

# SENATE BILL No. 1391

June 17, 2008, Introduced by Senators BROWN, JELINEK, PAPPAGEORGE and GARCIA and referred to the Committee on Commerce and Tourism.

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

1 did not have a deposit paid for it at the time of purchase.

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

4 (a) If the person returns 25 or more but not more than 100  
5 nonreturnable containers, the person ~~is guilty of a misdemeanor~~  
6 ~~punishable by a fine of not more than \$100.00~~ **MAY BE ORDERED TO PAY**  
7 **A CIVIL FINE OF NOT MORE THAN \$500.00.**

8 (b) If the person returns more than 100 nonreturnable  
9 containers, or violates subdivision (a) for a second or subsequent  
10 time, the person is guilty of a misdemeanor punishable by  
11 imprisonment for not more than 93 days or a fine of not more than  
12 ~~\$500.00~~ **\$1,000.00**, or both.

13 **(C) IF THE PERSON RETURNS MORE THAN 100 NONRETURNABLE**  
14 **CONTAINERS FOR A SECOND OR SUBSEQUENT TIME, THE PERSON IS GUILTY OF**  
15 **A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A**  
16 **FINE OF NOT MORE THAN \$5,000.00, OR BOTH.**

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

21 (A) IF THE DEALER KNOWINGLY ACCEPTS FROM AND PAYS A DEPOSIT ON  
22 25 OR MORE BUT NOT MORE THAN 100 NONRETURNABLE CONTAINERS TO A  
23 PERSON, OR KNOWINGLY DELIVERS 25 OR MORE BUT NOT MORE THAN 100  
24 NONRETURNABLE CONTAINERS TO A DISTRIBUTOR FOR A REFUND, THE DEALER  
25 MAY BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00.

26 (B) IF THE DEALER KNOWINGLY ACCEPTS FROM AND PAYS A DEPOSIT ON  
27 MORE THAN 100 NONRETURNABLE CONTAINERS TO A PERSON, OR KNOWINGLY

1 DELIVERS MORE THAN 100 NONRETURNABLE CONTAINERS TO A DISTRIBUTOR  
2 FOR A REFUND, THE DEALER IS GUILTY OF A MISDEMEANOR PUNISHABLE BY  
3 IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN  
4 \$1,000.00, OR BOTH.

5 (C) IF THE DEALER KNOWINGLY ACCEPTS FROM AND PAYS A DEPOSIT ON  
6 MORE THAN 100 NONRETURNABLE CONTAINERS TO A PERSON, OR KNOWINGLY  
7 DELIVERS MORE THAN 100 NONRETURNABLE CONTAINERS TO A DISTRIBUTOR  
8 FOR A REFUND, FOR A SECOND OR SUBSEQUENT TIME, THE DEALER IS GUILTY  
9 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR  
10 A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

11 (4) A DISTRIBUTOR SHALL NOT KNOWINGLY ACCEPT FROM AND PAY A  
12 DEPOSIT TO A DEALER FOR A NONRETURNABLE CONTAINER OR KNOWINGLY  
13 DELIVER A NONRETURNABLE CONTAINER TO A MANUFACTURER FOR A REFUND. A  
14 DISTRIBUTOR THAT VIOLATES THIS SUBSECTION IS SUBJECT TO 1 OF THE  
15 FOLLOWING:

16 (A) IF THE DISTRIBUTOR KNOWINGLY ACCEPTS FROM AND PAYS A  
17 DEPOSIT ON 25 OR MORE BUT NOT MORE THAN 100 NONRETURNABLE  
18 CONTAINERS TO A DEALER, OR KNOWINGLY DELIVERS 25 OR MORE BUT NOT  
19 MORE THAN 100 NONRETURNABLE CONTAINERS TO A MANUFACTURER FOR A  
20 REFUND, THE DISTRIBUTOR MAY BE ORDERED TO PAY A CIVIL FINE OF NOT  
21 MORE THAN \$500.00.

22 (B) IF THE DISTRIBUTOR KNOWINGLY ACCEPTS FROM AND PAYS A  
23 DEPOSIT ON MORE THAN 100 NONRETURNABLE CONTAINERS TO A DEALER, OR  
24 KNOWINGLY DELIVERS MORE THAN 100 NONRETURNABLE CONTAINERS TO A  
25 MANUFACTURER FOR A REFUND, THE DISTRIBUTOR IS GUILTY OF A  
26 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR  
27 A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

1 (C) IF THE DISTRIBUTOR KNOWINGLY ACCEPTS FROM AND PAYS A  
2 DEPOSIT ON MORE THAN 100 NONRETURNABLE CONTAINERS TO A DEALER, OR  
3 KNOWINGLY DELIVERS MORE THAN 100 NONRETURNABLE CONTAINERS TO A  
4 MANUFACTURER FOR A REFUND, FOR A SECOND OR SUBSEQUENT TIME, THE  
5 DISTRIBUTOR IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR  
6 NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR  
7 BOTH.

8 (5) IT IS AN AFFIRMATIVE DEFENSE IN AN ACTION AGAINST A DEALER  
9 OR DISTRIBUTOR UNDER THIS SECTION FOR A VIOLATION COMMITTED BY AN  
10 EMPLOYEE OF THE DEALER OR DISTRIBUTOR THAT THE DEALER OR  
11 DISTRIBUTOR HAD IN FORCE AT THE TIME OF THE VIOLATION AND CONTINUES  
12 TO HAVE IN FORCE A WRITTEN POLICY PROHIBITING THE REDEMPTION OF  
13 NONRETURNABLE CONTAINERS BY EMPLOYEES AND THAT THE DEALER OR  
14 DISTRIBUTOR ENFORCED AND CONTINUES TO ENFORCE THE POLICY.

15 (6) ~~(c) A~~ IN ADDITION TO THE PENALTY DESCRIBED IN THIS  
16 SECTION, THE COURT SHALL ORDER A person found guilty ~~under this~~  
17 ~~subsection shall be ordered by the court~~ OF A MISDEMEANOR OR FELONY  
18 UNDER THIS SECTION to pay restitution equal to the amount of loss  
19 caused by the violation.

20 (7) THE ATTORNEY GENERAL OR A COUNTY PROSECUTOR MAY BRING AN  
21 ACTION TO RECOVER A CIVIL FINE UNDER THIS SECTION. A CIVIL FINE  
22 IMPOSED UNDER THIS SECTION IS PAYABLE TO THIS STATE AND SHALL BE  
23 CREDITED TO THE GENERAL FUND.

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

27 (a) Senate Bill No. 1394.

1

2 (b) Senate Bill No. 1393.

3