

HOUSE BILL No. 6532

November 27, 2018, Introduced by Reps. Lilly, Bellino, Rendon, LaFave and Cole and referred to the Committee on Michigan Competitiveness.

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 2, 3c, 3e, and 3f (MCL 445.572, 445.573c, 445.573e, and 445.573f), section 2 as amended by 1998 PA 473 and section 3c as amended and sections 3e and 3f as added by 1996 PA 384; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) A dealer within this state shall not sell, offer
2 for sale, or give to a consumer a nonreturnable container or a
3 beverage in a nonreturnable container. **THIS SUBSECTION DOES NOT**
4 **APPLY AFTER DECEMBER 31, 2022.**

1 (2) A dealer ~~who~~ **THAT** regularly sells beverages for
2 consumption off the dealer's premises shall provide on the
3 premises, or within 100 yards of the premises on which the dealer
4 sells or offers for sale a beverage in a returnable container, a
5 convenient means whereby the containers of any kind, size, and
6 brand sold or offered for sale by the dealer may be returned by,
7 and the deposit refunded in cash to, a person whether or not the
8 person is the original customer of that dealer, and whether or not
9 the container was sold by that dealer.

10 (3) Regional centers for the redemption of returnable
11 containers may be established, in addition to but not as
12 substitutes for, the means established for refunds of deposits
13 prescribed in subsection (2).

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

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

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

26 (7) Each beverage container sold or offered for sale by a
27 dealer within this state shall clearly indicate by embossing or by

1 a stamp, a label, or other method securely affixed to the beverage
2 container, the refund value of the container and the name of this
3 state. **THIS SUBSECTION DOES NOT APPLY AFTER DECEMBER 31, 2022.**

4 (8) A dealer or distributor may, but is not required to,
5 refuse to accept from a person an empty returnable container which
6 does not state on the container the refund value of the container
7 and the name of this state. This subsection does not apply to a
8 refillable container having a refund value of not less than 10
9 cents, having a brand name permanently marked on it, and having a
10 securely affixed method of indicating that it is a returnable
11 container.

12 (9) ~~(8)~~—A dealer within this state shall not sell, offer for
13 sale, or give to consumers a metal beverage container, any part of
14 which becomes detached when opened.

15 (10) ~~(9)~~—A person, dealer, distributor, or manufacturer shall
16 not return an empty container to a dealer for a refund of the
17 deposit if a dealer has already refunded the deposit on that
18 returnable container. This subsection does not prohibit a dealer
19 from refunding the deposit on an empty returnable container each
20 time the returnable container is sanitized by the manufacturer and
21 reused as a beverage container.

22 (11) ~~(10)~~—A dealer may accept, but is not required to accept,
23 from a person, empty returnable containers for a refund in excess
24 of \$25.00 on any given day.

25 (12) ~~(11)~~—A manufacturer licensed by the commission shall not
26 require a distributor licensed by the commission to pay a deposit
27 to the manufacturer on a nonrefillable **RETURNABLE** container.

1 However, a manufacturer licensed by the commission and a
2 distributor licensed by the commission may enter into an agreement
3 providing that either or both may originate a deposit or any
4 portion of a deposit on a nonrefillable **RETURNABLE** container if the
5 agreement is entered into freely and without coercion.

6 **(13)** ~~(12)~~—A manufacturer shall refund the deposit paid on any
7 container returned by a distributor for which a deposit has been
8 paid by a distributor to the manufacturer.

9 **(14)** ~~(13)~~—Subsections (4), (6), and ~~(7)~~—**(8)** apply only to a
10 returnable container that was originally sold in this state as a
11 filled returnable container.

12 Sec. 3c. (1) There is created in the department of treasury a
13 bottle deposit fund which is a revolving fund administered by the
14 department of treasury. ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (4),**
15 **THE** money in the bottle deposit fund shall not revert to the
16 general fund.

17 (2) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (4), THE** amount paid
18 to the department of treasury by underredeemers shall be deposited
19 by the department of treasury in the bottle deposit fund created in
20 subsection (1) for annual disbursement by the department of
21 treasury in the following manner:

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

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

27 (3) Not later than June 1 of each year, the department of

1 treasury shall publish and make available to the public information
2 related to section 3b(1) and send a report of that information to
3 the legislature.

4 **(4) ANY MONEY IN THE BOTTLE DEPOSIT FUND ON DECEMBER 31, 2025**
5 **SHALL LAPSE TO THE GENERAL FUND AND THE STATE TREASURER SHALL CLOSE**
6 **THE BOTTLE DEPOSIT FUND.**

7 **(5)** ~~(4)~~ The department of treasury may promulgate rules to
8 implement ~~sections 3a to 3d pursuant to~~ **SUBSECTION (4) AND SECTIONS**
9 **3E(6) AND 3F(5) UNDER** the administrative procedures act of 1969,
10 Act No. 306 of the Public Acts of 1969, being sections 24.201 to
11 24.328 of the Michigan Compiled Laws, **1969 PA 306, MCL 24.201 TO**
12 **24.328**, if the department of treasury determines that rules are
13 needed to properly implement and administer sections ~~3a to~~
14 ~~3d.~~ **SUBSECTION (4) AND SECTIONS 3E(6) AND 3F(5).**

15 Sec. 3e. (1) The cleanup and redevelopment trust fund is
16 created within the state treasury.

17 (2) The state treasurer may receive money or other assets from
18 any source for deposit into the trust fund. The state treasurer
19 shall direct the investment of the trust fund. The state ~~treasurer~~
20 **TREASURER** shall credit to the trust fund interest and earnings from
21 fund investments.

22 (3) ~~Money~~ **EXCEPT AS PROVIDED IN SUBSECTION (6), MONEY** in the
23 trust fund at the close of the fiscal year shall remain in the
24 trust fund and shall not lapse to the general fund.

25 (4) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (6), THE** state
26 treasurer shall annually disburse the following amounts from the
27 trust fund:

1 (a) For each of the state fiscal years 1996-1997, 1997-1998,
2 and 1998-1999, up to \$15,000,000.00 each year of money in the trust
3 fund to the cleanup and redevelopment fund created in section 20108
4 ~~of part 201 (environmental remediation) of the natural resources~~
5 ~~and environmental protection act, Act No. 451 of the Public Acts of~~
6 ~~1994, being section 324.20108 of the Michigan Compiled Laws.~~**1994 PA**
7 **451, MCL 324.20108.**

8 (b) In addition to the disbursements under subdivision (a),
9 each state fiscal year, 80% of the revenues received by the trust
10 fund from disbursements under section 3c to the cleanup and
11 redevelopment fund and 10% to the community pollution prevention
12 fund created in section 3f.

13 (5) ~~All~~**EXCEPT AS PROVIDED IN SUBSECTION (6), ALL** money in the
14 trust fund that is not disbursed pursuant to subsection (4) shall
15 remain in the trust fund until the trust fund reaches an
16 accumulated principal of \$200,000,000.00. After the trust fund
17 reaches an accumulated principal of \$200,000,000.00, interest and
18 earnings of the trust fund only shall be expended, upon
19 appropriation, for the purposes specified in section 20113(4) ~~of~~
20 ~~part 201 (environmental remediation) of the natural resources and~~
21 ~~environmental protection act, Act No. 451 of the Public Acts of~~
22 ~~1994, being section 324.20113 of the Michigan Compiled Laws.~~**1994 PA**
23 **451, MCL 324.20113.**

24 **(6) ANY MONEY IN THE TRUST FUND ON DECEMBER 31, 2025 SHALL**
25 **LAPSE TO THE GENERAL FUND AND THE STATE TREASURER SHALL CLOSE THE**
26 **TRUST FUND.**

27 **(7)** ~~(6)~~As used in this section, "trust fund" means the

1 cleanup and redevelopment trust fund created in subsection (1).

2 Sec. 3f. (1) The community pollution prevention fund is
3 created within the state treasury.

4 (2) The state treasurer may receive money or other assets from
5 any source for deposit into the community pollution prevention
6 fund. The state treasurer shall direct the investment of the
7 community pollution prevention fund. The state treasurer shall
8 credit to the community pollution prevention fund interest and
9 earnings from fund investments.

10 (3) ~~Money~~ **EXCEPT AS PROVIDED IN SUBSECTION (5), MONEY** in the
11 community pollution prevention fund at the close of the fiscal year
12 shall remain in the community pollution prevention fund and shall
13 not lapse to the general fund.

14 (4) The department of environmental quality shall expend
15 interest and earnings of the community pollution prevention fund
16 only, upon appropriation, for grants for the purpose of preventing
17 pollution, with an emphasis on the prevention of groundwater
18 contamination and resulting risks to the public health, ecological
19 risks, and public and private cleanup costs. The department of
20 environmental quality shall enter into contractual agreements with
21 grant recipients, who shall include county governments, local
22 health departments, municipalities, and regional planning agencies.
23 Activities to be performed by grant recipients and program
24 objectives and deliverables shall be specified in the contractual
25 agreements. Grant recipients shall provide a financial match of not
26 less than 25% nor more than 50%. Not more than \$100,000.00 may be
27 granted in any fiscal year to a single recipient. Eligible

1 pollution prevention activities include all of the following:

2 (a) Drinking water wellhead protection, including the
3 delineation of wellhead protection areas and implementation of
4 wellhead protection plans ~~pursuant to~~ **UNDER** the safe drinking water
5 act, ~~Act No. 399 of the Public Acts of 1976, being sections~~
6 ~~325.1001 to 325.1023 of the Michigan Compiled Laws.~~ **1976 PA 399, MCL**
7 **325.1001 TO 325.1023.**

8 (b) The review of pollution incident prevention plans prepared
9 by, and the inspection of, facilities whose storage or handling of
10 hazardous materials may pose a risk to the groundwater.

11 (c) The identification and plugging of abandoned wells other
12 than oil and gas wells.

13 (d) Programs to educate the general public and businesses that
14 use or handle hazardous materials on pollution prevention methods,
15 technologies, and processes, with an emphasis on the direct
16 reduction of toxic material releases or disposal at the source.

17 **(5) ANY MONEY IN THE COMMUNITY POLLUTION PREVENTION FUND ON**
18 **DECEMBER 31, 2025 SHALL LAPSE TO THE GENERAL FUND AND THE STATE**
19 **TREASURER SHALL CLOSE THE COMMUNITY POLLUTION PREVENTION FUND.**

20 **(6)** ~~(5)~~—The department of environmental quality shall annually
21 prepare a report summarizing the grants made under this section,
22 contractual commitments made and achieved, and a preliminary
23 evaluation of the effectiveness of this section not later than
24 September 30, 1997, and September 30 of each year thereafter, and
25 shall provide a copy of this report to the chairs of the house and
26 senate appropriations subcommittees for the department of
27 environmental quality.

1 Enacting section 1. 1976 IL 1, MCL 445.571 to 445.576, is
2 repealed effective January 1, 2026.