SENATE BILL NO. 2863

AN ACT TO REQUIRE THE USE OF REUSABLE BEVERAGE CONTAINERS IN THE STATE OF MISSISSIPPI; TO ESTABLISH LIMITS ON REFUND DEPOSITS; TO AUTHORIZE THE ESTABLISHMENT OF REDEMPTION CENTERS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. As used in this act, unless the context requires otherwise:

(a) "Beverage" means beer or other malt beverages and mineral waters, soda water and similar carbonated soft drinks in liquid form and intended for human consumption.

(b) "Beverage container" means the individual, separate, sealed glass, metal or plastic bottle, can, jar or carton containing a beverage.

(c) "Commission" means the Mississippi State Tax Commission.

(d) "Consumer" means every person who purchases a beverage in a beverage container for use or consumption.

(e) "Dealer" means every person in this state who engages in the sale of beverages in beverage containers to a consumer, or means a redemption center certified under Section 8 of this act.

(f) "Distributor" means every person who engages in the sale of beverages in beverage containers to a dealer in this state, including any manufacturer who engages in such sales.

(g) "In this state" means within the exterior limits of the State of Mississippi and includes all territory within these limits owned by or ceded to the United States of America.

(h) "Manufacturer" means every person bottling, canning or otherwise filling beverage containers for sale to distributors or dealers.
(i) "Place of business of a dealer" means the location at which a dealer sells or offers for sale beverages in beverage containers to consumers.

(j) "Use or consumption" includes the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for the purposes of sale.

SECTION 2. (1) Except as provided in subsection (2) of this section, every beverage container sold or offered for sale in this state shall have a refund value of not less than Five Cents (5).

(2) Every beverage container certified as provided in Section 6 of this act sold or offered for sale in this state shall have a refund value of not less than Two Cents (2).

SECTION 3. Except as provided in Section 4 of this act:

(1) A dealer shall not refuse to accept from a consumer any empty beverage containers of the kind, size and brand sold by the dealer, or refuse to pay to the consumer the refund value of a beverage container as established by Section 2 of this act.

(2) A distributor shall not refuse to accept from a dealer any empty beverage containers of the kind, size and brand sold by the distributor, or refuse to pay the dealer the refund value of a beverage container as established by Section 2 of this act.

SECTION 4. (1) A dealer may refuse to accept from a consumer and a distributor may refuse to accept from a dealer, any empty beverage container which does not state thereon a refund value as established by Section 2 of this act.

(2) A dealer may refuse to accept and to pay the refund value of empty beverage containers if the place of business of the dealer and the kind and brand of empty beverage containers are included in an order of the commission approving a redemption center under Section 8 of this act.

SECTION 5. (1) Every beverage container sold or offered for sale in this state by a dealer shall clearly indicate by embossing
or by a stamp or by a label or other method securely affixed to the beverage container the refund value of the container.

(2) Subsection (1) of this section shall not apply to glass beverage containers designed for beverages having a brand name permanently marked thereon which on the operative date of this act had a refund value of not less than Five Cents (5).

(3) No person shall sell or offer for sale at retail in this state any metal beverage container so designed and constructed that a part of the container is detachable in opening the container without the aid of a can opener.

SECTION 6. (1) To promote the use in this state of reusable beverage containers of uniform design, and to facilitate the return of containers to manufacturers for reuse as beverage container, the commission shall certify beverage containers which satisfy the requirements of this section.

(2) A beverage container shall be certified if:

(a) It is reusable as a beverage container by more than one (1) manufacturer in the ordinary course of business; and

(b) More than one (1) manufacturer will in the ordinary course of business accept the beverage container for reuse as a beverage container and pay the refund value of the container.

(3) A beverage container shall not be certified under this section if by reason of its shape or design, or by reason of words or symbols permanently inscribed thereon, whether by engraving, embossing, painting or other permanent method, it is reusable as a beverage container in the ordinary course of business only by a manufacturer of a beverage sold under a specific brand name.

SECTION 7. (1) Unless an application for certification under Section 6 of this act is denied by the commission within sixty (60) days after the filing of the application, the beverage container shall be deemed certified.

(2) The commission may review at any time certification of a beverage container. If after such review, with written notice and
hearing afforded to the person who filed the application for certification under Section 6 of this act, the commission determines the container is no longer qualified for certification, it shall withdraw certification.

(3) Withdrawal of certification shall be effective not less than thirty (30 days after written notice to the person who filed the application for certification under Section 6 of this act and to the manufacturers referred to in subsection(2) of Section 6 of this act.

SECTION 8. (1) To facilitate the return of empty beverage containers and to serve dealers of beverages, any person may establish a redemption center, subject to the approval of the Mississippi State Tax Commission, at which consumers may return empty beverage containers and receive payment of the refund value of such beverage containers.

(2) Application for approval of a redemption center shall be filed with the commission. The application shall state the name and address of the person responsible for the establishment and operation of the redemption center, the kind and brand names of the beverage containers which will be accepted at the redemption center and the names and addresses of the dealers to be served by the redemption center. The application shall include such additional information as the commission may require.

(3) The commission shall approve a redemption center if it finds the redemption center will provide a convenient service to consumers for the return of empty beverage containers. The order of the commission approving a redemption center shall state the dealers to be served by the redemption center and the kind and brand names of empty beverage containers which the redemption center must accept. The order may contain such other provisions to insure the redemption center will provide a convenient service to the public as the commission may determine.
(4) The commission may review at any time approval of a redemption center. After written notice to the person responsible for the establishment and operation of the redemption center, and to the dealers served by the redemption center, the commission may, after hearing, withdraw approval of a redemption center if the commission finds there has not been compliance with its order approving the redemption center, if the redemption center no longer provides a convenient service to the public.

SECTION 9. (1) Any person who violates Section 2, 3 or 5 of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment for not more than thirty (30) days or by a fine of not more than One Thousand Dollars ($1,000.00), or both.

(2) In addition to the penalty prescribed by subsection (1) of this section, the commission may revoke or suspend the license of any person who willfully violates Section 2, 3 or 5 of this act who is required by state law to have a license.

SECTION 10. (1) A legislative study committee shall cause to be conducted a study of the operation of Sections 1 to 10 of this act that shall include but not be limited to an analysis of:

(a) Its economic impact on persons licensed under current state law who engage in the nonalcoholic beverage manufacturing business, on persons engaged in the business of manufacturing beer and other malt beverages and on persons engaged in the business of manufacturing beverage containers in complying with the provisions of Sections 1 to 10 of this act.

(b) The problems, if any, incurred in the distribution, sale and return of beverage containers subject to the provisions of Sections 1 to 10 of this act.

(c) The effectiveness of the provisions of Sections 1 to 10 of this act in the reduction of the incidence of the littering by beverage containers in this state.
(d) The costs incurred in the enforcement of the provisions of Sections 1 to 10 of this act.

(2) Prior to January 1, 2003, the legislative study committee shall prepare and submit to both houses of the Legislature a report of its findings made pursuant to subsection (1) of this section and its recommendations with respect to any legislative proposal considered by it to be necessary as the result of the study conducted as required by subsection (1) of this section.

SECTION 11. This act shall take effect and be in force from and after July 1, 2002.