



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4080

Introduced 05/18/05, by Rep. Marlow H. Colvin

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.640 new

Creates the Illinois Container Fee and Deposit Act. Provides for a deposit value of 5 cents to be paid by consumers on each beverage container sold in the State by a dealer for consumption. Provides that upon the return to a dealer or person operating a redemption center, the dealer or redemption center shall pay the value of the deposit back to the consumer as a refund. Sets forth requirements for the administration of the program. Provides certain exemptions to the program. Requires that the refund value be clearly indicated on all beverage containers sold in the State. Provides for the Environmental Protection Agency to certify redemption centers. Prohibits snap-top beverage containers. Provides that persons violating the Act shall be guilty of a Class C misdemeanor. Prohibits the manufacture of certain plastic metal beverage containers. Prohibits the disposal of beverage containers at sanitary landfills. Provides that deposits not passed on to the consumer through bottle redemption shall be distributed as follows: 75% to the Agency for environmental and conservation-related programs, and 25% to each distributor in proportion to the amount of beverage containers each distributor sold in the State. Amends the State Finance Act to create the Illinois Container Fee and Deposit Fund.

LRB094 12429 RSP 46801 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning recycling.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Illinois Container Fee and Deposit Act.

6 Section 5. Definitions. As used in this Act, the following
7 terms shall have the meanings indicated, unless the context
8 otherwise requires:

9 "Agency" means the Illinois Environmental Protection
10 Agency.

11 "Beverage" means (i) wine, alcoholic liquor, or beer as
12 defined in the Liquor Control Act of 1934 or (ii) mineral
13 water, tea, coffee, soda water, or similar carbonated soft
14 drinks, bottled water, juice, or other drinks in liquid form
15 intended for human consumption and excluding products that are
16 primarily derived from dairy.

17 "Beverage container" means any glass, plastic, aluminum,
18 or other metal can, bottle, jar, or carton, in which the
19 bottler or the manufacturer has sealed the contents.

20 "Consumer" means a person who purchases or acquires a
21 beverage in a beverage container for the use of its contents.

22 "Dealer" means a person who sells or offers for sale to
23 consumers within this State a beverage in a beverage container,
24 including an operator of a vending machine containing a
25 beverage in a beverage container.

26 "Dealer agent" means a person who solicits or picks up
27 empty beverage containers from a dealer for the purpose of
28 returning the empty beverage containers to the distributor or
29 the manufacturer.

30 "Director" means the Director of the Illinois
31 Environmental Protection Agency.

32 "Distributor" means a person who engages in the sale of

1 beverages in beverage containers to a dealer in the State,
2 including a manufacturer who engages in those sales.

3 "Geographic territory" means the geographical area within
4 a perimeter formed by the outermost boundaries of the area
5 served by a distributor.

6 "Illinois Container Fee and Deposit Fund" means a fund
7 created for the deposit and disbursement of all deposit and
8 redemption center fee moneys generated through the
9 administration of this Act.

10 "Manufacturer" means a person who bottles, cans, or
11 otherwise fills beverage containers for sale to distributors or
12 dealers.

13 "Nonrefillable beverage container" means a beverage
14 container that, after being used by a consumer, is not intended
15 to be refilled for sale by a manufacturer.

16 "Redemption center" means a business at which consumers may
17 return empty beverage containers and receive payment for the
18 refund value of the empty beverage containers.

19 Section 7. The Illinois Container Fee and Deposit Fund. The
20 Illinois Container Fee and Deposit Fund is created as a special
21 Fund in the State treasury. All moneys retrieved through the
22 administration of this Act shall be deposited into the Fund and
23 administered by the Agency. Distributors shall submit via
24 deposit to the Fund the deposit and redemption center fee
25 moneys from the beverage containers they sell in this State.
26 The Fund shall then be used to distribute these moneys to
27 redemption centers in accordance with the rules adopted for
28 administration of this Act.

29 Section 10. Deposit values.

30 (a) A deposit value of 5 cents shall be paid by the
31 consumer on each beverage container sold in the State by a
32 dealer for consumption. Upon the return to a dealer or person
33 operating a redemption center of the empty beverage container
34 upon which a deposit has been paid and the acceptance of the

1 empty beverage container by the dealer or the person operating
2 the redemption center, the dealer or redemption center must
3 refund the value of the deposit to the consumer.

4 (b) In addition to the deposit refund provided in
5 subsection (a), a dealer, dealer agent, or person operating a
6 redemption center who redeems empty beverage containers shall
7 be reimbursed by any distributor required to accept the empty
8 beverage containers a value of 2-cents per container (the
9 "redemption center fee"). A dealer, dealer agent, or person
10 operating a redemption center may compact empty metal beverage
11 containers with the approval of the distributor required to
12 accept the containers.

13 Section 15. Payment of deposit value; notice to consumers.

14 Except as provided in Section 20:

15 (1) A dealer may not refuse to accept from a consumer
16 any empty beverage container of the kind, size, or brand
17 sold by the dealer or refuse to pay to the consumer the
18 deposit value of the beverage container as stated in
19 Section 10, provided that the beverage container is
20 returned to the dealer in an empty, unbroken, and
21 reasonably clean state.

22 (2) A dealer must place a sign or shelf label in close
23 proximity to any sales display of beverage containers to
24 inform consumers that containers are returnable. The sign
25 or label shall indicate the value of the deposit required
26 for each beverage container and that containers are
27 returnable.

28 (3) An operator of a vending machine that sells
29 containers shall post a conspicuous notice on the vending
30 machine indicating that a deposit refund is available on
31 each container purchased and indicating where and from whom
32 that refund may be obtained. This Section does not require
33 vending machine operators to provide refunds at the
34 premises where the vending machine is located.

35 (4) A dealer may limit the total number of beverage

1 containers that he or she will accept from one consumer on
2 any business day to 100 containers. The dealer may refuse
3 to accept containers for a period of not more than 3 hours
4 during any business day, provided that the hours during
5 which containers will not be accepted are conspicuously
6 posted.

7 (5) A distributor shall accept and pick up all empty
8 beverage containers of the kind, size, or brand sold by the
9 distributor from all dealers served by the distributor and
10 from all redemption centers. If the distributor delivers
11 the beverage product less frequently than weekly, then the
12 distributor shall accept and pick up any empty beverage
13 container of the kind, size, or brand sold by the
14 distributor at the time of that delivery. The distributor
15 shall pay to the dealer or the redemption center the
16 deposit refund value of the beverage container and the
17 redemption center fee as provided under Section 10 of this
18 Act either within one week following the pickup of the
19 containers or when the dealer or redemption center normally
20 pays the distributor for the deposit on beverage products
21 purchased from the distributor if less frequently than
22 weekly. A distributor, employee, or agent of a distributor
23 is not in violation of this subsection if a redemption
24 center is closed when the distributor attempts to make a
25 regular delivery or a regular pickup of empty beverage
26 containers.

27 (6) A distributor shall accept from a dealer agent any
28 empty beverage container of the kind, size, or brand sold
29 by the distributor that was picked up by the dealer agent
30 from a dealer within the geographic territory served by the
31 distributor. The distributor shall pay the dealer agent the
32 deposit value of the empty beverage container and the
33 redemption center fee as provided in Section 10.

34 (7) The Agency shall adopt rules regulating the
35 recycling and disposal of empty beverage containers. The
36 rules shall give priority to the recycling of empty

1 beverage containers to the extent possible.

2 Section 20. Refusal to accept containers.

3 (a) A dealer, redemption center, distributor, or
4 manufacturer may refuse to accept any empty beverage container
5 that does not have stated on it a deposit value as provided
6 under Section 25.

7 (b) A dealer may refuse to accept any type of container
8 that the dealer has not sold within the past 60 days.

9 (c) A dealer may refuse to accept and to pay the refund
10 value of any empty beverage container if the place of business
11 of the dealer and the kind and brand of empty beverage
12 containers are included in an order of the Agency approving a
13 redemption center under Section 30.

14 (d) An owner or operator of an establishment who sells
15 beverages for consumption only on the premises may refuse to
16 accept and to pay the refund value on an empty alcoholic liquor
17 container except from a consumer who has purchased and consumed
18 the beverage at that establishment.

19 (e) A manufacturer or distributor may refuse to accept and
20 to pay the refund value and reimbursement as provided in
21 Section 20 on any empty beverage container that was picked up
22 by a dealer agent from a dealer outside the geographic
23 territory served by that manufacturer or distributor.

24 (f) A distributor may refuse to accept beverage containers
25 from any person who is not a dealer in a quantity of fewer than
26 300 containers of the type, size, or brand sold by the
27 distributor.

28 Section 25. Deposit value stated on container; exceptions.

29 (a) Each beverage container sold or offered for sale in
30 this State by a dealer shall clearly indicate by embossing or
31 by a stamp, label, or other method securely affixed to the
32 container the refund value of that container. The Agency shall
33 specify, by rule, the minimum size of the deposit value
34 indication on the beverage containers.

1 (b) A distributor shall not import into this State after
2 January 1, 2006 a beverage container that does not have the
3 deposit value indication securely affixed to the container.

4 (c) A person may not bring beverage containers into this
5 State after January 1, 2006 that do not have the deposit value
6 indication securely affixed unless for each occurrence:

7 (1) For beverage containers containing alcoholic
8 liquor as defined in the Liquor Control Act of 1934, the
9 total capacity of the container is not more than one quart
10 or, in the case of alcoholic liquor personally obtained
11 outside the United States, one gallon.

12 (2) For beverage containers containing beer as defined
13 in the Liquor Control Act of 1934, the total capacity of
14 the container is not more than 288 fluid ounces.

15 (3) For all other beverage containers, the total
16 capacity of the container is not more than 565 fluid
17 ounces.

18 (d) The provisions of subsections (a), (b), and (c) of this
19 Section do not apply to a refillable glass beverage container
20 that has a brand name permanently marked on it and that has a
21 deposit value of greater than 5 cents, to any other refillable
22 beverage container that has a deposit value of not less than 5
23 cents and that is exempted by the Director under rules adopted
24 by the Agency, or to a beverage container sold aboard a
25 commercial airliner or passenger train for consumption on the
26 premises.

27 Section 30. Redemption centers.

28 (a) To facilitate the return of empty beverage containers
29 and to serve dealers of beverages, any person may establish a
30 redemption center, subject to the approval of the Agency, at
31 which consumers may return empty beverage containers and
32 receive payment of the stated deposit value.

33 (b) An application for approval of a redemption center
34 shall be filed with the Agency. The application shall state the
35 name and address of the person responsible for the

1 establishment and operation of the redemption center, the kind
2 and brand names of the beverage containers that will be
3 accepted at the redemption center, and the names and addresses
4 of the dealers to be served by the redemption center. The
5 application shall contain any other information that the
6 Director may reasonably require.

7 (c) The Agency shall approve a redemption center if it
8 finds that the redemption center will provide a convenient
9 service to consumers for the return of empty beverage
10 containers. The order of the Agency approving a redemption
11 center shall state the dealers to be served by the redemption
12 center and the kind and brand names of empty beverage
13 containers that the redemption center must accept. The order
14 may contain such other provisions to insure that the redemption
15 center will provide a convenient service to the public as the
16 Director may determine.

17 (d) The Agency may review the approval of any redemption
18 center at any time. After written notice to the person
19 responsible for the establishment and operation of the
20 redemption center, and to the dealers served by the redemption
21 center, the Agency may, after hearing, withdraw approval of the
22 redemption center if the Agency finds there has not been
23 compliance with the Agency's order approving the redemption
24 center, or if the redemption center no longer provides a
25 convenient service to the public.

26 (e) All approved redemption centers shall meet applicable
27 health standards.

28 Section 35. Snap-top cans prohibited. No person shall sell
29 or offer for sale at retail in this State any metal beverage
30 container so designed and constructed that a part of the
31 container is detachable in opening the container.

32 Section 40. Rules. The Agency shall adopt, upon
33 recommendation of the Director, the rules necessary to carry
34 out the provisions of this Act, subject to the provisions of

1 the Illinois Administrative Procedure Act.

2 Section 45. Appeals. Any person aggrieved by an order of
3 the Agency relating to the approval or withdrawal of approval
4 for a redemption center may seek judicial review of such order
5 as provided in the Administrative Review Law.

6 Section 50. Penalties.

7 (a) A person violating the provisions of Sections 10, 15,
8 20, or 35 or a rule adopted pursuant to Section 40 of this Act
9 is guilty of a Class C misdemeanor.

10 (b) A distributor who collects or attempts to collect a
11 deposit value on an empty beverage container when the
12 distributor has paid the deposit value on the container to a
13 dealer, redemption center, or consumer is guilty of a business
14 offense.

15 (c) Any person who does any of the following acts is guilty
16 of a business offense:

17 (1) Collects or attempts to collect the deposit value
18 on the container a second time, with the knowledge that the
19 deposit value has once been paid by the distributor to a
20 dealer, redemption center, or consumer.

21 (2) Manufactures, sells, possesses, or applies a false
22 or counterfeit label or indication to a beverage container
23 that shows or purports to show a deposit value for a
24 beverage container, with the intent to obtain a refund of
25 the deposit value for the false or counterfeit label or
26 indication.

27 (3) Collects or attempts to collect a deposit refund
28 value on a container with the use of a false or counterfeit
29 label or indication showing a deposit value, knowing the
30 label or indication to be false or counterfeit.

31 (d) As used in this Section, a false or counterfeit label
32 or indication means a label or indication purporting to show a
33 valid deposit value that has not been initially applied as
34 authorized by a distributor.

1 Section 55. Distributor agreements authorized. A
2 distributor may enter into a contract or agreement with any
3 other distributor, manufacturer, or person for the purpose of
4 collecting or paying the deposit value on or disposing of
5 beverage containers.

6 Section 60. Redemption of refused nonrefillable metal
7 beverage containers.

8 (a) If the deposit value indication required under Section
9 25 on an empty nonrefillable metal beverage container is
10 readable but the redemption of the container is lawfully
11 refused by a dealer or person operating a redemption center,
12 the container shall be accepted and the deposit value paid to a
13 consumer as provided for in this Section. Each beer distributor
14 selling nonrefillable metal beverage containers in this State
15 shall provide individually or collectively by contract or
16 agreement with a dealer, redemption center, or another person,
17 at least one facility in the county seat of each county where
18 refused empty nonrefillable metal beverage containers having a
19 readable deposit value indication as required by this Act are
20 accepted and redeemed. In counties having a population of
21 100,000 or more, the number of the facilities provided shall be
22 one facility for every 100,000 population or a fractional part
23 of that population.

24 (b) A beer distributor violating this Section is guilty of
25 a Class C misdemeanor.

26 Section 65. Plastic cans prohibited.

27 (a) Beginning on the effective date of this Act, a person
28 shall not manufacture, offer for sale, or sell any
29 single-serving beverage container that is a plastic can nor
30 offer for sale or sell any beverage packaged in a
31 single-serving plastic can. For the purposes of this Section, a
32 "plastic can" means a beverage container that, in addition to
33 the closure mechanism, is composed of plastic and metal.

1 (b) A person violating this section is guilty of a Class A
2 misdemeanor.

3 Section 70. Disposal at sanitary landfill prohibited.
4 Beginning one year after the effective date of this Act, the
5 final disposal of beverage containers by a dealer, distributor,
6 manufacturer, or a person operating a redemption center in a
7 sanitary landfill is prohibited. Beginning one year after the
8 effective date of this Act, the final disposal of beverage
9 containers used to contain alcoholic liquor, as defined in the
10 Liquor Control Act of 1934, by a dealer, distributor,
11 manufacturer, or redemption center in a sanitary landfill is
12 prohibited.

13 Section 75. Unclaimed deposits. All moneys deposited into
14 the Illinois Container Fee and Deposit Fund and not passed on
15 to the consumer through bottle redemption shall be used by the
16 Agency to administer this Act, with excess funds to be
17 disbursed by the Agency in the following manner:

18 (1) 75% to environmental and conservation-related
19 programs, as determined by the Agency; and
20 (2) 25% to each distributor, proportionally determined by
21 the amount of beverage containers each distributor has sold
22 in this State during the previous complete period from
23 January 1 to December 30 after promulgation of this Act.

24 Section 80. Local powers. Nothing in this Act is intended
25 to limit the municipal or county power granted in the Solid
26 Waste Planning and Recycling Act to establish or operate a
27 recycling or redemption center.

28 Section 900. The State Finance Act is amended by adding
29 Section 5.640 as follows:

30 (30 ILCS 105/5.640 new)

31 Sec. 5.640. The Illinois Container Fee and Deposit Fund.