

## BOTTLE DEPOSIT REIMBURSEMENTS

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**Senate Bill 178 (H-1) as reported from House committee**

**Sponsor: Sen. Ed McBroom**

**House Committee: Regulatory Reform**

**Senate Committee: Natural Resources**

**Complete to 9-29-21**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

Senate Bill 178 would amend the Initiated Law of 1976, known as the Bottle Law, which governs returnable containers for a variety of beverages (including soft drinks, other carbonated drinks, and beer), to modify the reimbursement process for the overredemption of those containers and to make several related amendments.

#### **Refund process for overpayments**

Manufacturers and distributors of beverages often initiate the collection of the bottle deposits when they supply their products to dealers (retailers such as grocery or convenience stores), and deposits are returned to the dealer when the dealer returns to the manufacturer or distributor empty containers that were returned by customers. Just as a dealer must return a customer's bottle deposit whether or not the beverage was purchased at the dealer's store, so a manufacturer or distributor must return a deposit for every empty container returned by a dealer. This process means that some manufacturers and distributors (*overredeemers*) end up paying out more deposits to dealers for returned containers than are collected on sales to the dealers, while others (*underredeemers*) collect more deposits than are paid out to dealers.

The bill would revise the process through which an overredeemer obtains a refund for an overpayment from the Department of Treasury.

Currently, an overredeemer may carry forward the amount paid in refunds that exceeds the amount collected in deposits and apply that carryforward, for up to three years, to offset a year in which the distributor or manufacturer is an underredeemer.

Under the bill, beginning January 1, 2022, a distributor or manufacturer could submit a report to the Department of Treasury for a refund of an overpayment within 30 days after the end of one or more of the first three quarters of a year, if there were an overpayment in any of those quarters. The department would have to pay the refund no later than 30 days after receiving the report.

The bill also would provide a mechanism by which an overredeemer could reconcile the deposits collected, the refunds of the deposits paid out, and any amount received from the department for a quarterly refund in the preceding year, and, beginning January 1, 2022, the department would have to pay an overredeemer a refund by April 1 of each year for any remaining excess in the amount paid out for deposit refunds over the amount collected in deposits from *participating customers*.

*Participating customer* would mean a customer from whom a distributor or manufacturer collects a deposit under the act on every beverage container sold to the customer.

### **Overredemption credit for underredeemers**

The bill also would eliminate the overredemption credit for underredeemers. Under the bill, an underredeemer would have to pay, by March 1 of each year, the amount equal to the deposits collected and the refunds it received under the provision described above that exceeds the amount of refunds it made, for the preceding year. However, an underredeemer who becomes an overredeemer in a subsequent year before 2021 could still carry forward the amount owed for up to three years or until the credit granted is completely depleted, whichever occurs first.

### **Other amendments**

The bill would revise provisions pertaining to the Bottle Deposit Fund to comport with changes the bill would make regarding payments made by overredeemers to the Department of Treasury. The bill also would provide that the fund consists of money paid to the department by underredeemers, that the state treasurer must direct the investment of the fund and credit to it interest and earnings from those investments, and that the Department of Treasury is the administrator of the fund for auditing purposes.

The bill would eliminate a provision allowing a manufacturer who no longer originates deposits to carry, on a one-time basis, the value of an overredemption back for prior years in order to utilize its credit and reduce the amount of underredemption owed to the Department of Treasury.

Finally, the bill would require reports made by a manufacturer or distributor that originates a deposit on beverage containers to be filed in the form prescribed by the Department of Treasury, rather than on a form similar to that contained in the law, and would delete the example of the form that now must be used.

The bill would take effect January 1, 2022.

MCL 445.573a, 445.573b, and 445.573c

## **BACKGROUND:**

Senate Bill 178 is similar to Senate Bill 779 of the 2019-20 legislative session. That bill was passed by the Senate and referred from the House Regulatory Reform committee to the House Ways and Means committee.

## **BRIEF DISCUSSION:**

According to committee testimony, some dealers, in particular those in areas bordering other states, often redeem many more returnable containers than they sold. In turn, the manufacturers or distributors who supply those dealers become overredeemers. Although the Bottle Law currently provides options for overredeemers to be made whole, the available mechanisms reportedly are slow and often result in manufacturers and distributors carrying deficits—which can be in the tens of thousands to hundreds of thousands of dollars—for multiple years.

Senate Bill 178 would revise the options available to manufacturers and distributors and create a faster process by which overredeemers could balance the amount collected from dealers with the amount paid out. The bill would not make changes to how funds in the Bottle Deposit Fund are disbursed (currently 75% to the Cleanup and Redevelopment Trust Fund and 25% to dealers based on the number of empty returnable containers handled by the dealer).

## **FISCAL IMPACT:**

The bill would have an indeterminate, but likely negligible, fiscal impact on the Bottle Deposit Fund. That said, changing the method by which overredeemers and underredeemers reconcile bottle deposit revenue payments with the Department of Treasury may alter Bottle Deposit Fund balances in the short run. Under current law, overredeemers can carry credit for overredemption forward for no more than three years and apply it in years where they were an underredeemer. With the elimination of the credit carryforward, the bill would require faster reconciliation of annual bottle return activity because underredeemers would be required to make payments to the department and overredeemers would receive a refund, thereby reconciling annual payments and refunds at the end of the year. Since the bill would change the process for reconciling bottle deposit revenue with the department and not alter payment or refund amounts, it is estimated that there would be no net impact on the overall fund balance when fully implemented.

The Department of Treasury likely would realize increased administrative costs related to the revised structure and the ability for overredeemers to file quarterly for a refund. Any costs would be directly related to the complexity of the administrative changes and requirement necessary to implement the provisions of the bill. Specific costs could include personnel and associated costs and information technology upgrades.

The bill would have no fiscal impact on local units of government.

## **POSITIONS:**

A representative of the Michigan Beer & Wine Wholesalers Association testified in support of the bill. (5-4-21)

The following entities indicated support for the bill (5-4-21):

- Faygo
- Midwest Independent Retailers Association

The Department of Treasury indicated a neutral position on the bill. (5-25-21)

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