

BEVERAGE CONTAINERS

Initiated Law 1 of 1976

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.

History: 1976, Initiated Law 1, Eff. Dec. 3, 1978 ;-- Am. 1996, Act 384, Imd. Eff. July 24, 1996

Compiler's Notes: This initiated law was submitted to and approved by the people at the general election held on November 2, 1976, and took effect on December 3, 1976, pursuant to Mich. Const., Art. 2, Â§ 9. But see MCL 445.576. The petition to initiate this legislation was headed by the following statement: "A petition to initiate legislation to provide for the use of returnable containers for soft drinks, soda water, carbonated natural or mineral water or other non-alcoholic carbonated drink; beer, ale or other malt drink of whatever alcoholic content." See *Newsome v Board of State Canvassers*, 69 Mich App 725 (1976).

Popular Name: Bottle Bill

The People of the State of Michigan enact:

445.571 Definitions.

Sec. 1.

As used in this act:

- (a) "Beverage" means a soft drink, soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drink; beer, ale, or other malt drink of whatever alcoholic content; or a mixed wine drink or a mixed spirit drink.
- (b) "Beverage container" means an airtight metal, glass, paper, or plastic container, or a container composed of a combination of these materials, which, at the time of sale, contains 1 gallon or less of a beverage.
- (c) "Empty returnable container" means a beverage container which contains nothing except the residue of its original contents.
- (d) "Returnable container" means a beverage container upon which a deposit of at least 10 cents has been paid, or is required to be paid upon the removal of the container from the sale or consumption area, and for which a refund of at least 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 container from the sale or consumption area, or for which no cash refund or a refund of less than 10 cents is payable by a dealer or distributor in this state of that beverage in beverage containers, as further provided in section 2.
- (f) "Person" means an individual, partnership, corporation, association, or other legal entity.
- (g) "Dealer" means a person who sells or offers for sale to consumers within this state a beverage in a beverage container, including an operator of a vending machine containing a beverage in a beverage container.
- (h) "Operator of a vending machine" means equally its owner, the person who refills it, and the owner or lessee of the property upon which it is located.
- (i) "Distributor" means a person who sells beverages in beverage containers to a dealer within this state, and includes a manufacturer who engages in such sales.
- (j) "Manufacturer" means a person who bottles, cans, or otherwise places beverages in beverage containers for sale to distributors, dealers, or consumers.
- (k) "Within this state" means within the exterior limits of the state of Michigan, and includes the territory within these limits owned by or ceded to the United States of America.
- (l) "Commission" means the Michigan liquor control commission.
- (m) "Sale or consumption area" means the premises within the property of the dealer or of the dealer's lessor where the sale is made, within which beverages in returnable containers may be consumed without payment of a deposit, and, upon removing a beverage container from which, the customer is required by the dealer to pay the deposit.
- (n) "Nonrefillable container" means a returnable container which is not intended to be refilled for sale by a

manufacturer.

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

- (i) Nonalcoholic beverages.
- (ii) Flavoring.
- (iii) Coloring materials.
- (iv) Fruit juices.
- (v) Fruit adjuncts.
- (vi) Sugar.
- (vii) Carbon dioxide.
- (viii) Preservatives.

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

History: 1976, Initiated Law 1, Eff. Dec. 3, 1978 ;-- Am. 1982, Act 39, Imd. Eff. Mar. 16, 1982 ;-- Am. 1982, Act 266, Imd. Eff. Oct. 5, 1982 ;-- Am. 1986, Act 235, Eff. June 1, 1989 ;-- Am. 1989, Act 93, Imd. Eff. June 20, 1989

Popular Name: Bottle Bill

445.571a "Container composed of a combination of these materials" defined.

Sec. 1a.

As used in section 1, "container composed of a combination of these materials" does not include a container that, when filled, is designed and intended to be frozen and is composed in whole or in part of aluminum and plastic or aluminum and paper in combination, if the aluminum content represents 20% or less of the unfilled container weight and the weight of the container materials represents 5% or less of the total weight of the filled container.

History: Add. 2012, Act 213, Imd. Eff. June 27, 2012

Popular Name: Bottle Bill

445.572 Nonreturnable containers; prohibitions; means for return and refund; regional redemption centers; acceptance of containers and payment of refunds; indicating refund value and name of state on container; exception; metal containers with detachable parts prohibited; deposit previously refunded; refund upon reuse; maximum daily refund; agreement on deposit; refund by manufacturer.

Sec. 2.

(1) A dealer within this state shall not sell, offer for sale, or give to a consumer a nonreturnable container or a beverage in a nonreturnable container.

(2) A dealer who regularly sells beverages for consumption off the dealer's premises shall provide on the premises, or within 100 yards of the premises on which the dealer sells or offers for sale a beverage in a returnable container, a convenient means whereby the containers of any kind, size, and brand sold or offered for sale by the dealer may be returned by, and the deposit refunded in cash to, a person whether or not the person is the original customer of that dealer, and whether or not the container was sold by that dealer.

(3) Regional centers for the redemption of returnable containers may be established, in addition to but not as substitutes for, the means established for refunds of deposits prescribed in subsection (2).

(4) Except as provided in subsections (5) and (7), a dealer shall accept from a person an empty returnable container of any kind, size, and brand sold or offered for sale by that dealer and pay to that person its full refund value in cash.

(5) A dealer who does not require a deposit on a returnable container when the contents are consumed in the dealer's sale or consumption area is not required to pay a refund for accepting that empty container.

(6) Except as provided in subsection (7), a distributor shall accept from a dealer an empty returnable container of any kind, size, and brand sold or offered for sale by that distributor and pay to the dealer its full refund value in cash.

(7) Each beverage container sold or offered for sale by a dealer within this state shall clearly indicate by embossing or by a stamp, a label, or other method securely affixed to the beverage container, the refund value of the container and the name of this state. A dealer or distributor may, but is not required to, refuse to accept from a person an empty returnable container which does not state on the container the refund value of the container and the name of this state. This subsection does not apply to a refillable container having a refund value of not less than 10 cents, having a brand name permanently marked on it, and having a securely affixed method of indicating that it is a returnable container.

(8) A dealer within this state shall not sell, offer for sale, or give to consumers a metal beverage container, any part of which becomes detached when opened.

(9) A person, dealer, distributor, or manufacturer shall not return an empty container to a dealer for a refund of the deposit if a dealer has already refunded the deposit on that returnable container. This subsection does not prohibit a dealer from refunding the deposit on an empty returnable container each time the returnable container is sanitized by the manufacturer and reused as a beverage container.

(10) A dealer may accept, but is not required to accept, from a person, empty returnable containers for a refund in excess of \$25.00 on any given day.

(11) A manufacturer licensed by the commission shall not require a distributor licensed by the commission to pay a deposit to the manufacturer on a nonrefillable container. However, a manufacturer licensed by the commission and a distributor licensed by the commission may enter into an agreement providing that either or both may originate a deposit or any portion of a deposit on a nonrefillable container if the agreement is entered into freely and without coercion.

(12) A manufacturer shall refund the deposit paid on any container returned by a distributor for which a deposit has been paid by a distributor to the manufacturer.

(13) Subsections (4), (6), and (7) apply only to a returnable container that was originally sold in this state as a filled returnable container.

History: 1976, Initiated Law 1, Eff. Dec. 3, 1978 ;-- Am. 1977, Act 270, Eff. Mar. 30, 1978 ;-- Am. 1982, Act 39, Imd. Eff. Mar. 16, 1982 ;-- Am. 1982, Act 266, Imd. Eff. Oct. 5, 1982 ;-- Am. 1986, Act 235, Eff. June 1, 1989 ;-- Am. 1998, Act 473, Eff. Apr. 1, 1999

Popular Name: Bottle Bill

445.572a Designated metal, glass, or plastic containers; sale or offer of sale of certain beverages; requirements; violations; definitions.

Sec. 2a.

(1) Except as provided in subsection (2), beginning 90 days after the effective date of the amendatory act that added this section, a manufacturer of nonalcoholic beverages shall not sell, offer for sale, or give a nonalcoholic beverage to a consumer, dealer, or distributor in this state in a 12-ounce metal beverage container that is not a designated metal container if either of the following is met:

(a) Sales of that brand of beverage in 12-ounce metal beverage containers in this state in the preceding calendar year were at least 500,000 cases, as determined by the department of treasury.

(b) Sales of that brand of beverage in 12-ounce metal beverage containers in this state in the preceding calendar year were fewer than 500,000 cases, and 12-ounce metal beverage containers of that brand of beverage were overredeemed by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(2) Beginning 90 days after the effective date of the amendatory act that added this section, a manufacturer of nonalcoholic beverages shall not sell, offer for sale, or give a nonalcoholic beverage to a consumer, dealer, or distributor in the Upper Peninsula in a 12-ounce metal beverage container that is not a designated metal container if either of the following is met:

(a) Sales of that brand of beverage in 12-ounce metal beverage containers in the Upper Peninsula were at least 500,000 cases, as determined by the department of treasury.

(b) Sales of that brand of beverage in 12-ounce metal beverage containers in the Upper Peninsula in the preceding calendar year were fewer than 500,000 cases, and 12-ounce metal beverage containers of that brand of beverage were overredeemed in the Upper Peninsula by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(3) Except as provided in subsection (4), beginning 450 days after the effective date of the amendatory act that

added this section, a manufacturer of nonalcoholic beverages shall not sell, offer for sale, or give a nonalcoholic beverage to a consumer, dealer, or distributor in this state in a 12-ounce glass beverage container that is not a designated glass container if either of the following is met:

(a) Sales of that brand of beverage in 12-ounce glass beverage containers in this state in the preceding calendar year were at least 500,000 cases, as determined by the department of treasury.

(b) Sales of that brand of beverage in 12-ounce glass beverage containers in this state in the preceding calendar year were fewer than 500,000 cases, and 12-ounce glass beverage containers of that brand of beverage were overredeemed by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(4) Beginning 450 days after the effective date of the amendatory act that added this section, a manufacturer of nonalcoholic beverages shall not sell, offer for sale, or give a nonalcoholic beverage to a consumer, dealer, or distributor in the Upper Peninsula in a 12-ounce glass beverage container that is not a designated glass container if either of the following is met:

(a) Sales of that brand of beverage in 12-ounce glass beverage containers in the Upper Peninsula were at least 500,000 cases, as determined by the department of treasury.

(b) Sales of that brand of beverage in 12-ounce glass beverage containers in the Upper Peninsula in the preceding calendar year were fewer than 500,000 cases, and 12-ounce glass beverage containers of that brand of beverage were overredeemed in the Upper Peninsula by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(5) Except as provided in subsection (6), beginning 450 days after the effective date of the amendatory act that added this section, a manufacturer of nonalcoholic beverages shall not sell, offer for sale, or give a nonalcoholic beverage to a consumer, dealer, or distributor in this state in a 20-ounce plastic beverage container that is not a designated plastic container if either of the following is met:

(a) Sales of that brand of beverage in 20-ounce plastic beverage containers in this state in the preceding calendar year were at least 500,000 cases, as determined by the department of treasury.

(b) Sales of that brand of beverage in 20-ounce plastic beverage containers in this state in the preceding calendar year were fewer than 500,000 cases, and 20-ounce plastic beverage containers of that brand of beverage were overredeemed by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(6) Beginning 450 days after the effective date of the amendatory act that added this section, a manufacturer of nonalcoholic beverages shall not sell, offer for sale, or give a nonalcoholic beverage to a consumer, dealer, or distributor in the Upper Peninsula in a 20-ounce plastic beverage container that is not a designated plastic container if either of the following is met:

(a) Sales of that brand of beverage in 20-ounce plastic beverage containers in the Upper Peninsula were at least 500,000 cases, as determined by the department of treasury.

(b) Sales of that brand of beverage in 20-ounce plastic beverage containers in the Upper Peninsula in the preceding calendar year were fewer than 500,000 cases, and 20-ounce plastic beverage containers of that brand of beverage were overredeemed in the Upper Peninsula by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(7) Beginning 90 days after the effective date of the amendatory act that added this section, a manufacturer of alcoholic beverages shall not sell, offer for sale, or give an alcoholic beverage to a consumer, dealer, or distributor in this state in a 12-ounce metal beverage container that is not a designated metal container if either of the following is met:

(a) Sales of that brand of beverage in this state in the preceding calendar year were at least 500,000 case equivalents, as determined by the department of treasury.

(b) Sales of that brand of beverage in this state in the preceding calendar year were fewer than 500,000 case equivalents, and beverage containers of that brand of beverage were overredeemed by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(8) Beginning 450 days after the effective date of the amendatory act that added this section, a manufacturer of alcoholic beverages shall not sell, offer for sale, or give an alcoholic beverage to a consumer, dealer, or distributor in this state in a 12-ounce glass beverage container that is not a designated glass container if either of the following is met:

(a) Sales of that brand of beverage in this state in the preceding calendar year were at least 500,000 case equivalents, as determined by the department of treasury.

(b) Sales of that brand of beverage in this state in the preceding calendar year were fewer than 500,000 case equivalents, and beverage containers of that brand of beverage were overredeemed by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(9) Beginning 450 days after the effective date of the amendatory act that added this section, a manufacturer of alcoholic beverages shall not sell, offer for sale, or give an alcoholic beverage to a consumer, dealer, or distributor in this state in a 20-ounce plastic beverage container that is not a designated plastic container if either of the following is met:

(a) Sales of that brand of beverage in this state in the preceding calendar year were at least 500,000 case equivalents, as determined by the department of treasury.

(b) Sales of that brand of beverage in this state in the preceding calendar year were fewer than 500,000 case equivalents, and beverage containers of that brand of beverage were overredeemed by more than 600,000 containers in the preceding calendar year, as determined by the department of treasury.

(10) A symbol, mark, or other distinguishing characteristic that is placed on a designated metal container, designated glass container, or designated plastic container by a manufacturer to allow a reverse vending machine to determine if that container is a returnable container must be unique to this state, or used only in this state and 1 or more other states that have laws substantially similar to this act.

(11) A person that violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than \$2,000.00, or both. Section 4 does not apply to a violation described in this subsection.

(12) As used in this section:

(a) "Alcoholic beverage" means beer, ale, any other malt drink of whatever alcoholic content, a mixed wine drink, or a mixed spirit drink.

(b) "Brand" means any word, name, group of letters, symbol, or trademark, or any combination of them, adopted and used by a manufacturer to identify a specific flavor or type of beverage and to distinguish that flavor or type of beverage from another beverage produced or marketed by that manufacturer or another manufacturer.

(c) "Designated glass container" means a 12-ounce glass beverage container that contains a symbol, mark, or other distinguishing characteristic that allows a reverse vending machine to determine if the beverage container is or is not a returnable container.

(d) "Designated metal container" means a 12-ounce metal beverage container that contains a symbol, mark, or other distinguishing characteristic that allows a reverse vending machine to determine if the beverage container is or is not a returnable container.

(e) "Designated plastic container" means a 20-ounce plastic beverage container that contains a symbol, mark, or other distinguishing characteristic that allows a reverse vending machine to determine if the beverage container is or is not a returnable container.

(f) "Glass beverage container" means a beverage container composed primarily of glass.

(g) "Metal beverage container" means a beverage container composed primarily of metal.

(h) "Nonalcoholic beverage" means a soft drink, soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drink.

(i) "Plastic beverage container" means a beverage container composed primarily of plastic.

(j) "Reverse vending machine" means a device designed to properly identify and process empty beverage containers and provide a means for a deposit refund on returnable containers.

History: Add. 2008, Act 389, Eff. Dec. 1, 2009

Compiler's Notes: Enacting section 1 of Act 389 of 2008 provides: "Enacting section 1. This amendatory act takes effect on the date that deposits into the beverage container redemption antifraud fund created in the beverage container redemption antifraud act from money appropriated by the legislature equal or exceed \$1,000,000.00."

Popular Name: Bottle Bill

445.573 Certification of beverage containers.

Sec. 3.

(1) To promote the use in this state of reusable beverage containers of uniform design, and to facilitate the return of containers to manufacturers for reuse as a beverage container, the commission shall certify beverage containers which satisfy the requirements of this section.

(2) A beverage container shall be certified if:

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

(b) More than 1 manufacturer will in the ordinary course of business accept the beverage container for reuse as a beverage container and pay the refund value of the container.

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

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

(a) If by reason of its shape or design, or by reason of words or symbols permanently inscribed thereon, whether by engraving, embossing, painting, or other permanent method, it is reusable as a beverage container in the ordinary

course of business only by a manufacturer of a beverage sold under a specific brand name.

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

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

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

History: 1976, Initiated Law 1, Eff. Dec. 3, 1978

Popular Name: Bottle Bill

Admin Rule: R 445.1 et seq. of the Michigan Administrative Code.

445.573a Report; filing; contents.

Sec. 3a.

Not later than March 1 of each year, a distributor or manufacturer that originates a deposit on 1 or more beverage containers shall file a report with the department of treasury in the form prescribed by the department.

The report must indicate, for the time period of January 1 to December 31 of the preceding year, the dollar value of the total deposits collected by the distributor or manufacturer on beverage containers sold in this state, the total refunds made upon beverage containers redeemed by the distributor or manufacturer in this state, and any refunds received under section 3b(5).

History: Add. 1989, Act 148, Eff. July 27, 1989 ;-- Am. 2022, Act 198, Eff. Jan. 1, 2023

Popular Name: Bottle Bill

445.573b Unclaimed bottle deposits; audit, assessment, and collection by department of treasury; payment by underredeemer; overredemption credit; payment of refund to overredeemer; report; definitions.

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 of each year, an underredeemer shall pay to the department of treasury an amount that is equal to the amount by which 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 exceeds the total value of refunds it made on redeemed beverage containers in the preceding year.

(3) An underredeemer who becomes an overredeemer in a subsequent year before 2022 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) Beginning January 1, 2023, 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 to participating customers exceeds the sum of the total value of deposits it collected in the preceding year from participating customers and the refunds it received under subsection (5) in the preceding year.

(5) Beginning January 1, 2023, if a distributor or manufacturer is an overredeemer at the end of the first, second, or third quarter of each year after 2022, 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 to participating customers exceeds the sum of the total value of deposits it collected in that period from participating customers 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 required under section 3a, if an underredeemer purchases empty returnable containers from an overredeemer, that purchase must be reported by the underredeemer as a "refund made" and be reported by the overredeemer as a "deposit originated" in the report required under section 3a. The report made by an underredeemer 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 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 must equal the redemption value of the container.

(7) A purchase or sale made under subsection (6) during January of each year must be included in the report under section 3a for the 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 from participating customers 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 to participating customers on beverage containers redeemed in this state in that specified period.

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

(c) "Underredeemer" means a distributor or manufacturer whose sum of the total value of deposits collected from participating customers 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 to participating customers on beverage containers redeemed in this state in that specified period.

History: Add. 1989, Act 148, Eff. July 27, 1989 ;-- Am. 1996, Act 384, Imd. Eff. July 24, 1996 ;-- Am. 1998, Act 473, Eff. Apr. 1, 1999 ;-- Am. 2022, Act 198, Eff. Jan. 1, 2023

Popular Name: Bottle Bill

445.573c Bottle deposit fund and bottle bill enforcement fund; creation; administration; deposits; disbursements; report of effectiveness and information; rules.

Sec. 3c.

(1) The bottle deposit fund is created in the department of treasury. The fund 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 deposited in the fund at the close of the fiscal year remains in the fund and does not lapse to the general fund.

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

(a) The fund consists of money disbursed to the fund under subsection (3)(a). 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 deposited in the fund at the close of the fiscal year remains in the fund and does not lapse to the general fund.

(3) The department of treasury shall deposit the amount paid to the department of treasury by underredeemers

under section 3b, less any amount refunded by the department of treasury to overredeemers under section 3b, into the bottle deposit fund created in subsection (1) for annual disbursement by the department of treasury in the following manner:

(a) The first \$1,000,000.00 to the bottle bill enforcement fund created in subsection (2). The department of treasury shall disburse the money deposited into the bottle bill enforcement fund to the department of state police for use in enforcing this act and investigating violations of this act. If the bottle bill enforcement fund balance at the end of the fiscal year is greater than \$3,000,000.00, deposits in the fund required under this subdivision are suspended until the fund balance falls below \$2,000,000.00.

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

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

(ii) 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.

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

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

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

History: Add. 1989, Act 148, Eff. July 27, 1989 ;-- Am. 1996, Act 73, Imd. Eff. Feb. 26, 1996 ;-- Am. 1996, Act 384, Imd. Eff. July 24, 1996 ;-- Am. 2021, Act 139, Eff. Mar. 27, 2022 ;-- Am. 2022, Act 198, Eff. Jan. 1, 2023

Popular Name: Bottle Bill

445.573d Unclaimed deposits.

Sec. 3d.

Unclaimed deposits on returnable containers are considered to be the property of the person purchasing the returnable container and are not the property of the distributor or manufacturer who originated the deposit.

History: Add. 1989, Act 148, Eff. July 27, 1989

Popular Name: Bottle Bill

445.573e Cleanup and redevelopment trust fund.

Sec. 3e.

(1) The cleanup and redevelopment trust fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the trust fund. The state treasurer shall direct the investment of the trust fund. The state treasurer shall credit to the trust fund interest and earnings from fund investments.

(3) Money in the trust fund at the close of the fiscal year shall remain in the trust fund and shall not lapse to the general fund.

(4) The state treasurer shall annually disburse the following amounts from the trust fund:

(a) For each of the state fiscal years 1996-1997, 1997-1998, and 1998-1999, up to \$15,000,000.00 each year of money in the trust fund to the cleanup and redevelopment fund created in section 20108 of part 201 (environmental remediation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.20108 of the Michigan Compiled Laws.

(b) In addition to the disbursements under subdivision (a), each state fiscal year, 80% of the revenues received by the trust fund from disbursements under section 3c to the cleanup and redevelopment fund and 10% to the community pollution prevention fund created in section 3f.

(5) All money in the trust fund that is not disbursed pursuant to subsection (4) shall remain in the trust fund until the trust fund reaches an accumulated principal of \$200,000,000.00. After the trust fund reaches an accumulated principal of \$200,000,000.00, interest and earnings of the trust fund only shall be expended, upon appropriation, for the purposes specified in section 20113(4) of part 201 (environmental remediation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.20113 of the Michigan Compiled Laws.

(6) As used in this section, "trust fund" means the cleanup and redevelopment trust fund created in subsection (1).

History: Add. 1996, Act 384, Imd. Eff. July 24, 1996

Popular Name: Bottle Bill

445.573f Community pollution prevention fund.

Sec. 3f.

(1) The community pollution prevention fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the community pollution prevention fund. The state treasurer shall direct the investment of the community pollution prevention fund. The state treasurer shall credit to the community pollution prevention fund interest and earnings from fund investments.

(3) Money in the community pollution prevention fund at the close of the fiscal year shall remain in the community pollution prevention fund and shall not lapse to the general fund.

(4) The department of environmental quality shall expend interest and earnings of the community pollution prevention fund only, upon appropriation, for grants for the purpose of preventing pollution, with an emphasis on the prevention of groundwater contamination and resulting risks to the public health, ecological risks, and public and private cleanup costs. The department of environmental quality shall enter into contractual agreements with grant recipients, who shall include county governments, local health departments, municipalities, and regional planning agencies. Activities to be performed by grant recipients and program objectives and deliverables shall be specified in the contractual agreements. Grant recipients shall provide a financial match of not less than 25% nor more than 50%. Not more than \$100,000.00 may be granted in any fiscal year to a single recipient. Eligible pollution prevention activities include all of the following:

(a) Drinking water wellhead protection, including the delineation of wellhead protection areas and implementation of wellhead protection plans pursuant to the safe drinking water act, Act No. 399 of the Public Acts of 1976, being sections 325.1001 to 325.1023 of the Michigan Compiled Laws.

(b) The review of pollution incident prevention plans prepared by, and the inspection of, facilities whose storage or handling of hazardous materials may pose a risk to the groundwater.

(c) The identification and plugging of abandoned wells other than oil and gas wells.

(d) Programs to educate the general public and businesses that use or handle hazardous materials on pollution prevention methods, technologies, and processes, with an emphasis on the direct reduction of toxic material releases or disposal at the source.

(5) The department of environmental quality shall annually prepare a report summarizing the grants made under this section, contractual commitments made and achieved, and a preliminary evaluation of the effectiveness of this section not later than September 30, 1997, and September 30 of each year thereafter, and shall provide a copy of this report to the chairs of the house and senate appropriations subcommittees for the department of environmental quality.

History: Add. 1996, Act 384, Imd. Eff. July 24, 1996

Popular Name: Bottle Bill

445.574 Violation; penalty; separate offense; violations of section 4c; enhanced sentence; limitation.

Sec. 4.

(1) Except as provided in subsection (2) and sections 4a and 4b, a dealer, distributor, manufacturer, or other person that violates this act is subject to a fine of not less than \$100.00 or more than \$1,000.00 and is liable for the costs of prosecution. Each day a violation occurs, a separate offense is committed.

(2) Subject to subsection (3), a distributor that, with the intent to defraud or cheat, violates section 4c is guilty of a crime punishable as follows:

(a) If the filled beverage containers of the nonalcoholic beverages purchased in another state have a value of less than \$200.00, the distributor is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value, whichever is greater, or both imprisonment and a fine.

(b) If either of the following applies, the distributor is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value, whichever is greater, or both imprisonment and a fine:

(i) The filled beverage containers of the nonalcoholic beverages purchased in another state have a value of \$200.00 or more but less than \$10,000.00.

(ii) The distributor violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this subsection.

(c) If either of the following applies, the distributor is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value, whichever is greater, or both imprisonment and a fine:

(i) The filled beverage containers of the nonalcoholic beverages purchased in another state have a value of \$10,000.00 or more but less than \$20,000.00.

(ii) The distributor violates subdivision (b)(i) and has 1 or more prior convictions for committing or attempting to commit an offense under this subsection. For purposes of this subparagraph, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(d) If either of the following applies, the distributor is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$15,000.00 or 3 times the value, whichever is greater, or both imprisonment and a fine:

(i) The filled beverage containers of the nonalcoholic beverages purchased in another state have a value of \$20,000.00 or more but less than \$50,000.00.

(ii) The distributor violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(e) If either of the following applies, the distributor is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$25,000.00 or 3 times the value, whichever is greater, or both imprisonment and a fine:

(i) The filled beverage containers of the nonalcoholic beverages purchased in another state have a value of \$50,000.00 or more but less than \$100,000.00.

(ii) The distributor violates subdivision (d)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(f) If either of the following applies, the distributor is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$35,000.00 or 3 times the value, whichever is greater, or both imprisonment and a fine:

(i) The filled beverage containers of the nonalcoholic beverages purchased in another state have a value of \$100,000.00 or more.

(ii) The distributor violates subdivision (e)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(3) All of the following apply for purposes of subsection (2):

(a) The values of filled beverage containers of the nonalcoholic beverages purchased in another state in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value involved in the violation of subsection (2).

(b) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions must be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(i) A copy of the judgment of conviction.

(ii) A transcript of a prior trial, plea-taking, or sentencing.

(iii) Information contained in a presentence report.

(iv) The defendant's statement.

(c) If the sentence for a conviction under subsection (2) is enhanced by 1 or more prior convictions, those prior convictions must not be used to further enhance the sentence for the conviction under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1976, Initiated Law 1, Eff. Dec. 3, 1978 ;-- Am. 1982, Act 39, Imd. Eff. Mar. 16, 1982 ;-- Am. 1998, Act 473, Eff. Apr. 1, 1999 ;-- Am. 2021, Act 142, Eff. Mar. 27, 2022

Popular Name: Bottle Bill

445.574a Prohibited return to dealer, distributor, or manufacturer; violation; penalty; exceptions; restitution; action brought by attorney general or county prosecutor.

Sec. 4a.

(1) A person shall not return or attempt to return to a dealer for a refund 1 or more of the following:

(a) A beverage container that the person knows or should know was not purchased in this state as a filled returnable container.

(b) A beverage container that the person knows or should know did not have a deposit paid for it at the time of purchase.

(2) A person who violates subsection (1) is subject to 1 of the following:

(a) If the person returns 25 or more but not more than 100 nonreturnable containers, the person may be ordered to pay a civil fine of not more than \$100.00.

(b) If the person returns more than 100 but fewer than 10,000 nonreturnable containers, or violates subdivision (a) for a second or subsequent time, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(c) If the person returns more than 100 but fewer than 10,000 nonreturnable containers for a second or subsequent time, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(d) If the person returns 10,000 or more nonreturnable containers, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both.

(3) A dealer shall not knowingly accept from and pay a deposit to a person for a nonreturnable container or knowingly deliver a nonreturnable container to a distributor for a refund. A dealer that violates this subsection is subject to 1 of the following:

(a) If the dealer knowingly accepts from and pays a deposit on 25 or more but not more than 100 nonreturnable containers to a person, or knowingly delivers 25 or more but not more than 100 nonreturnable containers to a distributor for a refund, the dealer may be ordered to pay a civil fine of not more than \$100.00.

(b) If the dealer knowingly accepts from and pays a deposit on more than 100 but fewer than 10,000 nonreturnable containers to a person, or knowingly delivers more than 100 but fewer than 10,000 nonreturnable containers to a distributor for a refund, the dealer is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(c) If the dealer knowingly accepts from and pays a deposit on more than 100 but fewer than 10,000 nonreturnable containers to a person, or knowingly delivers more than 100 but fewer than 10,000 nonreturnable containers to a distributor for a refund, for a second or subsequent time, the dealer is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(d) If the dealer knowingly accepts from and pays a deposit on 10,000 or more nonreturnable containers to a person, or knowingly delivers 10,000 or more nonreturnable containers to a distributor for a refund, the dealer is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both.

(4) A distributor shall not knowingly accept from and pay a deposit to a dealer for a nonreturnable container or knowingly deliver a nonreturnable container to a manufacturer for a refund. A distributor that violates this subsection is subject to 1 of the following:

(a) If the distributor knowingly accepts from and pays a deposit on 25 or more but not more than 100 nonreturnable containers to a dealer, or knowingly delivers 25 or more but not more than 100 nonreturnable containers to a manufacturer for a refund, the distributor may be ordered to pay a civil fine of not more than \$100.00.

(b) If the distributor knowingly accepts from and pays a deposit on more than 100 but fewer than 10,000 nonreturnable containers to a dealer, or knowingly delivers more than 100 but fewer than 10,000 nonreturnable containers to a manufacturer for a refund, the distributor is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(c) If the distributor knowingly accepts from and pays a deposit on more than 100 but fewer than 10,000 nonreturnable containers to a dealer, or knowingly delivers more than 100 but fewer than 10,000 nonreturnable containers to a manufacturer for a refund, for a second or subsequent time, the distributor is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(d) If the distributor knowingly accepts from and pays a deposit on 10,000 or more nonreturnable containers to a dealer, or knowingly delivers 10,000 or more nonreturnable containers to a manufacturer for a refund, the distributor is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both.

(5) A dealer or distributor does not violate subsection (3) or (4) if all of the following conditions are met:

(a) An employee of the dealer or distributor commits an act that violates subsection (3) or (4).

(b) At the time the employee commits the act that violates subsection (3) or (4), the dealer or distributor had in force a written policy prohibiting its employees from knowingly redeeming nonreturnable containers.

(c) The dealer or distributor did not or should not have known of the employee's act in violation of subsection (3) or (4).

(6) In addition to the penalty described in this section, the court shall order a person found guilty of a misdemeanor or felony under this section to pay restitution equal to the amount of loss caused by the violation.

(7) The attorney general or a county prosecutor may bring an action to recover a civil fine under this section. A civil fine imposed under this section is payable to this state and shall be credited to the general fund.

History: Add. 1998, Act 473, Eff. Apr. 1, 1999 ;-- Am. 2008, Act 384, Eff. Mar. 31, 2009

Popular Name: Bottle Bill

445.574b Posting notice on dealer's premises; failure to comply; penalty.

Sec. 4b.

(1) In that portion of the dealer's premises where returnable containers are redeemed, a dealer shall post a notice that says substantially the following: "A person who returns out-of-state nonreturnable containers for a refund is subject to penalties of up to 5 years in jail, a fine of \$5,000.00, and restitution."

(2) A dealer who fails to comply with this section is subject to a civil fine of not more than \$50.00.

History: Add. 1998, Act 473, Eff. Apr. 1, 1999 ;-- Am. 2008, Act 385, Eff. Mar. 31, 2009

Popular Name: Bottle Bill

445.574c Distributor sale to dealer; 10 cent deposit; exceptions; record.

Sec. 4c.

A distributor that sells to a dealer a nonrefillable container that contains a beverage, not including beer, ale, or other malt drink of whatever alcoholic content, or a mixed wine drink or mixed spirit drink, shall originate a 10 cent deposit on that container at the time of sale to the dealer and shall maintain a record of that deposit for purposes of its required annual filing under section 3a.

History: Add. 2021, Act 140, Eff. Mar. 27, 2022

445.575 Repeal of MCL 445.191.

Sec. 5.

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

History: 1976, Initiated Law 1, Eff. Dec. 3, 1978

Popular Name: Bottle Bill

445.576 Effective date.

Sec. 6.

This act shall take effect two years after it becomes law.

History: 1976, Initiated Law 1, Eff. Dec. 3, 1978

Popular Name: Bottle Bill