

## HOUSE BILL No. 2405

By Committee on Appropriations

3-20

1 AN ACT concerning the senior care act; elder care services; establishing  
2 the senior care benefit fund; relating to litter control; requiring certain  
3 beverage containers to be redeemable; establishing the container  
4 deposit fund.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. As used in sections 1 through 7, and amendments thereto:

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 sports  
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,  
19 where medical food is a food or beverage that is formulated to be  
20 consumed or administered under the supervision of a physician and that is  
21 intended for specific dietary management of diseases or health conditions  
22 for which distinctive nutritional requirements are established by medical  
23 evaluation.

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

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

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

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

1 to be paid upon the removal of the container from the sale or consumption  
2 area or for which no cash refund or a refund of less than \$.05 is payable by  
3 a retailer or distributor of that beverage as provided in section 2, and  
4 amendments thereto.

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

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

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

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

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

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

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

25 Sec. 2. (a) No retailer shall, within this state, sell, offer for sale or  
26 give to a consumer any unreturnable container or beverage in a  
27 unreturnable container. Every consumer shall pay to the retailer a deposit  
28 of \$.05 for each beverage container purchased from that retailer. Every  
29 retailer shall remit to the secretary the entirety of the deposits collected by  
30 that retailer. On July 1, 2018, the secretary shall issue a finding that reports  
31 the percentage of beverage containers that have been returned for deposit  
32 in the two years that those beverage containers have been subject to  
33 deposit. If the secretary finds that the percentage of beverage containers  
34 returned for refund has been less than 60%, then on July 1, 2018, beverage  
35 containers shall be subject to a deposit of \$.10 per container.

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

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

3 (1) Register as a redemption center; or

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

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

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

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

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

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

31 (1) The name of the business owners of the redemption center and the  
32 address of the business;

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

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

36 (4) the hours of operation;

37 (5) whether beverage containers will be accepted from consumers;  
38 and

39 (6) a valid business license.

40 (b) Any person establishing a redemption center shall have the right  
41 to determine what kinds, sizes and brands of beverage containers shall be  
42 accepted. Any redemption center may be established to serve all persons or  
43 to serve certain specified retailers.

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

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

5 (2) there is an agreement between the retailer and the operator of the  
6 redemption center requiring the redemption center to remove empty  
7 beverage containers from the premises of the retailer and the redemption  
8 center collects the beverage containers at least every 31 days.

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

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

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

27 (b) All moneys received from returnable container deposits shall be  
28 deposited in the state treasury in accordance with the provisions of K.S.A.  
29 75-4215, and amendments thereto, and shall be credited to the returnable  
30 container deposit fund.

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

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

35 (2) to fund administrative expenses; and

36 (3) all moneys remaining in the fund at the end of each fiscal year  
37 shall be divided in half with 50% being paid to redemption centers based  
38 on the percentage of containers the centers recycled with a minimum  
39 payment of \$25 and 50% being paid to the senior care benefit fund  
40 established in section 8, and amendments thereto, to provide services to  
41 the elderly.

42 Sec. 5. (a) Every beverage container, except permanently labeled  
43 refillable glass containers, sold or offered for sale at retail in this state shall

1 clearly indicate by embossing or imprinting on the normal product label or,  
2 in the case of a metal beverage container, on the top of the container, the  
3 name Kansas or the abbreviation KS and the refund value of the container  
4 in not less than  $\frac{1}{8}$  inch type size. This subsection does not prohibit  
5 including names or abbreviations of other states with deposit legislation  
6 comparable to this state.

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

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

22 Sec. 6. On and after July 1, 2018, the disposal of beverage containers  
23 in a sanitary landfill by a retailer, manufacturer or redemption center is  
24 hereby prohibited.

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

30 Sec. 8. There is hereby established in the state treasury the senior care  
31 benefit fund which shall be administered by the secretary of the Kansas  
32 department for aging and disability services. All moneys received pursuant  
33 to section 4, and amendments thereto, shall be remitted to the state  
34 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
35 amendments thereto. Upon receipt of each such remittance, the state  
36 treasurer shall deposit the entire amount in the state treasury to the credit  
37 of the senior care benefit fund. All expenditures from the senior care  
38 benefit fund shall be for the purposes of financing programs, services,  
39 support and assistance to the elderly and shall be made in accordance  
40 with appropriation acts upon warrants of the director of accounts and  
41 reports issued pursuant to vouchers approved by the director of the Kansas  
42 commission on veterans affairs office or the director's designee.

43 Sec. 9. This act shall take effect and be in force from and after its

- 1 publication in the statute book.