

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 772

Short Title: Deposits on Beverage Containers. (Public)

Sponsors: Representatives Edwards; Wainwright, Luebke, Insko, and Weiss.

Referred to: Rules, Calendar, and Operations of the House.

March 26, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO DISCOURAGE LITTERING AND TO ENCOURAGE RECYCLING
3 BY REQUIRING A DEPOSIT ON BEVERAGE CONTAINERS AND
4 REQUIRING RETAILERS, REDEMPTION CENTERS, AND DISTRIBUTORS
5 TO ACCEPT RETURNED BEVERAGE CONTAINERS AND REFUND THE
6 DEPOSITS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Article 9 of Chapter 130A of the General Statutes is amended
9 by adding a new Part to read:

10 "Part 2E. Beverage Container Deposits and Refunds.

11 "**§ 130A-309.90. Findings; intent.**

12 (a) The General Assembly finds that:

13 (1) Beverage containers constitute a major source of nondegradable litter
14 and solid waste in this State.

15 (2) Litter remains a large problem in North Carolina despite other efforts
16 to discourage littering and to establish criminal penalties under G.S.
17 14-399 for first-time and subsequent offenses of littering.

18 (3) The collection and disposal of litter imposes a great financial burden
19 on the citizens of North Carolina.

20 (4) A more concerted effort to reduce litter is needed in North Carolina.

21 (5) Beverage containers should be reused or recycled.

22 (6) Other states' experience shows that beverage container deposit
23 legislation is successful in reducing litter and increasing recycling of
24 discarded beverage containers.

25 (7) Beverage container deposit legislation is consistent with the State's
26 policy, set forth in G.S. 130A-309.04, to promote methods of solid
27 waste management that are alternatives to disposal in landfills.

1 (8) It is the intent of the General Assembly to create incentives for
2 manufacturers, distributors, retailers, and consumers of beverages in
3 beverage containers to recycle and reuse beverage containers, while
4 addressing the blight that litter imposes on the highways and lands of
5 this State.

6 **"§ 130A-309.91. Definitions.**

7 Unless a different meaning is required by the context, the following definitions
8 apply throughout this Part:

9 (1) 'Beverage' means any ready-to-drink liquid intended for human
10 consumption. Beverage includes any malt beverage; spirituous liquor;
11 fortified wine; unfortified wine; wine cooler; soda or noncarbonated
12 water; and any nonalcoholic carbonated or noncarbonated drink in
13 liquid form.

14 (2) 'Beverage container' means a bottle, can, jar, or other container that has
15 been sealed by a manufacturer, contains a beverage, and is made of
16 glass, metal, or plastic.

17 (3) 'Consumer' means an individual who purchases a beverage in a
18 beverage container for use or consumption.

19 (4) 'Distributor' means a person who engages in the sale of beverages in
20 beverage containers to a retailer, including any manufacturer who
21 engages in such sales.

22 (5) 'Fortified wine' has the same meaning as in G.S. 18B-101.

23 (6) 'Malt beverage' has the same meaning as in G.S. 18B-101.

24 (7) 'Operator of a vending machine' means its owner, the person who
25 refills it, or the owner or lessor of the property upon which it is
26 located.

27 (8) 'Private redemption center' means an individual or a privately owned
28 establishment approved by the Secretary under G.S. 130A-309.96.

29 (9) 'Retailer' means a person who sells or offers for sale in this State to
30 consumers a beverage in a beverage container, including an operator of
31 a vending machine containing a beverage in a beverage container.

32 (10) 'Spirituous liquor' has the same meaning as in G.S. 18B-101.

33 (11) 'Unfortified wine' has the same meaning as in G.S. 18B-101.

34 (12) 'Use or consumption' means the exercise of any right or power over a
35 beverage incident to the ownership thereof, other than the sale, storage,
36 or retention for the purposes of sale of a beverage.

37 (13) 'Wine cooler' means a beverage of less than eight percent (8%) alcohol
38 content by volume consisting of wine and both of the following:

39 a. Plain, sparkling, or carbonated water.

40 b. Any one or more of the following:

41 1. Fruit juices.

42 2. Fruit adjuncts.

43 3. Artificial or natural flavors or flavorings.

44 4. Preservatives.

1 5. Coloring.

2 6. Any other natural or artificial blending material.

3 **"§ 130A-309.92. Deposit and refund value; requirements concerning beverage**
4 **containers.**

5 (a) Every consumer who purchases a beverage in a beverage container shall pay
6 a deposit equal to the refund value under subsection (b) of this section.

7 (b) Every beverage container sold or offered for sale to a consumer in this State
8 that contains one gallon or less of a beverage shall have a refund value, as follows:

9 (1) For beverage containers, except fortified and unfortified wine and
10 spirituous liquor containers, the refund value shall be ten cents (10¢).

11 (2) For fortified and unfortified wine containers of greater than 50
12 milliliters, the refund value shall be twenty-five cents (25¢).

13 (3) For spirituous liquor containers of greater than 50 milliliters, the
14 refund value shall be twenty-five cents (25¢).

15 (c) Every beverage container that contains a beverage that is sold or offered for
16 sale in this State shall clearly indicate by embossing or imprinting on the normal
17 product label, or in the case of metal beverage containers, on the top of the container the
18 words 'North Carolina' or the initials 'N.C.' and the refund value of the container in not
19 less than one-quarter inch type size. This subsection does not apply to any permanently
20 labeled glass beverage container having a refund value of not less than ten cents (10¢)
21 prior to the effective date of this Part and having a brand name permanently marked
22 thereon, unless the glass beverage container contains spirituous liquors, fortified or
23 unfortified wines, or malt beverages.

24 (d) Every beverage container that contains a beverage that is sold or offered for
25 sale in this State shall be made of materials that are recyclable or made of recycled
26 materials.

27 (e) Every five years, the Department shall determine the percentages of each
28 category of beverage containers under subsection (b) of this section that are being
29 returned. If the Department finds that the return rate for any category is less than
30 seventy-five percent (75%), the Department may increase the refund rate for that
31 category of beverage containers by five cents (5¢).

32 **"§ 130A-309.93. Duties of retailers.**

33 (a) Every retailer shall pay to the distributor deposits equal to the value of the
34 refunds under G.S. 130A-309.92 when the retailer purchases beverages from a
35 distributor and shall receive deposits from consumers at the time of sale.

36 (b) Subject to subsections (d) and (e) of this section, a retailer shall accept at the
37 retailer's regular place of business from any consumer or other person not a retailer any
38 empty beverage container of any kind, size, and brand sold by that retailer and shall pay
39 to the consumer the refund value in cash.

40 (c) A retailer may limit the total number of beverage containers that the retailer
41 will accept from any one consumer or other person in any one business day to 24
42 containers or any other number greater than 24.

1 (d) A retailer or a private redemption center may refuse to redeem from a
2 consumer, and a distributor may refuse to redeem from a retailer or a private redemption
3 center, all of the following:

4 (1) An empty beverage container that is not labeled as required by G.S.
5 130A-309.92.

6 (2) A beverage container that is not empty and not free of materials
7 foreign to the original contents of the container.

8 (3) A glass beverage container that is broken.

9 (e) A retailer may refuse to accept beverage containers if the retailer has
10 contracted with a private redemption center under G.S. 130A-309.96, and the order
11 approving that redemption center states that the private redemption center serves that
12 retailer.

13 **"§ 130A-309.94. Duties of distributors.**

14 (a) A distributor shall accept from any retailer or any private redemption center
15 any empty beverage container of any kind, size, and brand sold by that distributor and
16 shall pay the retailer or the operator of the redemption center the refund value plus a
17 handling fee equal to five cents (5¢) for each empty beverage container accepted.

18 (b) Any distributor who receives deposits under this Part shall segregate these
19 deposits in a fund that shall be maintained separately from all other revenues. The
20 distributor may use this fund only to pay refund values and handling fees under this
21 section. The distributor shall maintain this fund on behalf of consumers who purchased
22 beverages in beverage containers and on behalf of the State. Except as provided in G.S.
23 130A-309.99, the moneys in this fund are not the property of the distributor. The
24 distributor shall report on a monthly basis to the Department in a manner prescribed by
25 the Department, the amount of these deposits and the amount refunded.

26 (c) The Department may establish, by rule, criteria prescribing the manner in
27 which the distributor shall have the obligation to pick up any empty, unbroken, and
28 reasonably clean beverage containers of the particular kind, size, and brand sold by the
29 distributor from retailers to whom a distributor has sold those beverages and from
30 redemption centers. The obligation may be fulfilled by the distributor or indirectly
31 through a contracted agent. The rules may establish a minimum number or value of
32 containers below which a distributor is not required to respond to a request to pick up
33 empty containers. Any rules adopted under this subsection shall allocate the burdens
34 associated with the handling, storage, and transportation of empty containers to prevent
35 unreasonable financial or other hardship. These rules may require a retailer and a private
36 redemption center to transport all returned containers to a material recovery facility and
37 to require a material recovery facility to sell the beverage containers to a private
38 recycling firm at market prices.

39 **"§ 130A-309.95. Retailer acting as distributor.**

40 Whenever any retailer or group of retailers receives a shipment or consignment of,
41 or in any other manner acquires, beverage containers outside the State for sale to
42 consumers in the State, such retailer shall comply with this Part as if the retailer were a
43 distributor, as well as a retailer.

44 **"§ 130A-309.96. Private redemption centers.**

1 (a) Any retailer, group of retailers, or any person or other entity may seek the
2 approval of the Secretary to operate a private redemption center to serve local retailers
3 and consumers, at which consumers may return empty beverage containers pursuant to
4 G.S. 130A-309.93.

5 (b) Application for approval of a private redemption center shall be filed with the
6 Department. The application shall state the names and addresses of the operator of the
7 center and the person responsible for the center, and the names and addresses of
8 retailers to be served and their distances from the redemption center.

9 (c) The Secretary shall approve a private redemption center if the Secretary
10 determines that the center will provide a convenient service for the return of empty
11 beverage containers. The order approving a redemption center shall state the retailers to
12 be served and the kinds, sizes, and brand names of empty beverage containers that the
13 center will accept.

14 (d) Subject to G.S. 130A-309.93(d), a private redemption center shall accept
15 from any consumer or other person not a retailer any beverage container of the kind,
16 size, and brand sold by a retailer served by the center and shall pay the refund value in
17 cash.

18 (e) A list of the retailers served, the kinds, sizes, and brand names of empty
19 beverage containers accepted, and the hours the private redemption center will accept
20 returnable beverage containers shall be prominently displayed at each private
21 redemption center.

22 (f) The Secretary may withdraw approval of a private redemption center if the
23 private redemption center has not complied with the approval order or if the private
24 redemption center no longer provides a convenient service to the public.

25 **"§ 130A-309.97. Alternate redemption arrangements for vending machines.**

26 Any retailer who is an operator of a vending machine and who is not otherwise a
27 retailer, may elect to arrange with another retailer or a private redemption center, within
28 five miles of the location of the vending machine, to redeem beverage containers from
29 the vending machine. The vending machine operator, so long as the arrangement is in
30 effect, shall be relieved of the duty to redeem beverage containers under this Part. The
31 vending machine operator shall post on each vending machine the name and address of
32 the redeeming retailer.

33 **"§ 130A-309.98. Unredeemed Beverage Container Deposits Fund.**

34 (a) The Unredeemed Beverage Container Deposits Fund is created in the
35 Department, to be administered by the Department. The Unredeemed Beverage
36 Container Deposits Fund is a nonreverting fund that consists of abandoned deposits
37 remitted by distributors and credited to the Fund under G.S. 130A-309.99. Interest
38 earned shall accrue to the Fund.

39 (b) The Unredeemed Beverage Container Deposits Fund shall be used to fund the
40 following:

- 41 (1) The costs to the Department for administering the Fund and for
42 administering this Part.

1 (2) Reimbursements to distributors under G.S. 130A-309.100 for refund
2 redemptions and handling fees paid by distributors that exceed the
3 deposits collected by the distributor.

4 (3) Public education programs directed at reducing litter and encouraging
5 recycling and reuse of beverage containers.

6 (4) Grants to material recovery facilities to support their role under this
7 Part to purchase beverage containers as recyclables to be sold to
8 private recycling firms.

9 **"§ 130A-309.99. Abandoned deposit amounts; determination.**

10 (a) At the end of each month, any amounts that are in the distributor's segregated
11 fund under G.S. 130A-309.94 and that are in excess of the total amount of refund values
12 received by the distributor for beverage containers during that month and the two
13 preceding months shall be deemed to constitute abandoned deposit amounts. Income
14 earned on the distributor's segregated fund under G.S. 130A-309.94 may be transferred
15 to the distributor and is the distributor's property.

16 (b) By the tenth day of each month, each distributor shall remit to the State
17 Treasurer any deposit amounts deemed to be abandoned under subsection (a) of this
18 section as of the close of the preceding month. The State Treasurer shall credit these
19 moneys to the Unredeemed Beverage Container Deposits Fund.

20 **"§ 130A-309.100. Reimbursements to distributors.**

21 If in any month the payments by a distributor under G.S. 130A-309.94 as refunds
22 and handling fees exceed the distributor's segregated fund under G.S. 130A-309.94, the
23 distributor shall be reimbursed from the Unredeemed Beverage Container Deposits
24 Fund.

25 **"§ 130A-309.101. Penalties.**

26 A person may be assessed a civil penalty not to exceed one thousand dollars
27 (\$1,000) per violation if the person does any of the following:

28 (1) Sells or offers for sale beverages in containers not labeled in
29 accordance with G.S. 130A-309.92.

30 (2) Refuses to accept and return the deposit on a beverage container in
31 accordance with G.S. 130A-309.93, 130A-309.94, or 130A-309.96.

32 (3) Operates a private redemption center without the order of approval
33 required under G.S. 130A-309.96.

34 (4) Makes a report pursuant to G.S. 130A-309.94 that is false."

35 **SECTION 2.** The Department of Environment and Natural Resources shall
36 conduct a study to determine at least all of the following:

37 (1) This act's economic impact on North Carolina retailers, distributors,
38 and manufacturers of alcoholic and nonalcoholic beverages and their
39 containers.

40 (2) The problems, if any, incurred in the distribution, sale, and return of
41 beverage containers.

42 (3) The effectiveness of this act in reducing the proportion of beverage
43 containers in litter found along the State's roads and highways, and
44 along its streams and rivers.

1 (4) The effectiveness of this act in increasing recycling or reuse of
2 beverage containers.

3 (5) The costs incurred in the administration of this act.

4 The Department of Environment and Natural Resources shall submit interim
5 reports to the Environmental Review Commission and a final report to the 2005 General
6 Assembly and to the Environmental Review Commission detailing its findings made
7 pursuant to the study under this section. The final report shall include recommendations
8 and any legislative proposals considered to be appropriate as determined by the study
9 under this section.

10 **SECTION 3.** The Department of Environment and Natural Resources may
11 adopt rules to implement this act.

12 **SECTION 4.** This act becomes effective January 1, 2002, and applies to
13 beverage containers sold or offered for sale on or after that date.