

# HOUSE BILL No. 4704

April 26, 1989, Introduced by Rep. Griffin and referred to the Committee on Liquor Control.

A bill 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, and 3c.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

4 SEC. 3A. (1) AFTER MARCH 1, 1990, A DISTRIBUTOR OR MANUFAC-  
5 TURER WHO ORIGINATES A DEPOSIT ON A BEVERAGE CONTAINER SHALL FILE  
6 SEPARATE ANNUAL REPORTS WITH THE DEPARTMENT OF TREASURY CONTAIN-  
7 ING THE INFORMATION REQUIRED BY SUBSECTION (2) IN RELATION TO  
8 BOTH OF THE FOLLOWING:

9 (A) BEER, ALE, OR ANY OTHER MALT DRINK OF WHATEVER ALCOHOLIC  
10 CONTENT.

11 (B) NONALCOHOLIC BEVERAGES.

1 (2) THE REPORT REQUIRED TO BE FILED PURSUANT TO SUBSECTION  
 2 (1) SHALL INDICATE THE DOLLAR VALUE DURING THE PRECEDING CALENDAR  
 3 YEAR OF BOTH THE TOTAL DEPOSITS COLLECTED BY THE DISTRIBUTOR OR  
 4 MANUFACTURER ON BEVERAGE CONTAINERS SOLD WITHIN THIS STATE AND  
 5 TOTAL REFUNDS MADE UPON BEVERAGE CONTAINERS REDEEMED BY THE DIS-  
 6 TRIBUTOR OR MANUFACTURER.

7 (3) THE REPORTS REQUIRED TO BE FILED PURSUANT TO SUBSECTION  
 8 (1) SHALL BE SIMILAR TO THE FOLLOWING AND CONTAIN THE FOLLOWING  
 9 INFORMATION:

10 REPORT  
 11 DEPOSITS ORIGINATED AND REFUNDS GRANTED ON BEVERAGE CONTAINERS  
 12 CALENDAR YEAR: \_\_\_\_\_  
 13 \_\_\_\_\_ - BEER, ALE, OR MALT BEVERAGE \_\_\_\_\_ - NONALCOHOLIC BEVERAGE  
 14 (PUT X IN APPROPRIATE SPACE)  
 15 COMPANY NAME: \_\_\_\_\_  
 16 COMPANY ADDRESS: \_\_\_\_\_  
 17 NUMBER AND STREET  
 18 \_\_\_\_\_  
 19 CITY, STATE, ZIP

20 \*\*\*\*\*

21 \$ \_\_\_\_\_ - \$ \_\_\_\_\_ = \$ \_\_\_\_\_  
 22 (VALUE OF DEPOSITS (VALUE OF REFUNDS MADE) (DIFFERENCE)  
 23 ORIGINATED)

24 THE UNDERSIGNED STATES THAT THE ABOVE INFORMATION IS TRUE AND  
 25 ACCURATE.

26 \_\_\_\_\_  
 27 SIGNATURE - OWNER OR PRESIDENT

28 \_\_\_\_\_  
 29 DATE

1 SEC. 3B. (1) NOT LATER THAN MAY 1, 1990, AND NOT LATER THAN  
2 MAY 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT OF TREASURY SHALL  
3 DETERMINE FOR THE PRECEDING CALENDAR YEAR, BASED UPON THE REPORTS  
4 FILED PURSUANT TO SECTION 3A, THE TOTAL STATEWIDE VALUE OF BOTH  
5 THE DEPOSITS COLLECTED ON BEVERAGE CONTAINERS SOLD WITHIN THIS  
6 STATE AND REFUNDS MADE ON BEVERAGE CONTAINERS REDEEMED WITHIN  
7 THIS STATE. THE DETERMINATION SHALL INDICATE SEPARATE FIGURES  
8 FOR BEVERAGE CONTAINERS HOLDING BOTH BEER, ALE, OR OTHER MALT  
9 DRINK OF WHATEVER ALCOHOLIC CONTENT AND NONALCOHOLIC BEVERAGES.

10 (2) IF, IN THE CASE OF BEVERAGE CONTAINERS HOLDING BEER,  
11 ALE, OR OTHER MALT DRINK OF WHATEVER ALCOHOLIC CONTENT, THE  
12 DETERMINATION OF THE DEPARTMENT OF TREASURY AS DESCRIBED IN  
13 SUBSECTION (1) AND AS BASED UPON THE REPORTS FILED PURSUANT TO  
14 SECTION 3A SHOW THAT THE TOTAL STATEWIDE VALUE OF DEPOSITS COL-  
15 LECTED ON THOSE BEVERAGE CONTAINERS EXCEEDS THE TOTAL STATEWIDE  
16 VALUE OF REFUNDS ON THOSE BEVERAGE CONTAINERS BY NOT MORE THAN  
17 \$4,000,000.00, THEN THE DEPARTMENT OF TREASURY SHALL NOT ASSESS  
18 AND COLLECT MONEY FROM ANY DISTRIBUTOR OR MANUFACTURER UNDER THIS  
19 SECTION.

20 (3) IF, IN THE CASE OF BEVERAGE CONTAINERS HOLDING NONALCO-  
21 HOLIC BEVERAGE, THE DETERMINATION OF THE DEPARTMENT OF TREASURY  
22 AS DESCRIBED IN SUBSECTION (1) AND AS BASED UPON THE REPORTS  
23 FILED PURSUANT TO SECTION 3A SHOW THAT THE TOTAL STATEWIDE VALUE  
24 OF DEPOSITS COLLECTED ON THOSE BEVERAGE CONTAINERS EXCEEDS THE  
25 TOTAL STATEWIDE VALUE OF REFUNDS MADE ON THOSE BEVERAGE CONTAIN-  
26 ERS BY NOT MORE THAN \$8,000,000.00, THEN THE DEPARTMENT OF

1 TREASURY SHALL NOT ASSESS AND COLLECT MONEY FROM ANY DISTRIBUTOR  
2 OR MANUFACTURER UNDER THIS SECTION.

3 (4) IF, IN THE CASE OF BEVERAGE CONTAINERS HOLDING BEER,  
4 ALE, OR OTHER MALT DRINK OF WHATEVER ALCOHOLIC CONTENT, THE  
5 DETERMINATION OF THE DEPARTMENT OF TREASURY AS DESCRIBED IN  
6 SUBSECTION (1) AND AS BASED UPON THE REPORTS FILED PURSUANT TO  
7 SECTION 3A SHOW THAT THE TOTAL STATEWIDE VALUE OF DEPOSITS COL-  
8 LECTED ON THOSE BEVERAGE CONTAINERS EXCEEDS THE TOTAL STATEWIDE  
9 VALUE OF REFUNDS MADE ON THOSE BEVERAGE CONTAINERS BY MORE THAN  
10 \$4,000,000.00, THEN THE DEPARTMENT OF TREASURY SHALL ASSESS AND  
11 COLLECT MONEY OWED BY AN UNDERREDEEMER BASED UPON THE FOLLOWING  
12 FORMULA:

13	STATE TOTALS:	STATEWIDE TOTAL FOR
14		UNDERREDEEMERS:
15	DEPOSITS	DEPOSITS
16	- REFUNDS	- REFUNDS
17	<u>REMAINDER</u>	<u>REMAINDER (A)</u>
18	- 4,000,000 (OR THE	
19	AMOUNT REFLECTED BY	
20	THE INCREASE PURSUANT	
21	TO SECTION 3C(5))	
22	<u>REMAINDER (B)</u>	
23	(B) DIVIDED BY (A) = % X THE VALUE OF THE REMAINDER OF	
24	DEPOSITS MINUS REFUNDS FOR EACH	
25	UNDERREDEEMER.	
26	= AMOUNT OF MONEY OWED BY EACH UNDERREDEEMER.	

27 (5) IF, IN THE CASE OF BEVERAGE CONTAINERS HOLDING NONALCO-  
28 HOLIC BEVERAGE, THE DETERMINATION OF THE DEPARTMENT OF TREASURY  
29 AS DESCRIBED IN SUBSECTION (1) AND AS BASED UPON THE REPORTS  
30 FILED PURSUANT TO SECTION 3A SHOW THAT THE TOTAL STATEWIDE VALUE  
31 OF DEPOSITS COLLECTED ON THOSE BEVERAGE CONTAINERS EXCEEDS THE

1 TOTAL STATEWIDE VALUE OF REFUNDS MADE ON THOSE BEVERAGE  
 2 CONTAINERS BY MORE THAN \$8,000,000.00, THEN THE DEPARTMENT OF  
 3 TREASURY SHALL ASSESS AND COLLECT MONEY OWED BY AN UNDERREDEEMER  
 4 BASED UPON THE FOLLOWING FORMULA:

5	STATE TOTALS:	STATEWIDE TOTAL FOR
6		UNDERREDEEMERS:
7	DEPOSITS	DEPOSITS
8	- REFUNDS	- REFUNDS
9	<u>REMAINDER</u>	<u>REMAINDER (A)</u>
10	- 8,000,000 (OR THE	
11	AMOUNT REFLECTED BY	
12	THE INCREASE PURSUANT	
13	TO SECTION 3C(5))	
14	<u>REMAINDER (B)</u>	
15	(B) DIVIDED BY (A) = $\frac{B}{A}$ X THE VALUE OF THE REMAINDER OF	
16	DEPOSITS MINUS REFUNDS FOR EACH	
17	UNDERREDEEMER.	

18 = AMOUNT OF MONEY OWED BY EACH UNDERREDEEMER.

19 (6) AS USED IN THIS SECTION, "UNDERREDEEMER" MEANS A DIS-  
 20 TRIBUTOR OR MANUFACTURER WHOSE ANNUAL TOTAL VALUE OF DEPOSITS  
 21 COLLECTED ON BEVERAGE CONTAINERS SOLD WITHIN THIS STATE EXCEEDS  
 22 ANNUAL TOTAL VALUE OF REFUNDS MADE UPON BEVERAGE CONTAINERS  
 23 REDEEMED.

24 SEC. 3C. (1) NOT LATER THAN JULY 1 OF THE YEAR IN WHICH THE  
 25 DEPARTMENT OF TREASURY MAKES A DETERMINATION PURSUANT TO SECTION  
 26 3B(1), THE DEPARTMENT OF TREASURY SHALL SEND A WRITTEN NOTICE TO  
 27 EACH DISTRIBUTOR AND MANUFACTURER IT DETERMINES TO OWE MONEY PUR-  
 28 SUANT TO SECTION 3B(4) OR (5).

29 (2) NOT LATER THAN 45 DAYS AFTER RECEIVING THE NOTICE  
 30 DESCRIBED IN SUBSECTION (1), THE DISTRIBUTOR OR MANUFACTURER  
 31 DETERMINED TO OWE MONEY PURSUANT TO SECTION 3B(4) OR (5) SHALL  
 32 PAY THE AMOUNT ASSESSED TO THE DEPARTMENT OF TREASURY.

1       (3) THE DEPARTMENT OF TREASURY MAY AUDIT THE RECORDS OF A  
2 DISTRIBUTOR OR MANUFACTURER REQUIRED TO FILE A REPORT PURSUANT TO  
3 SECTION 3A FOR THE PURPOSE OF DETERMINING THE ACCURACY OF THE  
4 INFORMATION CONTAINED IN THE REPORT.

5       (4) NOT LATER THAN JUNE 1 OF EACH YEAR, THE DEPARTMENT OF  
6 TREASURY SHALL PUBLISH ITS FINDINGS AND SEND A REPORT OF THOSE  
7 FINDINGS TO EACH DISTRIBUTOR OR MANUFACTURER FILING A REPORT PUR-  
8 SUANT TO SECTION 3A.

9       (5) BEGINNING WITH THE FIRST FULL CALENDAR YEAR FOLLOWING  
10 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION,  
11 THE DOLLAR VALUES DESCRIBED IN SECTION 3B(2) AND (3) SHALL BE  
12 INCREASED BY 5% PER CALENDAR YEAR.

13       (6) THE DEPARTMENT OF TREASURY MAY PROMULGATE RULES TO  
14 IMPLEMENT THIS ACT PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT  
15 OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS  
16 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS, IF THE DEPARTMENT  
17 OF TREASURY DETERMINES THAT RULES ARE NEEDED TO PROPERLY IMPE-  
18 MENT AND ADMINISTER THIS ACT.