

Bill: HB3356 of 2007-2008 session

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PETITION OF:

Marzilli, Jr.	Douglas W. Petersen	J. James
Turner	Alice K. Wolf	Cleon H.
	Jarrett T. Barrios	Kevin G. Honan
D'Amico	Michael F. Rush	Steven J.
	Anthony J. Verga	Kay Khan
Smizik	Theodore C. Speliotis	Frank I.
Eldridge	Robert M. Koczera	James B.
Toomey, Jr.	Jennifer L. Flanagan	Timothy J.
	Christine E. Canavan	Benjamin Swan
Montigny	Martha M. Walz	Mark C.
Creem	Ruth B. Balser	Cynthia S.
	Denise Provost	Brian A. Joyce
	William N. Brownsberger	John D. Keenan
	James M. Murphy	Geraldo Alicea
Malia	Peter V. Kocot	Elizabeth A.
Spilka	Barbara A. L'Italien	Karen E.
	Stephen Kulik	Jay R. Kaufman
Lantigua	Denis E. Guyer	William
	John W. Scibak	Ellen Story
	Mary E. Grant	
	Matthew C. Patrick	

In the Year Two Thousand and Seven.

AN ACT TO IMPROVE RECYCLING RATES IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court

assembled, and by the authority of the same, as follows:

SECTION 1. Section 321 of Chapter 94 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the definitions for "beverage" and "beverage container," and inserting in place thereof the following definitions:--

"Beverage," soda water or similar carbonated soft drinks; non-carbonated beverages including mineral water, flavored and unflavored water, spring water, vitamin water, and other water beverages, tea, sports drinks, isotonic drinks; beer and other malt beverages; and all other non-alcoholic carbonated and noncarbonated drinks in liquid form intended for human consumption except milk and beverages that are primarily derived from dairy products, infant formula, and FDA-approved medicines.

"Beverage container," any sealable bottle, can, jar, or carton which is primarily composed of glass, metal, plastic, or any combination of those materials and is produced for the purpose of containing a beverage, which, at the time of sale, contains twenty-eight ounces or less of a beverage. This definition shall not include containers made of paper-based biodegradable material and aseptic multi-material packaging.

SECTION 2. Section 321 of Chapter 94 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding, after the definition of "Plastic bottle" the following definition:--
"Redemption center," any business whose primary purpose is the redemption of beverage containers and is not ancillary to any other business, and that employs at least two full-time employees who spend at least seventy-five percent of their time in the business of collecting and redeeming empty beverage containers.

SECTION 3. Section 321 of Chapter 94 of the General Laws, as appearing in the 2002 Official Edition, in the definition for "Plastic Bottle", striking "sixteen fluid ounces" and inserting the words "equal to or greater than four ounces but less than or equal to twenty-eight ounces."

SECTION 4. Section 321 of Chapter 94 of the General Laws, as appearing in the 2002 Official Edition, in the definition for "Rigid Plastic Container", striking "eight ounces" and inserting the words "equal to or greater than four ounces but less than or equal to twenty-eight ounces."

SECTION 5. Section 321 of Chapter 94 of the General Laws, as so appearing,
is hereby amended by adding, after the definition of "Reusable beverage container," the following definition:--
"Small dealer," any person, including any operator of a vending machine,
employing the equivalent of ten full time employees or less, who engages in the
sale of beverages in beverage containers to consumers in the commonwealth.

SECTION 6. Section 323 of Chapter 94 of the General Laws, as so appearing,
is hereby amended by adding in line 30 after the letter "(e)," the following:--

The Executive Office of Environmental Affairs shall promulgate rules and
regulations for the licensure of redemption centers, and may set fees for the
licensing of such redemption centers.

SECTION 7. Section 323, paragraph (a), of Chapter 94 of the General Laws, as
appearing in the 1998 Official Edition, is hereby amended by striking out in line
the words "the refund value" and inserting in place thereof the words "the full
refund value"

SECTION 8. Section 323, paragraph (b), of Chapter 94 of the General Laws, as
appearing in the 1998 Official Edition, is hereby amended by striking out the
words "one cent" and inserting in place thereof the words "three and one quarter
cents" and placing the following sentence at the end of the paragraph.
"The
handling fee shall be reviewed semi-annually by the Secretary of the Executive
Office of Environmental Affairs and adjustments made to reflect increases in
costs incurred by redemption facilities."

SECTION 9. Section 323, paragraph (c), of Chapter 94 of the General Laws, as
appearing in the 2002 Official Edition, is hereby amended by striking out in the
words "one cent" and inserting in place thereof the words "three and one quarter
cents" and placing the following sentence at the end of the paragraph.
"The
handling fee shall be reviewed semi-annually by the Secretary of the Executive

Office of Environmental Affairs and adjustments made to reflect increases in costs incurred by redemption facilities."

SECTION 10. Section 322 of Chapter 94 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the word "five" and inserting in place thereof "ten".

SECTION 11. Section 323 of Chapter 94 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out in line 69 the words "ten cases of twenty-four empty beverage containers each," and inserting in place thereof the words "ninety-six empty beverage containers."

SECTION 12. Section 323 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding in line 73, after the word "civil," the words "or administrative."

SECTION 13. Section 323, paragraph (f), of Chapter 94 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding after the word "container" the following:
"A small dealer may be exempt from accepting from any person and from paying the refund value on any beverage container, if the place of business of

the dealer and the kind, size and brand of beverage container are included in an order of the department approving an exemption as defined in Section 323G of the General Laws as described in section 16 of this bill."

SECTION 14. Section 323 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding in line 73 after the word "twenty-seven." the following:--
At each location where persons tender containers for redemption, dealers and redemption centers shall conspicuously display a sign in letters that are at least one inch in height with the following information: "WARNING: Persons tendering containers for redemption that were not originally purchased in Massachusetts may be subject to a fine of the greater of one hundred dollars per container or twenty-five thousand dollars for each tender of containers. (G.L. c.

94, Section 327)."

SECTION 15. Section 326 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding in line three after the word "inclusive," the following:-- and paragraph (i).

SECTION 16. Section 326 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding in line 7 after the word "sections.," the following:--
Said secretary shall have the discretion to exempt small dealers, as defined in section 321 of this chapter, from the provisions of said sections as pertaining to all non-carbonated drinks until January first, two thousand and nine, in order to allow small dealers sufficient time to comply with these additional requirements.

SECTION 17. Chapter 94 of the General Laws, as so appearing, is hereby amended by adding a new section after 323F:
Section 323G: Redemption Centers

(a) Only small dealers may apply for an exemption with the department.

(b) Application for an exemption shall be jointly filed with the department by the small dealer and redemption center. The application shall state the name and address of the person responsible for the establishment and operation of the center, the kinds, sizes and brand names of beverage containers which will be accepted and the names and addresses of dealer(s) to be served and their distance from the local redemption center.

(c) In approving the exemption, the department shall consider at least the health and safety of the public; the convenience for the public, including standards governing distribution of centers by population or by distance or both, the size and storage capacity of the dealer(s) to be served by the redemption

center and the size and storage capacity of the redemption center. The order approving a local redemption center license must state the dealers to be served and the kinds, sizes and brand names of empty beverage containers that the center accepts.

(d) A local redemption center may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by a dealer served by the center, or refuse to pay in cash the full refund value of the returned beverage container as established by Section 322 of Chapter 94 of the General Laws.

(e) A list of the dealers served and the kinds, sizes and brand names accepted shall be promptly displayed at each local redemption centers.

(f) The name and location of the redemption center serving the dealer shall be conspicuously displayed on a sign with letter at least one inch in height at the dealer.

SECTION 18. Section 326 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding in line 7 after the word "sections.," the following:-

Said secretary shall have the discretion to exempt small dealers, as defined in section 321 of this chapter, from the provisions of said sections as pertaining to wine and wine-based drinks, spirits and spirit-based drinks, hard cider, and all non-carbonated drinks until January first, two thousand and six, in order to allow small dealers sufficient time to comply with these additional requirements.

SECTION 19. Section 327 of Chapter 94 of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following new paragraphs:--

The Department of Environmental Protection shall have authority to enforce the provisions of sections three hundred and twenty-one; three hundred and twenty-two; paragraphs (a) through (f) inclusive, and paragraph (i) of section three hundred and twenty-three; three hundred and twenty-three A; three hundred and twenty-three F; three hundred and twenty-four; and three hundred and twenty-five. Any bottler, distributor, redemption center, or dealer who violates any of the foregoing provisions shall be subject to an administrative

penalty for each violation of not more than one thousand dollars.

The Department of Revenue shall have authority to enforce the provisions of paragraphs (g) and (h) of section three hundred and twenty-three and sections three hundred and twenty-three B to three hundred and twenty-three E, inclusive. Any bottler, distributor, redemption center, or dealer who

violates any of the foregoing provisions shall be subject to an administrative penalty for each violation of not more than one thousand dollars.

SECTION 20. Section 327 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding after the word "civil" in line 14 the words "or administrative."

SECTION 21. This act shall take effect on December first, two thousand and nine.