

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 223 Session of
1997

INTRODUCED BY GREENLEAF, HELFRICK, HECKLER, PUNT, KUKOVICH AND
LEMMOND, FEBRUARY 3, 1997

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 3, 1997

AN ACT

1 Requiring the use of refundable beverage containers;
2 establishing container requirements; providing for redemption
3 of beverage containers and for powers and duties of the
4 Department of Agriculture; and imposing penalties.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Reusable
9 Container Act.

10 Section 2. Legislative findings.

11 The General Assembly finds as follows:

12 (1) Discarded beverage containers are a major source of
13 litter and solid waste within this Commonwealth and a direct
14 threat to the health and safety of the citizens of this
15 Commonwealth.

16 (2) The collection and disposal of discarded beverage
17 containers and solid waste constitutes a great financial
18 burden for the citizens of this Commonwealth.

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

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

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

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

13 Section 3. Definitions.

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

17 "Beverage." The term includes the following:

18 (1) Soft drink, soda water, carbonated natural or
19 mineral water or other nonalcoholic carbonated drink.

20 (2) Beer, ale or other malt drink containing an
21 alcoholic content.

22 "Beverage container." A bottle, can, jar or carton composed
23 of glass, metal, plastic or any combination of these substances,
24 containing one gallon or less of a beverage.

25 "Beverage distributor." A person who engages in the sale of
26 beverages in beverage containers to a retailer in this
27 Commonwealth, including any manufacturer who engages in sales of
28 this nature.

29 "Beverage manufacturer." A person bottling, canning or
30 otherwise filling beverage containers for sale to distributors

1 or retailers.

2 "Consumer." A person who purchases a beverage in a beverage
3 container for use or consumption.

4 "Department." The Department of Agriculture of the
5 Commonwealth.

6 "Redemption center." An establishment offering to pay the
7 refund value of a beverage container pursuant to section 5.

8 "Retailer." A person in this Commonwealth who engages in the
9 sale of beverages in beverage containers to a consumer for off-
10 premises consumption.

11 "Secretary." The Secretary of Agriculture of the
12 Commonwealth.

13 "Use" or "consumption." The exercise of any right or power
14 over a beverage incidental to its ownership, other than sale or
15 possession for the purpose of sale.

16 Section 4. Minimum refund value.

17 (a) General rule.--A beverage container sold or offered for
18 sale in this Commonwealth, except beverage containers sold or
19 offered for sale for consumption on an interstate passenger
20 carrier, shall have a refund value of not less than 10¢.

21 (b) Initiation.--The refund value shall be initiated by the
22 first distributor of the beverage container who is not a
23 beverage manufacturer, except that:

24 (1) the beverage manufacturer shall initiate the refund
25 value on any such beverage container which is sold to a
26 person who is not a distributor; and

27 (2) the beverage manufacturer shall initiate the refund
28 value on any refillable beverage container.

29 Section 5. Redemption.

30 (a) Return of beverage container and refund of deposit.--A

1 retailer shall provide on the premises, or within 100 yards of
2 the premises on which the retailer sells or offers for sale a
3 beverage in a beverage container, a convenient means whereby
4 beverage containers of all kinds and brands sold or offered for
5 sale by the retailer may be returned by and the deposit refunded
6 in cash to a person whether or not the person is the original
7 customer of the retailer and whether or not the container was
8 sold by the retailer.

9 (b) Regional redemption centers.--Regional centers for
10 redemption of beverage containers may be established in addition
11 to, but not as substitutes for, the means for refund of deposits
12 provided for in subsection (a).

13 (c) Acceptance of beverage containers and payment of
14 refunds.--Except as provided in subsections (d) and (f), a
15 retailer shall not refuse to accept from a person an empty
16 beverage container of any kind and brand sold by the retailer,
17 nor refuse to pay to the person its full refund value in cash.

18 (d) Consumption of beverage on premises.--A retailer who
19 does not require a deposit on a returnable container when the
20 contents are consumed in the retailer's sale or consumption area
21 shall not be required to pay a refund for accepting that empty
22 container.

23 (e) Beverage distributor's acceptance of containers and
24 payment of refunds to dealers.--Except as provided in subsection
25 (f), a beverage distributor shall not refuse to accept from a
26 retailer an empty beverage container of any kind and brand sold
27 by the beverage distributor, nor refuse to pay to the retailer
28 its full refund value in cash.

29 (f) Exception to requirement to accept beverage
30 containers.--A beverage distributor or retailer may, but is not

1 required to, refuse to accept from a person an empty beverage
2 container which does not state on the beverage container the
3 refund value of the container.

4 Section 6. Regulation of redemption centers.

5 (a) Establishment of program.--The department shall
6 establish a program relating to the establishment and operation
7 of redemption centers and shall promulgate regulations necessary
8 for carrying out the purposes of this act.

9 (b) Permits.--The department shall issue permits to persons,
10 firms or corporations which desire to establish regional
11 redemption centers subject to applicable State and local laws
12 and ordinances where consumers may return empty beverage
13 containers and receive payment of the refund value of the
14 beverage container. The department shall give priority to
15 municipalities and municipal authorities when issuing permits to
16 operate regional redemption centers.

17 (c) Exception.--The provisions of subsection (b) shall not
18 apply to a retailer or beverage distributor who desires to
19 operate a redemption center at the same location as its place of
20 business.

21 Section 7. Indication of refund value required; certain metal
22 beverage containers and holding devices
23 prohibited.

24 (a) Statement on container.--A beverage container sold or
25 offered for sale in this Commonwealth by a beverage
26 manufacturer, distributor or retailer shall indicate clearly the
27 refund value of the container, either by embossing, by stamp, by
28 labeling or by another method that is securely affixed to the
29 beverage container.

30 (b) Exclusion.--Subsection (a) shall not apply to a glass

1 beverage container having a brand name permanently marked on it
2 which, on the effective date of this act, had a refund value of
3 not less than 10¢.

4 (c) Prohibition.--A person shall not sell or offer for sale
5 in this Commonwealth a metal beverage container designed and
6 constructed so that a part of the container is detachable in
7 opening the container.

8 (d) Limitation on holding devices.--A beverage container
9 shall not be sold or offered for sale in this Commonwealth if it
10 is connected to one or more beverage containers by a separate
11 holding device constructed of material which is not
12 biodegradable or photodegradable.

13 Section 8. Department powers and duties.

14 The department shall administer and enforce this act and in
15 furtherance of its duties is authorized and directed to
16 promulgate regulations.

17 Section 9. Agricultural report.

18 (a) Statistics.--The department shall make a comprehensive
19 review of the administration, application and impact of the
20 provisions of this act and shall report to the General Assembly
21 annually.

22 (b) Availability of statistics.--Statistics compiled by the
23 department shall be made available to farm groups, environmental
24 groups and governmental agencies upon request.

25 Section 10. Penalties.

26 A person who violates any provision of this act or any rule
27 or regulation promulgated under this act shall be punished as
28 follows:

29 (1) If the violation has been completed, the person
30 shall pay a civil penalty of not less than \$250 nor more than

1 \$1,000 for each completed violation. The civil penalty shall
2 be assessed and collected by the secretary. If the violation
3 has been completed and there is a substantial likelihood that
4 it will reoccur, the secretary may also bring an action in
5 the court of common pleas of the county in which the
6 violation occurred to restrain, by temporary or permanent
7 injunction, the violation.

8 (2) If the violation is continuing, the secretary may
9 assess and collect the civil penalty provided for in
10 paragraph (1) and may also bring an action in the court of
11 common pleas of the county in which the violation is
12 occurring to restrain, by temporary or permanent injunction,
13 the violation.

14 Section 11. Conciliation.

15 (a) Discretion of secretary.--In the secretary's discretion,
16 the secretary may endeavor by conciliation to obtain compliance
17 with this act or any rule or regulation promulgated under this
18 act.

19 (b) Notice.--Conciliation shall be initiated by giving
20 written notice to the alleged violator of the following:

21 (1) A summary of the facts supporting the alleged
22 violation and a reference to the provision of this act or a
23 rule or regulation that is alleged to have been violated.

24 (2) Establishment of a reasonable time period for
25 correction of the alleged violation.

26 (3) The right to a hearing on the alleged violation if
27 the hearing is requested on or before the date specified in
28 the notice.

29 (4) Establishment of a proposed date for correction of
30 the alleged violation.

1 (c) Order.--If a hearing is not requested on or before the
2 date established in the notice, the secretary may order that the
3 alleged violation be corrected by the date set forth in the
4 notice, or the secretary may hold a public hearing in accordance
5 with 2 Pa.C.S. (relating to administrative law and procedure) on
6 the alleged violation.

7 Section 12. Effective date.

8 This act shall take effect as follows:

9 (1) Sections 6 and 8 shall take effect immediately.

10 (2) The remainder of this act shall take effect in 180
11 days.