

To the Members of the California State Senate:

I am returning Senate Bill 402 without my signature.

This bill makes changes to California's Beverage Container Recycling Program by adding new containers to the fee program, increasing the California Refund Value (CRV) fee on some existing containers, and maintaining, suspending, or increasing funding for ancillary programs that benefit from excess funds in the CRV fund.

The Beverage Container Recycling Fund (Fund) is facing a severe deficit at the end of the 2009-2010 Fiscal Year because Californians are recycling more and because this fund has made loans to the General Fund of several hundred million dollars over the past several years. To combat this deficit, the Department of Conservation has had to implement an across the board cut of 85 percent to the funding programs paid by the Fund. My Administration has offered solutions for long-term repair of the Fund, but unfortunately, SB 402 does not contain those solutions.

SB 402 expands the Beverage Container Recycling Program to include fruit and vegetable juices and soy based drinks. This expansion is inappropriate given that these products are often dietary necessities for families; while wine and distilled spirits, which are more like the products currently subject to the CRV and are typically paid for from consumer's disposable income, remain exempt from the program. While consumers will have the opportunity to recover their costs when they recycle their containers, they will face a direct impact at the time of purchase, which will be troubling for many in this economy.

Furthermore, while the bill proposes to capture more beverage containers for the recycling market rather than the waste stream, there are, at present, no known California end users for the material types SB 402 adds to the Program. This bill proposes that CRV be applied to products that will likely end up in a landfill.

This bill would also change the CRV threshold to beverage containers carrying 20 fluid ounces or less to \$0.05 per container, and beverage containers carrying 20 fluid ounces or more to \$0.10 per container, effective January 1, 2010. This change in law, combined with the additional containers and beverage types, would cost consumers about \$300 million annually. Additionally, these changes are merely a patch that provides relief for only one fiscal year. The Fund cannot support the expenditures continued by SB 402 beyond the first half of Fiscal Year 2010-2011.

Finally, in addition to several other fatal flaws, this bill unjustifiably uses the Fund to increase grant amounts for some programs, guarantee payments into the future for others, and decrease or eliminate grant funding for still others, including public education used to inform consumers of the program expansion and fee increase.

SB 402 fails to make the hard choices that need to be made with regard to providing a lasting solution for the Fund. While I recognize that without this bill there is an immediate hardship placed upon consumers and businesses because of the across the board funding reduction, the lasting effects of this bill are far worse.

Consistent with a provision already included in SB 402 and in an effort to mitigate this hardship, I am ordering the Department of Conservation to adopt emergency regulations to accelerate the deposit paid into the Fund by adjusting the payment schedule for distributors from every three months to every two months. I recognize this action will not solve the problems faced by the Fund, but, with the cooperation of those who pay into and receive grants from the Fund, it should smooth out the challenges in the current fiscal year as we work on additional, long term solutions.

Additionally, subsequent legislation on this issue should contain provisions that prohibit any additional loans to the General Fund in the future and require the General Fund to repay past loans from this program.

For these reasons, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger