SUBSTITUTE FOR

SENATE BILL NO. 779

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:

Sec. 3a. ~~(1)~~ Not later than ~~March 1, 1991 and not later than~~ March 1 of each year, ~~thereafter,~~ a distributor or manufacturer ~~who~~

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

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

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

~~REPORT~~

~~DEPOSITS ORIGINATED AND REFUNDS GRANTED~~

~~ON BEVERAGE CONTAINERS~~

~~Reporting Period:~~ ________________

~~Company Name:~~ ____________________________________

~~Company Address:~~ ________________________________

~~Number and Street~~

____

~~City, State, Zip~~

~~$~~____________________ ~~-~~ ~~$~~_________________________ ~~=~~ ~~$~~_____________

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

~~Originated)~~

~~$~~_______________ ~~-~~ ~~$~~_________________________ ~~=~~ ~~$~~__________________

~~(Difference)~~ ~~(Overredemption Credit, if Applicable)~~ ~~(Amount Owed to Department of Treasury)~~

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

____

~~Signature - Owner or President~~

____

~~Date~~

Sec. 3b. (1) The department of treasury may audit, assess, and collect the amount of money reflecting unclaimed bottle deposits owed to this state **by underredeemers, pay refunds to overredeemers,** and enforce the obligation to pay the amount of money reflecting unclaimed bottle deposits owed to this state, in the same manner as revenues and according to the provisions of 1941 PA 122, MCL 205.1 to 205.31.

(2) Not ~~later than March 1, 1991 and not~~ later than March 1 of each year, ~~thereafter,~~ an underredeemer shall pay to the department of treasury ~~that~~ **an amount that is equal to the** amount ~~of money~~ by which ~~its annual~~ **the sum of the** total value of deposits ~~exceeds its annual~~ **it collected in the preceding year and the refunds it received under subsection (5) in the preceding year exceeds the** total value of refunds **it** made on redeemed beverage containers ~~, subject to the overredemption credit contained in this section.~~ **in the preceding year.**

(3) ~~After March 1, 1991, an~~ **An** underredeemer **for a year before 2019** who becomes an overredeemer in a subsequent year may credit the value of the overredemption in order to reduce the amount of money owed to the department of treasury under this section in 1 or

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

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

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

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

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

(4) Not later than April 1 of each year, the department of treasury shall pay an overredeemer a refund in an amount that is equal to the amount by which the total value of refunds it made in the preceding year exceeds the sum of the total value of deposits it collected in the preceding year and the refunds it received under subsection (5) in the preceding year.

(5) If a distributor or manufacturer is an overredeemer at the end of the first, second, or third quarter of a year, the overredeemer may request a refund from the department of treasury

for that 3-, 6-, or 9-month period in an amount that is equal to the amount by which the total value of refunds it made in that period exceeds the sum of the total value of deposits it collected in that period and any refund previously received under this subsection during that period. An overredeemer may request a refund under this subsection by submitting a report, in the form prescribed by the department of treasury, not more than 30 days after the end of the period for which the overredeemer is requesting the refund, and the department shall pay the refund not more than 30 days after it receives the report.

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

(7) A purchase or sale made under subsection (6) during January of each year ~~shall~~ **must** be included in the report **under section 3a** for the ~~previous~~ **preceding** calendar year only.

(8) As used in this section:

(a) "Overredeemer" means a distributor or manufacturer whose sum of the total value of deposits collected on beverage containers sold in this state in a specified period and the refunds received under subsection (5) in the specified period is less than the total value of refunds made upon beverage containers redeemed in this state in that specified period.

(b) "Underredeemer" means a distributor or manufacturer whose sum of the total value of deposits collected on beverage containers sold in this state in a specified period and the refunds received under subsection (5) in the specified period exceeds the total value of refunds made upon beverage containers redeemed in this state in that specified period.

Sec. 3c. (1) There is created in the department of treasury a bottle deposit fund, ~~which~~ **that** is a revolving fund administered by the department of treasury. **All of the following apply to the bottle deposit fund:**

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

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

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

(2) The amount paid to the department of treasury by underredeemers ~~shall~~ **under section 3b, less any amount refunded by the department of treasury to overredeemers under section 3b, must** be deposited by the department of treasury in the bottle deposit

fund created in subsection (1) for annual disbursement by the department of treasury in the following manner:

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

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

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

(4) The department of treasury may promulgate rules to implement sections 3a to 3d ~~pursuant to~~ **under** the administrative procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws,~~ **1969 PA 306, MCL 24.201 to 24.328,** if the department of treasury determines that rules are needed to properly implement and administer sections 3a to 3d.