

## HOUSE BILL No. 2341

By Committee on Appropriations

2-16

1 AN ACT concerning waste; relating to litter control; requiring certain  
2 beverage containers to be redeemable; prohibiting certain conduct and  
3 providing penalty for violation thereof; establishing the returnable  
4 container deposit fund.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. As used in this act:

8 (a) "Beverage" means:

9 (1) Any alcoholic liquor, as defined by K.S.A. 41-102, and  
10 amendments thereto, whether or not mixed with any other beverage;

11 (2) any cereal malt beverage, as defined by K.S.A. 41-2701, and  
12 amendments thereto, whether or not mixed with any other beverage;

13 (3) any mineral water;

14 (4) any carbonated or non-carbonated soft drinks, including sport  
15 and energy drinks; and

16 (5) any carbonated or non-carbonated drinks containing any  
17 percentage of fruit or vegetable juice.

18 "Beverage" does not include milk, infant formula or medical food, where  
19 medical food is a food or beverage that is formulated to be consumed or  
20 administered under the supervision of a physician and that is intended for  
21 specific dietary management of diseases or health conditions for which  
22 distinctive nutritional requirements are established by medical evaluation.

23 (b) "Beverage container" means an individual, separate, sealed  
24 metal, glass or plastic container or a container composed of a  
25 combination of those materials, which, at the time of sale, contains one  
26 gallon or less of a beverage. Beverage container does not include  
27 cartons, foil pouches or drink boxes.

28 (c) "Brand" means the name, symbol, logo, trademark or other  
29 information that identifies a product rather than the components of the  
30 product.

31 (d) "Manufacturer" means any person who bottles, cans or  
32 otherwise fills beverage containers with beverage for sale to distributors,  
33 retailers or consumers.

34 (e) "Nonreturnable container" means a beverage container upon  
35 which no deposit or a deposit of less than \$.05 has been paid or is  
36 required to be paid upon the removal of the container from the sale or

1 consumption area or for which no cash refund or a refund of less than  
2 \$.05 is payable by a retailer or distributor of that beverage as provided in  
3 section 2, and amendments thereto.

4 (f) "Operator of a vending machine" means an owner of a vending  
5 machine, the person who refills it or the owner or lessee of the property  
6 upon which it is located.

7 (g) "Person" means any individual, partnership, corporation,  
8 association or other legal entity.

9 (h) "Redemption center" means any operation or facility which  
10 accepts from retailers or consumers and provides the refund value for  
11 returnable containers intended to be recycled and prepares the empty  
12 returnable containers for recycling.

13 (i) "Retailer" means any person who, within this state, sells or offers  
14 for sale to consumers beverage in a beverage container.

15 (j) "Returnable container" means a beverage container upon which a  
16 deposit of at least \$.05 has been paid or is required to be paid upon the  
17 removal of the container from the sale or consumption area and for which  
18 a refund of at least \$.05 in cash is payable by every retailer or distributor  
19 of that beverage as provided in section 2, and amendments thereto.

20 (k) "Reverse vending machine" means a mechanical device, which  
21 accepts one or more types of returnable containers and issues a  
22 redeemable credit slip with a value of not less than the container's refund  
23 value.

24 (l) "Secretary" means the secretary of health and environment.

25 Sec. 2. Sec. 2. (a) No retailer shall, within this state, sell, offer  
26 for sale or give to a consumer any nonreturnable container or beverage in  
27 a nonreturnable container. Every consumer shall pay to the retailer a  
28 deposit of \$.05 for each beverage container purchased from that retailer.  
29 Every retailer shall remit to the secretary the entirety of the deposits  
30 collected by that retailer. On July 1, 2013, the secretary shall issue a  
31 finding that reports the percentage of beverage containers that have been  
32 returned for deposit in the two years that those beverage containers have  
33 been subject to deposit. If the secretary finds that the percentage of  
34 beverage containers returned for refund has been less than 60%, then on  
35 July 1, 2013, beverage containers shall be subject to a deposit of \$.10 per  
36 container.

37 (b) Except as provided in subsections (c) through (f), a retailer shall  
38 accept from any person during the retailer's business hours any empty  
39 beverage container of the type, size and brand sold by the retailer within  
40 the past 60 days and shall pay that person the refund value of each  
41 beverage container returned, unless such retailer sponsors, solely or with  
42 others, a redemption center which is located or operates within a 10 mile  
43 radius of such place of business and which accepts beverage containers of

1 the kind, size and brand sold by such retailer at such place of business.

2 (c) If a retailer does not or cannot sponsor a redemption center, the  
3 retailer must either:

4 (1) Register as a redemption center; or

5 (2) collect beverage containers from consumers as provided in  
6 subsection (b), have an agreement with a redemption center to collect  
7 beverage containers from the retailer and prepare such beverage  
8 containers for collection by a redemption center.

9 (d) A retailer or redemption center may refuse to accept any  
10 beverage container which contains material other than water, residue of  
11 the original contents or ordinary dust.

12 (e) A retailer or redemption center may, but is not required to, accept  
13 from a person empty returnable containers for a refund in excess of \$25  
14 on any single day.

15 (f) A person tendering for redemption more than 2,500 beverage  
16 containers at one time to a retailer or redemption center must provide to  
17 the retailer or redemption center that person's name and address and the  
18 license plate number of the vehicle used to transport the beverage  
19 containers. The retailer or redemption center redeeming these beverage  
20 containers shall forward that information to the secretary within 10 days,  
21 and the information must be kept on file for a minimum of 12 months.

22 (g) Every operator of a vending machine which sells beverages in  
23 beverage containers shall post a conspicuous notice on each vending  
24 machine indicating that a refund of not less than \$.05 is available on each  
25 beverage container purchased and where and from whom that refund may  
26 be obtained. The provisions of this subsection shall not be construed to  
27 require such vending machine operators to provide refunds at the  
28 premises wherein such vending machines are located.

29 Sec. 3. (a) Any person may establish a redemption center by  
30 registering with the secretary on a form provided by the secretary with  
31 such information as the secretary deems necessary, including but not  
32 limited to:

33 (1) The name of the business owners of the redemption center and  
34 the address of the business;

35 (2) the name and address of the sponsors and retailers to be served  
36 by the redemption center;

37 (3) the types of beverage containers to be accepted;

38 (4) the hours of operation;

39 (5) whether beverage containers will be accepted from consumers;  
40 and

41 (6) a valid business license.

42 (b) Any person establishing a redemption center shall have the right  
43 to determine what kinds, sizes and brands of beverage containers shall be

1 accepted. Any redemption center may be established to serve all persons  
2 or to serve certain specified retailers.

3 (c) A redemption center shall be considered to be sponsored by a  
4 retailer if:

5 (1) The retailer refuses to redeem beverage containers and refers  
6 consumers to the redemption center; or

7 (2) there is an agreement between the retailer and the operator of the  
8 redemption center requiring the redemption center to remove empty  
9 beverage containers from the premises of the retailer, in which case the  
10 redemption center shall collect the beverage containers at least every 31  
11 days.

12 (d) Reverse vending machines may be used by redemption centers if  
13 the machine pays out refunds at least equal to the deposit for those  
14 containers that it accepts. The reverse vending machine shall be routinely  
15 serviced to ensure proper operation and continuous acceptance of  
16 containers and payment of refunds.

17 (e) Redemption centers shall recycle all containers through a  
18 contractual agreement with a recycling facility. A redemption center  
19 operated by a recycler is permitted to recycle the containers accepted by it  
20 and forward the documentation necessary to support claims for payment  
21 as provided in section 4, and amendments thereto.

22 Sec. 4. (a) There is hereby established in the state treasury the  
23 returnable container deposit fund which shall be administered by the  
24 secretary of health and environment. All expenditures from the  
25 returnable container deposit fund shall be made in accordance with  
26 appropriation acts upon warrants of the director of accounts and reports  
27 issued pursuant to vouchers approved by the secretary of health and  
28 environment. Moneys in the fund are the sole property of the state and do  
29 not revert to the retailer or business that remitted the deposit to the state.

30 (b) All moneys received from returnable container deposits shall be  
31 deposited in the state treasury in accordance with the provisions of  
32 K.S.A. 75-4215, and amendments thereto, and shall be credited to the  
33 returnable container deposit fund.

34 (c) Moneys in the returnable container deposit fund shall be  
35 distributed in the following manner:

36 (1) To refund deposits to redemption centers at \$.05 per container  
37 recycled;

38 (2) to fund administrative expenses.

39 (3) All moneys remaining in the fund at the end of each fiscal year  
40 shall be divided in half with 50% being paid to redemption centers based  
41 on the percentage of containers the centers recycled with a minimum  
42 payment of \$25 and 50% reverting to the state general fund.

43 Sec. 5. (a) Every beverage container, except permanently labeled

1 refillable glass containers, sold or offered for sale at retail in this state  
2 shall clearly indicate by embossing or imprinting on the normal product  
3 label or, in the case of a metal beverage container, on the top of the  
4 container, the name Kansas or the abbreviation KS and the refund value  
5 of the container in not less than 1/8-inch type size. This subsection does  
6 not prohibit including names or abbreviations of other states with deposit  
7 legislation comparable to this state.

8 (b) A permanently labeled refillable glass beverage container sold or  
9 offered for sale at retail in this state shall clearly indicate in not less than  
10 1/8-inch size print by embossing or by stamp, label or other method  
11 securely affixed to any portion except the cap or bottom of the  
12 permanently labeled refillable glass beverage container, the refund value  
13 of the refillable glass beverage container and that the container may be  
14 returned for deposit.

15 (c) The secretary may allow, in the case of alcoholic liquor bottles, a  
16 conspicuous, adhesive sticker to be attached to indicate the deposit  
17 information required in subsection (a), provided that the size, placement  
18 and adhesive qualities of the sticker are as approved by the secretary. The  
19 provisions of this subsection shall only apply to alcoholic liquor bottles  
20 whose characteristics prohibit compliance with subsection (a) and to  
21 alcoholic liquor which is sold in the state in quantities less than 100 cases  
22 per year or in such lower quantity as deemed appropriate by the secretary.

23 Sec. 6. On and after July 1, 2013, the disposal of beverage  
24 containers in a sanitary landfill by a retailer, manufacturer or redemption  
25 center is hereby prohibited.

26 Sec. 7. Violation of any provision of sections 2, 5 or 6, and  
27 amendments thereto, by any person is a misdemeanor punishable by a  
28 fine of not less than \$500 nor more than \$1,000 for the first offense, not  
29 less than \$1,000 nor more than \$2,000 for a second offense, and not less  
30 than \$2,500 nor more than \$5,000 for a third offense.

31 Sec. 8. This act shall take effect and be in force from and after its  
32 publication in the statute book.

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