

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 992 Session of
1989

INTRODUCED BY HERSHEY, BROUJOS, GODSHALL, SCHEETZ, COY,
CHADWICK, FLEAGLE, NOYE, COLAIZZO, JAROLIN, TIGUE, B. SMITH,
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JOHNSON, J. L. WRIGHT, CAWLEY, MAINE, LEH, BATTISTO AND LEE,
APRIL 4, 1989

REFERRED TO COMMITTEE ON CONSERVATION, APRIL 4, 1989

AN ACT

1 Amending the act of July 28, 1988 (P.L.556, No.101), entitled
2 "An act providing for planning for the processing and
3 disposal of municipal waste; requiring counties to submit
4 plans for municipal waste management systems within their
5 boundaries; authorizing grants to counties and municipalities
6 for planning, resource recovery and recycling; imposing and
7 collecting fees; establishing certain rights for host
8 municipalities; requiring municipalities to implement
9 recycling programs; requiring Commonwealth agencies to
10 procure recycled materials; imposing duties; granting powers
11 to counties and municipalities; authorizing the Environmental
12 Quality Board to adopt regulations; authorizing the
13 Department of Environmental Resources to implement this act;
14 providing remedies; prescribing penalties; establishing a
15 fund; and making repeals," providing for returnable beverage
16 containers; requiring a refund value for certain beverage
17 containers; further providing for duties of the Department of
18 Environmental Resources; and providing civil penalties.

19 The General Assembly finds and determines that:

20 (1) Discarded beverage containers are a major source of
21 litter and solid waste within this Commonwealth and a direct
22 threat to the health and safety of the citizens of
23 Pennsylvania.

24 (2) The collection and disposal of discarded beverage

containers and solid waste constitutes a great financial burden for the citizens of this Commonwealth.

(3) Unsegregated disposal of beverage containers burdens the constantly diminishing landfill capacity, impeding the efficient operation of resource recovery plants.

(4) Discarded beverage containers create a hazard to vehicular traffic, as well as a source of physical injury to pedestrians, farm animals and machinery.

(5) Requiring a deposit on beverage containers will provide incentive for the economically efficient collection and recycling of beverage containers.

(6) The establishment of redemption centers will provide new job positions within this Commonwealth, while simultaneously reducing the critical litter dilemma.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of July 28, 1988 (P.L.556, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act, is amended by adding a chapter to read:

CHAPTER 16

RETURNABLE BEVERAGE CONTAINERS

Section 1601. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Beverage." Beer or other malt beverage and mineral waters, soda water and carbonated soft drinks in liquid form and intended for human consumption.

"Beverage container." The individual, separate bottle, can, jar or carton composed of glass, metal, paper, plastic or any

1 combination of those materials that is produced for the purpose
2 of containing a beverage.

3 "Consumer." A person purchasing a beverage in a beverage
4 container for use or consumption with no intent to resell such
5 beverage.

6 "Dealer." A person, firm or corporation who engages in the
7 sale of beverages in beverage containers to consumers.

8 "Distributor." A person, firm or corporation who engages in
9 the sale of beverages in beverage containers to a dealer in this
10 Commonwealth. The term includes a manufacturer who engages in
11 such sales.

12 "Manufacturer." A person bottling, canning, packaging or
13 otherwise filling beverage containers for sale to distributors
14 or dealers.

15 "Place of business." The location at which a dealer sells,
16 or offers for sale, beverages in beverage containers to a
17 consumer.

18 "Redeemer." A person who demands the refund value provided
19 for in exchange for an empty beverage container. The term does
20 not include a dealer as defined in this section.

21 "Redemption center." A facility established to redeem empty
22 beverage containers from consumers or to collect and sort empty
23 beverage containers from dealers and to prepare such containers
24 for redemption by an appropriate distributor.

25 "Use or consumption." Includes the exercise of a right or
26 power over a beverage incident to its ownership, other than its
27 sale, storage or retention for the purpose of sale.

28 Section 1602. Refund value.

29 (a) General rule.--A beverage container sold or offered for
30 sale in this Commonwealth shall have a refund value of not less

1 than 5¢. The refund value shall be fixed and shall be a uniform
2 amount throughout the distribution process in this Commonwealth.

3 (b) Exception.--This section shall not apply to beverage
4 containers sold or offered for sale for consumption on
5 interstate passenger carrier or aircraft.

6 Section 1603. Beverage container labeling requirements.

7 (a) Contents of label.--A beverage container offered for
8 sale in this Commonwealth by a dealer or distributor shall be
9 clearly marked, by embossing on the container or by printing on
10 a label affixed to the container the following information:

11 (1) The refund value of the container.

12 (2) The word "Pennsylvania" or the letters "PA."

13 (b) Private labels.--In the case of private label beverages,
14 such information may be embossed or printed on a label which is
15 securely or permanently affixed to the beverage container. For
16 purposes of this section, the term "private label beverages"
17 means beverages purchased from a beverage manufacturer in
18 beverage containers that bear a brand name or trademark and that
19 are for sale at retail directly by the owner or licensee of such
20 brand name or trademark, or through retail dealers affiliated
21 with such owners or licensees by a cooperative or franchise
22 agreement.

23 (c) Metal containers.--In the case of a metal beverage
24 container, the information required under this section shall be
25 imprinted or embossed on the top of the container.

26 (d) Responsibility.--The responsibility for embossing or
27 permanently imprinting the required information on the beverage
28 container shall be with the person, firm or corporation who
29 bottles, cans or otherwise fills or packages a beverage
30 container. In the case of private label beverages, the brand

owner for whose exclusive account the beverages are bottled,
canned or otherwise packaged shall have the responsibility for
such embossing or permanent imprinting.

Section 1604. Refunding.

(a) Deposit.--At the time of sale, a consumer shall deposit
with the dealer the refund value of every beverage container
purchased.

(b) Acceptance and refund.--A dealer shall accept at his
place of business any empty beverage container of the design,
shape, size, color, composition and brand sold by the dealer
within the past 60 days and shall pay the person who presents
the container the refund value of every beverage container
returned.

(c) Discontinued container.--A dealer shall redeem an empty
beverage container of a kind, size or brand, the sale of which
has been discontinued by the dealer, for not less than 60 days
after the last sale by the dealer of such beverage container.
Sixty days prior to such date, the dealer shall post, at the
point of sale, notice of the last date on which the discontinued
beverage container shall be redeemed.

(d) Daily limit.--A dealer may limit the total number of
beverage containers any one customer returns for a refund in any
one business day to 240 beverage containers or another number
greater than 240.

(e) Refusal.--A dealer may refuse acceptance of any beverage
container during no more than three hours in any one business
day. The dealer shall post such hours conspicuously at his place
of business.

(f) Duties of distributor.--A distributor shall:

(1) Accept, from a dealer or from an operator of a

1 redemption center located or operated exclusively within the
2 territory of the distributor, or whose operator certifies to
3 the distributor that redeemed containers were from a dealer
4 located within such territory, any empty beverage container
5 of the kind, size or brand sold by the distributor, or refuse
6 to pay to such dealer or redemption center operator the
7 refund value of the beverage container, unless the container
8 is exempted under section 1607.

9 (2) Remove an empty beverage container from the premises
10 of a dealer serviced by the distributor or from the premises
11 of a redemption center sponsored by dealers serviced by the
12 distributor, provided that such premises are located within
13 the territory of the distributor.

14 (3) Pay the refund value to dealers in accordance with
15 the schedule for payment by the dealer to the distributor for
16 full beverage containers, and pay such refund value to
17 operators of redemption centers not more than 20 days after
18 receipt of the empty containers.

19 (4) Redeem an empty container of a kind, size or brand
20 of beverage container, the sale of which has been
21 discontinued by the distributor, for not less than 150 days
22 after the last delivery of such kind, size or brand of
23 beverage container. Not less than 120 days before the last
24 date such containers may be redeemed, the distributor shall
25 notify any dealer who brought the discontinued beverage
26 containers that the distributor will not redeem such empty
27 beverage containers.

28 (5) Pay to a dealer or operator of a redemption center a
29 handling fee of 1¢ for each beverage container in addition to
30 the refund value established in section 1602.

1 Section 1605. Vending machine operators.

2 An operator of a vending machine which sells, or offers for
3 sale, beverages in beverage containers shall post a notice
4 conspicuously on each vending machine indicating that a refund
5 of not less than 5¢ is available on every beverage container.
6 The notice shall contain information regarding where and from
7 whom that refund may be obtained. This subsection shall not be
8 construed to require vending machine operators to provide
9 refunds on the premises where the vending machines are located.

10 Section 1606. Redemption centers.

11 (a) Registration of center.--Any person may establish a
12 redemption center and shall have the right to determine the
13 kind, size and brand of beverage container it shall accept. A
14 person establishing a redemption center within this Commonwealth
15 shall register with the department on a form provided by the
16 department with such information as the department requires,
17 including, but not limited to, the following:

18 (1) The name of the business principals of the
19 redemption center and the address of the business.

20 (2) The name and address of the dealers to be served by
21 the redemption center.

22 (3) The types of beverage containers to be accepted.

23 (4) The hours of operation.

24 (5) Whether the beverage containers will be accepted
25 from consumers.

26 (b) Changes to be reported to department.--A change in
27 procedure shall be reported to the department by the operator of
28 the redemption center within 48 hours of the change during the
29 normal business week. A redemption center may be established to
30 serve all persons or to serve certain specified dealers.

1 Section 1607. Permitted refusals.

2 (a) Absence of refund value on container.--A dealer or
3 operator of a redemption center may refuse to accept from a
4 redeemer, and a distributor may refuse to accept from a dealer
5 or operator of a redemption center, any empty beverage container
6 which does not state thereon the refund value of the beverage
7 container.

8 (b) Altered or adulterated container.--A dealer or operator
9 of a redemption center may refuse to accept any broken bottle,
10 corroded or disembodied can, or any beverage container which
11 contains foreign material, as determined by rules and
12 regulations to be promulgated by the department.

13 Section 1608. Prohibition on certain types of containers and
14 holders.

15 No beverage container shall be sold or offered for sale to
16 consumers in this Commonwealth in the following form:

17 (1) In a metal container designed or construed with a
18 part of the container which is detachable in opening the
19 container, unless such detachable part will decompose by
20 photodegradation, chemical degradation or biodegradation.

21 (2) In beverage containers connected to each other by a
22 separate holding device constructed of plastic which does not
23 decompose by photodegradation, chemical degradation or
24 biodegradation within a reasonable period of time upon
25 exposure to the elements.

26 Section 1609. Educational programs.

27 (a) Public information program.--Commonwealth informational
28 material, such as travel pamphlets, road maps and similar
29 publications, submitted for printing on or after the effective
30 date of this act shall bear a statement informing the general

1 public of this Commonwealth's deposit law.

2 (b) School program.--The Department of Education may
3 incorporate information concerning this act in educational
4 material it distributes to primary and secondary educational
5 institutions within this Commonwealth.

6 (c) Litter Control Education Fund.--

7 (1) There is hereby established a separate account in
8 the State Treasury to be known as the Litter Control
9 Education Fund. This fund shall consist of those moneys which
10 the General Assembly may from time to time appropriate, plus
11 civil fines collected pursuant to section 1612.

12 (2) All moneys in the fund are hereby appropriated to
13 the Department of Education on a continuing basis. The
14 Secretary of Education shall have the authority to allocate
15 such funds in an efficient manner for educational and
16 informational programs relating to litter control and
17 recycling.

18 Section 1610. Rules and regulations.

19 The department shall administer the provisions of this
20 chapter and shall adopt and promulgate rules and regulations
21 necessary to effectuate the purposes hereof.

22 Section 1611. Enforcement.

23 The Attorney General and district attorneys shall enforce the
24 provisions of this chapter.

25 Section 1612. Penalty.

26 A dealer, distributor or redemption center operator who
27 violates provisions of this chapter shall be subject to a civil
28 penalty for each violation and shall pay a fine of not more than
29 \$1,000 per violation.

30 Section 1613. Annual report.

1 The department shall make a comprehensive review of the
2 administration, application and impact of the provisions of this
3 chapter relating to the sale of beverages in returnable
4 containers and shall report to the General Assembly annually on
5 or before the anniversary of the effective date of this chapter.

6 Section 2. This act shall take effect in 90 days.