

HOUSE No. 3314

By Mr. Guyer of Dalton, petition of Denis E. Guyer for legislation to improve recycling programs in cities and towns and in the schools of the Commonwealth. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT TO PROMOTE RECYCLING IN THE COMMONWEALTH'S COMMUNITIES AND SCHOOLS.

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. Purpose.

2 *Whereas*, The Commonwealth of Massachusetts aims to increase
3 recycling in order to reduce solid waste,

4 *Whereas*, All citizens of the Commonwealth can help reduce solid
5 waste by recycling,

6 *Whereas*, Chapter 94 of the General Laws successfully helped
7 reduce solid waste and increase recycling in the Commonwealth,

8 *Whereas*, the consumption of beverages other than defined under
9 Chapter 94 Section 321 has increased dramatically since 1992,

10 *Whereas*, the escheat provision of 1989 to use abandoned deposits
11 into the Clean Environment Fund (CEF) has been eliminated and the
12 recycling projects supported by funding from the CEF have been
13 reduced or eliminated, and

14 *Whereas*, the Clean Environment Fund is self-sustaining and sup-
15 ports essential programs,

16 *Therefore*, The General Court finds it necessary to expand the
17 current bottle recycling program and to reestablish the clean envi-
18 ronment fund to support recycling in schools and municipalities
19 across the Commonwealth.

1 SECTION 2. Chapter 29 of the General Laws is hereby amended
2 by inserting the following new section:—

3 Section 2000. CLEAN ENVIRONMENT FUND.

4 (a) There shall be established on the books of the Commonwealth
5 a separate fund to be known as the Clean Environment Fund, the
6 funds of which shall be expended for the purpose of increasing recy-
7 cling in the Commonwealth.

8 (b) The fund shall consist of the amounts specified in and col-
9 lected pursuant to Section 323D of Chapter 94 and any interest
10 earned from this fund.

11 (c) The state treasurer shall deposit these amounts annually into
12 the fund, which shall be expended according to the following for-
13 mula:—

14 a.) 20% to the Department of Environmental Protection (DEP) to
15 fund recycling programs in schools, including technical assistance,
16 equipment, curriculum and other aspects of school-based recycling
17 programs;

18 b.) up to 15% to the DEP for costs incurred from the implementa-
19 tion, enforcement and administrative duties performed under
20 Chapter 94 Section 321-327 of the Massachusetts General Laws;

21 c.) up to 10% to the DEP for low-interest loans for businesses
22 defined as “bottler”, “dealer”, “distributor”, or “redemption center”
23 under Chapter 94 Section 321 to improve management relating to
24 Chapter 94 Section 321-327;

25 d.) up to 5% to be used by the Office of the State Auditor for
26 oversight, enforcement, and other costs resulting from Chapter 94
27 Section 321-327;

28 e.) all remaining amounts shall be utilized for efforts to create,
29 enhance and expand municipal recycling programs.

1 SECTION 3. Section 321 of Chapter 94 of the General Laws is
2 hereby amended by striking out the definitions for “beverage” and
3 “beverage container” and inserting in place thereof the following
4 definitions:—

5 “Beverage”, soda water or similar carbonated soft drinks; non-
6 carbonated beverages including mineral water, flavored and unfla-
7 vored water, spring water, and other water beverages; tea, coffee,
8 sports drinks, isotonic drinks; hard cider, beer and other malt bever-
9 ages; wine and wine-based drinks; spirits and spirit-based drinks;
10 and all other non-alcoholic carbonated drinks in liquid form intended
11 for human consumption except milk and beverages that are primarily

12 derived from dairy products, infant formula, and FDA approved
13 medicines.

14 “Beverage container”, any sealable bottle, can, jar, or carton
15 which is primarily composed of glass, metal, plastic or any combina-
16 tion of those materials and is produced for the purpose of containing
17 a beverage, which, at the time of sale, contains four liters or less of a
18 beverage. This definition shall not include containers made of paper-
19 based biodegradable material and aseptic multi-material packaging.

20 “Plastic Bottle”, a plastic container that has a neck that is smaller
21 than the body of the container, accepts a screw-type, snap cap or
22 other closure and has a capacity of one and one-half fluid ounces or
23 more, but less than five gallons.

24 “Rigid plastic container”, any formed or molded container, other
25 than a bottle, intended for single use, composed predominantly of
26 plastic resin and has a relatively inflexible finite shape or form and
27 has a capacity of one and one-half fluid ounces or more, but less
28 than five gallons.

1 SECTION 4. Section 321 of Chapter 94 of the General Laws is
2 hereby amended by adding the following definitions:—

3 “Redemption center”, any business whose primary purpose is the
4 redemption of beverage containers and is not ancillary to any other
5 business, and that employs at least two full-time employees who
6 spend at least seventy-five percent of their time in the business of
7 collecting and redeeming empty beverage containers.

8 “Small Dealer”, any business, including any operator of a vending
9 machine, employing the equivalent of ten full-time employees or
10 less, who engages in the sale of beverages in beverage containers to
11 consumers in the Commonwealth.

1 SECTION 5. Section 323 of Chapter 94 of the General Laws is
2 hereby amended by striking paragraphs (a), (b), (c), (d) and (e) and
3 inserting in place thereof the following:—

4 (a) Every consumer shall deposit with the dealer the full refund
5 value of each beverage container purchased for that dealer.

6 (b) Except as provided in paragraph (f), a distributor shall accept
7 from any person during business hours any empty beverage con-
8 tainer of the type, size and brand sold by the dealer within the past

9 sixty days and shall pay that person the full refund value of each
10 beverage container returned.

11 (c) Except as provided in paragraph (f), a distributor shall accept
12 from any dealer any empty beverage container of the type, size and
13 brand sold by the distributor within the past sixty days and shall pay
14 the dealer the refund value to the beverage container plus a handling
15 fee of at least three cents per container if the empty beverage con-
16 tainer is presented at the time and of and at the location at which the
17 dealer obtains billed beverage containers from the distributor. The
18 handling fee shall be reviewed semi-annually by the Secretary of the
19 Executive Office of Environmental Affairs and adjustments made to
20 reflect increases in costs incurred by redemption facilities.

21 (d) Except as provided in paragraph (f), a bottler shall accept from
22 a distributor of a dealer any empty reusable beverage container of
23 the type, size, and brand sold by the bottler within the past sixty days
24 and shall pay the distributor or dealer the refund value of the
25 reusable beverage container plus a handling fee of at least three
26 cents per container if the empty reusable beverage container is pre-
27 sented at the time and at the location where the distributor or dealer
28 obtains filled reusable beverage containers from the bottler; pro-
29 vided, however, that a bottler other than a bottler of soft drinks man-
30 ufacturing in the commonwealth who offers to refund deposits in
31 accordance with this section, shall not require a distributor to deposit
32 with the bottler the refund value of a beverage container which is not
33 reusable, nor shall a bottler require of a distributor that beverage
34 containers which are not reusable, be presented to the bottler at the
35 location where the distributor obtains filled beverage containers. The
36 handling fee shall be reviewed semi-annually by the Secretary of the
37 Executive Office of Environmental Affairs and adjustments made to
38 reflect increases in costs incurred by redemption facilities.

39 (e) Any person may establish a redemption center and shall have
40 the right to determine what type, size and brand of beverage con-
41 tainer shall be accepted. Except as provided in paragraph (f), a dis-
42 tributor shall take from any redemption center any empty beverage
43 container of the type, size and brand sold by the distributor within
44 the past sixty days and shall pay the redemption center the full
45 refund value of the container plus a handling fee of at least three
46 cents per container. The executive office of environmental affairs
47 shall promulgate rules and regulations for the licensure of redemp-

48 tion centers, and may set fees for the licensing of such redemption
49 centers. The handling fee shall be reviewed semi-annually by the
50 Secretary of the Executive Office of Environmental Affairs and
51 adjustments made to reflect increases in costs incurred by redemp-
52 tion facilities.

1 SECTION 6. Section 323 of Chapter 94 of the General Laws is
2 hereby amended by striking paragraph (i) and inserting in place
3 thereof the following:—

4 (i) The obligations to accept or take empty beverage containers
5 and to pay the refund value and handling fees for such containers as
6 described in paragraphs (b), (c), (d) and (e) shall apply only to con-
7 tainers originally sold in the commonwealth as filled beverage con-
8 tainers. Any person who tenders to a dealer, distributor, redemption
9 center or bottler more than one hundred empty beverage containers
10 each, which he knows or has reason to know were not originally sold
11 in the commonwealth as filled beverage containers, for the purpose
12 of obtaining a refund value or handling fee, shall be subject to the
13 enforcement action and civil or administrative penalties set forth in
14 section three hundred and twenty-seven. At each location where per-
15 sons tender containers for redemption, dealers and redemption cen-
16 ters shall conspicuously display a sign in letters that are at least one
17 inch in height with the following information:—

18 “WARNING: Persons tendering containers for redemption that
19 were not originally purchased in Massachusetts may be subject to a
20 fine of the greater of one-hundred dollars per container or twenty-
21 five thousand dollars for each tender of containers (G.L. C.94
22 s.327).” For the purpose of this section and section three hundred
23 and twenty-seven, the term person shall include any individual, part-
24 nership, corporation, or other combination or entity.

1 SECTION 7. Section 326 of Chapter 94 of the General Laws, is
2 hereby amended by striking the first paragraph and inserting in place
3 thereof the following:—

4 The secretary of environmental affairs shall administer the provi-
5 sions of sections three hundred and twenty-one, three hundred and
6 twenty-two, paragraphs (a) to (f), inclusive, and paragraph (i) of
7 section three hundred and twenty-three, three hundred and twenty-
8 three F, three hundred and twenty-four and three hundred and

9 twenty-five. Said secretary shall promulgate and from time to time
10 revise rules and regulations to effectuate the purposes of said sec-
11 tions. Said secretary shall have the discretion to exempt small
12 dealers, as defined in Section 321 of Chapter 94, from the provisions
13 of said sections as pertaining to wine and wine-based drinks, spirits
14 and spirit-based drinks, hard cider, and all non-carbonated drinks
15 until June first, two thousand and nine, in order to allow small
16 dealers sufficient time to comply with these additional requirements.

1 SECTION 8. Section 326 of Chapter 94 of the General Laws, is
2 hereby amended by inserting at the end of the section the following
3 new paragraph:—

4 The secretary shall file an annual report on the implementation of
5 the “Bottle Bill,” so-called, with the house and senate committees on
6 ways and means on or before December thirty-first of each year. The
7 report shall contain, but not be limited to, information concerning
8 state wide redemption rates of beverage containers, an evaluation of
9 the bottle bill program, and as necessary, suggestions to improve the
10 program.

1 SECTION 9. Section 327 of Chapter 94 of the General Laws, as
2 so appearing, is hereby amended by inserting after the first para-
3 graph the following new paragraphs:—

4 The department of environmental protection shall have authority
5 to enforce the provisions of sections three hundred and twenty-one;
6 three hundred and twenty-two; paragraphs (a) through (f) inclusive,
7 and paragraph (i) of section three hundred and twenty-three; three
8 hundred and twenty-three A; three hundred and twenty-three F; three
9 hundred and twenty-four; and three hundred and twenty-five. Any
10 bottler, distributor, redemption center or dealer who violates any of
11 the foregoing provisions shall be subject to an administrative penalty
12 for each violation of at least five hundred dollars and not more than
13 two thousand dollars.

14 The department of revenue shall have authority to enforce the
15 provisions of paragraphs (g) and (h) of section three hundred and
16 twenty-three and sections three hundred and twenty-three B to three
17 hundred and twenty-three E, inclusive. Any bottler, distributor,
18 redemption center, or dealer who violates any of the foregoing provi-
19 sions shall be subject to an administrative penalty for each violation

20 of at least five hundred dollars and not more than two thousand dol-
21 lars.

1 SECTION 10. Section 327 of Chapter 94 of the General Laws, as
2 so appearing, is hereby amended by adding after the word “civil” in
3 line 14 the words “or administrative”.

1 SECTION 11. This act shall take effect on January first, two thou-
2 sand and nine.