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## AB-1311 Recycling: beverage containers. (2021-2022)

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### Assembly Bill No. 1311

#### CHAPTER 506

An act to amend Sections 14514.4.1, 14525.5.1, 14538, 14570, 14571, and 14571.5 of, and to add Sections 14503.5.1 and 14572.1 to, the Public Resources Code, relating to recycling.

[ Approved by Governor October 05, 2021. Filed with Secretary of State October 05, 2021. ]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1311, Wood. Recycling: beverage containers.

(1) The California Beverage Container Recycling and Litter Reduction Act, which is administered by the Department of Resources Recycling and Recovery, is established to promote beverage container recycling and provides for the payment, collection, and distribution of certain payments and fees based on minimum refund values established for beverage containers. The act requires the department to annually designate convenience zones, as defined, throughout the state, and requires at least one certified recycling center or location within every convenience zone that accepts and pays the refund value, if any, at one location for all types of beverage containers. The act requires a certified recycling center or location to be open for business during at least 30 hours per week with a minimum of 5 hours of operation occurring during periods other than from Monday to Friday, from 9 a.m. to 5 p.m., as provided. The act specifies that a certified recycling center that is not a reverse vending machine, as defined, is "open for business" if specified criteria are met, including that an employee of the certified recycling center or location is present during the hours of operation and available to the public to accept containers and to pay the refund values.

The act provides that a recycling center that is a reverse vending machine that accepts all types of empty beverage containers except those that are 3 or more liters in volume and those that are pouches is open for business if it provides an attendant to accept all types of empty beverage containers for no less than 10 hours per week, as provided, and is operable and properly functioning for no less than 70 hours per week. The act requires the department to pay handling fees to those recycling centers, and requires those recycling centers to pay refund values, on the basis of the number of beverage containers redeemed through the reverse vending machines, and not on the basis of weight.

A violation of the act is an infraction.

This bill would apply the above-specified provisions applicable to reverse vending machines to bag drop recycling centers, defined to mean a recycling location operated by a recycling center at which consumers can drop off bagged empty beverage containers for redemption. The bill would require a bag drop recycling center to pay the refund value for beverage containers within a reasonable period of time, not to exceed 3 business days. Because a violation of this requirement would be a crime under the act, the bill would impose a state-mandated local program.

The bill would require, on or before July 1, 2022, the department to develop and implement a process pursuant to which a certified recycling center can apply to the department for authorization to operate on an alternative schedule, as specified. The bill would require the department to include in its process, among other components, criteria the department shall use to authorize a

certified recycling center to operate on an alternative schedule. The bill would provide that, until January 1, 2023, a certified recycling center or location that is not a reverse vending machine or a bag drop recycling center is additionally "open for business" if the certified recycling center or location receives written authorization from the department to operate pursuant to an appointment system during the hours of operation and the certified recycling center or location meets specified requirements. The bill would require the department to authorize a certified recycling center or location to operate pursuant to an appointment system only if the department determines that high customer demand, weather, or public health and safety concerns warrant the implementation of an appointment system at the certified recycling center or location, and the certified recycling center or location posts certain information.

The bill would also make related and conforming changes and update cross-references.

(2) Existing regulations prohibit a certified recycler from paying the refund value to, or claiming the refund value for any material received from, any person not certified pursuant to the act delivering a load of beverage container material in excess of specified amounts per day.

This bill would specify that a dealer delivering empty beverage containers received from the public to a certified recycling center or processor for recycling pursuant to a specified provision is not subject to those daily limits.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

**SECTION 1.** Section 14503.5.1 is added to the Public Resources Code, to read:

**14503.5.1.** "Bag drop recycling center" means a recycling location operated by a recycling center at which consumers can drop off bagged empty beverage containers for redemption.

**SEC. 2.** Section 14514.4.1 of the Public Resources Code is amended to read:

**14514.4.1.** "Neighborhood dropoff program" means a recycling program that meets all of the following criteria:

- (a) The program is certified by the department as a dropoff or collection program.
- (b) The program has been designated by a city, county, or city and county to provide a recycling opportunity in residential neighborhoods specified by the city, county, or city and county.
- (c) The program is located in a rural region, as identified pursuant to subparagraph (A) of paragraph (1) of subdivision (c) of Section 14571.

**SEC. 3.** Section 14525.5.1 of the Public Resources Code is amended to read:

**14525.5.1.** "Rural region recycler" means an operator that is certified pursuant to subparagraph (A) of paragraph (1) of subdivision (c) of Section 14571, and who accepts or collects empty beverage containers from consumers pursuant to Section 14572 with the intention to recycle them.

**SEC. 4.** Section 14538 of the Public Resources Code is amended to read:

**14538.** (a) (1) The department shall certify an operator of a recycling center pursuant to this section.

(2) The department shall review whether an application for certification or renewal is complete within 30 working days of receipt, including compliance with subdivision (c). If the department deems an application complete, the department shall approve or deny the application no later than 60 calendar days after the date when the application was deemed complete.

(b) The director shall adopt, by regulation, a procedure for the certification of recycling centers, including standards and requirements for certification. These regulations shall require that all information be submitted to the department under penalty of perjury. A recycling center shall meet all of the standards and requirements contained in the regulations for certification. The regulations shall require, but shall not be limited to requiring, that all of the following conditions be met for certification:

(1) The operator of the recycling center demonstrates, to the satisfaction of the department, that the operator will operate in accordance with this division.

(2) If one or more certified entities have operated at the same location within the past five years, the operations at the location of the recycling center exhibit, to the satisfaction of the department, a pattern of operation in compliance with the requirements of this division and regulations adopted pursuant to this division.

(3) The operator of the recycling center notifies the department promptly of any material change in the nature of the operator's operations that conflicts with information submitted in the operator's application for certification.

(c) (1) An applicant for certification as a recycling center, and a recycling center applying for renewal of a certification, shall complete the precertification training program required by this subdivision and meet all other qualification requirements prescribed by the department, which may include, but are not limited to, requiring the applicant to obtain a passing score on an examination administered by the department.

(2) The department may use staff or industry experts, or may seek expertise available in other state agencies, to provide the training program required by this subdivision, which shall include providing technical assistance to better prepare recycling centers for successful participation in this division, thereby reducing the potential for errors, fraud, or other activities that compromise the integrity of the implementation of this division.

(d) A certified recycling center shall comply with all of the following requirements for operation:

(1) The operator of the recycling center shall not pay a refund value for, or receive a refund value from any processor for, any food or drink packaging material or any beverage container or other product that does not have a refund value established pursuant to Section 14560.

(2) The operator of a recycling center shall take actions that satisfy the department to prevent the payment of a refund value for any food or drink packaging material or any beverage container or other product that does not have a refund value established pursuant to Section 14560.

(3) (A) Unless exempted pursuant to subdivision (b) of Section 14572, a certified recycling center shall accept, and pay at least the refund value for, all empty beverage containers, regardless of type.

(B) A bag drop recycling center shall pay the refund value for beverage containers within a reasonable period of time, not to exceed three business days. The refund value may be paid electronically in accordance with Section 14531.

(4) A certified recycling center shall not pay any refund values, processing payments, or administrative fees to a noncertified recycler.

(5) A certified recycling center shall not pay any refund values, processing payments, or administrative fees on empty beverage containers or other containers that the certified recycling center knew, or should have known, were coming into the state from out of the state, or are otherwise ineligible for redemption.

(6) A certified recycling center shall not claim refund values, processing payments, or administrative fees on empty beverage containers that the certified recycling center knew, or should have known, were received from noncertified recyclers or on beverage containers that the certified recycling center knew, or should have known, come from out of the state, or are otherwise ineligible for redemption.

(7) A certified recycling center shall prepare and maintain the following documents involving empty beverage containers, as specified by the department by regulation:

(A) Shipping reports that are required to be prepared by the recycling center, or that are required to be obtained from other recycling centers.

(B) Consumer transaction receipts.

(C) Consumer transaction logs.

(D) Rejected container receipts on materials subject to this division.

(E) Receipts for transactions with beverage manufacturers on materials subject to this division.

(F) Receipts for transactions with beverage distributors on materials subject to this division.

(G) Documents authorizing the recycling center to cancel empty beverage containers.

(H) Weight tickets.

(8) In addition to the requirements of paragraph (7), a certified recycling center shall cooperate with the department and make available its records of scrap transactions when the review of these records is necessary for an audit or investigation by the department.

(e) The department may recover, in restitution pursuant to paragraph (5) of subdivision (c) of Section 14591.2, payments made from the fund to the certified recycling center pursuant to Section 14573.5 that are based on the documents specified in paragraph (7) of subdivision (d), that are not prepared or maintained in compliance with the department's regulations, and that do not allow the department to verify claims for program payments.

(f) The department may certify a recycling center that will operate less than 30 hours a week, as specified in paragraph (1) of subdivision (c) of Section 14571.

**SEC. 5.** Section 14570 of the Public Resources Code is amended to read:

**14570.** Every dealer 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 one of the following:

(a) The name and address, as provided by the department, of at least the certified recycling center, location, or locations, nearest to the dealer, that redeems all types of empty beverage containers consistent with Section 14571.

(b) One of the following procedures for redeeming beverage containers is available, pursuant to Section 14571.6:

(1) Beverage containers may be redeemed at all open cash registers within this place of business.

(2) Beverage containers may be redeemed at one specific location on the dealer's premises that is identified on the sign.

**SEC. 6.** Section 14571 of the Public Resources Code is amended to read:

**14571.** (a) Except as otherwise provided in this chapter, there shall be at least one certified recycling center or location within every convenience zone that accepts and pays the refund value, if any, at one location for all types of empty beverage containers and is open for business during at least 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9 a.m. to 5 p.m.

(b) Notwithstanding subdivision (a), the department may require a certified recycling center to operate up to 50 percent of its hours of operation other than during 9 a.m. to 5 p.m.

(c) (1) Notwithstanding subdivisions (a) and (b), the department may certify a recycling center that will operate less than 30 hours per week, if either of the following conditions are met:

(A) The recycling center is in a rural region. For purposes of this subparagraph, "rural region" means a nonurban area identified by the department on an annual basis using the loan eligibility criteria of the Rural Housing Service of the United States Department of Agriculture, Rural Development Administration, or its successor agency. Those criteria include, but are not limited to, places, open country, cities, towns, or census designated places with populations that are less than 10,000 persons. The department may designate an area with a population of between 10,000 and 50,000 persons as a rural region, unless the area is identified as part of, or associated with, an urban area, as determined by the department on an individual basis.

(B) The needs of the community and the goals of this division will be best served by certification of the operation as a recycling center.

(2) A recycling center that is certified pursuant to paragraph (1) shall post a sign indicating the location of the nearest recycling center that is open at least 30 hours per week and that will accept all material types.

(3) (A) Notwithstanding subdivisions (a) and (b), on or before July 1, 2022, the department shall develop and implement a process pursuant to which a certified recycling center can apply to the department for authorization to operate on an alternative schedule. For purposes of this paragraph, "alternative schedule" means a schedule other than the schedule specified in subdivision (a) or that may be required by the department pursuant to subdivision (b), including reduced hours of operation.

(B) The department shall include in the process developed pursuant to subparagraph (A), at a minimum, all of the following:

(i) The form and content of the application required to be submitted to the department by a certified recycling center seeking to operate on an alternative schedule, and the manner in which the application shall be submitted to the department.

(ii) The criteria used by the department to authorize a certified recycling center to operate on an alternative schedule, which shall include, but are not limited to, providing flexibility for certified recycling centers that are owned or operated by small or family-owned businesses and centers that are experiencing operational challenges due to natural disasters or states of emergency, as determined by the department.

(iii) A minimum number of hours per week, per month, or per year that a recycling center may be open for business and still meet the requirements of subdivision (d).

(iv) Any other requirements the department deems necessary for a certified recycling center to operate on an alternative schedule and still meet the requirements of subdivision (d).

(d) Before establishing operating hours for a certified recycling center pursuant to subdivision (c), the department shall make a determination that this action is necessary to further the goals of this division and that the proposed operating hours will not significantly decrease the ability of consumers to conveniently return beverage containers for the refund value to a certified recycling center redeeming all material types.

(e) (1) For purposes of this section, if a certified recycling center or location is staffed and is not a reverse vending machine or a bag drop recycling center, the certified recycling center is "open for business" if all of the following requirements are met:

(A) An employee of the certified recycling center or location is present during the hours of operation and available to the public to accept containers and to pay the refund values.

(B) In addition to the sign specified in subdivision (j), a sign having a minimum size of two feet by two feet is posted at the certified recycling center or location indicating that the certified recycling center or location is open. Where allowed by local zoning requirements or where zoning restrictions apply, the sign shall be of the maximum allowable size.

(C) The prices paid, by weight or per container, are posted at the location.

(2) (A) Notwithstanding paragraph (1), for purposes of this section, until January 1, 2023, a certified recycling center or location that is not a reverse vending machine or a bag drop recycling center is "open for business" if the certified recycling center or location receives written authorization from the department to operate pursuant to an appointment system during the hours of operation and the certified recycling center or location meets both of the following requirements:

(i) The certified recycling center or location ensures that an employee of the certified recycling center or location is present during all appointments and available to accept containers and to pay the refund values.

(ii) The certified recycling center or location meets the requirements of subparagraphs (B) and (C) of paragraph (1).

(B) The department shall authorize a certified recycling center or location to operate pursuant to an appointment system under subparagraph (A) only if the department determines that high customer demand, weather, or public health and safety concerns warrant the implementation of an appointment system at the certified recycling center or location.

(f) (1) Except as provided in subdivisions (g) and (i), for the purpose of this section, if the recycling center consists of reverse vending machines or other unmanned automated equipment, or is a bag drop recycling center, the center is "open for business" if the equipment or bag drop is properly functioning, accepting all types of empty beverage containers at the recycling location, and paying posted refund values no less than the minimums required by this division.

(2) A recycling center that meets the requirements in paragraph (1) shall not be required to have an employee present during the hours of operation in order to be "open for business."

(g) If a recycling center consists of reverse vending machines or other automated equipment, or is a bag drop recycling center, the recycling center is "open for business" if the equipment or bag drop is properly functioning, and accepting all types of empty beverage containers at one physical recycling location within the recycling location.

(h) Whenever a recycling center that is a reverse vending machine is not "open for business" during the hours of operation required and posted pursuant to this section and Section 14570, the dealer that is hosting the reverse vending machine at its place of business shall redeem all empty beverage container types at all open cash registers or one designated location at the store, as specified on the sign required pursuant to subdivision (j).

(i) (1) A recycling center that is a reverse vending machine or a bag drop recycling center that accepts all types of empty beverage containers except those that are three or more liters in volume and those that are pouches is open for business if it does both of the following:

(A) Provides an attendant to accept all types of empty beverage containers for no less than 10 hours per week, with no less than five of those hours on a weekend day between the hours of 9 a.m. and 5 p.m.

(B) Is operational and functioning properly for no less than 70 hours per week.

(2) A handling fee shall not be paid to a recycling center described in paragraph (1) if the recycling center is located in a convenience zone in which a preexisting certified recycling center is located. Notwithstanding paragraph (1) of subdivision (c) of Section 14585, a preexisting certified recycling center located in the same convenience zone as a recycling center described in paragraph (1) shall continue to be eligible to receive handling fee payments.

(3) The department shall pay handling fees to a recycling center described in paragraph (1), and the recycling center shall pay refund values, on the basis of the number of beverage containers redeemed through the reverse vending machine or bag drop, and not on the basis of weight. The department shall determine the method of certifying the validity of the number of beverage containers counted by the reverse vending machine or bag drop.

(j) In addition to the sign specified in subparagraph (B) of paragraph (1) of subdivision (e), each reverse vending machine shall be posted with a clear and conspicuous sign on or near the reverse vending machine that states that beverage containers may be redeemed by the host dealer if the machine is nonoperational at any time during the required hours of operation, pursuant to subdivision (h). The department shall determine the size and location of the sign and the message required to be printed on the sign.

**SEC. 7.** Section 14571.5 of the Public Resources Code is amended to read:

**14571.5.** The department may, in a rural region, as identified pursuant to subparagraph (A) of paragraph (1) of subdivision (c) of Section 14571, upon petition by an interested person, do either of the following:

(a) (1) Increase a convenience zone to include the area within a three-mile radius of a supermarket, if the expanded convenience zone would then be served by a single existing certified recycling center or location.

(2) This subdivision applies only to a convenience zone that is otherwise not being served by a certified recycling center or location meeting the requirements of Section 14571 or is exempted by the department pursuant to Section 14571.8.

(b) (1) Designate a convenience zone pursuant to Section 14571.1 in an area where there is no supermarket, but with two or more dealers located within a one-mile radius of each other, and that meets all of the following criteria:

(A) The dealers in that area have combined gross annual sales of two million dollars (\$2,000,000) or more, as certified by the petitioner in an affidavit filed with the petition.

(B) The convenience zone encompasses a three-mile radius, with the center of the zone established at the dealer, located closest to the existing recycling center specified in subparagraph (D).

(C) The convenience zone does not overlap any other existing convenience zone.

(D) The convenience zone is served by a single existing certified recycling center.

(2) The department shall identify the dealer locations only for the purpose of providing a reference point in the establishment of the convenience zone pursuant to this subdivision.

(3) If the existing recycling location in a convenience zone designated pursuant to this subdivision ceases operations, the convenience zone shall also cease to exist until a new recycling location is established, and the department is petitioned by an interested person to designate a convenience zone.

**SEC. 8.** Section 14572.1 is added to the Public Resources Code, to read:

**14572.1.** A dealer delivering empty beverage containers received from the public to a certified recycling center or processor for recycling pursuant to paragraph (3) of subdivision (a) of Section 14571.6 is not subject to the daily load limits established pursuant to subdivision (f) of Section 2535 of Title 14 of the California Code of Regulations.

**SEC. 9.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.