

HB3389



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3389

by Rep. Jehan Gordon-Booth

SYNOPSIS AS INTRODUCED:

New Act

Creates the Beverage Container Deposit Act. Provides that consumers shall pay a refund value of not less than \$0.05 on each beverage container sold in this State by a dealer for consumption off the premises. Provides that the dealer or person operating a redemption center shall return the amount of the refund value to the consumer upon return of the empty beverage container. Provides that a distributor that is required to accept empty beverage containers shall reimburse the dealer in the amount of \$0.01 per container. Provides that beverage containers must clearly indicate the refund value of the container. Contains provisions concerning penalties. Provides that the term "dealer" means a person who engages in the sale of beverages in beverage containers to a consumer. Provides that the term "distributor" means a person who engages in the sale of beverages in beverage containers to dealers. Effective July 1, 2017.

LRB100 05314 HLH 15325 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Beverage Container Deposit Act.

6 Section 5. Definitions. As used in this Act unless the
7 context otherwise requires:

8 "Beverage" means wine, alcoholic liquor, and beer, all as
9 defined in the Liquor Control Act, mineral water, soda water,
10 and similar carbonated soft drinks that are in liquid form and
11 intended for human consumption.

12 "Beverage container" means any sealed glass, plastic, or
13 metal bottle, can, jar, or carton containing a beverage.

14 "Consumer" means any person who purchases a beverage in a
15 beverage container for use or consumption.

16 "Dealer" means any person who engages in the sale of
17 beverages in beverage containers to a consumer.

18 "Dealer agent" means a person who solicits or picks up
19 empty beverage containers from a dealer for the purpose of
20 returning the empty beverage containers to a distributor or
21 manufacturer.

22 "Department" means the Department of Agriculture.

23 "Distributor" means a person who engages in the sale of

1 beverages in beverage containers to a dealer in this State,
2 including any manufacturer who engages in such sales.

3 "Geographic territory" means the geographical area within
4 a perimeter formed by the outermost boundaries served by a
5 distributor.

6 "Manufacturer" means any person who bottles, cans, or
7 otherwise fills beverage containers for sale to distributors or
8 dealers.

9 "Nonrefillable beverage container" means a beverage
10 container not intended to be refilled for sale by a
11 manufacturer.

12 "Redemption center" means a facility at which consumers may
13 return empty beverage containers and receive payment for the
14 refund value of the empty beverage containers.

15 Section 10. Refund values.

16 (a) A refund value of not less than \$0.05 shall be paid by
17 the consumer on each beverage container sold in this State by a
18 dealer for consumption off the premises. Upon return of the
19 empty beverage container upon which a refund value has been
20 paid to the dealer or person operating a redemption center and
21 acceptance of the empty beverage container by the dealer or
22 person operating a redemption center, the dealer or person
23 operating a redemption center shall return the amount of the
24 refund value to the consumer.

25 (b) In addition to the refund value provided in subsection

1 (a) of this Section, a dealer or person operating a redemption
2 center who redeems empty beverage containers or a dealer agent
3 shall be reimbursed by the distributor that is required to
4 accept the empty beverage containers in the amount of \$0.01 per
5 container. A dealer, dealer agent, or person operating a
6 redemption center may compact empty metal beverage containers
7 with the approval of the distributor that is required to accept
8 the containers.

9 Section 15. Payment of refund value. Except as provided in
10 Section 20:

11 (1) A dealer shall not refuse to accept from a consumer
12 any empty beverage container of the kind, size, and brand
13 sold by the dealer, or refuse to pay to the consumer the
14 refund value of a beverage container as provided under
15 Section 10.

16 (2) A distributor shall accept and pick up from a
17 dealer served by the distributor or a redemption center for
18 a dealer served by the distributor at least weekly, or when
19 the distributor delivers the beverage product if
20 deliveries are less frequent than weekly, any empty
21 beverage container of the kind, size, and brand sold by the
22 distributor, and shall pay to the dealer or person
23 operating a redemption center the refund value of a
24 beverage container and the reimbursement as provided under
25 Section 10 within one week following pickup of the

1 containers or when the dealer or redemption center normally
2 pays the distributor for the deposit on beverage products
3 purchased from the distributor if less frequent than
4 weekly. A distributor or employee or agent of a distributor
5 is not in violation of this paragraph if the redemption
6 center is closed when the distributor attempts to make a
7 regular delivery or a regular pickup of empty beverage
8 containers.

9 (3) A distributor is not required to pay to a
10 manufacturer a deposit or refund value on a nonrefillable
11 beverage container.

12 (4) A distributor shall accept from a dealer agent any
13 empty beverage container of the kind, size, and brand sold
14 by the distributor that was picked up by the dealer agent
15 from a dealer within the geographic territory served by the
16 distributor, and the distributor shall pay the dealer agent
17 the refund value of the empty beverage container and the
18 reimbursement as provided in Section 10.

19 (5) The Department shall provide for the disposal of
20 empty beverage containers as required under paragraph (2).
21 The Department shall give priority consideration to the
22 recycling of the empty beverage containers, to the extent
23 possible, before any other appropriate disposal method is
24 considered or implemented.

25 Section 20. Refusal to accept containers.

1 (a) Except as provided in subsection (c) of Section 25, a
2 dealer, a person operating a redemption center, a distributor,
3 or a manufacturer may refuse to accept any empty beverage
4 container which does not have stated on it a refund value as
5 provided under Section 10.

6 (b) A dealer may refuse to accept and to pay the refund
7 value of any empty beverage container if the place of business
8 of the dealer and the kind and brand of empty beverage
9 containers are included in an order of the Department approving
10 a redemption center under Section 30.

11 (c) A manufacturer or distributor may refuse to accept and
12 to pay the refund value and reimbursement as provided in
13 Section 10 on any empty beverage container that was picked up
14 by a dealer agent from a dealer outside the geographic
15 territory served by the manufacturer or distributor.

16 Section 25. Refund value stated on container; exceptions.

17 (a) Each beverage container sold or offered for sale in
18 this State by a dealer shall clearly indicate by embossing or
19 by a stamp, label, or other method securely affixed to the
20 container, the refund value of the container. The Department
21 shall specify, by rule, the minimum size of the refund value
22 indication on the beverage containers.

23 (b) A person, except a distributor, shall not import into
24 this State on or after the effective date of this Act a
25 beverage container that does not have the refund value

1 indication securely affixed to it. The provisions of this
2 subsection (b) do not apply if:

3 (1) for beverage containers containing alcoholic
4 liquor, the total capacity of the container is not more
5 than one quart or, in the case of alcoholic liquor
6 personally obtained outside the United States, one gallon;

7 (2) for beverage containers containing beer, the total
8 capacity of the container is not more than 288 fluid
9 ounces; and

10 (3) for all other beverage containers, the total
11 capacity of the container is not more than 576 fluid
12 ounces.

13 (c) The provisions of this Section do not apply to a
14 refillable glass beverage container that has a brand name
15 permanently marked on it and has a refund value of not less
16 than \$0.05, to any other refillable beverage container that has
17 a refund value of not less than \$0.05 and which is exempted by
18 the Department, or to a beverage container sold aboard a
19 commercial airliner or passenger train for consumption on the
20 premises.

21 Section 30. Redemption centers.

22 (a) To facilitate the return of empty beverage containers
23 and to serve dealers, any person may establish a redemption
24 center, subject to the approval of the Department, at which
25 consumers may return empty beverage containers and receive

1 payment of the refund value of those beverage containers.

2 (b) An application for approval of a redemption center
3 shall be filed with the Department. The application shall state
4 the name and address of the person responsible for the
5 establishment and operation of the redemption center, the kind
6 and brand names of the beverage containers that will be
7 accepted at the redemption center, and the names and addresses
8 of the dealers to be served by the redemption center. The
9 application shall contain such other information as the
10 Department may reasonably require.

11 (c) The Department shall approve a redemption center if it
12 finds that the redemption center will provide a convenient
13 service to consumers for the return of empty beverage
14 containers. The order of the Department approving a redemption
15 center shall state the dealers to be served by the redemption
16 center and the kind and brand names of empty beverage
17 containers that the redemption center must accept. The order
18 may contain such other provisions to ensure that the redemption
19 center will provide a convenient service to the public as the
20 Department may determine.

21 (d) The Department may review the approval of any
22 redemption center at any time. After written notice to the
23 person responsible for the establishment and operation of the
24 redemption center and the dealers served by the redemption
25 center, the Department may, after hearing, withdraw approval of
26 a redemption center if the Department finds there has not been

1 compliance with the Department's order approving the
2 redemption center or if the redemption center no longer
3 provides a convenient service to the public.

4 (e) All approved redemption centers shall meet applicable
5 health standards.

6 Section 35. Unapproved redemption centers. Any person may
7 establish a redemption center which has not been approved by
8 the Department. Consumers may return empty beverage containers
9 at those redemption centers and receive payment of the refund
10 value of the beverage containers. The establishment of an
11 unapproved redemption center shall not relieve any dealer from
12 the responsibility of redeeming any empty beverage containers
13 of the kind and brand sold by the dealer.

14 Section 40. Distributors' agreements authorized. A
15 distributor may enter into a contract or agreement with any
16 other distributor, manufacturer, or person for the purpose of
17 collecting or paying the refund value on, or disposing of,
18 beverage containers as provided in this Act.

19 Section 45. Redemption of refused nonrefillable metal
20 beverage containers.

21 If the refund value indication required under Section 10 on
22 an empty nonrefillable metal beverage container is readable but
23 the redemption of the container is lawfully refused by a dealer

1 or person operating a redemption center under other Sections of
2 this Act or rules adopted pursuant to this Act, the container
3 shall be accepted and the refund value paid to a consumer as
4 provided in this Section. Each beer distributor selling
5 nonrefillable metal beverage containers in this State shall
6 provide individually or collectively by contract or agreement
7 with a dealer, person operating a redemption center, or another
8 person, at least one facility in the county seat of each county
9 where refused empty nonrefillable metal beverage containers
10 having a readable refund value indication as required by this
11 Act are accepted and redeemed.

12 Section 50. Administrative review. Any person who is
13 adversely affected by a final decision of the Department under
14 this Act may have that decision judicially reviewed. The
15 provisions of the Administrative Review Law shall apply to and
16 govern all proceedings for the judicial review of final
17 administrative decisions of the Department. The term
18 "administrative decisions" is as defined in Section 3-101 of
19 the Code of Civil Procedure.

20 Section 55. Penalties.

21 (a) Any person who violates the provisions of Section 10,
22 15, or 25, or a rule adopted under this Act, shall be guilty of
23 a business offense punishable by a fine of not less than \$1,000
24 for each offense.

1 (b) A distributor who collects or attempts to collect a
2 refund value on an empty beverage container when the
3 distributor has paid the refund value on the container to a
4 dealer, redemption center, or consumer is guilty of a business
5 offense punishable by a fine of not less than \$10,000 for each
6 offense.

7 (c) Any person who does any of the following acts is guilty
8 of a business offense punishable by a fine of not less than
9 \$10,000 for each offense:

10 (1) Collects or attempts to collect the refund value on
11 the container a second time, with the knowledge that the
12 refund value has once been paid by the distributor to a
13 dealer, redemption center or consumer.

14 (2) Manufactures, sells, possesses, or applies a false
15 or counterfeit label or indication which shows or purports
16 to show a refund value for a beverage container, with
17 intent to use the false or counterfeit label or indication.

18 (3) Collects or attempts to collect a refund value on a
19 container with the use of a false or counterfeit label or
20 indication showing a refund value, knowing the label or
21 indication to be false or counterfeit.

22 (d) As used in this Section, a false or counterfeit label
23 or indication means a label or indication purporting to show a
24 valid refund value which has not been initially applied as
25 authorized by a distributor.

26 (e) Subsection (b) and paragraph (1) of subsection (c) of

1 this Section do not apply to empty beverage containers which
2 are intended to be refillable and are in a standard of
3 condition except for sanitization to be refillable by the
4 manufacturer.

5 Section 60. Rulemaking. The Department may adopt rules for
6 the implementation and enforcement of this Act in accordance
7 with the provisions of the Illinois Administrative Procedure
8 Act.

9 Section 99. Effective date. This Act takes effect July 1,
10 2017.