

# HOUSE BILL No. 5163

September 13, 2005, Introduced by Reps. Hansen, Green and Kolb and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
(MCL 324.101 to 324.90106) by adding part 162; and to repeal acts  
and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### PART 162. RECYCLING FEE

#### SEC. 16201. AS USED IN THIS PART:

(A) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL  
QUALITY.

(B) "FUND" MEANS THE RECYCLING FUND CREATED IN SECTION 16205.

(C) "GOODS SOLD AT RETAIL" MEANS TANGIBLE PERSONAL PROPERTY,  
INCLUDING FOOD, THE OWNERSHIP OF WHICH IS TRANSFERRED BY A PERSON  
REGULARLY AND PRINCIPALLY ENGAGED IN THE BUSINESS OF SELLING

1 TANGIBLE PERSONAL PROPERTY TO BUYERS FOR USE OR CONSUMPTION AND NOT  
2 FOR RESALE. GOODS SOLD AT RETAIL INCLUDE, BUT ARE NOT LIMITED TO,  
3 GOODS SOLD TO A PERSON WHO IS A MEMBER OF A CLUB OR OTHER  
4 ORGANIZATION, WHICH MEMBERSHIP ENTITLES THE PERSON TO BUY THE GOODS  
5 FROM THE SELLER.

6 (D) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,  
7 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

8 (E) "RECYCLING" MEANS THE ACT OF TREATING OR PROCESSING AN  
9 ITEM SO THAT IT OR THE MATERIALS FROM WHICH IT IS MADE MAY BE USED  
10 AGAIN.

11 (F) "RECYCLING FEE" MEANS THE FEE ESTABLISHED UNDER SECTION  
12 16203.

13 (G) "SALES TRANSACTION" MEANS A TRANSACTION INVOLVING THE SALE  
14 OF GOODS SOLD AT RETAIL HAVING AN AGGREGATE PRETAX VALUE OF \$2.00  
15 OR MORE. A TRANSACTION IS A SALES TRANSACTION REGARDLESS OF WHETHER  
16 IT INCLUDES THE SALE OF GOODS THAT ARE NOT GOODS SOLD AT RETAIL OR  
17 ARE EXCLUDED UNDER THIS SUBDIVISION. IF THE TRANSACTION INCLUDES A  
18 SALE OF SUCH GOODS, THE AGGREGATE VALUE IS CALCULATED ONLY ON THE  
19 GOODS SOLD AT RETAIL THAT ARE NOT EXCLUDED UNDER THIS SUBDIVISION.  
20 SALES TRANSACTION DOES NOT INCLUDE THE SALE OF ANY OF THE  
21 FOLLOWING:

22 (i) GOODS SOLD FROM A VENDING MACHINE.

23 (ii) MOTOR FUEL, AS THAT TERM IS DEFINED IN SECTION 4 OF THE  
24 MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1004.

25 (iii) A PRESCRIPTION DRUG SOLD FOR HUMAN USE.

26 (iv) A UTILITY.

27 (H) "UTILITIES" MEANS ELECTRICITY, STEAM, GAS, WATER,

1 COMMUNICATION, OR A SIMILAR GOOD DELIVERED TO THE PUBLIC BY PIPE,  
2 WIRE, CABLE, OR SIMILAR MEANS.

3 SEC. 16203. (1) BEGINNING ON OCTOBER 1, 2006, A RECYCLING FEE  
4 IS LEVIED ON EACH SALES TRANSACTION IN THIS STATE.

5 (2) THE RECYCLING FEE IS 1 CENT FOR EACH SALES TRANSACTION.

6 (3) THE RECYCLING FEE SHALL BE COLLECTED AT THE SAME TIME AND  
7 IN THE SAME MANNER AS THE TAX IMPOSED UNDER THE GENERAL SALES TAX  
8 ACT, 1933 PA 167, MCL 205.51 TO 205.78.

9 (4) IF A FEE PAYER HAS A REASONABLE BASIS, BASED ON A HISTORY  
10 OF THE FEE PAYER'S SALES TRANSACTIONS, TO MAKE A GOOD-FAITH  
11 ESTIMATE THAT LESS THAN \$20.00 IN RECYCLING FEES WILL BE LEVIED ON  
12 THE FEE PAYER IN A MONTH, THE FEE PAYER MAY ELECT NOT TO PAY THE  
13 FEE. A FEE PAYER THAT MAKES THE ELECTION UNDER THIS SUBSECTION  
14 SHALL NOT REIMBURSE HIMSELF OR HERSELF FOR THE RECYCLING FEE, AS  
15 PROVIDED IN SECTION 16204, WHILE THE ELECTION IS EFFECTIVE.

16 (5) AN ELECTION UNDER SUBSECTION (4) IS EFFECTIVE UNTIL THE  
17 FEE PAYER HAS A REASONABLE BASIS, BASED ON THE HISTORY OF THE FEE  
18 PAYER'S SALES TRANSACTIONS SINCE THE ELECTION, TO ESTIMATE THAT THE  
19 NUMBER OF THE FEE PAYER'S AVERAGE MONTHLY TRANSACTIONS FOR THE  
20 PREVIOUS 12 MONTHS EXCEEDED 2,000.

21 (6) THE RECYCLING FEE IMPOSED UNDER THIS ACT SHALL BE  
22 ADMINISTERED BY THE STATE TREASURER UNDER 1941 PA 122, MCL 205.1 TO  
23 205.31.

24 (7) THE STATE TREASURER SHALL PRESCRIBE THE FORMS NECESSARY  
25 FOR THE ADMINISTRATION OF THIS ACT AND MAY PROMULGATE NECESSARY  
26 RULES UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,  
27 MCL 24.201 TO 24.328.

1        SEC. 16204. (1) A FEE PAYER SHALL REIMBURSE HIMSELF OR HERSELF  
2 BY ADDING THE AMOUNT OF THE RECYCLING FEE TO THE COST OF EACH SALES  
3 TRANSACTION.

4        (2) A FEE PAYER MAY RETAIN 3/4 OF A PERCENT OF THE RECYCLING  
5 FEES LEVIED ON HIM OR HER FOR ADMINISTRATIVE COSTS.

6        SEC. 16205. (1) THE RECYCLING FUND IS CREATED WITHIN THE STATE  
7 TREASURY.

8        (2) MONEY FROM THE RECYCLING FEE SHALL BE DEPOSITED IN THE  
9 FUND. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM  
10 CONTRIBUTIONS FROM ANY OTHER SOURCE FOR DEPOSIT INTO THE FUND. THE  
11 STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE  
12 TREASURER SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND  
13 INVESTMENTS.

14        (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL  
15 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

16        (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON  
17 APPROPRIATION, AS FOLLOWS:

18        (A) FIFTY PERCENT OF THE MONEY SHALL BE DISTRIBUTED TO LOCAL  
19 UNITS OF GOVERNMENT TO BE EXPENDED FOR RECYCLING AND WASTE  
20 DIVERSION PROGRAMS OPERATED BY THE LOCAL UNITS. MONEY SHALL BE  
21 DISTRIBUTED UNDER THIS SUBDIVISION IN PROPORTION, AS DETERMINED BY  
22 THE DEPARTMENT, TO THE AMOUNT OF MONEY EXPENDED BY THE LOCAL UNIT  
23 OF GOVERNMENT FOR RECYCLING AND WASTE DIVERSION PROGRAMS IN THE  
24 PREVIOUS YEAR, NOT INCLUDING MONEY DISTRIBUTED UNDER THIS  
25 SUBDIVISION.

26        (B) FORTY PERCENT OF THE MONEY SHALL BE EXPENDED AS GRANTS TO  
27 FUND PERSONS WHO CONDUCT RECYCLING AND WASTE DIVERSION PROGRAMS,

1 INCLUDING GOVERNMENTAL AND NONGOVERNMENTAL ENTITIES. GRANTS UNDER  
2 THIS SUBDIVISION MAY BE DISTRIBUTED TO ELEMENTARY AND SECONDARY  
3 SCHOOLS IN THIS STATE TO FUND RECYCLING AND WASTE DIVERSION  
4 EDUCATION AND RECYCLING AND WASTE DIVERSION PROJECTS CONDUCTED BY  
5 THE STUDENTS.

6 (C) TEN PERCENT OF THE MONEY SHALL BE EXPENDED FOR A  
7 COMPREHENSIVE PUBLIC LITTER ABATEMENT PROGRAM THAT INCLUDES  
8 EDUCATION ABOUT AND ADVOCATION OF LITTER ABATEMENT.

9 SEC. 16207. (1) THE DEPARTMENT OF TREASURY MAY REQUIRE A  
10 PERSON, BY NOTICE SERVED UPON THAT PERSON, TO FILE A REPORT, MAKE A  
11 STATEMENT UNDER OATH, OR KEEP OR DISCLOSE RECORDS AS THE DEPARTMENT  
12 OF TREASURY DETERMINES NECESSARY TO SHOW THE AMOUNT OF THE  
13 RECYCLING FEE TO BE LEVIED ON THAT PERSON.

14 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), A PERSON WHO FAILS  
15 TO COMPLY WITH THIS PART IS SUBJECT TO A FINE OF NOT LESS THAN  
16 \$100.00 OR MORE THAN \$1,000.00 AND IS LIABLE FOR THE COSTS OF  
17 PROSECUTION.

18 (3) A PERSON WHO KNOWINGLY REIMBURSES HIMSELF OR HERSELF FOR  
19 THE RECYCLING FEE AS PROVIDED IN SECTION 16204 IN A MANNER OR  
20 AMOUNT CONTRARY TO THIS PART, WHO KNOWINGLY FAILS TO TRANSMIT THE  
21 CORRECT AMOUNT OF RECYCLING FEES LEVIED ON HIM OR HER, OR WHO  
22 KNOWINGLY FAILS TO ACCURATELY COMPLETE A FORM REQUIRED BY THE STATE  
23 TREASURER UNDER THIS PART IS GUILTY OF A MISDEMEANOR PUNISHABLE BY  
24 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN  
25 \$1,000.00, OR BOTH.

26 SEC. 16209. THIS PART IS REPEALED IF THE INITIATED LAW OF  
27 1976, MCL 445.571 TO 445.576, IS AMENDED TO REQUIRE DEPOSITS AND

1 REDEMPTION OF DEPOSITS ON TYPES OF BEVERAGE CONTAINERS FOR WHICH  
2 DEPOSITS AND REDEMPTION OF DEPOSITS ARE NOT REQUIRED UNDER THAT ACT  
3 ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
4 SECTION.

5 Enacting section 1. This amendatory act does not take effect  
6 unless Senate Joint Resolution \_\_\_\_ or House Joint Resolution O  
7 (request no. 04167'05) of the 93rd Legislature becomes a part of  
8 the state constitution of 1963 as provided in section 1 of article  
9 XII of the state constitution of 1963.