

## ESTABLISH PENALTY FOR ATTEMPTING TO RETURN NON-RETURNABLE CONTAINERS

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House Bills 4051 and 4092

Sponsor: Rep. Kenneth Kurtz

Committee: Regulatory Reform

Complete to 2-15-13

### A SUMMARY OF HOUSE BILLS 4051 & 4092 AS INTRODUCED 1-22-13

House Bill 4051 would amend the Michigan beverage Containers Initiated Law 1 of 1976 (commonly referred to as the Bottle Deposit Law) to establish penalties for *attempting* to return non-returnable containers. Current law (MCL 445.574a) prohibits returning or attempting to return non-returnable containers but the penalties in statute only apply to the individuals that have actually returned the containers. The bill would extend the existing penalties referenced below to also apply to the action of *attempting* to return the same quantities of non-returnable containers.

Currently, individuals are prohibited from returning or attempting to return beverage containers that the person knows or should have known (1) were not purchased in the state or (2) did not have a deposit paid at the time of purchase. Individuals found in violation of either provision are subject to the following penalties:

- For returning between 25 and 100 non-returnable containers, a maximum civil fine of \$100.
- For returning between 100 and 10,000 non-returnable containers or a second offense of returning between 25 and 100 nonreturnable containers, a misdemeanor punishable by up to 93 days imprisonment and/or a maximum fine of \$1,000.
- For returning between 100 and 10,000 non-returnable containers for a second or subsequent time, a misdemeanor punishable by up to one-year imprisonment and/or a maximum fine of \$2,000.
- For returning 10,000 or more non-returnable containers, a Class H felony against the public order punishable by up to five years imprisonment and/or a maximum fine of \$5,000.

House Bill 4092 would make a complementary amendment to the Code of Criminal Procedure to establish the felony penalty for attempting to return non-returnable containers in the sentencing guidelines. (This applies to the category of returning or attempting to return 10,000 or more non-returnables.) It appears that this would be the only Class H felony for which an attempt would be subject to the sentencing guidelines provisions.

## **FISCAL IMPACT:**

To the extent that the bill results in a greater number of convictions, it could increase costs on state and local correctional systems. Information is not available on the number of persons that might be convicted under these provisions. New felony convictions could result in increased costs related to state prisons, county jails, and/or state probation supervision. New misdemeanor convictions could increase costs related to county jails and/or local misdemeanor probation supervision. The average cost of prison incarceration in a state facility is roughly \$35,500 per prisoner per year, a figure that includes various fixed administrative and operational costs. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. State costs for parole and felony probation supervision average about \$3,000 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

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