



Senate

General Assembly

File No. 154

February Session, 2024

Senate Bill No. 191

Senate, March 28, 2024

The Committee on Environment reported through SEN. LOPES of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING FOOD SCRAP DIVERSION FROM THE SOLID WASTE STREAM AND THE REDEMPTION OF OUT-OF-STATE BEVERAGE CONTAINERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (d) and (e) of section 22a-226e of the 2024
2 supplement to the general statutes are repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2024*):

4 [(d) Not later than January 1, 2022, the Commissioner of Energy and
5 Environmental Protection shall establish a voluntary pilot program for
6 any municipality that seeks to separate source-separated organic
7 materials and ensure that such source-separated organic materials are
8 recycled at authorized source-separated organic material composting
9 facilities that have available capacity and that will accept such source-
10 separated organic material.]

11 [(e)] (d) On or before March 1, 2025, and annually thereafter, each
12 wholesaler, distributor, manufacturer, processor, supermarket, resort,

13 conference center or institution that is subject to the provisions of this
14 section shall submit a report to the Department of Energy and
15 Environmental Protection in electronic format. Such report shall
16 summarize such entity's amount of edible food donated, the amount of
17 [food scraps] source-separated organic materials recycled and the
18 organics recycler or recyclers and associated collectors used.

19 (e) Each commercial food wholesaler or distributor, industrial food
20 manufacturer or processor, supermarket, institution, resort or
21 conference center that generates an average projected volume of not less
22 than twenty-six tons per year of source-separated organic material,
23 including any source-separated organic material subject to the
24 requirements of subsections (a) and (b) of this section, shall, on or before
25 January 1, 2025, adopt a written policy pertaining to a food donation
26 program that: (1) Describes how the wholesaler, distributor,
27 manufacturer, processor, supermarket, institution, resort or conference
28 center will make best efforts to donate excess edible food, as determined
29 by such entity, using acceptable industry standards; (2) is designed to
30 reduce such wholesaler's, distributor's, manufacturer's, processor's,
31 supermarket's, institution's, resort's or conference center's food waste,
32 support the operations of food relief organizations and ensure that all
33 food donated by such wholesaler, distributor, manufacturer, processor,
34 supermarket, resort or conference center under such policy is safe and
35 fit for human consumption; (3) provides for the education of such
36 wholesaler's, distributor's, manufacturer's, processor's, supermarket's,
37 institution's, resort's or conference center's management, employees and
38 third party vendors who manage food for such facility regarding the
39 food distribution process and the relationship between such process and
40 food waste; (4) requires such wholesaler, distributor, manufacturer,
41 processor, supermarket, institution, resort or conference center to make
42 reasonable efforts to identify, and partner with, not less than two food
43 relief organizations for the purpose of donating excess edible food to
44 such food relief organizations prior to any such food becoming source-
45 separated organic material, as described in subsections (a) and (b) of this
46 section; and (5) includes a framework to formalize and streamline such
47 wholesaler's, distributor's, manufacturer's, processor's, supermarket's,

48 institution's, resort's or conference center's protocols concerning food
49 donation.

50 (f) If multiple wholesalers, distributors, manufacturers, processors,
51 supermarkets, institutions, resorts or conference centers subject to the
52 provisions of subsection (b) of this section are under common
53 ownership, such wholesalers, distributors, manufacturers, processors,
54 supermarkets, institutions, resorts or conference centers may adopt a
55 common written policy under this section.

56 (g) For purposes of this section, "food relief organization" has the
57 same meaning as provided in section 38a-313c.

58 Sec. 2. Section 22a-241b of the general statutes is repealed and the
59 following is substituted in lieu thereof (*Effective October 1, 2024*):

60 (a) (1) On or before February 1, 1988, the Commissioner of Energy
61 and Environmental Protection shall adopt regulations in accordance
62 with the provisions of chapter 54 designating items that are required to
63 be recycled. The commissioner may designate other items as suitable for
64 recycling and amend such regulations accordingly.

65 (2) On or before October 1, 2011, the Commissioner of Energy and
66 Environmental Protection shall amend the regulations adopted
67 pursuant to subdivision (1) of this subsection to expand the list of
68 designated recyclable items to add (A) containers of three gallons or less
69 made of polyethylene terephthalate plastic and high-density
70 polyethylene plastic, and (B) additional types of paper, including, but
71 not limited to, boxboard, magazines, residential high-grade white paper
72 and colored ledger.

73 (3) On or before July 1, 2025, the commissioner shall amend the
74 regulations adopted pursuant to subdivision (1) of this subsection to
75 designate residentially generated food scraps as an item that is required
76 to be recycled.

77 (b) (1) Any designated recyclable item shall be recycled by a
78 municipality within six months of the availability of service to such

79 municipality by a regional processing center or local processing system,
80 including, but not limited to, a facility authorized to receive source-
81 separated organic material.

82 (2) On or before January 1, 2028, the Commissioner of Energy and
83 Environmental Protection shall require each municipality to establish a
84 program requiring residents to separate food scraps and food
85 processing residues from other solid waste to ensure that such
86 residentially generated source-separated organic material is recycled,
87 including at authorized source-separated organic material composting
88 facilities that have available capacity and that will accept such source-
89 separated organic material.

90 (c) Each person who generates solid waste from residential property
91 shall, in accordance with subsection (f) of section 22a-220, separate from
92 other solid waste the items designated for recycling pursuant to
93 [subdivision (1) of] subsection (a) of this section.

94 (d) Every person who generates solid waste from a property other
95 than a residential property shall, in accordance with subsection (f) of
96 section 22a-220, make provision for and cause the separation from other
97 solid waste of the items designated for recycling pursuant to
98 [subdivision (1) of] subsection (a) of this section through the use of one
99 or more collection containers for designated recyclable items that are
100 separate from the collection containers for other solid waste, except food
101 scraps that are subject to management pursuant to section 22a-226e.
102 Collection containers that have been used for the collection of solid
103 waste may be converted to containers for the collection of designated
104 recyclable items by labeling or other means to identify that such
105 container is dedicated to collecting designated recyclable items. On and
106 after July 1, 2012, the provisions of this subsection shall also apply to
107 items designated for recycling pursuant to subdivision (2) of subsection
108 (a) of this section.

109 (e) No person shall knowingly combine previously segregated
110 designated recyclable items with other solid waste.

111 (f) For the purposes of this section, "boxboard" means a lightweight
112 paperboard made from a variety of recovered fibers having sufficient
113 folding properties and thickness to be used to manufacture folding or
114 set-up boxes.

115 Sec. 3. Section 22a-245 of the general statutes is amended by adding
116 subsections (g) to (i) as follows (*Effective from passage*):

117 (NEW) (g) Notwithstanding the provisions of subsections (b) to (d),
118 inclusive, of this section, no person shall tender to a dealer, redemption
119 center, reverse vending machine, distributor or deposit initiator for the
120 purpose of obtaining a refund value or handling fee any empty beverage
121 container that the person knows or has reason to know was not
122 originally sold in this state as a filled beverage container or that was
123 previously redeemed through a dealer, redemption center, reverse
124 vending machine, distributor or deposit initiator.

125 (h) Each dealer, redemption center or reverse vending machine
126 operator shall post where empty containers are redeemed a conspicuous
127 "Redemption Warning" sign using at least one-inch font that states the
128 following: "Returning empty beverage containers for refund that were
129 not purchased in Connecticut or which were previously redeemed is
130 illegal. Any person who returns empty beverage containers that the
131 person knows or has reason to know were not originally sold in this
132 state as filled beverage containers or which were previously redeemed
133 shall be subject to fines and state enforcement action. Connecticut
134 General Statutes section 22a-245."

135 (i) Any violation of subsection (g) of this section shall constitute an
136 unfair trade practice pursuant to section 42-110b.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	22a-226e(d) and (e)
Sec. 2	<i>October 1, 2024</i>	22a-241b
Sec. 3	<i>from passage</i>	22a-245(g) to (i)

ENV *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$
Consumer Protection, Dept.	GF - Potential Cost	70,983	70,983
State Comptroller - Fringe Benefits ¹	GF - Potential Cost	29,280	29,280
Department of Revenue Services	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: See Below

Explanation

The bill makes changes regarding food scraps and beverage container deposits, resulting in fiscal impacts to municipalities in the out years and potentially to the state beginning in FY 25.

Section 2 requires each municipality, by January 1, 2028, to establish a program for certain food scraps and food processing residues to be recycled separately from other waste. This has no fiscal impact to municipalities in either FY 25 or FY 26 but may result in costs to municipalities in the out years to the extent municipalities are not already participating in this program.

It is estimated that organic waste (i.e., food scraps) makes up 22% of all municipal solid waste (MSW) generated annually. The average tip

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.25% of payroll in FY 25.

fee is approximately \$110 per ton for MSW and \$65 per ton for food scraps, according to DEEP. To the extent this section's requirement results in fees shifting from MSW to food scraps, there is a potential tip fee savings to municipalities in the out years.

Section 3 makes it an unfair trade practice to knowingly return a beverage container for a deposit refund if the container wasn't sold in the state, resulting in a potential cost to the Department of Consumer Protection (DCP) and the State Comptroller beginning in FY 25. To the extent this generates a significant increase in violations that DCP will have to investigate, the agency may have to hire one special investigator for an annual personal services cost of \$70,983, along with associated fringe benefit costs of \$29,280 per year.

Section 3 also results in a potential minimal General Fund revenue gain from bottle escheats to the extent that it results in fewer out-of-state bottles being redeemed in Connecticut.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 191*****AN ACT CONCERNING FOOD SCRAP DIVERSION FROM THE SOLID WASTE STREAM AND THE REDEMPTION OF OUT-OF-STATE BEVERAGE CONTAINERS.*****SUMMARY**

This bill requires the Department of Energy and Environmental Protection (DEEP) commissioner, by January 1, 2028, to require each town to establish a program for residential separation of food scraps and food processing residues from other solid waste to ensure their recycling. The scraps and residues may be recycled at authorized source-separated organic material composting facilities with capacity and willingness to accept them.

The bill requires the commissioner, by July 1, 2025, to amend DEEP's regulations that designate mandated items for recycling to include food scraps. It repeals DEEP's voluntary pilot program for towns to separate source-separated organic materials (i.e., organic material that includes things like food scraps, food processing residue, and soiled paper) from other waste and ensure that they are recycled at composting facilities.

By January 1, 2025, the bill also requires certain commercial food wholesalers or distributors, industrial food manufacturers or processors, supermarkets, institutions, resorts, and conference centers to adopt a written food donation program policy.

The bill prohibits, under the state's beverage container redemption law ("bottle bill"), offering an empty beverage container to obtain its refund value or handling fee if it is known, or should be known, that the container was already redeemed or not sold in the state. It makes a violation an unfair trade practice under the Connecticut Unfair Trade Practices Act and requires dealers, redemption centers, and reverse

vending machine operators to post a sign about the prohibition (see BACKGROUND).

Lastly, the bill makes several minor, technical, and conforming changes, including one replacing the amount of recycled food scraps, with the amount of source-separated organic material recycled, that entities subject to the commercial organics waste law will annually submit to DEEP beginning by March 1, 2025.

EFFECTIVE DATE: October 1, 2024, except the bottle bill fraud provision is effective upon passage.

DESIGNATED RECYCLABLES: FOOD SCRAPS

The bill requires the DEEP commissioner, by July 1, 2025, to amend department regulations that designate mandated items to be recycled to include food scraps. Current law and regulations designate for recycling things such as cardboard, boxboard, glass and metal food containers, certain plastic containers, scrap metal, white and colored paper, among others.

Existing law, unchanged by the bill, requires towns to recycle the designated recyclables within six months after there is an available service by a regional processing center or local processing system (i.e., service providers). With the designated recyclable expansion to include food scraps, the bill adds authorized source-separated organic material facilities to this list of service providers.

FOOD DONATION POLICY

Covered Entities

The bill's requirement to develop a food donation program policy applies to the entities subject to the state's commercial organics recycling law that generate an average projected volume of at least 26 tons of source-separated organic material each year. This includes commercial food wholesalers or distributors; industrial food manufacturers or processors; supermarkets; resorts; conference centers; and institutions that provide hospitality, entertainment, or rehabilitation and healthcare services; hospitals; public and private

educational facilities; and correctional facilities.

The bill allows entities that are under common ownership to adopt a common written policy.

Policy Content

The written food donation policy that the bill requires must describe how the entity will make best efforts to donate excess food it determines is edible, using acceptable industry standards. It must be designed to (1) reduce food waste, (2) support food relief organizations' (FRO) operations, and (3) ensure that all donated food is safe and fit for human consumption. Under existing law and the bill, an FRO is a public or private entity, including community-based organizations, food banks, food pantries, and soup kitchens that give free nutritional assistance to needy people in Connecticut on a nonprofit basis and in their ordinary course of business or operations.

The bill also requires the donation program policies to include the following:

1. education for management, employees, and third-party vendors who manage food for the facility on the food distribution process and its relationship to food waste;
2. a commitment to making reasonable efforts to identify and partner with at least two food relief organizations to donate excess edible food before the food becomes source-separated organic material; and
3. a framework to formalize and streamline protocols on food donation.

BOTTLE BILL FRAUD

The state's bottle bill generally requires a deposit to be charged on each beverage container at the time of purchase, which is then refunded when redeeming the empty container at a dealer (e.g., retailer) or redemption center. Dealers and distributors generally must take back containers of the kind, size, and brand they sell. Distributors must then

pay dealers and redemption center operators the refund value plus a per-container handling fee.

Regardless of the type of container involved, the bill prohibits someone from offering an empty beverage container to a dealer, redemption center, reverse vending machine, distributor, or deposit initiator (i.e., the first distributor to collect the deposit) to obtain a refund value or handling fee if the person knows or has reason to know that it was originally purchased out-of-state or previously redeemed.

The bill also requires dealers, redemption centers, and reverse vending machine operators to post a conspicuous “Redemption Warning” sign, in at least one-inch font, where empty containers are redeemed to inform users about the prohibition and applicable penalties (i.e., fines and enforcement action). It specifies the language that must be used.

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney’s fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

Related Bill

sHB 5236, § 25, favorably reported by the General Law Committee, among other things, allows the Department of Consumer Protection to impose a civil penalty of up to \$5,000 for CUTPA violations, after an administrative hearing.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 23 Nay 11 (03/15/2024)