
HOUSE BILL No. 1570

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-12-4.

Synopsis: Deposit on beverage containers. Requires returnable beverage containers to be used beginning in 2010. Requires a ten cent refundable deposit on each of these containers. Allows manufacturers or distributors to be the originator of the deposit. Requires retailers to make cash refunds to consumers. Requires distributors to make cash refunds to retailers. Requires an originator of deposits to file a deposit report with the state and pay any excess deposits it collects. Provides that deposits that escheat to the state are to be used to compensate retailers for taking returns, to cover administrative costs of the state, and to provide revenue to the Indiana heritage trust fund. Provides that the department of state revenue is the administrator of the program. Imposes a penalty for a general violation of the law of not less than \$100 and not more than \$1,000 plus costs and attorney fees associated with a civil action filed to collect the penalty. Provides that a person that returns or attempts to return nonreturnable containers commits either: (1) a Class C infraction if it involves at least 25 but not more than 100 nonreturnable containers; or (2) a Class C misdemeanor if it involves more than 100 nonreturnable containers or is a second or subsequent violation. Requires that the person must also pay the amount of loss caused to the retailer by the violation. Requires retailers to post a sign setting forth these penalties.

Effective: July 1, 2009.

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January 16, 2009, read first time and referred to Committee on Environmental Affairs.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1570



A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-12-4 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]:

4 **Chapter 4. Beverage Container Deposits**

5 **Sec. 1. This chapter applies beginning January 1, 2010.**

6 **Sec. 2. As used in this chapter "beverage" means the following:**

- 7 (1) **A soft drink, soda water, carbonated natural or mineral**
- 8 **water, or other nonalcoholic carbonated drink.**
- 9 (2) **Beer, ale, or other malt drink of whatever alcoholic**
- 10 **content.**
- 11 (3) **A mixed wine drink or a mixed spirit drink.**
- 12 (4) **Noncarbonated water, including spring water, purified**
- 13 **water, and flavored water.**
- 14 (5) **Tea, including flavored tea.**

15 **Sec. 3. As used in this chapter "beverage container" means an**
16 **airtight metal, glass, or plastic container, or a container composed**
17 **of a combination of these materials, which, at the time of sale,**



1 contains one (1) gallon or less of a beverage.

2 Sec. 4. As used in this chapter "department" refers to the
3 department of state revenue.

4 Sec. 5. As used in this chapter "distributor" means a person
5 who sells beverages in beverage containers to a retailer within
6 Indiana, and includes a manufacturer who engages in these sales.

7 Sec. 6. As used in this chapter "empty returnable container"
8 means a beverage container that contains nothing except the
9 residue of its original contents.

10 Sec. 7. As used in this chapter "manufacturer" means a person
11 that bottles, cans, or otherwise places a beverage in beverage
12 containers for sale to a distributor, retailer, or consumer.

13 Sec. 8. As used in this chapter "mixed spirit drink" means a
14 drink containing:

15 (1) ten percent (10%) or less alcohol by volume that consists
16 of distilled spirits mixed with any one (1) or more of:

17 (A) nonalcoholic beverages;

18 (B) flavoring;

19 (C) coloring materials;

20 (D) water;

21 (E) fruit juices;

22 (F) fruit adjuncts;

23 (G) sugar;

24 (H) carbon dioxide;

25 (I) preservatives; or

26 (2) any spirits based beverage, regardless of the percent of
27 alcohol by volume, that is manufactured for sale in a metal
28 container.

29 Sec. 9. As used in this chapter "mixed wine drink" means a
30 drink or similar product marketed as a wine cooler and containing
31 less than seven percent (7%) alcohol by volume, consisting of wine
32 and plain, sparkling, or carbonated water and containing any one
33 (1) or more of the following:

34 (1) Nonalcoholic beverages.

35 (2) Flavoring.

36 (3) Coloring materials.

37 (4) Fruit juices.

38 (5) Fruit adjuncts.

39 (6) Sugar.

40 (7) Carbon dioxide.

41 (8) Preservatives.

42 Sec. 10. As used in this chapter "nonrefillable container" means

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1 a returnable container that is not intended to be refilled for sale by
2 a manufacturer.

3 Sec. 11. As used in this chapter "nonreturnable container"
4 means a beverage container upon which no deposit is required to
5 be paid under this chapter.

6 Sec. 12. As used in this chapter "operator of a vending
7 machine" includes its owner, the person who refills it, and the
8 owner or lessee of the property upon which it is located.

9 Sec. 13. As used in this chapter, "person" includes an
10 association, a corporation, a fiduciary, an individual, a limited
11 liability company, a partnership, or a sole proprietorship.

12 Sec. 14. As used in this chapter, "retailer" means a person who
13 sells or offers for sale to an ultimate consumer a beverage in a
14 beverage container, including an operator of a vending machine
15 containing a beverage in a beverage container.

16 Sec. 15. As used in this chapter "returnable container" means
17 a beverage container upon which a deposit is required to be paid
18 under this chapter.

19 Sec. 16. As used in this chapter "sale or consumption area"
20 means the premises within the property of the retailer or of the
21 retailer's lessor where a sale is made.

22 Sec. 17. (a) Each beverage container sold or offered for sale by
23 a retailer within Indiana shall clearly indicate by embossing or by
24 a stamp, a label, or other method securely affixed to the beverage
25 container, the refund value of the container and the name of the
26 state of Indiana.

27 (b) This section does not apply to a refillable container having:
28 (1) a refund value of at least ten cents (\$0.10);
29 (2) a brand name permanently marked on it; and
30 (3) a securely affixed method of indicating that it is a
31 returnable container.

32 Sec. 18. (a) A deposit of ten cents (\$0.10) shall be paid upon the
33 removal of any beverage container containing a beverage from a
34 sale or consumption area.

35 (b) A beverage in a returnable container may be consumed in a
36 sale or consumption area without payment of a deposit.

37 (c) A retailer within this state may not sell, offer for sale, or give
38 to a consumer a nonreturnable container or a beverage in a
39 nonreturnable container.

40 Sec. 19. (a) A manufacturer licensed by the alcohol and tobacco
41 commission may not require a distributor licensed by the alcohol
42 and tobacco commission to pay a deposit to the manufacturer on

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1 a nonrefillable container. However, a manufacturer licensed by the
 2 alcohol and tobacco commission and a distributor licensed by the
 3 alcohol and tobacco commission may enter into an agreement
 4 providing that either or both may originate a deposit or any
 5 portion of a deposit on a nonrefillable container if the agreement
 6 is entered into freely and without coercion.

7 (b) A manufacturer shall refund the deposit paid on any
 8 container returned by a distributor for which a deposit has been
 9 paid by a distributor to the manufacturer.

10 Sec. 20. (a) Except as provided in subsections (c) and (d), a
 11 retailer shall accept from a person an empty returnable container
 12 of any kind, size, and brand sold or offered for sale by that retailer
 13 and pay to that person its full refund value in cash.

14 (b) Except as provided in section (d), a distributor shall accept
 15 from a retailer an empty returnable container of any kind, size,
 16 and brand sold or offered for sale by that distributor and pay to
 17 the retailer its full refund value in cash.

18 (c) A retailer that does not require a deposit on a returnable
 19 container when the contents are consumed in the retailer's sale or
 20 consumption area is not required to pay a refund for accepting that
 21 empty container.

22 (d) A retailer or distributor may, but is not required to, refuse
 23 to accept from a person an empty returnable container that does
 24 not state on the container the refund value of the container and the
 25 name of this state. This subsection does not apply to a refillable
 26 container described in section 17(b) of this chapter.

27 Sec. 21. (a) A retailer who regularly sells beverages for
 28 consumption off the retailer's premises shall provide on the
 29 premises, or within one hundred (100) yards of the premises on
 30 which the retailer has a sale or consumption area, a convenient
 31 means so that a container of any kind, size, and brand sold or
 32 offered for sale by the retailer may be returned by, and the deposit
 33 refunded in cash to, a person, regardless of whether the person is
 34 the original customer of that retailer, and regardless of whether
 35 the container was sold by that retailer.

36 (b) Regional centers for the redemption of returnable containers
 37 may be established, in addition to, but not as a substitute for, the
 38 means established for refunds of deposits set forth in subsection
 39 (a).

40 Sec. 22. A person, retailer, distributor, or manufacturer shall
 41 not return an empty container to a retailer for a refund of the
 42 deposit if a retailer has already refunded the deposit on that

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1 returnable container. This subsection does not prohibit a retailer
2 from refunding the deposit on an empty returnable container each
3 time the returnable container is sanitized by the manufacturer and
4 reused as a beverage container.

5 **Sec. 23.** A retailer may accept, but is not required to accept,
6 from a person, empty returnable containers for a refund in excess
7 of twenty-five dollars (\$25) on any given day.

8 **Sec. 24. (a)** Not later than March 1, 2011, and not later than
9 March 1 of each year thereafter, a distributor or manufacturer
10 who originates a deposit on a beverage container shall file a report
11 with the department containing the information required by
12 subsection (b).

13 (b) The report required to be filed under subsection (a) shall
14 indicate for the period of January 1 through December 31 of the
15 previous year, the dollar value of both the total deposits collected
16 by the distributor or manufacturer on beverage containers sold
17 within Indiana and total refunds made upon beverage containers
18 redeemed by the distributor or manufacturer within Indiana.

19 (c) The report required to be filed under subsection (a) shall be
20 designed by the department and contain the following information:

- 21 (1) The reporting period.
- 22 (2) Whether the filer is a distributor or manufacturer.
- 23 (3) The company name and full address.
- 24 (4) The amount of deposits received and refunds granted.
- 25 (5) The difference between the value of deposits received and
26 value of refunds made.
- 27 (6) The amount of any over redemption credit claimed, if any.
- 28 (7) The amount owed to the department, if any.
- 29 (8) An acknowledgment that states that the above information
30 is true and accurate.
- 31 (9) A place for the signature of the authorized agent of the
32 filer and the date of the signature.
- 33 (10) Any other information the department considers
34 necessary to administer this chapter.

35 **Sec. 25. (a)** The department may audit, assess, and collect the
36 amount of money reflecting unclaimed bottle deposits owed to this
37 state, and enforce the obligation to pay the amount of money
38 reflecting unclaimed bottle deposits owed to the state of Indiana,
39 in the same manner as revenues are collected by the department.

40 (b) During May each year, the department shall publish a report
41 on the department's web site covering the department's activities
42 under this section. The department shall provide the report to the

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1 general assembly in an electronic format under IC 5-14-6.

2 Sec. 26. (a) As used in this section "overredeemer" means a
3 distributor or manufacturer whose annual total value of deposits
4 collected on beverage containers sold within Indiana is less than
5 the annual total value of refunds made upon beverage containers
6 redeemed within Indiana.

7 (b) As used in this section "underredeemer" means a distributor
8 or manufacturer whose annual total value of deposits collected on
9 beverage containers sold within Indiana exceeds annual total value
10 of refunds made upon beverage containers redeemed within
11 Indiana.

12 (c) Not later than March 1, 2011, and not later than March 1 of
13 each year thereafter, an underredeemer shall pay to the
14 department the amount by which its annual total value of deposits
15 received exceeds its annual total value of refunds made on
16 redeemed beverage containers, subject to the over redemption
17 credit contained in this section.

18 (d) After 2011, an underredeemer who becomes an
19 overredeemer in a subsequent year may credit the value of the
20 overredemption to reduce the amount of money owed to the
21 department under this section in one (1) or more subsequent years
22 as a result of that person again becoming an underredeemer. The
23 value of the overredemption may be carried forward for not more
24 than three (3) years or until the credit granted in this section is
25 completely depleted, whichever occurs first.

26 (e) A manufacturer who no longer originates deposits may carry
27 the value of an overredemption back for prior years in order to
28 utilize its credit, and reduce the amount of under redemption owed
29 to the department under this section on a one-time basis only.

30 Sec. 27. (a) In addition to the information on the report
31 prescribed in section 24 of this chapter, if an underredeemer
32 purchases empty returnable containers from an overredeemer,
33 that purchase shall be reported by the underredeemer as a refund
34 made and shall be reported by the overredeemer as a deposit
35 collected in an addendum to the report.

36 (b) The addendum to the report made by an underredeemer
37 must include the name and address of each overredeemer and the
38 refund value of the empty returnable beverage containers
39 purchased from each overredeemer.

40 (c) The addendum to the report made by an overredeemer must
41 include the name and address of each underredeemer who
42 purchased the returnable containers from that overredeemer and

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1 the refund value of the empty returnable beverage containers sold.
 2 (d) The total consideration paid by an underredeemer to an
 3 overredeemer as authorized by this section must equal the
 4 redemption value of the container.
 5 (e) A purchase or sale made under subsection (a) during
 6 January of each year must be included in the report for the
 7 previous calendar year only.
 8 **Sec. 28. (a)** The bottle deposit fund is established as a dedicated
 9 fund for the receipt of all revenue collected by the department
 10 under this chapter.
 11 (b) The fund shall be administered by the treasurer of state. Any
 12 expenses incurred in administering the fund shall be paid from the
 13 fund. The treasurer of state shall invest the money in the fund not
 14 currently needed to meet the obligations of the fund in the same
 15 manner as other public money may be invested.
 16 (c) Interest earned on money in the fund shall be credited to the
 17 fund.
 18 (d) The amount paid to the department by underredeemers shall
 19 be deposited by the department in the fund.
 20 (e) The money that is deposited in the fund each year is
 21 appropriated for the following purposes:
 22 (1) Twenty-five percent (25%) shall be paid to retailers
 23 during the last business week in July each year, to be
 24 apportioned to each retailer on the basis of the number of
 25 empty returnable containers handled by a retailer the
 26 previous year, as determined by the department.
 27 (2) Two percent (2%) is annually appropriated on July 31
 28 each year to the department to offset the costs to the
 29 department for administering this chapter.
 30 (3) The remainder shall be transferred on the first business
 31 day in August each year to the Indiana heritage trust fund
 32 established under IC 14-12-2.
 33 (f) Money in the fund at the end of a state fiscal year does not
 34 revert to the state general fund. If the fund is abolished, any money
 35 in the fund reverts to the state general fund.
 36 **Sec. 29.** Unclaimed deposits on returnable containers are
 37 considered to be the property of the person purchasing the
 38 returnable container and are not the property of the distributor or
 39 manufacturer who collected the deposit.
 40 **Sec. 30. (a)** Except as provided in sections 31 and 32 of this
 41 chapter, a person, retailer, distributor, or manufacturer who
 42 violates this chapter is subject to a civil penalty of not less than one

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1 hundred dollars (\$100) and not more than one thousand dollars
 2 (\$1,000). In addition, the violater is liable for the costs and attorney
 3 fees associated with any civil action filed to collect the penalty.

4 (b) Each day during which a violation continues to occur
 5 constitutes a separate offense.

6 (c) Any penalty assessed under this section shall be deposited in
 7 the bottle deposit fund established by section 28 of this chapter.

8 Sec. 31. (a) A person shall not return or attempt to return to a
 9 retailer for a refund one (1) or more of the following:

10 (1) A beverage container that the person knows or should
 11 know was not purchased in this state as a filled returnable
 12 container.

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

16 (b) A person who violates subsection (a) is subject to one (1) of
 17 the following:

18 (1) If the person returns at least twenty-five (25) but not more
 19 than one hundred (100) nonreturnable containers, the person
 20 commits a Class C infraction.

21 (2) If the person returns more than one hundred (100)
 22 nonreturnable containers or violates subsection (a) for a
 23 second or subsequent time, the person commits a Class C
 24 misdemeanor.

25 (c) A person who violates subsection (a) shall be ordered by the
 26 court to also pay an amount equal to the amount of loss caused to
 27 the retailer by the violation.

28 Sec. 32. (a) In that portion of the retailer's premises where
 29 returnable containers are redeemed, a retailer shall post a notice
 30 that says substantially the following: "A person who returns for
 31 refund an out-of-state nonreturnable container is subject to
 32 penalties of up to sixty (60) days in jail plus a fine of \$500 and
 33 restitution."

34 (b) A retailer that fails to comply with this section is subject to
 35 a civil penalty not to exceed fifty dollars (\$50) for each day the
 36 failure continues.

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