



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536


 BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1391 (Substitute S-1 as reported)
Senate Bill 1392 (Substitute S-1 as reported)
Senate Bills 1393 and 1394 (as reported without amendment)
Sponsor: Senator Cameron S. Brown (S.B. 1391)
Senator Randy Richardville (S.B. 1392)
Senator Jason E. Allen (S.B. 1393)
Senator Ron Jelinek (S.B. 1394)
Committee: Commerce and Tourism

CONTENT

Senate Bill 1391 (S-1) would amend the beverage container deposit law to revise the penalties for knowingly returning nonrefundable beverage containers to a dealer for a refund, and prescribe penalties for a dealer or distributor who knowingly accepted and paid a deposit for nonreturnable containers.

Under the law, a person may not return or attempt to return to a dealer for a refund a beverage container that the person knows or should know was not purchased in Michigan as a filled returnable container or that the person knows or should know did not have a deposit paid for it at the time of purchase. A violation is punishable as shown in the following table.

Current Penalties

Nonreturnable Containers	Status	Maximum Penalty
25-100	Misdemeanor	\$100
More than 100, or a repeat violation of 25-100	Misdemeanor	93 days and/or \$500

Under the bill, a violation would be punishable as shown below.

Proposed Penalties

Nonreturnable Containers	Status	Maximum Penalty
25-100	Civil Violation	\$100
More than 100, but fewer than 10,000	Misdemeanor	93 days and/or \$1,000
Repeat violation of more than 100, but fewer than 10,000	Misdemeanor	1 year and/or \$2,000
10,000 or more	Felony	5 years and/or \$5,000

The bill also would prohibit a dealer or distributor from knowingly accepting and paying a deposit for a nonreturnable container or knowingly delivering a nonreturnable container to a distributor or manufacturer for a refund. A violation by a dealer or a distributor would be punishable as shown in the table of proposed penalties. For a violation by an employee, a dealer or distributor could raise as an affirmative defense that it had a written policy prohibiting redemption of nonreturnable containers and enforced the policy.

Senate Bill 1392 (S-1) would amend the Code of Criminal Procedure to include the felony offenses proposed by Senate Bill 1391 (S-1) in the sentencing guidelines. Each of those offenses would be a Class H felony against the public order with a statutory maximum sentence of five years.

Senate Bill 1393 would amend the beverage container deposit law to revise a requirement that a dealer post a notice in the portion of the dealer's premises where returnable containers are redeemed, informing customers of the penalty for returning out-of-State nonreturnable containers. That posting must refer to penalties of up to 93 days in jail, a fine of \$500, and restitution. Under the bill, it would have to refer to penalties of up to two years in jail, a fine of \$5,000, and restitution. A dealer who fails to comply with this requirement is subject to a maximum fine of \$50. The bill would refer to a "civil" fine.

Senate Bill 1394 would amend the beverage container deposit law to revise a provision under which a dealer is permitted, but not required, to accept empty returnable containers from a person in excess of \$25 on any given day. The bill would refer to \$5, rather than \$25. If a dealer used one or more reverse vending machines to redeem beverage containers, however, the dealer could accept, but would not be required to accept, empty returnable containers from a person for a refund that exceeded \$25 on any given day. ("Reverse vending machine" would mean a device designed to identify properly an empty returnable container and provide a means for a deposit refund.)

Senate Bills 1391 (S-1), 1393, and 1394 are tie-barred to each other. Senate Bill 1392 (S-1) is tie-barred to Senate Bill 1391.

MCL 445.574a (S.B. 1391)
777.14h (S.B. 1392)
445.574b (S.B. 1393)
445.572 (S.B. 1394)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bills 1391 (S-1) and 1392 (S-1) would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offenses involving the improper return, acceptance, or delivery of nonrefundable containers. An offender convicted of a Class H felony under the bills would receive a sentencing guidelines minimum sentence range of 0-1 month to 5-17 months. Local governments would incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$32,000. Additional penal fine revenue would benefit public libraries.

To the extent that offenders currently are convicted of a violation involving the return of fewer than 100 nonreturnable containers, changing the offense from a misdemeanor to a civil violation would reduce penal fine revenue. Civil fine revenue would be deposited in the General Fund.

Senate Bill 1393 would have an indeterminate fiscal impact on State and local government. Civil fine revenue would go to the General Fund.

Senate Bill 1394 would have an indeterminate fiscal impact on State and local government. To the extent that the bill would limit bottle returns, there could be an increase in the balance of the Bottle Deposit Fund. Of the Bottle Deposit Fund, 75% goes to the Cleanup and Redevelopment Fund, and 25% is distributed to dealers.

Date Completed: 11-14-08

Fiscal Analyst: Lindsay Hollander
Stephanie Yu

Floor\sb1391

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.