

HOUSE BILL No. 4096

January 31, 2001, Introduced by Reps. Switalski, Patterson, Kolb and Lockwood and referred to the Committee on Commerce.

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 content, 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 prescribe penalties and provide remedies,"

by amending section 1 (MCL 445.571), as amended by 1989 PA 93.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Beverage" means ~~a soft drink,~~ soda OR OTHER CARBON-
3 ATED OR NONCARBONATED water; ~~, carbonated natural or mineral~~
4 ~~water, or other nonalcoholic carbonated drink;~~ beer, ale, or
5 other malt drink of whatever alcoholic content; ~~or~~ a mixed wine
6 drink or a mixed spirit drink; OR A NONALCOHOLIC CARBONATED OR
7 NONCARBONATED DRINK IN LIQUID FORM AND INTENDED FOR INTERNAL

1 HUMAN CONSUMPTION, EXCEPT FOR UNFLAVORED RICE MILK, UNFLAVORED
2 SOYMILK, MILK, OR A DAIRY-DERIVED PRODUCT.

3 (b) "Beverage container" means ~~an~~ 1 OF THE FOLLOWING:

4 (i) AN airtight metal, glass, paper, or plastic container,
5 or a container composed of a combination of these materials,
6 which ~~—~~ at the time of sale ~~—~~ contains 1 gallon or less of a
7 beverage OTHER THAN A NONALCOHOLIC BEVERAGE.

8 (ii) AN AIRTIGHT METAL, GLASS, OR PLASTIC CONTAINER WHICH AT
9 THE TIME OF SALE CONTAINS 1 GALLON OR LESS OF A NONALCOHOLIC BEV-
10 ERAGE OTHER THAN A CONTAINER COMPOSED IN WHOLE OR IN PART OF ALU-
11 MINUM AND PLASTIC OR ALUMINUM AND PAPER IN COMBINATION IF THE
12 ALUMINUM CONTENT REPRESENTS 10% OR LESS OF THE UNFILLED CONTAINER
13 WEIGHT AND THE UNFILLED CONTAINER WEIGHT IS 5% OR LESS OF THE
14 FILLED CONTAINER WEIGHT.

15 (c) "Empty returnable container" means a beverage container
16 ~~which~~ THAT contains nothing except the residue of its original
17 contents.

18 (d) "Returnable container" means a beverage container upon
19 which a deposit of ~~at least~~ NOT LESS THAN 10 cents has been
20 paid, or is required to be paid upon the removal of the BEVERAGE
21 container from the sale or consumption area, and for which a
22 refund of ~~at least~~ NOT LESS THAN 10 cents in cash is payable by
23 every dealer or distributor in this state of that beverage in
24 beverage containers, as further provided in section 2.

25 (e) "Nonreturnable container" means a beverage container
26 upon which no deposit or a deposit of less than 10 cents has been
27 paid, or is required to be paid, upon the removal of the BEVERAGE

1 container from the sale or consumption area, or for which no cash
2 refund or a refund of less than 10 cents is payable by a dealer
3 or distributor in this state of that beverage in beverage con-
4 tainers, as further provided in section 2.

5 (f) "Person" means an individual, partnership, corporation,
6 LIMITED LIABILITY COMPANY, association, or other legal entity.

7 (g) "Dealer" means a person who sells or offers for sale to
8 consumers within this state a beverage in a beverage container,
9 including an operator of a vending machine containing a beverage
10 in a beverage container.

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

14 (i) "Distributor" means a person, INCLUDING A MANUFACTURER,
15 who sells beverages in beverage containers to a dealer within
16 this state. ~~, and includes a manufacturer who engages in such~~
17 ~~sales.~~

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

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

24 (l) "Commission" means the ~~Michigan~~ liquor control commis-
25 sion CREATED IN SECTION 209 OF THE MICHIGAN LIQUOR CONTROL CODE
26 OF 1998, 1998 PA 58, MCL 436.1209.

1 (m) "Sale or consumption area" means the premises ~~within~~
2 ON the property of the dealer or of the dealer's lessor where the
3 sale is made, ~~within which~~ WHERE beverages in returnable con-
4 tainers may be consumed without payment of a deposit, and ~~, upon~~
5 ~~removing a beverage container from which, the customer is~~
6 ~~required by~~ WHERE A CONSUMER MAY NOT REMOVE A BEVERAGE CONTAINER
7 WITHOUT the dealer REQUIRING HIM OR HER to pay ~~the~~ A deposit.

8 (n) "Nonrefillable container" means a returnable container
9 ~~which~~ THAT is not intended to be refilled for sale by a
10 manufacturer.

11 (o) "Mixed wine drink" means a drink or similar product
12 marketed as a wine cooler and containing less than 7% alcohol by
13 volume, consisting of wine and plain, sparkling, or carbonated
14 water and containing any 1 or more of the following:

15 (i) Nonalcoholic beverages.

16 (ii) Flavoring.

17 (iii) Coloring materials.

18 (iv) Fruit juices.

19 (v) Fruit adjuncts.

20 (vi) Sugar.

21 (vii) Carbon dioxide.

22 (viii) Preservatives.

23 (p) "Mixed spirit drink" means a drink containing 10% or
24 less alcohol by volume consisting of distilled spirits mixed with
25 nonalcoholic beverages or flavoring or coloring materials and
26 ~~which~~ THAT may also contain water, fruit juices, fruit
27 adjuncts, sugar, carbon dioxide, or preservatives; or ~~any~~ A

1 spirits based beverage, regardless of the percent of alcohol by
2 volume, that is manufactured for sale in a metal BEVERAGE
3 container.

4 (Q) "UNFLAVORED SOYMILK" MEANS A LIQUID CONTAINING NO ADDI-
5 TIONAL FLAVORING INGREDIENTS AND INTENDED FOR INTERNAL HUMAN CON-
6 SUMPTION, THE PRIMARY PROTEIN SOURCE OF WHICH IS SOY PROTEIN
7 DERIVED FROM WHOLE SOYBEANS, ISOLATED SOY PROTEIN, SOY PROTEIN
8 CONCENTRATE, SOY FLOUR, SPRAY-DRIED TOFU, OR SPRAY-DRIED
9 SOYMILK.

10 (R) "RICE MILK" MEANS A LIQUID INTENDED FOR INTERNAL HUMAN
11 CONSUMPTION OF WHICH THE PRIMARY PROTEIN SOURCE IS RICE PROTEIN
12 DERIVED FROM PARTIALLY MILLED BROWN RICE.

13 Enacting section 1. This amendatory act takes effect
14 January 1, 2003.