I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 149-30 (COR), "AN ACT TO ADD A NEW CHAPTER 44 TO TITLE 10, GUAM CODE ANNOTATED; AND TO ADD A NEW §76220 TO CHAPTER 76, ARTICLE 2 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE IMPLEMENTATION OF THE 'GUAM BEVERAGE CONTAINER RECYCLING ACT'," was on the 22nd day of December, 2010, duly and regularly passed.

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Judith T. Won Pat, Ed. D.
Speaker

Attested:

______________________________
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by I Maga’lahen Guåhan this _____ day of ___, 2010, at ___ o'clock __.M.

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Assistant Staff Officer
Maga’lahi’s Office

APPROVED:

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FELIX P. CAMACHO
I Maga’lahen Guåhan

Date: ____________________________

Public Law No. __________________
AN ACT TO ADD A NEW CHAPTER 44 TO TITLE 10, GUAM CODE ANNOTATED; AND TO ADD A NEW §76220 TO CHAPTER 76, ARTICLE 2 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE IMPLEMENTATION OF THE “GUAM BEVERAGE CONTAINER RECYCLING ACT”.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. I Liheslaturan Guåhan finds that the growing importance of our planet’s environment has become evident at the highest reaches of our country’s leadership, and it is among the top agenda items of the Administration of President Barack Obama and Vice President Joseph Biden.
Their initiatives on clean energy, promoting the production of green products and protecting our environment will help to transform the way we live and will make the world a better place for future generations.

From ancient times up through the advent of the twentieth century, the people of Guam depended primarily on our lush environment and bountiful ocean to provide their sustenance and found ways to use nature for everything from clothing, to canoes, to the homes in which they lived, and to the weapons with which they fought. The environment was an important part of the lives of our forefathers, and they treated it wisely.

Over the course of time, western civilization brought many people and practices to our island and we have left many of the old ways behind. We have become members of a disposable society, generating an enormous quantity of solid waste, up to three (3) pounds per person per day, or about one hundred thousand (100,000) tons of refuse per year. As our population and the number of our visitors continues to increase, and as the military buildup promises to bring even more people to our island, our volume of solid waste will rise as well, unless we take appropriate action.

*I Liheslatura* finds that an environmentally and economically sound solid waste management system must incorporate a number of different aspects, such as recycling. Recycling is a means of helping to protect our environment by collecting products that can be reused or remanufactured into other products, thus reducing the volume of refuse that will either take up valuable space in our landfills or have to be eliminated through other means.

*I Liheslatura* further finds that the implementation of laws that impose fees or deposits on recyclable items will promote the concept and practice of recycling empty beverage containers. Deposits on recyclable items will assist in preserving
our environment and reduce litter. A substantial amount of the litter left behind on beaches and along our roadways consists of beverage containers.

A beverage container recycling deposit program implemented in a number of communities across the nation is commonly referred to as a “bottle bill.” The first bottle bill became law in the state of Vermont in 1953. It required that beer must be sold only in refillable bottles so that empty bottles would not end up in the trash but instead would be returned to the bottlers to be washed and refilled.

The first bottle bill to charge a refundable deposit on non-refillable containers was enacted in 1971 in the state of Oregon. Their beverage container recycling deposit program is so effective that they have a beverage container recycling rate of greater than eighty percent (80%), more than double the rate of areas without deposit programs. Current bottle bills impose fees or deposits on beverage containers of all kinds, including glass, metal and plastic. Some areas such as Connecticut even have deposits on cartons.

_I Liheslatura_ further finds that eleven (11) states presently place refundable deposits on recyclable beverage containers. They are: California, Connecticut, Delaware, Hawaii, Iowa, Maine, Massachusetts, Michigan, New York, Oregon, and Vermont. Seven (7) additional states are considering container deposit programs at this time, including: Florida, Maryland, New Hampshire, New Jersey, New Mexico, Tennessee and West Virginia. More than half of the population of the United States live in areas in which container deposit programs are in effect.

Beverage container recycling deposit programs have also proven to be effective in some areas within Micronesia. Both the Republic of Kiribati and Kosrae in the Federated States of Micronesia have enacted container recycling deposit programs, and the Republic of Palau has considered implementing such a program.
Despite the presence of voluntary recycling programs, such as Guam’s IRecycle, the locations that do not have bottle bills recycle less than forty percent (40%) of their beverage containers, compared to the nearly eighty percent (80%) recycling rate for bottle bill states. The eleven (11) bottle bill states recycle more beverage containers than the other thirty-nine (39) non-bottle bill states combined.

Guam’s IRecycle program states on their website that over $1.5 Million Dollars could be generated for schools if they were to recycle the two million (2,000,000) pounds of aluminum beverage cans that are sold in Guam. At thirty-two (32) cans per pound, a recycling deposit program could earn schools $2.56 Million Dollars for the same cans, and this would be in addition to the earnings from the sale of the aluminum, or a possible $4.06 Million Dollars. The voluntary programs are making only a little more than a third of what they could be earning. The deposit program proposed in this legislation is IN ADDITION to the funds received from the sale of the aluminum. A beverage container deposit program would bring an even greater benefit to our schools.

Although no comprehensive studies have been done in Guam, our island’s beverage container recycling rate is likely comparable to the lowest recycling rates in the fifty (50) states, which is below forty percent (40%). This is due in part to misinformation and also in part because previous efforts to implement a beverage container recycling deposit program have failed because military commands were not ready to participate.

For example, several years ago a Judge Advocate General officer stated, in a reply to a request concerning a bottle bill program, that the military cannot be subject to “monetary schemes” without “a waiver of sovereign immunity.” Fortunately for Guam, a large number of military personnel and dependents from all branches of service are familiar with bottle bills and are willing to support and
cooperate with plans and programs to beautify our island and protect our environment.

This negative position taken by military commands only serves to emphasize that the armed forces commands do not always regard Guam or our people in the same manner as they regard those who reside in the fifty (50) states, where voluntary participation in local bottle bill programs is the standard. This lack of cooperation with putting a beverage container recycling deposit program into place has stymied all efforts in Guam because of the high number of beverages sold at commissaries and exchanges that end up in the local community as solid waste and litter.

Recent conversations concerning recycling with high ranking military officials, including former Assistant Navy Secretary B.J. Penn; Executive Director of the Joint Guam Program Office Major General David Bice (USMC Ret.); Rear Admiral William D. French, Commander Naval Forces Marianas; and Brigadier General Douglas Owens, Commander 36th Wing, have indicated their previous position has changed and they are now motivated to work with the local community to implement and voluntarily participate in a bottle bill program, provided it is similar in concept and execution to the beverage container recycling deposit program now in effect in the State of Hawaii.

It is therefore the intent of I Liheslatura to create the “Guam Beverage Container Recycling Act,” under the direction of the Guam Environmental Protection Agency (GEPA), to begin the process of implementing a container recycling deposit program in Guam.

It is also the intent of I Liheslatura that the implementation of the “Guam Beverage Container Recycling Act” constitute no additional expenditure of GEPA funds with the exception of start up and implementation funds that shall be
reimbursed by the 1¢ (one cent) per container retained by GEPA and any escheat accumulating due to non-return of containers on which deposits have been paid.

It is additionally the intent of I Liheslatura to provide the caveat that the “Guam Beverage Container Recycling Act,” shall not be implemented unless and until a memorandum of understanding or other agreement is executed by the Government of Guam and Department of Defense representatives to assure the people of Guam that the military commissaries and exchanges in Guam will participate in Guam’s beverage container recycling program so that all retail facilities in Guam’s civilian and military communities will be participants under the guidelines of the “Guam Beverage Container Recycling Act.”

It is the additional intent of I Liheslatura to provide the “Guam Beverage Container Recycling Act” with enough flexibility so that GEPA may amend the rules from time to time depending upon technological advances, economic conditions, waste stream characteristics, environmental effects, or other factors.

Section 2. A new Chapter 44 is added to Division 2, Title 10 Guam Code Annotated to read:

“CHAPTER 44
GUAM BEVERAGE CONTAINER RECYCLING ACT OF 2010

§44101. Short Title.

§44102. Statement of Policy.

§44103. Definitions.


§44105. Deposit Fee.

§44106. Deposit of Beverage Container Recycling Deposit Fees.

§44107. Deposit Beverage Distributors; Registration, Recordkeeping Requirements.
| §44108. | Beverage Container Recycling Deposit Fund. |
| §44109. | Beverage Container Recycling Deposit Payout. |
| §44110. | Audits. |
| §44111. | Redemption Centers. |
| §44112. | Acceptance of Containers. |
| §44113. | Deposit Beverage Distributor to Collect and Remit Container Deposits. |
| §44114. | Redemption Centers’ Claims for Reimbursement and Reporting Requirements. |
| §44115. | Deposit Beverage Container Requirements. |
| §44116. | Responsibility of Dealers. |
| §44117. | Reverse Vending Machine Requirements. |
| §44118. | Rules to be Adopted. |
| §44119. | Military Cooperation. |
| §44101. | **Short Title.** This Act *shall* be known as “The Guam Beverage Container Recycling Act of 2010.” |
| §44102. | **Statement of Policy.** Communities throughout the world, including our island neighbors of Kiribati and Kosrae, in the mainland United States, Canada, Australia and much of Europe have found that recycling has been effective in reducing threats to our environment and in reducing the enormous volume of solid waste produced by our modern lifestyles. |

Our island environment is precious, vulnerable, and irreplaceable. No individual, public entity, or private corporation has the right to pollute our air, water, or soil. The people of Guam have an ongoing responsibility to conserve, preserve, and enhance our natural resources and island beauty, and
to guarantee their continued existence and enjoyment in the present and for
future generations.

Some of the waste filling our dump today and bound for our landfills
tomorrow may represent a potential resource, but without proper
management these wastes will continue to be hazards to our environment
and to life itself. The reduction of solid waste at its source and the recycling
of reusable waste materials will reduce the flow of waste to dumps and
landfills and increase the supply of reusable materials for use by the public.

The United States Government, our Armed Forces, numerous
businesses and many concerned citizens in Guam have already adopted
environmentally friendly policies and habits to encourage the purchase, use
and re-use of biodegradable, recyclable and recycled products. Many are
presently recycling those products for which recycling avenues are available
in Guam. It is therefore the policy of this agency of the Government of
Guam to establish a mechanism that will provide incentives to aid the entire
recycling process as it relates to those products for which additional uses
may be found, either in Guam or by sending them off-island, and to set
achievable goals for waste stream reduction in the coming years.

§44103. Definitions. As used in this Chapter:

(a) Administrator means the Administrator of the Guam
Environmental Protection Agency.

(b) Auditor means the Office of Public Accountability.

(c) Beverage means all beverages for human consumption.

For purposes of this Chapter the term beverage shall not include items
sold in a non-liquid, or frozen form or liquid intended for medicinal
purposes only.
(d) **Beverage container** means the individual, separate, sealed glass, high density polyethylene, metal, plastic bottle, can, jar, or carton, with a total volume of less than or equal to sixty-four (64) fluid ounces, used for containing, at the time of sale to the consumer, a beverage intended for use or consumption. Beverage containers may be for single use or for multiple uses.

(e) **Board** means the Board of Directors of the Guam Environmental Protection Agency.

(f) **Commercial passenger vessel** means any domestic or foreign-flagged marine vessel or air carrier used primarily for transporting persons to and from Guam and to and from other destinations. The term does not include:

1. marine vessels authorized to carry fewer than twenty (20) passengers; or
2. marine vessels for hire that do not provide overnight accommodations for at least twenty (20) passengers, and based on an average of two (2) persons per cabin.

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

(h) **Dealer** means every person who engages in the sale of deposit beverages in deposit beverage containers to a consumer for use or consumption off the premises.

(i) **Department** means the Guam Environmental Protection Agency.

(j) **Deposit beverage** means beer, ale, or other drink produced by fermenting malt; mixed spirits; mixed wine, tea and
coffee drinks regardless of dairy-derived product content; soda, or noncarbonated water; and all nonalcoholic drinks in liquid form and intended for internal human consumption that is contained in a deposit beverage container.

The term *deposit beverage* excludes the following:

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

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

3. A liquid which 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 (P.L. 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; and

8. Milk and all other dairy-derived products, except tea and coffee drinks with trace amounts of these products.
(k) *Deposit beverage container* means the individual, separate, sealed glass, polyethylene terephthalate, high density polyethylene, or metal container less than or equal to sixty-eight (68) fluid ounces, used for containing, at the time of sale to the consumer, a deposit beverage intended for use or consumption in Guam.

(l) *Deposit Beverage Distributor* means a business, whether licensed in Guam or not, that engages in the sale or distribution of any and all deposit beverages, as defined in §44103 (j), in a deposit beverage container, as defined in §44103 (k), to a dealer in Guam, including any manufacturer who engages in such sales and imports and sells such products to either or both consumers and retailers located on either or both federal and private property. *Deposit Beverage Distributor* also means a *Wholesaler*.

(m) *Deposit Fee* means the amount added to the listed price of a product that the consumer must pay to the dealer or distributor as a deposit for each individual beverage container that has been identified by the Department as recyclable and requiring a deposit. An amount equivalent to at least eighty percent (80%) of the deposit fee shall be returned to the redeemer when the redeemer sells the container to a redemption center. No taxes shall be assessed or collected on deposit fees accepted by dealers for products approved in this Chapter 44 for recycling purposes.

(n) *Escheat* means the deposit fee paid to a dealer or deposit beverage distributor that remains unclaimed and becomes department property.
(o) Import means to buy, bring, or accept delivery of deposit beverage containers from an address, supplier, or any entity outside of Guam.

(p) Importer means any person who buys, brings, or accepts delivery of deposit beverage containers from outside of Guam for sale or use within Guam.

(q) List of Approved Containers means the list compiled by the Board of approved containers identified for recycling deposits. Containers may not be placed upon the list unless a process to recycle, reuse, convert to energy, or physically remove containers from Guam has been established or will be established concurrent with placement upon said list.

(r) Manufacturer means every person producing recyclable products including those who package or fill recyclable products for sale to distributors or dealers.

(s) On-premises consumption means to consume deposit beverages by a consumer immediately and within the area under control of the establishment, including bars, restaurants, commercial passenger vessels, and airplanes.

(t) Person means an individual, corporation, company, association, partnership, federal agency, or agency of the government of Guam.

(u) Recycling facility means all contiguous land and structures and other appurtenances, and improvements on the land used for the collection, separation, recovery, and sale or reuse of 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 whether manufactured locally or produced off-island.

(v) Redeemer means a person, other than a dealer or distributor, who demands at least eighty percent (80%) of the refund value in exchange for an empty deposit beverage container.

(w) Redemption center means an operation that accepts empty deposit beverage containers from redeemers and provides at least eighty percent (80%) of the refund value for empty deposit beverage containers intended to be recycled and ensures that the empty deposit beverage containers are properly recycled.

(x) Refillable beverage container means any deposit beverage container, which ordinarily would be returned to the manufacturer to be refilled and resold.

(y) Refund amount means the amount of the deposit fee refunded to a redeemer, which shall be at least eighty percent (80%) of the total amount of deposit fee paid per container.

(z) Reverse vending machine means a mechanical device, which accepts one (1) or more types of empty deposit beverage containers, and issues coins or a redeemable credit slip with a value not less than the container’s refund value.

(aa) Wholesaler means a Deposit Beverage Distributor.

§44104. Goals for Waste Stream Reduction. The goal of this Act is to reduce the amount of material in our waste stream by a minimum of five percent (5%) each year from the date of implementation of the recycling deposit fee, until a thirty-five percent (35%) reduction of material in our waste stream has been achieved through the practice of waste volume reduction at the source and through recycling.
§44105. Deposit Fee. A deposit fee of not less than five cents (5¢) is hereby levied on each beverage container described in §44103(d) and sold in Guam for off-premises consumption. Such fee shall be remitted to the Department by deposit beverage distributors, licensed in Guam, which distribute such beverage containers. The Board may adjust the deposit fee as provided in §44106 of this Chapter 44 pursuant to the Administrative Adjudication Law.

(a) No taxes on deposit fees. No taxes shall be assessed or collected on deposit fees accepted by dealers for products approved in this Chapter 44 for recycling purposes.

§44106. Deposit of Beverage Container Recycling Deposit Fees.

(a) Deposit Beverage Distributors of beverage containers that meet the conditions described in Subsection (b) of this §44106 shall, on a monthly basis, remit an amount equal to the deposit fee described in §44105 of this Chapter 44 multiplied by the number of containers that have been purchased on which the deposit is applied, and for which payment has been received by the wholesaler in the previous calendar month. Deposits shall be made in the manner and on the forms prescribed by the Department.

(b) Types of containers upon which deposit fees shall be levied must be first approved by the Board for placement upon a list of approved containers identified for recycling deposits. Containers may not be placed upon the list of approved containers identified for recycling unless a process to recycle, reuse, or physically remove containers from Guam has been established or will be established concurrent with placement upon said list.

(c) The Board shall from time to time examine and may elect to increase either the deposit fee, as provided in §44105 of this Act, or the
percentage of the refund value returned to the redeemer, as provided in §44109 of this Act, or both, pursuant to the Administrative Adjudication Law.

(d) Levy of the deposit fee imposed upon beverage containers shall begin six (6) months (180 calendar days) after the effective date of the voluntary agreement described in Title 10 GCA Chapter 44 §44119, except as may otherwise be provided in this act.

§44107. Deposit Beverage Distributors; Registration, Recordkeeping Requirements.

(a) Six (6) months (180 calendar days) after the effective date of the voluntary agreement described in Title 10 GCA Chapter 44 §44119, Deposit Beverage Distributors operating in Guam shall register with the Department, using forms prescribed by the Department, and shall notify the Department of any change in address or other information previously submitted. Any person who desires to conduct business in Guam as a Deposit Beverage Distributor shall register with the Department no later than one (1) month prior to the commencement of their business.

(b) All Deposit Beverage Distributors shall maintain records reflecting the manufacture of their beverages in deposit beverage containers as well as the importation and exportation of deposit beverage containers. The records shall be made available, upon request, for inspection by the Department; provided that any proprietary information obtained by the Department shall be kept confidential and shall not be disclosed to any other person, except:

(1) as may be reasonably required in an administrative or judicial proceeding to enforce any provision of this Chapter or any rule adopted pursuant to this Chapter; or
§44108. Beverage Container Recycling Deposit Fund.

(a) There is within the government of Guam, and under the control of the Department, a Beverage Container Recycling Deposit Fund, which is hereby created, into which the proceeds from recycling deposit fees as provided in §44105 of this Act are deposited, and in which all interest earned by the Beverage Container Recycling Deposit Fund shall accrue.

(b) The Beverage Container Recycling Deposit Fund shall be administered separate and apart from any other fund of the Government, and shall not be subject to any transfer authority of I Maga'lahi or appropriation by I Liheslatura, except as provided in this Chapter 44. Any unencumbered funds remaining in the beverage container recycling fund at the end if each fiscal year shall remain in that Fund and be expended only for the purposes described in this Section.

(c) (1) Eighty percent (80%) of the funds remitted into the Beverage Container Recycling Deposit Fund shall be used only for reimbursements to Redemption Centers of amounts refunded to redeemers.

(2) Twenty percent (20%) of the funds remitted into the Beverage Container Recycling Deposit Fund shall be used only for the following purposes:

(i) expenses related to administering the provisions of this Chapter 44;

(ii) funding of administrative, audit, and compliance activities associated with collection and payment of the deposits of the Beverage Container Recycling Deposit Act;
(iii) conducting of recycling education and demonstration projects; and
(iv) promotion of recycling related activities.

§44109. Beverage Container Recycling Deposit Payout.
(a) For each empty beverage container approved for recycling deposits under §44105, and brought to a redemption center, eighty percent (80%) shall be returned to the redeemer for each empty beverage container. Payouts to redeemers shall begin six (6) months (180 calendar days) after the effective date of the voluntary agreement described in §44119 of this Chapter.
(b) A person operating a redemption center may compact empty metal beverage containers with the approval of the recycling facility required to accept the containers.

§44110. Audits. The Office of Public Accountability shall conduct a management and financial audit of the program beginning in Fiscal Year 2012, and for each fiscal year thereafter ending in an even number. The costs incurred by the Public Auditor for the audit shall be reimbursed by the Beverage Container Recycling Deposit Fund. The Public Auditor may contract the audit services of a third party to conduct the audit.

§44111. Redemption Centers.
(a) To facilitate the return of empty beverage containers, and subject to the approval of the Department and appropriate business licensing, any person may establish a Redemption Center at which consumers may return empty beverage containers and receive payment of the refund value of such beverage containers. Refunds may be based on number or weight of deposit beverage containers.
(b) An application for approval of a Redemption Center shall be filed with the Department. The application shall state the name and address of the person responsible for the establishment and operation of the Redemption Center, the kind of beverage containers that will be accepted at the Redemption Center, and the names of the distributor or distributors that will be handling and exporting their recyclables, if different from the name of the operator of the Redemption Center. The application shall contain such other information as the Administrator may reasonably require.

(c) The Department shall approve a Redemption Center if it finds that the Redemption Center will provide a convenient service to consumers for the return of empty beverage containers. The order of the Department approving a Redemption Center shall state the kind of empty beverage containers that the Redemption Center will accept pursuant to the application of that Redemption Center. The order may contain such other provisions to insure that the Redemption Center will provide a convenient service to the public as the Administrator may determine. Applicants shall be appropriately licensed to conduct business in Guam by the Department of Revenue and Taxation.

(d) The Department may review the approval of any Redemption Center at any time. After written notice to the person responsible for the establishment and operation of the Redemption Center, the Department may, after hearing, withdraw approval of a Redemption Center if the Department finds there has not been compliance with the Department's order approving the Redemption Center, or if the Redemption Center no longer provides a convenient service to the public.

(e) All approved Redemption Centers shall meet applicable health standards and shall be maintained in full compliance with applicable laws.
and with the orders and rules of the Department, including permitting
requirements.

(f) Redemption Centers shall:

(1) accept deposit beverage containers for which a deposit
has been paid pursuant to § 44105;

(2) pay to the redeemer the full refund value in cash for all
deposit beverage containers;

(3) remain open at least thirty (30) hours per week, of which
at least five (5) hours shall be on Saturday or Sunday; and

(4) forward the documentation necessary to support claims
for reimbursement as stated in § 44114 of this Chapter.

(g) The Department shall prepare printed material to be posted at
dealer locations in conspicuous areas identifying the location of approved
Redemption Centers and specifying what type of recyclable materials may
be deposited at each Center.

(h) All Redemption Centers shall submit to the Department the
following information on forms and on dates prescribed by the Department,
which information shall include at a minimum:

(1) the number or weight of deposit beverage containers of
each material type accepted at the redemption center for the reporting
period; and

(2) the amount of refunds paid out by material type.

§ 44112. Acceptance of Containers. A Redemption Center shall
not refuse to accept from a consumer any empty beverage container
described in § 44103 (d), or refuse to pay to the consumer the refund value of
a beverage container as provided in § 44109, except for the following
reasons:
(a) the deposit beverage container is broken, corroded, or dismembered;
(b) the deposit beverage container contains a free-flowing liquid;
(c) The deposit beverage container holds a significant amount of foreign material; or
(d) the deposit beverage container appears to have been previously processed and baled.

§44113. Deposit Beverage Distributor to Collect and Remit Container Deposits. Deposit Beverage Distributors licensed in Guam that meet the conditions described in Subsections (a) through (c) below shall, on a monthly basis, remit an amount for deposits for such beverage containers as described pursuant to this Chapter equal to the amount of the deposit as described in §44105 of this Chapter, in the manner and on the forms developed by the Department, payable to the Beverage Container Recycling Deposit Fund, and subject to the requirements of the Department.

(a) Condition 1: The Deposit Beverage Distributor licensed in Guam distributes beverages that may include any and all alcoholic and non-alcoholic beverages, juices, flavored drinks, milk, coffee, tea and water;
(b) Condition 2: Any of the beverages distributed are in containers that have been identified by the Guam Environmental Protection Agency as that which can be recycled pursuant to §44112 of this Chapter; and
(c) Condition 3: The business is a distributor in Guam of any such beverage product for sale to customers by retailers
located on both federal and private property to both military and local retailers.

§44114. Redemption Centers’ Claims for Reimbursement and Reporting Requirements.

(a) Claims for reimbursements of refund amounts paid out by Redemption Centers shall be made by Redemption Centers in the manner, on the forms, and in the frequency specified by the Department.

(b) The Department shall pay certified redemption centers refund values as described in §44109 of this Chapter, based on collection reports submitted by the Redemption Centers. All redemption centers shall submit to the Department the following information on form prescribed by the Department, which information shall include at a minimum:

(1) the number or weight of deposit beverage containers of each material type accepted at the Redemption Center for the reporting period;

(2) the amount of refunds paid out by material type; and

(3) the number or weight of deposit beverage containers of each material type to be transported to a permitted recycling facility.

§44115. Deposit Beverage Container Requirements.

(a) Except as provided in (b) and (c) of this §44115, effective on September 1, 2011, every deposit beverage container sold in Guam shall clearly indicate the refund value of the container and the word “Guam” or the letters “GU.” The names or letters representing the names of other states or jurisdictions with comparable deposit legislation may also be included in the indication of refund value. The refund value on every deposit beverage container shall be clearly, prominently, and indelibly marked by printing,
scratch embossing, raised letter embossing, and shall be affixed on the top or side of the container in letters at least one-eighth (1/8) inch in size.

(b) Subsection (a) of this §44115 shall not apply to any type of refillable glass deposit beverage container that has a brand name permanently marked on it and that has the equivalent of a refund value of at least five (5) cents, which is paid upon receipt of the container by a dealer or deposit beverage distributor.

(c) Containers that do not meet the definition of a deposit beverage container, as specified in §44103(k) of this Chapter, shall not indicate “Guam” or “GU” on the container.

§44116. Responsibility of Dealers. Dealers who are not Redemption Centers shall post a clear and conspicuous sign at the primary public entrance of the dealer’s place of business that specifies the name, address, and hours of operation of the closest Recycling Redemption Center location(s).

Businesses that sell deposit beverages for on-premises consumption, such as hotels, bars, and restaurants, shall collect used deposit beverage containers from the patron and either use a certified Redemption Center for the collection of containers or become a Recycling Redemption Center.

§44117. Reverse Vending Machine Requirements. Reverse vending machines may be used by Recycling Redemption Centers to satisfy the requirements of this Chapter, provided that the reverse vending machine shall accept one (1) or more types of empty deposit beverage containers and shall pay out appropriate refunds as coins, or via a redeemable credit slip with a value not less than the refund value of the container or containers being redeemed. Reverse vending machines shall be routinely serviced to
ensure proper operation and continuous acceptance of empty deposit beverage containers and payment of the refund value.

§44118. Rules to be Adopted.

(a) The Board shall convene an advisory committee to assist in the development of all rules needed to implement this Chapter. Members of the committee shall assess the impact on consumers, recyclers, the military, and the beverage industry. Members of the committee shall be appointed by the Administrator and shall serve at the Administrator’s pleasure. A simple majority of the committee members shall constitute a quorum for the purposes of recommending rules, and providing input to the Board.

(b) The Board may adopt rules pursuant to this Chapter, as may be necessary to carry out its provisions. Amendments to such rules may be considered and adopted from time to time to replace or supplement such rules as may be in existence, to include:

(1) identifying items to be recycled in addition to beverage containers;
(2) establishing or revising appropriate deposit fees and refund values;
(3) regulating Redemption Centers and the redemption process for recyclable items; and
(4) establishing and revising appropriate forms and procedures to reimburse Redemption Centers applying for refund amounts.

(c) The Board shall consider the merging or transfer of the functions described in this Chapter with the functions of an autonomous entity created to manage all solid waste concerns within Guam.
§44119. Military Cooperation. The provisions of this Chapter relative to beverage container recycling deposit fees shall not be implemented, and deposits as defined in this Chapter, shall not be assessed or collected on beverage containers, until the Government of Guam and the U.S. Navy and U.S. Air Force commands in Guam shall have established a voluntary agreement in writing that provides for such deposit fees to be assessed and collected throughout Guam, including all locations both on and off federal property, in the manner described in such voluntary agreement. Assessment and collection of deposit fees on beverage containers shall continue only for the period of time that such voluntary agreement is in effect.”

Section 3. A new §76220 is added to Chapter 76 Article 2 of Title 11, Guam Code Annotated, to read:

“§76220. Recycling Redemption Center Endorsements. An endorsement for a Recycling Redemption Center must be obtained by any person who engages in the business of receiving recyclable products and remitting a portion of deposit fees to redeemers. Such required endorsement is subject to approval by the Guam Environmental Protection Agency, pursuant to Chapter 44 of Title 10 Guam Code Annotated.”

Section 4. Effective Date. The provisions of this Act shall take effect six (6) months (180 calendar days) after the effective date of the voluntary agreement described in Title 10 GCA Chapter 44 §44119 (Military Cooperation).

Section 5. Severability. If any provision of this Law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Law which can be given effect without the invalid provisions or application, and to this end the provisions of this Law are severable.