

FILE 0-11

**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 22<sup>nd</sup> day of December, 2010, duly and regularly passed.**



**Judith T. Won Pat, Ed. D.**  
**Speaker**

Attested:

  
**Tina Rose Muña Barnes**  
**Legislative Secretary**

-----  
This Act was received by *I Maga'lahaen Guåhan* this 23 day of Dec., 2010, at 8:02 o'clock pm.M.



**Assistant Staff Officer**  
***Maga'lahi's Office***

APPROVED:

**FELIX P. CAMACHO**  
***I Maga'lahaen Guåhan***

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

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

**Bill No. 149-30 (COR)**

As substituted by the Committee on Rules, Natural Resources and Federal, Foreign & Micronesian Affairs, and amended on the Floor.

Introduced by:

T.R. Muña Barnes  
F. B. Aguon, Jr.  
Judith T. Won Pat, Ed.D.  
F. F. Blas, Jr.  
R. J. Respicio  
J. V. Espaldon  
V. Anthony Ada  
Judith P. Guthertz, DPA  
Adolpho B. Palacios, Sr.  
T. C. Ada  
E. J.B. Calvo  
B. J.F. Cruz  
v. c. pangelinan  
Telo Taitague  
Ray Tenorio

**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”.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the growing importance of our planet’s environment has become evident at the  
4 highest reaches of our country’s leadership, and it is among the top agenda items of  
5 the Administration of President Barack Obama and Vice President Joseph Biden.

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

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

10 Over the course of time, western civilization brought many people and  
11 practices to our island and we have left many of the old ways behind. We have  
12 become members of a disposable society, generating an enormous quantity of solid  
13 waste, up to three (3) pounds per person per day, or about one hundred thousand  
14 (100,000) tons of refuse per year. As our population and the number of our visitors  
15 continues to increase, and as the military buildup promises to bring even more  
16 people to our island, our volume of solid waste will rise as well, unless we take  
17 appropriate action.

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

24 *I Liheslatura* further finds that the implementation of laws that impose fees  
25 or deposits on recyclable items will promote the concept and practice of recycling  
26 empty beverage containers. Deposits on recyclable items will assist in preserving

1 our environment and reduce litter. A substantial amount of the litter left behind on  
2 beaches and along our roadways consists of beverage containers.

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

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

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

22 Beverage container recycling deposit programs have also proven to be  
23 effective in some areas within Micronesia. Both the Republic of Kiribati and  
24 Kosrae in the Federated States of Micronesia have enacted container recycling  
25 deposit programs, and the Republic of Palau has considered implementing such a  
26 program.

1           Despite the presence of voluntary recycling programs, such as Guam’s  
2 IRecycle, the locations that do not have bottle bills recycle less than forty percent  
3 (40%) of their beverage containers, compared to the nearly eighty percent (80%)  
4 recycling rate for bottle bill states. The eleven (11) bottle bill states recycle more  
5 beverage containers than the other thirty-nine (39) non-bottle bill states combined.

6           Guam’s IRecycle program states on their website that over \$1.5 Million  
7 Dollars could be generated for schools if they were to recycle the two million  
8 (2,000,000) pounds of aluminum beverage cans that are sold in Guam. At thirty-  
9 two (32) cans per pound, a recycling deposit program could earn schools \$2.56  
10 Million Dollars for the same cans, and this would be in addition to the earnings  
11 from the sale of the aluminum, or a possible \$4.06 Million Dollars. The voluntary  
12 programs are making only a little more than a third of what they could be earning.  
13 The deposit program proposed in this legislation is **IN ADDITION** to the funds  
14 received from the sale of the aluminum. A beverage container deposit program  
15 would bring an even greater benefit to our schools.

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

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

1 cooperate with plans and programs to beautify our island and protect our  
2 environment.

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

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

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

24         It is also the intent of *I Liheslatura* that the implementation of the “Guam  
25 Beverage Container Recycling Act” constitute no additional expenditure of GEPA  
26 funds with the exception of start up and implementation funds that *shall* be

1 reimbursed by the 1¢ (one cent) per container retained by GEPA and any escheat  
2 accumulating due to non-return of containers on which deposits have been paid.

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

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

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

17 **“CHAPTER 44**

18 **GUAM BEVERAGE CONTAINER RECYCLING ACT OF 2010**

19 **§44101. Short Title.**

20 **§44102. Statement of Policy.**

21 **§44103. Definitions.**

22 **§44104. Goals for Waste Stream Reduction.**

23 **§44105. Deposit Fee.**

24 **§44106. Deposit of Beverage Container Recycling Deposit**  
25 **Fees.**

26 **§44107. Deposit Beverage Distributors; Registration,**  
27 **Recordkeeping Requirements.**

- 1           **§44108. Beverage Container Recycling Deposit Fund.**  
2           **§44109. Beverage Container Recycling Deposit Payout.**  
3           **§44110. Audits.**  
4           **§44111. Redemption Centers.**  
5           **§44112. Acceptance of Containers.**  
6           **§44113. Deposit Beverage Distributor to Collect and Remit**  
7           **Container Deposits.**  
8           **§44114. Redemption Centers' Claims for Reimbursement and**  
9           **Reporting Requirements.**  
10          **§44115. Deposit Beverage Container Requirements.**  
11          **§44116. Responsibility of Dealers.**  
12          **§44117. Reverse Vending Machine Requirements.**  
13          **§44118. Rules to be Adopted.**  
14          **§44119. Military Cooperation.**  
15          **§44101. Short Title.** This Act *shall* be known as "The Guam  
16          Beverage Container Recycling Act of 2010."  
17          **§44102. Statement of Policy.** Communities throughout the world,  
18          including our island neighbors of Kiribati and Kosrae, in the mainland  
19          United States, Canada, Australia and much of Europe have found that  
20          recycling has been effective in reducing threats to our environment and in  
21          reducing the enormous volume of solid waste produced by our modern  
22          lifestyles.

23                 Our island environment is precious, vulnerable, and irreplaceable. No  
24          individual, public entity, or private corporation has the right to pollute our  
25          air, water, or soil. The people of Guam have an ongoing responsibility to  
26          conserve, preserve, and enhance our natural resources and island beauty, and



1 to guarantee their continued existence and enjoyment in the present and for  
2 future generations.

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

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

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

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

22 (b) *Auditor* means the Office of Public Accountability.

23 (c) *Beverage* means all beverages for human consumption.

24 For purposes of this Chapter the term beverage *shall not* include items  
25 sold in a non-liquid, or frozen form or liquid intended for medicinal  
26 purposes only.

1           (d) *Beverage container* means the individual, separate,  
2 sealed glass, high density polyethylene, metal, plastic bottle, can, jar,  
3 or carton, with a total volume of less than or equal to sixty-four (64)  
4 fluid ounces, used for containing, at the time of sale to the consumer,  
5 a beverage intended for use or consumption. Beverage containers may  
6 be for single use or for multiple uses.

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

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

13                   (1) marine vessels authorized to carry fewer than  
14 twenty (20) passengers; or

15                   (2) marine vessels for hire that do not provide  
16 overnight accommodations for at least twenty (20) passengers,  
17 and based on an average of two (2) persons per cabin.

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

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

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

26           (j) *Deposit beverage* means beer, ale, or other drink  
27 produced by fermenting malt; mixed spirits; mixed wine, tea and

1 coffee drinks regardless of dairy-derived product content; soda, or  
2 noncarbonated water; and all nonalcoholic drinks in liquid form and  
3 intended for internal human consumption that is contained in a deposit  
4 beverage container.

5 The term *deposit beverage* excludes the following:

6 (1) A liquid that is:

7 (A) a syrup;

8 (B) in a concentrated form; or

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

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

15 (3) A liquid which is designed and consumed only as a  
16 dietary supplement and not as a beverage as defined in the  
17 Dietary Supplement Health and Education Act of 1994 (P.L.  
18 103-417);

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

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

23 (6) Instant drink powders;

24 (7) Seafood, meat, or vegetable broths, or soups, but not  
25 juices; and

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

1           (k) *Deposit beverage container* means the individual,  
2 separate, sealed glass, polyethylene terephthalate, high density  
3 polyethylene, or metal container less than or equal to sixty-eight (68)  
4 fluid ounces, used for containing, at the time of sale to the consumer,  
5 a deposit beverage intended for use or consumption in Guam.

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

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

23           (n) *Escheat* means the deposit fee paid to a dealer or deposit  
24 beverage distributor that remains unclaimed and becomes department  
25 property.

1           (o) *Import* means to buy, bring, or accept delivery of deposit  
2 beverage containers from an address, supplier, or any entity outside of  
3 Guam.

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

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

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

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

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

23           (u) *Recycling facility* means all contiguous land and  
24 structures and other appurtenances, and improvements on the land  
25 used for the collection, separation, recovery, and sale or reuse of  
26 resources that would otherwise be disposed of as municipal solid  
27 waste, and is an integral part of a manufacturing process aimed at

1 producing a marketable product made of post-consumer material  
2 whether manufactured locally or produced off-island.

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

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

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

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

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

21 (aa) *Wholesaler* means a *Deposit Beverage Distributor*.

22 **§44104. Goals for Waste Stream Reduction.** The goal of this  
23 Act is to reduce the amount of material in our waste stream by a minimum of  
24 five percent (5%) each year from the date of implementation of the recycling  
25 deposit fee, until a thirty-five percent (35%) reduction of material in our  
26 waste stream has been achieved through the practice of waste volume  
27 reduction at the source and through recycling.

1           **§44105.     Deposit Fee.** A deposit fee of not less than five cents  
2 (5¢) is hereby levied on each beverage container described in §44103(d) and  
3 sold in Guam for off-premises consumption. Such fee *shall* be remitted to  
4 the Department by deposit beverage distributors, licensed in Guam, which  
5 distribute such beverage containers. The Board may adjust the deposit fee as  
6 provided in §44106 of this Chapter 44 pursuant to the Administrative  
7 Adjudication Law.

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

11           **§44106.     Deposit of Beverage Container Recycling Deposit**  
12 **Fees.**

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

20           **(b)**   Types of containers upon which deposit fees *shall* be levied  
21 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  
23 upon the list of approved containers identified for recycling unless a process  
24 to recycle, reuse, or physically remove containers from Guam has been  
25 established or will be established concurrent with placement upon said list.

26           **(c)**   The Board *shall* from time to time examine and may elect to  
27 increase either the deposit fee, as provided in §44105 of this Act, or the

1 percentage of the refund value returned to the redeemer, as provided in  
2 §44109 of this Act, or both, pursuant to the Administrative Adjudication  
3 Law.

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

8 **§44107. Deposit Beverage Distributors; Registration,**  
9 **Recordkeeping Requirements.**

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

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

- 25 (1) as may be reasonably required in an administrative or  
26 judicial proceeding to enforce any provision of this  
27 Chapter or any rule adopted pursuant to this Chapter; or



1 (2) under an order issued by a court or administrative agency  
2 hearings officer.

3 **§44108. Beverage Container Recycling Deposit Fund.**

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

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

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

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

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

24 (ii) funding of administrative, audit, and compliance  
25 activities associated with collection and payment of the deposits  
26 of the Beverage Container Recycling Deposit Act;

1 (iii) conducting of recycling education and  
2 demonstration projects; and

3 (iv) promotion of recycling related activities.

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

5 (a) For each empty beverage container approved for recycling  
6 deposits under §44105, and brought to a redemption center, eighty percent  
7 (80%) *shall* be returned to the redeemer for each empty beverage container.  
8 Payouts to redeemers *shall* begin six (6) months (180 calendar days) after  
9 the effective date of the voluntary agreement described in §44119 of this  
10 Chapter.

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

14 **§44110. Audits.** The Office of Public Accountability *shall*  
15 conduct a management and financial audit of the program beginning in  
16 Fiscal Year 2012, and for each fiscal year thereafter ending in an even  
17 number. The costs incurred by the Public Auditor for the audit *shall* be  
18 reimbursed by the Beverage Container Recycling Deposit Fund. The Public  
19 Auditor may contract the audit services of a third party to conduct the audit.

20 **§44111. Redemption Centers.**

21 (a) To facilitate the return of empty beverage containers, and  
22 subject to the approval of the Department and appropriate business licensing,  
23 any person may establish a Redemption Center at which consumers may  
24 return empty beverage containers and receive payment of the refund value of  
25 such beverage containers. Refunds may be based on number or weight of  
26 deposit beverage containers.

1           (b) An application for approval of a Redemption Center *shall* be  
2 filed with the Department. The application *shall* state the name and address  
3 of the person responsible for the establishment and operation of the  
4 Redemption Center, the kind of beverage containers that will be accepted at  
5 the Redemption Center, and the names of the distributor or distributors that  
6 will be handling and exporting their recyclables, if different from the name  
7 of the operator of the Redemption Center. The application *shall* contain  
8 such other information as the Administrator may reasonably require.

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

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

26           (e) All approved Redemption Centers *shall* meet applicable health  
27 standards and *shall* be maintained in full compliance with applicable laws

1 and with the orders and rules of the Department, including permitting  
2 requirements.

3 (f) Redemption Centers *shall*:

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

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

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

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

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

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

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

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

23 **§44112. Acceptance of Containers.** A Redemption Center *shall*  
24 *not* refuse to accept from a consumer any empty beverage container  
25 described in §44103 (d), or refuse to pay to the consumer the refund value of  
26 a beverage container as provided in §44109, *except* for the following  
27 reasons:

1 (a) the deposit beverage container is broken, corroded, or  
2 dismembered;

3 (b) the deposit beverage container contains a free-flowing  
4 liquid;

5 (c) The deposit beverage container holds a significant  
6 amount of foreign material; or

7 (d) the deposit beverage container appears to have been  
8 previously processed and baled.

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

17 (a) Condition 1: The Deposit Beverage Distributor  
18 licensed in Guam distributes beverages that may include any  
19 and all alcoholic and non-alcoholic beverages, juices, flavored  
20 drinks, milk, coffee, tea and water;

21 (b) Condition 2: Any of the beverages distributed are  
22 in containers that have been identified by the Guam  
23 Environmental Protection Agency as that which can be recycled  
24 pursuant to §44112 of this Chapter; and

25 (c) Condition 3: The business is a distributor in Guam  
26 of any such beverage product for sale to customers by retailers

1 located on both federal and private property to both military and  
2 local retailers.

3 **§44114. Redemption Centers' Claims for Reimbursement and**  
4 **Reporting Requirements.**

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

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

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

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

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

19 **§44115. Deposit Beverage Container Requirements.**

20 (a) *Except* as provided in (b) and (c) of this §44115, effective on  
21 September 1, 2011, every deposit beverage container sold in Guam *shall*  
22 clearly indicate the refund value of the container and the word "Guam" or  
23 the letters "GU." The names or letters representing the names of other states  
24 or jurisdictions with comparable deposit legislation may also be included in  
25 the indication of refund value. The refund value on every deposit beverage  
26 container *shall* be clearly, prominently, and indelibly marked by printing,

1 scratch embossing, raised letter embossing, and *shall* be affixed on the top or  
2 side of the container in letters *at least* one-eighth (1/8) inch in size.

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

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

11 **§44116. Responsibility of Dealers.** Dealers who are *not*  
12 Redemption Centers *shall* post a clear and conspicuous sign at the primary  
13 public entrance of the dealer’s place of business that specifies the name,  
14 address, and hours of operation of the closest Recycling Redemption Center  
15 location(s).

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

20 **§44117. Reverse Vending Machine Requirements.** Reverse  
21 vending machines may be used by Recycling Redemption Centers to satisfy  
22 the requirements of this Chapter, provided that the reverse vending machine  
23 *shall* accept one (1) *or* more types of empty deposit beverage containers and  
24 *shall* pay out appropriate refunds as coins, or via a redeemable credit slip  
25 with a value *not less than* the refund value of the container or containers  
26 being redeemed. Reverse vending machines *shall* be routinely serviced to

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

3 **§44118. Rules to be Adopted.**

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

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

- 15 (1) identifying items to be recycled in addition to beverage  
16 containers;
- 17 (2) establishing or revising appropriate deposit fees and  
18 refund values;
- 19 (3) regulating Redemption Centers and the redemption  
20 process for recyclable items; and
- 21 (4) establishing and revising appropriate forms and  
22 procedures to reimburse Redemption Centers applying for  
23 refund amounts.

24 (c) The Board *shall* consider the merging or transfer of the  
25 functions described in this Chapter with the functions of an autonomous  
26 entity created to manage all solid waste concerns within Guam.



1           **§44119. Military Cooperation.** The provisions of this Chapter  
2 relative to beverage container recycling deposit fees *shall not* be  
3 implemented, and deposits as defined in this Chapter, *shall not* be assessed  
4 or collected on beverage containers, until the Government of Guam and the  
5 U.S. Navy and U.S. Air Force commands in Guam *shall* have established a  
6 voluntary agreement in writing that provides for such deposit fees to be  
7 assessed and collected throughout Guam, including all locations both on and  
8 off federal property, in the manner described in such voluntary agreement.  
9 Assessment and collection of deposit fees on beverage containers *shall*  
10 continue only for the period of time that such voluntary agreement is in  
11 effect.”

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

14           **“§76220. Recycling Redemption Center Endorsements.** An  
15 endorsement for a Recycling Redemption Center must be obtained by any  
16 person who engages in the business of receiving recyclable products and  
17 remitting a portion of deposit fees to redeemers. Such required endorsement  
18 is subject to approval by the Guam Environmental Protection Agency,  
19 pursuant to Chapter 44 of Title 10 Guam Code Annotated.”

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

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