

HOUSE BILL No. 4926

June 18, 1973, Introduced by Reps. Jondahl, Goemaere, Smith,

Thomas J. Anderson, Smit, Geake, Owen, Angel, Ogonowski,

O'Brien, Powell, Wolpe, Elliott, Hoffman, Morris W.

Hood, Jr., Bullard and Bonior and referred to the

Committee on Consumers and Agriculture.

A bill to require the use of returnable beverage containers in this state; to define certain terms; to require certification of certain containers; to provide penalties; and to repeal certain acts and parts of acts.

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 natural or min-
3 eral water, or other nonalcoholic carbonated drink; beer, ale, or other malt
4 drink of whatever alcoholic content; spirituous liquor of whatever alcoholic
5 content; and a wine or vinous drink, whether made from grapes, apples, or other
6 materials, of whatever alcoholic content.

7 (b) "Beverage container" means an airtight metal, glass, paper, or plastic
8 container, or a container composed of a combination of these materials, which,
9 at the time of sale, contains 1 gallon or less of a beverage.

10 (c) "Returnable container" means a beverage container upon which a

1 deposit of at least 10 cents has been paid, or is required to be paid upon the
2 removal of the container from the sale or consumption area, and for which a re-
3 fund of at least 10 cents in cash is payable by every dealer or distributor of
4 that beverage in the containers in this state, as further provided in section
5 2. A beverage container certified as provided in section 3 shall also be
6 deemed a returnable container if the deposit is at least 5 cents, and the re-
7 quirements of the preceding sentence are met in all other respects.

8 (d) "Nonreturnable container" means a beverage container upon which no
9 deposit or a deposit of less than 10 cents has been paid, or is required to be
10 paid upon the removal of the container from the sale or consumption area, or
11 for which no cash refund or a refund of less than 10 cents is payable by a
12 dealer or distributor of that beverage in the containers in this state, as fur-
13 ther provided in section 2. A beverage container certified as provided in sec-
14 tion 3 shall not be deemed a nonreturnable beverage container if the deposit is
15 at least 5 cents, and the requirements of the first sentence of subdivision (c)
16 of this section are met in all other respects.

17 (e) "Person" includes an individual, partnership, corporation, associa-
18 tion, or other legal entity.

19 (f) "Dealer" means a person who sells or offers for sale to consumers
20 within this state a beverage in a beverage container, including, but not
21 limited to, an operator of a vending machine containing a beverage in a bever-
22 age container.

23 (g) "Operator" of a vending machine means equally its owner, the person
24 who refills it, and the owner or lessee of the property upon which it is loca-
25 ted.

26 (h) "Distributor" means a person who sells beverages in beverage con-
27 tainers to a dealer within this state, and includes a manufacturer who engages

1 in such sales.

2 (i) "Manufacturer" means a person who bottles, cans, or otherwise places
3 beverages in beverage containers for sale to distributors, dealers, or con-
4 sumers.

5 (j) "Within this state" means within the exterior limits of the state of
6 Michigan, and includes the territory within these limits owned by or ceded to
7 the United States of America.

8 (k) "Commission" means the Michigan liquor control commission.

9 (l) "Sale or consumption area" means the premises within the property of
10 the dealer or of his lessor where the sale is made, within which beverages may
11 be consumed without payment of a deposit, and, upon removing a beverage con-
12 tainer from which, the customer is required by the dealer to pay the deposit.

13 Sec. 2. (1) A dealer shall not, within this state, sell, offer for sale,
14 or give to consumers, nor discard except for the purpose of recycling, a nonre-
15 turnable container or a beverage in a nonreturnable container.

16 (2) A dealer who regularly sells beverages for consumption off his pre-
17 mises shall provide on his premises, or within 100 yards of the premises on
18 which he sells or offers for sale a beverage in a returnable container, a con-
19 venient means whereby the containers of any kind, size, and brand sold or of-
20 fered for sale by him may be returned by, and the deposit refunded in cash to,
21 a person whether or not the person is the original customer of that dealer, and
22 whether or not the container was sold by that dealer.

23 (3) Regional centers for redemption of returnable containers may be es-
24 tablished in addition to, but not as substitutes for, means for refund of de-
25 posits in accordance with subsection 2.

26 (4) A dealer shall not refuse to accept from a person an empty returnable
27 container of any kind, size, and brand sold by that dealer, nor refuse to pay

1 to the person its full refund value in cash, except as provided in
2 subsection (6).

3 (5) A distributor shall not refuse to accept from a dealer an empty re-
4 turnable container of any kind, size, and brand sold by that distributor, nor
5 refuse to pay to the dealer its full refund value in cash, except as provided
6 in subsection (6).

7 (6) Every beverage container sold or offered for sale by a dealer within
8 this state shall clearly indicate by embossing or by a stamp, or by a label or
9 other method securely affixed to the beverage container, the refund value of
10 the container and the name of this state. A dealer or distributor may, but is
11 not required to, refuse to accept from a person an empty returnable container
12 which does not state thereon the refund value of the container and the name of
13 this state.

14 Sec. 3. (1) To promote the use in this state of reusable beverage con-
15 tainers of uniform design, and to facilitate the return of containers to manu-
16 facturers for reuse as a beverage container, the commission shall certify bev-
17 erage containers which satisfy the requirements of this section.

18 (2) A beverage container shall be certified if:

19 (a) It is reusable as a beverage container by more than 1 manufacturer in
20 the ordinary course of business.

21 (b) More than 1 manufacturer will in the ordinary course of business ac-
22 cept the beverage container for reuse as a beverage container and pay the re-
23 fund value of the container.

24 (3) The commission shall not certify more than 1 beverage container of a
25 particular manufacturer in each size classification. The commission shall by
26 rule establish appropriate size classifications in accordance with the purposes
27 set forth in subsection (1), each of which shall include a size range of at

1 least 3 liquid ounces.

2 (4) A beverage container shall not be certified under this section:

3 (a) If by reason of its shape or design, or by reason of words or symbols
4 permanently inscribed thereon, whether by engraving, embossing, painting, or
5 other permanent method, it is reusable as a beverage container in the ordinary
6 course of business only by a manufacturer of a beverage sold under a specific
7 brand name.

8 (b) If the commission finds that its use by more than 1 manufacturer is
9 not of sufficient volume to promote the purposes set forth in subsection (1).

10 (5) Unless an application for certification under this section is denied
11 by the commission within 60 days after the application is filed, the beverage
12 container shall be deemed certified.

13 (6) The commission may at any time review certification of a beverage
14 container. If, upon the review, after written notice and hearing afforded to
15 the person who filed the original application for certification of the beverage
16 container under this section, the commission determines that the beverage con-
17 tainer is no longer qualified for certification, it shall withdraw certifica-
18 tion. Withdrawal of certification shall be effective on a date specified by
19 the commission, but not less than 30 days after written notice to the person
20 who filed the original application for certification of the beverage container
21 under this section, and to the manufacturer referred to in subsection (2).

22 Sec. 4. A dealer, distributor, or manufacturer who violates this act
23 shall be fined not less than \$100.00 nor more than \$1,000.00 and costs of pros-
24 ecution. Every day a violation occurs is a separate offense.

25 Sec. 5. Act No. 142 of the Public Acts of 1971, being section 445.191 of
26 the Compiled Laws of 1970, is repealed.

26a Sec. 6. This act shall take effect on the first day of the sixth month
27 after passage.