

SUBSTITUTE FOR
HOUSE BILL NO. 5061

A bill to amend the Initiated Law of 1976, entitled
"A petition to initiate legislation to provide for the use of
returnable containers for soft drinks, soda water, carbonated
natural or mineral water, other nonalcoholic carbonated drink,
and for beer, ale, or other malt drink of whatever alcoholic con-
tent, and for certain other beverage containers; to provide for
the use of unredeemed bottle deposits; to prescribe the powers
and duties of certain state agencies and officials; and to pre-
scribe penalties and provide remedies,"
by amending sections 2, 3b, and 4 (MCL 445.572, 445.573b, and
445.574), section 2 as amended by 1986 PA 235, section 3b as
amended by 1996 PA 384, and section 4 as amended by 1982 PA 39,
and by adding sections 4a and 4b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) A dealer WITHIN THIS STATE shall not ~~—, within~~
2 ~~this state,~~ sell, offer for sale, or give to ~~—consumers—~~ A
3 CONSUMER a nonreturnable container or a beverage in a
4 nonreturnable container.

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1 (2) A dealer who regularly sells beverages for consumption
2 off the dealer's premises shall provide on the premises, or
3 within 100 yards of the premises on which the dealer sells or
4 offers for sale a beverage in a returnable container, a conven-
5 ient means whereby the containers of any kind, size, and brand
6 sold or offered for sale by the dealer may be returned by, and
7 the deposit refunded in cash to, a person whether or not the
8 person is the original customer of that dealer, and whether or
9 not the container was sold by that dealer.

10 (3) Regional centers for THE redemption of returnable con-
11 tainers may be established, in addition to ~~—~~, but not as substi-
12 tutes for, THE means ESTABLISHED for ~~—refund—~~ REFUNDS of deposits
13 ~~in accordance with~~ PRESCRIBED IN subsection (2).

14 (4) ~~—A—~~ EXCEPT AS PROVIDED IN SUBSECTIONS (5) AND (7), A
15 dealer shall ~~not refuse to~~ accept from a person an empty
16 returnable container of any kind, size, and brand sold OR OFFERED
17 FOR SALE by that dealer ~~—, nor refuse to—~~ AND pay to ~~the~~ THAT
18 person its full refund value in cash. ~~—, except as provided in~~
19 ~~subsections (5) and (7).—~~

20 (5) A dealer who does not require a deposit on a returnable
21 container when the contents are consumed in the dealer's sale or
22 consumption area ~~shall not be~~ IS NOT required to pay a refund
23 for accepting that empty container.

24 (6) ~~—A—~~ EXCEPT AS PROVIDED IN SUBSECTION (7), A distributor
25 shall ~~not refuse to~~ accept from a dealer an empty returnable
26 container of any kind, size, and brand sold OR OFFERED FOR SALE
27 by that distributor ~~—, nor refuse to—~~ AND pay to the dealer its

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1 full refund value in cash. ~~, except as provided in subsection~~
2 ~~(7).~~

3 (7) ~~Every~~ EACH beverage container sold or offered for sale
4 by a dealer within this state shall clearly indicate by embossing
5 or by a stamp, a label, or other method securely affixed to the
6 beverage container, the refund value of the container and the
7 name of this state. A dealer or distributor may, but is not
8 required to, refuse to accept from a person an empty returnable
9 container which does not state on the container the refund value
10 of the container and the name of this state. This subsection
11 ~~shall~~ DOES not apply to a refillable container having a refund
12 value of not less than 10 cents, ~~which has~~ HAVING a brand name
13 permanently marked on it, AND HAVING A SECURELY AFFIXED METHOD OF
14 INDICATING THAT IT IS A RETURNABLE CONTAINER. ~~Each container of~~
15 ~~this type shall clearly indicate, by a method securely affixed to~~
16 ~~the container, that the container is returnable for deposit.~~

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

20 (9) A person, dealer, distributor, or manufacturer shall not
21 return an empty ~~returnable~~ container to a dealer for a refund
22 of the deposit if a dealer has already refunded the deposit on
23 that returnable container. This subsection ~~shall not prevent~~
24 DOES NOT PROHIBIT a dealer from refunding the deposit on an empty
25 returnable container each time the returnable container is sani-
26 tized by the manufacturer and reused as a beverage container.

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

4 (11) A manufacturer licensed by the commission shall not
5 require a distributor licensed by the commission to pay a deposit
6 to the manufacturer on a nonrefillable container. However, a
7 manufacturer licensed by the commission and a distributor
8 licensed by the commission may enter into an agreement providing
9 that either or both may originate a deposit or any portion of a
10 deposit on a nonrefillable container if the agreement is entered
11 into freely and without coercion.

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

15 (13) SUBSECTIONS (4), (6), AND (7) APPLY ONLY TO A RETURN-
16 ABLE CONTAINER THAT WAS ORIGINALLY SOLD IN THIS STATE AS A FILLED
17 RETURNABLE CONTAINER.

18 Sec. 3b. (1) The department of treasury may audit, assess,
19 and collect the amount of money reflecting unclaimed bottle
20 deposits owed to this state, and enforce the obligation to pay
21 the amount of money reflecting unclaimed bottle deposits owed to
22 this state, in the same manner as revenues and according to the
23 provisions of ~~Act No. 122 of the Public Acts of 1941, being sec-~~
24 ~~tions 205.1 to 205.31 of the Michigan Compiled Laws 1941 PA 122,~~
25 MCL 205.1 TO 205.31.

26 (2) Not later than March 1, 1991 and not later than March 1
27 of each year thereafter, an underredeemer shall pay to the

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1 department of treasury that amount of money by which its annual
2 total value of deposits exceeds its annual total value of refunds
3 made on redeemed beverage containers, subject to the overredemp-
4 tion credit contained in this section.

5 (3) After March 1, 1991, an underredeemer who becomes an
6 overredeemer in a subsequent year may credit the value of the
7 overredemption in order to reduce the amount of money owed to the
8 department of treasury under this section in 1 or more subsequent
9 years as a result of that person again becoming an
10 underredeemer. The value of the overredemption may be carried
11 forward for not more than 3 years or until the credit granted in
12 this section is completely depleted, whichever occurs first.

13 (4) A manufacturer who no longer originates deposits may
14 carry the value of an overredemption back for prior years in
15 order to utilize its credit, and reduce the amount of underre-
16 demption owed to the department of treasury under this section on
17 a 1-time basis only. Utilization of this 1-time credit may be
18 applied against underredemption amounts owed for reporting years
19 commencing in 1990.

20 (5) As used in this section:

21 (a) "Overredeemer" means a distributor or manufacturer whose
22 annual total value of deposits collected on beverage containers
23 sold within this state is less than the annual total value of
24 refunds made upon beverage containers redeemed within this
25 state.

26 (b) "Underredeemer" means a distributor or manufacturer
27 whose annual total value of deposits collected on beverage

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1 containers sold within this state exceeds annual total value of
2 refunds made upon beverage containers redeemed within this
3 state.

4 (6) IN ADDITION TO THE REPORT PRESCRIBED IN SECTION 3A, IF
5 AN UNDERREDEEMER PURCHASES EMPTY RETURNABLE CONTAINERS FROM AN
6 OVERREDEEMER, THAT PURCHASE SHALL BE REPORTED BY THE UNDERRE-
7 DEEMER AS A "REFUND MADE" AND SHALL BE REPORTED BY THE OVERRE-
8 DEEMER AS A "DEPOSIT ORIGINATED" IN THE REPORT PRESCRIBED BY SEC-
9 TION 3A. THE REPORT MADE BY AN UNDERREDEEMER SHALL INCLUDE THE
10 NAME AND ADDRESS OF EACH OVERREDEEMER AND THE REFUND VALUE OF THE
11 EMPTY RETURNABLE BEVERAGE CONTAINERS SOLD. THE REPORT MADE BY AN
12 OVERREDEEMER SHALL INCLUDE THE NAME AND ADDRESS OF EACH UNDERRE-
13 DEEMER WHO SOLD THE RETURNABLE CONTAINERS AND THE REFUND VALUE OF
14 THE EMPTY RETURNABLE BEVERAGE CONTAINERS SOLD.

15 (7) A PURCHASE OR SALE MADE UNDER SUBSECTION (6) DURING
16 JANUARY OF EACH YEAR SHALL BE INCLUDED IN THE REPORT FOR THE PRE-
17 VIOUS CALENDAR YEAR ONLY.

18 Sec. 4. ~~A~~ EXCEPT AS PROVIDED IN [SECTIONS 4A AND 4B], A
person,
19 dealer, distributor, or manufacturer who violates this act ~~shall~~
20 ~~be fined~~ IS SUBJECT TO A FINE OF not less than \$100.00 ~~nor~~ OR
21 more than \$1,000.00 and IS LIABLE FOR THE costs of prosecution.
22 ~~Every~~ EACH day a violation occurs, ~~is~~ a separate offense IS
23 COMMITTED.

24 SEC. 4A. (1) A PERSON SHALL NOT RETURN OR ATTEMPT TO RETURN
25 TO A DEALER FOR A REFUND 1 OR MORE OF THE FOLLOWING:

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1 (A) A BEVERAGE CONTAINER THAT THE PERSON KNOWS OR SHOULD
2 KNOW WAS NOT PURCHASED IN THIS STATE AS A FILLED RETURNABLE
3 CONTAINER.

4 (B) A BEVERAGE CONTAINER THAT THE PERSON KNOWS OR SHOULD
5 KNOW DID NOT HAVE A DEPOSIT PAID FOR IT AT THE TIME OF PURCHASE.

6 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS SUBJECT TO 1 OF
7 THE FOLLOWING:

8 (A) IF THE PERSON RETURNS 25 OR MORE BUT NOT MORE THAN 100
9 NONRETURNABLE CONTAINERS, THE PERSON IS GUILTY OF A MISDEMEANOR
10 PUNISHABLE BY A FINE OF NOT MORE THAN \$100.00.

11 (B) IF THE PERSON RETURNS MORE THAN 100 NONRETURNABLE CON-
12 TAINERS OR VIOLATES SUBDIVISION (A) FOR A SECOND OR SUBSEQUENT
13 TIME, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRIS-
14 ONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN
15 \$500.00, OR BOTH.

16 (C) A PERSON FOUND GUILTY UNDER THIS SUBSECTION SHALL BE
17 ORDERED BY THE COURT TO PAY RESTITUTION EQUAL TO THE AMOUNT OF
18 LOSS CAUSED BY THE VIOLATION.

19 SEC. 4B. IN THAT PORTION OF THE DEALER'S PREMISES WHERE
20 RETURNABLE CONTAINERS ARE REDEEMED, A DEALER SHALL POST A NOTICE
21 THAT SAYS SUBSTANTIALLY THE FOLLOWING: "A PERSON WHO RETURNS FOR
22 REFUND AN OUT-OF-STATE NONRETURNABLE CONTAINER IS SUBJECT TO PEN-
23 ALTIES OF UP TO 93 DAYS IN JAIL AND A FINE OF \$500.00 AND
24 RESTITUTION." [A DEALER WHO FAILS TO COMPLY WITH THIS SECTION IS
SUBJECT TO A FINE OF NOT LESS THAN \$50.00.]