

204 CMR: ALCOHOLIC BEVERAGES CONTROL COMMISSION

204 CMR 3.00: REPORTING BY BOTTLERS AND DISTRIBUTORS OF DEPOSITS RECEIVED AND REFUNDED AND OF HANDLING CHARGES PAID

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3.01: Purpose

204 CMR 3.00 is promulgated to effectuate the purposes of M.G.L. c. 94, § 323(g).

3.02: Definitions

As used in 204 CMR 3.00, the following terms shall have the following meanings:

Beverage: soda water or similar carbonated soft drinks, artificially carbonated mineral water, and beer and other malt beverages, but shall not include alcoholic beverages other than beer and malt beverages, dairy products, natural fruit juices or wine.

Bottler: any person filling beverage containers for sale to distributors or dealers.

Consumer: any person who purchases a beverage in a beverage container for use or consumption with no intent to resell such beverage.

Dealer: any person, including any restaurateur or operator of a vending machine, who engages in the sale of beverages in beverage containers to consumers in the Commonwealth.

Deposit Fund: the total refund value of all filled refundable beverage containers sold by bottler or distributor to dealers during a given reporting period minus the total amount of refunds paid to dealers, redemption centers or third-party collecting agents during that period.

Distributor: any person who engages in the sale of beverages in refundable beverage containers to dealers in the Commonwealth, including any bottler who engages in such sales.

Malt Beverages: all alcoholic beverages manufactured or produced by the process of brewing or fermentation of malt, with or without cereal grains or fermentable sugars, or of hops, and containing not more than twelve percent of alcohol by weight.

Person: any agency or political subdivision of the federal government or the Commonwealth, any state, public or private corporation or authority, individual, trust, firm, joint stock company, partnership, association, or other entity, and any officer, employee, or agent of said person, and any group of said persons.

Redemption Center: any facility operated by any person for the purpose of accepting and redeeming containers from consumers.

Refund Value: the deposit on a beverage container.

Refundable Beverage Container: any sealable bottler, can, jar, or carton which is primarily composed of glass, metal, plastic, or any combination of those materials which is produced for the purpose of containing a beverage and has been embossed, stamped labeled, or otherwise affixed with an indication

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of refund value.

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### 3.02: continued

Refundable/Reusable Beverage Container: any beverage container so constructed or designed that it is structurally capable of being refilled and resold by a bottler at least ten times after its initial use.

Reporting Period: one calendar month.

Restaurateur: any person who operates a business for the sale of prepared food and/or alcoholic beverages for immediate consumption in the area under his control.

Third-Party Collecting Agent: any person authorized to redeem containers on behalf of bottlers or distributors.

### 3.03: Required Records

(1) Any bottler or distributor who sells to dealers any filled refundable beverage containers shall record for every such transaction the total refund value of the containers sold. Bottlers and distributors shall maintain records of all such transactions using standard and consistent accounting practices.

(2) Any bottler or distributor who pays to dealers or redemption centers or third-party collecting agents any refunds for empty beverage containers shall maintain records of all such payments using standard and consistent accounting practices.

(3) Any bottler or distributor who pays to dealers or redemption centers or third-party collecting agents any handling charges shall maintain records of all such payments using standard and consistent accounting practices.

### 3.04: Reporting Requirements

(1) No later than 60 days after the expiration of each reporting period, each bottler and distributor shall file with the Commission a form similar to Attachment "A" to 204 CMR 3.00 which shall contain the following information:

- (a) the total refund value of all refundable beverage containers sold to dealers and/or distributors during the reporting period.
- (b) the total amount of refunds paid to dealers and/or distributors, redemption centers or third-party collecting agents during the reporting period.
- (c) the value of the deposit fund for the reporting period.
- (d) the total amount of handling charges paid to dealers and/or distributors, redemption centers or third-party collecting agents during the reporting period.

(2) Notwithstanding the provisions of 204 CMR 3.04(1), each bottler and distributor shall file with the Commission, at the time such bottler or distributor files a form covering the first reporting period following the effective date of 204 CMR 3.00, a form similar to Attachment "B" to 204 CMR 3.00 which shall contain the same information required under 204 CMR 3.04(1)(a) through (d), but which shall cover the period starting July 1, 1983 and ending on the last day of the month preceding the first reporting period. For example, if 204 CMR 3.00 becomes effective on January 1, 1984, each bottler and distributor, on or before March 31, 1984, shall file two forms: one covering the reporting period January 1 - January 31, 1984 and one covering the period July 1 through December 31, 1983. For the purposes of 204 CMR 3.04, the responsibility for reporting the information relating to refundable/reusable containers shall be exclusively that of bottlers, and not of distributors.

### 3.05: Penalties

The Commission shall monitor the implementation of, and the Attorney General and the district attorneys shall enforce 204 CMR 3.00. Any bottler or distributor who violates any provision of M.G.L. c. 94, § 323(g) and 204 CMR 3.00 promulgated thereunder, shall be subject to a civil penalty for each violation of not more than \$1,000.

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3.06: Effective Date

204 CMR 3.00 shall take effect on January 1, 1984.

3.07: Severability

The provisions of 204 CMR 3.00 are severable, and if any provision or the application thereof is held by a court of competent jurisdiction to be invalid, such invalidity shall not affect any other provision of 204 CMR 3.00.

REGULATORY AUTHORITY

204 CMR 3.00: M.G.L. c. 94, § 323(g); M.G.L. c. 30A.

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3.00: ATTACHMENT "A"

Business name: \_\_\_\_\_

Business address: \_\_\_\_\_

\_\_\_\_\_

Reporting period (month and year): \_\_\_\_\_

1. Refund value of filled containers sold to dealers: \_\_\_\_\_
2. Refunds paid to dealers: \_\_\_\_\_
3. Refunds paid to redemption centers: \_\_\_\_\_
4. Refunds paid to third-party collecting agents: \_\_\_\_\_
5. Deposit fund value (line 1 minus lines 2,3, and 4) \_\_\_\_\_
6. Handling charges paid to dealers: \_\_\_\_\_
7. Handling charges paid to redemption centers: \_\_\_\_\_
8. Handling charges paid to third-party collecting agents: \_\_\_\_\_

3.00: ATTACHMENT "B"

Business name: \_\_\_\_\_

Business address: \_\_\_\_\_

\_\_\_\_\_

Reporting period (July 1 - December 31,): \_\_\_\_\_

1. Refund value of filled containers sold to dealers: \_\_\_\_\_
2. Refunds paid to dealers: \_\_\_\_\_
3. Refunds paid to redemption centers: \_\_\_\_\_
4. Refunds paid to third-party collecting agents: \_\_\_\_\_
5. Deposit fund value (line 1 minus lines 2,3, and 4) \_\_\_\_\_
6. Handling charges paid to dealers: \_\_\_\_\_
7. Handling charges paid to redemption centers: \_\_\_\_\_
8. Handling charges paid to third-party collecting agents: \_\_\_\_\_