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-S108
Assignment No: 18-08-0791

SUBJECT: Resolution to Support SB 452 (Glazer): Revisions to Bottle Bill

CLA RECOMMENDATION: Adopt Resolution (Koretz-Blumenfield) to include in the City's 2017-2018 State Legislative Program SUPPORT for SB 452 (Glazer), which would make a number of revisions to the Beverage Container Recycling and Litter Reduction Act (Bottle Bill).

SUMMARY
On August 10, 2018, the Resolution (Koretz-Blumenfield) was introduced in support of SB 452 (Glazer) which would make modifications to the Beverage Container Recycling and Litter Reduction Act (Bottle Bill) in order to adapt it to a variety of factors that have changed over the past 30 years. The resolution states that outdated regulations and failing commodity prices have cost California's recycling infrastructure more than $45 million in the last 18 months. Records show that nearly 1,000 beverage container recycling centers have closed since peak recycling in 2013 leaving many Californians without redemption opportunities. As a result, California's beverage container recycling rate has fallen below 80% for the first time since 2008. It is estimated that this drop is equivalent to an additional 1.7 million beverage containers littered or landfilled. SB 452, would stabilize the recycling marketplace, provide immediate, temporary relief to California's retailers and grocers affected by the 2016 recycling center closures, and ensure consumers have local redemption opportunities.

The Resolution recommends support for SB 452 (Glazer) which would financially support California recyclers and bring the statewide beverage container recycling rate back to meeting or exceeding statutory goals.

BACKGROUND
In 1986 the Bottle Bill was established by AB 2020. 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 CalRecycle certified redemption center. Since its enactment, more than 400 billion beverage containers have been recycled. However, over the past few years, various concerns about the program have been raised, such as the structural deficit, the effectiveness of some supplemental programs supported by the program, fraud, and whether some offsets support the goals of the program. Furthermore, the values of plastic, glass and aluminum have decreased, prompting many recycling centers to close in the last two years and putting pressure on the remaining centers, which are struggling to meet the demand with little funds.

SB 452 is an urgency bill that would make a number of revisions to the Bottle Bill. Some of those revisions are listed below in addition to other related issues:

- Extend the sunset for the Plastic Market Development Payment Program from 2018 to 2024.
- Revises the requirements for supermarkets to redeem beverage containers when they are located within a convenience zone (CZ) not served by a recycling center, as follows:
  - Specifies that dealers are not required to redeem more than 50 beverage containers of any one type per customer per day.
  - Exempts dealers with less than $2 million in annual sales.
- Repeals the requirement that a recycling center must be located within one mile of a CZ eligible for a CZ exemption, and instead only requires that the nearest recycling center must be located within "a reasonable distance" from the exempted CZ.
- Increases the total number of allowable CZ exemptions from 35% to 50% of the total number of CZs in the state. Requires CalRecycle to review exemptions every five years.
- Requires CalRecycle to use the actual costs of recycling that were in effect on December 30, 2015, for the purpose of calculating processing payments.
- Requires CalRecycle to develop recommendations to the Legislature for revisions to the handling fee guideline to ensure that handling fee calculations are adequate to maintain the state's recycling center infrastructure by January 1, 2021.

As of August 31, 2018, SB 452 was ordered to engrossing and enrolling.

DEPARTMENTS NOTIFIED
Bureau of Sanitation

BILL STATUS

02/15/17	Introduced
02/23/17	Referred to Governmental Organization Committee
04/26/18	Re-referred to Rules Committee
05/10/18	Referred to Natural Resources Committee
07/02/18	Read a second time and amended
08/06/18	Referred to Appropriations Committee
08/20/18	Read a second time and amended
08/24/18	Read a third time and amended
08/31/18	Ordered to engrossing and enrolling

Xochitl Ramirez
Analyst

SMT:xr

Attachment: 1. Resolution

2. SB 452 (Glazer)

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, outdated regulations and falling commodity prices have cost California's recycling infrastructure more than $45 million in the last 18 months—payments promised under California's 31 year old Beverage Container Recycling Program; and

WHEREAS, nearly 1000 beverage container recycling centers – more than a third of the entire statewide infrastructure - have closed since peak recycling in 2013; and

WHEREAS, recycling rates once at a high of 85% have dropped below 80% for the first time since 2008, with the latest data showing just 75.5% beverage container recycling in 2017; and

WHEREAS, this drop in recycling equals the equivalent of 1.7 million beverage containers a day being littered or landfilled; and

WHEREAS, thousands of Californians have lost their opportunity to get back their promised refund value; and

WHEREAS, Senator Steven Glazer has introduced State Bill 452, which would authorize the California Department of Resources Recycling and Recovery to expend a portion of $200 million Program surplus to support recycling; and

WHEREAS, SB 452 would return Program payments to all recyclers to levels prior to the global drop in oil prices and allow the marketplace to stabilize; and

WHEREAS, SB 452 would financially incentivize recyclers to re-open closed centers in rural and underserved communities.

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 452 (Glazer), which will financially support California recyclers and bring our statewide beverage container recycling rate back to meeting or exceeding statutory goals.

PRESENTED BY: ______________________________

PAUL KORETZ
Councilmember, 5th District

SECONDED BY: ______________________________

AUG 10 2018

AMENDED IN ASSEMBLY AUGUST 24, 2018

AMENDED IN ASSEMBLY AUGUST 20, 2018

AMENDED IN ASSEMBLY AUGUST 6, 2018

AMENDED IN ASSEMBLY JULY 2, 2018

AMENDED IN ASSEMBLY APRIL 24, 2018

AMENDED IN ASSEMBLY APRIL 9, 2018

SENATE BILL No. 452

Introduced by Senator Glazer
(Principal coauthors: Assembly Members ~~Gloria~~ *Berman, Eggman, Gloria,* and Kalra)
(Coauthors: Senators Portantino and Stern)
(Coauthors: Assembly Members Baker and Cunningham)

February 15, 2017

An act to amend Sections 14536, 14549.2, 14571.6, 14571.8, 14581, and 14585 of, and to add and repeal Sections 14572.3 and 14575.2 of, the Public Resources Code, relating to beverage containers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 452, as amended, Glazer. The California Beverage Container Recycling and Litter Reduction Act.

(1) Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires the Department of Resources Recycling and Recovery to annually designate convenience zones and requires that at least one certified recycling center that meets certain requirements

be located within every convenience zone. Existing law authorizes the department to grant a convenience zone an exemption from certain redemption requirements, including certain dealer and recycling center redemption requirements, based on certain factors. Existing law limits the total number of exemptions that may be granted to 35% of the total number of convenience zones identified as having one or more of those factors applicable.

This bill, if there is a certified recycling center located within one mile of an unserved convenience zone, would require the department to grant that convenience zone an exemption from the redemption requirements and would increase the total number of exemptions that may be granted otherwise to 50% of the number identified as eligible. The bill would require the department to review exemptions every 5 years to determine if each exemption still meets the prescribed exemption criteria.

(2) The act requires dealers within a convenience zone where no recycling location has been established, or within a convenience zone that is unserved for 60 days and not exempt from convenience zone requirements, to submit an affidavit to the department stating that the dealer has met specified standards for redemption, including, among others, that the dealer is redeeming all empty beverage container types at all open cash registers or at one designated location on the dealer's premises, during all hours that the dealer is open for business. If the dealer does not submit that affidavit, existing law requires the dealer to pay $100 per day to the department, for deposit in the California Beverage Container Recycling Fund, a continuously appropriated fund described in (3), until a recycling location is established or until the dealer meets the standards for redemption specified in the affidavit provision.

This bill would revise these convenience zone redemption duties and ~~apply them only to~~ *exempt from those duties* dealers with gross annual sales of *less than* $2,000,000~~ or more.~~ *and dealers that are not supermarkets and that have less than 5,000 square feet of interior retail space.* The bill, until January 1, 2021, would *also* exempt certain *other* dealers from these requirements.

(3) The act establishes the California Beverage Container Recycling Fund and, except for administrative costs, continuously appropriates moneys in the fund to the department for specified purposes, including the amount necessary to pay handling fees to certain types of recyclers to provide an incentive for the redemption of empty beverage containers

in convenience zones. The act also continuously appropriates from the fund $15,000,000 annually for payments for curbside programs and neighborhood dropoff programs and $10,500,000 annually for payments to cities and counties for beverage container recycling and litter cleanup activities. *The act authorizes the department to withhold beverage container recycling and litter cleanup activities payments to any city, county, or city and county that has restricted or prohibited the siting of a supermarket site, as provided.*

This bill would require the department to offer a handling fee payment from the fund to certain certified recyclers within unserved convenience zones. The bill would make an appropriation by changing the terms and conditions under which the department is authorized to make payments from a continuously appropriated fund. The bill, until July 1, 2021, would require the handling fee to be set at the rate in effect on July 1, 2015. The bill would authorize the department, until July 1, 2021, to annually expend $3,000,000 from the fund for specified supplemental handling fee payments to low-volume recycling centers. By authorizing the expenditure of a continuously appropriated fund for new purposes, this bill would make an appropriation. The bill would require the department to develop and submit to the Legislature recommended revisions to the handling fee provisions, as specified. The bill ~~would require, instead of authorize, the department to withhold beverage container recycling and litter cleanup activities payments to any city, county, or city and county that has restricted or prohibited the siting of a supermarket site, as provided, and~~ would authorize the department to withhold payments to curbside programs and neighborhood dropoff programs in any city, county, or city and county that has restricted or prohibited the siting of a certified recycling center, as provided. *The bill would require the department, on or before July 1, 2019, to convene a public hearing, as specified, for purposes of discussing and receiving public testimony on the development of guidelines for evaluating the circumstances that might prompt the department to withhold beverage container recycling and litter cleanup activities payments to any city, county, or city and county that has restricted or prohibited the siting of a supermarket site.*

(4) The act requires the department to pay a market development payment to a reclaimer, as defined, for empty plastic beverage containers that have been collected for recycling in the state, and that the reclaimer washes and processes into flake, pellet, sheet, or any other form that is then usable as input for the manufacture of new plastic products, as

defined, by product manufacturers in the state. The act also requires the department to pay a market development payment to a product manufacturer, as defined, for plastic flake, pellet, sheet, or any other form of plastic purchased from a reclaimer and used by that product manufacturer to manufacture a plastic product in the state. ~~The act makes these provisions inoperative on July 1, 2022.~~

This bill would ~~delay the inoperative date of these provisions from July 1, 2022, to July 1, 2024.~~ *require the department to pay market development payments to a reclaimer that uses the services of a 3rd party to process the empty plastic beverage containers into a form usable for the manufacture of new plastic products and to a product manufacturer that uses the services of a 3rd party to process the plastic purchased from a reclaimer in manufacturing the plastic product. The bill would clarify that certain moneys are not available for market development payments to these additional product manufacturers. By changing the purposes for which continuously appropriated moneys may be expended, this bill would make an appropriation.*

~~The act authorizes the department, for the 2019–20 fiscal year to the 2021–22 fiscal year, inclusive, to expend up to $10,000,000 each fiscal year from the fund for market development payments to reclaimers and product manufacturers.~~

~~This bill would additionally authorize the department to expend up to $10,000,000 from the fund for those purposes for each of the 2022–23 and 2023–24 fiscal years, thereby making an appropriation.~~

(5) Under the act, the department is required to calculate a processing fee for each beverage container with a specified scrap value, which is required to be paid by beverage manufacturers for each beverage container sold or transferred to a distributor or dealer. The department is required to calculate the processing fee in a specified manner, so that the actual processing fee generally equals 65% of the processing payment that the department is required to pay to processors if the scrap value of the container having a refund value pursuant to the act is less than the cost of recycling. The department is required to determine the statewide weighted average cost to recycle each beverage container type by conducting a survey, as specified. The department is required to establish a processing fee account in the continuously appropriated California Beverage Container Recycling Fund for each material type and to deposit processing fees and other amounts in the applicable account.

This bill would, for purposes of calculating processing payments, require the department, until January 1, 2021, to use the actual cost of recycling that was in effect on December 30, 2015, adjusted as specified. The bill would make an appropriation by changing the terms and conditions under which the department is authorized to make payments from a continuously appropriated fund. The bill would provide that the processing fees established by the department between the effective date of the bill and December 31, 2018, inclusive, shall not be higher than they would be absent these new provisions. The bill would require the department to suspend usage of surveys and calculations of recycling costs until at least January 1, 2020, and would authorize the department to redirect any contract funds for cost surveys and calculations to provide for a specified assessment and to utilize any contract funds available for the development of amendments to be recommended to the Legislature regarding specified provisions of the act.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 14536 of the Public Resources Code is amended to read:

14536. (a) Except as provided in subdivision (b), the director shall adopt, amend, or repeal all rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) (1) The director shall adopt regulations, and may adopt emergency regulations, for the purposes of implementing Sections 14538, 14539, 14541, 14549.1, 14549.2, 14550, 14561, 14571.6, 14571.65, 14574, 14575, 14585, 14588.1, 14588.2, and 14591.

(2) Any emergency regulations, if adopted, shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding

Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the director.

SEC. 2. Section 14549.2 of the Public Resources Code is amended to read:

14549.2. (a) For purposes of this section, the following definitions shall apply:

(1) "Certified entity" means a recycling center, processor, or dropoff or collection program certified pursuant to this division.

(2) "Plastic product" means a finished plastic product that requires no further thermoforming, shaping, or processing before being sold for its specified use. "Plastic product" does not include plastic flake, pellet, sheet, or any other form that is an output from a reclaimer's processing of empty plastic beverage containers.

(3) "Product manufacturer" means a person who manufactures a plastic product in this state.

(4) "Reclaimer" means a certified entity that purchases empty plastic beverage containers that have been collected for recycling in the state, and that washes and processes, in the state, those empty plastic beverage containers into flake, pellet, sheet, or any other form that is then usable as input for the manufacture of new plastic products by product manufacturers in the state.

(b) In order to develop California markets for empty plastic beverage containers collected for recycling in the state, the department may, consistent with Section 14581 and subject to the availability of funds, pay a market development payment to a reclaimer for empty plastic beverage containers collected and managed pursuant to this section and to a product manufacturer for plastic flake, pellet, sheet, or any other form of plastic purchased from a reclaimer pursuant to this section.

(c) The department shall make a market development payment to a reclaimer or product manufacturer in accordance with this section only if the plastic beverage container is collected, washed, and processed into flake, pellet, sheet, or any other form, and is used in manufacturing, in the state, as follows:

(1) The department shall make a market development payment to a reclaimer for empty plastic beverage containers that are

collected, washed, and processed as specified in paragraph (4) of subdivision ~~(a).~~ *(a), including to a reclaimer that uses the services of a third party to process the empty plastic beverage containers into a form usable for the manufacture of new plastic products.*

(2) The department shall make a market development payment to a product manufacturer for plastic flake, pellet, sheet, or any other form of plastic purchased from a reclaimer and used by that product manufacturer to manufacture a plastic product in the ~~state.~~ *state, including to a product manufacturer that uses the services of a third party to process the plastic purchased from a reclaimer in manufacturing the plastic product.*

(3) The department shall determine the amount of the market development payment, which may be set at a different level for a reclaimer and a product manufacturer, but shall not exceed one hundred fifty dollars ($150) per ton. In setting the amount of the market development payment for both reclaimers and product manufacturers, the department shall consider all of the following:

(A) The minimum funding level needed to encourage in-state washing and processing of empty plastic beverage containers collected for recycling in this state.

(B) The minimum funding level needed to encourage in-state manufacturing that utilizes flake, pellet, sheet, or any other form processed from empty plastic beverage containers collected for recycling in this state.

(C) The total amount of funds projected to be available for plastic market development payments, and the desire to maintain the minimum funding level needed throughout the year.

(4) The department may make a market development payment to both a reclaimer and a product manufacturer for both the empty plastic beverage container and for the flake, pellet, sheet, or any other form processed by the reclaimer from that same empty plastic beverage container.

(d) This section shall become inoperative on July 1, ~~2024,~~ *2022,* and, as of January 1, ~~2025,~~ *2023,* is repealed.

SEC. 3. Section 14571.6 of the Public Resources Code is amended to read:

14571.6. (a) Except as provided in Section 14572.3, in any convenience zone where no recycling location has been established that satisfies the requirements of Section 14571, and in any convenience zone that has exceeded the 60-day period for the establishment of a recycling center pursuant to Section 14571.7, all dealers within that zone shall, until a recycling location has been established in that zone, do one of the following:

(1) Submit to the department an affidavit form provided by the department stating that all of the following standards are being met by the dealer:

(A) The dealer redeems all empty beverage container types at a minimum of one designated location on the dealer's premises, during all hours that the dealer is open for business. The dealer is not required to redeem more than 50 beverage containers of any one type per consumer per day.

(B) The dealer has posted signs that meet the size and location requirements specified in subdivision (b) of Section 14570, and that conform to paragraph (2) of that subdivision.

(C) The dealer is delivering, or having delivered, all empty beverage containers received from the public to a certified recycling center or processor for recycling.

(2) Pay to the department for deposit in the fund the sum of one hundred dollars ($100) per day until a recycling location is established or until the standards for redemption specified in paragraph (1) are met.

(b) This section shall *not* apply ~~only~~ to a dealer ~~with gross annual sales of two million dollars ($2,000,000) or more.~~ *that demonstrates to the department either of the following:*

(1) The dealer has gross annual sales of less than two million dollars ($2,000,000).

(2) The dealer is not a supermarket and has less than 5,000 square feet of interior retail space.

SEC. 4. Section 14571.8 of the Public Resources Code is amended to read:

14571.8. (a) A lease entered into by a dealer after January 1, 1987, shall not contain a leasehold restriction that prohibits or results in the prohibition of the establishment of a recycling location.

(b) Except as provided in subdivision (h), the director may grant an exemption from the requirements of Section 14571 for an individual convenience zone only after the department solicits public testimony on whether or not to provide an exemption from Section 14571. The solicitation process shall be designed by the department to ensure that operators of recycling centers, dealers, and members of the public in the jurisdiction affected by the proposed exemption are aware of the proposed exemption. After evaluation of the testimony and any field review conducted, the department shall base a decision to exempt a convenience zone pursuant to this subdivision on any combination of the following factors:

(1) The exemption 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.

(2) The nearest certified recycling center is within a reasonable distance of the convenience zone being considered from exemption.

(3) The convenience zone is in the area of a curbside program that meets the criteria specified in Section 14509.5.

(4) The requirements of Section 14571 cannot be met in a particular convenience zone due to local zoning or the dealer's leasehold restrictions for leases in effect on January 1, 1987, and the local zoning or leasehold restrictions are not within the authority of the department and the dealer. However, any lease executed after January 1, 1987, shall meet the requirements specified in subdivision (a).

(5) The convenience zone has redeemed less than 60,000 containers per month for the prior 12 months.

(c) The department shall review each convenience zone in which a certified recycling center was not located on January 1, 1996, to determine the eligibility of the convenience zone under the exemption criteria specified in subdivision (b).

(d) The total number of exemptions granted under this section shall not exceed 50 percent of the total number of convenience zones identified as eligible pursuant to subdivisions (b) and (h).

(e) The department may, on its own motion, or upon petition by any interested person, revoke a convenience zone exemption, including an exemption granted under subdivision (h), if either of the following occurs:

(1) The condition or conditions that caused the convenience zone to be exempt no longer exists, and the department determines that the criteria for an exemption specified in this section are not presently applicable to the convenience zone.

(2) The department determines that the convenience zone exemption was granted due to an administrative error.

(f) If an exemption is revoked and a recycling center is not certified and operational in the convenience zone, the department shall, within 10 days of the date of the decision to revoke, serve all dealers in the convenience zone with the notice specified in subdivision (a) of Section 14571.7.

(g) An exemption shall not be revoked when a recycling center becomes certified and operational within an exempt convenience zone unless either of the events specified in paragraphs (1) and (2) of subdivision (e) occurs.

(h) If there is a certified recycling center located within one mile of an unserved convenience zone, the department shall grant an exemption from the requirements of Section 14571 for that convenience zone.

(i) The department shall review exemptions granted pursuant to this section every five years to determine if each exemption still meets the exemption criteria of this section.

SEC. 5. Section 14572.3 is added to the Public Resources Code, to read:

14572.3. (a) A dealer described in subdivision (c) and who is located in a convenience zone described in subdivision (b) shall be exempt from the dealer requirements of Section 14571.6 from the effective date of this section until December 31, 2020, inclusive.

(b) Subdivision (a) shall apply only to a dealer that is located in a convenience zone that meets one of the following:

(1) The convenience zone was served by, or exempted because of, a recycling center that closed between January 1, 2016, and May 31, 2016, inclusive, at the initiation of the recycler and not at the initiation of the dealer.

(2) The convenience zone was served by a recycling center that closed as a result of an action taken by the department on or after January 1, 2018.

(c) Subdivision (a) shall apply only to a dealer that meets one of the following conditions:

(1) The dealer demonstrates to the department that it has acted in full compliance with the requirements of Section 14571.6.

(2) The department approves the dealer for an exemption described in subdivision (a). The department may approve a dealer that was not in compliance with Section 14571.6 for an exemption

only if the dealer pays the department any moneys owed by the dealer under Section 14571.6.

(d) The Legislature finds and declares that the purpose of this section is to temporarily suspend the obligations of dealers described in subdivision (c) to comply with the requirements of Section 14571.6 in order to focus attention and resources on the reestablishment of recycling centers in currently unserved convenience zones. Nothing in this section is intended to reduce the obligation of dealers and the department to site and maintain recycling centers.

(e) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

SEC. 6. Section 14575.2 is added to the Public Resources Code, to read:

14575.2. (a) (1) Notwithstanding Section 14575, for purposes of calculating processing payments, the department shall use the actual costs of recycling that were in effect on December 30, 2015.

(2) Consistent with Section 14575, the department shall adjust the recycling costs described in paragraph (1) to reflect changes in the cost of living from December 30, 2015, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government as of the effective date of this section and at least once annually thereafter.

(3) Notwithstanding Section 2975 of Title 14 of the California Code of Regulations, for the period from the effective date of this section to December 31, 2020, inclusive, the reasonable financial return for recycling centers shall be calculated as follows:

(A) The reasonable financial return shall be equal to 11.5 percent of the actual costs of recycling that were in effect on December 30, 2015, except as specified in subparagraph (B).

(B) The reasonable financial return for recycling centers located in rural regions, as defined by subparagraph (A) of paragraph (2) of subdivision (b) of Section 14571, shall be equal to 16.6 percent of the actual costs of recycling that were in effect on December 30, 2015.

(b) Notwithstanding subdivisions (d) and (e) of Section 14575, for processing fees established by the department between the effective date of this section and December 31, 2018, inclusive, the department shall not impose a processing fee on a beverage manufacturer that is higher than the processing fee that would be imposed without this section.

(c) (1) Notwithstanding subdivision (c) of Section 14575, the department shall suspend usage of surveys and calculations of recycling costs until at least January 1, 2020.

(2) The department may redirect any contract funds already approved for cost surveys and calculations as of the effective date of this section into an updated contract to utilize data collected for the 2015 processing payment to provide the department with an assessment of variations in the average cost of recycling based on, at a minimum, each of the following:

(A) Recycling location monthly average volume.

(B) Recycling location geographic area.

(C) Recycling location distance to end-use market.

(3) The department may utilize any contract funds available as of the effective date of this section for the analysis and development of recommendations to the Legislature of amendments to subdivisions (b) and (c) of Section 14575 to satisfy the legislative intent expressed in subdivision (f) of Section 14501 to create and maintain a marketplace where it is profitable to establish sufficient recycling centers and locations to provide consumers with convenient recycling opportunities through the establishment of minimum refund values and processing fees and, through the proper application of these elements, to enhance the profitability of recycling centers, recycling locations, and other beverage container recycling programs.

(d) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

SEC. 7. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds and in accordance with subdivision (b), the department shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580, for the purposes of this section in the following manner:

(1) For each fiscal year, the department may expend the amount necessary to make the required handling fee payment pursuant to Section 14585.

(2) (A) Fifteen million dollars ($15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(B) The department may withhold payments to curbside programs and neighborhood dropoff programs in any city, county, or city and county that has prohibited the siting of a certified recycling center, caused a certified recycling center to close its business, or adopted a land use policy that restricts or prohibits the siting of a certified recycling center within its jurisdiction.

(3) (A) Ten million five hundred thousand dollars ($10,500,000) may be expended annually for payments of five thousand dollars ($5,000) to cities and ten thousand dollars ($10,000) for payments to counties for beverage container recycling and litter cleanup activities, or the department may calculate the payments to counties and cities on a per capita basis, and may pay whichever amount is greater, for those activities.

(B) Eligible activities for the use of these funds may include, but are not necessarily limited to, support for new or existing curbside programs, neighborhood dropoff programs, public education promoting beverage container recycling, litter prevention, and cleanup, cooperative regional efforts among two or more cities or counties, or both, or other beverage container recycling programs.

(C) These funds shall not be used for activities unrelated to beverage container recycling or litter reduction.

(D) To receive these funds, a city, county, or city and county shall fill out and return a funding request form to the department. The form shall specify the beverage container recycling or litter reduction activities for which the funds will be used.

(E) The department shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department ~~shall~~ *may* withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(G) On or before July 1, 2019, the department shall convene a public hearing during one of the department's regularly scheduled monthly public meetings for purposes of discussing and receiving public testimony on the development of guidelines for evaluating the circumstances that might prompt the department to withhold payments pursuant to receiving (F). The department may communicate any guidelines that may result from this public process to appropriate program stakeholders.

(4) One million five hundred thousand dollars ($1,500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

(5) (A) The department shall expend the amount necessary to pay the processing payment established pursuant to Section 14575. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee are calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited both of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to Section 14575.

(ii) Funds equal to the difference between the amount in clause (i) and the amount of the processing payments established in subdivision (b) of Section 14575, and adjusted pursuant to paragraph (2) of subdivision (c) of, and subdivision (f) of, Section 14575, to reduce the processing fee to the level provided in subdivision (e) of Section 14575, or to reflect the agreement by a willing purchaser to pay a voluntary artificial scrap value pursuant to Section 14575.1.

(B) Notwithstanding Section 13340 of the Government Code, the moneys in each processing fee account are hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments pursuant to Section 14575.

(6) Up to five million dollars ($5,000,000) may be annually expended by the department for the purposes of undertaking a

statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

(7) Up to ten million dollars ($10,000,000) may be expended annually by the department for quality incentive payments for empty glass beverage containers pursuant to Section 14549.1.

(8) (A) (i) For the 2018–19 fiscal year, the department may expend up to fifteen million dollars ($15,000,000) for market development payments to reclaimers and product manufacturers, pursuant to Section 14549.2.

(ii) Of the total amount authorized for expenditure by this subparagraph, up to five million dollars ($5,000,000) may be expended for market development payments to reclaimers ~~or product manufacturers~~ for the activities described in ~~paragraphs~~ *paragraph* (1) ~~and (2)~~ of subdivision (c) of Section ~~14549.2~~ *14549.2, and to product manufacturers for the activities described in paragraph (2) of subdivision (c) of Section 14549.2, as that section read on June 30, 2018,* that occurred during the period from January 1, 2018, to June 30, 2018, inclusive.

(B) For the 2019–20 fiscal year to the ~~2023–24~~ *2021–22* fiscal year, inclusive, the department may expend up to ten million dollars ($10,000,000) each fiscal year for market development payments to reclaimers and product manufacturers, pursuant to Section 14549.2.

(C) For purposes of this paragraph, the definitions in subdivision (a) of Section 14549.2 apply.

(b) (1) If the department determines, pursuant to a review made pursuant to Section 14556, that there may be inadequate funds to pay the payments required by this division, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(2) On or before 180 days, but not less than 80 days, after the notice is sent pursuant to paragraph (1), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (c).

(c) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(d) Before making an expenditure pursuant to paragraph (6) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

SEC. 8. Section 14585 of the Public Resources Code is amended to read:

14585. (a) The department shall adopt guidelines and methods for paying handling fees to supermarket sites, nonprofit convenience zone recyclers, or rural region recyclers to provide an incentive for the redemption of empty beverage containers in convenience zones. The guidelines shall include, but not be limited to, all of the following:

(1) Handling fees shall be paid on a monthly basis, in the form and manner adopted by the department. The department shall require that claims for the handling fee be filed with the department not later than the first day of the second month following the month for which the handling fee is claimed as a condition of receiving any handling fee.

(2) The department shall determine the number of eligible containers per site for which a handling fee will be paid in the following manner:

(A) Each eligible site's combined monthly volume of glass and plastic beverage containers shall be divided by the site's total monthly volume of all empty beverage container types.

(B) If the quotient determined pursuant to subparagraph (A) is equal to, or more than, 10 percent, the total monthly volume of the site shall be the maximum volume which is eligible for a handling fee for that month.

(C) If the quotient determined pursuant to subparagraph (A) is less than 10 percent, the department shall divide the volume of glass and plastic beverage containers by 10 percent. That quotient shall be the maximum volume that is eligible for a handling fee for that month.

(3) The department shall pay a handling fee per eligible container in the amount determined pursuant to subdivision (f).

(4) If the eligible volume in any given month would result in handling fee payments that exceed the allocation of funds for that month, as provided in subdivision (b), sites with higher eligible monthly volumes shall receive handling fees for their entire eligible

monthly volume before sites with lower eligible monthly volumes receive any handling fees.

(5) (A) If a dealer where a supermarket site, nonprofit convenience zone recycler, or rural region recycler is located ceases operation for remodeling or for a change of ownership, the operator of that supermarket site, nonprofit convenience zone recycler, or rural region recycler shall be eligible to apply for handling fees for that site for a period of three months following the date of the closure of the dealer.

(B) Every supermarket site operator, nonprofit convenience zone recycler, or rural region recycler shall promptly notify the department of the closure of the dealer where the supermarket site, nonprofit convenience zone recycler, or rural region recycler is located.

(C) Notwithstanding subparagraph (A), any operator who fails to provide notification to the department pursuant to subparagraph (B) shall not be eligible to apply for handling fees.

(b) The department may allocate the amount authorized for expenditure for the payment of handling fees pursuant to paragraph (1) of subdivision (a) of Section 14581 on a monthly basis and may carry over any unexpended monthly allocation to a subsequent month or months. However, unexpended monthly allocations shall not be carried over to a subsequent fiscal year for the purpose of paying handling fees but may be carried over for any other purpose pursuant to Section 14581.

(c) (1) The department shall not make handling fee payments to more than one certified recycling center in a convenience zone. If a dealer is located in more than one convenience zone, the department shall offer a single handling fee payment to a supermarket site located at that dealer. This handling fee payment shall not be split between the affected zones. The department shall stop making handling fee payments if another recycling center certifies to operate within the convenience zone without receiving payments pursuant to this section, if the department monitors the performance of the other recycling center for 60 days and determines that the recycling center is in compliance with this division. Any recycling center that locates in a convenience zone, thereby causing a preexisting recycling center to become ineligible to receive handling fee payments, is ineligible to receive any handling fee payments in that convenience zone.

(2) The department shall offer a single handling fee payment to a rural region recycler located anywhere inside a convenience zone, if that convenience zone is not served by another certified recycling center and the rural region recycler does either of the following:

(A) Operates a minimum of 30 hours per week in one convenience zone.

(B) Serves two or more convenience zones, and meets all of the following criteria:

(i) Is the only certified recycler within each convenience zone.

(ii) Is open and operating at least eight hours per week in each convenience zone and is certified at each location.

(iii) Operates at least 30 hours per week in total for all convenience zones served.

(3) In a convenience zone that, as of the effective date of the measure that added this paragraph, has been continuously unserved by a certified recycling location for at least six months, the department shall offer a handling fee payment to a recycler located within the convenience zone that operates a minimum of 30 hours per week regardless of physical location within that convenience zone and that is certified and begins operating on or after the effective date of that measure.

(d) The department may require the operator of a supermarket site, or the operator of a rural region recycler, receiving handling fees to maintain records for each location where beverage containers are redeemed, and may require the supermarket site or rural region recycler to take any other action necessary for the department to determine that the supermarket site or rural region recycler does not receive an excessive handling fee.

(e) The department may determine and utilize a standard container per pound rate, for each material type, for the purpose of calculating volumes and making handling fee payments.

(f) (1) On or before January 1, 2008, and every two years thereafter, the department shall conduct a survey pursuant to this subdivision of a statistically significant sample of certified recycling centers that receive handling fee payments to determine the actual cost incurred for the redemption of empty beverage containers by those certified recycling centers. The department shall conduct these cost surveys in conjunction with the cost surveys performed by the department pursuant to subdivision (b) of Section 14575 to determine processing payments and processing fees. The department shall include, in determining the actual costs, only those allowable costs contained in the regulations adopted pursuant to this division that are used by the department to conduct cost surveys pursuant to subdivision (b) of Section 14575.

(2) Using the information obtained pursuant to paragraph (1), the department shall then determine the statewide weighted average cost incurred for the redemption of empty beverage containers, per empty beverage container, at recycling centers that receive handling fees.

(3) The department shall determine the amount of the handling fee to be paid for each empty beverage container by subtracting the amount of the statewide weighted average cost per container to redeem empty beverage containers by recycling centers that do not receive handling fees from the amount of the statewide weighted average cost per container determined pursuant to paragraph (2).

(4) The department shall adjust the statewide average cost determined pursuant to paragraph (2) for each beverage container annually to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(5) The cost information collected pursuant to this section at recycling centers that receive handling fees shall not be used in the calculation of the processing payments determined pursuant to Section 14575.

(6) Notwithstanding paragraphs (2) and (3), for the period from the effective date of the measure that added this paragraph to July 1, 2021, inclusive, the handling fee shall be set at the rate in effect on July 1, 2015.

(g) The department may update the methodology and scrap values used for calculating the handling fee from the most recent cost survey if it finds that the handling fee resulting from the most recent cost survey does not accurately represent the actual cost incurred for the redemption of empty beverage containers by those certified recycling centers.

(h) Notwithstanding subdivision (f), the department shall suspend usage of surveys and calculations of recycling costs until at least January 1, 2020.

(i) (1) The department may expend up to three million dollars ($3,000,000) annually from the fund for supplemental handling fee payments to low-volume recycling centers and recyclers willing to open a recycling center in a convenience zone that has recently become unserved. The department shall allocate the amount authorized for these supplemental handling fee payments into 12 equal monthly allotments.

(2) Supplemental handling fee payments shall be distributed once per month in equal amounts to recycling centers that are eligible for handling fees pursuant to subdivision (a), subject to all of the following requirements:

(A) A recycling center receiving a handling fee pursuant to this subdivision shall have no more than 600,000 beverage containers eligible for handling fees per month.

(B) Priority shall be given to recycling centers with the lowest volumes of beverage containers that are located in rural regions.

(C) (i) Payments shall be distributed first to no more than 100 recycling centers with the lowest volumes of beverage containers that are located in rural regions, in order of lowest volume.

(ii) After payments are distributed pursuant to clause (i), payments shall be distributed to other recycling centers with the lowest volumes of beverage containers, in order of lowest volume.

(3) No more than 400 recycling centers shall receive supplemental handling fee payments pursuant to this subdivision.

(4) The department may make the supplemental handling fee payments authorized pursuant to this subdivision by augmenting handling fee payments received by recyclers pursuant to subdivision (f).

(5) This subdivision shall become inoperative on July 1, 2021.

(j) On or before January 1, 2021, the department shall develop and submit, in compliance with Section 9795 of the Government Code, recommendations to the Legislature for revisions to this section and the department's handling fee guidelines to ensure that handling fee calculations are adequate to maintain the state's recycling center infrastructure.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because of the unprecedented closures of recycling centers statewide, reduced access to redemption locations for consumers, declining recycling rates, and higher costs associated for grocers and retailers, it is necessary for this act to take effect immediately.

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