A bill to be entitled
An act relating to beverage container deposits; creating
s. 403.778, F.S.; providing a short title; providing
definitions; establishing a refund value for specified
beverage containers; requiring consumers and dealers to
pay a deposit fee for specified beverage containers;
providing for redemption of beverage containers and
deposit fees; authorizing use of reverse vending machines;
providing requirements and procedures for redemption
centers and beverage container dealers and distributors;
providing for reimbursement of certain handling fees;
requiring the keeping of specified information and
records; preserving the confidentiality of trade secret
information; authorizing the Department of Environmental
Protection to adopt implementing rules; specifying
conditions for violation of the act; providing a civil
penalty and providing for its disposition; prohibiting
local governments from imposing fees for the same or
similar purpose; providing an effective date.

WHEREAS, the Legislature finds that reducing roadside
litter is important for the promotion of tourism and to increase
the quality of life for the residents of this state, and
WHEREAS, the Legislature finds that recycling is also an
important element of an integrated solid waste management
system, which can protect and preserve environmental resources
and reduce economic costs to residents and businesses within the
state, and
WHEREAS, the Legislature finds a need to reduce both roadside and overall litter, as well to expand participation in recycling programs, and

WHEREAS, the purpose of this act is to reduce both roadside and overall litter, to increase participation and recycling rates for specified deposit beverage containers, to reduce waste disposal costs, to provide a connection between manufacturing decisions and recycling program management, to create local jobs, to combat climate change, and to save energy, NOW,

THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 403.778, Florida Statutes, is created to read:

403.778 Beverage container deposits.--
(1) SHORT TITLE.--This section may be cited as the "Florida Beverage Container Deposit Act."

(2) DEFINITIONS.--As used in this section:

(a) "Consumer" means a person who buys a deposit beverage in a deposit beverage container for use or consumption and pays the deposit.

(b) "Dealer" means a person who engages in the sale of deposit beverages in deposit beverage containers to a consumer for off-premises consumption in the state.

(c) "Department" means the Department of Environmental Protection.

(d) "Deposit beverage" means beer, ale, or other drink
produced by fermenting malt; mixed spirits, mixed wine, wine, distilled spirits, and wine coolers; tea and coffee drinks, regardless of dairy-derived product content; soda; carbonated and noncarbonated water; and all nonalcoholic drinks in liquid form that are intended for internal human consumption and are contained in a deposit beverage container. The term does not include:

1. A liquid that is a syrup in a concentrated form or typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces, or condiments.

2. A liquid that is a drug, medical food, or infant formula as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. ss. 301 et seq.

3. A liquid that is designed and consumed only as a dietary supplement and not as a beverage as defined in the Dietary Supplement Health and Education Act of 1994, Pub. L. No. 103-417.

4. Products frozen at the time of sale to the consumer or, in the case of institutional users such as hospitals and nursing homes, at the time of sale to the users.

5. Products designed to be consumed in a frozen state.

6. Instant drink powders.

7. Seafood, meat, or vegetable broths, or soups, but not juices.

8. Milk and all other dairy-derived products, except tea and coffee drinks containing such products.

(e) "Deposit beverage container" means a sealed,
individual container made of glass, aluminum, steel, bimetal, or plastic, including polyethylene terephthalate (PET), high-density polyethylene (HDPE), and all other plastic types and grades, in sizes of at least 6 fluid ounces but no more than 1 gallon or 3.8 liters, and used, at the time of sale to the consumer, for containing a deposit beverage intended for use or consumption in this state.

(f) "Distributor" means a person who is a manufacturer of deposit beverages in deposit beverage containers in this state or who buys, brings, or accepts delivery of deposit beverage containers from an address, supplier, or any entity outside the state and engages in the sale of filled deposit beverage containers to a dealer or consumer. The term includes federal agencies and military distributors, but does not include airlines and shipping companies that merely transport deposit beverage containers.

(g) "Mobile redemption center" means a traveling certified redemption center that offers on-site container redemption to residences or businesses or both, either on a one-time or regular basis. Such centers may or may not be associated with a dealer or a permanent redemption center.

(h) "On-premises consumption" means to consume deposit beverages immediately and within the area under control of the establishment, including bars, restaurants, passenger ships, and airplanes.

(i) "Person" means an individual, partnership, firm, association, public or private corporation, federal agency, the state, political subdivision, trust, estate, or any other legal
(j) "Recycling facility" means all contiguous land, structures, appurtenances, and improvements on land used for the collection, separation, recovery, and sale or reuse of secondary resources that would otherwise be disposed of as municipal solid waste and is an integral part of a manufacturing process aimed at producing a marketable product made of post-consumer material.

(k) "Redeemer" means a person, other than a dealer or distributor, who demands the refund value in exchange for the empty deposit beverage container.

(l) "Redemption center" or "permanent redemption center" means an operation in a fixed location that accepts empty deposit containers from consumers or redeemers and provides the refund value for empty deposit beverage containers intended to be recycled and ensures that such containers are properly recycled.

(m) "Refillable beverage container" means any deposit beverage container that is intended to be returned to the manufacturer to be refilled and resold.

(n) "Reverse vending machine" means a mechanical device that accepts one or more types of empty deposit beverage containers and issues cash, electronic credit, or a redeemable credit slip with a value not less than the container's refund value. The refund value shall be aggregated and then paid if more than one container is redeemed in a single transaction.

(o) "Satellite drop-off site" means a designated site where participating consumers bring empty containers for
processing at a centralized processing facility.

(3) REFUND VALUES.--Beginning July 1, 2010, every deposit beverage container sold or offered for sale in this state shall have the following refund value when empty:

(a) Twenty cents for each deposit beverage container with a volume of at least 6 fluid ounces but less than 25 fluid ounces.

(b) Thirty cents for each deposit beverage container with a volume of at least 25 fluid ounces but not more than 1 gallon or 3.8 liters.

(4) DEPOSIT FEE.--

(a) Beginning July 1, 2010, every deposit beverage distributor shall charge the dealer or consumer a deposit fee equal to the refund value for each deposit beverage container sold to the dealer or consumer in the state. The deposit charge may appear as a separate line item on the invoice.

(b) Beginning July 1, 2010, every dealer shall charge the consumer at the point of sale a deposit fee equal to the refund value for each deposit beverage container sold to the consumer in the state, except on beverages intended for on-premises consumption. The deposit charge may appear as a separate line item on the invoice.

(c) Every deposit beverage container sold or offered for sale in this state shall be clearly identified by a stamp, label, or other mark securely affixed to the deposit beverage container and bearing the word "Florida" or the letters "FL" and indicating the refund value of the deposit beverage container. Such stamp, label, or other mark shall be provided by the
beverage distributor.

(d) Inventory already in circulation on July 1, 2010, shall be affixed with an adhesive sticker bearing the word "Florida" or the letters "FL" and indicating the refund value of the deposit beverage container. Such sticker shall be provided by the beverage distributors.

(e) Once a refund value has been applied to a deposit beverage container, the deposit fee on that container may not be changed.

(5) REDemption CENTers.--

(a) A person may not establish or operate a redemption center without registering with the department on a form provided by the department with such information as the department deems necessary, including:

1. The name of the business owner of the redemption center and the address of the business.

2. The types of deposit beverage containers to be accepted and whether deposit beverage containers will be accepted from redeemers or dealers or both.

3. The hours of operation and whether the center will provide mobile on-site or satellite drop-off redemption services.

(b) The operator of the redemption center shall report any change in procedure to the department within 48 hours of such change. Any person establishing a redemption center shall have the right to determine what kind, size, or brand of deposit beverage container shall be accepted. Any redemption center may be established to serve all persons or to serve certain
specified consumers, redeemers, and dealers.

(c) Municipal and county governments, nonprofit agencies, dealers, and individual persons are eligible to register to operate a redemption center.

(d) The department, at any time, may review the registration of a redemption center.

(e) Except for redemption centers operated by a recovered materials dealer certified by the department, all redemption centers must:

1. Verify that all deposit beverage containers to be redeemed bear a valid Florida refund value.

2. Pay to the redeemer the full refund value for all deposit beverage containers as provided for by this section.

3. Ensure all deposit beverage containers collected are recycled through a contractual agreement with an out-of-state recycler or an in-state recovered materials dealer certified by the department.

(f) Redemption centers shall be maintained in full compliance with applicable laws and with the orders and rules of the department.

(g) Redemption centers shall refuse to pay the refund value on any broken, corroded, dismembered, or flattened deposit beverage container or any deposit beverage container that contains a free-flowing liquid, does not properly indicate a refund value, or contains a significant amount of foreign material.

(h) For the purposes of this section, a redemption center shall be considered to be sponsored by a dealer if there is an
agreement between the dealer and the operator of the redemption center requiring the redemption center to remove empty deposit beverage containers from the premises of the dealer.

(6) REVERSE VENDING MACHINES.--

(a) Reverse vending machines may be used by redemption centers, provided that the reverse vending machines shall accept all the same types of empty deposit beverage containers and pay out appropriate refunds via cash, electronic credit, or a redeemable voucher for those containers that bear a valid Florida refund value.

(b) Redemption centers or dealers using reverse vending machines shall ensure that such machines are routinely serviced to ensure proper operation and continuous acceptance of containers and payment of refunds.

(7) REQUIREMENTS FOR DEALERS.--

(a) A dealer may not refuse to accept and redeem at the dealer's place of business, from any person, any empty deposit beverage container of the kind, size, or brand sold by the dealer or refuse to pay to such person the refund value of the deposit beverage container as established by this section, unless:

1. The deposit beverage container is broken, corroded, dismembered, or flattened, contains a free-flowing liquid, does not properly indicate a refund value, or contains a significant amount of foreign material.

2. There is a redemption center located within 1 mile of the dealer's place of business that accepts empty deposit beverage containers of the kind, size, or brand sold by the

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dealer at the dealer's place of business. In order for this
exemption to apply, the dealer must post a clear and conspicuous
sign at each public entrance to the dealer's place of business
that specifies the name, address, and hours of operation of the
closest redemption center location.

(b) A dealer may not refuse to accept and redeem any empty
deposit beverage container of the kind, size, or brand
previously sold at the dealer's place of business, the sale of
which has been discontinued by the dealer for not less than 60
days after the last sale by the dealer of that kind, size, or
brand of deposit beverage container. Prior to that date, the
dealer shall post, at the point of sale, notice of the last date
on which the discontinued kind, size, or brand of deposit
beverage container may be redeemed.

(c) A dealer accepting empty deposit beverage containers
must:

1. Verify that all empty deposit beverage containers to be
redeemed bear a valid Florida refund value.

2. Pay to the redeemer the full refund value for all empty
deposit beverage containers as provided for by this section.

3. Ensure that each deposit beverage container collected
is recycled through a contractual agreement with an out-of-state
recycler or an in-state recovered materials dealer certified by
the department.

(8) REQUIREMENTS FOR DISTRIBUTORS.--

(a) A distributor may not refuse to accept any empty
deposit beverage container of the kind, size, or brand sold by
the distributor or refuse to pay to a dealer or redemption
center operator the refund value of a deposit beverage container as established by this section, provided that the deposit beverage container is from a dealer or an operator of a redemption center located within the territory of the distributor or an operator of a redemption center that certifies to the distributor that the redeemed container was from a dealer located and operated exclusively within the territory of the distributor.

(b) A distributor may refuse to accept and redeem any empty deposit beverage container that is broken, corroded, dismembered, or flattened, contains a free-flowing liquid, does not properly indicate a refund value, or contains a significant amount of foreign material.

(c) A distributor shall remove any empty deposit beverage container from the premises of a dealer serviced by the distributor or from the premises of a redemption center sponsored by any dealer serviced by the distributor, provided the premises are located within the territory of the distributor.

(d) The distributor shall pay the refund value to a dealer in accordance with the schedule for payment by the dealer to the distributor for full deposit beverage containers and shall pay the refund value to an operator of a redemption center not more than 20 days after receipt of the empty deposit beverage container.

(e) A distributor may not refuse to accept and redeem any empty deposit beverage container of the kind, size, or brand previously offered by the distributor, the sale of which has
been discontinued by the distributor for not less than 150 days after the last delivery of that kind, size, or brand of beverage container. Not less than 120 days before the last date such containers may be redeemed, the distributor shall notify the dealer who bought the discontinued kind, size, or brand of deposit beverage container that the distributor shall not redeem an empty deposit beverage container of that kind, size, or brand.

(9) HANDLING FEE REIMBURSEMENT.--Upon redeeming empty deposit beverage containers, a dealer or a redemption center shall be reimbursed a handling fee by the distributor of such deposit beverage containers in an amount that is at least 20 percent of the deposit returned to the consumer in addition to the refund.

(10) REQUIRED INFORMATION AND RECORDS.--

(a) All dealers, distributors, redemption centers, and recycling facilities accepting empty deposit beverage containers shall submit the following information to the department:

1. The amount and type of deposit beverage containers accepted and rejected.

2. The amount of refunds paid out.

3. The amount and weight of each type of deposit beverage container transported to an out-of-state recycler or an in-state recovered materials dealer certified by the department.

4. Copies of transport and weight receipts from recycling facilities. If the redemption center and the recycling facility are the same entity, receipts shall be independently verified. Such documentation shall be used for periodic, random audits of
(b) The records of all dealers, distributors, redemption centers, and recycling facilities accepting empty deposit beverage containers shall be made available, upon request, for inspection by the department, a duly authorized agent of the department, or an auditor employed by the state.

(c) Information reported pursuant to the requirements of this section or any rule adopted pursuant to this section which, if disclosed, would reveal a trade secret as defined in s. 812.081 is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution as provided in s. 815.04. For reporting or information purposes, however, the department may provide this information in such form that the names of the persons reporting such information and the specific information reported are not revealed.

(11) RULES.--The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section. Such rules shall include, but not be limited to, provisions for the redemption of empty deposit beverage containers dispensed through automatic vending machines; the use of reverse vending machines which dispense cash, electronic credit, or a redeemable voucher to consumers for redemption of empty deposit beverage containers; and scheduling for redemption by dealers and distributors and for exemptions or modifications to the labeling requirement of this section.

(12) VIOLATION OF SECTION; PENALTY; REQUIRED SIGNAGE.--

(a) The obligation to accept or take empty deposit beverage containers and to pay the refund value and handling

CODING: Words **stricken** are deletions; words *underlined* are additions.
fees for such containers as described in this section applies only to deposit beverage containers originally sold in this state as filled deposit beverage containers. A person who, during any single transaction, tenders to a dealer, distributor, redemption center, or bottler more than 24 empty deposit beverage containers that the person knows or has reason to know were not originally sold in this state as filled deposit beverage containers is in violation of this section.

(b) A person who violates this section commits a noncriminal infraction, punishable by a civil penalty of $100, which shall be deposited into the Administrative Trust Fund of the department to be used for the purposes of administering this section.

(c) At each location where customers tender empty deposit beverage containers for redemption, dealers and redemption centers must conspicuously display a sign with letters that are at least 1 inch in height advising consumers of the violation and penalty provided in this subsection.

(13) PROHIBITION.--A county or municipality may not impose or collect any assessment or fee on deposit beverage containers for the same or similar purpose that is the subject of this section.

Section 2. This act shall take effect July 1, 2009.