

SENATE BILL No. 159

February 3, 2005, Introduced by Senators LELAND, BASHAM, JACOBS, SWITALSKI, BRATER, EMERSON and OLSHOVE 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:

1 Sec. 1. As used in this act:

2 (a) "Beverage" means a soft drink, soda water, carbonated
3 natural or mineral water, or other nonalcoholic carbonated drink;
4 **FRUIT JUICE OR A NONCARBONATED, NONALCOHOLIC DRINK THAT CONTAINS**
5 **FRUIT JUICE;** beer, ale, or other malt drink of whatever alcoholic
6 content; or a mixed wine drink or a mixed spirit drink.

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

(i) **AN** airtight metal, glass, paper, or plastic container, or a container composed of a combination of these materials, ~~which,~~ **THAT** at the time of sale ~~—~~ contains 1 gallon or less of a beverage **OTHER THAN FRUIT JUICE OR A NONCARBONATED, NONALCOHOLIC DRINK THAT CONTAINS FRUIT JUICE.**

(ii) **AN AIRTIGHT METAL, GLASS, OR PLASTIC CONTAINER THAT AT THE TIME OF SALE CONTAINS 1 GALLON OR LESS OF FRUIT JUICE OR A NONCARBONATED, NONALCOHOLIC DRINK THAT CONTAINS FRUIT JUICE OTHER THAN A CONTAINER COMPOSED IN WHOLE OR IN PART OF ALUMINUM AND PLASTIC OR ALUMINUM AND PAPER IN COMBINATION IF THE ALUMINUM CONTENT REPRESENTS 10% OR LESS OF THE UNFILLED CONTAINER WEIGHT AND THE UNFILLED CONTAINER WEIGHT IS 5% OR LESS OF THE FILLED CONTAINER WEIGHT.**

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

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

(e) "Nonreturnable container" means a beverage container upon which no deposit or a deposit of less than 10 cents has been paid, or is required to be paid, upon the removal of the **BEVERAGE**

1 container from the sale or consumption area, or for which no cash
2 refund or a refund of less than 10 cents is payable by a dealer or
3 distributor in this state of that beverage in beverage containers,
4 as further provided in section 2.

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

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

11 (h) "Operator of a vending machine" means ~~equally its~~ **THE**
12 owner **OF A VENDING MACHINE**, the person who refills it, and the
13 owner or lessee of the property upon which it is located.

14 (i) "Distributor" means a person who sells beverages in
15 beverage containers to a dealer within this state, and includes a
16 manufacturer who engages in such sales.

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

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

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

26 (m) "Sale or consumption area" means the premises ~~within~~ **ON**
27 the property of the dealer or of the dealer's lessor where the sale

1 is made, ~~within which~~ **WHERE** beverages in returnable containers
2 may be consumed without payment of a deposit, and, upon removing a
3 beverage container from which, **WHERE** the ~~customer~~ **CONSUMER** is
4 required by the dealer to pay the deposit.

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

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

12 (i) Nonalcoholic beverages.

13 (ii) Flavoring.

14 (iii) Coloring materials.

15 (iv) Fruit juices.

16 (v) Fruit adjuncts.

17 (vi) Sugar.

18 (vii) Carbon dioxide.

19 (viii) Preservatives.

20 (p) "Mixed spirit drink" means a drink containing 10% or less
21 alcohol by volume consisting of distilled spirits mixed with
22 nonalcoholic beverages or flavoring or coloring materials and
23 ~~which~~ **THAT** may also contain water, fruit juices, fruit adjuncts,
24 sugar, carbon dioxide, or preservatives; or ~~any~~ **A** spirits based
25 beverage, regardless of the percent of alcohol by volume, that is
26 manufactured for sale in a metal **BEVERAGE** container.

27 Enacting section 1. This amendatory act takes effect January

1 1, 2007.