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Senate BILL NO. *69*
Stacylock Ryan Watt

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE USE OF REUSABLE BEVERAGE CONTAINERS FOR BEER AND SOFT DRINKS AND PROVIDING A DELAYED EFFECTIVE DATE."

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

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

Section 2. Purpose. The purpose of this act is to promote the use of reusable beverage containers, to encourage nonwasteful usage of natural resources, and to protect the environment from unsightly litter.

Section 3. Definitions. As used in this act the following definitions apply:

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

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

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

(4) "Consumer" means a person who purchases a beverage

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in a beverage container for use or consumption.

(5) "Dealer" means a person in this state who engages in the sale of beverage containers to a consumer.

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

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

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

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

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

Section 4. Refund value required. (1) Except as provided in subsection (2) of this section each beverage container sold or offered for sale in this state shall have a refund value of not less than 5 cents.

1 (2) Each beverage container certified as provided in
2 [section 8] sold or offered for sale in this state shall
3 have a refund value of not less than 2 cents.

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

6 (1) a dealer may not refuse to accept from any person
7 any empty beverage containers of the kind, size, and brand
8 sold by the dealer or refuse to pay to that person the
9 refund value of a beverage container; and

10 (2) a distributor may not refuse to accept from a
11 dealer any empty beverage containers of the kind, size, and
12 brand sold by the distributor or refuse to pay the dealer
13 the refund value of a beverage container.

14 Section 6. When dealer or distributor authorized to
15 refuse to accept or pay refund in certain cases. A dealer
16 may refuse to accept from any person and a distributor may
17 refuse to accept from a dealer any empty beverage container
18 which does not state thereon a refund value.

19 Section 7. Indication of refund value required —
20 exception — certain metal containers prohibited. (1) Each
21 beverage container sold or offered for sale in this state by
22 a dealer shall clearly indicate by embossing, by a stamp, by
23 a label, or other method securely affixed to the beverage
24 container the refund value of the container.

25 (2) Subsection (1) of this section does not apply to

1 glass beverage containers designed for beverages having a
2 brand name permanently marked on them which, on November 1,
3 1978, had a refund value of not less than 5 cents.

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

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

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

16 (a) it is reusable as a beverage container by more
17 than one manufacturer in the ordinary course of business;
18 and

19 (b) more than one manufacturer will in the ordinary
20 course of business accept the beverage container for reuse
21 as a beverage container and pay the refund value of the
22 container.

23 (3) The department may by rule establish appropriate
24 liquid capacities and shapes for beverage containers to be
25 certified or decertified in accordance with the purposes set

1 forth in subsection (1) of this section.

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

9 Section 9. Decision upon certification applications —
10 review and withdrawal of certifications granted. (1) Unless
11 an application for certification is denied by the department
12 within 60 days after the filing of the application, the
13 beverage container is considered certified.

14 (2) The department may review at any time
15 certification of a beverage container. If after that review,
16 with written notice and hearing given to the person who
17 filed the application for certification the department
18 determines the container is no longer qualified for
19 certification, it shall withdraw certification.

20 (3) Withdrawal of certification is effective not less
21 than 30 days after written notice to the person who filed
22 the application for certification and to the manufacturers
23 referred to in subsection (2) of [section 8].

24 Section 10. Hearing and appeal procedures. All hearing
25 and appeal procedures shall be in accordance with the

1 Montana Administrative Procedure Act, unless another method
2 is specifically provided.

3 Section 11. Penalty. Violation of [section 4, 5, or 7]
4 is a misdemeanor and upon conviction the offender shall be
5 fined \$500 or imprisoned in the county jail for not more
6 than 6 months.

7 Section 12. Delayed effective date. This act is
8 effective January 1, 1979.

-End-

*Without Recommendation
by Comm. on Business & Industry*

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