

SECOND REGULAR SESSION

HOUSE BILL NO. 2874

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FOGLE.

4525H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 260, RSMo, by adding thereto eight new sections relating to beverage container deposits, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 260, RSMo, is amended by adding thereto eight new sections, to
2 be known as sections 260.851, 260.853, 260.855, 260.857, 260.859, 260.861, 260.863, and
3 260.865, to read as follows:

260.851. As used in sections 260.851 to 260.865, the following terms mean:

2 **(1) "Alcoholic beverage", any:**

3 **(a) Beer, ale, or any other malt drink of whatever alcoholic content;**

4 **(b) Mixed spirit drink; or**

5 **(c) Mixed wine drink;**

6 **(2) "Beverage", any alcoholic beverage or nonalcoholic beverage;**

7 **(3) "Beverage container", a container that, at the time of sale, contains one**
8 **gallon or less of a beverage and that is an airtight metal, glass, paper, or plastic**
9 **container or a container composed of a combination of such materials. As used in this**
10 **subdivision, "container composed of a combination of such materials" shall not be**
11 **construed to include a container that, when filled, is designed and intended to be frozen**
12 **and is composed in whole or in part of aluminum and plastic or aluminum and paper in**
13 **combination, if the aluminum content represents twenty percent or less of the unfilled**
14 **container weight and the weight of the container materials represents five percent or**
15 **less of the total weight of the filled container;**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 16 (4) "Brand", any word, name, group of letters, symbol, or trademark, or any
17 combination thereof, adopted and used by a manufacturer to identify a specific flavor or
18 type of beverage and to distinguish that flavor or type of beverage from another
19 beverage produced or marketed by that manufacturer or another manufacturer;
- 20 (5) "Dealer", a person who sells or offers for sale to consumers within this state a
21 beverage in a beverage container including, but not limited to, an operator of a vending
22 machine containing a beverage in a beverage container;
- 23 (6) "Department", the department of natural resources;
- 24 (7) "Designated glass container", a twelve-ounce glass beverage container that
25 contains a symbol, mark, or other distinguishing characteristic that allows a reverse
26 vending machine to determine whether the beverage container is a returnable
27 container;
- 28 (8) "Designated metal container", a twelve-ounce metal beverage container that
29 contains a symbol, mark, or other distinguishing characteristic that allows a reverse
30 vending machine to determine whether the beverage container is a returnable
31 container;
- 32 (9) "Designated plastic container", a twenty-ounce plastic beverage container
33 that contains a symbol, mark, or other distinguishing characteristic that allows a reverse
34 vending machine to determine whether the beverage container is a returnable
35 container;
- 36 (10) "Distributor", a person who sells beverages in beverage containers to a
37 dealer within this state including, but not limited to, a manufacturer who engages in
38 such sales;
- 39 (11) "Division", the division of alcohol and tobacco control established in section
40 311.615;
- 41 (12) "Empty returnable container", a beverage container that contains nothing
42 except the residue of its original contents;
- 43 (13) "Glass beverage container", a beverage container composed primarily of
44 glass;
- 45 (14) "Manufacturer", a person who bottles, cans, or otherwise places beverages
46 in beverage containers for sale to distributors, dealers, or consumers;
- 47 (15) "Metal beverage container", a beverage container composed primarily of
48 metal;
- 49 (16) "Mixed spirit drink", a drink containing ten percent or less alcohol by
50 volume consisting of distilled spirits mixed with nonalcoholic beverages or flavoring or
51 coloring materials and that may also contain water, fruit juices, fruit adjuncts, sugar,

52 carbon dioxide, or preservatives; or any spirituous beverage, regardless of the percent
53 of alcohol by volume, that is manufactured for sale in a metal container;

54 (17) "Mixed wine drink", a drink or similar product marketed as a wine cooler
55 and containing less than seven percent alcohol by volume, consisting of wine and plain,
56 sparkling, or carbonated water and any one or more of the following:

57 (a) Nonalcoholic beverages;

58 (b) Flavoring;

59 (c) Coloring materials;

60 (d) Fruit juices;

61 (e) Fruit adjuncts;

62 (f) Sugar;

63 (g) Carbon dioxide; or

64 (h) Preservatives;

65 (18) "Nonalcoholic beverage", a soft drink, soda water, carbonated natural or
66 mineral water, or other nonalcoholic carbonated drink;

67 (19) "Nonrefillable container", a returnable container that is not intended to be
68 refilled for sale by a manufacturer;

69 (20) "Nonreturnable container", a beverage container upon which no deposit or
70 a deposit of less than five cents has been paid, or is required to be paid upon the removal
71 of the container from the sale or consumption area, or for which no cash refund or a
72 refund of less than five cents is payable by a dealer or distributor in this state of that
73 beverage in beverage containers, as further provided in section 260.853;

74 (21) "Operator of a vending machine", equally a vending machine's owner, the
75 person who refills the vending machine, and the owner or lessee of the property upon
76 which the vending machine is located;

77 (22) "Overredeemer", a distributor or manufacturer whose annual total value of
78 deposits collected on beverage containers sold within this state is less than the annual
79 total value of refunds made upon beverage containers redeemed within this state;

80 (23) "Person", an individual, partnership, corporation, association, or other
81 legal entity;

82 (24) "Plastic beverage container", a beverage container composed primarily of
83 plastic;

84 (25) "Returnable container", a beverage container upon which a deposit of five
85 cents has been paid, or is required to be paid upon the removal of the container from the
86 sale or consumption area, and for which a refund of at least five cents in cash is payable
87 by every dealer or distributor in this state of that beverage in beverage containers, as
88 further provided in section 260.853;

89 **(26) "Reverse vending machine", a device designed to properly identify and**
90 **process empty beverage containers and provide a means for a deposit refund on**
91 **returnable containers;**

92 **(27) "Sale or consumption area", the premises within the property of the dealer**
93 **or of the dealer's lessor where the sale is made, within which beverages in returnable**
94 **containers may be consumed without payment of a deposit, and upon removing a**
95 **beverage container from which, the customer is required by the dealer to pay the**
96 **deposit;**

97 **(28) "Underredeemer", a distributor or manufacturer whose annual total value**
98 **of deposits collected on beverage containers sold within this state exceeds annual total**
99 **value of refunds made upon beverage containers redeemed within this state.**

260.853. 1. No dealer in this state shall sell, offer for sale, or give to a consumer
2 **a:**

3 **(1) Nonreturnable container or a beverage in a nonreturnable container; or**

4 **(2) Metal beverage container, any part of which detaches when opened.**

5 **2. (1) A dealer who regularly sells beverages for consumption off the dealer's**
6 **premises shall provide on the premises, or within one hundred yards of the premises on**
7 **which the dealer sells or offers for sale a beverage in a returnable container, a**
8 **convenient means whereby the containers of any kind, size, and brand sold or offered**
9 **for sale by the dealer may be returned by, and the deposit refunded in cash to, a person**
10 **whether the person is the original customer of that dealer and whether the container**
11 **was sold by that dealer.**

12 **(2) Regional centers for the redemption of returnable containers may be**
13 **established in addition to, but not as substitutes for, the means established for refunds of**
14 **deposits as provided in subdivision (1) of this subsection.**

15 **(3) In that portion of the dealer's premises where returnable containers are**
16 **redeemed, a dealer shall post a notice substantially similar to the following: "A person**
17 **who returns nonreturnable containers for a refund is subject to fines of up to \$25.00 for**
18 **the first offense, \$50.00 for the second offense, and \$100.00 for the third and subsequent**
19 **offenses." A dealer who fails to post the notice required in this subdivision is subject to**
20 **a civil fine not to exceed twenty-five dollars.**

21 **3. (1) Except as provided in subdivisions (3) and (4) of this subsection, a dealer**
22 **shall accept from a person an empty returnable container of any kind, size, and brand**
23 **sold or offered for sale by that dealer and pay to that person the returnable container's**
24 **full refund value in cash.**

25 **(2) Except as provided in subdivision (3) of this subsection, a distributor shall**
26 **accept from a dealer an empty returnable container of any kind, size, and brand sold or**

27 offered for sale by that distributor and pay to the dealer the returnable container's full
28 refund value in cash.

29 (3) (a) Each beverage container sold or offered for sale by a dealer within this
30 state shall clearly indicate by embossing or by a stamp, label, or other method securely
31 affixed to the beverage container the refund value of the container and the name of this
32 state. A dealer or distributor may refuse to accept from a person an empty returnable
33 container that does not state on the container the refund value of the container and the
34 name of this state.

35 (b) This subdivision shall not apply to a refillable container having a refund
36 value of more than five cents, having a brand name permanently marked on the
37 container, and having a securely affixed method of indicating that the container is a
38 returnable container.

39 (4) A dealer who does not require a deposit on a returnable container when the
40 contents are consumed in the dealer's sale or consumption area shall not be required to
41 pay a refund for accepting that empty container.

42 (5) Subdivisions (1) to (3) of this subsection shall apply only to a returnable
43 container that was originally sold in this state as a filled returnable container.

44 4. (1) No person, dealer, distributor, or manufacturer shall return an empty
45 container to a dealer for a refund of the deposit if a dealer has already refunded the
46 deposit on that returnable container.

47 (2) This subsection shall not be construed to prohibit a dealer from refunding
48 the deposit on an empty returnable container each time the returnable container is
49 sanitized by the manufacturer and reused as a beverage container.

50 5. No dealer in this state shall be required to accept any returnable container
51 that is dirty or uncleaned.

52 6. No dealer shall accept from a person empty returnable containers for a refund
53 in excess of twenty-five dollars on any given day.

54 7. (1) A manufacturer licensed by the division shall not require a distributor
55 licensed by the division to pay a deposit to the manufacturer on a nonrefillable
56 container.

57 (2) A manufacturer shall refund the deposit paid on any container returned by a
58 distributor for which a deposit has been paid by a distributor to the manufacturer.

260.855. 1. No manufacturer of nonalcoholic beverages shall sell, offer for sale,
2 or give a nonalcoholic beverage to a consumer, dealer, or distributor in this state in a
3 twelve-ounce metal beverage container that is not a designated metal container if either
4 of the following is met:

5 **(1) Sales of that brand of beverage in twelve-ounce metal beverage containers in**
6 **this state in the preceding calendar year were at least five hundred thousand cases, as**
7 **determined by the department; or**

8 **(2) Sales of that brand of beverage in twelve-ounce metal beverage containers in**
9 **this state in the preceding calendar year were fewer than five hundred thousand cases**
10 **and twelve-ounce metal beverage containers of that brand of beverage were**
11 **overredeemed by more than six hundred thousand containers in the preceding**
12 **calendar year, as determined by the department.**

13 **2. No manufacturer of nonalcoholic beverages shall sell, offer for sale, or give a**
14 **nonalcoholic beverage to a consumer, dealer, or distributor in this state in a twelve-**
15 **ounce glass beverage container that is not a designated glass container if either of the**
16 **following is met:**

17 **(1) Sales of that brand of beverage in twelve-ounce glass beverage containers in**
18 **this state in the preceding calendar year were at least five hundred thousand cases, as**
19 **determined by the department; or**

20 **(2) Sales of that brand of beverage in twelve-ounce glass beverage containers in**
21 **this state in the preceding calendar year were fewer than five hundred thousand cases**
22 **and twelve-ounce glass beverage containers of that brand of beverage were**
23 **overredeemed by more than six hundred thousand containers in the preceding**
24 **calendar year, as determined by the department.**

25 **3. No manufacturer of nonalcoholic beverages shall sell, offer for sale, or give a**
26 **nonalcoholic beverage to a consumer, dealer, or distributor in this state in a twenty-**
27 **ounce plastic beverage container that is not a designated plastic container if either of the**
28 **following is met:**

29 **(1) Sales of that brand of beverage in twenty-ounce plastic beverage containers**
30 **in this state in the preceding calendar year were at least five hundred thousand cases, as**
31 **determined by the department; or**

32 **(2) Sales of that brand of beverage in twenty-ounce plastic beverage containers**
33 **in this state in the preceding calendar year were fewer than five hundred thousand cases**
34 **and twenty-ounce plastic beverage containers of that brand of beverage were**
35 **overredeemed by more than six hundred thousand containers in the preceding**
36 **calendar year, as determined by the department.**

37 **4. No manufacturer of alcoholic beverages shall sell, offer for sale, or give an**
38 **alcoholic beverage to a consumer, dealer, or distributor in this state in a twelve-ounce**
39 **metal beverage container that is not a designated metal container if either of the**
40 **following is met:**

41 **(1) Sales of that brand of beverage in this state in the preceding calendar year**
42 **were at least five hundred thousand case equivalents, as determined by the department;**
43 **or**

44 **(2) Sales of that brand of beverage in this state in the preceding calendar year**
45 **were fewer than five hundred thousand case equivalents and beverage containers of that**
46 **brand of beverage were overredeemed by more than six hundred thousand containers in**
47 **the preceding calendar year, as determined by the department.**

48 **5. No manufacturer of alcoholic beverages shall sell, offer for sale, or give an**
49 **alcoholic beverage to a consumer, dealer, or distributor in this state in a twelve-ounce**
50 **glass beverage container that is not a designated glass container if either of the following**
51 **is met:**

52 **(1) Sales of that brand of beverage in this state in the preceding calendar year**
53 **were at least five hundred thousand case equivalents, as determined by the department;**
54 **or**

55 **(2) Sales of that brand of beverage in this state in the preceding calendar year**
56 **were fewer than five hundred thousand case equivalents and beverage containers of that**
57 **brand of beverage were overredeemed by more than six hundred thousand containers in**
58 **the preceding calendar year, as determined by the department.**

59 **6. No manufacturer of alcoholic beverages shall sell, offer for sale, or give an**
60 **alcoholic beverage to a consumer, dealer, or distributor in this state in a twenty-ounce**
61 **plastic beverage container that is not a designated plastic container if either of the**
62 **following is met:**

63 **(1) Sales of that brand of beverage in this state in the preceding calendar year**
64 **were at least five hundred thousand case equivalents, as determined by the department;**
65 **or**

66 **(2) Sales of that brand of beverage in this state in the preceding calendar year**
67 **were fewer than five hundred thousand case equivalents and beverage containers of that**
68 **brand of beverage were overredeemed by more than six hundred thousand containers in**
69 **the preceding calendar year, as determined by the department.**

70 **7. A symbol, mark, or other distinguishing characteristic that is placed on a**
71 **designated metal container, designated glass container, or designated plastic container**
72 **by a manufacturer to allow a reverse vending machine to determine if that container is a**
73 **returnable container shall be unique to this state or used only in this state and one or**
74 **more other states that have laws substantially similar to sections 260.851 to 260.865.**

260.857. 1. To promote the use in this state of reusable beverage containers of
2 **uniform design and to facilitate the return of containers to manufacturers for reuse as a**

3 beverage container, the department shall certify beverage containers that satisfy the
4 requirements of this section.

5 **2. A beverage container shall be certified if:**

6 **(1) It is reusable as a beverage container by more than one manufacturer in the**
7 **ordinary course of business; or**

8 **(2) More than one manufacturer will, in the ordinary course of business, accept**
9 **the beverage container for reuse as a beverage container and pay the refund value of the**
10 **container.**

11 **3. The department shall not certify more than one beverage container of a**
12 **particular manufacturer in each size classification. The department shall, by rule,**
13 **establish appropriate size classifications in accordance with the purposes set forth in**
14 **subsection 1 of this section, each of which shall include a size range of at least three**
15 **liquid ounces.**

16 **4. A beverage container shall not be certified under this section if:**

17 **(1) By reason of the container's shape or design or by reason of words or**
18 **symbols permanently inscribed thereon, whether by engraving, embossing, painting, or**
19 **other permanent method, the container is reusable as a beverage container in the**
20 **ordinary course of business only by a manufacturer of a beverage sold under a specific**
21 **brand name; or**

22 **(2) If the department finds that the container's use by more than one**
23 **manufacturer is not of sufficient volume to promote the purposes set forth in subsection**
24 **1 of this section.**

25 **5. Unless an application for certification under this section is denied by the**
26 **department within sixty days after the application is filed, the beverage container shall**
27 **be deemed certified.**

28 **6. The department may at any time review certification of a beverage container.**
29 **The department shall provide written notice and afford a hearing to the person who**
30 **filed the original application for certification of the beverage container under this**
31 **section. If the department determines that the beverage container is no longer qualified**
32 **for certification, the department shall withdraw certification. Withdrawal of**
33 **certification shall be effective on a date specified by the department, but not less than**
34 **thirty days after written notice is sent to the person who filed the original application for**
35 **certification of the beverage container under this section and to the manufacturer**
36 **referred to in subsection 2 of this section.**

260.859. 1. On or before March first annually, a distributor or manufacturer
2 who originates a deposit on a beverage container shall file a report with the department
3 containing the information required in this subsection. The report shall indicate, for the

4 period of January first to December thirty-first of the previous year, the dollar value of
5 both the total deposits collected by the distributor or manufacturer on beverage
6 containers sold in this state and total refunds made upon beverage containers redeemed
7 by the distributor or manufacturer in this state.

8 2. The department may audit, assess, and collect the amount of moneys
9 reflecting unclaimed bottle deposits owed to this state and enforce the obligation to pay
10 the amount of moneys reflecting unclaimed bottle deposits owed to this state as provided
11 by law. On or before June first annually, the department shall publish and make
12 available to the public information related to this subsection and report such
13 information to the general assembly.

14 3. On or before March first annually, an underredeemer shall pay to the
15 department that amount of moneys by which the underredeemer's annual total value of
16 deposits exceeds the underredeemer's annual total value of refunds made on redeemed
17 beverage containers, subject to the overredemption credit provided in this section.

18 4. An underredeemer who becomes an overredeemer in a subsequent year may
19 credit the value of the overredemption in order to reduce the amount of moneys owed to
20 the department under this section in one or more subsequent years as a result of that
21 overredeemer again becoming an underredeemer. The value of the overredemption
22 may be carried forward for no more than three years or until the credit granted in this
23 section is completely depleted, whichever occurs first.

24 5. A manufacturer who no longer originates deposits may carry the value of an
25 overredemption back for prior years in order to use its credit and reduce the amount of
26 underredemption owed to the department under this section one time only. Use of such
27 one-time credit may be applied against underredemption amounts owed.

28 6. If an underredeemer purchases empty returnable containers from an
29 overredeemer, such purchases shall be reported by the underredeemer as a "refund
30 made" and shall be reported by the overredeemer as a "deposit originated" in the
31 report required in subsection 1 of this section. The report made by an underredeemer
32 shall include the name and address of each overredeemer and the refund value of the
33 empty returnable beverage containers purchased from each overredeemer. The report
34 made by an overredeemer shall include the name and address of each underredeemer
35 who purchased the returnable containers from that overredeemer and the refund value
36 of the empty returnable beverage containers sold. The total consideration paid by an
37 underredeemer to an overredeemer as authorized by this subsection shall equal the
38 redemption value of the containers. A purchase or sale made under this subsection
39 during January shall be included in the report for the previous calendar year only.

260.861. 1. (1) There is hereby created in the state treasury the "Beverage Container Deposit Fund", which shall consist of moneys collected under sections 260.851 to 260.865. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys in this fund shall be used solely as provided in sections 260.851 to 260.865.

(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. Unclaimed deposits on returnable containers are deemed the property of the person purchasing the returnable container and are not the property of the distributor or manufacturer who originated the deposit. Unclaimed deposits shall be retained in the beverage container deposit fund until claimed by the owner as provided by claim procedures developed by the department. Any unclaimed deposits not claimed by the owner after the time allowed for claiming such deposits as provided by the department's claim procedures shall be deemed unclaimed property and shall be transferred to the state treasurer for disposition as provided in chapter 447.

3. In each calendar year, twenty-five percent of the moneys paid to the department by underredeemers and deposited in the beverage container deposit fund as provided in sections 260.581 to 260.865 shall be apportioned to each dealer on the basis of the number of empty returnable containers handled by a dealer as determined by the department. All other moneys in the fund shall be used solely for the administration and enforcement of sections 260.851 to 260.865 and for the following environmental initiatives administered by the department:

(1) Environmental remediation as provided by state law;

(2) Hazardous waste cleanup as provided by state law; and

(3) Other environmental duties, responsibilities, and initiatives delegated to the department by state law.

260.863. 1. Except as otherwise provided in this section, a person, dealer, distributor, or manufacturer who violates any provision of sections 260.851 to 260.865 is guilty of an infraction for which the authorized penalty is a fine of no less than twenty-five dollars but no more than one hundred dollars and payment of the costs of prosecution. Each day a violation occurs shall be deemed a separate offense.

6 **2. (1) A person commits the offense of providing an unapproved container if**
7 **such person violates any provision of section 260.855.**

8 **(2) The offense of providing an unapproved container is a class A misdemeanor.**

9 **(3) This subsection shall not apply to any other action prohibited in this section.**

10 **3. (1) A person commits the offense of returning an unauthorized container if**
11 **the person returns or attempts to return to a dealer for a refund one or more of the**
12 **following:**

13 **(a) A beverage container that the person knows or should know was not**
14 **purchased in this state as a filled returnable container; or**

15 **(b) A beverage container that the person knows or should know did not have a**
16 **deposit paid for it at the time of purchase.**

17 **(2) The offense of returning an unauthorized container is an infraction for which**
18 **the authorized penalty is a fine and payment of the costs of prosecution as described in**
19 **subsection 1 of this section, unless:**

20 **(a) The person returns or attempts to return to a dealer for a refund at least**
21 **twenty-five but no more than one hundred nonreturnable containers, in which case the**
22 **amount of the fine shall be twenty-five dollars;**

23 **(b) The person returns or attempts to return to a dealer for a refund more than**
24 **one hundred but no more than five thousand nonreturnable containers for the first time,**
25 **in which case the amount of the fine shall not be more than fifty dollars;**

26 **(c) The person returns or attempts to return to a dealer for a refund more than**
27 **one hundred but no more than five thousand nonreturnable containers for a second or**
28 **subsequent time, in which case the amount of the fine shall not be more than one**
29 **hundred dollars;**

30 **(d) The person returns or attempts to return to a dealer for a refund more than**
31 **five thousand but no more than ten thousand nonreturnable containers for the first**
32 **time, in which case the amount of the fine shall not be more than one hundred dollars;**

33 **(e) The person returns or attempts to return to a dealer for a refund more than**
34 **five thousand but no more than ten thousand nonreturnable containers for a second or**
35 **subsequent time, in which case the amount of the fine shall not be more than two**
36 **hundred fifty dollars;**

37 **(f) The person returns or attempts to return to a dealer for a refund more than**
38 **ten thousand nonreturnable containers for the first time, in which case the fine shall be**
39 **at least two hundred fifty dollars but not more than five hundred dollars; or**

40 **(g) The person returns or attempts to return to a dealer for a refund more than**
41 **ten thousand nonreturnable containers for a second or subsequent time, in which case**
42 **the amount of the fine shall be five hundred dollars.**

43 **4. (1) A dealer commits the offense of paying an unauthorized refund to a**
44 **person if the dealer knowingly accepts from and pays a deposit to a person for a**
45 **nonreturnable container.**

46 **(2) The offense of paying an unauthorized refund to a person is an infraction for**
47 **which the authorized penalty is a fine and payment of the costs of prosecution as**
48 **described in subsection 1 of this section, unless:**

49 **(a) The dealer knowingly accepts from and pays a deposit to a person on at least**
50 **twenty-five but no more than one hundred nonreturnable containers, in which case the**
51 **amount of the fine shall be twenty-five dollars;**

52 **(b) The dealer knowingly accepts from and pays a deposit to a person on more**
53 **than one hundred but fewer than five thousand nonreturnable containers for the first**
54 **time, in which case the amount of the fine shall not be more than fifty dollars;**

55 **(c) The dealer knowingly accepts from and pays a deposit to a person on more**
56 **than one hundred but fewer than five thousand nonreturnable containers for a second**
57 **or subsequent time, in which case the amount of the fine shall not be more than one**
58 **hundred dollars;**

59 **(d) The dealer knowingly accepts from and pays a deposit to a person on more**
60 **than five thousand but no more than ten thousand nonreturnable containers for the first**
61 **time, in which case the amount of the fine shall not be more than one hundred dollars;**

62 **(e) The dealer knowingly accepts from and pays a deposit to a person on more**
63 **than five thousand but no more than ten thousand nonreturnable containers for a**
64 **second or subsequent time, in which case the amount of the fine shall not be more than**
65 **two hundred fifty dollars;**

66 **(f) The dealer knowingly accepts from and pays a deposit to a person on more**
67 **than ten thousand nonreturnable containers for the first time, in which case the fine**
68 **shall be at least two hundred fifty dollars but not more than five hundred dollars; or**

69 **(g) The dealer knowingly accepts from and pays a deposit to a person on more**
70 **than ten thousand nonreturnable containers for a second or subsequent time, in which**
71 **case the amount of the fine shall be five hundred dollars.**

72 **5. (1) A dealer commits the offense of unauthorized delivery to a distributor if**
73 **the dealer knowingly delivers a nonreturnable container to a distributor for a refund.**

74 **(2) The offense of unauthorized delivery to a distributor is an infraction for**
75 **which the authorized penalty is a fine and payment of the costs of prosecution as**
76 **described in subsection 1 of this section, unless:**

77 **(a) The dealer knowingly delivers at least twenty-five but no more than one**
78 **hundred nonreturnable containers to a distributor for a refund, in which case the**
79 **amount of the fine shall be twenty-five dollars;**

80 (b) The dealer knowingly delivers more than one hundred but no more than five
81 thousand nonreturnable containers to a distributor for a refund for the first time, in
82 which case the amount of the fine shall not be more than fifty dollars;

83 (c) The dealer knowingly delivers more than one hundred but no more than five
84 thousand nonreturnable containers to a distributor for a refund for a second or
85 subsequent time, in which case the amount of the fine shall not be more than one
86 hundred dollars;

87 (d) The dealer knowingly delivers more than five thousand but no more than ten
88 thousand nonreturnable containers to a distributor for a refund for the first time, in
89 which case the amount of the fine shall not be more than one hundred dollars;

90 (e) The dealer knowingly delivers more than five thousand but no more than ten
91 thousand nonreturnable containers to a distributor for a refund for a second or
92 subsequent time, in which case the amount of the fine shall not be more than two
93 hundred fifty dollars;

94 (f) The dealer knowingly delivers more than ten thousand nonreturnable
95 containers to a distributor for a refund for the first time, in which case the fine shall be
96 at least two hundred fifty dollars but not more than five hundred dollars; or

97 (g) The dealer knowingly delivers more than ten thousand nonreturnable
98 containers to a distributor for a refund for a second or subsequent time, in which case
99 the amount of the fine shall be five hundred dollars.

100 6. (1) A distributor commits the offense of paying an unauthorized refund to a
101 dealer if the distributor knowingly accepts from and pays a deposit to a dealer for a
102 nonreturnable container.

103 (2) The offense of paying an unauthorized refund to a dealer is an infraction for
104 which the authorized penalty is a fine and payment of the costs of prosecution as
105 described in subsection 1 of this section, unless:

106 (a) The distributor knowingly accepts from and pays a deposit to a dealer on at
107 least twenty-five but no more than one hundred nonreturnable containers, in which case
108 the amount of the fine shall be twenty-five dollars;

109 (b) The distributor knowingly accepts from and pays a deposit to a dealer on
110 more than one hundred but no more than five thousand nonreturnable containers for
111 the first time, in which case the amount of the fine shall not be more than fifty dollars;

112 (c) The distributor knowingly accepts from and pays a deposit to a dealer on
113 more than one hundred but no more than five thousand nonreturnable containers for a
114 second or subsequent time, in which case the amount of the fine shall not be more than
115 one hundred dollars;

116 (d) The distributor knowingly accepts from and pays a deposit to a dealer on
117 more than five thousand but no more than ten thousand nonreturnable containers for
118 the first time, in which case the amount of the fine shall not be more than one hundred
119 dollars;

120 (e) The distributor knowingly accepts from and pays a deposit to a dealer on
121 more than five thousand but no more than ten thousand nonreturnable containers for a
122 second or subsequent time, in which case the amount of the fine shall not be more than
123 two hundred fifty dollars;

124 (f) The distributor knowingly accepts from and pays a deposit to a dealer on
125 more than ten thousand nonreturnable containers for the first time, in which case the
126 amount of the fine shall be at least two hundred fifty dollars but not more than five
127 hundred dollars; or

128 (g) The distributor knowingly accepts from and pays a deposit to a dealer on
129 more than ten thousand nonreturnable containers for a second or subsequent time, in
130 which case the amount of the fine shall be five hundred dollars.

131 7. (1) A distributor commits the offense of unauthorized delivery to a
132 manufacturer if the distributor knowingly delivers a nonreturnable container to a
133 manufacturer for a refund.

134 (2) The offense of unauthorized delivery to a manufacturer is an infraction for
135 which the authorized penalty is a fine and payment of the costs of prosecution as
136 described in subsection 1 of this section, unless:

137 (a) The distributor knowingly delivers at least twenty-five but no more than one
138 hundred nonreturnable containers to a manufacturer for a refund, in which case the
139 amount of the fine shall be twenty-five dollars;

140 (b) The distributor knowingly delivers more than one hundred but no more than
141 five thousand nonreturnable containers to a manufacturer for a refund for the first
142 time, in which case the amount of the fine shall not be more than fifty dollars;

143 (c) The distributor knowingly delivers more than one hundred but no more than
144 five thousand nonreturnable containers to a manufacturer for a refund for a second or
145 subsequent time, in which case the amount of the fine shall not be more than one
146 hundred dollars;

147 (d) The distributor knowingly delivers more than five thousand but no more
148 than ten thousand nonreturnable containers to a manufacturer for a refund for the first
149 time, in which case the amount of the fine shall not be more than one hundred dollars;

150 (e) The distributor knowingly delivers more than five thousand but no more
151 than ten thousand nonreturnable containers to a manufacturer for a refund for a second

152 or subsequent time, in which case the amount of the fine shall not be more than two
153 hundred fifty dollars;

154 (f) The distributor knowingly delivers more than ten thousand nonreturnable
155 containers to a manufacturer for a refund for the first time, in which case the fine shall
156 be at least two hundred fifty dollars but not more than five hundred dollars; or

157 (g) The distributor knowingly delivers more than ten thousand nonreturnable
158 containers to a manufacturer for a refund for a second or subsequent time, in which
159 case the amount of the fine shall be five hundred dollars.

160 8. Actions of a dealer or distributor described in subsections 4 to 7 of this section
161 shall not be deemed the dealer's or distributor's violations of subsections 4 to 7 of this
162 section if all of the following conditions are met:

163 (1) An employee of the dealer or distributor commits any act prohibited in
164 subsections 4 to 7 of this section;

165 (2) At the time the employee commits any act prohibited in subsections 4 to 7 of
166 this section, the dealer or distributor had in force a written policy prohibiting the
167 dealer's or distributor's employees from committing any act prohibited in subsections 4
168 to 7 of this section; and

169 (3) The dealer or distributor did not know and, in the exercise of reasonable
170 care, could not have known of the employee's commission of the act prohibited in
171 subsections 4 to 7 of this section.

172 9. In addition to any penalty described in this section, the court shall order any
173 person who commits any act prohibited in this section to pay restitution equal to the
174 amount of loss caused by the offense.

175 10. The attorney general or a county prosecutor may bring an action to recover a
176 civil fine under this section.

260.865. 1. The department may promulgate all necessary rules and regulations
2 for the administration of sections 260.851 to 260.865. Any rule or portion of a rule, as
3 that term is defined in section 536.010, that is created under the authority delegated in
4 this section shall become effective only if it complies with and is subject to all of the
5 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter
6 536 are nonseverable, and if any of the powers vested with the general assembly
7 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
8 a rule are subsequently held unconstitutional, then the grant of rulemaking authority
9 and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

10 2. Sections 260.851 to 260.865 shall apply in all years beginning on or after
11 January 1, 2024.