REVERSE VENDING MACHINE ANTIFRAUD ACT

Act 387 of 2008

AN ACT to provide standards for reverse vending machines; to prohibit the use, replacement, leasing, transfer, and sales of certain designs of reverse vending machines; to prescribe penalties; and to provide for the powers and duties of certain state and local governmental officers and entities.

History: 2008, Act 387, Eff. Dec. 1, 2009
Compiler's Notes: Enacting section 1 of Act 387 of 2008 provides:"Enacting section 1. This act takes effect on the date that deposits into the beverage container redemption antifraud fund created in the beverage container redemption antifraud act from money appropriated by the legislature equal or exceed $1,000,000.00."

The People of the State of Michigan enact:

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445.651 Short title.

Sec. 1.

This act shall be known and may be cited as the "reverse vending machine antifraud act".

History: 2008, Act 387, Eff. Dec. 1, 2009
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445.653 Definitions.

Sec. 3.

As used in this act:

(a) "Beverage container" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(b) "Beverage container law" means 1976 IL 1, MCL 445.571 to 445.576.

(c) "Brand" means 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.

(d) "Dealer" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(e) "Department" means the department of treasury.

(f) "Designated glass container" means a 12-ounce glass beverage container that contains a symbol, mark, or other distinguishing characteristic that allows a reverse vending machine to determine if the beverage container is or is not a returnable container.

(g) "Designated metal container" means a 12-ounce metal beverage container that contains a symbol, mark, or other distinguishing characteristic that allows a reverse vending machine to determine if the beverage container is or is not a returnable container.

(h) "Designated plastic container" means a 20-ounce plastic beverage container that contains a symbol, mark, or other distinguishing characteristic that allows a reverse vending machine to determine if the beverage container is or is not a returnable container.

(i) "Distributor" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(j) "Glass beverage container" means a beverage container composed primarily of glass.

(k) "Install" or "installation" means to equip an existing, new, or replacement reverse vending machine with vision technology for designated metal, plastic, or glass containers, including all reasonable and necessary technology, equipment, hardware, software, and labor and including 1 year of service by the reverse vending machine vendor.

(l) "Law enforcement agency" means the attorney general or a law enforcement agency as defined in section 2804 of the public health code, 1978 PA 368, MCL 333.2804.

(m) "Lease" does not include to renew or extend an existing lease for an existing reverse vending machine at the same location.

(n) "Manufacturer" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(o) "Metal beverage container" means a beverage container composed primarily of metal.

(p) "Nonreturnable container" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(q) "Person" means an individual, partnership, corporation, association, limited liability company, governmental entity, or other legal entity. The term includes a dealer, distributor, or manufacturer.

(r) "Plastic beverage container" means a beverage container composed primarily of plastic.

(s) "Returnable container" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(t) "Reverse vending machine" means a device designed to properly identify and process empty beverage containers and provide a means for a deposit refund on returnable containers.

(u) "Reverse vending machine manufacturer" means a person that engages in any of the following and the representatives of that person:

(i) Designing or manufacturing a reverse vending machine.

(ii) Selling or leasing a reverse vending machine to a dealer in this state.

(iii) Servicing or replacing a reverse vending machine of a dealer in this state.

(v) "Update" means to install vision technology for designated metal, plastic, or glass beverage containers in an existing, new, or replacement reverse vending machine.

(w) "Vision technology" means a camera or other scanning device that allows a reverse vending machine to determine if beverage containers are returnable containers based on symbols, marks, or other distinguishing characteristics on the beverage containers.

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445.655 Installation of vision technology.

Sec. 5.

Not later than 450 days after the effective date of this act, a reverse vending machine manufacturer shall begin installing vision technology into a sufficient sample of reverse vending machines that process glass beverage containers and plastic beverage containers and conducting testing of that vision technology in a commercial environment or other testing environment that is substantially similar to a commercial environment.

History: 2008, Act 387, Eff. Dec. 1, 2009

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445.657 Reverse vending machine used in county that borders another state or county in Lower Peninsula contiguous with county that borders another state; processing metal beverage containers; requirements; extension of date.

Sec. 7.

(1) Subject to subsection (2), beginning 360 days after the effective date of this act, a reverse vending machine manufacturer shall not lease, sell, or otherwise transfer a reverse vending machine that processes metal beverage containers for use in any county of this state that borders another state, or any county in the Lower Peninsula that is contiguous with a county of this state that borders another state, and a dealer shall not use a reverse vending

machine that processes metal beverage containers in any of those counties, if the reverse vending machine does not meet the following standards:

(a) It identifies at least 85% of appropriately marked and legible designated metal containers that are or are not nonreturnable containers, and authorizes or provides a refund only for those containers identified as returnable containers or refuses to provide or authorize a refund for those containers identified as nonreturnable containers.

(b) It maintains accurate data concerning the number of beverage containers accepted by that reverse vending machine, categorized according to the distributor of those beverage containers.

(2) If a reverse vending machine manufacturer demonstrates to the department's satisfaction that material and technical issues prevent the reverse vending machine manufacturer from meeting the requirements of subsection (1) by the date described in that subsection, the department may grant an extension of that date of not more than 180 days.

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445.659 Reverse vending machine used in county that borders another state or county in Lower Peninsula contiguous with county that borders another state; processing glass or plastic beverage containers; requirements; extension of date.

Sec. 9.

(1) Subject to subsection (2), beginning 720 days after the effective date of this act, a reverse vending machine manufacturer shall not lease, sell, or otherwise transfer a reverse vending machine that processes glass beverage containers or plastic beverage containers for use in any county of this state that borders another state, or any county in the Lower Peninsula that is contiguous with a county of this state that borders another state, and a dealer shall not use a reverse vending machine that processes glass beverage containers or plastic beverage containers in any of those counties, if the reverse vending machine does not meet the following standards:

(a) It identifies at least 85% of appropriately marked and legible designated glass containers and designated plastic containers that are or are not nonreturnable containers, and authorizes or provides a refund only for those containers identified as returnable containers or refuses to provide or authorize a refund for those containers identified as nonreturnable containers.

(b) It maintains accurate data concerning the number of beverage containers accepted by that reverse vending machine, categorized according to the distributor of those beverage containers.

(2) If a reverse vending machine manufacturer demonstrates to the department's satisfaction that material and technical issues prevent the reverse vending machine manufacturer from meeting the requirements of subsection (1) by the date described in that subsection, the department may grant an extension of that date of not more than 180 days. The department may grant a second extension of not more than an additional 180 days, but only if the department determines that the reverse vending machine manufacturer gave its best effort to meeting the requirements of subsection (1) before the end of the first extension.

History: 2008, Act 387, Eff. Dec. 1, 2009
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445.661 Change, alteration, or modification; prohibitions.

Sec. 11.

A person shall not change, alter, or modify a reverse vending machine used or intended for use in this state in a manner designed to prevent the reverse vending machine from meeting the standards described in section 7(1) or 9(1). A person shall not assist another person's efforts to change, alter, or modify a reverse vending machine used

or intended for use in this state in a manner designed to prevent the reverse vending machine from meeting the standards described in section 7(1) or 9(1).

History: 2008, Act 387, Eff. Dec. 1, 2009
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445.663 Fraudulent change, alteration, or modification; data; retention; availability for inspection.

Sec. 13.

(1) A person shall not fraudulently change, alter, or modify data described in section 7(1) or 9(1) or assist another person's efforts to fraudulently change, alter, or modify data described in section 7(1) or 9(1).

(2) Each dealer shall retain the data described in sections 7(1) and 9(1) for at least 2 years, shall make any of that data concerning brands distributed by a distributor that provides a refund to the dealer under section 2(6) of the beverage container law, MCL 445.572, available for inspection by that distributor, and shall provide copies of that data to that distributor on request.

History: 2008, Act 387, Eff. Dec. 1, 2009
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445.665 Inspection; investigation of complaint; notice of violation; installation or update to comply with requirements.

Sec. 15.

(1) Each dealer shall allow the department and any law enforcement agency to inspect the dealer's reverse vending machines and the data described in sections 7(1) and 9(1) for the purpose of enforcing this act.

(2) If the department receives a complaint of a violation of this act, the department shall investigate to determine if a violation of this act has occurred.

(3) If the department determines or discovers that a violation of this act has occurred, the department shall notify the appropriate law enforcement agency of the violation.

(4) The department shall not require that a dealer or reverse vending machine manufacturer install or update a reverse vending machine to meet the requirements of section 7(1) or 9(1) unless the department first establishes under the beverage container redemption antifraud act that the dealer must install or retrofit the reverse vending machines at a retail location in order to meet the requirements of section 7(1) or 9(1) and makes money available for that installation or update under the beverage container redemption antifraud act.

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445.667 Violations; penalties; restitution.

Sec. 17.

(1) A person who violates section 11 or 13(1) is guilty of a felony punishable by imprisonment for not more than

2 years or a fine of not more than $10,000.00, or both.

(2) Except as provided in subsection (1), and subject to subsections (3) and (4), a person that violates this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $5,000.00, or both.

(3) A dealer or reverse vending machine manufacturer is not considered in violation of section 7(1) or 9(1) if the department has not made money available to the reverse vending machine manufacturer under the beverage container redemption antifraud act to update the dealer's reverse vending machines.

(4) A dealer is not considered in violation of the requirements imposed on a dealer in section 7(1) or 9(1) if the dealer is using the reverse vending machines of a reverse vending machine manufacturer and the reverse vending machines of that reverse vending machine manufacturer cannot be retrofitted due to the lack of technology to meet the standards described in subdivisions (a) and (b) of section 7(1) or 9(1).

(5) In addition to the penalty imposed under subsection (1) or (2), a court shall order a person convicted of a violation of this act to make restitution to this state and to any dealer or distributor for any loss caused by the violation.

History: 2008, Act 387, Eff. Dec. 1, 2009

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445.669 Report.

Sec. 19.

Within 4 years after the effective date of this act, the department shall provide a written report to the governor, the speaker of the house of representatives, and the senate majority leader. The report shall include a status report concerning the implementation of this act and the beverage container redemption antifraud act, the department's analysis of the effectiveness of these acts in reducing the redemption of nonreturnable containers in this state, the department's recommendation concerning whether the requirements of sections 7(1) and 9(1) should be extended to apply to reverse vending machines located in areas of the state not included in those sections, and any other recommendations the department may have for changes to these acts or other legislative action to reduce the redemption of nonreturnable containers in this state.

History: 2008, Act 387, Eff. Dec. 1, 2009

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