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Senate Bills 1112 and 1113 (as introduced 11-14-24)

Sponsor: Senator Sean McCann

Committee: Energy and Environment

Date Completed: 12-5-24

## **INTRODUCTION**

The bills would expand Michigan's bottle deposit Law and create several funds supported by deposits. Currently, Michigan law allows residents to return soft drink, soda water, non-alcoholic carbonated drink, beer, ale, and other malt drink bottles to a dealer from which it was purchased to receive a partial refund. Senate Bill 1112 would expand the Law to require dealers to accept and grant the full refund value for an empty bottle of any kind, size, and brand sold in the State, regardless of whether the container was sold by that dealer. Additionally, the bill would create the Beverage Container Handling Fund and the Resource Recovery Fund. Money from the Beverage Container Handling Fund would be used to fund several departments in their administration of the bottle deposit law, the Bottle Bill Enforcement Fund, and the Resource Recovery Fund. The Department of Environment, Great Lakes, and Energy (EGLE) could spend money from the Resource Recovery Fund to fund consumer education, research grants, and system improvement grants. Senate Bill 1112 also would modify disbursement requirements for several funds.

## **BRIEF FISCAL IMPACT**

The bills would have an indeterminate fiscal impact on State government and on local units of government. The impact that the inclusion of new beverage container types for deposit would have on State revenue is unknown. The amount deposited into the Bottle Deposit Fund could increase or decrease depending on potential changes to redemption rates, while \$60.0 million of Corporate Income Tax revenue would be deposited into the new Beverage Container Handling Fund in Fiscal Year (FY) 2026-27. As a result, the deposit to the General Fund would decrease by \$60.0 million that FY. The amount of the deposit would be indexed to inflation and thus would likely increase each year.

The bills would modify the distributions from the Bottle Deposit Fund to reduce the portion disbursed to the Cleanup and Redevelopment Trust Fund, disburse funding to the newly-created Water Security Fund, and alter distribution amounts to dealers, distributors, and manufacturers. The Beverage Container Handling Fund would be divided among EGLE, the Department of Licensing and Regulatory Affairs (LARA), the Department of State Police (MSP), and the Attorney General (AG). The majority of the deposit would be disbursed to the new Resource Recovery Fund in EGLE. Upon appropriation, MSP and the AG would receive additional funds for enforcement and investigation activities. Administrative costs and possibly staffing needs would increase for each of these departments as well as for the Department of Treasury, but it is likely that the specified distributions would cover most of these expenditures.

MCL 445.571 et al. (S.B. 1112)  
206.695 (S.B. 1113)

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## **CONTENT**

**Senate Bill 1112** would amend Initiated Law 1 of 1976, which governs bottle deposits in the State, to do the following:

- Require a dealer to accept an empty returnable container of any kind, size, and brand sold in the State, regardless of whether the container was sold by that dealer.
- Create the Beverage Container Handling Fund within the State Treasury and prescribe how money in the Beverage Container Handling Fund could be spent.
- Modify current disbursement requirements of the Bottle Deposit Fund.
- Provide that money in the Bottle Bill Enforcement Fund at the close of the fiscal year would lapse to the Resource Recovery Fund.
- Require the Department of Treasury to spend, on appropriation, 25% or \$10.0 million of the annual deposits to the Cleanup and Redevelopment Trust Fund (Trust Fund), whichever was less, for certain purposes described in the Natural Resources and Environmental Protection Act (NREPA).
- Raise the cap on the Trust Fund's allowed accumulated principal from \$200.0 million to \$500.0 million.
- Create the Resource Recovery Fund in the State Treasury and prescribe the purposes for which its funds could be spent.
- Require any department with data regarding the performance of the Law to share that data with EGLE by March 1 of every year.
- Require EGLE, by April 1 of every year, to make publicly available on the Department's website data on the performance of the Act.
- Require the Department of the Attorney General (DAG) to contribute to the MSP's report on the enforcement of the Law, due March 2025.
- Repeal Section 2a of the Law, which prescribes the circumstances under which certain types of beverage containers could *not* be sold.

**Senate Bill 1113** would amend the Income Tax Act to require the Department of Treasury to do the following:

- Beginning with FY 2026-2027, deposit \$50.0 million of the State's income tax revenue to be deposited in the Michigan Housing and Community Development Fund.
- Beginning with the 2026-2027 State FY, if available, deposit \$60.0 million of the State's income tax revenue to be deposited into the Beverage Container Handling Fund and, for each State FY after, require this amount to be adjusted annually for inflation using the United States Consumer Price Index.

Senate Bill 1113 is tie-barred to Senate Bill 1112. The bills would not take effect unless approved by a majority of the State's electors voting on the question at the general election to be held November 3, 2026. If approved by the electors, Senate Bill 1113 would take effect six months after the date of the official declaration of the vote.

### **Senate Bill 1112**

#### **Beverage Containers**

Generally, the Law prohibits a dealer from selling, offering for sale, or giving to a consumer a nonreturnable container or a beverage in a nonreturnable container. "Dealer" means a person who sells or offers for sale to consumers within the State a beverage in a beverage

container, including an operator of a vending machine containing a beverage in a beverage container.

A dealer must accept from a person an empty returnable container of any kind, size, and brand sold or offered for sale by that dealer and pay to that person its full refund value in cash. The bill would require a dealer to accept and pay the full refund value for an empty returnable container of any kind, size, and brand sold *in the State*, regardless of whether the container was sold by that dealer.

"Returnable container" means a beverage container upon which a deposit of at least 10 cents has been paid or is required to be paid upon the removal of the container from the sale or consumption area, and for which a refund of at least 10 cents in cash is payable by every dealer or distributor in the State of that beverage in beverage containers.

Currently, "beverage container" means an airtight metal, glass, paper, or plastic container, or a container composed of a combination of these materials, which, at the time of sale, contains one gallon or less of a beverage. The bill would specify that the term would not include a container that contains milk or infant formula at the time of sale, a container that contains 1/2 gallon or more of fruit or vegetable juice at sale, or a freezable container.

Currently, "beverage" means a soft drink, soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drink; beer, ale, or other malt drink of whatever alcoholic content; or a mixed wine drink or a mixed spirit drink. The bill would modify the definition to read: a soft drink, soda water, natural or mineral water, or a nonalcoholic carbonated or noncarbonated drink in liquid form and intended for internal human consumption; beer, ale, or other malt drink of whatever alcoholic content; or liquor, wine, or a mixed wine drink or a mixed spirit drink.

#### The Beverage Container Handling Fund

The bill would create the Beverage Container Handling Fund within the State Treasury. The State Treasurer would have to deposit money and other assets received from any source in the Beverage Container Handling Fund. The State Treasurer also would have to direct the investment of money in the Beverage Container Handling Fund and credit interest and earnings from the investments to the Beverage Container Handling Fund. Money in the Beverage Container Handling Fund at the close of the fiscal year would remain in the Beverage Container Handling Fund and would not lapse to the General Fund. The Department of Treasury would be the administrator of the Beverage Container Handling Fund for auditing purposes.

The bill would require the Department of Treasury to spend money from the Beverage Container Handling Fund, on appropriation, in the following manner:

- 1.5% to EGLE for staffing and programs related to the Act.
- 6% to EGLE for marketing participation and compliance with the Act.
- 1.5% to the Department of Licensing and Regulatory Affairs for staffing and programs related to the Act.
- 6% to the Bottle Bill Enforcement Fund (see Bottle Enforcement Fund).
- 85% to the Resource Recovery Fund (see Resource Recovery Fund) for system improvement grants.

Additionally, the Department of Treasury would have to halve and disburse money from the Fund, on appropriation, to the MSP and the DAG to use in enforcing the Act and investigating violations of the Act. The bill would require the MSP and DAG to enforce the Act.

### The Bottle Deposit Fund

The Bottle Deposit Fund is a revolving fund administered by the Department of Treasury. The Department must deposit the money paid to the Department by underredeemers, less any amount refunded by the Department to overredeemers, into the Bottle Deposit Fund.

The Department is required to annually deposit the first \$1.0 million into the Bottle Bill Enforcement Fund (see Bottle Bill Enforcement Fund below); however, if the Bottle Bill Enforcement Fund balance at the end of the fiscal year is greater than \$3.0 million, deposits in the Bottle Bill Enforcement Fund are suspended until the Bottle Bill Enforcement Fund's balance falls below \$2.0 million. After disbursing the first \$1.0 million, the Department is required to disburse 75% of the remainder to the Cleanup and Redevelopment Trust Fund (Trust Fund) and 25% to dealers to be apportioned to each dealer based on the number of empty returnable containers handled by a dealer as determined by the Department. The bill would delete these provisions.

Instead, the bill would require the Department to annually disburse funds in the following manner:

- 5% to manufacturers based on the number of empty returnable containers redeemed.
- 20% to distributors based on the number of empty returnable containers redeemed.
- 25% to dealers and redemption centers based on the number of empty returnable containers redeemed.
- 50% to the Trust Fund.

### The Bottle Bill Enforcement Fund

The Bottle Bill Enforcement Fund is a revolving fund administered by the Department of Treasury. Currently, the money deposited in the Bottle Bill Enforcement Fund at the close of the FY remains in the Bottle Bill Enforcement Fund and does not lapse to the General Fund. Under the bill, money deposit in this fund at the close of the FY would lapse to the Resource Recovery Fund (see Resource Recovery Fund).

### The Cleanup and Redevelopment Trust Fund

The State Treasurer directs the investment of the Trust Fund. The State Treasurer is required to disburse 80% of the Trust Fund to the Cleanup and Redevelopment Fund and 10% to the Community Pollution Prevention Fund.

In addition to its current disbursements, the bill would require the Department of Treasury to spend, on appropriation, 25% or \$10.0 million of the annual deposits to the Trust Fund, whichever was less, for the purposes specified in Section 20113(4) of NREPA. (Section 20113(4) of NREPA requires the Cleanup and Redevelopment Fund to be spent for superfund matching, emergency response actions for facilities to be determined by EGLE, response activities to address actual or potential public health or environmental problems, and response activities that facilitate redevelopment of urbanized areas).

Currently, all money in the Trust Fund that is not disbursed remains in the Trust Fund until the Trust Fund reaches an accumulated principal of \$200.0 million. After the Trust Fund reaches this accumulated principal, the interest and earnings of the Trust Fund must be spent, on appropriation, for the purposes of Section 20113(4) of the NREPA. The bill would raise the cap on accumulated principal to \$500.0 million.

## The Resource Recovery Fund

The bill would create the Resource Recovery Fund in the State Treasury. The State Treasurer would have to deposit money and other assets received from the Beverage Container Handling Fund or from any other source in the Resource Recovery Fund. The State Treasurer also would have to direct the investment of the Resource Recovery Fund and credit interest and earnings from the investments to the Resource Recovery Fund, and EGLE would be the administrator of the Resource Recovery Fund for auditing purposes.

Additionally, EGLE could spend money from the Resource Recovery Fund, on appropriation, only for one or more of the following purposes:

- Consumer education related to the Act, including changes made to or rules promulgated under the Act by the bill.
- Grants to nonprofit organizations and institutions of higher learning conducting research or developing policy or practices related to increasing the scope, efficiency, and effectiveness of the Act.
- System improvement grants used to 1) purchase new equipment and technology to expand the capacity to process materials by a public or private materials recovery facility or a beverage manufacturer, distributor, or dealer, or 2) operations and equipment costs for pilot programs that did not exceed five years.

## Data and Reporting

The bill would require any department with data regarding the performance of the Act to share that data with EGLE by March 1 of every year.

By April 1 of every year, EGLE would have to make publicly available on the Department's website data on the performance of the Act that EGLE had or had received, including all the following:

- Performance of the deposit return system compared to the annual target return rate.
- The number of beverage containers composed of each type of material for which a deposit was initiated, by county.
- The number of beverage containers composed of each type of material for which a deposit was redeemed, by county.
- The value of, contributions from, and expenditures from the Beverage Container Handling Fund, the Bottle Bill Enforcement Fund, the Bottle Deposit Fund, the Cleanup and Redevelopment Trust Fund, the Community Pollution Prevention Fund, and the Resource Recovery Fund.

"Annual target return rate" would mean a return rate of 85% in a given year. "Return rate" would mean the total number of returnable beverage containers redeemed divided by the total number of returnable beverage containers sold for which a deposit was originated.

Additionally, Public Act 139 of 2021 amended the Law to require the MSP to report to the Legislature on the efficacy of the MSP in enforcing the Law. The report must contain at least the minimum number of beverage and deposit containers seized and the deposit value in the State of those containers. The report is due March 27, 2025. The bill would require the DAG to contribute to this report on the enforcement of the Law.

## Additional Definitions

Under the bill, "brand" would mean any word, name, group of letters, symbol, or trademark,

or any combination of them, adopted and used by a manufacturer to identify a specific flavor or type of beverage and to distinguish that flavor or type of beverage from another beverage produced or marketed by that manufacturer or another manufacturer.

Under the bill, "institution of higher learning" would mean that term as defined in 38 USC 3452(f): a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree.

Currently, "person" means an individual, partnership, corporation, association, or other legal entity. The bill would add a limited liability company to the definition.

### Repeal

The bill would repeal Section 2a of the Law, which prescribes the circumstances under which a 12-ounce metal beverage container, a 12-ounce glass beverage container, or a 20-ounce plastic beverage container that was not a designated metal, glass, or plastic container could *not* be sold.

### **Senate Bill 1113**

Under the bill, beginning with FY 2026-2027, \$50.0 million of the State's income tax revenue would have to be deposited in the Michigan Housing and Community Development Fund. After this deposit, if available, \$60.0 million of the State's income tax revenue would have to be deposited into the Beverage Container Handling Fund (see **Senate Bill 1112**). For each State fiscal year after FY 2026-2027, this amount would have to be adjusted annually for inflation using the United States Consumer Price Index.<sup>1</sup>

After these deposits, the balance of the revenue collected for that fiscal year would have to be deposited to the General Fund.

### **FISCAL IMPACT**

The bills would have an indeterminate fiscal impact on State government and on local units of government.

### Bottle Deposit Fund

The impact that the inclusion of new beverage container types for deposit would have on State revenue is unknown. If the redemption rate remained the same as under current law, increased revenue would be deposited into the Bottle Deposit Fund due to the increase in the overall volume of containers for which deposits were paid but not refunded to customers.

If the inclusion of new container types were to result in an increase in redemptions, the amount deposited into the Bottle Deposit Fund likely would decrease, though, as noted above, this could be partially offset by the large volume of newly eligible containers. It is also possible that increased investment in redemption centers, machines, and other system improvements funded under the bill would encourage more customers to redeem deposit containers, with

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<sup>1</sup> "United States Consumer Price Index" would mean the United States Consumer Price Index for all urban consumers as defined and reported by the United States Department of Labor, Bureau of Labor Statistics.

the same result. Conversely, if the changes were to result in a decrease in the rate of return of eligible containers, then the amount deposited into the Bottle Deposit Fund could increase.

Senate Bill 1112 would alter the required disbursements from the Bottle Deposit Fund. Currently, 75% is deposited into the Cleanup and Redevelopment Trust Fund and the remaining 25% is paid to dealers in proportion to the number of containers handled by each dealer. Under the bill, 50% would be distributed to the Trust Fund, while 25% would go to dealers and redemption centers, 20% to distributors, and 5% to manufacturers, each based on the number of empty containers redeemed.

Beverage Container Handling Fund

Senate Bill 1112 also would create the Beverage Container Handling Fund in the Department of Treasury. Senate Bill 1113 would require \$60.0 million of Corporate Income Tax revenue to be deposited into the Handling Fund beginning in FY 2026-27, should revenue be available. Treasury would adjust this amount annually using the U.S. Consumer Price Index. The creation and management of this Fund likely would result in administrative costs for Treasury. It is possible that the Fund revenue could be appropriated to permit administrative activities, although this is not specified in the bills. In FY 2024-25, \$250,000 was appropriated to Treasury from the Bottle Deposit Fund for administrative activities related to bottle deposit law.

Based on an appropriation of \$60.0 million, Table 1 below summarizes the amounts that would be spent from the Handling Fund:

**Table 1**

<b>Percent</b>	<b>Amount</b>	<b>Recipient</b>	<b>Purpose</b>
85%	\$51.0 million	EGLE	Deposited into Resource Recovery Fund for system improvement grants
6%	3.6 million	Bottle Bill Enforcement Fund	N/A
6%	3.6 million	EGLE	Staffing and programs related to the Act
1.5%	900,000	EGLE	Marketing participation and compliance with the Act
1.5%	900,000	LARA	Staffing and programs related to the Act

It is expected that these funding amounts would be sufficient to cover related expenditures for EGLE and LARA; however, the bill also includes language requiring a conflicting distribution of funds from the Beverage Container Handling Fund. This portion of the bill requires 50% of the money in the Handling Fund to be disbursed, upon appropriation, to the MSP. Current FY 2024-25 appropriations from the Fund to the MSP total \$1.0 million. Under the bills, this amount would increase to \$30.0 million beginning in FY 2026-27. Funds are used for bottle deposit law enforcement within MSP’s Investigative Services Division and its Commercial Vehicle Enforcement Division.

The bill also would require 50% of the money in the Handling Fund to be distributed to the DAG. The DAG could have increased expenses associated with enforcement of the Act; however, as per the language of the bills, the AG would receive an additional \$30.0 million, annually, to cover these expenses. No additional full-time equivalents (FTEs) would be included in the bill, but could be included in future appropriations. The average annual cost of an FTE is approximately \$138,900.

Currently, money deposited into the Bottle Bill Enforcement Fund remains in the Fund at the close of the fiscal year. Under Senate Bill 1112, the funds deposited at the close of the fiscal

year would instead lapse to the newly-created Resource Recovery Fund. As there are no distributions specified from the Enforcement Fund in the bills, \$3.6 million would lapse to Resource Recovery Fund each year beginning in FY 2026-27. The Department of Treasury likely would incur some administrative costs associated with directing the investment of the Resource Recovery Fund, but existing appropriations likely would be adequate to cover these costs.

In addition, it is possible that local units of government could experience minor changes in expenditures due to the bills. The expansion of the bill to new types of beverage containers could potentially result in decreased litter to be collected or reduce local volumes of trash and recycling.

#### Resource Recovery Fund

Under the bills, EGLE would be responsible for spending money from the Resource Recovery Fund upon appropriation. Under the first described distribution of the Handling Fund included in Senate Bill 1112, 85% of the funds deposited into the Beverage Container Handling Fund would be directed to the Recovery Fund to be used for system improvement grants. The Fund could receive deposits from other sources for system improvement grants and other specified purposes upon appropriation.

#### Cleanup and Redevelopment Trust Fund

Senate Bill 1112 would decrease the percentage of the Bottle Deposit Fund distributed to the Cleanup and Redevelopment Trust Fund from 75% to 50%. Based on FY 2022-23 redemption rates and deposit amounts, deposits from the Bottle Deposit Fund into the Cleanup and Redevelopment Trust Fund would decrease from about \$78.7 million to about \$52.5 million; however, it should be noted that these figures do not account for the increase in eligible container types included in the bill.

Senate Bill 1112 also would specify that the lesser of 25% or \$10.0 million of deposits into the Cleanup and Redevelopment Trust Fund would have to be used for certain environmental cleanup and programming purposes. The remaining percent distributions from the Trust Fund would remain the same as under current law, but each of the funds would receive a smaller percentage of the total Cleanup and Redevelopment Trust Fund deposit compared to current law due to this new initial distribution. These distributions include the Cleanup and Redevelopment Fund and the Community Pollution Prevention Fund; however, it is not possible to determine whether the changes in the bill would result in decreased or increased revenue to these funds. These funds are typically spent, upon appropriation, by EGLE.

The bill would not alter the current distributions from the Trust Fund; however, it would increase the cap on the Trust Fund balance from \$200.0 million to \$500.0 million. Upon reaching the cap, interest and earnings from the Trust Fund are required to be appropriated for environmental remediation purposes.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.