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SB-458 Beverage container recycling: pilot projects. (2017-2018)

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Senate Bill No. 458

CHAPTER 648

An act to add Sections 14515.8 and 14571.9 to the Public Resources Code, relating to recycling, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 2017. Filed with Secretary of State October 10, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 458, Wiener. Beverage container recycling: pilot projects.

Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires that every beverage container sold or offered for sale in this state have a minimum refund value. A beverage distributor is required to pay a redemption payment to the Department of Resources Recycling and Recovery for every beverage container sold or offered for sale in the state to a dealer, and the department is required to deposit those amounts in the California Beverage Container Recycling Fund. The money in the fund is continuously appropriated to the department to, among other things, pay handling fees to certified recycling centers. The act requires processors to pay refund values, administrative costs, and processing payments to certified recycling centers, dropoff or collection programs, and curbside programs.

The act requires the department to annually designate convenience zones, as defined, statewide and requires at least one certified recycling center or location within every convenience zone that accepts all types of empty beverage containers and pays the refund value, if any, at one location, and that is open for business 30 hours per week.

This bill would, until January 1, 2020, authorize up to 5 limited-term recycling pilot projects, subject to department approval, that are designed to improve redemption opportunities in unserved convenience zones. The bill would subject the pilot projects to certain requirements, including, among others, that the pilot project is served by a pilot project recycler meeting certain requirements. The bill would require dealers within the jurisdiction of a pilot project to post certain information relating to pilot project locations, as specified, and a department-established toll-free number for information relating to beverage container recycling opportunities. The bill would authorize the department to issue a probationary certificate of operation to a pilot project recycler, to be valid for no more than 3 years, and would make that pilot project recycler eligible to apply for handling fees from the department and to receive refund values, administrative costs, and processing payments from processors. By authorizing the use of moneys in a continuously appropriated fund for a new purpose, this bill would make an appropriation. The bill would require dealers in a convenience zone served by a pilot project to comply with general act requirements if a pilot project ceases to operate or if the pilot project's certification is revoked.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14515.8 is added to the Public Resources Code, to read:

14515.8. (a) "Pilot project recycler" means a recycling location established pursuant to Section 14571.9.

(b) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2022, deletes or extends that date.

SEC. 2. Section 14571.9 is added to the Public Resources Code, to read:

14571.9. (a) Until January 1, 2020, the department may approve up to five recycling pilot projects that meet the requirements of this section.

(1) The pilot projects, which shall be submitted by applicant jurisdictions, shall be designed to improve redemption opportunities in unserved convenience zones. It is the intent of the Legislature to create new, convenient recycling opportunities to improve consumer redemption of eligible beverage containers and increase recycling rates in jurisdictions served by pilot projects.

(2) Unless otherwise specified in or authorized by the department pursuant to this section, an operator of a pilot project shall be subject to all requirements imposed on recycling centers as specified in this division and any implementing regulations.

(3) If a pilot project ends before January 1, 2020, the department may consider additional pilot project proposals, but not more than five pilot projects may operate at the same time.

(b) Notwithstanding Sections 14570, 14571, and 14571.6, a convenience zone that falls within the area of a pilot project approved by the department under this section shall be deemed served while the pilot project is operational.

(1) (A) Every dealer within the jurisdiction of a pilot project shall post a clear and conspicuous sign of at least 10 inches by 15 inches at each public entrance to the dealer's place of business that specifies the name of the pilot project location nearest to the dealer, as provided by the department, the days and hours of operation of the pilot project location, and the toll-free telephone number established by the department pursuant to subparagraph (B). This information shall be kept accurate and up to date.

(B) The department shall establish a toll-free number for the purpose of disseminating information regarding beverage container recycling opportunities.

(2) If a pilot project ceases operation or the pilot project's certification has been revoked by the department, a dealer in the convenience zone served by the pilot project shall comply with Sections 14570, 14571, and 14571.6. The department shall inform all dealers within a convenience zone of any change in status of a pilot project serving that convenience zone within 10 days.

(c) No later than 90 days after the effective date of this section, the department shall hold at least one public workshop with interested stakeholders to solicit feedback on the pilot project program described in this section, including feedback on the factors that may be considered in the approval of a pilot project.

(d) The requirements for a pilot project shall include, but not be limited to, all of the following:

(1) A pilot project shall serve one of the following:

(A) At least three unserved convenience zones.

(B) One or more convenience zones impacting a total of at least 30 dealers in unserved convenience zones.

(C) A rural region.

(2) A pilot project shall be in a jurisdiction that, as of the effective date of this section, meets at least one of the following conditions:

(A) Had at least six unserved convenience zones.

(B) Had 75 percent of the convenience zones in the jurisdiction unserved.

(C) Is located in a rural region.

(3) A pilot project shall not establish a location for redeeming a beverage container for its refund value that is outside of a convenience zone.

(4) A convenience zone in the pilot project shall be served by only one pilot project recycler.

(5) A pilot project shall be served only by a pilot project recycler that meets all of the following requirements:

(A) The pilot project recycler shall be cumulatively open for a minimum of 30 hours per week.

(B) The pilot project recycler shall be open a minimum of one day per week for at least eight hours.

(C) The pilot project recycler shall be open at least five hours per week during periods other than from Monday through Friday from 9 a.m. to 5 p.m.

(D) The pilot project recycler shall accept and pay the refund value for all eligible beverage container types.

(E) The operator of the pilot project recycler shall notify the department in writing 10 days before any change of the location where redeemed empty beverage containers are stored.

(F) The pilot project recycler shall only redeem eligible empty beverage container material purchased from consumers for recycling, and shall not accept material from any other certified or noncertified person or entity, including, but not limited to, recycling centers, dropoff or collection programs, curbside programs, and processors.

(G) A pilot project operator shall keep separate transaction records for each location within the pilot project, and in the case of mobile collection programs, separate transaction records for each location served by the mobile unit.

(6) No processor shall issue an authorization to cancel pursuant to subdivision (b) of Section 2110 of Title 14 of the California Code of Regulations to a pilot project recycler.

(7) Additional requirements as deemed necessary by the department.

(e) A pilot project established pursuant to this section may provide stationary dropoff locations or mobile collection programs.

(f) A jurisdiction that opts to be served by a pilot project shall submit its pilot project proposal to the department for approval. The proposal shall include all of the following elements:

(1) A map of the pilot project area, including intended locations for pilot project recyclers.

(2) A list of proposed operators of pilot project recyclers.

(3) Contact information for the jurisdiction.

(4) Planned dates of operation.

(5) A description of how the pilot project will meet the requirements of this section.

(6) Additional elements as determined by the department.

(g) The department may issue probationary certificates of operation to pilot project recyclers participating in an approved pilot project. A certificate issued under this section shall be valid, and shall specify that the certificate is valid, for a period of not more than three years or until the end of the pilot project, whichever comes first. Notwithstanding certification requirements imposed by this division or implementing regulations, the following application review timelines shall apply to pilot projects:

(1) The department shall notify each applicant and the appropriate pilot project contact within 30 calendar days of receipt of the proposal, or receipt of additional information if the proposal was initially deemed incomplete, that the proposal for certification is either complete and accepted for further review or incomplete and the reasons for incompleteness.

(2) Upon determining that a proposal is complete, the department shall notify the applicant and appropriate pilot project contact in writing within 30 calendar days that the application is either approved with probationary status or denied and the reasons for denial.

(h) In approving pilot projects, the department shall consider all of the following factors:

(1) The number of unserved convenience zones that will be served by the pilot project.

(2) The total number of hours per week the pilot project recycler will operate.

(3) The total number of locations that will be served under the pilot project.

(4) Whether the jurisdiction has actively prevented the siting or operation of a certified recycling center at a supermarket site.

(5) The geographic distribution of jurisdictions proposing a pilot project.

(6) Potential impacts to existing certified recycling centers.

(7) Additional factors deemed relevant by the department.

(i) (1) The department may revoke the approval of a pilot project or the associated probationary certification of a pilot project recycler participating in the pilot project, or both, at any time if the jurisdiction or operator of the pilot project recycler fails to meet the conditions outlined in the department's approval of the application or violates this division or a regulation adopted pursuant to this division, except as to violations of the division or regulations that are inconsistent with the operation of an approved pilot project. If the department revokes a probationary certification of a pilot project recycler, the department may require the jurisdiction or operator of the pilot project to take the steps necessary to ensure that the pilot project achieves its goals consistent with the approved pilot project application.

(2) If the approval of a pilot project is revoked, the review process described in Section 14571.7 shall apply to each convenience zone that was a part of the pilot project.

(j) A pilot project recycler that has been certified by the department on a probationary basis pursuant to an approved pilot project shall be eligible to apply for handling fees pursuant to Section 14585 and to receive from certified processors the amounts specified in subdivision (a) of Section 14573.5 for refund values, administrative costs, and processing payments. For purposes of handling fee eligibility, a pilot project recycler may be located anywhere within a convenience zone.

(k) The department may adopt emergency regulations for the purpose of implementing this section. Any emergency regulations, if adopted, shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Any emergency regulations adopted pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until amended or repealed by the department or January 1, 2022, whichever comes first.

(l) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2022, deletes or extends that date.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the recent closures of recycling centers throughout the state, and to ensure that convenient recycling opportunities are available as soon as possible, it is necessary that this act take effect immediately.