

BOTTLE DEPOSIT REIMBURSEMENTS

Phone: (517) 373-8080
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Senate Bill 178 as enacted
Public Act 198 of 2022
Sponsor: Sen. Ed McBroom
House Committee: Regulatory Reform
Senate Committee: Natural Resources
Complete to 1-23-23

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

SUMMARY:

Senate Bill 178 amends the Initiated Law of 1976 (known as the bottle deposit law) to modify the reimbursement process for the overredemption of returnable beverage containers and to make several related amendments. Returnable beverage containers under the act include those for soft drinks, other carbonated beverages, beer, mixed wine drinks, and mixed spirit drinks.

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 revises the process through which an overredeemer obtains a refund for an overpayment from the Department of Treasury.

Previously, an overredeemer could carry forward the amount paid in refunds that exceeded the amount collected in deposits and apply that carryforward, for up to three years, to offset a year in which the distributor or manufacturer was an underredeemer.

Under the bill, beginning January 1, 2023, a distributor or manufacturer may submit a report to the Department of Treasury for a refund of an overpayment within 30 days after the end of one of the first three quarters of a year, if there was an overpayment in one or more of those quarters. The department must pay the refund no later than 30 days after receiving the report.

The bill also provides a mechanism by which an overredeemer can 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, 2023, the department must 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 means 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 eliminates the overredemption credit for underredeemers. Under the bill, an underredeemer is required to pay, by March 1 of each year, for the preceding 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. However, an underredeemer who became an overredeemer in a subsequent year before 2022 may 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 eliminates a provision that allowed 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.

The bill makes the following revisions regarding the Bottle Deposit Fund and the Bottle Bill Enforcement Fund

- Provides that the Bottle Deposit Fund consists of money paid (less any amount refunded) to the Department of Treasury by underredeemers.
- Provides that the Bottle Bill Enforcement Fund consists of money disbursed to it from the Bottle Deposit Fund as described in the act.
- Provides that the state treasurer must direct the investment of each fund and credit to it interest and earnings from those investments.
- Provides that the Department of Treasury is the administrator of each fund for auditing purposes.
- Provides that money deposited in each fund at the close of the fiscal year remains in that fund and does not lapse to the general fund.

Finally, the bill requires 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, an example of which it also deletes.

MCL 445.573a, 445.573b, and 445.573c

The bill took effect January 1, 2023.

BRIEF DISCUSSION:

According to House committee testimony, some dealers, particularly 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 deposit 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 hundreds of thousands of dollars—for multiple years.

The bill revises the options available to manufacturers and distributors and creates a faster process by which overredeemers can balance the amount collected from dealers with the amount paid out. The bill does not change how funds in the Bottle Deposit Fund are disbursed.

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. Previously, overredeemers could carry credit for overredemption forward for up to three years and apply it in years when 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.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Ben Gielczyk

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