

HOUSE No. 3356

By Mr. Petersen of Marblehead, petition of Douglas W. Petersen and others relative to redeemable containers under the “bottle law”, so-called, and providing for improvements in the recycling rates in the Commonwealth. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

PETITION OF:

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

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:

- 1 SECTION 1. Section 321 of Chapter 94 of the General Laws, as
- 2 appearing in the 2002 Official Edition, is hereby amended by
- 3 striking out the definitions for “beverage” and “beverage container,”
- 4 and inserting in place thereof the following 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, vitamin water, and other water beverages,
8 tea, sports drinks, isotonic drinks; beer and other malt beverages;
9 and all other non-alcoholic carbonated and noncarbonated drinks in
10 liquid form intended for human consumption except milk and bever-
11 ages that are primarily derived from dairy products, infant formula,
12 and FDA-approved medicines.

13 “Beverage container,” any sealable bottle, can, jar, or carton
14 which is primarily composed of glass, metal, plastic, or any combi-
15 nation of those materials and is produced for the purpose of con-
16 taining a beverage, which, at the time of sale, contains twenty-eight
17 ounces or less of a beverage. This definition shall not include con-
18 tainers made of paper-based biodegradable material and aseptic
19 multi-material packaging.

1 SECTION 2. Section 321 of Chapter 94 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 adding, after the definition of “Plastic bottle” the following defini-
4 tion:—

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

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

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

1 SECTION 5. Section 321 of Chapter 94 of the General Laws, as
2 so appearing, is hereby amended by adding, after the definition of
3 “Reusable beverage container,” the following definition:—

4 “Small dealer,” any person, including any operator of a vending
5 machine, employing the equivalent of ten full time employees or
6 less, who engages in the sale of beverages in beverage containers to
7 consumers in the Commonwealth.

1 SECTION 6. Section 323 of Chapter 94 of the General Laws, as
2 so appearing, is hereby amended by adding in line 30 after the letter
3 “(e),” the following:—

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

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

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

1 SECTION 9. Section 323, paragraph (c), of Chapter 94 of the
2 General Laws, as appearing in the 2002 Official Edition, is hereby
3 amended by striking out in the words “one cent” and inserting in
4 place thereof the words “three and one quarter cents” and placing
5 the following sentence at the end of the paragraph. “The handling
6 fee shall be reviewed semi-annually by the Secretary of the Exec-
7 utive Office of Environmental Affairs and adjustments made to reflect
8 increases in costs incurred by redemption facilities.”

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

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

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

1 SECTION 13. Section 323, paragraph (f), of Chapter 94 of the
2 General Laws, as appearing in the 2002 Official Edition, is hereby
3 amended by adding after the word “container” the following:—
4 “A small dealer may be exempt from accepting from any person
5 and from paying the refund value on any beverage container, if the
6 place of business of the dealer and the kind, size and brand of bev-
7 erage container are included in an order of the department approving
8 an exemption as defined in Section 323G of the General Laws as
9 described in Section 16 of this bill.”

1 SECTION 14. Section 323 of Chapter 94 of the General Laws, as
2 so appearing, is hereby amended by adding in line 73 after the word
3 “twenty-seven.” the following:—
4 At each location where persons tender containers for redemption,
5 dealers and redemption centers shall conspicuously display a sign in
6 letters that are at least one inch in height with the following informa-
7 tion:—
8 “WARNING: Persons tendering containers for redemption that
9 were not originally purchased in Massachusetts may be subject to a
10 fine of the greater of one hundred dollars per container or twenty-
11 five thousand dollars for each tender of containers. (G.L. c. 94,
12 Section 327).”

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

1 SECTION 16. Section 326 of Chapter 94 of the General Laws, as
2 so appearing, is hereby amended by adding in line 7 after the word
3 “sections,” the following:—

4 Said secretary shall have the discretion to exempt small dealers,
5 as defined in section 321 of this chapter, from the provisions of said
6 sections as pertaining to all non-carbonated drinks until January
7 first, two thousand and nine, in order to allow small dealers suffi-
8 cient time to comply with these additional requirements.

1 SECTION 17. Chapter 94 of the General Laws, as so appearing,
2 is hereby amended by adding a new section after 323F:—

3 Section 323G. Redemption Centers.

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

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

13 (c) In approving the exemption, the department shall consider at
14 least the health and safety of the public; the convenience for the
15 public, including standards governing distribution of centers by pop-
16 ulation or by distance or both, the size and storage capacity of the
17 dealer(s) to be served by the redemption center and the size and
18 storage capacity of the redemption center. The order approving a
19 local redemption center license must state the dealers to be served
20 and the kinds, sizes and brand names of empty beverage containers
21 that the center accepts.

22 (d) A local redemption center may not refuse to accept from any
23 consumer or other person not a dealer any empty, unbroken and rea-
24 sonably clean beverage container of the kind, size and brand sold by
25 a dealer served by the center, or refuse to pay in cash the full refund
26 value of the returned beverage container as established by Section
27 322 of Chapter 94 of the General Laws.

28 (e) A list of the dealers served and the kinds, sizes and brand
29 names accepted shall be promptly displayed at each local redemp-
30 tion centers.

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

1 SECTION 18. Section 326 of Chapter 94 of the General Laws, as
2 so appearing, is hereby amended by adding in line 7 after the word
3 “sections,” the following:—

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

1 SECTION 19. 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 not more than one thousand dollars.

13 The Department of Revenue shall have authority to enforce the
14 provisions of paragraphs (g) and (h) of section three hundred and
15 twenty-three and sections three hundred and twenty-three B to three
16 hundred and twenty-three E, inclusive. Any bottler, distributor,
17 redemption center, or dealer who violates any of the foregoing provi-
18 sions shall be subject to an administrative penalty for each violation
19 of not more than one thousand dollars.

1 SECTION 20. 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 21. This act shall take effect on December first, two
2 thousand and nine.