

SUBSTITUTE FOR
HOUSE BILL NO. 5147

A bill to provide standards for reverse vending machines; to prohibit the use, replacement, leasing, transfer, and sales of certain designs of reverse vending machines; to prescribe penalties; and to provide for the powers and duties of certain state and local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "reverse vending machine antifraud act".

3 Sec. 3. As used in this act:

4 (a) "Beverage container" means that term as defined in section
5 1 of the beverage container law, MCL 445.571.

6 (b) "Beverage container law" means 1976 IL 1, MCL 445.571 to
7 445.576.

1 (c) "Brand" means any word, name, group of letters, symbol, or
2 trademark, or any combination of them, adopted and used by a
3 manufacturer to identify a specific beverage and to distinguish
4 that beverage from another beverage produced or marketed by that
5 manufacturer or another manufacturer.

6 (d) "Dealer" means that term as defined in section 1 of the
7 beverage container law, MCL 445.571.

8 (e) "Department" means the department of treasury.

9 (f) "Designated glass container" means a 12-ounce glass
10 beverage container that contains a symbol, mark, or other
11 distinguishing characteristic that allows a reverse vending machine
12 to determine if the beverage container is or is not a returnable
13 container.

14 (g) "Designated metal container" means a 12-ounce metal
15 beverage container that contains a symbol, mark, or other
16 distinguishing characteristic that allows a reverse vending machine
17 to determine if the beverage container is or is not a returnable
18 container.

19 (h) "Designated plastic container" means a 20-ounce plastic
20 beverage container that contains a symbol, mark, or other
21 distinguishing characteristic that allows a reverse vending machine
22 to determine if the beverage container is or is not a returnable
23 container.

24 (i) "Distributor" means that term as defined in section 1 of
25 the beverage container law, MCL 445.571.

26 (j) "Glass beverage container" means a beverage container
27 composed primarily of glass.

1 (k) "Install" or "installation" means to equip an existing,
2 new, or replacement reverse vending machine with vision technology
3 for designated metal, plastic, or glass containers, including all
4 reasonable and necessary technology, equipment, hardware, software,
5 and labor and including 1 year of service by the reverse vending
6 machine vendor.

7 (l) "Law enforcement agency" means the attorney general or a
8 law enforcement agency as defined in section 2804 of the public
9 health code, 1978 PA 368, MCL 333.2804.

10 (m) "Lease" does not include to renew or extend an existing
11 lease for an existing reverse vending machine at the same location.

12 (n) "Manufacturer" means that term as defined in section 1 of
13 the beverage container law, MCL 445.571.

14 (o) "Metal beverage container" means a beverage container
15 composed primarily of metal.

16 (p) "Nonreturnable container" means that term as defined in
17 section 1 of the beverage container law, MCL 445.571.

18 (q) "Person" means an individual, partnership, corporation,
19 association, limited liability company, governmental entity, or
20 other legal entity. The term includes a dealer, distributor, or
21 manufacturer.

22 (r) "Plastic beverage container" means a beverage container
23 composed primarily of plastic.

24 (s) "Returnable container" means that term as defined in
25 section 1 of the beverage container law, MCL 445.571.

26 (t) "Reverse vending machine" means a device designed to
27 properly identify and process empty beverage containers and provide

1 a means for a deposit refund on returnable containers.

2 (u) "Reverse vending machine manufacturer" means a person that
3 engages in any of the following and the representatives of that
4 person:

5 (i) Designing or manufacturing a reverse vending machine.

6 (ii) Selling or leasing a reverse vending machine to a dealer
7 in this state.

8 (iii) Servicing or replacing a reverse vending machine of a
9 dealer in this state.

10 (v) "Update" means to install vision technology for designated
11 metal, plastic, or glass beverage containers in an existing, new,
12 or replacement reverse vending machine.

13 (w) "Vision technology" means a camera or other scanning
14 device that allows a reverse vending machine to determine if
15 beverage containers are returnable containers based on symbols,
16 marks, or other distinguishing characteristics on the beverage
17 containers.

18 Sec. 5. Beginning 360 days after the department certifies that
19 85% of the installation of new vision technology for the processing
20 of metal beverage containers in reverse vending machines in those
21 counties of this state that border another state, or in those
22 counties in the Lower Peninsula that are contiguous with a county
23 of this state that borders another state, is completed, a reverse
24 vending machine manufacturer shall begin installing vision
25 technology into a sufficient sample of reverse vending machines
26 that process glass beverage containers and plastic beverage
27 containers and conducting testing of that vision technology in a

1 commercial environment or other testing environment that is
2 substantially similar to a commercial environment.

3 Sec. 7. (1) Subject to subsection (2), beginning 360 days
4 after the effective date of this act, a reverse vending machine
5 manufacturer shall not lease, sell, or otherwise transfer a reverse
6 vending machine that processes metal beverage containers for use in
7 any county of this state that borders another state, or any county
8 in the Lower Peninsula that is contiguous with a county of this
9 state that borders another state, and a dealer shall not use a
10 reverse vending machine that processes metal beverage containers in
11 any of those counties, if the reverse vending machine does not meet
12 the following standards:

13 (a) It identifies at least 85% of appropriately marked and
14 legible designated metal containers that are or are not
15 nonreturnable containers, and authorizes or provides a refund only
16 for those containers identified as returnable containers or refuses
17 to provide or authorize a refund for those containers identified as
18 nonreturnable containers.

19 (b) It maintains accurate data concerning the number of
20 beverage containers accepted by that reverse vending machine,
21 categorized according to the distributor of those beverage
22 containers.

23 (2) If a reverse vending machine manufacturer demonstrates to
24 the department's satisfaction that material and technical issues
25 prevent the reverse vending machine manufacturer from meeting the
26 requirements of subsection (1) by the date described in that
27 subsection, the department may grant an extension of that date of

1 not more than 180 days.

2 Sec. 9. (1) Subject to subsection (2), beginning 720 days
3 after the department certifies that 85% of the installation of new
4 vision technology for the processing of metal beverage containers
5 in reverse vending machines in those counties of this state that
6 border another state, or in those counties in the Lower Peninsula
7 that are contiguous with a county of this state that borders
8 another state, is completed, a reverse vending machine manufacturer
9 shall not lease, sell, or otherwise transfer a reverse vending
10 machine that processes glass beverage containers or plastic
11 beverage containers for use in any county of this state that
12 borders another state, or any county in the Lower Peninsula that is
13 contiguous with a county of this state that borders another state,
14 and a dealer shall not use a reverse vending machine that processes
15 glass beverage containers or plastic beverage containers in any of
16 those counties, if the reverse vending machine does not meet the
17 following standards:

18 (a) It identifies at least 85% of appropriately marked and
19 legible designated glass containers and designated plastic
20 containers that are or are not nonreturnable containers, and
21 authorizes or provides a refund only for those containers
22 identified as returnable containers or refuses to provide or
23 authorize a refund for those containers identified as nonreturnable
24 containers.

25 (b) It maintains accurate data concerning the number of
26 beverage containers accepted by that reverse vending machine,
27 categorized according to the distributor of those beverage

1 containers.

2 (2) If a reverse vending machine manufacturer demonstrates to
3 the department's satisfaction that material and technical issues
4 prevent the reverse vending machine manufacturer from meeting the
5 requirements of subsection (1) by the date described in that
6 subsection, the department may grant 1 or more extensions of that
7 date.

8 Sec. 11. A person shall not change, alter, or modify a reverse
9 vending machine used or intended for use in this state in a manner
10 designed to prevent the reverse vending machine from meeting the
11 standards described in section 7(1) or 9(1). A person shall not
12 assist another person's efforts to change, alter, or modify a
13 reverse vending machine used or intended for use in this state in a
14 manner designed to prevent the reverse vending machine from meeting
15 the standards described in section 7(1) or 9(1).

16 Sec. 13. (1) A person shall not fraudulently change, alter, or
17 modify data described in section 7(1) or 9(1) or assist another
18 person's efforts to fraudulently change, alter, or modify data
19 described in section 7(1) or 9(1).

20 (2) Each dealer shall retain the data described in sections
21 7(1) and 9(1) for at least 2 years, shall make any of that data
22 concerning brands distributed by a distributor that provides a
23 refund to the dealer under section 2(6) of the beverage container
24 law, MCL 445.572, available for inspection by that distributor, and
25 shall provide copies of that data to that distributor on request.

26 Sec. 15. (1) Each dealer shall allow the department and any
27 law enforcement agency to inspect the dealer's reverse vending

1 machines and the data described in sections 7(1) and 9(1) for the
2 purpose of enforcing this act.

3 (2) If the department receives a complaint of a violation of
4 this act, the department shall investigate to determine if a
5 violation of this act has occurred.

6 (3) If the department determines or discovers that a violation
7 of this act has occurred, the department shall notify the
8 appropriate law enforcement agency of the violation.

9 (4) The department shall not require that a dealer or reverse
10 vending machine manufacturer install or update a reverse vending
11 machine to meet the requirements of section 7(1) or 9(1) unless the
12 department first establishes under the beverage container
13 redemption antifraud act that the dealer must install or retrofit
14 the reverse vending machines at a retail location in order to meet
15 the requirements of section 7(1) or 9(1) and makes money available
16 for that installation or update under the beverage container
17 redemption antifraud act.

18 Sec. 17. (1) A person who violates section 11 or 13(1) is
19 guilty of a felony punishable by imprisonment for not more than 2
20 years or a fine of not more than \$10,000.00, or both.

21 (2) Except as provided in subsection (1), and subject to
22 subsections (3) and (4), a person that violates this act is guilty
23 of a misdemeanor punishable by imprisonment for not more than 90
24 days or a fine of not more than \$5,000.00, or both.

25 (3) A dealer or reverse vending machine manufacturer is not
26 considered in violation of section 7(1) or 9(1) if the department
27 has not made money available to the reverse vending machine

1 manufacturer under the beverage container redemption antifraud act
2 to update the dealer's reverse vending machines.

3 (4) A dealer is not considered in violation of the
4 requirements imposed on a dealer in section 7(1) or 9(1) if the
5 dealer uses reverse vending machines provided by a reverse vending
6 machine manufacturer and the reverse vending machines of that
7 reverse vending machine manufacturer do not meet the standards
8 described in subdivisions (a) and (b) of section 7(1) or 9(1).

9 (5) In addition to the penalty imposed under subsection (1) or
10 (2), a court shall order a person convicted of a violation of this
11 act to make restitution to this state and to any dealer or
12 distributor for any loss caused by the violation.

13 Sec. 19. Within 4 years after the effective date of this act,
14 the department shall provide a written report to the governor, the
15 speaker of the house of representatives, and the senate majority
16 leader. The report shall include a status report concerning the
17 implementation of this act and the beverage container redemption
18 antifraud act, the department's analysis of the effectiveness of
19 these acts in reducing the redemption of nonreturnable containers
20 in this state, the department's recommendation concerning whether
21 the requirements of sections 7(1) and 9(1) should be extended to
22 apply to reverse vending machines located in areas of the state not
23 included in those sections, and any other recommendations the
24 department may have for changes to these acts or other legislative
25 action to reduce the redemption of nonreturnable containers in this
26 state.

27 Enacting section 1. This act takes effect on the date that

1 deposits into the beverage container redemption antifraud fund
2 created in the beverage container redemption antifraud act from
3 money appropriated by the legislature equal or exceed
4 \$1,000,000.00.

5 Enacting section 2. This act does not take effect unless all
6 of the following bills of the 94th Legislature are enacted into
7 law:

- 8 (a) Senate Bill No. 1532 or House Bill No. 6460.
- 9 (b) Senate Bill No. 1648.