BEVERAGE CONTAINER REDEMPTION ANTIFRAUD ACT

Act 388 of 2008

AN ACT to provide state payments to reverse vending machine manufacturers for the cost of retrofitting certain reverse vending machines; to provide money to certain dealers for the purchase of certain new reverse vending machines; to create the beverage container redemption antifraud fund; and to provide for the powers and duties of certain state governmental officers and entities.

History: 2008, Act 388, Imd. Eff. Dec. 29, 2008

The People of the State of Michigan enact:

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445.631 Short title.

Sec. 1.

This act shall be known and may be cited as the "beverage container redemption antifraud act".

History: 2008, Act 388, Imd. Eff. Dec. 29, 2008

445.633 Definitions.

Sec. 3.

As used in this act:

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

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

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

(d) "Designated glass container", "designated metal container", and "designated plastic container" mean those terms as defined in the reverse vending machine antifraud act.

(e) "Fund" means the beverage container redemption antifraud fund created in section 7.

(f) "Install vision technology" 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 1 year of service directly related to the vision technology by the reverse vending machine vendor.

(g) "Overredeemer" means that term as defined in section 3b of the beverage container law, MCL 445.573b.

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

(i) "Reverse vending machine" means that term as defined in the reverse vending machine antifraud act.

(j) "Reverse vending machine manufacturer" means that term as defined in the reverse vending machine antifraud act.

(k) "Vision technology" means that term as defined in the reverse vending machine antifraud act.

History: 2008, Act 388, Imd. Eff. Dec. 29, 2008

445.635 Retrofit of reverse vending machines; payment to reverse vending machine manufacturers; application for payment; acceptance as full payment; proof of completion; conditions for requiring installation or retrofitting of reverse vending machines.

Sec. 5.

(1) The department shall pay reverse vending machine manufacturers to retrofit reverse vending machines to comply with the reverse vending machine antifraud act.

(2) A reverse vending machine manufacturer that has agreed to retrofit a dealer's reverse vending machines to comply with the reverse vending machine antifraud act shall submit a written application to the department for payment to retrofit the dealer's reverse vending machines. All of the following apply to the application for payment described in this subsection:

(a) The department shall prescribe the form of the application.

(b) A reverse vending machine manufacturer may only submit an application for retrofitting a dealer's reverse vending machines and receive payment under this act if the dealer is required to retrofit those reverse vending machines under the reverse vending machine antifraud act.

(c) An application submitted to the department shall include all of the following:

(i) Contact information for the reverse vending machine manufacturer, the number of reverse vending machines to be retrofitted by the manufacturer, the serial numbers of those machines, where those machines are located, the name and contact information of the dealer that owns or leases those machines, a copy of the dealer's purchase order for the retrofitting of those machines, the street address and county where those machines will be in operation after they are retrofitted, and any other information required by the department.

(ii) The total cost of retrofitting each reverse vending machine described in the application to install vision technology.

(iii) The signature of a designated agent of the reverse vending machine manufacturer, certifying that all of the contents of the application are correct.

(iv) The signature of a designated agent of the dealer whose reverse vending machines are to be retrofitted by the reverse vending machine manufacturer, certifying that all of the contents of the application are correct.

(d) A reverse vending machine manufacturer shall submit a separate application for each location where a dealer operates reverse vending machines.

(3) A reverse vending machine manufacturer that receives payment under this act for retrofitting a reverse vending machine manufacturer shall accept that payment as full payment for the retrofitting of that machine.

(4) When a reverse vending machine manufacturer completes the retrofitting of the reverse vending machine at a dealer's location, the reverse vending machine manufacturer shall submit proof to the department, in a form and manner prescribed by the department and signed by a designated agent of the dealer, that the retrofitting is complete.

(5) The department shall not require that a dealer or reverse vending machine manufacturer retrofit a reverse vending machine to meet the dealer requirements imposed in section 7(1) or 9(1) of the reverse vending machine antifraud act unless the department first establishes under this act that the dealer must install or retrofit the reverse vending machines at a retail location

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in order to meet the requirements of section 7(1) or 9(1) of the reverse vending machine antifraud act and makes money available for that retrofit under this act.

History: 2008, Act 388, Imd. Eff. Dec. 29, 2008

445.636 Establishment of new retail store in county bordering another state or in Lower Peninsula contiguous with county bordering another state; installation of vision technology; requirements.

Sec. 6.

(1) If a dealer establishes a new retail store in a county of this state that borders another state, or in a county in the Lower Peninsula that is contiguous with a county of this state that borders another state, and acquires new reverse vending machines for use in that store, the department shall pay the reverse vending machine manufacturer to install vision technology in those new reverse vending machines that meets the requirements of the reverse vending machine antifraud act.

(2) All of the following apply if a dealer purchases new reverse vending machines from a reverse vending machine manufacturer for use in a new retail store in a county described in subsection (1):

(a) The reverse vending machine manufacturer shall submit an application for payment in the form prescribed by the department. The reverse vending machine manufacturer shall include with the application a copy of the dealer's purchase order for the new reverse vending machines.

(b) A reverse vending machine manufacturer may not apply money received under this subsection to the purchase price of a new reverse vending machine that does not meet the requirements of the reverse vending machine antifraud act.

(c) The dealer shall operate the new reverse vending machine at the retail store for which it was acquired. However, if the dealer ceases retail sale of beverages in beverage containers at that new store, the dealer may move that reverse vending machine to another location and operate the reverse vending machine at that different location.

(d) The amount of a payment to a reverse vending machine manufacturer under this section shall not exceed that part of the price of the new reverse vending machine attributable to the cost of installation of the machine's vision technology or $5,000.00, whichever is less. The reverse vending machine manufacturer must reduce the purchase price of the new reverse vending machine to the dealer by the amount of any payment to the reverse vending machine manufacturer under this subdivision.

History: 2008, Act 388, Imd. Eff. Dec. 29, 2008

445.637 Beverage container redemption antifraud fund; creation; payments; allocations; report.

Sec. 7.

(1) The beverage container redemption antifraud fund is created in the state treasury. All of the following apply to the fund:

(a) The state treasurer may receive money appropriated to the fund or money or other assets from any other source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

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(b) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(c) The department is the administrator of the fund for auditing purposes.

(d) The department shall expend money from the fund, upon appropriation, only for the purposes of this act and the reverse vending machine antifraud act, including, but not limited to, administration of those acts. However, the department may not use more than $100,000.00 from the fund in any state fiscal year for administration of this act and the reverse vending machine antifraud act.

(2) At any time after it begins to receive reports described in section 13, but not later than 30 days after receiving all of the reports described in section 13, the department shall immediately begin to arrange with reverse vending machine manufacturers for the retrofitting of reverse vending machines under section 5 that are located in counties that border another state and in counties in the Lower Peninsula that are contiguous with a county of this state that borders another state. The department shall also arrange for payments from the fund on behalf of dealers eligible under section 6 for the acquisition of new reverse vending machines for use in those counties.

(3) In allocating money from the fund for purposes of subsection (2), the department shall do all of the following:

(a) Subject to subdivision (b), give priority to retrofitting reverse vending machines under section 5 located in the counties described in subsection (2), or for the acquisition of new reverse vending machines under section 6 for use in those counties, that it determines have the greatest potential benefit for reducing the redemption of nonreturnable containers.

(b) Allocate at least 50% of the money in the fund to retrofitting reverse vending machines located in counties that border another state under section 5 or for the acquisition of new reverse vending machines under section 6 for use in counties that border another state.

(4) Beginning 1 year after the effective date of this act, the department by September 1 of each year shall report to the legislature on the progress it has made in reducing the redemption of nonreturnable containers, including the total number of distributors who were overreedemers in the immediately preceding calendar year, before trading, as well as the average amount of overredemption.

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History: 2008, Act 388, Imd. Eff. Dec. 29, 2008

445.639 Payment amount; purchase or lease.

Sec. 9.

(1) The amount of payment a reverse vending machine manufacturer may receive under section 7 for retrofitting a single reverse vending machine under section 5 is the total cost of retrofitting that reverse vending machine or $5,000.00, whichever is less.

(2) A dealer that operates a reverse vending machine at a location in a county of this state that borders another state, or in a county in the Lower Peninsula that is contiguous with a county of this state that borders another state, may elect to purchase or lease a new reverse vending machine that meets the requirements of the reverse vending machine antifraud act to replace that existing reverse vending machine rather than have that existing reverse vending machine retrofitted under section 5. All of the following apply if a dealer purchases or leases a new reverse vending machine from a reverse vending machine manufacturer under this subsection:

(a) The reverse vending machine manufacturer shall submit an application for payment in the form prescribed by the department. The reverse vending machine manufacturer shall

include with the application a copy of the dealer's purchase order for the new reverse vending machine.

(b) A reverse vending machine manufacturer may not apply money received under this subsection to the purchase price of a new reverse vending machine that does not meet the requirements of the reverse vending machine antifraud act.

(c) The dealer shall operate the new reverse vending machine at the same location as the reverse vending machine it replaces. However, if the dealer ceases retail sale of beverages in beverage containers at that location, the dealer may move that reverse vending machine to another location and operate the reverse vending machine at that different location.

(d) The amount of a payment to a reverse vending machine manufacturer under this section shall not exceed that part of the price of the new reverse vending machine attributable to the cost of installation of the machine's vision technology or $5,000.00, whichever is less. The reverse vending machine manufacturer must reduce the purchase price of the new reverse vending machine to the dealer by the amount of any payment to the reverse vending machine manufacturer under this subdivision.

(e) The reverse vending machine manufacturer may not apply for or receive payment under this act for retrofitting a reverse vending machine if the reverse vending machine manufacturer received money for a new reverse vending machine to replace that existing reverse vending machine under this subsection.

(f) For purposes of this act, the department shall consider the replacement of a reverse vending machine with a new reverse vending machine under this section as a retrofitting of a reverse vending machine.

History: 2008, Act 388, Imd. Eff. Dec. 29, 2008

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445.641 Distribution of money left in fund.

Sec. 11.

If the department determines that it has paid the reverse vending machine manufacturers for retrofitting all of the reverse vending machines located in the counties described in section 7(2), and for the acquisition of any new reverse vending machines under section 6 for use in those counties for which it has received applications for payment, and the total of those payments is less than the amount in the fund, the department shall distribute the money remaining in the fund to dealers for the purchase of new reverse vending machines. All of the following apply to a payment of money under this section:

(a) A dealer requesting money under this section shall submit an application for payment, in the form prescribed by the department.

(b) A dealer shall only use money received under this section to purchase a new reverse vending machine that meets the requirement of the reverse vending machine antifraud act and that the dealer will operate that reverse vending machine at a location in this state.

(c) The amount of a payment to a dealer under this section shall not exceed that part of the price of the new reverse vending machine attributable to the cost of installation of the machine's vision technology, as determined by the department.

(d) The department shall disburse money from the fund under this section in the order in which it receives applications for payment under this section.

History: 2008, Act 388, Imd. Eff. Dec. 29, 2008

445.643 Report.

Sec. 13.

(1) No later than 60 days after the effective date of this act, each dealer that operates reverse vending machines that are located 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, shall submit a report to the department.

(2) The report described in subsection (1) shall contain all of the following information:

(a) Contact information for the dealer.

(b) The street address and county of each location in the counties described in subsection (1) where the dealer uses reverse vending machines.

(c) The number of reverse vending machines used by the dealer at each location described in subdivision (b) and the type of beverage containers each of those reverse vending machines accepts.

(d) The number of beverage containers sold and the number of beverage containers redeemed by the dealer under the beverage container law in the preceding calendar year at each of the locations described in subdivision (b).

(3) The department shall prescribe the form of the report described in subsection (1).

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