

Legislative Analysis



BOTTLE BILL: SENTENCING; DAILY REFUND LIMIT; REQUIRED MARKINGS FOR SOME BRANDS

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Senate Bill 1392 as passed by the Senate
Sponsor: Sen. Randy Richardville

Senate Bill 1394 as passed by the Senate
Sponsor: Sen. Ron Jelinek
Senate Committee: Commerce and Tourism
House Committee: Great Lakes and Environment (Intent to discharge 12-11-08)

Senate Bill 1532 as passed by the Senate
Sponsor: Ron Jelinek
Senate Committee: Appropriations
House Committee Great Lakes and Environment (Intent to discharge 12-11-08)

SUMMARY OF SENATE BILLS 1392, 1394, & 1532 AS PASSED THE SENATE 12-11-08

These bills are part of a package designed to address the issue of out-of-state deposit containers being improperly redeemed in Michigan:

- Senate Bill 1392 would put new bottle redemption and reverse vending machine felonies into sentencing guidelines. (Tie-barred to House Bills 5147 and 6441)
- Senate Bill 1394 would allow dealers in 17 border counties¹ to limit individuals to \$10 per day in bottle refunds (\$25 per day if the dealer uses reverse vending machines). Because Senate Bill 1394 amends an initiated law, it must be passed by a 3/4 majority in both chambers. (No tie-bars)
- Senate Bill 1532 would require special markings on certain beverage containers sold or over-redeemed in high quantities in Michigan, starting with brands sold in 12-ounce metal cans. The mark would have to allow a reverse vending machine, but not necessarily a person, to determine whether the container is properly returnable and the mark would have to be unique to Michigan or one or more states with substantially similar laws. The mark requirement would apply to brands with sales of more than 500,000 cases (500,000 case equivalents for alcoholic beverages) or over-redemptions of more than 600,000 containers in the previous year, as determined by the Department of Treasury. (Non-alcoholic brands would not have to be sold in "designated" containers in the Upper Peninsula unless that brand's previous year's sales or over-redemptions in the Upper Peninsula met the threshold.)

¹ The \$10 per day limit on bottle refunds (\$25 per day if RVMS used) would apply in Berrien, Branch, Cass, Calhoun, Dickinson, Gogebic, Hillsdale, Iron, Jackson, Kalamazoo, Lenawee, Menominee, Monroe, St. Joseph, Van Buren, Washtenaw, and Wayne counties.

The date by which brands with high sales or over-redemptions would have to be sold in "designated" containers varies by type:

12-ounce metal	90 days after bill's effective date
12-ounce glass	450 days after bill's effective date
20-ounce plastic	450 days after bill's effective date

Because Senate Bill 1532 amends an initiated law, it must be passed by a 3/4 majority in both chambers. (Tie-barred to House Bill 5147 and Senate Bill 1648)

More details follow.

Senate Bill 1392

Senate Bill 1392 would place new felony violations regarding improper redemption or reverse vending machines into sentencing guidelines:

- Improper return of $\geq 10,000$ nonrefundable containers: Class H felony; five-year maximum sentence.
- The improper acceptance or delivery $\geq 10,000$ nonrefundable containers by a distributor or dealer: Class H felony; five-year maximum sentence.
- Changing, altering, or modifying a reverse vending machine or its data: Class G felony; two-year maximum sentence.

Senate Bill 1394

Senate Bill 1394 would amend the Initiated Law of 1976, commonly known as the Bottle Bill, to allow, but not require, dealers (retailers) located in border areas of the state to limit a person to \$10 per day in bottle refunds (or \$25 if the dealer uses reverse vending machines).

Senate Bill 1532

Senate Bill 1532 would amend the Bottle Bill to prohibit beverage manufacturers from selling them in containers that are not properly marked if the brand is one that was either sold or over-redeemed in large quantities in Michigan during the previous calendar year. This requirement would first apply to 12-ounce metal cans, and would subsequently apply to 12-ounce glass bottles and 20-ounce plastic bottles.

12-ounce metal cans. Except in the Upper Peninsula of Michigan, starting 90 days after the bill's effective date, a manufacturer would have to sell or distribute beverages to consumers, dealers, or distributors in Michigan in "designated" 12-ounce metal containers if at least 500,000 cases of that brand of beverage were sold in 12-ounce metal cans in Michigan during the preceding calendar year (at least 500,000 case equivalents in the case of alcoholic beverages) or if there were more than 600,000 "over-redemptions" of that brand in 12-ounce metal cans in the preceding calendar year, as determined by the Department of Treasury.

In the Upper Peninsula, a manufacturer would only have to sell non-alcoholic beverages in "designated" 12-ounce metal cans if at least 500,000 cases of that brand were sold (500,000 case equivalents for alcoholic beverages) or at least 600,000 containers of that brand were over-redeemed *in the Upper Peninsula* during the preceding calendar year.

12-ounce glass bottles and 20-ounce plastic bottles. Except in the Upper Peninsula of Michigan, starting 450 days after the bill's effective date, a manufacturer would have to sell or distribute beverages to consumers, dealers, or distributors in Michigan in "designated" 12-ounce glass or 20-ounce plastic containers if at least 500,000 cases of that brand of beverage (500,000 case equivalents for alcoholic beverages) were sold in those containers in Michigan during the preceding calendar year or at least 600,000 containers of that brand were over-redeemed in Michigan in the preceding calendar year, as determined by the Department of Treasury.

In the Upper Peninsula, a manufacturer would only have to sell nonalcoholic beverages in "designated" 12-ounce glass or 20-ounce plastic containers if at least 500,000 cases of that brand were sold or at least 600,000 containers of that brand were over-redeemed in the Upper Peninsula alone during the preceding calendar year.

Required marks. Manufacturers would have to place a symbol, mark, or other distinguishing characteristic on designated containers to allow a reverse vending machine to determine if that container is a properly returnable. Such a mark or symbol would have to be unique to Michigan or used only in Michigan and one or more states with substantially similar laws.

Penalty. A violation would be a misdemeanor with a sentence of up to 180 days' imprisonment, a \$2,000 fine, or both. Section 4 of the Bottle Bill would not apply to a violation of the bill's provisions. (Section 4 currently provides that the minimum fine for a violation of the Bottle Bill is \$100 with a maximum of \$1,000, that a person who violates the act is liable for the costs of prosecution, and that each day a violation occurs, a separate offense is committed.)

Effective date. The bill would take effect when the fund created in the Beverage Container Redemption Antifraud Act received a legislative appropriation of at least \$1 million.

FISCAL IMPACT:

A fiscal analysis is in process.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.