

SENATE BILL No. 28

January 25, 2005, Introduced by Senator SWITALSKI 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 1 (MCL 445.571), as amended by 1989 PA 93.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. As used in this act:

(a) "Beverage" means ~~a soft drink,~~ **soda OR OTHER CARBONATED OR NONCARBONATED** water; ~~, carbonated natural or mineral water, or other nonalcoholic carbonated drink,~~ beer, ale, or other malt drink of whatever alcoholic content; ~~or~~ a mixed wine drink or a

1 mixed spirit drink; OR A NONALCOHOLIC CARBONATED OR NONCARBONATED
2 DRINK IN LIQUID FORM AND INTENDED FOR INTERNAL HUMAN CONSUMPTION,
3 EXCEPT FOR UNFLAVORED RICE MILK, UNFLAVORED SOYMILK, MILK, OR A
4 DAIRY-DERIVED PRODUCT.

5 (b) "Beverage container" means ~~an~~ 1 OF THE FOLLOWING:

6 (i) AN airtight metal, glass, paper, or plastic container, or a
7 container composed of a combination of these materials, which ~~—~~
8 at the time of sale ~~—~~ contains 1 gallon or less of a beverage
9 OTHER THAN A NONALCOHOLIC BEVERAGE.

10 (ii) AN AIRTIGHT METAL, GLASS, OR PLASTIC CONTAINER WHICH AT
11 THE TIME OF SALE CONTAINS 1 GALLON OR LESS OF A NONALCOHOLIC
12 BEVERAGE OTHER THAN A CONTAINER COMPOSED IN WHOLE OR IN PART OF
13 ALUMINUM AND PLASTIC OR ALUMINUM AND PAPER IN COMBINATION IF THE
14 ALUMINUM CONTENT REPRESENTS 10% OR LESS OF THE UNFILLED CONTAINER
15 WEIGHT AND THE UNFILLED CONTAINER WEIGHT IS 5% OR LESS OF THE
16 FILLED CONTAINER WEIGHT.

17 (c) "Empty returnable container" means a beverage container
18 ~~which~~ THAT contains nothing except the residue of its original
19 contents.

20 (d) "Returnable container" means a beverage container upon
21 which a deposit of ~~at least~~ NOT LESS THAN 10 cents has been paid,
22 or is required to be paid upon the removal of the BEVERAGE
23 container from the sale or consumption area, and for which a refund
24 of ~~at least~~ NOT LESS THAN 10 cents in cash is payable by every
25 dealer or distributor in this state of that beverage in beverage
26 containers, as further provided in section 2.

27 (e) "Nonreturnable container" means a beverage container upon

1 which no deposit or a deposit of less than 10 cents has been paid,
2 or is required to be paid, upon the removal of the **BEVERAGE**
3 container from the sale or consumption area, or for which no cash
4 refund or a refund of less than 10 cents is payable by a dealer or
5 distributor in this state of that beverage in beverage containers,
6 as further provided in section 2.

7 (f) "Person" means an individual, partnership, corporation,
8 **LIMITED LIABILITY COMPANY**, association, or other legal entity.

9 (g) "Dealer" means a person who sells or offers for sale to
10 consumers within this state a beverage in a beverage container,
11 including an operator of a vending machine containing a beverage in
12 a beverage container.

13 (h) "Operator of a vending machine" means equally its owner,
14 the person who refills it, and the owner or lessee of the property
15 upon which it is located.

16 (i) "Distributor" means a person, **INCLUDING A MANUFACTURER**,
17 who sells beverages in beverage containers to a dealer within this
18 state. ~~—, and includes a manufacturer who engages in such sales.~~

19 (j) "Manufacturer" means a person who bottles, cans, or
20 otherwise places beverages in beverage containers for sale to
21 distributors, dealers, or consumers.

22 (k) "Within this state" means within the exterior limits of
23 the state of Michigan, and includes the territory within these
24 limits owned by or ceded to the United States of America.

25 (l) "Commission" means the ~~Michigan~~ liquor control commission
26 **CREATED IN SECTION 209 OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998,**
27 **1998 PA 58, MCL 436.1209.**

1 (m) "Sale or consumption area" means the premises ~~within~~ **ON**
2 the property of the dealer or of the dealer's lessor where the sale
3 is made, ~~within which~~ **WHERE** beverages in returnable containers
4 may be consumed without payment of a deposit, and ~~upon removing~~
5 ~~a beverage container from which, the customer is required by~~ **WHERE**
6 **A CONSUMER MAY NOT REMOVE A BEVERAGE CONTAINER WITHOUT** the dealer
7 **REQUIRING HIM OR HER** to pay ~~the~~ **A** deposit.

8 (n) "Nonrefillable container" means a returnable container
9 ~~which~~ **THAT** is not intended to be refilled for sale by a
10 manufacturer.

11 (o) "Mixed wine drink" means a drink or similar product
12 marketed as a wine cooler and containing less than 7% alcohol by
13 volume, consisting of wine and plain, sparkling, or carbonated
14 water and containing any 1 or more of the following:

15 (i) Nonalcoholic beverages.

16 (ii) Flavoring.

17 (iii) Coloring materials.

18 (iv) Fruit juices.

19 (v) Fruit adjuncts.

20 (vi) Sugar.

21 (vii) Carbon dioxide.

22 (viii) Preservatives.

23 (p) "Mixed spirit drink" means a drink containing 10% or less
24 alcohol by volume consisting of distilled spirits mixed with
25 nonalcoholic beverages or flavoring or coloring materials and
26 ~~which~~ **THAT** may also contain water, fruit juices, fruit adjuncts,
27 sugar, carbon dioxide, or preservatives; or ~~any~~ **A** spirits based

1 beverage, regardless of the percent of alcohol by volume, that is
2 manufactured for sale in a metal **BEVERAGE** container.

3 (Q) "UNFLAVORED SOYMILK" MEANS A LIQUID CONTAINING NO
4 ADDITIONAL FLAVORING INGREDIENTS AND INTENDED FOR INTERNAL HUMAN
5 CONSUMPTION, THE PRIMARY PROTEIN SOURCE OF WHICH IS SOY PROTEIN
6 DERIVED FROM WHOLE SOYBEANS, ISOLATED SOY PROTEIN, SOY PROTEIN
7 CONCENTRATE, SOY FLOUR, SPRAY-DRIED TOFU, OR SPRAY-DRIED SOYMILK.

8 (R) "RICE MILK" MEANS A LIQUID INTENDED FOR INTERNAL HUMAN
9 CONSUMPTION OF WHICH THE PRIMARY PROTEIN SOURCE IS RICE PROTEIN
10 DERIVED FROM PARTIALLY MILLED BROWN RICE.

11 Enacting section 1. This amendatory act takes effect January
12 1, 2007.