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**MINA' TRENTA NA LIHESLATURAN GUÅHAN  
2009 (FIRST) Regular Session**

2009 JUN 12 PM 1:25 *gmm*

**Bill No. 149 (COR)**

**Introduced by:**

**Tina Rose Muña Barnes  
Frank B. Aguon, Jr.**

**AN ACT TO ADD A NEW CHAPTER 44 TO TITLE 10 GUAM CODE ANNOTATED RELATIVE TO THE "GUAM BEVERAGE CONTAINER RECYCLING DEPOSIT ACT" AND TO ESTABLISH A BEVERAGE CONTAINER RECYCLING DEPOSIT FUND SEPARATE AND APART FROM ALL OTHER FUNDS WITHIN THE GOVERNMENT OF GUAM, AND TO REQUIRE THE CONFIRMATION OF THE VOLUNTARY COOPERATION OF MILITARY COMMANDS WITH THE GUAM BEVERAGE CONTAINER RECYCLING PROGRAM PRIOR TO ASSESSMENT AND COLLECTION OF ANY BEVERAGE CONTAINER DEPOSIT FEES; TO ADD NEW § 76220 TO CHAPTER 76 ARTICLE 2 OF TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO ENDORSEMENT OF BEVERAGE CONTAINER RECYCLING REDEMPTION CENTERS; AND TO STATE THE EFFECTIVE DATES OF CERTAIN SUBSECTIONS OF SECTION 2 OF THIS ACT.**

**1 BE IT ENACTED BY THE PEOPLE OF GUAM:**

**2 Section 1. Legislative Findings and Intent. *I Liheslaturan***

**3 *Guahån* finds that the growing importance of our planet's**

**4 environment has become evident at the highest reaches of our**

**5 country's leadership, and it is among the top agenda items of the**

**6 Administration of President Barack Obama and Vice President**

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1 Joseph Biden. Their initiatives on clean energy, promoting the  
2 production of green products and protecting our environment will  
3 help to transform the way we live and will make the world a better  
4 place for future generations.

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

12 Over the course of time, western civilization brought many  
13 people and practices to our island and we have left many of the old  
14 ways behind. We have become members of a disposable society,  
15 generating an enormous quantity of solid waste, up to three pounds  
16 per person per day, or about 100,000 tons of refuse per year. As our  
17 population and the number of our visitors continues to increase, and  
18 as the military buildup promises to bring even more people to our

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1 island, our volume of solid waste will rise as well, unless we take  
2 appropriate action.

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

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

16 A beverage container recycling deposit program implemented  
17 in a number of communities across the nation is commonly referred  
18 to as a "bottle bill." The first bottle bill became law in the state of  
19 Vermont in 1953. It required that beer must be sold only in refillable

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1 bottles so that empty bottles would not end up in the trash but  
2 instead would be returned to the bottlers to be washed and refilled.

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

11       *I Liheslatura* further finds that 11 states presently place  
12 refundable deposits on recyclable beverage containers. They are:  
13 California, Connecticut, Delaware, Hawaii, Iowa, Maine,  
14 Massachusetts, Michigan, New York, Oregon, and Vermont. Seven  
15 additional states are considering container deposit programs at this  
16 time, including Florida, Maryland, New Hampshire, New Jersey,  
17 New Mexico, Tennessee and West Virginia. More than half of the  
18 population of the United States lives in areas in which container  
19 deposit programs are in effect.

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1 Beverage container recycling deposit programs have also  
2 proven to be effective in some areas within Micronesia. Both the  
3 Republic of Kiribati and Kosrae in the Federated States of Micronesia  
4 have enacted container recycling deposit programs, and the Republic  
5 of Palau has considered implementing such a program.

6 Despite the presence of voluntary recycling programs, such as  
7 Guam's IRecycle, the locations that do not have bottle bills recycle  
8 less than 40% of their beverage containers, compared to the nearly  
9 80% recycling rate for bottle bill states. The 11 bottle bill states recycle  
10 more beverage containers than the other 39 non-bottle bill states  
11 combined.

12 Guam's IRecycle program states on their website that over \$1.5  
13 million could be generated for schools if they were to recycle the 2  
14 million pounds of aluminum beverage cans that are sold in Guam. At  
15 32 cans per pound, a recycling deposit program could earn schools  
16 \$2.56 million for the same cans, and this would be in addition to the  
17 earnings from the sale of the aluminum, or a possible \$4.06 million.  
18 The voluntary programs are making only a little more than a third of  
19 what they could be earning. The deposit program proposed in this

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1 legislation is **IN ADDITION** to the funds received from the sale of  
2 the aluminum. A beverage container deposit program would bring  
3 an even greater benefit to our schools.

4 Although no comprehensive studies have been done in Guam,  
5 our island's beverage container recycling rate is likely comparable to  
6 the lowest recycling rates in the 50 states, which is below 40%. This is  
7 due in part to misinformation and also in part because previous  
8 efforts to implement a beverage container recycling deposit program  
9 have failed because military commands were not ready to participate.

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

18 This negative position taken by military commands only serves  
19 to emphasize that the armed forces commands do not always regard

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1 Guam or our people in the same manner as they regard those who  
2 reside in the 50 states, where voluntary participate in local bottle bill  
3 programs is the standard. This lack of cooperation with putting a  
4 beverage container recycling deposit program into place has stymied  
5 all efforts in Guam because of the high number of beverages sold at  
6 commissaries and exchanges that end up in the local community as  
7 solid waste and litter.

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

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

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

11           It is the additional intent of *I Liheslatura* to provide the caveat  
12 that the “Guam Beverage Container Recycling Act,” shall not be  
13 implemented unless and until a memorandum of understanding or  
14 other agreement is executed by Government of Guam and  
15 Department of Defense representatives to assure the people of Guam  
16 that the military commissaries and exchanges in Guam will  
17 participate in Guam’s beverage container recycling program so that  
18 all retail facilities in Guam’s civilian and military communities will be



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1 participants under the guidelines of the “Guam Beverage Container  
2 Recycling Act.”

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

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

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

12 **“CHAPTER 44**

13 **GUAM BEVERAGE CONTAINER RECYCLING ACT OF**

14 **2010**

15 § 44101. Short Title.

16 § 44102. Statement of Policy.

17 § 44103. Definitions.

18 § 44104. Goals for Waste Stream Reduction.

19 § 44105. Deposit Fee.

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- 1           § 44106.   Deposit of Beverage Container Recycling  
2   Deposit Fees.
- 3           § 44107.   Deposit Beverage Distributors; Registration,  
4   Recordkeeping Requirements.
- 5           § 44108.   Beverage Container Recycling Deposit Fund.
- 6           § 44109.   Beverage Container Recycling Deposit  
7   Payout.
- 8           § 44110.   Audits.
- 9           § 44111.   Redemption Centers.
- 10          § 44112.   Acceptance of Containers.
- 11          § 44113.   Deposit Beverage Distributor to Collect and  
12   Remit Container Deposits.
- 13          § 44114.   Redemption Centers' Claims for  
14                Reimbursement and Reporting Requirements.
- 15          § 44115.   Deposit Beverage Container Requirements.
- 16          § 44116.   Responsibility of Dealers.
- 17          § 44117.   Reverse Vending Machine Requirements.
- 18          § 44118.   Rules to be Adopted.
- 19          § 44119.   Military Cooperation.

1           **§ 44101. Short Title.** This Act shall be known as “The  
2           Guam Beverage Container Recycling Act of 2010.”

3           **§ 44102. Statement of Policy.** Communities throughout  
4           the world, including our island neighbors of Kiribati and  
5           Kosrae, in the mainland United States, Canada, Australia and  
6           much of Europe have found that recycling has been effective in  
7           reducing threats to our environment and in reducing the  
8           enormous volume of solid waste produced by our modern  
9           lifestyles.

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

17           Some of the waste filling our dump today and bound for  
18           our landfills tomorrow may represent a potential resource, but  
19           without proper management these wastes will continue to be

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1 hazards to our environment and to life itself. The reduction of  
2 solid waste at its source and the recycling of reusable waste  
3 materials will reduce the flow of waste to dumps and landfills  
4 and increase the supply of reusable materials for use by the  
5 public.

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

19 **§ 44103. Definitions.** As used in this Chapter:

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1           (a) “Administrator” means the Administrator of the  
2 Guam Environmental Protection Agency.

3           (b) “Auditor” means the Office Public Auditor.

4           (c) “Beverage” means all beverages for human  
5 consumption. For purposes of this Chapter the term beverage  
6 shall not include items sold in a non-liquid, or frozen form or  
7 liquid intended for medicinal purposes only.

8           (d) “Beverage container” means the individual,  
9 separate, sealed glass, high density polyethylene, metal, plastic  
10 bottle, can, jar, or carton, with a total volume of less than or  
11 equal to sixty-four fluid ounces, used for containing, at the time  
12 of sale to the consumer, a beverage intended for use or  
13 consumption. Beverage containers may be for single use or for  
14 multiple uses.

15           (e) “Board” means the Board of Directors of the Guam  
16 Environmental Protection Agency.

17           (f) “Commercial passenger vessel” means any  
18 domestic or foreign-flagged marine vessel or air carrier used

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1 primarily for transporting persons to and from Guam and to  
2 and from other destinations. The term does not include:

3 (1) Marine vessels authorized to carry fewer than  
4 twenty (20) passengers; or

5 (2) Marine vessels for hire that do not provide  
6 overnight accommodations for at least twenty  
7 (20) passengers, and based on an average of  
8 two (2) persons per cabin.

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

12 (h) "Dealer" means every person who engages in the  
13 sale of recyclable products to a consumer for use or  
14 consumption off the premises.

15 (i) "Department" means the Guam Environmental  
16 Protection Agency.

17 (j) "Deposit beverage" means beer, ale, or other drink  
18 produced by fermenting malt, mixed spirits; mixed wine, tea  
19 and coffee drinks regardless of dairy-derived product content;

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1       soda, or noncarbonated water; and all nonalcoholic drinks in  
2       liquid form and intended for internal human consumption that  
3       is contained in a deposit beverage container.

4               The term “deposit beverage” excludes the following:

5               (1)    A liquid that is:

6                    (A)   A syrup;

7                    (B)   In a concentrated form; or

8                    (C)   Typically added as a minor flavoring  
9                            ingredient in food or drink, such as  
10                           extracts, cooking additives, sauces, or  
11                            condiments;

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

16               (3)   A liquid which is designed and consumed  
17                    only as a dietary supplement and not as a  
18                    beverage as defined in the Dietary

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1 Supplement Health and Education Act of 1994

2 (P.L. 103-417);

3 (4) Products frozen at the time of sale to the  
4 consumer, or, in the case of institutional users  
5 such as hospitals and nursing homes, at the  
6 time of sale to the users;

7 (5) Products designed to be consumed in a frozen  
8 state;

9 (6) Instant drink powders;

10 (7) Seafood, meat, or vegetable broths, or soups,  
11 but not juices; and

12 (8) Milk and all other dairy-derived products,  
13 except tea and coffee drinks with trace  
14 amounts of these products.

15 (k) "Deposit beverage container" means the individual,  
16 separate, sealed glass, polyethylene terephthalate, high density  
17 polyethylene, or metal container less than or equal to sixty-  
18 eight fluid ounces, used for containing, at the time of sale to the



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1 consumer, a deposit beverage intended for use or consumption  
2 in Guam.

3 (l) "Deposit Beverage Distributor" means a business  
4 licensed in Guam that engages in the sale or distribution of any  
5 and all alcoholic and non-alcoholic beverages, juices, flavored  
6 drinks, milk, coffee, tea and water in recyclable products to a  
7 dealer in Guam, including any manufacturer who engages in  
8 such sales and imports and sells such products to either or both  
9 consumers and retailers located on either or both federal and  
10 private property. "Deposit Beverage Distributor" also means a  
11 "Wholesaler."

12 (m) "Deposit Fee" means the amount added to the listed  
13 price of a product that the consumer must pay to the dealer or  
14 distributor as a deposit for each individual beverage container  
15 that has been identified by the Department as recyclable and  
16 requiring a deposit. An amount equivalent to at least 80% of the  
17 deposit fee shall be returned to the redeemer when the  
18 redeemer sells the container to a redemption center. No taxes  
19 shall be assessed or collected on deposit fees accepted by

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1 dealers for products approved in this Chapter 44 for recycling  
2 purposes.

3 (n) "Escheat" means the deposit fee paid to a dealer or  
4 deposit beverage distributor that remains unclaimed and  
5 becomes department property.

6 (o) "Import" means to buy, bring, or accept delivery of  
7 deposit beverage containers from an address, supplier, or any  
8 entity outside of Guam.

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

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

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

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

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

11           (u) “Recycling facility” means all contiguous land and  
12 structures and other appurtenances, and improvements on the  
13 land used for the collection, separation, recovery, and sale or  
14 reuse of resources that would otherwise be disposed of as  
15 municipal solid waste, and is an integral part of a  
16 manufacturing process aimed at producing a marketable  
17 product made of post-consumer material whether  
18 manufactured locally or produced off-island.

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

4           (w) “Redemption center” means an operation that  
5 accepts empty deposit beverage containers from redeemers and  
6 provides at least 80% of the refund value for empty deposit  
7 beverage containers intended to be recycled and ensures that  
8 the empty deposit beverage containers are properly recycled.

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

12           (y) “Refund amount” means the amount of the deposit  
13 fee refunded to a redeemer, which shall be at least 75% of the  
14 total amount of deposit fee paid per container.

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

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1 (aa) "Wholesaler" means a "Deposit Beverage  
2 Distributor."

3 **§ 44104. Goals for Waste Stream Reduction.** The goal of  
4 this Act is to reduce the amount of material in our waste stream  
5 by a minimum of five percent (5%) each year from 2010 to 2016,  
6 achieving a thirty-five percent (35%) reduction by the year 2016  
7 through the practice of waste volume reduction at the source  
8 and through recycling. Should a facility or facilities employing  
9 combustion of solid waste and refuse-derived fuel with energy  
10 recovery (waste-to-energy) become operational in Guam prior  
11 to 2016 as a component of an approved comprehensive plan,  
12 then waste reduction goals shall increase by an additional five  
13 percent (5%) each year, beginning with the first full year that  
14 the waste-to-energy plant is in operation.

15 **§ 44105. Deposit Fee.** A deposit fee of not less than five  
16 cents (5¢) is hereby levied on each beverage container described  
17 in § 44103(d) and sold in Guam for off-premises consumption.  
18 Such fee shall be remitted to the department by deposit

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1 beverage distributors, licensed in Guam, which distribute such  
2 beverage containers.

3 **§ 44106. Deposit of Beverage Container Recycling**  
4 **Deposit Fees.**

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

14 (b) Types of containers upon which deposit fees shall  
15 be levied must be first approved by the Board for placement  
16 upon a list of approved containers identified for recycling  
17 deposits. Containers may not be placed upon the list of  
18 approved containers identified for recycling unless a process to  
19 recycle, reuse, convert to energy, or physically remove

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1 containers from Guam has been established or will be  
2 established concurrent with placement upon said list.

3 (d) The Board upon recommendation of the director shall  
4 from time to time examine and may elect to increase either the  
5 deposit fee or the percentage of the refund value returned to  
6 the redeemer or both as provided in § 44109 of this Act.

7 (e) Levy of the deposit fee imposed upon beverage  
8 containers shall begin on July 1, 2010, except as may otherwise  
9 be provided in this act.

10 **§ 44107. Deposit Beverage Distributors; Registration,**  
11 **Recordkeeping Requirements.**

12 (a) By July 1, 2010, All Deposit Beverage Distributors  
13 operating in Guam shall register with the Department, using  
14 forms prescribed by the Department, and shall notify the  
15 Department of any change in address or other information  
16 previously submitted. After July 1, 2010, any person who  
17 desires to conduct business in Guam as a Deposit Beverage  
18 Distributor shall register with the Department no later than one  
19 month prior to the commencement of the business.

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

9           (1) As may be reasonably required in an  
10           administrative or judicial proceeding to  
11           enforce any provision of this chapter or any  
12           rule adopted pursuant to this chapter; or

13           (2) Under an order issued by a court or  
14           administrative agency hearings officer.

15           **§ 44108. Beverage Container Recycling Deposit Fund.**

16           (a) There is within the Government of Guam and under  
17 the control of the Department a Beverage Container Recycling  
18 Deposit Fund, which is hereby created, into which the proceeds  
19 from recycling deposit fees as provided in §44105 of this act are



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1 deposited, and in which all interest earned by the Beverage  
2 Container Recycling Deposit Fund shall accrue.

3 (b) The Beverage Container Recycling Deposit Fund shall  
4 be administered separate and apart from any other fund of the  
5 Government and shall not be subject to any transfer authority  
6 of the Governor or appropriation by the Legislature except as  
7 provided in this Chapter 44.

8 (c) The funds remitted into the Beverage Container  
9 Recycling Deposit Fund shall be used only for the following  
10 purposes:

- 11 (1) Reimbursements to Redemption Centers of  
12 amounts refunded to redeemers;
- 13 (2) Expenses related to administer the provisions  
14 of this Chapter 44;
- 15 (3) Funding of administrative, audit, and  
16 compliance activities associated with  
17 collection and payment of the deposits of the  
18 Beverage Container Recycling Deposit Act;

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1                   (4) Conducting of recycling education and  
2                   demonstration projects; and

3                   (5) Promotion of recycling related activities.

4                   **§ 44109. Beverage Container Recycling Deposit Payout.**

5                   (a) For each empty beverage container approved for  
6                   recycling deposits under § 44105 (c) and brought to a  
7                   redemption center, Eighty percent (80%), or four cents (4¢) shall  
8                   be returned to the redeemer for each empty beverage container.  
9                   Payouts to redeemers shall begin on October 1, 2010.

10                  (e) A person operating a redemption center may compact  
11                  empty metal beverage containers with the approval of the  
12                  recycling facility required to accept the containers.

13                  **§ 44110. Audits.** The Office of the Public Auditor shall  
14                  conduct a management and financial audit of the program  
15                  beginning in fiscal year 2011, and for each fiscal year thereafter  
16                  ending in an even number. The costs incurred by the auditor  
17                  for the audit shall be reimbursed by the Beverage Container  
18                  Recycling Deposit Fund. The auditor may contract the audit  
19                  services of a third party to conduct the audit.

1                   **§44111. Redemption Centers.**

2                   (a) To facilitate the return of empty beverage containers,  
3                   and subject to the approval of the Department and appropriate  
4                   business licensing, any person may establish a redemption  
5                   center at which consumers may return empty beverage  
6                   containers and receive payment of the refund value of such  
7                   beverage containers. Refunds may be based on number or  
8                   weight of deposit beverage containers.

9                   (b) An application for approval of a Redemption Center  
10                  shall be filed with the Department. The application shall state  
11                  the name and address of the person responsible for the  
12                  establishment and operation of the Redemption Center, the  
13                  kind of beverage containers that will be accepted at the  
14                  Redemption Center, and the names of the distributor or  
15                  distributors that will be handling and exporting their  
16                  recyclables, if different from the name of the operator of the  
17                  Redemption Center. The application shall contain such other  
18                  information as the administrator may reasonably require.

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1           (c) The Department shall approve a Redemption Center if  
2           it finds that the Redemption Center will provide a convenient  
3           service to consumers for the return of empty beverage  
4           containers. The order of the Department approving a  
5           Redemption Center shall state the kind of empty beverage  
6           containers that the Redemption Center must accept. The order  
7           may contain such other provisions to insure that the  
8           Redemption Center will provide a convenient service to the  
9           public as the administrator may determine. Applicants shall be  
10          appropriately licensed to conduct business in Guam by the  
11          Department of Revenue and Taxation.

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

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

5 (f) Redemption centers shall:

6 (1) Accept all types of empty deposit beverage  
7 containers for which a deposit has been paid;

8 (2) Pay to the redeemer the full refund value in  
9 either cash or a redeemable voucher for all  
10 deposit beverage containers;

11 (3) Remain open at least thirty hours per week, of  
12 which at least five hours shall be on Saturday  
13 or Sunday; and

14 (4) Forward the documentation necessary to  
15 support claims for payment as stated in §  
16 44114 of this Chapter 44.

17 (g) The Department shall prepare printed material to be  
18 posted at dealer locations in conspicuous areas identifying the

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1 location of approved Redemption Centers and specifying what  
2 type of recyclable materials may be deposited at each center.

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

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

11 (2) The amount of refunds paid out by material  
12 type.

13 **§ 44112. Acceptance of Containers.** A redemption center  
14 shall not refuse to accept from a consumer any empty beverage  
15 container described in § 44103 (d), or refuse to pay to the  
16 consumer the refund value of a beverage container as provided  
17 in § 44109, except for the following reasons:

18 (1) The deposit beverage container is broken,  
19 corroded, or dismembered;

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1                   (2) The deposit beverage container contains a  
2   free-flowing liquid;

3                   (3) The deposit beverage container holds a  
4   significant amount of foreign material; or

5                   (4) The deposit beverage container appears to  
6   have been previously processed and baled.

7                   **§ 44113. Deposit Beverage Distributor to Collect and**  
8                   **Remit Container Deposits.** Deposit Beverage Distributors  
9                   licensed in Guam that meet the conditions described in items 1  
10                   through 3 below shall, on a monthly basis, remit an amount for  
11                   deposits for such beverage containers as described pursuant to  
12                   this Chapter equal to the amount of the deposit as described in  
13                   § 44105 (a) and (b) of this Chapter 44, in the manner and on the  
14                   forms developed by the Department, payable to the Beverage  
15                   Container Recycling Deposit Fund, and subject to the  
16                   requirements of the Department.

17                   (1) Condition 1: The Deposit Beverage  
18   Distributor licensed in Guam distributes  
19   beverages that may include any and all

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1                   alcoholic and non-alcoholic beverages, juices,  
2                   flavored drinks, milk, coffee, tea and water;  
3                   and

4                   (2) Condition 2: Any of the beverages distributed  
5                   are in containers that have been identified by  
6                   the Guam Environmental Protection Agency  
7                   as that which can be recycled pursuant to §  
8                   44112 of this chapter; and

9                   (3) The business is a distributor in Guam of any  
10                  such beverage product for sale to customers  
11                  by retailers located on both federal and  
12                  private property to both military and local  
13                  retailers.”

14                  **§ 44114. Redemption Centers’ Claims for**  
15                  **Reimbursement and Reporting Requirements.**

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



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1 (b) The department shall pay certified redemption centers  
2 refund values as described in § 44109 of this Chapter 44, based  
3 on collection reports submitted by the redemption centers. All  
4 redemption centers shall submit to the department the  
5 following information on forms prescribed by the department,  
6 which information shall include at a minimum:

7 (1) The number or weight of deposit beverage  
8 containers of each material type accepted at  
9 the redemption center for the reporting  
10 period;

11 (2) The amount of refunds paid out by material  
12 type; and

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

16 **§ 44115. Deposit Beverage Container Requirements.**

17 (a) Except as provided in (b) and (c) of this § 44115,  
18 effective on September 1, 2011, every deposit beverage  
19 container sold in Guam shall clearly indicate the refund value

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1 of the container and the word "Guam" or the letters "GU." The  
2 names or letters representing the names of other states or  
3 jurisdictions with comparable deposit legislation may also be  
4 included in the indication of refund value. The refund value on  
5 every deposit beverage container shall be clearly, prominently,  
6 and indelibly marked by painting, printing, scratch embossing,  
7 raised letter embossing, or securely affixed stickers and shall be  
8 affixed on the top or side of the container in letters at least one-  
9 eighth inch in size.

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

16 (c) Containers that do not meet the definition of a deposit  
17 beverage container, as specified in § 44103 (c) of this Chapter  
18 44, shall not indicate "Guam" or "GU" on the container.

1           **§ 44116. Responsibility of Dealers.** Dealers who are not  
2 redemption centers shall post a clear and conspicuous sign at  
3 the primary public entrance of the dealer’s place of business  
4 that specifies the name, address, and hours of operation of the  
5 closest Recycling Redemption Center location(s).

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

11           **§ 44117. Reverse Vending Machine Requirements.**  
12 Reverse vending machines may be used by Recycling  
13 Redemption Centers to satisfy the requirements of this Chapter  
14 44, provided that the reverse vending machine shall accept one  
15 or more types of empty deposit beverage containers and shall  
16 pay out appropriate refunds as coins or via a redeemable credit  
17 slip with a value not less than the refund value of the container  
18 or containers being redeemed. Reverse vending machines shall  
19 be routinely serviced to ensure proper operation and

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1 continuous acceptance of empty deposit beverage containers  
2 and payment of the refund value.

3 **§ 44118. Rules to be Adopted.**

4 (a) The Board shall convene an advisory committee to  
5 assist in the development of all rules needed to implement this  
6 Chapter 44. Members of the committee shall assess the impact  
7 on consumers, recyclers, the military, and the beverage  
8 industry. Members of the committee shall be appointed by the  
9 administrator and shall serve at the administrator's pleasure. A  
10 simple majority of the committee members shall constitute a  
11 quorum for the purposes of recommending rules and providing  
12 input to the Board.

13 (b) The Board may adopt rules pursuant to this chapter 44  
14 as may be necessary to carry out its provisions. Amendments to  
15 such Rules may be considered and adopted from time to time  
16 to replace or supplement such rules as may be in existence, to  
17 include:

- 18 (1) Identifying items to be recycled in addition to  
19 beverage containers;

- 1                   (2) Establishing or revising appropriate deposit
- 2                   fees and refund values;
- 3                   (3) Regulating redemption centers and the
- 4                   redemption process for recyclable items; and
- 5                   (4) Establishing and revising appropriate forms
- 6                   and procedures to reimburse Redemption
- 7                   Centers applying for refund amounts.”

8                   § 44119. **Military Cooperation.** The provisions of

9                   this Chapter 44 relative to beverage container recycling deposit

10                  fees shall not be implemented, and deposits as defined in this

11                  Chapter 44 shall not be assessed or collected on beverage

12                  containers until the Government of Guam and the U.S. Navy

13                  and U.S. Air Force commands in Guam shall have established a

14                  voluntary agreement in writing that provides for such deposit

15                  fees to be assessed and collected throughout Guam, including

16                  all locations both on and off federal property, in the manner

17                  described in such voluntary agreement. Assessment and

18                  collection of deposit fees on beverage containers shall continue

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1           only for the period of time that such voluntary agreement is in  
2           effect.”

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

5                     **“§76220. Recycling Redemption Center Endorsements.**

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

12          **Section 4. Effective Dates.** The provisions of this Act shall take  
13          effect as follows:

14                 (a) Section 2, §§ 44105, 44106 and 44107 shall take effect  
15          twelve (12) months after the effective date of the voluntary agreement  
16          described in Title 10 GCA Chapter 44 § 44119.

17                 (b) Section 2, § 44109 and § 44110 shall take effect fifteen (15)  
18          months after the effective date of the voluntary agreement described  
19          in Title 10 GCA Chapter 44 § 44119 .

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1           (c) Section 2, § 44114 shall take effect twenty-four (24)  
2 months after the effective date of the voluntary agreement described  
3 in Title 10 GCA Chapter 44 § 44119.”

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

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