

SENATE BILL No. 1285

April 22, 2010, Introduced by Senator PATTERSON and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to require the collection and return of deposits on newspapers; to provide for the use of unredeemed newspaper deposits; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Dealer" means a person who sells or offers newspapers
3 for retail sale to people within this state, including a
4 publisher who sells or offers newspapers for retail sale and an
5 operator of a vending machine containing newspapers.

6 (b) "Department" means the department of treasury.

7 (c) "Deposit" means a deposit paid under this act by a
8 person that purchases a newspaper in this state. The amount of
9 the deposit on a newspaper is 1/2 of the retail price of the

1 newspaper, rounded up to the nearest cent if the amount of the
2 deposit is not a whole number of cents.

3 (d) "Distributor" means a publisher or other person who
4 sells newspapers to a dealer within this state.

5 (e) "Newspaper" means an unbound publication printed on
6 newsprint that contains news, editorial comment, features,
7 advertising matter, and other matters of public interest and for
8 which a price is charged. The term does not include a magazine,
9 handbill, newsletter, circular, flyer, sales catalog, or similar
10 item, even if printed for and distributed with a newspaper.

11 (f) "Operator of a vending machine" means equally its owner,
12 the person who refills it, and the owner or lessee of the
13 property upon which it is located.

14 (g) "Overredeemer" means a publisher whose annual total
15 value of deposits collected on newspapers sold within this state
16 is less than the annual total value of refunds made upon
17 newspapers redeemed within this state.

18 (h) "Person" means an individual, partnership, corporation,
19 limited liability company, association, or other legal entity.

20 (i) "Publisher" means a person who publishes or prints
21 newspapers for sale to distributors, dealers, or consumers in
22 this state.

23 (j) "Underredeemer" means a publisher whose annual total
24 value of deposits collected on newspapers sold within this state
25 exceeds annual total value of refunds made upon newspapers
26 redeemed within this state.

27 (k) "Within this state" means within the exterior limits of

1 the state of Michigan, and includes the territory within these
2 limits owned by or ceded to the Unites States of America.

3 Sec. 2. (1) A publisher shall not sell a newspaper to a
4 dealer, distributor, or consumer within this state, and a
5 distributor shall not sell a newspaper to a dealer within this
6 state, without collecting a deposit from that dealer,
7 distributor, or consumer.

8 (2) A dealer within this state shall not sell at retail a
9 newspaper to a person without collecting a deposit from the
10 person.

11 (3) A publisher shall establish 1 or more regional
12 redemption centers in this state for the redemption of
13 newspapers. At a regional redemption center, a person may return
14 more than 50% of the pages of a newspaper published or printed by
15 the publisher and the publisher shall return the full amount of
16 the deposit on that newspaper in cash to the person.

17 (4) Each newspaper sold or offered for sale by a dealer
18 within this state shall clearly indicate, by embossing or by a
19 stamp, a label, or other method securely affixed to the
20 newspaper, the amount of the deposit on the newspaper and the
21 name of this state. A publisher may, but is not required to,
22 refuse to accept from a person a newspaper that does not state
23 the amount of the deposit on the newspaper and the name of this
24 state.

25 Sec. 3. Unclaimed deposits on newspapers are considered to
26 be the property of the person purchasing the newspaper and are
27 not the property of the publisher who originated the deposit.

1 Sec. 4. (1) Not later than March 1 of each year after the
 2 effective date of this act, a publisher who originates deposits
 3 on newspapers shall file a report with the department containing
 4 the information required by subsection (2).

5 (2) The report required to be filed pursuant to subsection
 6 (1) shall indicate for the preceding calendar year the dollar
 7 value of both the total deposits collected by the publisher on
 8 newspapers sold within this state and total refunds made upon
 9 newspapers redeemed by the publisher within this state.

10 (3) The reports required to be filed pursuant to subsection
 11 (1) shall be similar to the following and contain the following
 12 information:

13 REPORT
 14 DEPOSITS ORIGINATED AND REFUNDS GRANTED ON NEWSPAPERS
 15 Reporting Period: _____
 16 Company Name: _____
 17 Company Address: _____
 18 Number and Street
 19 _____
 20 City, State, Zip
 21 \$ _____ - \$ _____ = \$ _____
 22 (Value of Deposits (Value of Refunds Made) (Difference)
 23 Originated)
 24 \$ _____ - \$ _____ = \$ _____
 25 (Difference) (Overredemption credit, (Amount owed
 26 if applicable) to department
 27 of treasury)

28 The undersigned states that the above information is true and
 29 accurate.

30 _____
 31 Signature - Owner, Manager, or
 32 Chief Executive

1
2

Date

3 Sec. 5. (1) The department may audit, assess, and collect
4 the amount of money reflecting unclaimed newspaper deposits owed
5 to this state, and enforce the obligation to pay the amount of
6 money reflecting unclaimed newspaper deposits owed to this state,
7 in the same manner as revenues and according to the provisions of
8 1941 PA 122, MCL 205.1 to 205.31.

9 (2) Not later than March 1 of each year after the effective
10 date of this act, an underredeemer shall pay to the department
11 that amount of money by which its annual total value of deposits
12 exceeds its annual total value of refunds made on redeemed
13 newspapers, subject to the overredemption credit contained in
14 this section.

15 (3) An underredeemer described in subsection (2) who becomes
16 an overredeemer in a subsequent year may credit the value of the
17 overredemption in order to reduce the amount of money owed to the
18 department under this section in 1 or more subsequent years as a
19 result of that person again becoming an underredeemer. The value
20 of the overredemption may be carried forward for not more than 3
21 years or until the credit granted in this section is completely
22 depleted, whichever occurs first.

23 (4) A publisher who no longer originates deposits may carry
24 the value of an overredemption back for prior years in order to
25 utilize its credit, and reduce the amount of underredemption owed
26 to the department under this section on a 1-time basis only.

27 Sec. 6. (1) There is created in the department a newspaper

1 deposit fund, a revolving fund administered by the department.
2 The money in the newspaper deposit fund shall not revert to the
3 general fund.

4 (2) The department shall deposit money paid to the
5 department by underredeemers in the newspaper deposit fund
6 created in subsection (1) and annually disburse all of the money
7 in the fund to the state school aid fund created in section 11 of
8 article IX of the state constitution of 1963.

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

13 Sec. 7. The department may promulgate rules to implement
14 this act pursuant to the administrative procedures act of 1969,
15 1969 PA 306, MCL 24.201 to 24.328, if the department determines
16 that rules are needed to properly implement and administer this
17 act.

18 Sec. 8. Except as provided in sections 9 and 10, a person
19 who violates this act is subject to a civil fine of not less than
20 \$100.00 or more than \$1,000.00 and is liable for the costs of
21 prosecution. Each day a violation occurs is a separate violation.

22 Sec. 9. (1) A person shall not return or attempt to return
23 to a dealer for a refund 1 or more of the following:

24 (a) All or part of a newspaper that the person knows or
25 should know was not purchased in this state.

26 (b) All or part of a newspaper that the person knows or
27 should know did not have a deposit paid for it at the time of

1 purchase.

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

4 (a) If the person returns all or part of 25 or more but not
5 more than 100 newspapers, the person is guilty of a misdemeanor
6 punishable by a fine of not more than \$100.00.

7 (b) If the person returns all or part of more than 100
8 newspapers or violates subdivision (a) for a second or subsequent
9 time, the person is guilty of a misdemeanor punishable by
10 imprisonment for not more than 93 days or a fine of not more than
11 \$500.00, or both.

12 (c) A person found guilty under this subsection shall be
13 ordered by the court to pay restitution equal to the amount of
14 loss caused by the violation.

15 Sec. 10. A publisher shall post a notice at a regional
16 redemption center that says substantially the following: "A
17 person who returns for refund an out-of-state newspaper is
18 subject to penalties of up to 93 days in jail and a fine of
19 \$500.00 and restitution.". A publisher who fails to comply with
20 this section is subject to a civil fine of not more than \$50.00.