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Senate Bill 178 (as introduced 2-24-21)  
Sponsor: Senator Ed McBroom  
Committee: Natural Resources

*(Senate-passed version)*

Date Completed: 3-2-21

### **CONTENT**

**The bill would amend Initiated Law 1 of 1976, the beverage container deposit law, to do the following:**

- **Require reports made by a distributor or manufacturer be made in a form prescribed by the Department of Treasury, instead of a format prescribed by statute.**
- **Modify the definitions of "overredeemer" and "underredeemer", and define "participating customer".**
- **Specify that an overredemption credit would only apply to an underredeemer for a year before 2019, who became an overredeemer in a subsequent year.**
- **Eliminate the overredemption credit for manufacturer that no longer originated deposits.**
- **Prescribe a procedure for an overredeemer to request a refund equal to the amount by which the total value of refunds it made in a specified period exceeded the sum total value of deposits it collected from the Department during that period.**
- **Modify the duties of the Department as they pertain to the Bottle Deposit Fund.**

The bill would take effect September 30, 2021.

### **Deposits Originated & Refunds Granted Report**

The Law requires a distributor or manufacturer that originates a deposit on a beverage container to file a report, for the time period between January 1 and December 31 of each year, with the Department indicating the dollar value of both the total deposits collected by the distributor or manufacturer on beverage containers sold within the State, and total refunds made on containers redeemed by the manufacturer or distributors within the State. The law prescribes the format in which the report must be filed. The bill would eliminate that format and, instead, require that the report be filed in a form prescribed by the Department. The bill also would require that a report indicate any refunds received from the Department.

### **Definitions of Overredeemers, Underredeemers, & Participating Customers**

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

"Overredeemer" means a distributor or manufacturer whose annual total value of deposits collected on beverage containers sold within the State is less than the annual total value of

refunds made upon beverage containers redeemed within the State. Under the bill, "overredeemer" would mean a distributor or manufacturer whose sum of the total value of deposits collected participating customers on beverage containers sold within the State in a specified period and the refunds received from the Department in the specified period is less than the total value of refunds made to participating customers beverage containers redeemed within the State in that specified period.

"Underredeemer" means a distributor or manufacturer whose annual total value of deposits collected on beverage containers sold within the State exceeds annual total value of refunds made upon beverage containers redeemed within the State. Under the bill, "underredeemer" would mean a distributor or manufacturer whose sum of the total value of deposits collected on beverage containers sold in the State in a specified period and the refunds received from the Department in the specified period exceeds the total value of refunds made upon beverage containers redeemed within the State in that specified period.

#### Overredemption Credit

Under the Law, no later than March 1 of each year, an underredeemer must pay to the Department the amount of money by which its annual total value of deposits exceeds its annual total value of refunds made on redeemed beverage containers, subject to the overredemption credit. Under the bill, no later than March 1 of each year, an underredeemer would have to pay to the Department an amount that was equal to the amount by which the sum of the total value of deposits it collected in the preceding year and the refunds it received under from the Department in the preceding year exceeded the total value of refunds it made on redeemed containers in the preceding year.

An underredeemer that becomes an overredeemer in a subsequent year may credit the value of the overredemption in order to reduce the amount of money owed to the Department in one or more subsequent years as a result of that person again becoming an underredeemer. The value of the overredemption may be carried forward for up to three years, or until the granted credit is completely depleted, whichever occurs first. Under the bill, this language would apply only to an underredeemer, for a year before 2019, who became an overredeemer.

A manufacturer that no longer originates deposits may carry the value of an overredemption back for previous years to use its credit and reduce the amount of underredemption owed to the Department, on a one-time basis only. The bill would eliminate this language.

By April 1 of each year, the Department would have to pay an overredeemer a refund in an amount that was equal to the amount by which the total value of refunds it made in the preceding year to participating customers exceeded the sum of the total value of deposits it collected in the preceding year from participating customers and the refunds it had received from the Department in the preceding year.

If a distributor or manufacturer were an overredeemer in at the end of the first, second, or third quarter of a year, the overredeemer could request a refund from the Department for that three-, six-, or nine-month period in an amount that was equal to the amount by which the total value of refunds it made in that period to participating customers exceeded the sum of total value of deposits it collected in that period from participating customers and any refund previously received from the Department during that period.

An overredeemer could request a refund by submitting a report, in the form prescribed by the Department, no later than 30 days after the end of the period for which the overredeemer was requesting the refund. The Department would have to pay the refund within 30 days after it received the report.

## Bottle Deposit Fund

The law creates the Bottle Deposit Fund as a revolving fund administered by the Department. Money in the Fund does not revert to the General Fund.

Under the bill, all of the following would apply to the Bottle Deposit Fund: a) the Fund would consist of money paid to the Department of Treasury by underredeemers; b) the State Treasurer would direct the investment of the Fund and would credit to it interest and earnings from Fund investments; and c) the Department of Treasury would be the administrator of the Fund for auditing purposes.

Under the law, the amount paid by underredeemers must be deposited in the Fund for annual disbursement in the following manner:

- 75%, to the Cleanup and Redevelopment Trust Fund.
- 25%, to dealers to be apportioned to each dealer on the basis of the number of empty returnable containers handled by a dealer as determined by the Department.

Under the bill, the amount paid to the Department by underredeemers, less any amount that had been refunded by the Department to overredeemers, would be deposited in the Fund, and disbursed in the manner prescribed.

MCL 445.573a et al.

Legislative Analyst: Dana Adams

## **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on the State and no fiscal impact on local units of government. The bill would move the system by which overredeemer and underredeemer distributors are reconciled from an annual credit-based system to a cash-based system with quarters. This would have an indeterminate fiscal impact on the Bottle Deposit Fund and would increase the administrative costs to the Department of Treasury's Office of Collections.

The bill would eliminate the ability of an underredeemer to credit the value of amounts it owed to the Fund from years that it overredeemed bottles. This could reduce the number of underredeemers that owed payments to the Bottle Deposit Fund. As of September 2019, that amounted to \$43.0 million.

Allowing overredeemers to receive the amount owed to the distributor from the Department each calendar quarter would reduce the amount of time the deposits into the Bottle Deposit Fund remained in the Fund and could reduce the interest generated on the balance. This likely would be offset by no longer allowing credits to underredeemers that owed deposits into the Fund. The Office of Collections, which oversees the Bottle Deposit Fund in the Department of Treasury, likely would experience additional administrative costs to allow quarterly payments to overredeemers. This could include both additional staff and possible information technology costs.

Fiscal Analyst: Cory Savino

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.