

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 741 Session of
1991

INTRODUCED BY FOX, HERSHEY, BARLEY, McGEEHAN, LEE, ARMSTRONG,
PETRONE, SCHEETZ, BELARDI, FLEAGLE, CAWLEY, CORNELL, HASAY,
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HAGARTY, GODSHALL, JOSEPHS, NAHILL, HECKLER, ROEBUCK, CIVERA
AND BROWN, MARCH 13, 1991

REFERRED TO COMMITTEE ON CONSERVATION, MARCH 13, 1991

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; providing for a pilot glass
19 recycling project; providing civil penalties; and making an
20 appropriation.

21 The General Assembly finds and determines that:

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

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

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

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

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

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

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

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

21 CHAPTER 16

22 RETURNABLE BEVERAGE CONTAINERS

23 Section 1601. Definitions.

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

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

30 "Beverage container." The individual, separate bottle, can,

1 jar or carton composed of glass, metal, paper, plastic or any
2 combination of those materials that is produced for the purpose
3 of containing a beverage.

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

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

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

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

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

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

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

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

29 Section 1602. Refund value.

30 (a) General rule.--A beverage container sold or offered for

sale in this Commonwealth shall have a refund value of not less than 5¢. The refund value shall be fixed and shall be a uniform amount throughout the distribution process in this Commonwealth.

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

Section 1603. Beverage container labeling requirements.

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

(1) The refund value of the container.

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

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

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

(d) Responsibility.--The responsibility for embossing or permanently imprinting the required information on the beverage container shall be with the person, firm or corporation who

1 bottles, cans or otherwise fills or packages a beverage
2 container. In the case of private label beverages, the brand
3 owner for whose exclusive account the beverages are bottled,
4 canned or otherwise packaged shall have the responsibility for
5 such embossing or permanent imprinting.

6 Section 1604. Refunding.

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

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

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

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

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

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

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

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

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

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

30 (5) Pay to a dealer or operator of a redemption center a

handling fee of 1¢ for each beverage container in addition to the refund value established in section 1602.

Section 1605. Vending machine operators.

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

Section 1606. Redemption centers.

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

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

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

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

(4) The hours of operation.

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

(b) Changes to be reported to department.--A change in procedure shall be reported to the department by the operator of the redemption center within 48 hours of the change during the

1 normal business week. A redemption center may be established to
2 serve all persons or to serve certain specified dealers.

3 Section 1607. Permitted refusals.

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

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

15 Section 1608. Prohibition on certain types of containers and
16 holders.

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

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

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

28 Section 1609. Educational programs.

29 (a) Public information program.--Commonwealth informational
30 material, such as travel pamphlets, road maps and similar

1 publications, submitted for printing on or after the effective
2 date of this act shall bear a statement informing the general
3 public of this Commonwealth's deposit law.

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

8 (c) Litter Control Education Fund.--

9 (1) There is hereby established a separate account in
10 the State Treasury to be known as the Litter Control
11 Education Fund. This fund shall consist of those moneys which
12 the General Assembly may from time to time appropriate, plus
13 civil fines collected pursuant to section 1613.

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

20 Section 1610. Pilot project.

21 (a) Selection and award.--The department shall select two
22 counties, one in the southeastern portion and one in the
23 southwestern portion of this Commonwealth, and award grants to
24 such counties for development and implementation of programs for
25 the recycling of glass. The programs shall be in addition to and
26 not in substitution of any recycling required under section
27 1501. The department shall structure the program and establish
28 necessary guidelines and requirements. The programs shall be
29 deemed a pilot project for study and review in determining if
30 programs of this nature would be beneficial throughout this

Commonwealth in encouraging recycling and thus reducing the flow of waste to disposal facilities. The grants to the selected counties under this section shall be in addition to any other grants the counties may be eligible for under this act and shall be 100% of the approved cost of the program.

(b) Report.--The secretary shall prepare a report to the General Assembly concerning the pilot project authorized by subsection (a), including its cost effectiveness. The report shall be transmitted to the General Assembly at the earliest date that the secretary determines a valid evaluation of the programs can be made, but no later than two years after the effective date of this chapter.

Section 1611. Rules and regulations.

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

Section 1612. Enforcement.

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

Section 1613. Penalty.

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

Section 1614. Annual report.

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

1 Section 2. The sum of \$2,000,000, or as much thereof as may
2 be necessary, is hereby appropriated to the Department of
3 Environmental Resources for grants to counties pursuant to
4 section 1610 of the act.

5 Section 3. This act shall take effect in 90 days.