

SUBSTITUTE FOR
HOUSE BILL NO. 6441

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 section 4a (MCL 445.574a), as added by 1998 PA 473.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4a. (1) A person shall not return or attempt to return to
2 a dealer for a refund 1 or more of the following:

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

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

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

3 (a) If the person returns 25 or more but not more than 100
4 nonreturnable containers, the person ~~is guilty of a misdemeanor~~
5 ~~punishable by a fine of not more than \$100.00~~ **MAY BE ORDERED TO PAY**
6 **A CIVIL FINE OF NOT MORE THAN \$100.00.**

7 (b) If the person returns more than 100 **BUT FEWER THAN 10,000**
8 nonreturnable containers, or violates subdivision (a) for a second
9 or subsequent time, the person is guilty of a misdemeanor
10 punishable by imprisonment for not more than 93 days or a fine of
11 not more than ~~\$500.00~~ **\$1,000.00**, or both.

12 **(C) IF THE PERSON RETURNS MORE THAN 100 BUT FEWER THAN 10,000**
13 **NONRETURNABLE CONTAINERS FOR A SECOND OR SUBSEQUENT TIME, THE**
14 **PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR**
15 **NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.**

16 **(D) IF THE PERSON RETURNS 10,000 OR MORE NONRETURNABLE**
17 **CONTAINERS, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY**
18 **IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN**
19 **\$5,000.00, OR BOTH.**

20 (3) A DEALER SHALL NOT KNOWINGLY ACCEPT FROM AND PAY A DEPOSIT
21 TO A PERSON FOR A NONRETURNABLE CONTAINER OR KNOWINGLY DELIVER A
22 NONRETURNABLE CONTAINER TO A DISTRIBUTOR FOR A REFUND. A DEALER
23 THAT VIOLATES THIS SUBSECTION IS SUBJECT TO 1 OF THE FOLLOWING:

24 **(A) IF THE DEALER KNOWINGLY ACCEPTS FROM AND PAYS A DEPOSIT ON**
25 **25 OR MORE BUT NOT MORE THAN 100 NONRETURNABLE CONTAINERS TO A**
26 **PERSON, OR KNOWINGLY DELIVERS 25 OR MORE BUT NOT MORE THAN 100**
27 **NONRETURNABLE CONTAINERS TO A DISTRIBUTOR FOR A REFUND, THE DEALER**

1 MAY BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$100.00.

2 (B) IF THE DEALER KNOWINGLY ACCEPTS FROM AND PAYS A DEPOSIT ON
3 MORE THAN 100 BUT FEWER THAN 10,000 NONRETURNABLE CONTAINERS TO A
4 PERSON, OR KNOWINGLY DELIVERS MORE THAN 100 BUT FEWER THAN 10,000
5 NONRETURNABLE CONTAINERS TO A DISTRIBUTOR FOR A REFUND, THE DEALER
6 IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
7 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

8 (C) IF THE DEALER KNOWINGLY ACCEPTS FROM AND PAYS A DEPOSIT ON
9 MORE THAN 100 BUT FEWER THAN 10,000 NONRETURNABLE CONTAINERS TO A
10 PERSON, OR KNOWINGLY DELIVERS MORE THAN 100 BUT FEWER THAN 10,000
11 NONRETURNABLE CONTAINERS TO A DISTRIBUTOR FOR A REFUND, FOR A
12 SECOND OR SUBSEQUENT TIME, THE DEALER IS GUILTY OF A MISDEMEANOR
13 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF
14 NOT MORE THAN \$2,000.00, OR BOTH.

15 (D) IF THE DEALER KNOWINGLY ACCEPTS FROM AND PAYS A DEPOSIT ON
16 10,000 OR MORE NONRETURNABLE CONTAINERS TO A PERSON, OR KNOWINGLY
17 DELIVERS 10,000 OR MORE NONRETURNABLE CONTAINERS TO A DISTRIBUTOR
18 FOR A REFUND, THE DEALER IS GUILTY OF A FELONY PUNISHABLE BY
19 IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN
20 \$5,000.00, OR BOTH.

21 (4) A DISTRIBUTOR SHALL NOT KNOWINGLY ACCEPT FROM AND PAY A
22 DEPOSIT TO A DEALER FOR A NONRETURNABLE CONTAINER OR KNOWINGLY
23 DELIVER A NONRETURNABLE CONTAINER TO A MANUFACTURER FOR A REFUND. A
24 DISTRIBUTOR THAT VIOLATES THIS SUBSECTION IS SUBJECT TO 1 OF THE
25 FOLLOWING:

26 (A) IF THE DISTRIBUTOR KNOWINGLY ACCEPTS FROM AND PAYS A
27 DEPOSIT ON 25 OR MORE BUT NOT MORE THAN 100 NONRETURNABLE

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1 CONTAINERS TO A DEALER, OR KNOWINGLY DELIVERS 25 OR MORE BUT NOT
2 MORE THAN 100 NONRETURNABLE CONTAINERS TO A MANUFACTURER FOR A
3 REFUND, THE DISTRIBUTOR MAY BE ORDERED TO PAY A CIVIL FINE OF NOT
4 MORE THAN \$100.00.

5 (B) IF THE DISTRIBUTOR KNOWINGLY ACCEPTS FROM AND PAYS A
6 DEPOSIT ON MORE THAN 100 BUT FEWER THAN 10,000 NONRETURNABLE
7 CONTAINERS TO A DEALER, OR KNOWINGLY DELIVERS MORE THAN 100 BUT
8 FEWER THAN 10,000 NONRETURNABLE CONTAINERS TO A MANUFACTURER FOR A
9 REFUND, THE DISTRIBUTOR IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
10 IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN
11 \$1,000.00, OR BOTH.

12 (C) IF THE DISTRIBUTOR KNOWINGLY ACCEPTS FROM AND PAYS A
13 DEPOSIT ON MORE THAN 100 BUT FEWER THAN 10,000 NONRETURNABLE
14 CONTAINERS TO A DEALER, OR KNOWINGLY DELIVERS MORE THAN 100 BUT
15 FEWER THAN 10,000 NONRETURNABLE CONTAINERS TO A MANUFACTURER FOR A
16 REFUND, FOR A SECOND OR SUBSEQUENT TIME, THE DISTRIBUTOR IS GUILTY
17 OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1
18 YEAR OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

19 (D) IF THE DISTRIBUTOR KNOWINGLY ACCEPTS FROM AND PAYS A
20 DEPOSIT ON 10,000 OR MORE NONRETURNABLE CONTAINERS TO A DEALER, OR
21 KNOWINGLY DELIVERS 10,000 OR MORE NONRETURNABLE CONTAINERS TO A
22 MANUFACTURER FOR A REFUND, THE DISTRIBUTOR IS GUILTY OF A FELONY
23 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF
24 NOT MORE THAN \$5,000.00, OR BOTH.

25 [(5) A DEALER OR DISTRIBUTOR DOES NOT VIOLATE SUBSECTION (3) OR
26 (4) IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

27 (A) AN EMPLOYEE OF THE DEALER OR DISTRIBUTOR COMMITS AN ACT THAT

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1 VIOLATES SUBSECTION (3) OR (4).

2 (B) AT THE TIME THE EMPLOYEE COMMITS THE ACT THAT VIOLATES
3 SUBSECTION (3) OR (4), THE DEALER OR DISTRIBUTOR HAD IN FORCE A WRITTEN
4 POLICY PROHIBITING ITS EMPLOYEES FROM KNOWINGLY REDEEMING NONRETURNABLE
5 CONTAINERS.

6 (C) THE DEALER OR DISTRIBUTOR DID NOT OR SHOULD NOT HAVE KNOWN OF
7 THE EMPLOYEE'S ACT IN VIOLATION OF SUBSECTION (3) OR (4).

8]
9 (6) ~~(e) A~~ IN ADDITION TO THE PENALTY DESCRIBED IN THIS
10 SECTION, THE COURT SHALL ORDER A person found guilty ~~under this~~
11 ~~subsection shall be ordered by the court~~ OF A MISDEMEANOR OR FELONY
12 UNDER THIS SECTION to pay restitution equal to the amount of loss
13 caused by the violation.

14 (7) THE ATTORNEY GENERAL OR A COUNTY PROSECUTOR MAY BRING AN
15 ACTION TO RECOVER A CIVIL FINE UNDER THIS SECTION. A CIVIL FINE
16 IMPOSED UNDER THIS SECTION IS PAYABLE TO THIS STATE AND SHALL BE
17 CREDITED TO THE GENERAL FUND.

18 Enacting section 1. This amendatory act does not take effect
19 unless all of the following bills of the 94th Legislature are
20 enacted into law:

21 (a) Senate Bill No. 1392.

22 (b) House Bill No. 6442.