

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1007

Short Title: Plastic/Glass Container Deposit.

(Public)

Sponsors: Representatives Gottovi; Barnes, Colton, Diamont, Ethridge, Gamble, Luebke, and McAllister.

Referred to: Environment.

April 19, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO ENCOURAGE RECYCLING AND DISCOURAGE LITTERING BY
3 REQUIRING A DEPOSIT ON GLASS AND PLASTIC BEVERAGE
4 CONTAINERS AND REQUIRING DEALERS AND REDEMPTION CENTERS
5 TO ACCEPT RETURNED GLASS AND PLASTIC CONTAINERS AND
6 REFUND THE DEPOSITS.

7 The General Assembly of North Carolina enacts:

8 Section 1. Article 9 of Chapter 130A of the General Statutes is amended by
9 adding a new Part to read:

10 **"PART 2C. BEVERAGE CONTAINER DEPOSITS AND REFUNDS.**

11 **"§ 130A-309.70. Findings; intent.**

12 (a) The General Assembly finds that:

13 (1) Beverage containers should be reused or recycled;

14 (2) Beverage containers constitute a major source of nondegradable litter
15 and solid waste in this State;

16 (3) The collection and disposal of this litter and solid waste imposes a
17 great financial burden on the citizens of North Carolina.

18 **"§ 130A-309.71. Definitions.**

19 Unless a different meaning is required by the context, the following definitions
20 apply throughout this Part:

21 (1) 'Beverage' means any malt beverage; spirituous liquor; fortified wine;
22 unfortified wine; wine cooler; soda or noncarbonated water; and all
23 nonalcoholic carbonated or noncarbonated drinks in liquid form and

- 1 intended for human consumption, except milk and dairy-derived
2 products.
- 3 (2) 'Beverage container' means a bottle, can, jar, or other container, which
4 has been sealed by a manufacturer, which contains a beverage, and
5 which is made of glass or plastic.
- 6 (3) 'Consumer' means an individual who purchases a beverage in a
7 beverage container for use or consumption.
- 8 (4) 'Dealer' means a person who sells or offers for sale in this State to
9 consumers a beverage in a beverage container, including an operator of
10 a vending machine containing a beverage in a beverage container.
- 11 (5) 'Distributor' means a person who engages in the sale of beverages in
12 beverage containers to a dealer, including any manufacturer who
13 engages in such sales.
- 14 (6) 'Fortified wine' has the same meaning as in G.S. 18B-101.
- 15 (7) 'Malt beverage' has the same meaning as in G.S. 18B-101.
- 16 (8) ' Operator of a vending machine' means its owner, the person who
17 refills it, or the owner or lessor of the property upon which it is
18 located.
- 19 (9) 'Redemption center' means a store or other location where any person
20 may, during specified normal business hours, redeem the amount of
21 the deposit for an empty beverage container.
- 22 (10) 'Refillable' means a beverage container which, after being used by a
23 consumer, is to be reused as a beverage container at least five times by
24 a manufacturer.
- 25 (11) 'Spirituous liquor' has the same meaning as in G.S. 18B-101.
- 26 (12) 'Unfortified wine' has the same meaning as in G.S. 18B-101.
- 27 (13) 'Use or consumption' means the exercise of any right or power over a
28 beverage incident to the ownership thereof, other than the sale, storage,
29 or retention for the purposes of sale of a beverage.
- 30 (14) 'Wine cooler' means a beverage of less than eight percent (8%) alcohol
31 content by volume consisting of wine and:
- 32 a. Plain, sparkling, or carbonated water; and
- 33 b. Any one or more of the following:
- 34 1. Fruit juices;
- 35 2. Fruit adjuncts;
- 36 3. Artificial or natural flavors or flavorings;
- 37 4. Preservatives;
- 38 5. Coloring; or
- 39 6. Any other natural or artificial blending material.

40 **"§ 130A-309.72. Deposit and refund value.**

41 Every beverage container sold or offered for sale to a consumer in this State which
42 contains one gallon or less of a beverage shall have a deposit and refund value. The
43 deposit and refund value shall be determined as follows:

- 1 (1) For refillable beverage containers, except fortified and unfortified wine
2 and spirituous liquor containers, the manufacturer shall determine the
3 deposit and refund value according to the type, kind, and size of the
4 beverage container. The deposit and refund value shall not be less
5 than five cents (5¢).
- 6 (2) For nonrefillable beverage containers, except fortified and unfortified
7 wine and spirituous liquor containers, the distributor shall determine
8 the deposit and refund value according to the type, kind, and size of
9 the beverage container. The deposit and refund value shall not be less
10 than five cents (5¢).
- 11 (3) For fortified and unfortified wine and spirituous liquor containers of
12 greater than 50 milliliters, the refund value shall not be less than
13 fifteen cents (15¢). On January 1, 1993, the Department shall issue a
14 finding on the percentages of fortified and unfortified wine containers
15 and spirituous containers returned for deposit. If the Department finds
16 the return rate of fortified wine containers plus the return rate for
17 unfortified wine containers was less than sixty percent (60%) during
18 1992, then, on July 1, 1993, the refund value on fortified and unfortified
19 wine containers shall not be less than twenty-five cents (25¢). If the
20 Department finds the return rate of spirituous liquor containers was
21 less than sixty percent (60%) during 1992, then on July 1, 1993, the
22 refund value on spirituous liquor containers shall not be less than
23 twenty-five cents (25¢).

24 "**§ 130A-309.73. Acceptance of beverage containers; limitations; duties of**
25 **distributors.**

26 (a) Except as provided in G.S. 130A-309.76 and subsection (g) of this section, a
27 dealer shall not refuse to accept at his regular place of business from any consumer or
28 other person not a dealer any empty returnable container of any kind, size, and brand
29 sold by that dealer, nor refuse to pay to the consumer its full refund value in cash as
30 established by G.S. 130A-309.72.

31 (b) A dealer may elect to accept returnable containers during all regular business
32 hours. If a dealer elects not to accept returnable containers during all regular business
33 hours, such dealer shall display a poster meeting the requirements of G.S. 130A-309.78,
34 indicating hours totaling at least three hours per day, five days per week, during which
35 such containers will be accepted.

36 (c) A dealer may limit the total number of beverage containers which he will
37 accept from any one consumer or other person in any one business day to 240
38 containers, or any other number greater than 240.

39 (d) A dealer or a redemption center may refuse to redeem from a consumer, and a
40 distributor may refuse to redeem from a dealer or a redemption center, any:

- 41 (1) Empty beverage container which is not labeled as required by G.S.
42 130A-309.77;
- 43 (2) Beverage container which is not empty and free of materials foreign to
44 the original contents of the container; and

1 (3) Glass beverage container which is broken.

2 (e) A distributor or manufacturer shall not refuse to accept from any dealer or
3 any redemption center any empty returnable container of any kind, size, and brand sold
4 by that distributor or manufacturer, nor refuse to pay the dealer or the operator of the
5 redemption center its full refund value as established by G.S. 130A-309.72.

6 (f) In addition to being reimbursed for the payment of the refund value, the
7 dealer or any operator of a redemption center shall be reimbursed by the initiator of the
8 deposit under G.S. 130A-309.72 for the cost of handling beverage containers in an
9 amount that equals at least three cents (3¢) per returned container.

10 (g) A dealer may refuse to accept beverage containers if there is a redemption
11 center established pursuant to G.S. 130A-309.75 that serves that dealer as stated in the
12 order approving the redemption center.

13 (h) The Department may establish, by rule, criteria prescribing the manner in
14 which the initiator of the deposit shall have the obligation to pick up any empty,
15 unbroken, and reasonably clean beverage containers of the particular kind, size, and
16 brand sold by the initiator from dealers to whom a distributor has sold those beverages
17 and from redemption centers. The obligation may be fulfilled by the initiator directly or
18 indirectly through a contracted agent. The rules may establish a minimum number or
19 value of containers below which a distributor is not required to respond to a request to
20 pick up empty containers. Any rules promulgated under this subsection must allocate
21 the burdens associated with the handling, storage, and transportation of empty
22 containers to prevent unreasonable financial or other hardship.

23 (i) Prior to March 1 of each year, each distributor shall report to the Department
24 the total amount of deposits paid to it by any person during the preceding calendar year,
25 as well as the total amount of refunds paid by it to any person during that calendar year.

26 **"§ 130A-309.74. Dealer as distributor.**

27 Whenever any dealer or group of dealers receives a shipment or consignment of, or
28 in any other manner acquires, beverage containers outside the State for sale to
29 consumers in the State, such dealer shall comply with this Part as if they were
30 distributors, as well as dealers.

31 **"§ 130A-309.75. Redemption centers.**

32 (a) Any dealer, group of dealers, municipality, agency, regional association, or
33 any person or other entity may seek the approval of the Secretary to operate a
34 redemption center to serve local dealers and consumers, at which consumers may return
35 empty beverage containers pursuant to G.S. 130A-309.73.

36 (b) Application for approval of a redemption center shall be filed with the
37 Department. The application shall state the names and addresses of the operator of the
38 center and the person responsible for the center, and the names and addresses of dealers
39 to be served and their distances from the redemption center.

40 (c) The Secretary shall approve a redemption center if he finds that the center
41 will provide a convenient service for the return of empty beverage containers. The
42 order approving a redemption center shall state the dealers to be served and the kinds,
43 sizes, and brand names of empty beverage containers which the center will accept.

1 (d) A redemption center shall not refuse to accept from any consumer or other
2 person not a dealer any empty, unbroken, and reasonably clean beverage container of
3 the kind, size, and brand sold by a dealer served by the center or refuse to pay in cash
4 the refund value of the returned beverage container as established by G.S. 130A-309.72.

5 (e) A list of the dealers served and the kinds, sizes, and brand names of empty
6 beverage containers accepted and the hours the redemption center will accept returnable
7 beverage containers shall be prominently displayed at each redemption center.

8 (f) The Secretary may withdraw approval of a redemption center if it has not
9 complied with the approval order or if the redemption center no longer provides a
10 convenient service to the public.

11 **"§ 130A-309.76. Alternate redemption arrangements for vending machines.**

12 Any dealer who is an operator of a vending machine or machines and who is not
13 otherwise a dealer, may elect to arrange with another dealer or a redemption center,
14 within five miles of the location of such vending machine or machines, to redeem
15 beverage containers from his vending machines. Any such dealer, so long as such
16 arrangement is in effect, shall be relieved of the duty to redeem beverage containers
17 under this Part. Such dealer shall post on each vending machine the name and address
18 of the redeeming dealer.

19 **"§ 130A-309.77. Labeling.**

20 (a) Every beverage container which contains a beverage which is sold or offered
21 for sale in this State shall clearly indicate by embossing or imprinting on the normal
22 product label, or in the case of metal beverage containers, on the top of the container the
23 words 'North Carolina' or the initials 'N.C.' and the refund value of the container in not
24 less than one-quarter inch type size.

25 (b) This section does not apply to any permanently labeled glass beverage
26 container having a refund value of not less than five cents (5¢) prior to the effective date
27 of this Part and having a brand name permanently marked thereon, unless such glass
28 beverage container contains spirituous liquors, fortified or unfortified wines, or malt
29 beverages.

30 **"§ 130A-309.78. Posting redemption hours.**

31 (a) The Secretary shall prepare and print suitable posters for sale at cost to
32 dealers who wish to give public notice of the hours during which returnable containers
33 will be redeemed and the place of such redemption.

34 (b) The posters shall be substantially in the following form:

35 **'NOTICE TO CUSTOMERS**

36 In accordance with the provisions of Article 25 of Chapter 130 of the North Carolina
37 General Statutes, this store will redeem clean returnable beverage containers during the
38 following 40 or more hours of each week:

39 Monday

40 Tuesday

41 Wednesday

42 Thursday

43 Friday

44 Saturday

1 Sunday

2
3 (Name of store or establishment) (Operator, manager, or owner.)'

4 **"§ 130A-309.79. Prohibition on certain types of containers.**

5 No beverage may be sold or offered for sale to consumers in this State:

- 6 (1) In a container composed of one or more plastics if the basic structure
7 of the container, exclusive of the closure device, also includes
8 aluminum or steel; or
9 (2) In a container composed, in whole or in part, of aluminum and plastic
10 or of aluminum and paper in combination where those materials are for
11 practical reasons inseparable.

12 **"§ 130A-309.80. Noncompliance a misdemeanor.**

13 It is a misdemeanor punishable by a fine not to exceed five hundred dollars
14 (\$500.00) or imprisonment not to exceed 30 days:

- 15 (1) To sell or offer for sale beverages in containers not labeled in
16 accordance with the provisions of this Part;
17 (2) To refuse to accept and return the deposit on a beverage container in
18 accordance with the provisions of this Part;
19 (3) To operate a redemption center without the permit required by this
20 Article; or
21 (4) To make a report pursuant to G.S. 130A-309.73 that is false.

22 **"§ 130A-309.81. Exception for beverage containers used on international flights.**

23 This Part does not apply to any beverage container sold to an airline and containing
24 a beverage intended for consumption on an aircraft flight in interstate or foreign
25 commerce."

26 Sec. 2. This act becomes effective January 1, 1992.