

1 *Senate* BILL NO. *128*
 2 INTRODUCED BY *Blacklock Norman Flynn Kagan*
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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE USE OF
 5 REUSABLE BEVERAGE CONTAINERS FOR BEER AND SOFT DRINKS."
 6

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Short title. This act may be cited as "The
 9 Montana Beverage Container Refund Act."

10 Section 2. Purpose. The purpose of this act is to
 11 promote the use of reusable beverage containers, to
 12 encourage non-wasteful usage of natural resources and to
 13 protect the environment from unsightly litter.

14 Section 3. Definitions. As used in this act:

15 (1) "Beverage" means beer or other malt beverages and
 16 mineral waters, soda water and similar carbonated soft
 17 drinks in liquid form and intended for human consumption.

18 (2) "Beverage container" means the individual,
 19 separate, sealed glass, metal or plastic bottle, can, jar or
 20 carton containing a beverage.

21 (3) "Department" means the department of health and
 22 environmental sciences.

23 (4) "Consumer" means every person who purchases a
 24 beverage in a beverage container for use or consumption.

25 (5) "Dealer" means every person in this state who

1 engages in the sale of beverages in beverage containers to a
 2 consumer.

3 (6) "Distributor" means every person who engages in
 4 the sale of beverages in beverage containers to a dealer in
 5 this state including any manufacturer who engages in these
 6 sales.

7 (7) "In this state" means within the exterior limits
 8 of the state of Montana and includes all territory within
 9 these limits owned by or ceded to the United States of
 10 America.

11 (8) "Manufacturer" means every person bottling,
 12 canning or otherwise filling beverage containers for sale to
 13 distributors or dealers.

14 (9) "Place of business of a dealer" means the location
 15 at which a dealer sells or offers for sale beverages in
 16 beverage containers to consumers.

17 (10) "Use or consumption" includes the exercise of any
 18 right or power over a beverage incident to the ownership
 19 thereof, other than the sale or the keeping or retention of
 20 a beverage for the purposes of sale.

21 Section 4. Refund value required. (1) Except as
 22 provided in subsection (2) of this section, every beverage
 23 container sold or offered for sale in this state shall have
 24 a refund value of not less than five cents (\$.05).

25 (2) Every beverage container certified as provided in

1 section 8 of this act, sold or offered for sale in this
2 state, shall have a refund value of not less than two cents
3 (\$.02).

4 Section 5. Practices required of dealers and
5 distributors. Except as provided in section 6 of this act:

6 (1) A dealer shall not refuse to accept from any
7 person any empty beverage containers of the kind, size and
8 brand sold by the dealer, or refuse to pay to that person
9 the refund value of a beverage container as established by
10 section 4 of this act.

11 (2) A distributor shall not refuse to accept from a
12 dealer any empty beverage containers of the kind, size and
13 brand sold by the distributor, or refuse to pay the dealer
14 the refund value of a beverage container as established by
15 section 4 of this act.

16 Section 6. When dealer or distributor authorized to
17 refuse to accept or pay refund in certain cases. A dealer
18 may refuse to accept from any person, and a distributor may
19 refuse to accept from a dealer any empty beverage container
20 which does not state thereon a refund value as established
21 by section 4 of this act.

22 Section 7. Indication of refund value required --
23 exception -- certain metal containers prohibited. (1) Every
24 beverage container sold or offered for sale in this state by
25 a dealer shall clearly indicate by embossing or by a stamp,

1 or by a label or other method securely affixed to the
2 beverage container, the refund value of the container.

3 (2) Subsection (1) of this section shall not apply to
4 glass beverage containers designed for beverages having a
5 brand name permanently marked thereon which, on November 1,
6 1975, had a refund value of not less than five cents (\$.05).

7 (3) No person shall sell or offer for sale at retail
8 in this state any metal beverage container so designed and
9 constructed that a part of the container is detachable in
10 opening the container without the aid of a can opener.

11 Section 8. Certification of containers as reusable by
12 more than one manufacturer. (1) To promote the use in this
13 state of reusable beverage containers of uniform design, and
14 to facilitate the return of containers to manufacturers for
15 reuse as a beverage container, the department may certify
16 beverage containers which satisfy the requirements of this
17 section.

18 (2) A beverage container may be certified if:

19 (a) It is reusable as a beverage container by more
20 than one manufacturer in the ordinary course of business;
21 and

22 (b) More than one manufacturer will in the ordinary
23 course of business accept the beverage container for reuse
24 as a beverage container and pay the refund value of the
25 container.

1 (3) The department may by rule establish appropriate
2 liquid capacities and shapes for beverage containers to be
3 certified or decertified in accordance with the purposes set
4 forth in subsection (1) of this section.

5 (4) A beverage container shall not be certified under
6 this section if by reason of its shape or design, or by
7 reason of words or symbols permanently inscribed thereon,
8 whether by engraving, embossing, painting or other permanent
9 method, it is reusable as a beverage container in the
10 ordinary course of business only by a manufacturer of a
11 beverage sold under a specific brand name.

12 Section 9. Decision upon certification applications --
13 review and withdrawal of certifications granted. (1) Unless
14 an application for certification under section 8 of this act
15 is denied by the department within sixty (60) days after the
16 filing of the application, the beverage container is deemed
17 certified.

18 (2) The department may review at any time
19 certification of a beverage container. If after that
20 review, with written notice and hearing afforded to the
21 person who filed the application for certification under
22 section 8 of this act, the department determines the
23 container is no longer qualified for certification, it shall
24 withdraw certification.

25 (3) Withdrawal of certification is effective not less

1 than thirty (30) days after written notice to the person who
2 filed the application for certification under section 8 of
3 this act and to the manufacturers referred to in subsection
4 (2) of section 8 of this act.

5 Section 10. Hearing and appeal procedures. All
6 hearing and appeal procedures shall be in accordance with
7 the Montana Administrative Procedure Act, unless another
8 method is specifically provided in this act.

9 Section 11. Penalty. Violation of section 4, 5, or 7
10 of this act is a misdemeanor and upon conviction the
11 offender shall be fined five hundred dollars (\$500) or
12 imprisoned in the county jail for any term not to exceed six
13 (6) months.

14 Section 12. Effective date. This act is effective
15 January 1, 1976.

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