

Act No. 389
Public Acts of 2008
Approved by the Governor
December 25, 2008
Filed with the Secretary of State
December 29, 2008
EFFECTIVE DATE: Conditionally effective

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senator Jelinek

ENROLLED SENATE BILL No. 1532

AN ACT to amend 1976 IL 1, 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," (MCL 445.571 to 445.576) by adding section 2a.

The People of the State of Michigan enact:

Sec. 2a. (1) Except as provided in subsection (2), beginning 90 days after the effective date of the amendatory act that added this section, a manufacturer of nonalcoholic beverages shall not sell, offer for sale, or give a nonalcoholic beverage to a consumer, dealer, or distributor in this state in a 12-ounce metal beverage container that is not a designated metal container if either of the following is met:

(a) Sales of that brand of beverage in 12-ounce metal beverage containers in this state in the preceding calendar year were at least 500,000 cases, as determined by the department of treasury.

(b) Sales of that brand of beverage in 12-ounce metal beverage containers in this state in the preceding calendar year were fewer than 500,000 cases, and 12-ounce metal beverage containers of that brand of beverage were overredeemed by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(2) Beginning 90 days after the effective date of the amendatory act that added this section, a manufacturer of nonalcoholic beverages shall not sell, offer for sale, or give a nonalcoholic beverage to a consumer, dealer, or distributor in the Upper Peninsula in a 12-ounce metal beverage container that is not a designated metal container if either of the following is met:

(a) Sales of that brand of beverage in 12-ounce metal beverage containers in the Upper Peninsula were at least 500,000 cases, as determined by the department of treasury.

(b) Sales of that brand of beverage in 12-ounce metal beverage containers in the Upper Peninsula in the preceding calendar year were fewer than 500,000 cases, and 12-ounce metal beverage containers of that brand of beverage were overredeemed in the Upper Peninsula by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(3) Except as provided in subsection (4), beginning 450 days after the effective date of the amendatory act that added this section, a manufacturer of nonalcoholic beverages shall not sell, offer for sale, or give a nonalcoholic beverage to a consumer, dealer, or distributor in this state in a 12-ounce glass beverage container that is not a designated glass container if either of the following is met:

(a) Sales of that brand of beverage in 12-ounce glass beverage containers in this state in the preceding calendar year were at least 500,000 cases, as determined by the department of treasury.

(b) Sales of that brand of beverage in 12-ounce glass beverage containers in this state in the preceding calendar year were fewer than 500,000 cases, and 12-ounce glass beverage containers of that brand of beverage were overredeemed by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(4) Beginning 450 days after the effective date of the amendatory act that added this section, a manufacturer of nonalcoholic beverages shall not sell, offer for sale, or give a nonalcoholic beverage to a consumer, dealer, or distributor in the Upper Peninsula in a 12-ounce glass beverage container that is not a designated glass container if either of the following is met:

(a) Sales of that brand of beverage in 12-ounce glass beverage containers in the Upper Peninsula were at least 500,000 cases, as determined by the department of treasury.

(b) Sales of that brand of beverage in 12-ounce glass beverage containers in the Upper Peninsula in the preceding calendar year were fewer than 500,000 cases, and 12-ounce glass beverage containers of that brand of beverage were overredeemed in the Upper Peninsula by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(5) Except as provided in subsection (6), beginning 450 days after the effective date of the amendatory act that added this section, a manufacturer of nonalcoholic beverages shall not sell, offer for sale, or give a nonalcoholic beverage to a consumer, dealer, or distributor in this state in a 20-ounce plastic beverage container that is not a designated plastic container if either of the following is met:

(a) Sales of that brand of beverage in 20-ounce plastic beverage containers in this state in the preceding calendar year were at least 500,000 cases, as determined by the department of treasury.

(b) Sales of that brand of beverage in 20-ounce plastic beverage containers in this state in the preceding calendar year were fewer than 500,000 cases, and 20-ounce plastic beverage containers of that brand of beverage were overredeemed by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(6) Beginning 450 days after the effective date of the amendatory act that added this section, a manufacturer of nonalcoholic beverages shall not sell, offer for sale, or give a nonalcoholic beverage to a consumer, dealer, or distributor in the Upper Peninsula in a 20-ounce plastic beverage container that is not a designated plastic container if either of the following is met:

(a) Sales of that brand of beverage in 20-ounce plastic beverage containers in the Upper Peninsula were at least 500,000 cases, as determined by the department of treasury.

(b) Sales of that brand of beverage in 20-ounce plastic beverage containers in the Upper Peninsula in the preceding calendar year were fewer than 500,000 cases, and 20-ounce plastic beverage containers of that brand of beverage were overredeemed in the Upper Peninsula by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(7) Beginning 90 days after the effective date of the amendatory act that added this section, a manufacturer of alcoholic beverages shall not sell, offer for sale, or give an alcoholic beverage to a consumer, dealer, or distributor in this state in a 12-ounce metal beverage container that is not a designated metal container if either of the following is met:

(a) Sales of that brand of beverage in this state in the preceding calendar year were at least 500,000 case equivalents, as determined by the department of treasury.

(b) Sales of that brand of beverage in this state in the preceding calendar year were fewer than 500,000 case equivalents, and beverage containers of that brand of beverage were overredeemed by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(8) Beginning 450 days after the effective date of the amendatory act that added this section, a manufacturer of alcoholic beverages shall not sell, offer for sale, or give an alcoholic beverage to a consumer, dealer, or distributor in this state in a 12-ounce glass beverage container that is not a designated glass container if either of the following is met:

(a) Sales of that brand of beverage in this state in the preceding calendar year were at least 500,000 case equivalents, as determined by the department of treasury.

(b) Sales of that brand of beverage in this state in the preceding calendar year were fewer than 500,000 case equivalents, and beverage containers of that brand of beverage were overredeemed by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(9) Beginning 450 days after the effective date of the amendatory act that added this section, a manufacturer of alcoholic beverages shall not sell, offer for sale, or give an alcoholic beverage to a consumer, dealer, or distributor in this state in a 20-ounce plastic beverage container that is not a designated plastic container if either of the following is met:

(a) Sales of that brand of beverage in this state in the preceding calendar year were at least 500,000 case equivalents, as determined by the department of treasury.

(b) Sales of that brand of beverage in this state in the preceding calendar year were fewer than 500,000 case equivalents, and beverage containers of that brand of beverage were overredeemed by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(10) A symbol, mark, or other distinguishing characteristic that is placed on a designated metal container, designated glass container, or designated plastic container by a manufacturer to allow a reverse vending machine to determine if that container is a returnable container must be unique to this state, or used only in this state and 1 or more other states that have laws substantially similar to this act.

(11) A person that violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than \$2,000.00, or both. Section 4 does not apply to a violation described in this subsection.

(12) As used in this section:

(a) "Alcoholic beverage" means beer, ale, any other malt drink of whatever alcoholic content, a mixed wine drink, or a mixed spirit drink.

(b) "Brand" means any word, name, group of letters, symbol, or trademark, or any combination of them, adopted and used by a manufacturer to identify a specific flavor or type of beverage and to distinguish that flavor or type of beverage from another beverage produced or marketed by that manufacturer or another manufacturer.

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

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

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

(f) "Glass beverage container" means a beverage container composed primarily of glass.

(g) "Metal beverage container" means a beverage container composed primarily of metal.

(h) "Nonalcoholic beverage" means a soft drink, soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drink.

(i) "Plastic beverage container" means a beverage container composed primarily of plastic.

(j) "Reverse vending machine" means a device designed to properly identify and process empty beverage containers and provide a means for a deposit refund on returnable containers.

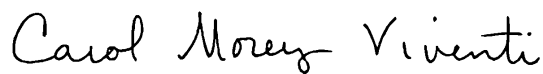
Enacting section 1. This amendatory act takes effect on the date that deposits into the beverage container redemption antifraud fund created in the beverage container redemption antifraud act from money appropriated by the legislature equal or exceed \$1,000,000.00.

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

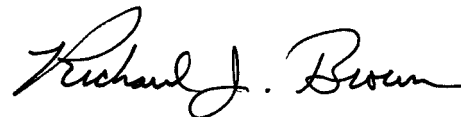
(a) Senate Bill No. 1648.

(b) House Bill No. 5147.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor