AN ACT concerning waste; relating to litter control; requiring certain beverage containers to be redeemable; prohibiting certain conduct and providing penalty for violation thereof; establishing the returnable container deposit fund.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act:

(a) “Beverage” means:

1. Any alcoholic liquor, as defined by K.S.A. 41-102, and amendments thereto, whether or not mixed with any other beverage;
2. Any cereal malt beverage, as defined by K.S.A. 41-2701, and amendments thereto, whether or not mixed with any other beverage;
3. Any mineral water;
4. Any carbonated or non-carbonated soft drinks, including sport and energy drinks; and
5. Any carbonated or non-carbonated drinks containing any percentage of fruit or vegetable juice.

“Beverage” does not include milk, infant formula or medical food, where medical food is a food or beverage that is formulated to be consumed or administered under the supervision of a physician and that is intended for specific dietary management of diseases or health conditions for which distinctive nutritional requirements are established by medical evaluation.

(b) “Beverage container” means an individual, separate, sealed metal, glass or plastic container or a container composed of a combination of those materials, which, at the time of sale, contains one gallon or less of a beverage. Beverage container does not include cartons, foil pouches or drink boxes.

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

(d) “Manufacturer” means any person who bottles, cans or otherwise fills beverage containers with beverage for sale to distributors, retailers or consumers.

(e) “Nonreturnable container” means a beverage container upon which no deposit or a deposit of less than $.05 has been paid or is
required to be paid upon the removal of the container from the sale or consumption area or for which no cash refund or a refund of less than $.05 is payable by a retailer or distributor of that beverage as provided in section 2, and amendments thereto.

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

(g) “Person” means any individual, partnership, corporation, association or other legal entity.

(h) “Redemption center” means any operation or facility which accepts from retailers or consumers and provides the refund value for returnable containers intended to be recycled and prepares the empty returnable containers for recycling.

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

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

(k) “Reverse vending machine” means a mechanical device, which accepts one or more types of returnable containers and issues a redeemable credit slip with a value of not less than the container's refund value.

(l) “Secretary” means the secretary of health and environment.

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

(b) Except as provided in subsections (c) through (f), a retailer shall accept from any person during the retailer’s business hours any empty beverage container of the type, size and brand sold by the retailer within the past 60 days and shall pay that person the refund value of each beverage container returned, unless such retailer sponsors, solely or with
others, a redemption center which is located or operates within a 10 mile
radius of such place of business and which accepts beverage containers of
the kind, size and brand sold by such retailer at such place of business.
(c) If a retailer does not or cannot sponsor a redemption center, the
retailer must either:
   (1) Register as a redemption center; or
   (2) collect beverage containers from consumers as provided in
subsection (b), have an agreement with a redemption center to collect
beverage containers from the retailer and prepare such beverage
containers for collection by a redemption center.
(d) A retailer or redemption center may refuse to accept any
beverage container which contains material other than water, residue of
the original contents or ordinary dust.
(e) A retailer or redemption center may, but is not required to, accept
from a person empty returnable containers for a refund in excess of $25
on any single day.
(f) A person tendering for redemption more than 2,500 beverage
containers at one time to a retailer or redemption center must provide to
the retailer or redemption center that person’s name and address and the
license plate number of the vehicle used to transport the beverage
containers. The retailer or redemption center redeeming these beverage
containers shall forward that information to the secretary within 10 days,
and the information must be kept on file for a minimum of 12 months.
(g) Every operator of a vending machine which sells beverages in
beverage containers shall post a conspicuous notice on each vending
machine indicating that a refund of not less than $.05 is available on each
beverage container purchased and where and from whom that refund may
be obtained. The provisions of this subsection shall not be construed to
require such vending machine operators to provide refunds at the
premises wherein such vending machines are located.
Sec. 3. (a) Any person may establish a redemption center by
registering with the secretary on a form provided by the secretary with
such information as the secretary deems necessary, including but not
limited to:
   (1) The name of the business owners of the redemption center and
the address of the business;
   (2) the name and address of the sponsors and retailers to be served
by the redemption center;
   (3) the types of beverage containers to be accepted;
   (4) the hours of operation;
   (5) whether beverage containers will be accepted from consumers;
and
   (6) a valid business license.
(b) Any person establishing a redemption center shall have the right to determine what kinds, sizes and brands of beverage containers shall be accepted. Any redemption center may be established to serve all persons or to serve certain specified retailers.

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

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

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

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

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

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

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

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

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

   (2) to fund administrative expenses.

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

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

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

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

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

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

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