

SENATE BILL No. 200

By Committee on Natural Resources

2-11

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.

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

7 New 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,
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
25 metal, glass or plastic container or a container composed of a
26 combination of those materials, which, at the time of sale, contains one
27 gallon or less of a beverage. Beverage container does not include cartons,
28 foil pouches or 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
33 otherwise fills beverage containers with beverage for sale to distributors,
34 retailers or 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

1 required to be paid upon the removal of the container from the sale or
2 consumption area or for which no cash refund or a refund of less than
3 \$.05 is payable by a retailer or distributor of that beverage as provided in
4 section 2, and 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 which
11 accepts from retailers or consumers and provides the refund value for
12 returnable containers intended to be recycled and prepares the empty
13 returnable 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, which
22 accepts one or more types of returnable containers and issues a
23 redeemable credit slip with a value of not less than the container's refund
24 value.

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

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

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

1 radius of such place of business and which accepts beverage containers of
2 the kind, size and brand sold by such retailer at such place of business.

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

5 (1) Register as a redemption center; or

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

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

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

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

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

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

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

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

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

39 (4) the hours of operation;

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

42 (6) a valid business license.

43 (b) Any person establishing a redemption center shall have the right

1 to determine what kinds, sizes and brands of beverage containers shall be
2 accepted. Any redemption center may be established to serve all persons
3 or to serve certain specified retailers.

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

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

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

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

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

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

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

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

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

39 (2) to fund administrative expenses.

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

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

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

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

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

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

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