

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 178

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 2021 PA 139.

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~~

1 **that** originates a deposit on a ~~beverage container~~ **1 or more**
2 **beverage containers** shall file a report with the department of
3 treasury ~~containing the information required by subsection (2).~~ **in**
4 **the form prescribed by the department.**

5 ~~(2) The report required to be filed pursuant to subsection (1)~~
6 ~~shall~~ **must** indicate, for the ~~period of January 1, 1990 to December~~
7 ~~31, 1990, and for the time period of January 1 to December 31 of~~
8 ~~each year thereafter,~~ **the preceding year,** the dollar value of both
9 the total deposits collected by the distributor or manufacturer on
10 beverage containers sold ~~within~~ **in** this state, ~~and the~~ total
11 refunds made upon beverage containers redeemed by the distributor
12 or manufacturer ~~within~~ **in** this state, **and any refunds received**
13 **under section 3b(5).**

14 ~~(3) The reports required to be filed pursuant to subsection~~
15 ~~(1) shall be similar to the following and contain the following~~
16 ~~information:~~

17 REPORT

18 DEPOSITS ORIGINATED AND REFUNDS GRANTED

19 ON BEVERAGE CONTAINERS

20 Reporting Period: _____

21 Company Name: _____

22 Company Address: _____

23 Number and Street

24 _____

25 City, State, Zip

26 \$ _____ - \$ _____ = \$ _____

27 ~~(Value of Deposits (Value of Refunds Made) (Difference)~~

28 ~~_____ Originated)~~

29 \$ _____ - \$ _____ = \$ _____

1 subsequent years as a result of that person again becoming an
 2 underredeemer. The value of the overredemption may be carried
 3 forward for not more than 3 years or until the credit granted in
 4 this section is completely depleted, whichever occurs first.

5 ~~(4) A manufacturer who no longer originates deposits may carry~~
 6 ~~the value of an overredemption back for prior years in order to~~
 7 ~~utilize its credit, and reduce the amount of underredemption owed~~
 8 ~~to the department of treasury under this section on a 1-time basis~~
 9 ~~only. Utilization of this 1-time credit may be applied against~~
 10 ~~underredemption amounts owed for reporting years commencing in~~
 11 ~~1990.~~

12 ~~(5) As used in this section:~~

13 ~~(a) "Overredeemer" means a distributor or manufacturer whose~~
 14 ~~annual total value of deposits collected on beverage containers~~
 15 ~~sold within this state is less than the annual total value of~~
 16 ~~refunds made upon beverage containers redeemed within this state.~~

17 ~~(b) "Underredeemer" means a distributor or manufacturer whose~~
 18 ~~annual total value of deposits collected on beverage containers~~
 19 ~~sold within this state exceeds annual total value of refunds made~~
 20 ~~upon beverage containers redeemed within this state.~~

21 **(4) Beginning January 1, 2023, not later than April 1 of each**
 22 **year, the department of treasury shall pay an overredeemer a refund**
 23 **in an amount that is equal to the amount by which the total value**
 24 **of refunds it made in the preceding year to participating customers**
 25 **exceeds the sum of the total value of deposits it collected in the**
 26 **preceding year from participating customers and the refunds it**
 27 **received under subsection (5) in the preceding year.**

28 **(5) Beginning January 1, 2023, if a distributor or**
 29 **manufacturer is an overredeemer at the end of the first, second, or**

1 third quarter of each year after 2022, the overredeemer may request
2 a refund from the department of treasury for that 3-, 6-, or 9-
3 month period in an amount that is equal to the amount by which the
4 total value of refunds it made in that period to participating
5 customers exceeds the sum of the total value of deposits it
6 collected in that period from participating customers and any
7 refund previously received under this subsection during that
8 period. An overredeemer may request a refund under this subsection
9 by submitting a report, in the form prescribed by the department of
10 treasury, not more than 30 days after the end of the period for
11 which the overredeemer is requesting the refund, and the department
12 shall pay the refund not more than 30 days after it receives the
13 report.

14 (6) In addition to the report ~~prescribed in~~ **required under**
15 section 3a, if an underredeemer purchases empty returnable
16 containers from an overredeemer, that purchase ~~shall~~ **must** be
17 reported by the underredeemer as a "refund made" and ~~shall~~ be
18 reported by the overredeemer as a "deposit originated" in the
19 report ~~prescribed by~~ **required under** section 3a. The report made by
20 an underredeemer ~~shall~~ **must** include the name and address of each
21 overredeemer and the refund value of the empty returnable beverage
22 containers purchased from each overredeemer. The report made by an
23 overredeemer ~~shall~~ **must** include the name and address of each
24 underredeemer who purchased the returnable containers from that
25 overredeemer and the refund value of the empty returnable beverage
26 containers sold. The total consideration paid by an underredeemer
27 to an overredeemer as authorized by this subsection ~~shall~~ **must**
28 equal the redemption value of the container.

29 (7) A purchase or sale made under subsection (6) during

1 January of each year ~~shall~~**must** be included in the report **under**
2 **section 3a** for the ~~previous~~**preceding** calendar year only.

3 (8) As used in this section:

4 (a) "Overredeemer" means a distributor or manufacturer whose
5 sum of the total value of deposits collected from participating
6 customers on beverage containers sold in this state in a specified
7 period and the refunds received under subsection (5) in the
8 specified period is less than the total value of refunds made to
9 participating customers on beverage containers redeemed in this
10 state in that specified period.

11 (b) "Participating customer" means a customer from whom a
12 distributor or manufacturer collects a deposit under this act on
13 every beverage container sold to the customer.

14 (c) "Underredeemer" means a distributor or manufacturer whose
15 sum of the total value of deposits collected from participating
16 customers on beverage containers sold in this state in a specified
17 period and the refunds received under subsection (5) in the
18 specified period exceeds the total value of refunds made to
19 participating customers on beverage containers redeemed in this
20 state in that specified period.

21 Sec. 3c. (1) The bottle deposit fund is created in the
22 department of treasury. The fund is a revolving fund administered
23 by the department of treasury. **All of the following apply to the**
24 **bottle deposit fund:**

25 (a) The fund consists of money paid to the department of
26 treasury by underredeemers under section 3b. The state treasurer
27 shall direct the investment of the fund. The state treasurer shall
28 credit to the fund interest and earnings from fund investments.

29 (b) The department of treasury is the administrator of the

1 **fund for auditing purposes.**

2 (c) The money deposited in the ~~bottle deposit~~ fund **at the**
3 **close of the fiscal year remains in the fund and** does not ~~revert~~
4 **lapse** to the general fund.

5 (2) The bottle bill enforcement fund is created in the
6 department of treasury. The fund is a revolving fund administered
7 by the department of treasury. **All of the following apply to the**
8 **bottle bill enforcement fund:**

9 (a) **The fund consists of money disbursed to the fund under**
10 **subsection (3) (a). The state treasurer shall direct the investment**
11 **of the fund. The state treasurer shall credit to the fund interest**
12 **and earnings from fund investments.**

13 (b) **The department of treasury is the administrator of the**
14 **fund for auditing purposes.**

15 (c) The money deposited in the ~~bottle bill enforcement~~ fund **at**
16 **the close of the fiscal year remains in the fund and** does not
17 ~~revert~~ **lapse** to the general fund.

18 (3) The department of treasury shall deposit the amount paid
19 to the department of treasury by underredeemers **under section 3b,**
20 **less any amount refunded by the department of treasury to**
21 **overredeemers under section 3b,** into the bottle deposit fund
22 created in subsection (1) for annual disbursement by the department
23 of treasury in the following manner:

24 (a) The first \$1,000,000.00 to the bottle bill enforcement
25 fund created in subsection (2). The department of treasury shall
26 disburse the money deposited into the bottle bill enforcement fund
27 to the department of state police for use in enforcing this act and
28 investigating violations of this act. If the bottle bill
29 enforcement fund balance at the end of the fiscal year is greater

1 than \$3,000,000.00, deposits in the fund required under this
2 subdivision are suspended until the fund balance falls below
3 \$2,000,000.00.

4 (b) After the disbursement of the first \$1,000,000.00 to the
5 bottle bill enforcement fund as described in subdivision (a), the
6 remaining amount must be disbursed as follows:

7 (i) Seventy-five percent to the cleanup and redevelopment trust
8 fund created in section 3e.

9 (ii) Twenty-five percent to dealers to be apportioned to each
10 dealer on the basis of the number of empty returnable containers
11 handled by a dealer as determined by the department of treasury.

12 (4) Three years after the effective date of the amendatory act
13 that added this subsection, the department of state police shall
14 report to the legislature on the efficacy of the state police in
15 enforcing this act. The report must contain at least the minimum
16 number of beverage and deposit containers seized and the deposit
17 value in this state of those containers.

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

22 (6) If the department of treasury determines that rules are
23 needed to properly implement and administer sections 3a to 3d, the
24 department may promulgate rules to implement and administer those
25 sections under the administrative procedures act of 1969, 1969 PA
26 306, MCL 24.201 to 24.328.

27 Enacting section 1. This amendatory act takes effect January
28 1, 2023.