

Act No. 148
Public Act of 1989
July 11, 1989
Filed by the Secretary of State
July 11, 1989

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Rep. Griffin

ENROLLED HOUSE BILL No. 4704

AN ACT to amend the Initiated Law of 1976, as amended, being sections 445.571 to 445.576 of the Michigan Compiled Laws, by adding sections 3a, 3b, 3c, and 3d.

The People of the State of Michigan enact:

Section 1. The Initiated Law of 1976, as amended, being sections 445.571 to 445.576 of the Michigan Compiled Laws, is amended by adding sections 3a, 3b, 3c, and 3d to read as follows:

Sec. 3a. (1) Not later than March 1, 1991 and not later than March 1 of each year thereafter, a distributor or manufacturer who originates a deposit on a beverage container shall file a report with the department of treasury containing the information required by subsection (2).

(2) The report required to be filed pursuant to subsection (1) shall indicate for the period of January 1, 1990 to December 31, 1990, and for the time period of January 1 to December 31 of each year thereafter, the dollar value of both the total deposits collected by the distributor or manufacturer on beverage containers sold within this state and total refunds made upon beverage containers redeemed by the distributor or manufacturer within this state.

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

REPORT

DEPOSITS ORIGINATED AND REFUNDS GRANTED ON BEVERAGE CONTAINERS

Reporting Period: _____

Company Name: _____

Company Address: _____

Number and Street

City, State, Zip

\$ _____ - \$ _____ = \$ _____
(Value of Deposits Originated) (Value of Refunds Made) (Difference)

\$ _____ - \$ _____ = \$ _____
 (Difference) (Overredemption Credit, if Applicable) (Amount Owed to Department of Treasury)

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

Signature - Owner or President

Date

Sec. 3b. (1) Not later than May 1, 1991 and not later than May 1 of each year thereafter, the department of treasury shall determine for the preceding calendar year, based upon the reports filed pursuant to section 3a, the total value of the deposits collected on beverage containers sold within this state, refunds made on beverage containers redeemed within this state, and the total amount of money owed by underredeemers.

(2) Not later than March 1, 1991 and not later than March 1 of each year thereafter, an underredeemer shall pay to the department of treasury that 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 contained in this section.

(3) After March 1, 1991, an underredeemer who 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 of treasury under this section in 1 or more subsequent years as a result of that person again becoming an underredeemer. The value of the overredemption may be carried forward for not more than 3 years or until the credit granted in this section is completely depleted, whichever occurs first.

(4) As used in this section:

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

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

Sec. 3c. (1) There is created in the department of treasury a bottle deposit fund which is a revolving fund administered by the department of treasury. The money in the bottle deposit fund shall not revert to the general fund.

(2) The amount paid to the department of treasury by underredeemers shall be deposited by the department of treasury in the bottle deposit fund created in subsection (1) for annual disbursement by the department of treasury in the following manner:

(a) Seventy-five percent to the Michigan unclaimed bottle fund created in section 9a of the environmental response act, Act No. 307 of the Public Acts of 1982, being section 299.609a of the Michigan Compiled Laws. During the first 10 years that money is disbursed by the bottle deposit fund under this section, the money received by the Michigan unclaimed bottle fund and any interest earned on that money shall remain permanently in the Michigan unclaimed bottle fund and shall not be disbursed. After the expiration of those first 10 years, all of the money thereafter deposited annually in the Michigan unclaimed bottle fund, interest earned on the money thereafter deposited annually in the Michigan unclaimed bottle fund, and any interest earned on the money already in that fund shall be disbursed annually by the department of treasury in the manner provided for by that section.

(b) Twenty-five percent 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 of treasury.

(3) The department of treasury may audit the records of a distributor or manufacturer required to file a report pursuant to section 3a for the purpose of determining the accuracy of the information contained in the report.

(4) Not later than June 1 of each year, the department of treasury shall publish and make available to the public the findings made pursuant to section 3b(1) and send a report of those findings to the legislature.

(5) The department of treasury may promulgate rules to implement sections 3a to 3d pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of

the Michigan Compiled Laws, if the department of treasury determines that rules are needed to properly implement and administer sections 3a to 3d.

(6) In addition to any other provisions or penalties available under law, the department of treasury may conduct a hearing pursuant to Act No. 306 of the Public Acts of 1969 in order to determine whether a distributor or manufacturer required to file a report under section 3a has failed to file or has misrepresented the information in the report. Upon making such a finding, the department of treasury shall assess a civil penalty of not more than \$1,000.00 for failure to file a report or not more than \$5,000.00 for misrepresentation of the information contained in a report. The penalty for a second or subsequent instance of failure to file a report shall be not more than \$5,000.00 and for misrepresentation of the information contained in the report shall be not more than \$10,000.00.

Sec. 3d. Unclaimed deposits on returnable containers are considered to be the property of the person purchasing the returnable container and are not the property of the distributor or manufacturer who originated the deposit.

Section 2. This amendatory act shall not take effect unless House Bill No. 4246 of the 85th Legislature is enacted into law.

This act is ordered to take immediate effect.

.....
Clerk of the House of Representatives.

.....
Secretary of the Senate.

Approved.....

.....
Governor.