

By Mr. Saltmarsh of Winchester, petition of Sherman W. Saltmarsh, Jr., to provide economic incentives for customers to return used beverage containers and to encourage the recycling and reuse thereof. Energy.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT TO PROVIDE ECONOMIC INCENTIVES FOR CONSUMERS TO RETURN USED BEVERAGE CONTAINERS AND TO ENCOURAGE THE RECYCLING AND REUSE THEREOF.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 94 of the General Laws is hereby
2 amended by adding after section 313 of the following nine
3 sections:—

4 *Section 314.* Definitions of s. 314-s. 322

5 In this section and sections three hundred and fifteen to three
6 hundred and twenty-two inclusive, the following definitions shall
7 apply:

8 (1) "Beverage" means beer or other malt beverages, soda water,
9 or similar carbonated soft drinks, and mineral water but does not
10 include dairy products, natural fruit juices, wine or spirits.

11 (2) "Beverage container" means any sealable bottle, can, jar or
12 carton which is primarily composed of glass, metal, plastic or any
13 combination of those materials and is produced for the purpose of
14 containing a beverage. This definition excludes containers made of
15 biodegradable material.

16 (3) "Bottler" means any person bottling, canning or otherwise
17 filling beverage containers for sale to distributors or dealers.

18 (4) "Consumer" means any person who purchases a beverage in
19 a beverage container for use or consumption with no intent to
20 resell that filled beverage container.

21 (5) "Dealer" means any person including any operator of a

22 vending machine who engaged in the sale of beverages in beverage
23 containers to consumers in this Commonwealth.

24 (6) "Distributor" means any person who engages in the sale of
25 beverages in beverage containers to dealers in the Commonwealth
26 including any bottler who engages in such sales.

27 (7) "Reusable beverage container" means any beverage
28 container so constructed and designed that it is structurally
29 capable of being refilled and resold by a bottler at least four times
30 after its initial use.

31 *Section 315. Refund Value.*

32 Every beverage container with a capacity of less than thirty-two
33 (32) ounces sold or offered for sale in this Commonwealth shall
34 have a refund value of not less than five cents; every beverage
35 container sold or offered for sale in this Commonwealth with a
36 capacity of thirty-two (32) ounces or more shall have a refund
37 value of not less than ten cents.

38 *Section 316. Deposits; Refunds; Exceptions*

39 (a) Every consumer shall deposit with the dealer the refund value
40 of each beverage container purchased from that dealer.

41 (b) Except as provided in subsection (e) of this section, a dealer
42 shall accept from any person any empty beverage container of the
43 type, size and brand sold by the dealer within the past sixty (60)
44 days and shall pay that person the refund value of each beverage
45 container returned. When the dealer is an operator of a vending
46 machine he shall designate one or more agents to pay the refund
47 value of each beverage container returned.

48 (c) Except as provided in subsection (e) of this section, a
49 distributor shall accept from any dealer any empty beverage
50 container of the type, size and brand sold by the distributor within
51 the past sixty (60) days and shall pay the dealer the refund value of
52 the beverage container if the empty beverage container is presented
53 at the time and at the location of any delivery by the distributor of
54 filled beverage containers.

55 (d) Except as provided in subsection (e) of this section, a bottler
56 shall accept from a distributor or a dealer any empty reusable
57 beverage container of the type sold by the bottler within the past
58 sixty (60) days and shall pay the distributor or dealer the refund
59 value of the reusable beverage container if the empty reuseable
60 beverage container is presented at the time and location where the

61 distributor or dealer obtains filled reuseable beverage containers
62 from the bottler, provided that a bottler shall not require a
63 distributor to deposit with the bottler the refund value of a
64 beverage container which is not reuseable, nor shall a bottler
65 require of a distributor that beverage containers which are not
66 reuseable be presented to the bottler at the location where the
67 distributor obtains filled beverage containers.

68 (e) A dealer may refuse to accept any beverage container which
69 contains material foreign to the normal contents of the container.

70 *Section 317. Prohibition on the Sale of Certain Metal Beverage*
71 *Container Openers and Holding Devices.*

72 (a) After the effective date of this act, no dealer shall sell or offer
73 for sale in this Commonwealth any metal beverage container so
74 constructed that in order to open the beverage container a part
75 must be moved which by design, is not intended to remain
76 attached to or fall inside of the opened beverage container.

77 (b) After the effective date of this Act, no dealer shall sell or offer
78 for sale in this Commonwealth containers connected to each other
79 by a separate holding device constructed of plastic rings or other
80 device or material which cannot be broken down by bacteria into
81 constituent parts.

82 *Section 318. Marking requirements — Beverage Containers;*
83 *Vending Machines.*

84 (a) Every beverage container imported into, sold, or offered for
85 sale in this Commonwealth by a bottler, distributor or dealer shall
86 clearly indicate by embossing or by stamp, or by a label or other
87 method securely affixed to the beverage container, the refund
88 value of the container. A dealer, distributor or bottler may refuse
89 to accept from any person any empty beverage container which
90 does not state thereon a refund value.

91 (b) Every operator of a vending machine which sells beverages in
92 beverage containers shall post a conspicuous notice on each
93 vending machine indicating that a refund of not less than five (5)
94 cents is available on each beverage container purchased and where
95 and from whom that refund may be obtained.

96 *Section 319. Certification of Beverage Containers for Reuse.*

97 (a) To support the use in this Commonwealth of reuseable
98 beverage containers of uniform design, to facilitate the sorting of
99 returned beverage containers by dealers, and to encourage

100 return of beverage containers to bottlers for reuse as beverage
101 containers, the Secretary of Environmental Affairs may certify any
102 beverage container which satisfies the requirements of this section.

103 (b) A beverage container may be certified if

104 (1) it is reuseable as a beverage container by more than one
105 bottler in the ordinary course of business; and

106 (2) more than one bottler will in the ordinary course of business
107 accept it for reuse as a beverage container and refund the deposit
108 paid thereon.

109 (c) No beverage container shall be certified if by reason of its
110 shape or design or by reason of words or symbols
111 engraved or otherwise permanently affixed to the beverage
112 container it is reuseable as a beverage container only by a bottler of
113 a beverage sold under a specific brand name, provided that the
114 Secretary of Environmental Affairs shall certify every reuseable
115 glass beverage container which prior to the effective date of this
116 act, had a brand name permanently marked thereon and a deposit
117 value of not less than five cents.

118 (d) The Secretary of Environmental Affairs may by rule limit the
119 number of beverage containers to be certified in accordance with
120 the purposes set forth in subsection (a) of this section by
121 establishing appropriate liquid capacities and shapes for certifiable
122 beverage containers.

123 *Section 320. Certification of Beverage Containers for Recycl-*
124 *ing.*

125 To support the use in this Commonwealth of those metal and
126 plastic beverage containers which can be efficiently, economically
127 and safely recycled, the Secretary of Environmental Affairs shall
128 certify (1) every metal beverage container which is composed
129 entirely of one type of metal or metal alloy; and (2) each plastic
130 beverage container which can be used in a manner consistent with
131 the purpose of this section as determined by said Secretary upon
132 notice and public hearing.

133 *Section 321. Administration of the Law; Application, Review,*
134 *Withdrawal of Certification.*

135 (a) The Secretary of Environmental Affairs shall administer the
136 Provisions of sections three hundred and fourteen to three
137 hundred and twenty-one, inclusive. Said Secretary shall have the

138 power to promulgate and from time to time to revise rules and
139 regulations to effectuate the purposes of these sections.

140 (b) Any application for certification of a beverage container
141 received by the Secretary of Environmental Affairs must be acted
142 upon within sixty (60) days.

143 (c) The certification of any beverage container is reviewable by
144 the Secretary of Environmental Affairs, after written notice to the
145 person who filed the original application for certification is
146 received by said applicant and after a public hearing is held
147 pursuant to said notice by the Secretary of Environmental Affairs,
148 provided, however, said hearing shall not be held earlier than thirty
149 (30) days after receipt of said notice by the applicant. If the
150 Secretary of Environmental Affairs determines that a particular
151 beverage container is no longer eligible or appropriate for
152 certification, the certification shall be withdrawn.

153 (d) The withdrawal of certification shall not be effective for at
154 least thirty (30) days after written notice of the decision of the
155 Secretary of Environmental Affairs is sent to the person who filed
156 the original application and to any bottler to whom the applicant
157 specifically referred in his original certification application under
158 the requirements of subsection (b) of section three hundred and
159 nineteen or section three hundred and twenty.

160 *Section 322. Enforcements: Penalties for Violation of s. 314-s.*
161 *322.*

162 The Attorney General shall enforce the provisions of sections
163 three hundred and fourteen through three hundred and twenty-
164 two, inclusive.

165 Any bottler, distributor, or dealer who violates any provision of
166 sections three hundred and fourteen to three hundred and twenty-
167 two, inclusive, shall be subject to civil penalty for each violation of
168 not more than \$1000.

1 SECTION 2. This act shall take effect one year from the date of
2 enactment.

