

SENATE BILL No. 1110

September 5, 2018, Introduced by Senator CASPERSON and referred to the Committee on Natural Resources.

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 3a, 3b, and 3c (MCL 445.573a, 445.573b, and 445.573c), section 3a as added by 1989 PA 148, section 3b as amended by 1998 PA 473, and section 3c as amended by 1996 PA 384.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 THE FORM PRESCRIBED BY THAT DEPARTMENT.

2 ~~—— (2) The report required to be filed pursuant to subsection (1)~~
3 shall indicate, for the ~~period of January 1, 1990 to December 31,~~
4 ~~1990, and for the time period of January 1 to December 31 of each~~
5 ~~year thereafter,~~ **THE PRECEDING YEAR**, the dollar value of both the
6 total deposits collected by the distributor or manufacturer on
7 beverage containers sold within this state and total refunds made
8 upon beverage containers redeemed by the distributor or
9 manufacturer within this state.

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

13 _____ REPORT
14

15 _____ DEPOSITS ORIGINATED AND REFUNDS GRANTED
16 _____ ON BEVERAGE CONTAINERS
17

18 _____ Reporting Period: _____
19

20 Company Name: _____
21

22 Company Address: _____
23 _____ Number and Street
24 _____
25 _____ City, State, Zip
26

27 \$ _____ \$ _____ = \$ _____

1 ~~(Value of Deposits (Value of Refunds Made) (Difference)~~
2 ~~Originated)~~

3

4 \$ _____ \$ _____ = \$ _____
5 ~~(Difference) (Overredemption Credit, (Amount Owed to~~
6 ~~if Applicable) Department of~~
7 ~~Treasury)~~

8

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

11

12 _____
13 _____ Signature Owner or President

14

15 _____
16 _____ Date

17 Sec. 3b. (1) The department of treasury may audit, assess, and
18 collect the amount of money reflecting unclaimed bottle deposits
19 owed to this state **BY UNDERREDEEMERS, PAY REFUNDS TO OVERREDEEMERS,**
20 and enforce the obligation to pay the amount of money reflecting
21 unclaimed bottle deposits owed to this state, in the same manner as
22 revenues and according to the provisions of 1941 PA 122, MCL 205.1
23 to 205.31.

24 (2) ~~Not later than March 1, 1991 and~~ **SUBJECT TO SUBSECTION**
25 **(4),** not later than March 1 of each year, ~~thereafter,~~ an
26 underredeemer shall pay to the department of treasury ~~that~~ **AN**
27 **AMOUNT THAT IS EQUAL TO THE** amount ~~of money~~ by which ~~its annual~~ **THE**

1 total value of deposits exceeds ~~its annual~~ **IT COLLECTED IN THE**
2 **PRECEDING YEAR EXCEED THE** total value of refunds **IT** made on
3 redeemed beverage containers , ~~subject to the overredemption credit~~
4 ~~contained in this section.~~ **IN THE PRECEDING YEAR.**

5 ~~—— (3) After March 1, 1991, an underredeemer who becomes an~~
6 ~~overredeemer in a subsequent year may credit the value of the~~
7 ~~overredemption in order to reduce the amount of money owed to the~~
8 ~~department of treasury under this section in 1 or more subsequent~~
9 ~~years as a result of that person again becoming an underredeemer.~~
10 ~~The value of the overredemption may be carried forward for not more~~
11 ~~than 3 years or until the credit granted in this section is~~
12 ~~completely depleted, whichever occurs first.~~

13 ~~—— (4) A manufacturer who no longer originates deposits may carry~~
14 ~~the value of an overredemption back for prior years in order to~~
15 ~~utilize its credit, and reduce the amount of underredemption owed~~
16 ~~to the department of treasury under this section on a 1 time basis~~
17 ~~only. Utilization of this 1 time credit may be applied against~~
18 ~~underredemption amounts owed for reporting years commencing in~~
19 ~~1990.~~

20 ~~—— (5) As used in this section:~~

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

25 ~~—— (b) "Underredeemer" means a distributor or manufacturer whose~~
26 ~~annual total value of deposits collected on beverage containers~~
27 ~~sold within this state exceeds annual total value of refunds made~~

1 ~~upon beverage containers redeemed within this state.~~

2 (3) SUBJECT TO SUBSECTION (4), NOT LATER THAN MARCH 1 OF EACH
3 YEAR, THE DEPARTMENT OF TREASURY SHALL PAY AN OVERREDEEMER A REFUND
4 IN AN AMOUNT THAT IS EQUAL TO THE AMOUNT BY WHICH THE TOTAL VALUE
5 OF REFUNDS IT MADE IN THE PRECEDING YEAR EXCEEDS THE TOTAL VALUE OF
6 DEPOSITS IT COLLECTED IN THE PRECEDING YEAR.

7 (4) IF A DISTRIBUTOR OR MANUFACTURER IS AN OVERREDEEMER IN A
8 CALENDAR QUARTER, THE OVERREDEEMER MAY REQUEST A REFUND FROM THE
9 DEPARTMENT OF TREASURY FOR THAT QUARTER IN AN AMOUNT THAT IS EQUAL
10 TO THE AMOUNT BY WHICH THE TOTAL VALUE OF REFUNDS IT MADE IN THAT
11 QUARTER EXCEEDS THE TOTAL VALUE OF DEPOSITS IT COLLECTED IN THAT
12 QUARTER. AN OVERREDEEMER MAY REQUEST A REFUND UNDER THIS SUBSECTION
13 BY SUBMITTING A REPORT, IN THE FORM PRESCRIBED BY THE DEPARTMENT OF
14 TREASURY, WITHIN 30 DAYS AFTER THE END OF THE CALENDAR QUARTER FOR
15 WHICH THE OVERREDEEMER IS REQUESTING THE REFUND, AND THE DEPARTMENT
16 SHALL PAY THE REFUND WITHIN 30 DAYS AFTER IT RECEIVES THE REPORT. A
17 DISTRIBUTOR OR MANUFACTURER SHALL INCLUDE A REFUND IT WAS PAID
18 UNDER THIS SUBSECTION FOR A CALENDAR QUARTER IN THE REPORT UNDER
19 SECTION 3A FOR THE YEAR THAT INCLUDES THAT QUARTER FOR THE PURPOSE
20 OF DETERMINING WHETHER THE DISTRIBUTOR OR MANUFACTURER WAS AN
21 OVERREDEEMER OR AN UNDERREDEEMER FOR THAT ENTIRE YEAR.

22 (5) ~~(6)~~—In addition to the report prescribed in section 3a, if
23 an underredeemer purchases empty returnable containers from an
24 overredeemer, that purchase shall be reported by the underredeemer
25 as a "refund made" and shall be reported by the overredeemer as a
26 "deposit originated" in the report prescribed by section 3a. The
27 report made by an underredeemer shall include the name and address

1 of each overredeemer and the refund value of the empty returnable
 2 beverage containers purchased from each overredeemer. The report
 3 made by an overredeemer shall include the name and address of each
 4 underredeemer who purchased the returnable containers from that
 5 overredeemer and the refund value of the empty returnable beverage
 6 containers sold. The total consideration paid by an underredeemer
 7 to an overredeemer as authorized by this subsection shall equal the
 8 redemption value of the container.

9 (6) ~~(7)~~—A purchase or sale made under subsection ~~(6)~~—(5)
 10 during January of each year shall be included in the report **UNDER**
 11 **SECTION 3A** for the ~~previous~~—**PRECEDING** calendar year only.

12 (7) **AS USED IN THIS SECTION:**

13 (A) **"OVERREDEEMER" MEANS A DISTRIBUTOR OR MANUFACTURER WHOSE**
 14 **TOTAL VALUE OF DEPOSITS COLLECTED ON BEVERAGE CONTAINERS SOLD**
 15 **WITHIN THIS STATE IN A YEAR IS LESS THAN THE TOTAL VALUE OF REFUNDS**
 16 **MADE UPON BEVERAGE CONTAINERS REDEEMED WITHIN THIS STATE IN THAT**
 17 **YEAR.**

18 (B) **"UNDERREDEEMER" MEANS A DISTRIBUTOR OR MANUFACTURER WHOSE**
 19 **TOTAL VALUE OF DEPOSITS COLLECTED ON BEVERAGE CONTAINERS SOLD**
 20 **WITHIN THIS STATE IN A YEAR EXCEEDS THE TOTAL VALUE OF REFUNDS MADE**
 21 **UPON BEVERAGE CONTAINERS REDEEMED WITHIN THIS STATE IN THAT YEAR.**

22 Sec. 3c. (1) There is created in the department of treasury a
 23 bottle deposit fund, which is a revolving fund administered by the
 24 department of treasury. **ALL OF THE FOLLOWING APPLY TO THE BOTTLE**
 25 **DEPOSIT FUND:**

26 (A) **THE FUND SHALL CONSIST OF MONEY PAID TO THE DEPARTMENT OF**
 27 **TREASURY BY UNDERREDEEMERS UNDER SECTION 3B. THE STATE TREASURER**

1 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL
2 CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

3 (B) THE DEPARTMENT OF TREASURY IS THE ADMINISTRATOR OF THE
4 FUND FOR AUDITING PURPOSES.

5 (C) The money in the ~~bottle deposit fund~~ AT THE CLOSE OF THE
6 FISCAL YEAR SHALL REMAIN IN THE FUND AND shall not ~~revert~~-LAPSE to
7 the general fund.

8 (2) The amount paid to the department of treasury by
9 underredeemers UNDER SECTION 3B, LESS ANY AMOUNT REFUNDED BY THE
10 DEPARTMENT OF TREASURY TO OVERREDEEMERS UNDER SECTION 3B, shall be
11 deposited by the department of treasury in the bottle deposit fund
12 created in subsection (1) for annual disbursement by the department
13 of treasury in the following manner:

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

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

19 (3) Not later than June 1 of each year, the department of
20 treasury shall publish and make available to the public information
21 related to section 3b(1) and send a report of that information to
22 the legislature.

23 (4) The department of treasury may promulgate rules to
24 implement sections 3a to 3d ~~pursuant to~~-UNDER the administrative
25 procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
26 ~~being sections 24.201 to 24.328 of the Michigan Compiled Laws, 1969~~
27 PA 306, MCL 24.201 TO 24.328, if the department of treasury

1 determines that rules are needed to properly implement and
2 administer sections 3a to 3d.

3 Enacting section 1. This amendatory act takes effect January
4 1, 2019.