

1. Interpretation

- 1.1. This By-law is made pursuant to section 18(1) of the Regulation.
- 1.2. Unless the context otherwise requires, the *Interpretation Act (Alberta)* and the *Environmental Protection and Enhancement Act (Alberta)* as amended, apply to this By-law.
- 1.3. Words importing the singular include the plural and vice versa; words importing gender include the masculine, feminine and neuter genders; and words importing persons include individuals, bodies corporate, partnerships, trusts and unincorporated associations.
- 1.4. The headings used throughout this By-law are inserted for reference purposes only, and are not to be considered or taken into account in construing the terms or provisions of any article of this By-law nor to be deemed in any way to qualify, modify or explain the effect of any such terms or provisions.

2. Definitions

- 2.1. Unless otherwise indicated, terms that are defined in the Regulation have the same meaning when they are used in this By-law.
- 2.2. In this By-law, unless the context otherwise requires:
 - a. “AGLC” means the Alberta Gaming and Liquor Commission;
 - b. “Approved Container” means a Container that has been approved by the BCMB in accordance with this By-law;
 - c. “BCMB” means the Beverage Container Management Board. The BCMB is the regulatory authority established under the *Environmental Protection and Enhancement Act (Alberta)* and the Regulation to establish, maintain and administer a waste minimization and recycling program for beverage containers;
 - d. “Beverage” means any liquid that is a ready-to-serve drink and is not exempt from the Regulation;
 - e. “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;

- f. “Container Composition” means the composition of all of the components of a Container including the Container Material, the Container label and label application method, Container closures, Container attachments and Container inserts;
- g. “Container Material” means any material that comprises more than 2% by weight of a Container;
- h. “Liquor” has the same meaning as in the *Gaming and Liquor Act*, RSA 2000 c G-1 as amended;
- i. “Liquor Agency” has the same meaning as in the *Gaming and Liquor Act*, RSA 2000 c G-1 as amended;
- j. “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; and
 - iii. a Liquor Agency;
- k. “Registrant” means a Manufacturer who has been registered by the BCMB to sell or distribute or offer to sell or distribute or permit to be sold or distributed in Alberta any Beverage in a Container, and for the purpose of this By-law, includes an agent who has been specifically appointed by a Manufacturer to register a Container or Beverage on that Manufacturer’s behalf;
- l. “Regulation” means the *Beverage Container Recycling Regulation*, Alta Reg 101/97 as amended;
- m. “Retailer” means a person who sells beverages in Containers to consumers.

3. Manufacturer Registration

- 3.1. 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 registered with the BCMB in accordance with this section.
- 3.2. An application for registration of a Manufacturer must be submitted to the BCMB in the form specified by the BCMB for that purpose.

3.3. A Manufacturer is registered by the BCMB when the BCMB provides written notification of registration to the Manufacturer at the address provided by the Manufacturer for that purpose or provides electronic confirmation of registration.

3.4. Notification of registration of a Manufacturer shall include notification of the registration number assigned to the Registrant by the BCMB.

4. Container Approval and Registration

4.1. Only Containers that have been approved by the BCMB in accordance with this By-law can be registered with the BCMB.

4.2. The first time that a Registrant seeks approval for a Container the Registrant must submit to the BCMB an application for approval of the Container in the form specified by the BCMB for that purpose.

4.3. The BCMB may approve a Container which is the subject of an application under section 4.2 if the Container can be recycled in a manner that is satisfactory to the BCMB in accordance with the criteria and the procedure set out in section 5.

4.4. Once a Registrant has obtained approval for a Container under section 4.2, has registered that Container under section 6 and has been given a BCMB Container Code for that Container, any Container manufactured by that Registrant with the identical Container Composition is deemed to have been approved under this By-law, and the Registrant may submit an application under section 6 for registration of any such Container and the Beverage in that Container without submitting an application for approval of that Container under section 4.2.

4.5. Other than a Container which is deemed to have been approved under section 4.4, a Container is approved by the BCMB when the BCMB provides written notification of the approval to the Registrant at the address provided by the Registrant for that purpose or provides electronic confirmation of the approval.

5. Determination of Recyclability

5.1. In determining whether or not a Container can be recycled in a manner that is satisfactory to the BCMB, the BCMB may consider the following matters:

- a. the proposed method of recycling, including whether the Container can be recycled by a method not previously found to be satisfactory by the BCMB;
- b. whether the Container can be recycled without contamination to the beverage container recycling system;

- c. whether the Container can be disassembled in order to avoid contamination to the beverage container recycling system;
 - d. the percentage by weight of materials recoverable;
 - e. the cost of recycling, including any costs of disassembly;
 - f. the marketability of the Container materials;
 - g. whether the Container can be visually identified as being distinct from other Approved Containers;
 - h. any other criteria relevant to recyclability that the BCMB may consider appropriate.
- 5.2. The following end-use processes are methods of recycling that are not considered to be satisfactory to the BCMB:
- a. Incineration;
 - b. Thermochemical decomposition at elevated temperatures in the absence of oxygen;
 - c. Disposal into landfills, bodies of water or outside of the Earth's atmosphere.
- 5.3. For the purposes of a determination under this section, the BCMB may require that the manufacturer provide sample Containers to the BCMB, and the BCMB may provide sample Containers to other parties with expertise in recycling for their inspection and advice.
- 5.4. For the purposes of a determination under this section, the BCMB may request and rely upon relevant information from the Registrant and from other parties with expertise in recycling.

6. Container and Beverage Registration

- 6.1. A Registrant must register every Approved Container that is distinguishable from any other Approved Container registered by that Registrant on the basis of size, brand name, the type of Beverage it contains, the flavour of Beverage it contains, or any combination of two or more of these elements.
- 6.2. An application for registration of a Container containing a Beverage other than Liquor must be submitted to the BCMB in the form approved by the BCMB for that purpose.
- 6.3. An application for registration of a Container containing Liquor must be submitted to the AGLC in the form approved by the AGLC for that purpose accompanied by the form approved by the BCMB for that purpose.

- 6.4. An Approved Container and the Beverage it contains are registered when the BCMB provides written notification of registration to the Registrant and provides a beverage registration number to the Registrant at the address provided by the Registrant for that purpose or provides electronic confirmation of the registration.

7. Retailer Obligations

- 7.1. No Retailer shall sell or offer to sell any beverage in a Container unless the Container is registered.

8. Fees

- 8.1. The registration fee that is payable by a Manufacturer to register the Manufacturer with the BCMB as a Registrant is \$60.00.
- 8.2. The registration fee that is payable by a Registrant to register a Container which has been deemed to be Approved under section 4.4 is \$10.00.
- 8.3. The registration fee that is payable by a Registrant to register any Approved Container other than a Container which has been deemed to be Approved under section 4.4 shall be determined by the BCMB based on the cost associated with the approval of the Container.

9. Appeal Process

- 9.1. A decision by the BCMB not to register a Container may be appealed in accordance with the Appeal Process set out in the Administrative Compliance By-law.
- 9.2. An appeal fee of \$500.00 must be submitted with respect to any appeal under this By-law in order for the appeal to proceed.

10. Offences

10.1. In accordance with section 7 of the Regulation, any Manufacturer who fails to register a Container with the BCMB in accordance with this 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.

10.2. In accordance with section 7 of the Regulation, any Retailer who sells or offers to sell any beverage in a Container that is not registered in accordance with this By-law and who thereby contravenes section 7 of the Regulation 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.