

March 17, 2009

S 641. LITTER REDUCTION ACT OF 2009. Filed 3/17/09. *TO REDUCE ROADSIDE AND OTHER LITTERING AND TO ENCOURAGE RECYCLING BY REQUIRING A DEPOSIT ON BEVERAGE CONTAINERS AND REQUIRING REDEMPTION CENTERS TO ACCEPT RETURNED BEVERAGE CONTAINERS AND REFUND THE DEPOSITS.*

Enacts new Part 2G (Beverage Container Deposits and Refunds) of Article 9 of GS Chapter 130A, GS 130A-309.130 through GS 130A-309.143, providing that every beverage container offered for sale in North Carolina containing between 50 milliliters and four liters is to have a refund value of ten cents and that purchasers of these containers must pay a deposit equal to the refund value. Additionally requires that every beverage container offered for sale in the state be (1) made of recycled or recyclable materials and (2) embossed or imprinted with the words North Carolina or the initials "N.C." and the refund value of the container, with an exemption for certain permanently labeled glass containers unless they contain alcoholic beverages. Directs the Department of Environment and Natural Resources (DENR) to assess the return rate for each category of container every five years and to increase the refund rate by five cents for any category where the return rate is less than 75% (GS 130A-309.133).

Designates DENR as the agency to administer the Part and authorizes DENR and the Commission for Health Services to adopt rules to carry out their duties under the Part. Directs DENR to determine whether any refund value is to be paid for a refillable beverage container. (GS 130A-309.132.)

Establishes the duties of retailers (persons who sell or offer for sale container beverages) to pay deposits to distributors (persons who engage in the sale of container beverages to a retailer) and requires retailers to conspicuously and clearly post information regarding the address of the nearest redemption location for all types of beverage containers. (GS 130A-309.134.)

Sets out requirements for redemption centers and locations in convenience zones to accept empty beverage containers and pay cash refunds. Directs DENR to establish convenience zones statewide and regulate and certify redemption centers. Establishes conditions that must be met for certification. Details conditions under which, after notice and hearing, DENR may revoke, suspend, or refuse to renew any certificate or impose a civil penalty on the operator holding the certificate. Authorizes DENR to impose a civil penalty of not more than \$100 per violation and specifies that each day that a violation occurs is to be considered a separate violation. (GS 130A-309.135; GS 130A-309.136.)

Directs DENR to reimburse the refund value for every beverage container received to redemption centers, nonprofit drop-off programs, and curbside programs and to pay 2% of the refund value for administrative costs to redemption centers and to nonprofit drop-off programs that pay refunds to consumers. Curbside programs may not pay refunds to consumers and are ineligible to receive any sum for administrative costs. (GS 130A-309.137.) Delineates the duties of distributors to pay to DENR the refund value of every beverage container sold or transferred to a retailer, less 1% for the distributor's administrative costs (GS 130A-309.138), and provides for redemption arrangements for vending machines (GS 130A-309.140).

Creates the Beverage Container Litter Reduction Account (Reduction Account) in DENR as a non-reverting, interest-bearing account that consists of refund values paid by distributors to DENR. Specifies the uses of the funds in the Reduction Account and requires that there be a reserve for contingencies. Also creates the Unredeemed Beverage Container Deposits Account (Deposits Account) in DENR and requires that after all expenditures have been made from the Reduction Account, the remaining balance is to be credited to the Deposits Account to be used for (1) litter abatement and recycling activities or grants; (2) recycling information, education, and promotion; (3) incentive payments to encourage the establishment of certified redemption centers in convenience zones in underserved or rural areas; and (4) public education programs to reduce littering. (GS 130A-309.141.) Requires that in order to be assured that sufficient funds have accrued in the Reduction Account for the payment of refunds, DENR must establish the date, no later than July 1, 1010, for redemptions of beverage containers to commence.

Provides for the assessment of a civil penalty not to exceed \$1,000 per violation for any person who (1) offers or sells beverages in containers not labeled as required in GS 130A-309.133, (2) operates a redemption center without obtaining a certificate under GS 130A-309.136, or (3) makes a false report under GS 130A-309.143 (requiring every distributor to

report to DENR the number of container beverages sold and the container type). Authorizes DENR to examine the accounts and records of distributors and to assess penalties plus interest for underpayment of the refund value to be credited to the Reduction Account and to impose additional civil penalties for late payments and unremitted balances owed. (GS 130A-309.142.)

Requires distributors to report quarterly, beginning April 15, 2010, to DENR the number of beverages sold by material type and size and weight, and in any other manner prescribed by DENR. Requires DENR to determine and include specified information in its annual report, with the first report due by July 1, 2010. (GS 130A-309.143.)

Provisions relating to redemption center locations, reimbursements to redemption centers, and uses of the Beverage Container Litter Reduction Account are effective April 1, 2010; the remainder of the act is effective January 1, 2010, and applies to container beverages sold or offered for sale as of that date.

Intro. by Berger of Franklin.

GS 130A