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BILL ANALYSIS

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Senate Bill 178 (as enacted)  
Sponsor: Senator Ed McBroom  
Senate Committee: Natural Resources  
House Committee: Regulatory Reform

**PUBLIC ACT 198 of 2022**

Date Completed: 3-23-23

**CONTENT**

**The bill amended the 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 only applies to an underredeemer for a year before 2022, who became an overredeemer in a subsequent year.**
- **Eliminate the overredemption credit for a manufacturer that no longer originates deposits.**
- **Prescribe a procedure for an overredeemer to request a refund equal to the amount by which the total value of refunds it makes in a specified period exceeded the sum total value of deposits it collects from the Department during that period.**
- **Modify the duties of the Department as they pertain to the Bottle Deposit Fund and the Bottle Bill Enforcement Fund.**

The bill took effect on January 1, 2023.

**Deposits Originated & Refunds Granted Report**

Previously, the law required a distributor or manufacturer that originated 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 prescribed the format in which the report must be filed. The bill eliminates that format and, instead, requires the report to be filed in a form prescribed by the Department. The bill also requires that a report indicate any refunds received from the Department.

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

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

Previously, "overredeemer" meant 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" means 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.

Previously, "underredeemer" meant 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, "underreedemer" means a distributor or manufacturer whose sum of the total value of deposits collected from participating customers 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 to participating customers upon beverage containers redeemed within the State in that specified period.

#### Overredemption Credit

Previously, under the law, no later than March 1 of each year, an underredeemer had to pay to the Department the amount of money by which its annual total value of deposits exceeded 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 must pay to the Department an amount 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 from the Department in the preceding year exceeds the total value of refunds it made on redeemed containers in the preceding year.

Formerly, an underredeemer that became an overredeemer in a subsequent year could 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 could be carried forward for up to three years, or until the granted credit is completely depleted, whichever occurs first. Under the bill, this language applies only to an underredeemer who became an overredeemer in a subsequent year before 2022.

Previously, a manufacturer that no longer originated deposits could 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 eliminated this language.

Beginning January 1, 2023, no later than April 1 of each year, the Department must pay an overredeemer a refund in an amount that is 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 costumers and the refunds it had received from the Department in the preceding year.

Beginning January 1, 2023, if a distributor or manufacturer is an overredeemer in at the end of the first, second, or third quarter of each year after 2022, the overredeemer may request a refund from the Department for that three-, six-, or nine-month period in an amount that is 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 may 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 is requesting the refund. The Department must pay the refund within 30 days after it receives the report.

#### Bottle Bill Enforcement Fund

The law created the Bottle Bill Enforcement Fund as a revolving fund administered by the Department. Money in the Fund does not lapse to the General Fund.

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

Formerly, the Department had to deposit the amount paid to the Department by underredeemers into the Bottle Deposit Fund for annual disbursement 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, must be deposited in the Fund, and disbursed in the manner prescribed.

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MCL 445.573a et al

Legislative Analyst: Eleni Lionas

#### **FISCAL IMPACT**

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

The bill eliminates the ability of an underredeemer to credit the value of amounts it owed to the Fund from years that it overredeemed bottles. This may reduce the number of underredeemers that owe payments to the Bottle Deposit Fund. As of September 2021, that amount was \$102.2 million.

Allowing overredeemers to receive the amount owed to the distributor from the Department each calendar quarter will reduce the amount of time the deposits into the Bottle Deposit

Fund remain in the Fund and may reduce the interest generated on the balance. This likely will be offset by no longer allowing credits to underredeemers that owe deposits into the Fund.

The Office of Collections, which oversees the Bottle Deposit Fund in the Department of Treasury, likely will experience additional administrative costs to allow quarterly payments to overredeemers. This will require additional staff and may incur possible information technology costs. The Department of Treasury will experience a minimal fiscal impact to create and administer the Bottle Bill Enforcement Fund.

The Department of State Police will receive an additional \$1.0 million annually to enforce and investigate violations of the bottle bill act. This will reduce the amount distributed to the Cleanup and Redevelopment Trust Fund by \$750,000.

Fiscal Analyst: Cory Savino, PhD

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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.