

HOUSE BILL No. 2673

By Representatives Helgerson and Trimmer

2-10

1 AN ACT concerning waste; relating to litter control; requiring certain
2 beverage containers to be redeemable and establishing the returnable
3 container deposit fund.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. As used in sections 1 through 7, and amendments thereto:

7 (a) "Beverage" means:

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

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

12 (3) any mineral water;

13 (4) any carbonated or non-carbonated soft drinks, including sport and
14 energy drinks; and

15 (5) any carbonated or non-carbonated drinks containing any
16 percentage of fruit or vegetable juice.

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

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

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

31 (d) "Manufacturer" means any person who bottles, cans or otherwise
32 fills beverage containers with beverages for sale to distributors, retailers or
33 consumers.

34 (e) "Nonreturnable container" means a beverage container upon
35 which no deposit or a deposit of less than \$.05 has been paid or is required
36 to be paid upon the removal of the container from the sale or consumption

1 area or for which no cash refund or a refund of less than \$.05 is payable by
2 a retailer or distributor of that beverage as provided in section 2, and
3 amendments thereto.

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

7 (g) "Person" means any individual, partnership, corporation,
8 association or other legal entity.

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

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

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

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

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

24 Sec. 2. (a) No retailer shall, within this state, sell, offer for sale or
25 give to a consumer any nonreturnable container or beverage in a
26 nonreturnable container. Every consumer shall pay to the retailer a deposit
27 of \$.05 for each beverage container purchased from that retailer. Every
28 retailer shall remit to the secretary the entirety of the deposits collected by
29 that retailer. On July 1, 2018, the secretary shall issue a finding that reports
30 the percentage of beverage containers that have been returned for deposit
31 in the two years that those beverage containers have been subject to
32 deposit. If the secretary finds that the percentage of beverage containers
33 returned for refund has been less than 60%, then on July 1, 2018, beverage
34 containers shall be subject to a deposit of \$.10 per container.

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

43 (c) If a retailer does not or cannot sponsor a redemption center, the

1 retailer must either:

2 (1) Register as a redemption center; or

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

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

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

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

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

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

31 (1) The name of the business owners of the redemption center and the
32 address of the business;

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

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

36 (4) the hours of operation;

37 (5) whether beverage containers will be accepted from consumers;
38 and

39 (6) a valid business license.

40 (b) Any person establishing a redemption center shall have the right
41 to determine what kinds, sizes and brands of beverage containers shall be
42 accepted. Any redemption center may be established to serve all persons or
43 to serve certain specified retailers.

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

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

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

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

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

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

28 (b) All moneys received from returnable container deposits shall be
29 deposited in the state treasury in accordance with the provisions of K.S.A.
30 75-4215, and amendments thereto, and shall be credited to the returnable
31 container deposit fund.

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

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

36 (2) to fund administrative expenses; and

37 (3) all moneys remaining in the fund at the end of each fiscal year,
38 shall be divided in half with 50% being paid to redemption centers based
39 on the percentage of containers the centers recycled with a minimum
40 payment of \$25 and 50% being paid to the homeless veterans and their
41 families benefit fund established in section 8, and amendments thereto.

42 Sec. 5. (a) Every beverage container, except permanently labeled
43 refillable glass containers, sold or offered for sale at retail in this state shall

1 clearly indicate by embossing or imprinting on the normal product label or,
2 in the case of a metal beverage container, on the top of the container, the
3 name Kansas or the abbreviation KS and the refund value of the container
4 in not less than $\frac{1}{8}$ inch type size. This subsection does not prohibit
5 including names or abbreviations of other states with deposit legislation
6 comparable to this state.

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

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

21 Sec. 6. On and after July 1, 2018, the disposal of beverage containers
22 in a sanitary landfill by a retailer, manufacturer or redemption center is
23 hereby prohibited.

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

29 Sec. 8. There is hereby established in the state treasury the homeless
30 veterans and their families benefit fund which shall be administered by the
31 director of the Kansas commission on veterans affairs office. All moneys
32 received pursuant to section 4, and amendments thereto, shall be remitted
33 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
34 and amendments thereto. Upon receipt of each such remittance, the state
35 treasurer shall deposit the entire amount in the state treasury to the credit
36 of the homeless veterans and their families benefit fund. All expenditures
37 from the homeless veterans and their families benefit fund shall be for the
38 purposes of financing programs, services, support and assistance to
39 homeless veterans and their families and shall be made in accordance with
40 appropriation acts upon warrants of the director of accounts and reports
41 issued pursuant to vouchers approved by the director of the Kansas
42 commission on veterans affairs office or the director's designee.

43 Sec. 9. This act shall take effect and be in force from and after its

- 1 publication in the statute book.