



Province of Alberta

ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT

BEVERAGE CONTAINER RECYCLING REGULATION

Alberta Regulation 101/1997

With amendments up to and including Alberta Regulation 104/2016

Office Consolidation

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(Consolidated up to 104/2016)

ALBERTA REGULATION 101/97

Environmental Protection and Enhancement Act

BEVERAGE CONTAINER RECYCLING REGULATION

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Interpretation**1(1)** In this Regulation,

- (a) “Act” means the *Environmental Protection and Enhancement Act*;
- (b) “beverage” means any liquid that is a ready-to-serve drink and is not exempt from this Regulation;
- (c) “Board” means the Beverage Container Management Board;
- (d) “by-laws” means by-laws made under section 18;
- (e) “collection system agent” means the agent appointed under section 8;
- (f) “common collection system” means a container collection system that does not distinguish containers of similar size and material from each other based on the manufacturer of the container;
- (g) “container” means a bottle, can, plastic cup or paperboard carton or a package made of metal, plastic, paper, glass or other material, or a combination of them, that contains or has contained a beverage;
- (h) “depot” means a place operated as a business for the collection of empty containers;
- (i) “depot operator” means the owner or operator of a depot and includes a person acting or purporting to act on behalf of the owner or operator, but does not include a retailer;
- (j) “liquor” has the same meaning as in the *Gaming and Liquor Act*;
- (k) “manufacturer” means a person who manufactures a beverage and includes
 - (i) a person who carries on the business of filling containers with a beverage, and
 - (ii) a person who imports a beverage in a container into Alberta for the purpose of distribution or sale in Alberta;
- (l) “refillable container” means a container that is capable of being reused by a manufacturer without being remanufactured;

- (m) “retailer” means a person who sells beverages in containers to consumers.

(2) For the purpose of this Regulation, the Alberta Gaming and Liquor Commission, or an agent acceptable to the Board, is deemed to be the manufacturer of liquor.

AR 101/97 s1;90/2001

Designation of containers

2 A container is designated as a designated material for the purposes of the Act and this Regulation.

Exemptions

3(1) Repealed AR 90/2001 s3.

(2) Repealed AR 177/2008 s2.

(3) Plastic and paper cups that are not sealed by a manufacturer are exempt from this Regulation.

AR 101/97 s3;90/2001;177/2008

Board established

4 The Beverage Container Management Board, being an incorporated body under the laws of Alberta, is hereby established as a management board within the meaning of section 175(jj) of the Act for the purpose of exercising the powers and carrying out the duties conferred or imposed on it pursuant to the Act, this Regulation and the by-laws in respect of regulated containers.

AR 101/97 s4;251/2001

Freedom of information and protection of privacy

4.1(1) The Board shall comply with the *Freedom of Information and Protection of Privacy Act* in the course of carrying out its powers, duties and functions under this Regulation.

(2) The Board shall designate a person to be responsible for freedom of information matters.

(3) If a request for access to information pursuant to the *Freedom of Information and Protection of Privacy Act* is made, the Board shall,

- (a) in the case of a request made directly to the Board, immediately direct the request to the Department’s Freedom of Information and Protection of Privacy Co-ordinator, and

- (b) in every case, comply with such directions regarding the request as may be provided by the Co-ordinator.
- (4) All records in the custody or under the control of the Board that are required in the carrying out of its powers, duties and functions under this Regulation are subject to
 - (a) the *Records Management Regulation* (AR 224/2001), or
 - (b) any regulation that replaces the *Records Management Regulation* (AR 224/2001).
- (5) All information and records created or maintained in the course of carrying out the powers, duties and functions under this Regulation become and remain the property of the Crown in right of Alberta.
- (6) The Board shall designate a person to be responsible for records management matters.

AR 68/99 s1;177/2008

Business plan and reports

- 5(1)** The Board shall
- (a) not less than 30 days before the start of each fiscal year provide to the Minister a business plan for the Board that indicates its goals for the coming fiscal year, and
 - (b) not more than 6 months after the end of each fiscal year provide to the Minister an annual report summarizing the activities of the Board and containing the audited financial statements of the Board for the fiscal year.
- (2)** The remuneration and benefits that are paid to
- (a) all members of the board of directors of the Board, and
 - (b) all management personnel who report directly to one or more of the members of the board of directors
- during the fiscal year must be reported in the financial statements or as a note or schedule to the financial statements.
- (3)** The remuneration and benefits must be reported
- (a) on an individual basis by name in the case of the persons referred to in subsection (2)(a), and
 - (b) on an aggregate basis in the case of the persons referred to in subsection (2)(b).

(4) The Minister is authorized to disclose personal information reported under this section, and this subsection constitutes an authorization for the purposes of section 40(1)(f) of the *Freedom of Information and Protection of Privacy Act*.

AR 101/97 s5;251/2001

Prohibitions re sale, distribution

6(1) No person shall sell or distribute or offer to sell or distribute or permit to be sold or distributed in Alberta any beverage in a container

- (a) that when empty cannot reasonably be identified as having contained the beverage manufactured by the manufacturer of that beverage, or
- (b) on which is written, stamped or in any way inscribed or to which is attached any label, cap or any other thing indicating
 - (i) that the container is not returnable, or
 - (ii) that no refund is payable with respect to the container.

(2) No manufacturer shall sell or distribute or offer to sell or distribute or permit to be sold or distributed in Alberta any beverage in a container unless the manufacturer has received written notice from the Board that the container is registered.

(3) No retailer shall sell or offer to sell any beverage in a container unless the container is registered.

Registration of containers

7 A manufacturer shall register a container with the Board in accordance with the by-laws.

Recovery of non-refillable containers

8(1) Manufacturers of beverages in non-refillable containers for sale or distribution in Alberta shall use and maintain a common collection system for the recovery and recycling of empty non-refillable registered containers from depots.

(2) The manufacturers shall appoint a collection system agent satisfactory to the Board to act on behalf of the manufacturers with respect to the operation of the common collection system.

(3) No manufacturer shall sell or distribute, offer to sell or distribute or permit to be sold or distributed in Alberta any

beverage in a non-refillable container unless the manufacturer uses the common collection system.

Recovery of refillable containers

9 A manufacturer of a beverage in a refillable container for sale or distribution in Alberta shall

- (a) provide a collection service capable of recovering the manufacturer's empty refillable registered containers from all depots and retailers accepting such containers, or
- (b) use the common collection system referred to in section 8 for the recovery of those containers.

Refunds by depot operators and retailers

10(1) When a person presents to a depot operator an empty registered container that is reasonably identifiable as having contained a beverage, the depot operator shall

- (a) accept the container, and
- (b) pay to the person a cash refund of not less than
 - (i) 10¢ for each container with a capacity of one litre or less, and
 - (ii) 25¢ for each container with a capacity greater than one litre.

(2) When a person presents to a retailer at the retailer's premises an empty refillable registered container that

- (a) is the same size or type of container as containers that are sold by the retailer,
- (b) is not exempt from this Regulation, and
- (c) is reasonably identifiable as having contained a beverage of the same brand as sold by the retailer,

the retailer may accept the container and, on accepting the container, shall pay to the person a cash refund of not less than the amount set out in subsection (1)(b) for the container.

(3) Notwithstanding subsections (1) and (2), the refund on a container is an amount equal to the manufacturer's deposit on the container if that deposit is greater than the applicable amount set out in subsection (1)(b).

(4) A retailer is exempt from paying a refund under this section for a container where

- (a) the beverage in the container is sold by the retailer for consumption on the retail premises, including any store, restaurant, cafeteria, hall or other place,
- (b) no deposit is charged by the retailer for the container, and
- (c) the beverage is consumed on the premises.

(5) A retailer is not required to accept under this section more than 24 refillable containers per person per day.

AR 101/97 s10;177/2008

No refund payable

11(1) No depot operator or retailer shall accept a container or provide a cash refund for a container that can reasonably be identified by the depot operator or retailer as having been transported into Alberta.

(2) No person shall return to a depot or retailer for a refund a container that the person knows or ought reasonably to know has been transported into Alberta.

(3) Subsections (1) and (2) do not apply to a container that has been transported into Alberta by a manufacturer for the purposes of selling a beverage in the container in Alberta.

(4) A retailer shall not accept or pay a cash refund for an empty non-refillable container.

Collection of containers

12(1) The collection system agent shall, in accordance with the by-laws, collect non-refillable registered containers from depots.

(2) A manufacturer shall, in accordance with the by-laws, collect or cause to be collected from a depot or retailer refillable registered containers that contained a beverage manufactured by that manufacturer.

Reimbursement of depot operators and retailers

13 A manufacturer or the collection system agent, as the case may be, on collecting containers from a depot or retailer pursuant to section 12, shall, in accordance with the by-laws,

- (a) reimburse the depot operator or retailer for each container collected from the depot operator or retailer in the

applicable amount set out in section 10(1)(b) for the container, and

- (b) pay a depot operator, in addition to the amount referred to in clause (a), a handling commission in an amount specified in the by-laws for containers collected from the depot operator and in respect of which refunds were paid by the depot operator.

Permit for depot

14(1) No person shall operate a depot unless that person holds a permit for that purpose issued by the Board in accordance with the by-laws and the permit is not under suspension.

(2) A permit holder shall comply with the terms and conditions to which the permit is subject.

Advertising of deposit

15 A retailer shall, in a manner that is acceptable to the Board, clearly advertise, in an open and conspicuous place in the retail premises and separate from the price of the container with contents, the amount of the deposit for each type of container sold by the retailer.

Re-use and recycling

16(1) A manufacturer of a beverage in a refillable container shall

- (a) re-use the container as a refillable container if the manufacturer considers the container to be suitable for re-use as a container, or
- (b) cause the container to be recycled by a method approved by the Board, if the manufacturer considers the container is not suitable for re-use as a container.

(2) The collection system agent shall cause non-refillable containers to be recycled by a method approved by the Board.

Information to Board

17(1) A depot operator, the collection system agent and a manufacturer shall, in accordance with the by-laws, provide or cause to provide to the Board information pertaining to the recovery of containers.

(2) Where the Board acquires information referred to in subsection (1) and the information relates to a trade secret, process or technique that the person providing the information keeps

confidential, the Board shall take all reasonable steps to ensure that the information is not used or released in a form or manner that is likely to undermine the confidentiality of the information.

(3) The collection system agent shall conduct the operations of the common collection system in a manner that protects the confidentiality of proprietary information of individual manufacturers.

By-laws

18(1) The Board shall make by-laws

- (a) prescribing the manner and frequency of container collections from depots and retailers by the collection system agent and manufacturers;
- (b) prescribing the manner and frequency of payments to depot operators and retailers by the collection system agent and manufacturers;
- (c) prescribing the handling commissions for the purposes of section 13(b);
- (d) establishing the criteria and procedures for changing the handling commissions referred to in section 13(b);
- (e) respecting the registration of containers, including, without limitation, the form and manner in which containers are registered and the fee, if any, that is payable on registration;
- (f) respecting all aspects related to permits for the operation of depots including, without limitation,
 - (i) the form and manner of application for a permit or a renewal of a permit,
 - (ii) the fee, if any, that is payable with an application,
 - (iii) the imposition of terms and conditions on a permit,
 - (iv) the transfer, amendment and renewal of permits, and
 - (v) the suspension and cancellation of permits;
- (g) respecting the operation and administration of depots;
- (h) respecting the keeping of records in respect of transactions in beverage containers.

(2) The Board may make by-laws

- (a) respecting the criteria for establishing the number of depots in all or any part of Alberta for the purpose of maintaining a viable container recovery system;
- (b) respecting any other matter related to the administration of the Act and this Regulation by the Board.

(3) The Board shall not make, amend or repeal a by-law under subsection (1) or (2)(a) except by a resolution passed by at least 2/3 of the members of the board of directors of the Board present and voting on the resolution.

AR 101/97 s18;177/2008

Offence

19 Any person who contravenes section 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 or 17(1) or section 8, 9(1) or (5), 10 or 11 of the *Beverage Container Management Board Administrative By-law* is guilty of an offence and liable,

- (a) in the case of an individual, to a fine of not more than \$50 000, or
- (b) in the case of a corporation, to a fine of not more than \$500 000.

Due diligence

20 No person shall be convicted of an offence referred to in section 19 if that person establishes on a balance of probabilities that he took all reasonable steps to prevent its commission.

Repeals

Repeal

21 The *Beverage Container Recycling Regulation* (AR 128/93) is repealed.

Expiry

Expiry

22 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be re-passed in its present or an amended form following a review, this Regulation expires on June 30, 2018.

AR 101/97 s22;169/2001;164/2006;199/2007;19/2008;177/2008;
106/2013;97/2015;104/2016

Coming into Force

Coming into force

23 The Regulation comes into force on December 1, 1997.

AR 101/97 s23;166/97



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