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Simpson, Peterson, Bushweller & Sorenson
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Schooley, Viola, D.P. Williams, Jaques & D.E. Williams

DELAWARE STATE SENATE
145th GENERAL ASSEMBLY

SENATE BILL NO. 234

AN ACT TO AMEND TITLES 7 AND 30 OF THE DELAWARE CODE RELATING TO RECYCLING AND BEVERAGE CONTAINERS.

1 WHEREAS, recycling conserves valuable natural resources, energy, landfill capacity, landfill disposal costs,
2 greenhouse gas emissions and litter, creates jobs and promotes a conservation ethic; and

3 WHEREAS, Delaware's recycling rate is below that of the nation and surrounding states; and

4 WHEREAS, tipping fees at Delaware Solid Waste Authority landfills are scheduled to increase July 1, 2010 as a
5 result of the need for new landfill space and it is in the interest of all Delawareans to minimize the need for future landfill
6 capacity and the associated costs by reducing the flow of waste to landfills;

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members
8 elected to each house thereof concurring therein):

9 Section 1. Amend "Subchapter III. Beverage Containers" in Chapter 60 of Title 7 by striking it in its entirety and
10 substituting in lieu thereof the following:

11 "Subchapter III. Solid Waste Recycling
12 §6051. Findings; intent.

13 In furtherance of the determination long established in §6450 of Title 7 that "the reduction of solid waste disposal
14 and recovery of usable materials from solid waste are matters of extreme importance in minimizing the environmental
15 impact of solid waste disposal through landfilling" and that it "is in the public interest to develop a comprehensive
16 statewide system of recycling and resource recovery which maximizes the quantity of solid waste materials which can be
17 recovered, reused, or converted to beneficial use" the General Assembly hereby makes the following findings and declares
18 the following intent with respect to the establishment of this Subchapter. In order to establish a comprehensive statewide
19 system of recycling, wherein recycling is maximized and the necessary economies of scale are realized, every residence and
20 business must have access to recycling programs that are both convenient and cost effective. It is the intent of the General

21 Assembly, in full recognition that the establishment of a comprehensive statewide recycling program has long been sought,
22 that said program shall be accomplished by modification of the existing beverage container law and the establishment of
23 Universal Recycling inclusive of the prescribed recycling programs, requirements and goals that follow. As such, liberal
24 interpretation in favor of accomplishing the stated goals and objectives shall be exercised.

25 §6052. Definitions.

26 Notwithstanding any definitions in Chapters 60 or 64 of Title 7 to the contrary, the following words and phrases
27 shall have the meaning ascribed to them in this Subchapter unless the context clearly indicates otherwise.

- 28 (a) 'Authority' means the Delaware Solid Waste Authority.
- 29 (b) 'Beverage' means any mineral waters (but not including naturally sparkling mineral waters), soda waters
30 or any other carbonated beverage not containing alcohol that is commonly known as a "soft drink" and
31 any beer, ale or other malt beverage containing alcohol.
- 32 (c) 'Beverage container' means any airtight non-aluminous container containing less than 2 quarts of a
33 beverage under pressure of carbonation.
- 34 (d) 'Dealer' means any person who engages in the sale of beverages in beverage containers to a consumer
35 and shall include groups of retailers or retail chains.
- 36 (e) 'Multi-family' means 3 or more attached structures, such as condominiums or apartments, generally
37 intended for occupancy by individuals or families and where centralized community trash disposal and
38 collection services are typically provided..
- 39 (f) 'Municipal Solid Waste' means wastes such as durable goods, nondurable goods, containers and
40 packaging, food scraps, organic yard waste and miscellaneous inorganic waste from residential (i.e.
41 household), commercial, institutional and industrial sources such as appliances, automobile tires, old
42 newspapers, clothing, disposal tableware, office and classroom paper, wood pallets, and cafeteria wastes.
43 Municipal solid waste does not include solid wastes from other sources such as construction and
44 demolition debris, auto bodies, municipal sludges, combustion ash and industrial process wastes.
- 45 (g) 'On-premises sales' means sales transactions in which beverages are purchased by a consumer for
46 immediate consumption within the area under the control of the dealer.
- 47 (h) 'Organic yard waste' means plant material resulting from lawn maintenance and other horticultural
48 gardening and landscaping activities and includes grass, leaves, prunings, brush, shrubs, garden material,
49 Christmas trees and tree limbs up to 4 inches in diameter.

- 50 (i) 'Recyclable Material' or 'Recyclables' means any material or group of materials that can be collected and
51 sold or used for recycling.
- 52 (j) 'Recycling' means the process by which solid wastes are separated for use as raw materials, products or
53 replacement of products, including the reuse of organic yard waste, but does not include the incineration
54 of materials for energy.
- 55 (k) 'Residential Waste' means the solid waste generated in occupied single-family and multi-family
56 structures. Also referred to as 'Household Waste.'
- 57 (l) 'Single Stream' means a system in which all fibers (including but not limited to paper, cardboard, etc.)
58 and containers (including but not limited to plastic, glass and metal) are commingled for collection into
59 one container instead of being sorted into separate commodities and multiple containers.
- 60 (m) 'Single-family' means either a detached structure (i.e. a house) surrounded by open space or attached
61 structures, such as town or row homes, generally intended for occupancy by a family and where
62 individual trash collection services are typically provided for each structure.
- 63 (n) 'Source Separated' means recyclable materials, including single stream recyclables, are segregated at the
64 point of generation and kept apart from the waste stream by the generator thereof for the purpose of
65 collection and recycling.

66 §6053. Universal Recycling.

67 The goal of Universal Recycling is to create an economy of scale wherein a dramatic increase in Delaware's
68 diversion of recyclables occurs in the most cost effective manner achievable while simultaneously creating job
69 opportunities and significantly reducing Delaware's rate of waste disposal.

70 Universal Recycling shall be implemented in accordance with the following provisions:

71 (a) Effective no later than September 15, 2011, the Authority shall cease providing curbside recycling services,
72 including yard waste collection, and all persons providing solid waste collection services in the State of Delaware
73 shall also provide:

74 (1) Single stream curbside recycling collection services to all of their Delaware single-family residential
75 customers, including delivery of a wheeled cart for the purpose of storage and collection of recyclables
76 that is adequately sized for the customers use such that recycling is encouraged and disposal of
77 recyclables is discouraged; and the recyclables collection service shall be provided at a frequency of not
78 less than once every other week.

79 (2) Source separated recycling collection services to dealers who provide on-premise sales,
80 including delivery of a recyclables container that is adequately sized for the premise being served and a
81 frequency of recyclables collection that shall preclude the recycling containers from overflowing and
82 otherwise causing a nuisance.

83 (3) All single-family residential and on-premise sales customers with a single charge for the
84 collection of waste and recyclables on their "waste services" bill that is inclusive of the combined waste
85 and recycling collection service costs.

86 (4) Notification to all customers that the single stream recycling service will be provided and
87 instructions on participation prior to September 15, 2011.

88 (b) Effective no later than January 1, 2013, all persons providing solid waste collection services in the State of
89 Delaware shall provide:

90 (1) Single stream recycling collection services to all of their Delaware multi-family residential
91 customers, including providing the multi-family complex with an appropriately sized and centrally
92 located recyclables collection container(s) for the complex being served and ideally in the same proximity
93 as the complex's waste disposal containers.

94 (2) Notification to the multi-family complex management that the single stream recycling service,
95 including instructions on participation, will be provided.

96 (3) A frequency of recyclables collection that shall preclude the recycling containers from
97 overflowing and otherwise causing a nuisance.

98 (4) Written justification to the Department for not providing multi-family recycling collection
99 services where the physical constraints of the site prevent the placement of both trash and recycling
100 containers. Exclusion from multi-family recycling is subject to Department review and approval.

101 (c) Owners of multi-family complexes must, at least once per calendar year, provide residents with instructions on
102 participating in the complex's recycling program.

103 (d) The Recycling Public Advisory Council shall issue a report to the Governor and the General Assembly no later
104 than November 1, 2012 with recommendations regarding the implementation of Universal Recycling in the
105 commercial sector. It is the express requirement of this legislation that Universal Recycling be adopted by the
106 commercial sector and that all commercial businesses actively participate in a comprehensive recycling program
107 no later than January 1, 2014.

108 (e) Persons who choose to transport and deliver the solid waste and recyclables they generated on their own
109 property for proper disposal or to a recycling facility of their choice respectively shall not be affected by this
110 subchapter and may continue in this practice.

111 (f) Nothing shall impair the ownership of recyclable materials by the generator unless and until such materials are
112 placed at curbside or similar location for collection and recycling, and nothing in this chapter shall be construed to
113 prevent any person from collecting, transporting, processing, and marketing recyclable materials in competition
114 with other persons in the same business, including the Authority, provided that the requirements of this Subchapter
115 are satisfied.

116 (g) Persons engaging in the collection, transportation, processing, or marketing of source separated recyclable
117 materials shall conduct such activities in a manner that the source separated recyclable materials enter the
118 marketplace and are otherwise not disposed via a landfill or by incineration.

119 §6054. Delaware Recycling Fund.

120 (a) There shall be established in the State Treasury and in the accounting system of the State a special fund to be
121 known as the Delaware Recycling Fund ("the Fund").

122 (b) The following revenue shall be deposited into the Fund:

123 (1) As specified in 30 Del. C. §2912, the Recycling Fee on the sale of beverage containers;

124 (2) On the last day of each month, the State Treasurer shall credit the Fund with interest on the average
125 balance in the Fund for the preceding month. The interest to be paid to the Fund shall be that
126 proportionate share, during such preceding month, of interest to the State as the Fund's and the State's
127 average balance is to the total State's average balance;

128 (3) Any other revenue appropriated or transferred to the account by the General Assembly; and

129 (4) Repayment of low interest loans.

130 (c) The Fund shall be used by the Secretary for the exclusive purpose of funding specific activities designed to
131 enhance the state's recycling rate and the diversion of recyclables that would otherwise be land disposed. The
132 Fund may be expended only:

133 (1) To fund the Recycling Grants and Low Interest Loan Program referenced in §6055 of this
134 subchapter. Annual funding for the Recycling Grants and Low Interest Loan Program shall be dependent
135 on revenue generated by the Fund;

136 (2) To pay the limited and reasonable cost of the Department and the Recycling Public Advisory
137 Council to study, evaluate and report on the status and potential for recycling various components of the

138 solid waste stream, with emphasis on those aspects of municipal solid waste and commercial waste
139 necessary to achieve the diversion goals established in §6056 of this subchapter;

140 (3) To pay the Department's limited and reasonable costs for administering this Subchapter. No
141 greater than 10% of the revenue deposited into the Fund shall be used by the Department for
142 administering this subchapter without approval of the Joint Finance Committee and shall include but not
143 be limited to: promoting the Recycling Grants and Low Interest Loan Program, Universal Recycling, zero
144 waste principles, development of reporting requirements, preparation and implementation of an Integrated
145 Recycling Plan and related recycling initiatives; and

146 (4) To pay the Division of Revenue for the costs of administering 30 Del. C. §2912.

147 (d) The Department shall commence the Recycling Grants and Low Interest Loan Program in calendar year 2011
148 and offer the Program at least annually thereafter until 2014.

149 (e) The revenue from the Fund and its disbursement via the Recycling Grants and Low Interest Loan Program
150 shall be subject to audit and the recipient of any such funding shall agree to the audit and cooperate with the
151 auditor as a condition of receiving funding.

152 §6055. Recycling Grants and Low Interest Loan Program.

153 (a) There is hereby established a competitive Recycling Grants and Low Interest Loan Program (the "Program") to
154 assist persons engaged in the business of collecting, transporting, processing, or marketing recyclable materials
155 with the implementation of:

156 (1) source separated recyclables collection and processing programs with emphasis on start-up costs for
157 residential single-stream recyclables collection; and

158 (2) start-up costs for initiatives which result in the recycling of solid waste materials which would
159 otherwise be land disposed, with emphasis on commercial waste.

160 The Program shall be administered by the Department, and monies from the Program shall be paid based on approved grant
161 and loan requests. The Department shall be entitled to disburse grant and loan monies for the documented costs of
162 implementing the collection or processing of recyclable materials. The Department shall be entitled to adopt guidelines and
163 procedures for administering the Program and determining eligibility for receipt of funding pursuant to §6054 of this
164 Chapter. Such procedures shall include provisions for repayment of loans to the Department and may include a rebate
165 program for costs based on, including but not limited to, a prorated share of household customers. The Department shall
166 solicit the commentary of the grant eligible stakeholders during development of the grant guidelines and procedures. The
167 Program shall be funded by monies made available under the provisions of §6054.

168 (b) The Recycling Public Advisory Council, after the receipt of comments by grant and loan eligible
169 stakeholders, shall make recommendations annually to the Department regarding the programmatic priorities for
170 awarding Program funds under this Subchapter. The Recycling Public Advisory Council shall provide
171 recommendations regarding the categories and priorities for grants and loans that reflect an informed and
172 representative view of the most urgent and important areas where grant funding will provide the most benefit to
173 the State of Delaware balancing current needs with those of future generations.

174 (c) The Department shall review all grant and loan applications and award grants and loans taking into
175 consideration the Recycling Public Advisory Council recommendations. In those cases where the Department's
176 funding decisions differ significantly from the Recycling Public Advisory Council recommendations, the
177 Department shall report to the Recycling Public Advisory Council the justification for such differences.

178 (d) Any person providing solid waste collection services that is a recipient of grant from the Delaware
179 Recycling Fund shall not, as a result of implementation of Universal Recycling, increase rates charged for solid
180 waste collection between such time as they make application for the grant until March 15, 2013.

181 §6056. Adopting Diversion Goals and Reporting Requirements

182 It is the intent of the General Assembly that implementation of the requirements of this Subchapter reduce the
183 amount of non-hazardous solid waste currently deposited in landfills in this State by maximizing the recovery of
184 recyclable materials. In order to do so, it will be necessary for the State of Delaware to embrace the Zero Waste
185 Principles of designing and managing products and processes to systematically avoid and eliminate the volume
186 and toxicity of waste and materials, conserve and recover all resources, and not incinerate or bury them. In that
187 spirit, the following Interim Waste Diversion Goals are established with the understanding that as more data and
188 information regarding the implementation of Universal Recycling become available, the goals leading up to
189 January 1, 2020 may be modified by the Department as circumstances dictate; however, the January 1, 2020 goals
190 may not be modified without the approval of the General Assembly:

Date by which goal is to be achieved	Solid Waste Diverted from disposal	Municipal Solid Waste Diverted from disposal
January 1, 2015	72%	50%
January 1, 2020	85%	60%

¹ By weight

191 (a) In order to effectively measure the diversion rates being achieved, all persons, including persons who
192 collect, process or market recyclables, with the exception of those specified in §6053(e), must report to the
193 Department on a calendar year basis, no later than February 15th of the following year, the type and quantity of

194 recyclables managed, the method of recycling collection used (single or multiple streams), and the location of the
195 recycling facilities used pursuant to reporting guidance developed by the Department and the Recycling Public
196 Advisory Council. Said reporting guidance shall be developed pursuant to the solicitation of stakeholders
197 responsible for reporting, shall take into account the need for confidentiality of the information reported and shall
198 be finalized no later than November 1, 2010. The first recycling report shall cover calendar year 2011 and shall be
199 due no later than February 15, 2012.

200 (b) In order to ensure that the waste diversion goals specified in Table 1 above are achieved by the dates
201 specified, the Department, in cooperation with the Recycling Public Advisory Council, shall assess progress and
202 recommend to the Governor and General Assembly any additional mechanisms necessary including but not
203 limited to: which waste streams must be diverted from disposal, the parties responsible for ensuring the identified
204 waste streams are diverted from disposal, the date by which the diverted waste streams must be diverted from
205 disposal, implementation of Pay As You Throw, Extended Producer Responsibility, incentive based recycling,
206 waste bans and related requirements. Such assessment shall be completed, inclusive of any draft legislation
207 determined necessary, and submitted to the General Assembly no later than November 1, 2014 as part of the
208 RPAC annual report.

209 §6057. Beverage Containers – Findings, intent, prohibitions

210 (a) The General Assembly hereby finds that beverage containers are a valuable recyclable material and a
211 major source of non-degradable litter in this State and that the collection and disposal of this litter and
212 solid waste constitutes a great financial burden for the citizens of this State; and that, in addition to this
213 unnecessary expenditure of tax moneys, such litter unreasonably interferes with the enjoyment of life and
214 property by our citizens; and that the practice of littering and disposal of a recyclable material is not
215 compatible with previously adopted policies of the State in regard to proper use and protection of our
216 natural resources.

217 (b) It is the intent of the General Assembly to increase recycling significantly, inclusive of beverage
218 containers, thereby conserving valuable natural resources, removing the blight of litter on the landscape
219 of the State caused by the disposal of beverage containers and other packaging, and reduce the increasing
220 costs of litter collection and disposal.

221 (c) Prohibitions – No beverage shall be sold or offered for sale in this State:

222 1. In a metal container designed and constructed so that part of the container is detachable when opening
223 the container.

224 2. In containers connected to each other with plastic rings or similar devices which are not classified by
225 the Department as biodegradable, photodegradable or recyclable.

226 3. In a beverage container which is not recyclable or refillable.

227 (d) Liability for beverage container deposits:

228 1. For the purposes of this subsection the terms “beverage container,” “consumer,” “dealer,” “deposit,”
229 “distributor,” and “manufacturer” shall have the same meaning as they had under Title 7, §6051 as in
230 effect prior to passage of the 145th General Assembly’s Senate Bill 234.

231 2. Effective December 1, 2010 there shall be no deposit charged on any beverage container by a
232 manufacturer, distributor or dealer.

233 3. On and after February 1, 2011, no dealer shall have any liability to or with respect to any consumer
234 that relates to the deposit on any beverage container. On and after March 1, 2011, no manufacturer or
235 distributor shall have any liability to or with respect to any dealer or consumer that relates to the deposit
236 on any beverage container.

237 §6058. Establishment, composition and responsibility of the Recycling Public Advisory Council

238 (a) There is hereby established a Recycling Public Advisory Council (the “Council”). The Council shall be
239 composed of fourteen (14) members who shall be appointed by the Governor as follows:

240 1. One member from the Department;

241 2. One member from the Authority;

242 3. One member representing county governments, with such member being recommended by the
243 Delaware Association of Counties;

244 4. One member representing municipal governments, with such member being recommended by
245 the Delaware League of Local Governments;

246 5. One member representing the recycling industry;

247 6. One member representing the waste hauling industry;

248 7. One member representing the beverage industry;

249 8. One member representing the Delaware State Chamber of Commerce;

250 9. One member representing the Delaware Restaurant industry; and

251 10. Five members representing community-based or public-interest groups.

252 (b) Members of the Council, except for those appointed pursuant to subparagraphs 1 and 2 of subsection (a)
253 above, shall serve for terms up to three (3) years and may not serve more than two consecutive terms but may

254 again serve after one year off of the Council. Members shall be appointed for staggered terms so that no more
255 than five (5) appointments shall expire in any one calendar year. Members may be reimbursed for travel to and
256 from meetings. The Governor shall appoint a Chairman from among the thirteen members. Actions of the
257 Council shall be approved by a majority vote of the Council. At least seven (7) members of the Council shall
258 constitute a quorum. The Council may adopt by-laws as it deems appropriate to serve the purposes of this
259 Subchapter.

260 (c) The Recycling Public Advisory Council shall:

- 261 1. Advise the Department and the Authority on all aspects of recycling;
- 262 2. Advise the Department in developing criteria for the Recycling Grants and Low Interest Loan
263 Program, including possible grantee match requirements, and selection of applications as well as provide
264 an annual assessment of the revenue needed to satisfy the grant requirements;
- 265 3. Maintain, in conjunction with the Department and the Authority, a methodology for measuring
266 recycling rates;
- 267 4. Provide advice and recommendations regarding the recycling outreach and education programs
268 conducted by the Authority and/or the Department;
- 269 5. Report to the Governor and the General Assembly annually by November 1 of each year on the
270 status of recycling activities in Delaware. Said report shall include, but not be limited to the following:
 - 271 a. Status of attainment of the recycling goals specified in 7 Del. C. §6056;
 - 272 b. An accounting of the recycling grants and loan program and any recommendations for
273 future funding of the grants and loan program;
 - 274 c. An assessment of the activities of both the Department and the Authority in achieving
275 the recycling goals specified in 7 Del. C. §6056;
 - 276 d. An objective, auditable accounting of recycling rates for total solid waste, municipal
277 solid waste, and residential solid waste;
 - 278 e. Such other recommendations as the Council shall deem appropriate; and
 - 279 f. Use the definitions of “recycling” and “municipal solid waste” as stated by the United
280 States Environmental Protection Agency in its document EPA530-R-97-011 dated
281 September 1997. The Council shall be able to adopt changes to these definitions.

282 (d) The Department, in concert with the Authority and the Council, shall:

- 283 1. Monitor the State's recycling initiatives and measure Delaware's achievements toward
284 attainment of the recycling goals specified in 7 Del. C. §6056;
- 285 2. Design and implement public educational efforts aimed at increasing public awareness of
286 recycling opportunities;
- 287 3. Provide technical assistance to local entities to assist them in increasing their recycling rates; and
- 288 4. Provide administrative support to the Council.

289 §6059. Enforcement, civil and administrative penalties

290 (a) Whoever violates this Subchapter, or any rule or regulation promulgated there under, or any order of the
291 Secretary, shall:

- 292 1. For the first conviction, be fined not less than \$100 nor more than \$500 for each day of violation;
- 293 2. For each subsequent conviction for the same offense within a 10 year period, be fined not less than
294 \$500 nor more than \$1,500 for each day of violation;
- 295 3. In his or her discretion, the Secretary may endeavor by conciliation to obtain compliance with all
296 requirements of this Subchapter. Conciliation shall be giving written notice to the responsible party (i)
297 specifying the complaint, (ii) proposing a reasonable time for its correction, (iii) advising that a hearing
298 on the complaint may be had if requested by a date stated in the notice, and (iv) notifying that a proposed
299 correction date will be ordered unless a hearing is requested. If no hearing is requested on or before the
300 date stated in the notice, the Secretary may order that the correction be fully implemented by the
301 proposed date or may, on his or her own initiative, convene a hearing, in which the Secretary shall
302 publicly hear and consider any relevant submission from the responsible party as provided in § 6006 of
303 this Title.

304 (b) Any person whose interest is substantially affected by any action of the Secretary may appeal to the
305 Environmental Appeals Board, in accordance with §6008 of this Title."

306 Section 2. Amend § 6451, Title 7 of the Delaware Code, by inserting therein the following new paragraph:

307 "(6) 'Organic yard waste' means plant material resulting from lawn maintenance and other
308 horticultural gardening and landscaping activities and includes grass, leaves, prunings, brush, shrubs,
309 garden material, Christmas trees and tree limbs up to 4 inches in diameter."

310 Section 3. Amend § 6452, Title 7 of the Delaware Code by inserting in line 2 of paragraph (8) between the words
311 "environment" and "for" the following, "including but not limited to used oil & filters, batteries, household hazardous
312 wastes, electronic wastes, etc., as long as economically sustainable in the judgment of the Authority", by striking the word

313 “and” at the end of paragraph (9) thereof; by striking the period as it appears at the end of paragraph (10) thereof and
314 substituting in lieu thereof a semi-colon; and by inserting therein the following new subsections:

315 “(11) The implementation of a source separated recycling system that balances the need for drop-off
316 recycling centers with public and private sector implementation and expansion of curbside recycling
317 programs except where a municipal government implements curbside recycling within its jurisdiction, the
318 Authority may, after consultation with the local municipality, remove the drop off sites located within the
319 same jurisdiction; and

320 (12) Providing at no cost to those persons required to provide curbside recycling services pursuant to
321 §6053 of Title 7 the Authority’s unneeded wheeled recycling carts on the basis determined by the
322 Authority for the purpose of minimizing the costs associated with the implementation of Universal
323 Recycling when the Authority ceases providing curbside recycling services in accordance with §6053(a)
324 of Title 7.

325 Section 4. Amend Chapter 64, Title 7 of the Delaware Code, by striking §6454 thereof in its entirety and by
326 substituting in lieu thereof the following:

327 “§6454. Recycling Centers.

328 (a) Implementation of efficient and cost-effective recycling programs will require that Delaware have access
329 to facilities capable of processing source separated recyclables. Where the private sector has developed
330 extensive recyclables processing capability and where unique programs that provide incentives to the
331 general public to recycle that are not available to Delaware residents, the Department and the Authority
332 shall encourage and work with the private sector to establish private facilities for recyclables and
333 recycling incentive programs in Delaware. If the private sector does not provide sufficient private
334 facilities for recyclables, as determined by the Recycling Public Advisory Council, then the Authority
335 shall accept at no cost to municipalities unless and until legislated otherwise, and at no cost to non-
336 municipal persons providing solid waste and/or recycling collection services until September 15, 2011
337 and process or provide for the processing of source separated recyclable materials. Additional materials
338 may be accepted at the source separated recycling center subject to the approval of the Authority. The
339 Authority shall receive recyclable materials for transfer to the processing facility at locations designated
340 by the Authority. It shall be the responsibility of the Authority to ensure that processing and/or transfer
341 facilities for managing source separated collected recyclables are in operation in each County. It shall

342 also be the responsibility of the Authority to transport or arrange for the transport of source separated
343 recyclables from the Authority's transfer stations or landfills to a processing facility."

344 Section 5. Amend Chapter 64, Title 7 of the Delaware Code, by striking § 6455 thereof in its entirety and
345 substituting in lieu thereof the following:

346 "§6455. Public Education and Promotion of Recycling, Composting and other Waste Reduction Programs.

347 The Authority, in cooperation and consultation with the Department, shall initiate and conduct public outreach and
348 education programs on the cessation of its curbside recycling program and modification to its drop off and organic yard
349 waste programs, as well as continuing education on the purposes and value of source separated recycling and resource
350 recovery. The intent of these educational programs shall be to maximize the diversion and recovery of recyclable materials
351 and organic yard waste, whether it was generated by the commercial or residential sector. Such program may be conducted
352 in conjunction with similar efforts of private industry, municipalities, public interest groups, the Department and the
353 Recycling Public Advisory Council. The program may include the use of public advertising."

354 Section 6. Amend Section 2909(j) of Chapter 29 of Title 30 of the Delaware Code by deleting the word "and"
355 between the numerals "2905" and "2906" and substituting therefore a comma "," immediately after the numerals 2905 and
356 by inserting immediately after the numerals "2906" and before the first occurrence of the word "of" the word and numerals
357 "and 2912".

358 Section 7. Amend Chapter 29 of Title 30 of the Delaware Code by adding a new Section 2912 thereto as follows:

359 "§ 2912. Beverage container retailer license requirement; license fee; Recycling Fee on beverage container sales.

360 (a) In addition to any license required under § 2304, § 2905, § 2906 or § 2908 of this title, any person
361 desiring to engage in business in this State as a retailer to sell beverages in beverage containers shall
362 obtain a registration upon making application to the Division of Revenue at no additional cost.

363 (b) For taxable periods beginning after November 30, 2010 and at such time as the Delaware Recycling
364 Fund reaches a cumulative total of \$22,000,000 or ending December 1, 2014, whichever comes first, in
365 addition to the registration required by subsection (a) of this section, every retailer of beverages in
366 beverage containers, excluding on-premise sales, shall pay a Recycling Fee at the rate of \$0.04 per
367 beverage container sold at retail during any month. Such fee shall be due on the twentieth day of the
368 following month. The monthly returns shall be accompanied by a certified statement on such forms as the
369 Department of Finance shall require in computing the fee due. Each retailer of beverages in beverage
370 containers may list, as a separate line item on an invoice, the amount of the fees due under this
371 subsection.

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- (c) As used in this section:
- (i) The term ‘retailer’ shall have the meaning ascribed to that term in § 2901(8) of this title and shall include persons licensed under § 2304, § 2905, § 2906 or § 2908 of this title.
 - (ii) The term ‘beverage’ shall mean any mineral waters (but not including naturally sparkling mineral waters), soda waters or any other carbonated beverage not containing alcohol that is commonly known as a "soft drink" and any beer, ale or other malt beverage containing alcohol.
 - (iii) The term ‘beverage container’ shall mean any airtight nonaluminous container containing less than 2 quarts of a beverage under pressure of carbonation.
- (d) The fees provided by this section shall be remitted to the Division of Revenue on forms issued by the Director of Revenue and subject to such regulations and requirements as shall be prescribed by the Director of Revenue. The Director of Revenue shall deposit the additional fee provided in this section to the credit of the special fund described in §6054 of Title 7. The Division of Revenue shall enter into an agreement with the Department of Natural Resources and Environment Control authorizing the Division of Revenue to charge such fund an amount reasonably determined by the Division of Revenue to be the cost of administering the fees described in this section.”
- This section shall sunset December 1, 2014.

SYNOPSIS

This legislation establishes Universal Recycling in Delaware. It requires DSWA to cease collecting curbside recyclables by a date certain and requires the implementation of comprehensive residential and commercial recycling programs by municipalities and waste haulers. It establishes the Delaware Recycling Fund and the Recycling Grants and Low-Interest Program to defray the costs of implementation, and funds, with funding derived by the conversion of the current bottle deposit to a Recycling Fee on beverage containers. It also establishes reporting requirements, establishes the Recycling Public Advisory Council in law, and ensures that DSWA provides a location in each county to accept source separated recyclables.

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