

HOUSE BILL No. 5964

June 25, 1992, Introduced by Rep. Nye and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend sections 1 and 2 of the Initiated Law of 1976, section 1 as amended by Act No. 93 of the Public Acts of 1989 and section 2 as amended by Act No. 235 of the Public Acts of 1986, being sections 445.571 and 445.572 of the Michigan Compiled Laws; and to add section 2a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1 and 2 of the Initiated Law of 1976,
2 section 1 as amended by Act No. 93 of the Public Acts of 1989 and
3 section 2 as amended by Act No. 235 of the Public Acts of 1986,
4 being sections 445.571 and 445.572 of the Michigan Compiled Laws,
5 are amended and section 2a is added to read as follows:

6 Sec. 1. As used in this act:

7 (a) "Beverage" means a soft drink, soda water, carbonated
8 natural or mineral water, or other nonalcoholic carbonated drink;

1 beer, ale, or other malt drink of whatever alcoholic content; or
2 a mixed wine drink or a mixed spirit drink.

3 (b) "Beverage container" means an airtight metal, glass,
4 paper, or plastic container, or a container composed of a combi-
5 nation of these materials, which, at the time of sale, contains 1
6 gallon or less of a beverage.

7 (c) "Empty returnable container" means a beverage container
8 which contains nothing except the residue of its original
9 contents.

10 (d) "Returnable container" means a beverage container upon
11 which a REGULATORY FEE OF 1 CENT AND A deposit of at least ~~10~~ 9
12 cents has been paid, or is required to be paid upon the removal
13 of the container from the sale or consumption area, and for which
14 a refund of at least ~~10~~ 9 cents in cash is payable by every
15 dealer or distributor in this state of that beverage in beverage
16 containers, as further provided in section 2.

17 (e) "Nonreturnable container" means a beverage container
18 upon which no deposit, REGULATORY FEE, or a deposit of less than
19 10 cents has been paid, or is required to be paid upon the
20 removal of the container from the sale or consumption area, or
21 for which no cash refund or a refund of less than ~~10~~ 9 cents is
22 payable by a dealer or distributor in this state of that beverage
23 in beverage containers, as further provided in section 2.

24 (f) "Person" means an individual, partnership, corporation,
25 association, or other legal entity.

26 (g) "Dealer" means a person who sells or offers for sale to
27 consumers within this state a beverage in a beverage container,

1 including an operator of a vending machine containing a beverage
2 in a beverage container.

3 (h) "Operator of a vending machine" means equally its owner,
4 the person who refills it, and the owner or lessee of the prop-
5 erty upon which it is located.

6 (i) "Distributor" means a person who sells beverages in bev-
7 erage containers to a dealer within this state, and includes a
8 manufacturer who engages in such sales.

9 (j) "Manufacturer" means a person who bottles, cans, or oth-
10 erwise places beverages in beverage containers for sale to dis-
11 tributors, dealers, or consumers.

12 (k) "Within this state" means within the exterior limits of
13 the state of Michigan, and includes the territory within these
14 limits owned by or ceded to the United States of America.

15 (l) "Commission" means the Michigan liquor control
16 commission.

17 (m) "Sale or consumption area" means the premises within the
18 property of the dealer or of the dealer's lessor where the sale
19 is made, within which beverages in returnable containers may be
20 consumed without payment of a deposit, and, upon removing a bev-
21 erage container from which, the customer is required by the
22 dealer to pay the deposit.

23 (n) "Nonrefillable container" means a returnable container
24 which is not intended to be refilled for sale by a manufacturer.

25 (o) "Mixed wine drink" means a drink or similar product
26 marketed as a wine cooler and containing less than 7% alcohol by

1 volume, consisting of wine and plain, sparkling, or carbonated
2 water and containing any 1 or more of the following:

3 (i) Nonalcoholic beverages.

4 (ii) Flavoring.

5 (iii) Coloring materials.

6 (iv) Fruit juices.

7 (v) Fruit adjuncts.

8 (vi) Sugar.

9 (vii) Carbon dioxide.

10 (viii) Preservatives.

11 (p) "Mixed spirit drink" means a drink containing 10% or
12 less alcohol by volume consisting of distilled spirits mixed with
13 nonalcoholic beverages or flavoring or coloring materials and
14 which may also contain water, fruit juices, fruit adjuncts,
15 sugar, carbon dioxide, or preservatives; or any spirits based
16 beverage, regardless of the percent of alcohol by volume, that is
17 manufactured for sale in a metal container.

18 (Q) "REGULATORY FEE" MEANS THAT FEE PAID TO A DEALER PURSU-
19 ANT TO SECTION 2 AT THE TIME A PERSON PURCHASES FROM THE DEALER A
20 BEVERAGE IN A RETURNABLE CONTAINER.

21 Sec. 2. (1) A dealer shall not, within this state, sell,
22 offer for sale, or give to consumers a nonreturnable container or
23 a beverage in a nonreturnable container.

24 (2) A dealer who regularly sells beverages for consumption
25 off the dealer's premises shall provide on the premises, or
26 within 100 yards of the premises on which the dealer sells or
27 offers for sale a beverage in a returnable container, a

1 convenient means whereby the containers of any kind, size, and
2 brand sold or offered for sale by the dealer may be returned by,
3 and ~~the~~ AT LEAST 9 CENTS OF A deposit refunded in cash to, a
4 person whether or not the person is the original customer of that
5 dealer, and whether or not the container was sold by that
6 dealer.

7 (3) Regional centers for redemption of returnable containers
8 may be established in addition to, but not as substitutes for,
9 means for refund of deposits in accordance with subsection (2).

10 (4) A dealer shall not refuse to accept from a person an
11 empty returnable container of any kind, size, and brand sold by
12 that dealer, nor refuse to pay to the person its full refund
13 value in cash, except as provided in subsections (5) and (7).

14 (5) A dealer who does not require a deposit on a returnable
15 container when the contents are consumed in the dealer's sale or
16 consumption area shall not be required to pay a refund for
17 accepting that empty container.

18 (6) A distributor shall not refuse to accept from a dealer
19 an empty returnable container of any kind, size, and brand sold
20 by that distributor, nor refuse to pay to the dealer its full
21 refund value in cash, except as provided in subsection (7).

22 (7) Every beverage container sold or offered for sale by a
23 dealer within this state shall clearly indicate by embossing or
24 by a stamp, a label, or other method securely affixed to the bev-
25 erage container, the refund value of the container and the name
26 of this state. A dealer or distributor may, but is not required
27 to, refuse to accept from a person an empty returnable container

1 which does not state on the container the refund value of the
2 container and the name of this state. This subsection shall not
3 apply to a refillable container having a refund value of not less
4 than ~~10~~ 9 cents which has a brand name permanently marked on
5 it. Each container of this type shall clearly indicate, by a
6 method securely affixed to the container, that the container is
7 returnable for deposit.

8 (8) A dealer within this state shall not sell, offer for
9 sale, or give to consumers a metal beverage container, any part
10 of which becomes detached when opened.

11 (9) A person, dealer, distributor, or manufacturer shall not
12 return an empty returnable container to a dealer for a 9-CENT
13 refund of the deposit if a dealer has already refunded 9 CENTS OF
14 the deposit on that returnable container. This subsection shall
15 not prevent a dealer from refunding the deposit on an empty
16 returnable container each time the returnable container is sani-
17 tized by the manufacturer and reused as a beverage container.

18 (10) A dealer may accept, but is not required to accept,
19 from a person, empty returnable containers for a refund in excess
20 of \$25.00 on any given day.

21 (11) A manufacturer licensed by the commission shall not
22 require a distributor licensed by the commission to pay a deposit
23 to the manufacturer on a nonrefillable container. However, a
24 manufacturer licensed by the commission and a distributor
25 licensed by the commission may enter into an agreement providing
26 that either or both may originate a deposit or any portion of a

1 deposit on a nonrefillable container if the agreement is entered
2 into freely and without coercion.

3 (12) A manufacturer shall refund the deposit paid on any
4 container returned by a distributor for which a deposit has been
5 paid by a distributor to the manufacturer.

6 (13) A PERSON WHO PURCHASES FROM A DEALER A BEVERAGE IN A
7 RETURNABLE CONTAINER SHALL PAY THAT DEALER A REGULATORY FEE OF 1
8 CENT FOR EACH CONTAINER, AND THE DEALER SHALL DISTRIBUTE THAT FEE
9 IN THE FOLLOWING MANNER:

10 (A) ONE-HALF OF EACH CENT SHALL BE RETAINED BY THE DEALER
11 FOR THE COST OF HANDLING AND PROCESSING RETURNABLE CONTAINERS.

12 (B) ONE-HALF OF EACH CENT SHALL BE DEPOSITED INTO THE ENVI-
13 RONMENTAL PROTECTION AND WASTE REDUCTION FUND CREATED IN SECTION
14 2A.

15 SEC. 2A. (1) THE ENVIRONMENTAL PROTECTION AND WASTE REDUC-
16 TION FUND IS CREATED IN THE STATE TREASURY. THE FUND SHALL
17 RECEIVE THE FEES COLLECTED PURSUANT TO SECTION 2 AND AS OTHERWISE
18 PROVIDED BY LAW. INTEREST AND EARNINGS OF THE FUND SHALL BE
19 CREDITED TO THE FUND. MONEY IN THE FUND AT THE CLOSE OF THE
20 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE
21 GENERAL FUND.

22 (2) THE FUND SHALL BE ADMINISTERED BY A NONPROFIT FOUNDATION
23 THAT OPERATES IN THIS STATE AND IS SELECTED BY THE GOVERNOR WITH
24 THE ADVICE AND CONSENT OF THE SENATE AND THE APPROVAL OF A MAJOR-
25 ITY OF THE HOUSE OF REPRESENTATIVES.

26 (3) MONEY IN THE FUND SHALL BE UTILIZED AS FOLLOWS:

1 (A) NOT MORE THAN 10% OF THE FUND MAY BE TRANSFERRED TO THE
2 MICHIGAN SPILLS ACTION CENTER FUND IF CREATED PURSUANT TO LAW.
3 THE AMOUNT EXPENDED FOR THE PURPOSE UNDER THIS SUBDIVISION SHALL
4 NOT EXCEED \$2,500,000.00.

5 (B) NOT MORE THAN 35% OF THE FUND MAY BE UTILIZED TO FUND
6 THE MICHIGAN EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW COM-
7 MISSION AND LOCAL EMERGENCY PLANNING COMMITTEES CREATED PURSUANT
8 TO THE AUTHORITY OF EXECUTIVE ORDER 1987-5 AS AMENDED BY
9 EXECUTIVE ORDER 1988-1. THE AMOUNT EXPENDED FOR THE PURPOSES
10 PROVIDED IN THIS SUBDIVISION SHALL NOT EXCEED \$8,000,000.00.

11 (C) MONEY IN THE FUND REMAINING AFTER DISTRIBUTIONS ARE MADE
12 PURSUANT TO SUBDIVISIONS (A) AND (B) SHALL BE DISTRIBUTED THROUGH
13 THE ISSUANCE OF GRANTS TO PERSONS THAT SUBMIT APPROVED PROPOSALS
14 TO CREATE ALTERNATIVE MEANS FOR THE DISPOSAL OF SOLID WASTE,
15 OTHER THAN LANDFILLS.

16 (4) THE COMMISSION OF NATURAL RESOURCES SHALL PROMULGATE
17 RULES AS NECESSARY TO ESTABLISH AND IMPLEMENT THE GRANT PROGRAM
18 PROVIDED FOR IN SUBSECTION (3).