

# HOUSE BILL No. 4971

September 14, 2011, Introduced by Rep. Kurtz and referred to the Committee on Natural Resources, Tourism, and Outdoor Recreation.

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 amended by 2008 PA 384.

## 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.

7       (2) A person who violates subsection (1) is subject to 1 of

1 the following:

2 (a) If the person returns **OR ATTEMPTS TO RETURN** 25 or more but  
3 not more than 100 nonreturnable containers, the person may be  
4 ordered to pay a civil fine of not more than \$100.00.

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

10 (c) If the person returns **OR ATTEMPTS TO RETURN** more than 100  
11 but fewer than 10,000 nonreturnable containers for a second or  
12 subsequent time, the person is guilty of a misdemeanor punishable  
13 by imprisonment for not more than 1 year or a fine of not more than  
14 \$2,000.00, or both.

15 (d) If the person returns **OR ATTEMPTS TO RETURN** 10,000 or more  
16 nonreturnable containers, the person is guilty of a felony  
17 punishable by imprisonment for not more than 5 years or a fine of  
18 not more than \$5,000.00, or both.

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

23 (a) If the dealer knowingly accepts from and pays a deposit on  
24 25 or more but not more than 100 nonreturnable containers to a  
25 person, or knowingly delivers 25 or more but not more than 100  
26 nonreturnable containers to a distributor for a refund, the dealer  
27 may be ordered to pay a civil fine of not more than \$100.00.

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

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

14 (d) If the dealer knowingly accepts from and pays a deposit on  
15 10,000 or more nonreturnable containers to a person, or knowingly  
16 delivers 10,000 or more nonreturnable containers to a distributor  
17 for a refund, the dealer 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 (4) A distributor shall not knowingly accept from and pay a  
21 deposit to a dealer for a nonreturnable container or knowingly  
22 deliver a nonreturnable container to a manufacturer for a refund. A  
23 distributor that violates this subsection is subject to 1 of the  
24 following:

25 (a) If the distributor knowingly accepts from and pays a  
26 deposit on 25 or more but not more than 100 nonreturnable  
27 containers to a dealer, or knowingly delivers 25 or more but not

1 more than 100 nonreturnable containers to a manufacturer for a  
2 refund, the distributor may be ordered to pay a civil fine of not  
3 more than \$100.00.

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

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

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

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

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

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

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

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

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