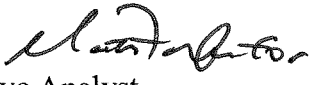


REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: September 13, 2018

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No: 18-0002-S106
Assignment No: 18-08-0792

SUBJECT: Resolution to Support SB 168 (Wieckowski): Content standards for beverage containers

CLA RECOMMENDATION: Adopt Resolution (Koretz-Blumenfield) to include in the City's 2017-2018 State Legislative Program SUPPORT for SB 168 (Wieckowski), which would require the California Department of Resources Recycling and Recovery (CalRecycle) to establish minimum recycled content standards by January 1, 2021 for all beverages containers generated and sold in California.

SUMMARY

On August 10, 2018, the Resolution (Koretz-Blumenfield) was introduced in support of SB 168 (Wieckowski) that would require beverage containers generated and sold in California to be made, in part, with recycled material. The resolution states that sales of beverage containers in California exceed twenty-four million units annually, half of which are made of plastic. The use of recycled materials is critical to preventing pollution, conserving natural resources, and reducing the greenhouse gas emissions associated with producing new products. This bill would create a predictable and robust in-state market for recycled beverage container materials like plastic, and complement California's glass minimum recycled content.

The Resolution recommends support for SB 168 (Wieckowski) which would require the California Department of Resources Recycling and Recovery (CalRecycle) to establish minimum recycled content standards by January 1, 2021 for all beverages containers generated and sold in California.

BACKGROUND

CalRecycle is a department within the California Environmental Protection Agency that administers and provides oversight for all of California's state-managed waste handling and recycling programs. The most consumer-facing aspect of CalRecycle's mission is the state's Beverage Container Recycling Program that was established in 1986 by enactment of AB 2020, often referred to as the state's "bottle bill." This law incentivizes the collection and recycling of aluminum, plastic, and glass beverage containers through the California Redemption Value (CRV), a fee paid at the point of purchase and refundable when empty containers are taken to any of the 1,572 CalRecycle certified redemption centers statewide.

Under other existing laws, a beverage distributor is required to pay a redemption payment to CalRecycle for every beverage container sold or offered for sale in the state to a dealer. These payments are deposited into the California Recycling Fund. Furthermore, existing law requires each glass container manufacturer to use a minimum percentage of 35% of postfilled glass in the manufacturing of its glass food, drink, or beverage containers. Despite these regulations, there are still a vast majority of manufacturers who use little to no recycled content in their beverage containers generated and sold in California.

In efforts to increase the use of recycled materials, SB 168 would require CalRecycle, on or before January 1, 2021, to establish minimum content standards, as defined, for beverage containers made of plastic, material other than metal, glass, or plastic, or any combination of plastic and material other than metal, glass, or plastic. This bill would authorize CalRecycle to adjust the minimum content standards, as specified, but not more frequently than annually. Additionally, SB 168 would require a beverage manufacturer to certify with CalRecycle, under the penalty of perjury, that it is in compliance with the minimum content standards; and would provide that a beverage manufacturer not in compliance with the minimum content standards is subject to enforcement under the act. Under SB 168, a beverage manufacturer would be required to report the amount of beverage containers sold in California subject to the minimum content standards and the amount of postconsumer recycled content used in the manufacturing of those containers. Furthermore, on or before January 1, 2020, CalRecycle would be required to evaluate other beverage container redemption programs and provide the Legislature with a report on aspects of those programs that may be incorporated into California's beverage container redemption program, as specified.

On August 31, 2018, SB 168 was read a third time on the Assembly Floor but failed to pass on 29 ayes and 30 noes.

DEPARTMENTS NOTIFIED

Bureau of Sanitation

BILL STATUS

01/23/17	Introduced
02/02/17	Referred to Rules Committee
03/08/17	Re-referred to Environmental Quality Committee
04/20/17	Referred to Appropriations Committee
06/01/17	Ordered to inactivate file
01/18/18	Read a second time and amended
04/16/18	Referred to Natural Resources Committee
07/02/18	Re-referred to Appropriations Committee
08/21/18	Read a second time and amended
08/31/18	Read a third time. Refused passage


Xochitl Ramirez
Analyst

SMT:xr

Attachment: 1. Resolution

2. SB 168 (Wieckowski)

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the use of recycled materials is critical to preventing pollution, conserving natural resources, and reducing the greenhouse gas emissions associated with producing new products; and

WHEREAS, the State of California has set a goal to source reduce, recycle, or compost 75% of all solid waste generated by the year 2020; and

WHEREAS, California's existing requirement that all glass bottles contain at least 35% recycled glass has significantly supported in-state glass recycling and manufacturing for more than two decades; and

WHEREAS, in recent years, roughly one-third of recyclables collected in California are exported, including virtually all mixed paper and plastics, and nearly two-thirds of that exported is shipped to China; and

WHEREAS, in June 2017 China announced its National Sword policy establishing new quality standards for recycled materials and severely restricting recyclable materials acceptable for import; and

WHEREAS, current and prospective market conditions demand that California develop and deploy policies and incentives to increase demand for recycled materials generated; and

WHEREAS, sales of beverage containers in the State of California exceed twenty-four billion units annually, half of which are made of plastic; and

WHEREAS, Senator Bob Wieckowski has introduced State Bill 168, which would require the California Department of Resources Recycling and Recovery to establish minimum recycled content standards by January 1, 2021 for all beverage containers generated and sold in the State of California; and

WHEREAS, SB 168 would create a predictable and robust in-state market for recycled beverage container materials like plastic, and complement California's glass minimum recycled content requirement.

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2017-2018 State Legislative Program SUPPORT for SB 168 (Wieckowski), which will require beverage containers generated and sold in the State of California to be made, in part, with recycled material.

PRESENTED BY:

PAUL KORETZ
Councilmember, 5th District

SECONDED BY: _____

AUG 10 2018

AMENDED IN ASSEMBLY AUGUST 20, 2018

AMENDED IN ASSEMBLY AUGUST 6, 2018

AMENDED IN ASSEMBLY JULY 5, 2018

AMENDED IN ASSEMBLY JULY 2, 2018

AMENDED IN ASSEMBLY JUNE 19, 2018

AMENDED IN ASSEMBLY MAY 24, 2018

AMENDED IN SENATE JANUARY 18, 2018

AMENDED IN SENATE APRIL 6, 2017

AMENDED IN SENATE FEBRUARY 28, 2017

SENATE BILL

No. 168

**Introduced by Senator Wieckowski
(Coauthor: Senator Stone)**

January 23, 2017

An act to amend Section 14549 of, to add Sections 14514.2 and 14548 to, and to add and repeal Section 14549.7 of, the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

SB 168, as amended, Wieckowski. Recycling: beverage containers.

Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires every beverage container sold or offered for sale in this state to have a minimum refund value. Under existing law, a beverage distributor is required to pay a redemption payment to the Department of Resources Recycling and Recovery for every beverage container sold or offered for sale in the state to a dealer, and the

department is required to deposit those amounts in the continuously appropriated California Beverage Container Recycling Fund.

Existing law requires each glass container manufacturer to use a minimum percentage of 35% of postfilled glass in the manufacturing of its glass food, drink, or beverage containers.

Existing law provides that a violation of the act or a regulation adopted pursuant to the act is a crime.

This bill would require the department, on or before January 1, 2021, to establish minimum content standards, as defined, for beverage containers that are constructed of ~~metal, glass, or plastic, or other material, or any combination thereof.~~ *plastic, material other than metal, glass, or plastic, or any combination of plastic and material other than metal, glass, or plastic.* The bill would authorize the department to adjust the minimum content standards, as specified, but not more frequently than annually. The bill would require a beverage manufacturer to certify with the department, under penalty of perjury, that it is in compliance with the ~~new~~ minimum content standards and would provide that a beverage manufacturer not in compliance with the ~~new~~ minimum content standards is subject to enforcement under the act. ~~The bill would provide that once these new minimum content standards are established for glass beverage containers, a container manufacturer is not required to comply with the existing postfilled glass requirement noted above, and shall instead comply with the newly established minimum content standards for glass beverage containers.~~ The bill would require a beverage manufacturer to report to the department for each month the amount of beverage containers *subject to the minimum content standards* sold in California by the beverage manufacturer and the amount of postconsumer recycled content used in the manufacturing of those containers. By expanding the crime of perjury and creating new crimes relating to the regulation of beverage containers, the bill would impose a state-mandated local program.

The bill would require the department, on or before January 1, 2020, to evaluate other beverage container redemption programs and to provide to the Legislature a report on aspects of those programs that may be incorporated into California's beverage container redemption program, as specified.

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.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14514.2 is added to the Public Resources
2 Code, to read:
3 14514.2. “Minimum content standard” means a requirement
4 for the minimum percentage of a material type that a beverage
5 container is constructed of, including, but not limited to, recycled
6 material.
7 SEC. 2. Section 14548 is added to the Public Resources Code,
8 to read:
9 14548. (a) (1) On or before January 1, 2021, the department
10 shall establish minimum content standards for beverage containers
11 that are constructed of ~~metal, glass, or plastic, or other material,~~
12 ~~or any combination thereof.~~ *plastic, material other than metal,*
13 *glass, or plastic, or any combination of plastic and material other*
14 *than metal, glass, or plastic.* The department may adjust the
15 standards based on factors that may include, but are not limited
16 to, any of the following factors:
17 (A) Market conditions.
18 (B) Supply.
19 (C) Technology advancements.
20 (D) Environmental considerations.
21 (2) The department shall not adjust the standards more
22 frequently than annually.
23 (b) A beverage manufacturer shall certify with the department,
24 under penalty of perjury, that it is in compliance with the minimum
25 content standards established pursuant to subdivision (a).
26 (c) A beverage manufacturer not in compliance with the
27 minimum content standards established pursuant to subdivision
28 (a) shall be subject to enforcement under this chapter, including,
29 but not limited to, under Section 14591.
30 ~~(d) In accordance with subdivision (d) of Section 14549, the~~
31 ~~minimum content standards established pursuant to subdivision~~
32 ~~(a) for glass beverage containers shall replace the postfilled glass~~
33 ~~requirements imposed on container manufacturers for the~~

1 ~~manufacture of glass beverage containers pursuant to Section~~
2 ~~14549.~~

3 (e)

4 (d) A beverage manufacturer shall report to the department for
5 each month the amount of beverage containers *subject to the*
6 *minimum content standards established pursuant to subdivision*
7 (a) sold in California by the beverage manufacturer and the amount
8 of postconsumer recycled content used in the manufacturing of
9 those containers.

10 SEC. 3. ~~Section 14549 of the Public Resources Code is~~
11 ~~amended to read:~~

12 ~~14549. (a) Every glass container manufacturer shall report to~~
13 ~~the department each month, by a method as determined by the~~
14 ~~department, the amount of total tons of new glass food, drink, and~~
15 ~~beverage containers made in California by that glass container~~
16 ~~manufacturer and the tons of California postfilled glass used in~~
17 ~~the manufacturing of those new containers.~~

18 (b) ~~Each glass container manufacturer in the state shall use a~~
19 ~~minimum percentage of 35 percent of postfilled glass in the~~
20 ~~manufacturing of its glass food, drink, or beverage containers~~
21 ~~measured in the aggregate, on an annual basis, except that if a glass~~
22 ~~container manufacturer demonstrates to the satisfaction of the~~
23 ~~department that its use of postfilled glass during the annual period~~
24 ~~is made up of at least 50 percent mixed-color cullet, then that~~
25 ~~manufacturer shall use a minimum percentage of 25 percent~~
26 ~~postfilled glass in the manufacturing of its glass food, drink, or~~
27 ~~beverage containers, measured in the aggregate, on an annual basis.~~

28 (c) ~~A glass container manufacturer may seek a reduction or~~
29 ~~waiver of the minimum postfilled glass percentage required to be~~
30 ~~used in the manufacture of glass food, drink, or beverage containers~~
31 ~~pursuant to subdivision (b). The department may grant a reduction~~
32 ~~or waiver of the percentage requirement if it finds and determines~~
33 ~~that it is technologically infeasible for the glass container~~
34 ~~manufacturer to achieve the percentage requirement or if the~~
35 ~~department determines that a glass container manufacturer cannot~~
36 ~~achieve the minimum percentage because of a lack of available~~
37 ~~glass cullet.~~

38 (d) ~~Once minimum content standards are established pursuant~~
39 ~~to subdivision (a) of Section 14548 for glass beverage containers,~~
40 ~~a container manufacturer is not required to comply with the~~

1 postfilled glass requirements for the manufacture of glass beverage
2 containers imposed pursuant to this section, and shall instead
3 comply, in the manufacture of glass beverage containers, with the
4 minimum content standards established for glass beverage
5 containers pursuant to subdivision (a) of Section 14548.

6 (e) For the purposes of this section, “mixed-color cullet” means
7 cullet that does not meet the American Society for Testing and
8 Materials (ASTM) standard specifications for color mix of color
9 sorted postfilled glass as raw material for the manufacture of glass
10 containers.

11 ~~SEC. 4.~~

12 *SEC. 3.* Section 14549.7 is added to the Public Resources Code,
13 to read:

14 14549.7. (a) On or before January 1, 2020, the department
15 shall evaluate other beverage container redemption programs,
16 including, but not limited to, the programs in Oregon and Michigan,
17 and in British Columbia and Alberta, Canada, to identify and
18 provide to the Legislature a report on aspects of those programs
19 that may be incorporated into California’s beverage container
20 redemption program to improve the convenience and performance
21 of the program.

22 (b) (1) A report to be submitted pursuant to subdivision (a)
23 shall be submitted in compliance with Section 9795 of the
24 Government Code.

25 (2) Pursuant to Section 10231.5 of the Government Code, this
26 section is repealed on January 1, 2024.

27 ~~SEC. 5.~~

28 *SEC. 4.* No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.