

## SENATE BILL No. 258

By Committee on Natural Resources

2-2

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9 AN ACT relating to litter control; requiring certain beverage containers  
10 to be redeemable; providing penalties for violations relating thereto.

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

13 Section 1. As used in this act:

14 (a) "Beverage" means:

15 (1) Any alcoholic liquor, as defined by K.S.A. 41-102 and amend-  
16 ments thereto, whether or not mixed with any other beverage;

17 (2) any cereal malt beverage, as defined by K.S.A. 41-2701 and  
18 amendments thereto, whether or not mixed with any other beverage; and

19 (3) any mineral water, soda water or carbonated soft drink intended  
20 for human consumption.

21 (b) "Beverage container" means an airtight metal, glass or plastic con-  
22 tainer, or a container composed of a combination of those materials,  
23 which, at the time of sale, contains one gallon or less of a beverage.

24 (c) "Distributor" means any person, including a manufacturer, who,  
25 within this state, sells beverages in beverage containers to a retailer.

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

29 (e) "Nonreturnable container" means a beverage container upon  
30 which no deposit or a deposit of less than \$.05 has been paid, or is re-  
31 quired to be paid upon the removal of the container from the sale or  
32 consumption area, or for which no cash refund or a refund of less than  
33 \$.05 is payable by a retailer or distributor of that beverage as provided  
34 by section 2.

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

38 (g) "Person" means any individual, partnership, corporation, associ-  
39 ation or other legal entity.

40 (h) "Redemption center" means means any facility established to re-  
41 deem empty beverage containers from consumers or to collect and sort  
42 empty beverage containers from retailers and to prepare such containers  
43 for redemption by the appropriate distributors.

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

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

8 (k) "Secretary" means the secretary of health and environment.

9 Sec. 2. (a) No retailer shall, within this state, sell, offer for sale or  
10 give to a consumer any nonreturnable container or beverage in a nonre-  
11 turnable container. Every consumer shall pay to the retailer a deposit of  
12 \$.05 for each beverage container purchased from that retailer. On July 1,  
13 2009, the secretary shall issue a finding that reports the percentage of  
14 beverage containers that have been returned for deposit in the two years  
15 that those beverage containers have been subject to deposit. If the sec-  
16 retary finds that the percentage of beverage containers returned for re-  
17 fund has been less than 60%, then on July 1, 2009, beverage containers  
18 shall be subject to a deposit of \$.10 per container.

19 (b) Except as provided in subsections (d) and (e), a retailer shall ac-  
20 cept from any person during the retailer's business hours any empty bev-  
21 erage container of the type, size and brand sold by the retailer within the  
22 past 60 days and shall pay that person the refund value of each beverage  
23 container returned, unless such retailer sponsors, solely or with others, a  
24 redemption center which accepts beverage containers of the kind, size  
25 and brand sold by such retailer at such place of business.

26 (c) A distributor or manufacturer shall collect from a retailer a deposit  
27 of \$.05 for each beverage container the retailer purchases from the dis-  
28 tributor or manufacturer. Except as provided in subsection (d), a distrib-  
29 utor or manufacturer shall accept from any retailer or from any operator  
30 of a redemption center any empty beverage container of the type, size  
31 and brand sold by the distributor or manufacturer within the past 60 days  
32 and shall pay the retailer or the operator of a redemption center the  
33 refund value of the beverage container plus a handling fee in an amount  
34 which is at least the greater of \$.02 per container, or 20% of the amount  
35 of the deposit returned to the consumer. A distributor or manufacturer  
36 shall pay such refund value and handling fee to an operator of a redemp-  
37 tion center not later than 20 days after receipt of the empty beverage  
38 container from the operator.

39 (d) A retailer, distributor, redemption center or manufacturer may  
40 refuse to accept any beverage container which contains material foreign  
41 to the normal contents of the container.

42 (e) A retailer or redemption center may, but is not required to, accept  
43 from a person empty returnable containers for a refund in excess of \$25

1 on any single day.

2 (f) Every operator of a vending machine which sells beverages in  
3 beverage containers shall post a conspicuous notice on each vending ma-  
4 chine indicating that a refund of not less than \$.05 is available on each  
5 beverage container purchased and where and from whom that refund  
6 may be obtained. The provisions of this subsection shall not be construed  
7 to require such vending machine operators to provide refunds at the  
8 premises wherein such vending machines are located.

9 Sec. 3. (a) Any person may establish a redemption center by regis-  
10 tering with the secretary on a form provided by the secretary with such  
11 information as the secretary deems necessary, including but not limited  
12 to: (1) The name of the business owners of the redemption center and  
13 the address of the business; (2) the name and address of the sponsors and  
14 retailers to be served by the redemption center; (3) the types of beverage  
15 containers to be accepted; (4) the hours of operation; and (5) whether  
16 beverage containers will be accepted from consumers.

17 (b) Any person establishing a redemption center shall have the right  
18 to determine what kind, size and brand of beverage container shall be  
19 accepted. Any redemption center may be established to serve all persons  
20 or to serve certain specified retailers.

21 (c) A redemption center shall be considered to be sponsored by a  
22 retailer if the retailer refuses to redeem beverage containers and refers  
23 consumers to the redemption center or there is an agreement between  
24 the retailer and the operator of the redemption center requiring the re-  
25 demption center to remove empty beverage containers from the premises  
26 of the retailer.

27 Sec. 4. (a) Every beverage container, except permanently labeled re-  
28 fillable glass containers, sold or offered for sale at retail in this state shall  
29 clearly indicate by embossing or imprinting on the normal product label  
30 or, in the case of a metal beverage container, on the top of the container,  
31 the name "Kansas" or the abbreviation "KS" and the refund value of the  
32 container in not less than  $\frac{1}{8}$  inch type size. This subsection does not  
33 prohibit including names or abbreviations of other states with deposit  
34 legislation comparable to this state.

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

42 (c) The secretary may allow, in the case of alcoholic liquor bottles, a  
43 conspicuous, adhesive sticker to be attached to indicate the deposit in-

1 formation required in subsection (a), provided that the size, placement  
2 and adhesive qualities of the sticker are as approved by the secretary. The  
3 provisions of this subsection shall only apply to alcoholic liquor bottles  
4 whose characteristics prohibit compliance with subsection (a) and to al-  
5 coholic liquor which is sold in the state in quantities less than 100 cases  
6 per year, or in such lower quantity as deemed appropriate by the  
7 secretary.

8 (d) No distributor or manufacturer shall sell or offer for sale in this  
9 state a brand of beverage container labeled as provided in subsection (a)  
10 if that distributor sells such a beverage container containing that brand  
11 in an adjacent state which does not have a deposit-redemption system  
12 similar to that established by this act. A distributor who violates this sub-  
13 section shall be prohibited from selling or offering those beverages for  
14 sale in this state until the violation ceases.

15 Sec. 5. (a) To promote the use in this state of refillable beverage  
16 containers of uniform design and to facilitate the return of containers to  
17 manufacturers for reuse as a beverage container, the secretary shall certify  
18 beverage containers which satisfy the requirements of section 4.

19 (b) A beverage container shall be certified if:

20 (1) It is refillable as a beverage container by more than one manu-  
21 facturer in the ordinary course of business; or

22 (2) more than one manufacturer will in the ordinary course of busi-  
23 ness accept the beverage container for reuse as a beverage container and  
24 pay the refund value of the container.

25 (c) The secretary shall not certify more than one beverage container  
26 of a particular manufacturer in each size classification. The secretary shall  
27 by rule and regulation establish appropriate size classification in accord-  
28 ance with the purposes set forth in this section, each of which shall include  
29 a size range of at least three liquid ounces.

30 (d) A beverage container shall not be certified under this section if:

31 (1) By reason of its shape or design, or by reason of words or symbols  
32 permanently inscribed thereon, whether by engraving, embossing, paint-  
33 ing or other permanent method, it is refillable as a beverage container in  
34 the ordinary course of business only by a manufacturer of a beverage sold  
35 under a specific brand name; or

36 (2) the secretary finds that its use by more than one manufacturer is  
37 not of sufficient volume to promote the purposes set forth in this  
38 subsection.

39 (e) Unless an application for certification under this section is denied  
40 by the secretary within 60 days after the application is filed, the beverage  
41 container shall be deemed certified.

42 (f) The secretary may at any time review certification of a beverage  
43 container. If, upon the review, after written notice and hearing afforded

1 to the person who filed the original application of certification of the  
2 beverage container under this section, the secretary determines that the  
3 beverage container is no longer qualified for certification, the secretary  
4 shall withdraw certification. Withdrawal of certification shall be effective  
5 on a date specified by the secretary, but not less than 30 days after written  
6 notice to the person who filed the original application for certification of  
7 the beverage container under this section and to the manufacturer re-  
8 ferred to in subsection (b).

9 Sec. 6. Beginning July 1, 2009, the final disposal of beverage con-  
10 tainers in a sanitary landfill by a retailer, distributor or manufacturer, or  
11 person operating a redemption center is hereby prohibited.

12 Sec. 7. Violation of any provision of sections 2, 4 or 6 by any person  
13 is a misdemeanor punishable by a fine of not less than \$50 nor more than  
14 \$100 for the first offense, not less than \$100 nor more than \$200 for a  
15 second offense, and not less than \$250 nor more than \$500 for a third  
16 offense.

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