

I MINA'TRENTAI DOS NA LIHESLATURAN GUÁHAN
2013 () REGULAR SESSION

Bill No. 108-32 (COR)

Introduced by:

T.R. Muña Barnes

AN ACT TO AMEND §§ 44103, 44105, 44108, 44114, and 44115 OF CHAPTER 44, TITLE 10, GUAM CODE ANNOTATED; AND TO REPEAL §§ 44106 and 44109 OF CHAPTER 44, TITLE 10, GUAM CODE ANNOTATED; AND TO AMEND § 45105 OF CHAPTER 45, TITLE 10, GUAM CODE ANNOTATED; AND TO AMEND § 51504 OF CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM BEVERAGE CONTAINER RECYCLING ACT OF 2010 AND THE POWER OF THE GUAM ENVIRONMENTAL PROTECTION AGENCY TO IMPLEMENT THE SAME.

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BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1.** Section 44103 of Division 2, Chapter 44, 10 Guam Code Annotated is
2 hereby amended to read as follows:

3 “(m) Deposit Beverage Container Fee ~~means the amount added to the listed price~~
4 ~~of a product that the consumer must pay to the dealer or distributor as a deposit for each~~
5 ~~individual beverage container that has been identified by the Department as recyclable~~
6 ~~and requiring a deposit~~ refers to the amount paid by every deposit beverage distributor to
7 the Department for each polyethylene terephthalate, high density polyethylene, or metal
8 deposit beverage manufactured in or imported into Guam. An amount equivalent to at
9 least eighty percent (80%) of the deposit fee shall be returned to the redeemer when the
10 redeemer sells the container to a redemption center. No taxes shall be assessed or
11 collected on deposit fees accepted by dealers for products approved in this Chapter 44 for
12 recycling purposes.

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

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

5 (y) ~~*Refund value amount* means the amount of the deposit fee refunded to a~~
6 ~~redeemer, which shall be at least eighty percent (80%) of the total amount of deposit fee~~
7 ~~paid per container.~~ refers to the amount of the deposit required for distribution and sale of
8 beverage containers in Guam that shall be paid to the redeemer in exchange for an empty
9 deposit beverage container.

10 (bb) *Redemption rate* refers to the percentage of deposit beverage containers
11 redeemed over a reporting period. The percentage is calculated by dividing the number
12 of deposit beverage containers redeemed by the number of deposit beverage containers
13 sold and then multiplying that number by one hundred.”

14 **Section 2.** Section 44105 of Division 2, Chapter 44, 10 Guam Code Annotated is
15 hereby amended to read as follows:

16 “§ 44105. Deposit Beverage Container Fee.

17 ~~A deposit fee of not less than five cents (5¢) is hereby levied on each beverage~~
18 ~~container described in § 44103(d) and sold in Guam for off-premises consumption. Such~~
19 ~~fee shall be remitted to the Department by deposit beverage distributors, licensed in~~
20 ~~Guam, which distribute such beverage containers. The Board may adjust the deposit fee~~
21 ~~as provided in § 44106 of this Chapter 44 pursuant to the Administrative Adjudication~~
22 ~~Law.~~

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

25 (a) Every deposit beverage distributor shall pay to the Department a deposit
26 beverage container fee on each polyethylene terephthalate, high density polyethylene, or
27 metal deposit beverage container manufactured in or imported into Guam for both on and
28 off premises consumption. The fee shall be imposed only once on the same deposit
29 beverage container. The fee shall be begin at rate of 0.5 cents per deposit beverage
30 container unless and until the Department determines otherwise as in accordance with §
31 44105(c) of this Chapter 44.

1 (b) Every deposit beverage distributor shall pay to the Department a deposit
2 beverage container fee on each deposit beverage container manufactured in or imported
3 to Guam. The deposit beverage container fee shall not apply to deposit beverage
4 containers exported for sale outside of Guam. The fee shall be imposed only once on the
5 same deposit beverage container. The fee shall begin at one (1) cent per deposit beverage
6 container unless and until the Department determines otherwise as in accordance with §
7 44105(c) of this Chapter 44.

8 (c) Beginning one year from the date this Act takes effect, and every year
9 thereafter, the Department shall notify deposit beverage distributors in writing of the
10 amount of the deposit beverage container fee. The effective date of changes to said fee
11 amount shall be one month after said notice. The fee shall be based on the redemption
12 rate calculated annually based on the redemption rate information submitted to the
13 Department for the previous period, with said period to begin two (2) months after the
14 date this Act takes effect and end two (2) months before the date the above-described
15 notice is given, and in accordance with § 44103(bb) of this Chapter 44. Deposits shall be
16 made in the manner and on the forms prescribed by the Department.

17 (d) No taxes on deposit fees. No taxes shall be assessed or collected on deposit
18 beverage container fees accepted by dealers for products approved in this Chapter 44 for
19 recycling purposes.

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

26 (f) In accordance with § 44105(c) of this Chapter 44 and the Administrative
27 Adjudication Law, the Board shall examine and may elect to increase either the deposit
28 beverage container fee or the percentage of the refund value returned to the redeemer and
29 may adjust the deposit beverage container fee as provided in § 44106 of this Chapter 44,
30 pursuant to the Administrative Adjudication Law.

1 (g) Levy of the deposit beverage container fee imposed upon beverage containers
2 shall begin six (6) months (180 calendar days) after the effective date of the voluntary
3 agreement described in § 44119 of this Chapter 44, except as may otherwise be provided
4 in this Act.”

5 **Section 3.** Section 44106 of Division 2, Chapter 44, 10 Guam Code Annotated is
6 hereby repealed:

7 “~~§ 44106. Deposit of Beverage Container Recycling Deposit Fees.~~

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

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

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

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

27 **Section 4.** Section 44108 of Division 2, Chapter 44, 10 Guam Code Annotated is
28 hereby amended to read as follows.

29 “§ 44108. Beverage Container Recycling Deposit Payout.

30 (c) ~~(+)~~ Notwithstanding the authority of the Department to elect to adjust either
31 the deposit beverage container fee or the percentage of the refund value returned to the

1 redeemer as provided in § 44105 of this Chapter 44:

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

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

7 (A) expenses related to ~~administering~~ implementing the provisions of this
8 Chapter 44;

9 (B) funding of administrative, audit, and compliance activities associated
10 with collection and payment of the deposits of the Beverage Container
11 Recycling Deposit Act;

12 (C) conducting of recycling outreach education, capacity building and
13 demonstration projects; and

14 (D) promotion and marketing of recycling related activities.

15 **Section 5.** Section 44109 of Division 2, Chapter 44, 10 Guam Code Annotated is
16 hereby repealed:

17 “§ 44109. Beverage Container Recycling Deposit Payout.

18 (a) ~~For each empty beverage container approved for recycling deposits under §~~
19 ~~44105, and brought to a redemption center, eighty percent (80%) shall be returned to the~~
20 ~~redeemer for each empty beverage container. Payouts to redeemers shall begin six (6)~~
21 ~~months (180 calendar days) after the effective date of the voluntary agreement described~~
22 ~~in § 44119 of this Chapter.~~

23 (b) ~~A person operating a redemption center may compact empty metal beverage~~
24 ~~containers with the approval of the recycling facility required to accept the containers.”~~

25 **Section 6.** Section 44114 of Division 2, Chapter 44, 10 Guam Code Annotated is
26 hereby amended to read as follows:

1 “(b) The Department shall pay certified redemption centers refund values as
2 described in § 441095(f) of this Chapter, based on collection reports submitted by the
3 Redemption Centers. All redemption centers *shall* submit to the Department the
4 following information on forms prescribed by the Department, which information *shall*
5 include at a minimum:

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

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

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

11 **Section 7.** Section 44115 of Division 2, Chapter 44, 10 Guam Code Annotated is
12 hereby amended to read as follows:

13 “§ 44115. Deposit Beverage Container Requirements.

14 (a) Except as provided in (b) and (c) of this § 44115, effective ~~on September 1,~~
15 2011, immediately after the date this Act takes effect, every deposit beverage container
16 sold in Guam shall clearly indicate the refund value of the container and the word
17 “Guam” or the letters “GU.” The names or letters representing the names of other states
18 or jurisdictions with comparable deposit legislation may also be included in the indication
19 of refund value. The refund value on every deposit beverage container shall be clearly,
20 prominently, and indelibly marked by printing, scratch embossing, raised letter
21 embossing, and shall be affixed on the top or side of the container in letters at least one-
22 eighth (1/8) inch in size.”

23 **Section 8.** Section 45105 of Division 2, Chapter 45, 10 Guam Code Annotated is
24 hereby amended to read as follows:

25 “§ 45105. Powers and Duties.

26 The Guam Environmental Protection Agency shall be responsible for the
27 implementation of the Guam Beverage Container Recycling Act of 2010, Chapter 44 of
28 this Part; Water Resources Conservation Act, Chapter 46 of this Part; the Water Pollution
29 Control Act, Chapter 47 of this Part; Toilet Facilities and Sewage Disposal Act, Chapter

1 48 of this Part; the Air Pollution Control Act, Chapter 49 of this Part; the Guam
2 Pesticides Act, Chapter 50 of this Part; and Solid Waste, Chapter 51 of this Part.”

3 **Section 9.** Section 51504 of Division 2, Chapter 51, 10 Guam Code Annotated is
4 hereby amended to read as follows:

5 “§ 51504. Administration of the Recycling Revolving Fund.

6 The Administrator *shall* administer the Fund and *shall* encumber all amounts
7 available in the Fund as expeditiously as possible for the purposes of assisting and
8 encouraging recycling of recyclable materials- and implementing the Guam Beverage
9 Container Recycling Act of 2010 pursuant to the Administrator’s discretion under §
10 51504(c) of this Article. The Administrator *shall* administer the Fund in accordance with
11 this Article to cause the following material/waste to be recycled *or* otherwise disposed
12 according to the following priority:

13 (a) First Priority - junk vehicles, tires, batteries, waste oil, white
14 goods/appliances,

15 (b) Second Priority - paper, cardboard, plastic, and glass,

16 (c) Third Priority - other recyclable materials as determined by the
17 Administrator.

18 (d) Not more than one (1) FTE employee at Guam Environmental
19 Protection Agency to administer this Article.”

20 **Section 10. Effective Date.** The provisions outlined in this Act shall become
21 effective immediately upon enactment into public law.

22 **Section 11. Severability.** The provisions outlined in this Act are declared to be
23 separate and severable. The invalidity of any clause, sentence, paragraph, subdivision,
24 section or portion of this statute, or the invalidity of the application thereof to any person
25 or circumstance shall not affect the validity of the remainder of this statute or the validity
26 of its application to other persons or circumstances.