



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-54 The California Beverage Container Recycling and Litter Reduction Act. (2019-2020)

SHARE THIS:  

Date Published: 10/14/2019 09:00 PM

Assembly Bill No. 54

CHAPTER 793

An act to amend Sections 14571.6, 14571.9, and 14581 of, and to add and repeal Section 14572.3 of, the Public Resources Code, relating to recycling, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 2019. Filed with Secretary of State October 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 54, Ting. The California Beverage Container Recycling and Litter Reduction Act.

Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires the Department of Resources Recycling and Recovery to annually designate convenience zones and requires that at least one certified recycling center that meets certain requirements be located within every convenience zone. The act requires dealers within a convenience zone where no recycling location has been established, or within a convenience zone that is unserved for 60 days and not exempt from convenience zone requirements, to submit an affidavit to the department stating that the dealer has met specified standards for redemption, including, among others, that the dealer is redeeming all empty beverage container types at all open cash registers or at one designated location on the dealer's premises, during all hours that the dealer is open for business. If the dealer does not submit that affidavit, existing law requires the dealer to pay \$100 per day to the department, for deposit in the continuously appropriated California Beverage Container Recycling Fund, until a recycling location is established or until the dealer meets the standards for redemption specified in the affidavit provision.

This bill, until March 1, 2020, would exempt from those duties dealers located in a convenience zone that was served by a recycling center that closed between August 1, 2019, and September 1, 2019, at the initiation of the recycler. The bill would also, until July 1, 2020, exempt from those duties a dealer located in an unserved convenience zone if a completed application for a recycling center located anywhere in the convenience zone is pending before the department and the dealer and the recycling center submit a letter to the department stating that the recycling center intends to serve that convenience zone. The bill, until July 1, 2020, would make such a recycling center eligible to receive handling fees for redeemed beverage containers once its application is approved.

The act, until January 1, 2020, authorizes up to 5 limited-term recycling pilot projects, subject to department approval, that are designed to improve redemption opportunities in unserved convenience zones. The act subjects each pilot project to certain requirements, including, among others, that the pilot project not establish a redemption location outside of a convenience zone.

This bill would extend the operation of that authorization until January 1, 2022, and would revise the pilot project requirements, including, among other revisions, prohibiting a pilot project from establishing a redemption location outside of the pilot project area rather than outside of a convenience zone. The bill would authorize the department, for the 2019–20 fiscal year to the 2021–

22 fiscal year, inclusive, to expend up to a total of \$5,000,000 from the fund to support the pilot projects. By authorizing expenditures from a continuously appropriated fund for a new purpose, the bill would make an appropriation.

This bill would authorize the Director of Finance to approve the expenditure of up to \$5,000,000 from the fund for supplemental payments to recycling centers if certain conditions are met, thereby making an appropriation.

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 14571.6 of the Public Resources Code is amended to read:

14571.6. In any convenience zone where no recycling location has been established which satisfies the requirements of Section 14571, and in any convenience zone which has exceeded the 60-day period for the establishment of a recycling center pursuant to Section 14571.7, all dealers within that zone shall, until a recycling location has been established in that zone, do one of the following:

(a) Submit to the department an affidavit form provided by the department stating that all of the following standards are being met by the dealer:

(1) The dealer redeems all empty beverage container types at all open cash registers or one designated location on the dealer's premises, during all hours that the dealer is open for business.

(2) The dealer has posted signs which meet the size and location requirements specified in subdivision (b) of Section 14570, and which conform to paragraph (2) of that subdivision.

(3) The dealer is delivering, or having delivered, all empty beverage containers received from the public to a certified recycling center or processor for recycling.

(b) Pay to the department for deposit in the fund the sum of one hundred dollars (\$100) per day until a recycling location is established or until the standards for redemption specified in subdivision (a) are met.

(c) (1) (A) A dealer located in an unserved convenience zone is exempt from the requirements of subdivisions (a) and (b) if a completed application for a recycling center located anywhere in the convenience zone is pending before the department and the dealer and the recycling center submit a letter to the department stating that the recycling center intends to serve that convenience zone.

(B) The exemption specified in this paragraph no longer applies if the applicant recycling center withdraws the application or if the department denies the application. In either of these instances, the dealer in the convenience zone shall immediately comply with the requirements of subdivision (a) or (b) upon notification by the department.

(2) Notwithstanding Section 14513.4, a recycling center described in paragraph (1) shall be eligible as an operator to receive handling fees for redeemed beverage containers once its application is approved.

(3) This subdivision shall become inoperative on July 1, 2020.

SEC. 2. Section 14571.9 of the Public Resources Code is amended to read:

14571.9. (a) (1) Until January 1, 2022, the department may approve up to five recycling pilot projects that meet the requirements of this section.

(2) 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 and to provide recycling opportunities to improve consumer redemption of eligible containers in pilot project areas, including in rural areas.

(3) 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, except for the requirements specified in Sections 14570 and 14571.

(4) If a pilot project ends before January 1, 2022, the department may consider additional pilot project proposals, but not more than five pilot projects may operate at the same time.

(b) (1) 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.

(2) (A) A 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 and an internet website for the purpose of disseminating information regarding beverage container recycling opportunities.

(3) 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 the pilot project application, 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 the pilot project area.

(4) A pilot project recycler may be located anywhere within the pilot project area.

(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 open a minimum of one weekday per week for at least eight hours.

(B) In addition to the requirement in subparagraph (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.

(C) The pilot project recycler shall be open at least eight hours per week during the weekend.

(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 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) A processor shall not 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 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) (1) Notwithstanding paragraph (1) of subdivision (c) of Section 14585, 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.

(2) Notwithstanding paragraph (1) of subdivision (c) of Section 14585, the existence of a pilot project recycler shall not affect the handling fee eligibility of a recycling center.

(3) For purposes of handling fee eligibility, a pilot project recycler may be located anywhere within a pilot project area.

(k) The department may adopt emergency regulations for the purpose of implementing this section. 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. 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 July 1, 2022, whichever comes first.

(l) This section shall become inoperative on July 1, 2022, and, as of January 1, 2023, is repealed.

SEC. 3. Section 14572.3 is added to the Public Resources Code, to read:

14572.3. (a) A dealer located in a convenience zone that was served by a recycling center that closed between August 1, 2019, and September 1, 2019, at the initiation of the recycler shall be exempt from the dealer requirements of Section 14571.6 from the effective date of this section until March 1, 2020.

(b) Nothing in this section limits the department's ability to take actions, including, but not limited to, notifying impacted dealers, before March 1, 2020, in order to immediately begin implementing the requirements of Section 14571.6 on March 1, 2020.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 4. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds and in accordance with subdivision (b), the department shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580, for the purposes of this section in the following manner:

(1) For each fiscal year, the department may expend the amount necessary to make the required handling fee payment pursuant to Section 14585.

(2) Fifteen million dollars (\$15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) Ten million five hundred thousand dollars (\$10,500,000) may be expended annually for payments of five thousand dollars (\$5,000) to cities and ten thousand dollars (\$10,000) for payments to counties for beverage container recycling and litter cleanup activities, or the department may calculate the payments to counties and cities on a per capita basis, and may pay whichever amount is greater, for those activities.

(B) Eligible activities for the use of these funds may include, but are not necessarily limited to, support for new or existing curbside programs, neighborhood dropoff programs, public education promoting beverage container recycling, litter prevention, and cleanup, cooperative regional efforts among two or more cities or counties, or both, or other beverage container recycling programs.

(C) These funds shall not be used for activities unrelated to beverage container recycling or litter reduction.

(D) To receive these funds, a city, county, or city and county shall fill out and return a funding request form to the department. The form shall specify the beverage container recycling or litter reduction activities for which the funds will be used.

(E) The department shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(4) One million five hundred thousand dollars (\$1,500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

(5) (A) The department shall expend the amount necessary to pay the processing payment established pursuant to Section 14575. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee are calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited both of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to Section 14575.

(ii) Funds equal to the difference between the amount in clause (i) and the amount of the processing payments established in subdivision (b) of Section 14575, and adjusted pursuant to paragraph (2) of subdivision (c) of, and subdivision (f) of, Section 14575, to reduce the processing fee to the level provided in subdivision (e) of Section 14575, or to reflect the agreement by a willing purchaser to pay a voluntary artificial scrap value pursuant to Section 14575.1.

(B) Notwithstanding Section 13340 of the Government Code, the moneys in each processing fee account are hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments pursuant to Section 14575.

(6) Up to five million dollars (\$5,000,000) may be annually expended by the department for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

(7) Up to ten million dollars (\$10,000,000) may be expended annually by the department for quality incentive payments for empty glass beverage containers pursuant to Section 14549.1.

(8) (A) For the 2019–20 fiscal year to the 2021–22 fiscal year, inclusive, the department may expend up to ten million dollars (\$10,000,000) each fiscal year for market development payments to reclaimers and product manufacturers, pursuant to Section 14549.2.

(B) For purposes of this paragraph, the definitions in subdivision (a) of Section 14549.2 apply.

(9) (A) For the 2019–20 fiscal year to the 2021–22 fiscal year, inclusive, the department may expend up to a total of five million dollars (\$5,000,000) to support the pilot projects created pursuant to Section 14571.9.

(B) Taking into consideration the recent closure of many of California's recycling centers, the Legislature finds and declares that the appropriation provided for in the act that added this paragraph during the 2019–20 Regular Session is necessary in order to ensure the continued support of, and to bolster, consumer redemption opportunities.

(b) (1) If the department determines, pursuant to a review made pursuant to Section 14556, that there may be inadequate funds to pay the payments required by this division, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(2) On or before 180 days, but not less than 80 days, after the notice is sent pursuant to paragraph (1), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (c).

(c) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(d) Before making an expenditure pursuant to paragraph (6) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

SEC. 5. (a) In addition to the five million dollars (\$5,000,000) appropriated pursuant to Item 3970-101-0276 of Section 2.00 of the Budget Act of 2019 (Chs. 23 and 55, Stats. 2019), the Director of Finance may approve the expenditure of up to five million dollars (\$5,000,000) from the California Beverage Container Recycling Fund created pursuant to subdivision (a) of Section 14580 of the Public Resources Code for supplemental payments to recycling centers, provided all of the following conditions are met:

(1) Funds already appropriated pursuant to Item 3970-101-0276 of Section 2.00 of the Budget Act of 2019 (Chs. 23 and 55, Stats. 2019) for supplemental payments to recycling centers have been subjected to an allocation methodology by the Department of Resources Recycling and Recovery and the department has committed the full amount of that appropriation to address underserved or unserved convenience zones, thereby demonstrating that additional funds are required for this purpose.

(2) The five million dollars (\$5,000,000) appropriated pursuant to paragraph (9) of subdivision (a) of Section 14581 of the Public Resources Code, as added by this measure, for pilot projects has been subject to a grant solicitation notice by the Department of Resources Recycling and Recovery, the department has accepted applications, and, to the maximum extent feasible, the department has expended funds to assist consumers in recycling beverage containers to address underserved or unserved convenience zones.

(3) The Department of Resources Recycling and Recovery reports to the appropriate policy and fiscal committees in each house of the Legislature by March 1, 2020, on options to expand or otherwise reconfigure convenience zones in order to reduce or eliminate public costs of supporting uneconomic and low-volume recycling centers while preserving the public's ability to redeem beverage containers for the refund value.

(b) The Director of Finance shall not approve the expenditure authorized pursuant to subdivision (a) for supplemental payments unless notice is made in writing and filed with the chairperson of the Joint Legislative Budget Committee and the chairpersons of the appropriate policy and fiscal committees in each house of the Legislature not later than 30 days prior to the effective date of the approval, or whatever lesser time prior to the effective date of the approval the chairperson of the Joint Legislative Budget Committee, or the chairperson's designee, may determine.

SEC. 6. 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:

Because of the unprecedented closures of recycling centers statewide, reduced access to redemption locations for consumers, declining recycling rates, and higher associated costs for grocers and retailers, it is necessary for this act to take effect immediately.