

SENATE BILL No. 859

December 2, 2003, Introduced by Senator OLSHOVE and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend the Initiated Law of 1976, 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 section 2 (MCL 445.572), as amended by 1998 PA 473.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) A dealer within this state shall not sell,
2 offer for sale, or give to a consumer a nonreturnable container
3 or a beverage in a nonreturnable container.

4 (2) A dealer who regularly sells beverages for consumption
5 off the dealer's premises shall provide on the premises, or
6 within 100 yards of the premises on which the dealer sells or
7 offers for sale a beverage in a returnable container, a
8 convenient means ~~whereby the~~ **where a person may return**

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1 containers of any kind, size, and brand sold or offered for sale
2 by the dealer, ~~may be returned by,~~ and **receive a refund of** the
3 deposit, ~~refunded in cash to, a person~~ whether or not the
4 person is the original customer of that dealer —, and whether or
5 not the container was sold by that dealer.

6 (3) Regional centers for the redemption of returnable
7 containers may be established, in addition to but not as
8 substitutes for, the means established for refunds of deposits
9 ~~prescribed in~~ **under** subsection (2).

10 (4) Except as provided in subsections (5) and ~~(7)~~ **(8)**, a
11 dealer shall accept from a person ~~an empty~~ a returnable
12 container of any kind, size, and brand sold or offered for sale
13 by that dealer and pay to that person its full refund value in
14 cash.

15 (5) A dealer who does not require a deposit on a returnable
16 container when the contents are consumed in the dealer's sale or
17 consumption area is not required to pay a refund for accepting
18 that empty container.

19 (6) Except as provided in subsection ~~(7)~~ **(8)**, a distributor
20 shall accept from a dealer ~~an empty~~ a returnable container of
21 any kind, size, and brand sold or offered for sale by that
22 distributor and pay to the dealer its full refund value in cash.

23 (7) Each beverage container sold or offered for sale by a
24 dealer within this state shall clearly indicate by embossing or
25 by a stamp, a label, or other method securely affixed to the
26 beverage container, the refund value of the container and the
27 name of this state.

1 (8) A dealer or distributor may ~~, but is not required to,~~
2 refuse to accept from a person ~~an empty~~ a returnable container
3 ~~which does not state on the container the~~ **that meets any of the**
4 **following:**

5 (a) **The** refund value of the container and the name of this
6 state **is not stated on the container.** This ~~subsection~~
7 **subdivision** does not apply to a refillable container ~~having a~~
8 **that has** refund value of not less than 10 cents, ~~having~~ **has** a
9 brand name permanently marked on it, and ~~having~~ **has** a securely
10 affixed method of indicating that it is a returnable container.

11 (b) **The container contains residue of any substance other**
12 **than the original contents of the container.**

13 (c) **The container is crushed or mutilated to the extent that**
14 **the bar code is not legible.**

15 (d) **The container presents an unacceptable health risk to a**
16 **dealer or distributor or any customer or employee of the dealer**
17 **or distributor.**

18 (9) ~~(8)~~ A dealer within this state shall not sell, offer
19 for sale, or give to consumers a metal beverage container ~~, if~~
20 any part of ~~which~~ **the container** becomes detached when opened.

21 (10) ~~(9)~~ A person, dealer, distributor, or manufacturer
22 shall not return an empty container to a dealer for a refund of
23 the deposit if a dealer has already refunded the deposit on that
24 returnable container. This subsection does not prohibit a dealer
25 from refunding the deposit on an empty returnable container each
26 time the returnable container is sanitized by the manufacturer
27 and reused as a beverage container.

1 (11) ~~—(10)—~~ A dealer ~~may accept, but~~ is not required to
2 accept ~~—, from a person,~~ empty returnable containers **from a**
3 **person** for a refund in excess of \$25.00 on any given day.

4 (12) ~~—(11)—~~ A manufacturer licensed by the commission shall
5 not require a distributor licensed by the commission to pay a
6 deposit to the manufacturer on a nonrefillable container.
7 However, a manufacturer licensed by the commission and a
8 distributor licensed by the commission may enter into an
9 agreement providing that either or both may originate a deposit
10 or any portion of a deposit on a nonrefillable container if the
11 agreement is entered into freely and without coercion.

12 (13) ~~—(12)—~~ A manufacturer shall refund the deposit paid on
13 any container returned by a distributor ~~—for which—~~ **if the**
14 **distributor has paid** a deposit ~~—has been paid by a distributor~~
15 **on that container** to the manufacturer.

16 (14) ~~—(13)—~~ Subsections (4), (6), and (7) apply only to a
17 returnable container that was originally sold in this state as a
18 filled returnable container.