

By Messrs. Murphy of Peabody and Alexander of Marblehead, petition of Lawrence R. Alexander and other members of the General Court and others for legislation to provide economic incentives for consumers to return used beverage containers and to encourage the conservation of materials and energy through the recycling and reuse thereof. Energy.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-One.

Petition signed by:

Senators

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Samuel Rotondi
Bill Owens
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Chester G. Atkins
Patricia McGovern
Michael LoPresti, Jr.
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John H. Loring	Richard C. Innes
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Massachusetts Public Interest Research Group

(MASSPIRG) by Mindy S. Lubber

Friends of the Earth

by Mark Weber

Committee for a Massachusetts Bottle Bill

by Gregory P. Levins

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The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-One.

AN ACT TO PROVIDE ECONOMIC INCENTIVES FOR CONSUMERS TO RETURN USED BEVERAGE CONTAINERS AND TO ENCOURAGE THE CONSERVATION OF MATERIALS AND ENERGY THROUGH 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 ninety-four of the General Laws is here-
2 by amended by adding the following seven sections:

3 *Section 320.* In sections three hundred and twenty to three
4 hundred twenty-six, inclusive, the following definitions shall, un-
5 less the context clearly requires otherwise, have the following
6 meaning:

7 (1) "Beverage" — soda water or similar carbonated soft drinks,
8 mineral water, and beer and other malt beverages, but shall not
9 include alcoholic beverages other than beer and malt beverages as
10 defined in Chapter one hundred thirty-eight of the General Laws.
11 dairy products, natural fruit juices or wine.

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

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

19 (4) "Consumer" — any person who purchases a beverage in a

20 beverage container for use or consumption with no intent to resell
21 that filled beverage container.

22 (5) "Dealer" — any person including any operator of a vending
23 machine who engages in the sale of beverages in beverage contain-
24 ers to consumers in this commonwealth.

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

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

31 *Section 321.* Every beverage container with a capacity of less
32 than thirty-two ounces sold or offered for sale in this common-
33 wealth shall have a refund value of not less than five cents; every
34 beverage container sold or offered for sale in this commonwealth
35 with a capacity of thirty-two ounces or more shall have a refund
36 value of not less than ten cents. The provisions of this section shall
37 not apply to such containers sold by a distributor for use by a
38 common carrier in the conduct of interstate passenger service.

39 *Section 322.* (a) Every consumer shall deposit with the dealer
40 the refund value of each beverage container purchased from that
41 dealer.

42 (b) Except as provided in subsection (f) of this section, a dealer
43 shall accept from any person during all of his business hours any
44 empty beverage container of the type, size and brand sold by the
45 dealer within the past sixty days and shall pay that person the
46 refund value of each beverage container returned.

47 (c) Except as provided in subsection (f) of this section, a distrib-
48 utor shall accept from any dealer any empty beverage container of
49 the type, size and brand sold by the distributor within the past sixty
50 days and shall pay the dealer the refund value of the beverage
51 container plus a handling fee of at least one cent per container if the
52 empty beverage container is presented at the time of and at the
53 location at which the dealer filled beverage containers from the
54 distributor.

55 (d) Except as provided in subsection (f) of this section, a bottler
56 shall accept from a distributor or a dealer any empty reuseable
57 beverage container of the type, size and brand sold by the bottler
58 within the past sixty days and shall pay the distributor or dealer the

59 refund value of the reuseable beverage container plus a handling
60 fee of at least one cent per container if the empty reuseable bever-
61 age container is presented at the time and at the location where the
62 distributor or dealer obtains filled reuseable beverage containers
63 from the bottler, provided that a bottler shall not require a distrib-
64 utor to deposit with the bottler the refund value of a beverage
65 container which is not reuseable, nor shall a bottler require of a
66 distributor that beverage containers which are not reuseable be
67 presented to the bottler at the location where the distributor ob-
68 tains filled beverage containers.

69 (e) Any person may establish a redemption center and shall
70 have the right to determine what type, size and brand of beverage
71 container shall be accepted. Except as provided in subsection (f) of
72 this section, a distributor shall take from any redemption center
73 any empty beverage container of this type, size and brand sold by
74 the distributor within the past sixty days and shall pay the redemp-
75 tion center the refund value of the container plus a handling fee of
76 at least one cent per container.

77 (f) A dealer, distributor, redemption center or bottler may re-
78 fuse to accept any beverage container which contains material
79 foreign to the normal contents of the container.

80 *Section 323.* No dealer shall sell or offer for sale in this com-
81 monwealth containers connected to each other by a separate hold-
82 ing device constructed of plastic rings or any other device or
83 material which cannot be broken down by bacteria and/or by light
84 into constituent parts.

85 *Section 324.* (a) Every beverage container imported into, or
86 offered for sale in this commonwealth by a bottler, distributor or
87 dealer shall clearly indicate in at least twelve point type, by emboss-
88 ing or by stamp, or by a label or other method securely affixed to
89 any portion except the bottom of the beverage container, the
90 refund value of the container. A dealer, distributor, redemption
91 center or bottler may refuse to accept from any person any empty
92 beverage container which does not state thereon a refund value.

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

98 subsection shall not be construed to require such vending machine
99 operators to provide refunds at the premises wherein such vending
100 machines are located.

101 *Section 325.* The secretary of environmental affairs shall ad-
102 minister the provisions of sections three hundred and twenty to
103 three hundred twenty-five, inclusive. Said secretary shall have the
104 power to promulgate and from time to time revise reasonable rules
105 and regulations to effectuate the purposes of these sections.

106 *Section 326.* The attorney general and district attorneys shall
107 enforce the provisions of sections three hundred and twenty to
108 three hundred and twenty-six, inclusive. Any bottler, distributor,
109 redemption center or dealer who violates any provisions of sections
110 three hundred and twenty to three hundred and twenty-five, inclu-
111 sive, shall be subject to a civil penalty for each violation of not more
112 than one thousand dollars.

1 SECTION 2. In order to provide further incentives to encour-
2 age the reuse and recycling of beverage containers in this common-
3 wealth, a bottler shall be entitled to a credit against his excise
4 liability under Chapter sixty-three of the General Laws equal to
5 one-tenth of one cent for each reusable beverage container and for
6 each recyclable can, containing a beverage, as defined in section
7 three hundred twenty of chapter ninety-four of the General Laws,
8 sold by him for consumption within the commonwealth. For taxa-
9 ble years ending on or before December thirty-first, nineteen
10 hundred and eighty-one.

1 SECTION 3. Any person who was employed on the date of
2 enactment of this act and in the opinion of the director of the
3 division of employment security, loses his position of employment
4 before January 1, 1984 with an employer located in the common-
5 wealth who is a bottler, canner or manufacturer of beverage con-
6 tainers as defined in section three hundred and twenty of chapter
7 ninety-four as the result of this act shall be considered a bottler bill
8 impacted person.

9 A bottle bill impacted person shall be eligible for the following:
10 (1) A readjustment allowance which when added to the weekly
11 benefits received under subsection (a) of section twenty-nine of

12 chapter one hundred and fifty-one A will provide said employee
13 with an amount equal to seventy percent of his average weekly
14 wage as defined in said sub-section (a) of section twenty-nine of
15 said chapter one hundred and fifty-one A for a period not to exceed
16 fifty-two weeks from the date of his separation. A bottle bill
17 impacted person who is sixty years of age or older at the time of his
18 separation may receive up to twenty-six additional weeks.

19 (2) Job retraining in a program which shall be created by the
20 department of economic affairs. Any such individual shall be
21 retrained in an occupation which can be expected to provide a rate
22 of pay at least equal to what he was receiving at the time of such loss
23 of employment as determined by the director. Participation in a
24 job retraining program shall not disqualify a bottle bill impacted
25 person from receiving readjustment allowance benefits as defined
26 in this section provided all criteria are met except that his participa-
27 tion in a retraining program has caused him to be not available for
28 full time employment.

29 The costs of said readjustment allowance and job retraining
30 programs shall be borne entirely by the commonwealth.

1 SECTION 4. Section six of chapter sixty-four (H) of the Gener-
2 al Laws is hereby amended by striking sub-section (g) and inserting
3 in its place the following:

4 (g) (1) Sales of both returnable and nonreturnable containers
5 when sold without the contents together with the container;
6 (2) containers when sold with the contents if the sale price of the
7 contents is not required to be included in the measure of the taxes
8 imposed by this chapter; (3) returnable containers when sold with
9 the contents or resold by refilling. As used in this paragraph the
10 term "returnable containers" means containers of a kind customar-
11 ily returned by the buyer of the contents for reuse. All other
12 containers are "nonreturnable" containers. Nothing in this para-
13 graph shall be construed so as to tax the sale of bags in which feed
14 for livestock and poultry is contained.

1 SECTION 5. This act shall take effect one year from the date of
2 enactment.

