract entered
6 into by the return site and a beverage container
7 agency to collect and redeem empty beverage
8 containers of 1 or more brand owners.

9 “(9) SELLER.—

10 “(A) IN GENERAL.—The term ‘seller’
11 means a person that sells a beverage in a bev-
12 erage container.

13 “(B) INCLUSIONS.—The term ‘seller’ in-
14 cludes all members of the supply chain.

15 “(10) UNBROKEN BEVERAGE CONTAINER.—The
16 term ‘unbroken beverage container’ includes a bev-
17 erage container that has been opened in a manner
18 in which the beverage container was designed to be
19 opened.

20 **“SEC. 12002. RESPONSIBILITIES OF BRAND OWNERS.**

21 “(a) IN GENERAL.—Each brand owner shall imple-
22 ment an effective redemption, transportation, processing,
23 marketing, and reporting system for the reuse and recy-
24 cling of used beverage containers of the brand owner.



1 “(b) PROHIBITION OF POST-REDEMPTION
2 LANDFILLING OR INCINERATION.—No brand owner or
3 beverage container agency shall dispose of any beverage
4 container labeled in accordance with section 12003 in any
5 landfill or other solid waste disposal facility.

6 **“SEC. 12003. BEVERAGE CONTAINER LABELING.**

7 “(a) IN GENERAL.—No brand owner may sell or offer
8 for sale in interstate commerce a beverage in a beverage
9 container unless a statement of the refund value of the
10 beverage container is clearly, prominently, and securely af-
11 fixed to, printed on, or embossed on the beverage con-
12 tainer.

13 “(b) SIZE AND LOCATION OF REFUND VALUE
14 STATEMENT.—The Administrator shall promulgate regu-
15 lations establishing uniform standards for the size and ap-
16 propriate location on beverage containers of the refund
17 value statement required under subsection (a).

18 **“SEC. 12004. MANAGEMENT PLANS.**

19 “(a) SUBMISSION OF PLANS.—Not later than 180
20 days after the date of enactment of this subtitle, each bev-
21 erage container agency shall submit to the
22 Administrator—

23 “(1) a management plan, in such form as the
24 Administrator may prescribe, for the collection,
25 transport, reuse, and recycling of beverage con-



1 tainers that the beverage container agency, or that
2 each brand owner represented by the beverage con-
3 tainer agency, sells into interstate commerce; and

4 “(2) a fee, in such amount as the Administrator
5 may establish by regulation, to cover administrative
6 costs relating to administration of the management
7 plan.

8 “(b) CONTENTS OF PLAN.—A management plan sub-
9 mitted under this section shall—

10 “(1) include—

11 “(A) the name, and address for service of
12 process, of the beverage container agency sub-
13 mitting the management plan;

14 “(B) the name and title of a contact per-
15 son at the beverage container agency;

16 “(C) the name and corporate address of
17 each brand owner covered by the management
18 plan; and

19 “(D) the brand name of each beverage cov-
20 ered by the management plan;

21 “(2) provide—

22 “(A) a proposed implementation date for
23 the management plan; and

24 “(B) appropriate documentation of such
25 agreements entered into by the beverage con-



1 tainer agency and return site operators as will
2 take effect as of the date of implementation of
3 the management plan; and

4 “(3) include a description of—

5 “(A) the ways in which the beverage con-
6 tainer agency intends to make the use of return
7 sites convenient for consumers of beverages cov-
8 ered by the management plan in all areas of
9 interstate commerce;

10 “(B) the ways in which the beverage con-
11 tainer agency intends to achieve, not later than
12 2 years after the date of implementation of the
13 management plan, a recovery rate of at least 80
14 percent; and

15 “(C) the ways in which the beverage con-
16 tainer agency will manage beverage containers
17 returned under the management plan in an en-
18 vironmentally responsible manner.

19 “(c) CHANGES IN INFORMATION.—Each beverage
20 container agency that submits a management plan under
21 this section shall promptly notify the Administrator, in
22 writing, of any change in the information provided under
23 subsection (b)(1).

24 “(d) APPROVAL OF MANAGEMENT PLANS.—



1 “(1) IN GENERAL.—The Administrator shall
2 approve or disapprove each management plan sub-
3 mitted under this section.

4 “(2) DETERMINATION.—In determining wheth-
5 er to approve or disapprove a management plan, the
6 Administrator may return the management plan to
7 the beverage container agency—

8 “(A) with a request for additional informa-
9 tion; or

10 “(B) for amendment.

11 “(3) DISAPPROVAL.—If the Administrator dis-
12 approves a management plan, the Administrator
13 shall, not later than 60 days after the date of dis-
14 approval, provide to the beverage container agency
15 that submitted the management plan a written ex-
16 planation of the reasons for disapproval.

17 “(e) IMPLEMENTATION OF MANAGEMENT PLANS.—

18 “(1) IN GENERAL.—A brand owner that, on or
19 before the date of enactment of this subtitle, is sell-
20 ing in interstate commerce a beverage in a beverage
21 container, shall—

22 “(A) not later than 180 days after the date
23 of enactment of this subtitle, have in effect a
24 management plan that has been approved by
25 the Administrator; and



1 “(B) implement the management plan in
2 accordance with the implementation date pro-
3 posed in the management plan under subsection
4 (b)(2)(A).

5 “(2) NEW BRAND OWNERS.—A brand owner
6 that proposes, after the date of enactment of this
7 subtitle, to sell in interstate commerce a beverage in
8 a beverage container shall—

9 “(A) have, as of the date on which the
10 brand owner commences the selling of the bev-
11 erage, a management plan that has been ap-
12 proved by the Administrator; and

13 “(B) implement the management plan in
14 accordance with the implementation date pro-
15 posed in the management plan under subsection
16 (b)(2)(A).

17 “(3) PROHIBITION.—No brand owner shall sell
18 in interstate commerce any beverage in a beverage
19 container—

20 “(A) except as in accordance with para-
21 graph (1) or (2), as appropriate; or

22 “(B) on or after the implementation date
23 proposed in a management plan of the brand
24 owner under subsection (b)(2)(A), if the Admin-
25 istrator has not approved the management plan.



1 “(f) REPORT.—

2 “(1) IN GENERAL.—Each beverage container
3 agency the management plan of which is approved
4 and implemented under this section shall, not later
5 than March 31 of each year after the implementa-
6 tion date of the management plan, submit to the Ad-
7 ministrator a report that describes the effectiveness
8 of the management plan during the preceding cal-
9 endar year.

10 “(2) INFORMATION.—The report shall
11 include—

12 “(A) for each type of beverage container
13 returned, the recovery rate—

14 “(i) expressed as a percentage; and

15 “(ii) audited by an entity independent
16 of the beverage container agency; and

17 “(B) annual financial statements, prepared
18 by an entity independent of the beverage con-
19 tainer agency, of all deposits received and re-
20 funds paid by each brand owner subject to the
21 management plan.

22 “(3) PUBLIC AVAILABILITY.—The Adminis-
23 trator may make available to the public the informa-
24 tion described in paragraph (2).



1 **“SEC. 12005. DEPOSIT AND REFUND.**

2 “(a) DEPOSIT.—

3 “(1) IN GENERAL.—On and after the imple-
4 mentation date of any approved management plan to
5 which a seller is subject, the seller shall collect from
6 each purchaser of a beverage in a beverage con-
7 tainer, at the time of sale, a deposit in an amount
8 that is not more than the refund value of the bev-
9 erage container.

10 “(2) DOCUMENTATION.—A deposit collected
11 under paragraph (1) shall be indicated on the re-
12 ceipt of the purchaser, if a receipt is given for the
13 purchase.

14 “(3) EXCEPTION.—This subsection shall not
15 apply to a case in which a beverage in a beverage
16 container is sold for consumption, and is consumed,
17 on the premises of the seller.

18 “(b) REFUND.—On and after the implementation
19 date of an approved management plan, a beverage con-
20 tainer return site covered by the management plan shall—

21 “(1) accept unbroken beverage containers for
22 return; and

23 “(2) pay to a person returning beverage con-
24 tainers an amount, in cash or in the form of a
25 voucher redeemable for cash on demand, that is
26 equal to the total of the refund values affixed to,



1 printed on, or embossed on, each container returned
2 by the person.

3 “(c) ACCEPTABLE BEVERAGE CONTAINERS.—A re-
4 turn site shall not be required to accept or pay a refund
5 for a beverage container under this section if, as deter-
6 mined by the return site, the beverage container—

7 “(1) is contaminated or, for hygienic reasons, is
8 unsuitable for recycling;

9 “(2) can be reasonably identified as a container
10 that was purchased outside the United States; or

11 “(3) cannot be reasonably identified as a con-
12 tainer to which this subtitle applies.

13 **“SEC. 12006. REFUND VALUE.**

14 “(a) IN GENERAL.—The refund value of a beverage
15 container shall be the greater of—

16 “(1) 10 cents; or

17 “(2) an adjusted value determined under sub-
18 section (b).

19 “(b) ADJUSTMENT.—The Administrator shall—

20 “(1) adjust the amount of the refund value of
21 a beverage container under subsection (a) on the
22 date that is 10 years after the date of enactment of
23 this subtitle, and every 10 years thereafter, to reflect
24 changes during those 10-year periods in the Con-



1 consumer Price Index for all urban consumers published
2 by the Department of Labor; and

3 “(2) round any adjustment under paragraph
4 (1) to the nearest 5-cent increment.

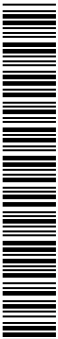
5 **“SEC. 12007. RECOVERY RATES.**

6 “(a) IN GENERAL.—Except as provided in sub-
7 sections (b) and (c), in a case in which a brand owner
8 complies with each provision of this subtitle, but fails to
9 achieve a recovery rate of at least 80 percent for beverage
10 containers of the brand owner during a calendar year, the
11 Administrator may require that the beverage container
12 agency of the brand owner pay to each State an amount
13 equal to the difference between—

14 “(1) the amount of deposits collected on bev-
15 erage containers of the brand owner that were sold
16 in the State; and

17 “(2) the amount of refunds paid on those bev-
18 erage containers.

19 “(b) EXEMPTIONS FOR CERTAIN STATES.—A brand
20 owner that achieves a recovery rate of at least 80 percent
21 under a beverage container deposit program of a State
22 within the 2-year period beginning on the date of enact-
23 ment of this subtitle shall be exempt from the provisions
24 of this subtitle with respect to that State.



1 “(c) REUSE RATE ADJUSTMENT.—The minimum re-
2 covery rate required to be achieved by a brand owner
3 under subsection (a) shall be reduced by 1 percentage
4 point for each percentage point increase in the use by the
5 brand owner of refillable beverage containers.

6 **“SEC. 12008. OTHER MANAGEMENT REQUIREMENTS.**

7 “(a) DISPUTES.—If a dispute arises under this sub-
8 title between, and cannot be resolved by, a beverage con-
9 tainer agency and a return site, the beverage container
10 agency or the return site shall refer the matter to binding
11 arbitration.

12 “(b) CONFIDENTIALITY.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), each person acting under the authority of
15 this subtitle shall keep confidential all facts, infor-
16 mation, and records obtained or provided under this
17 subtitle.

18 “(2) EXCEPTION.—Paragraph (1) shall not
19 apply in a case in which public duty requires, or any
20 regulation promulgated by the Administrator under
21 this subtitle permits, the disclosure of any facts, in-
22 formation, or records described in that paragraph.



1 **“SEC. 12009. REPORT BY ADMINISTRATOR.**

2 “Not later than May 31, 2003, and annually there-
3 after, the Administrator shall submit to Congress a report
4 that describes—

5 “(1) the recovery rate for beverage containers
6 during the year covered by the report; and

7 “(2) the extent to which beverage container col-
8 lection is proceeding in accordance with this subtitle.

9 **“SEC. 12010. PENALTIES.**

10 “Notwithstanding any other provision of this Act—

11 “(1) a person that violates any provision of this
12 subtitle (other than section 12004(f)) shall be sub-
13 ject to a civil penalty of not more than \$1,000 for
14 each violation; and

15 “(2) a person that violates section 12004(f)
16 shall be subject to a civil penalty of not more than
17 \$10,000 for each violation.”.

18 (b) CONFORMING AMENDMENT.—The table of con-
19 tents for the Solid Waste Disposal Act (42 U.S.C. prec.
20 6901) is amended by adding at the end the following:

“Subtitle K—Beverage Container Reuse and Recycling

“Sec. 12001. Definitions.

“Sec. 12002. Responsibilities of brand owners.

“Sec. 12003. Beverage container labeling.

“Sec. 12004. Management plans.

“Sec. 12005. Deposit and refund.

“Sec. 12006. Refund value.

“Sec. 12007. Recovery rates.

“Sec. 12008. Other management requirements.

“Sec. 12009. Report by Administrator.

“Sec. 12010. Penalties.”.

