

SENATE BILL NO. 178

February 24, 2021, Introduced by Senator MCBROOM and referred to the Committee on Natural Resources.

A bill 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,"

by amending sections 3a, 3b, and 3c (MCL 445.573a, 445.573b, and 445.573c), section 3a as added by 1989 PA 148, section 3b as amended by 1998 PA 473, and section 3c as amended by 1996 PA 384.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3a. ~~(1) Not later than March 1, 1991 and not later than~~
 2 March 1 of each year, ~~thereafter,~~ a distributor or manufacturer ~~who~~
 3 **that** originates a deposit on a ~~beverage container~~ **1 or more**
 4 **beverage containers** shall file a report with the department of
 5 treasury ~~containing the information required by subsection (2).~~ **in**
 6 **the form prescribed by that department.**

7 ~~(2) The report required to be filed pursuant to subsection (1)~~
 8 ~~shall~~ **must** indicate, for the ~~period of January 1, 1990 to December~~
 9 ~~31, 1990, and for the time period of January 1 to December 31 of~~
 10 ~~each year thereafter,~~ **the preceding year**, the dollar value of ~~both~~
 11 the total deposits collected by the distributor or manufacturer on
 12 beverage containers sold ~~within~~ **in** this state, ~~and the~~ total
 13 refunds made upon beverage containers redeemed by the distributor
 14 or manufacturer ~~within~~ **in** this state, **and any refunds received**
 15 **under section 3b(5) .**

16 ~~(3) The reports required to be filed pursuant to subsection~~
 17 ~~(1) shall be similar to the following and contain the following~~
 18 ~~information:~~

REPORT

~~DEPOSITS ORIGINATED AND REFUNDS GRANTED~~

~~ON BEVERAGE CONTAINERS~~

Reporting Period: _____

Company Name: _____

Company Address: _____

~~Number and Street~~

~~City, State, Zip~~

\$ _____ \$ _____ = \$ _____

1 ~~(Value of Deposits (Value of Refunds Made) (Difference)~~
 2 ~~Originated)~~
 3 \$ _____ - \$ _____ = \$ _____
 4 ~~(Difference) (Overredemption Credit, (Amount Owed to~~
 5 ~~if Applicable) Department of~~
 6 ~~Treasury)~~

7 The undersigned states that the above information is true and
 8 accurate.

9 _____
 10 Signature - Owner or President

11 _____
 12 Date

13 Sec. 3b. (1) The department of treasury may audit, assess, and
 14 collect the amount of money reflecting unclaimed bottle deposits
 15 owed to this state **by underredeemers, pay refunds to overredeemers,**
 16 and enforce the obligation to pay the amount of money reflecting
 17 unclaimed bottle deposits owed to this state, in the same manner as
 18 revenues and according to the provisions of 1941 PA 122, MCL 205.1
 19 to 205.31.

20 (2) Not ~~later than March 1, 1991 and not~~ later than March 1 of
 21 each year, ~~thereafter,~~ an underredeemer shall pay to the department
 22 of treasury ~~that~~ **an amount that is equal to the** amount of money by
 23 which ~~its annual~~ **the sum of the** total value of deposits ~~exceeds its~~
 24 ~~annual~~ **it collected in the preceding year and the refunds it**
 25 **received under subsection (5) in the preceding year exceeds the**
 26 total value of refunds **it** made on redeemed beverage containers ~~7~~
 27 ~~subject to the overredemption credit contained in this section.in~~
 28 **the preceding year.**

29 (3) ~~After March 1, 1991, an~~ **An** underredeemer **for a year before**

1 **2019** who becomes an overredeemer in a subsequent year may credit
2 the value of the overredemption in order to reduce the amount of
3 money owed to the department of treasury under this section in 1 or
4 more subsequent years as a result of that person again becoming an
5 underredeemer. The value of the overredemption may be carried
6 forward for not more than 3 years or until the credit granted in
7 this section is completely depleted, whichever occurs first.

8 ~~(4) A manufacturer who no longer originates deposits may carry~~
9 ~~the value of an overredemption back for prior years in order to~~
10 ~~utilize its credit, and reduce the amount of underredemption owed~~
11 ~~to the department of treasury under this section on a 1-time basis~~
12 ~~only. Utilization of this 1-time credit may be applied against~~
13 ~~underredemption amounts owed for reporting years commencing in~~
14 ~~1990.~~

15 ~~(5) As used in this section:~~

16 ~~(a) "Overredeemer" means a distributor or manufacturer whose~~
17 ~~annual total value of deposits collected on beverage containers~~
18 ~~sold within this state is less than the annual total value of~~
19 ~~refunds made upon beverage containers redeemed within this state.~~

20 ~~(b) "Underredeemer" means a distributor or manufacturer whose~~
21 ~~annual total value of deposits collected on beverage containers~~
22 ~~sold within this state exceeds annual total value of refunds made~~
23 ~~upon beverage containers redeemed within this state.~~

24 **(4) Not later than April 1 of each year, the department of**
25 **treasury shall pay an overredeemer a refund in an amount that is**
26 **equal to the amount by which the total value of refunds it made in**
27 **the preceding year to participating customers exceeds the sum of**
28 **the total value of deposits it collected in the preceding year from**
29 **participating customers and the refunds it received under**

1 subsection (5) in the preceding year.

2 (5) If a distributor or manufacturer is an overredeemer at the
3 end of the first, second, or third quarter of a year, the
4 overredeemer may request a refund from the department of treasury
5 for that 3-, 6-, or 9-month period in an amount that is equal to
6 the amount by which the total value of refunds it made in that
7 period to participating customers exceeds the sum of the total
8 value of deposits it collected in that period from participating
9 customers and any refund previously received under this subsection
10 during that period. An overredeemer may request a refund under this
11 subsection by submitting a report, in the form prescribed by the
12 department of treasury, not more than 30 days after the end of the
13 period for which the overredeemer is requesting the refund, and the
14 department shall pay the refund not more than 30 days after it
15 receives the report.

16 (6) In addition to the report ~~prescribed in~~**required under**
17 section 3a, if an underredeemer purchases empty returnable
18 containers from an overredeemer, that purchase ~~shall~~**must** be
19 reported by the underredeemer as a "refund made" and ~~shall be~~
20 reported by the overredeemer as a "deposit originated" in the
21 report ~~prescribed by~~**required under** section 3a. The report made by
22 an underredeemer ~~shall~~**must** include the name and address of each
23 overredeemer and the refund value of the empty returnable beverage
24 containers purchased from each overredeemer. The report made by an
25 overredeemer ~~shall~~**must** include the name and address of each
26 underredeemer who purchased the returnable containers from that
27 overredeemer and the refund value of the empty returnable beverage
28 containers sold. The total consideration paid by an underredeemer
29 to an overredeemer as authorized by this subsection ~~shall~~**must**

1 equal the redemption value of the container.

2 (7) A purchase or sale made under subsection (6) during
3 January of each year ~~shall~~**must** be included in the report **under**
4 **section 3a** for the ~~previous~~**preceding** calendar year only.

5 (8) As used in this section:

6 (a) "Overredeemer" means a distributor or manufacturer whose
7 sum of the total value of deposits collected from participating
8 customers on beverage containers sold in this state in a specified
9 period and the refunds received under subsection (5) in the
10 specified period is less than the total value of refunds made to
11 participating customers on beverage containers redeemed in this
12 state in that specified period.

13 (b) "Participating customer" means a customer from whom a
14 distributor or manufacturer collects a deposit under this act on
15 every beverage container sold to the customer.

16 (c) "Underredeemer" means a distributor or manufacturer whose
17 sum of the total value of deposits collected on beverage containers
18 sold in this state in a specified period and the refunds received
19 under subsection (5) in the specified period exceeds the total
20 value of refunds made upon beverage containers redeemed in this
21 state in that specified period.

22 Sec. 3c. (1) There is created in the department of treasury a
23 bottle deposit fund, ~~which~~**that** is a revolving fund administered by
24 the department of treasury. **All of the following apply to the**
25 **bottle deposit fund:**

26 (a) The fund consists of money paid to the department of
27 treasury by underredeemers under section 3b. The state treasurer
28 shall direct the investment of the fund. The state treasurer shall
29 credit to the fund interest and earnings from fund investments.

1 (b) The department of treasury is the administrator of the
2 fund for auditing purposes.

3 (c) The money in the ~~bottle deposit fund shall~~ **at the close of**
4 **the fiscal year remains in the fund and does** not ~~revert-lapse~~ to
5 the general fund.

6 (2) The amount paid to the department of treasury by
7 underredeemers ~~shall~~ **under section 3b, less any amount refunded by**
8 **the department of treasury to overredeemers under section 3b, must**
9 be deposited by the department of treasury in the bottle deposit
10 fund created in subsection (1) for annual disbursement by the
11 department of treasury in the following manner:

12 (a) Seventy-five percent to the cleanup and redevelopment
13 trust fund created in section 3e.

14 (b) Twenty-five percent to dealers to be apportioned to each
15 dealer on the basis of the number of empty returnable containers
16 handled by a dealer, as determined by the department of treasury.

17 (3) Not later than June 1 of each year, the department of
18 treasury shall publish and make available to the public information
19 related to section 3b(1) and send a report of that information to
20 the legislature.

21 (4) The department of treasury may promulgate rules to
22 implement sections 3a to 3d ~~pursuant to~~ **under** the administrative
23 procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
24 ~~being sections 24.201 to 24.328 of the Michigan Compiled Laws, 1969~~
25 **PA 306, MCL 24.201 to 24.328**, if the department of treasury
26 determines that rules are needed to properly implement and
27 administer sections 3a to 3d.

28 Enacting section 1. This amendatory act takes effect September
29 30, 2021.