

Am #1

AMENDMENT PROPOSED TO

HOUSE BILL 1296

BY: REPRESENTATIVE FRANKS

AMEND by inserting the following language after line 380 and renumbering the succeeding section:

SECTION 11. The following words and phrases shall have the meanings ascribed in this section,, unless the context requires otherwise:

(a) "Beverage" soda water or similar carbonated soft drinks; non-carbonated beverages including mineral water, flavored and unflavored water, spring water, and other water beverages, tea, sports drinks, isotonic drinks; beer and other malt beverages; wine and wine-based drinks; spirits and spirit-based drinks; hard cider; and all other non-alcoholic carbonated and noncarbonated drinks in liquid form intended for human consumption except milk and beverages that are primarily derived from dairy products, infant formula, and FDA-approved medicines.

(b) "Beverage container" means any sealable bottle, can, jar or carton which is primarily composed of glass, metal, plastic or any combination of those materials and is produced for the purpose of containing a beverage, which, at the time of sale, contains four liters or less of a beverage. This definition shall not include containers made of paper-based biodegradable material and aseptic multi-material packaging.

(c) "Brand" means the designation of product as determined by a separate label and/or Universal Product Code.

(d) "Commingling agreement" means an agreement between two(2) or more initiators of deposit allowing the beverage containers for which they have initiated deposits to be commingled by dealers and redemption centers.

(e) "Commissioner" means the Commissioner of the State Tax Commission.

(f) "Contracted Agent" means a public or private company or individual who enters into an agreement with the initiator of deposit to pick up empty beverage containers from redemption centers and dealers.

(g) "Dealer" means a person who sells, offers to sell or engages in the sale of beverages in beverage containers to a consumer, including an operator of a vending machine containing beverages in beverage containers, *except a retailer.*

AMEND TITLE (to conform) (as follows):

(h) "Distributor" means a person who engages in the sale of beverages in beverage containers to a dealer in this State and includes a manufacturer who engages in such sales.

(i) "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

(j) "Initiator of Deposit" means a business entity, either a manufacturer, distributor, seller or other person who initiates a deposit on a beverage container with labels properly registered, that is licensed by the State Tax Commission, ~~except a retailer.~~

(k) "Kind" means the general composition of a beverage container, such as plastic, glass or metal.

(l) "Local redemption center" means a place of business that deals in acceptance of empty returnable beverage containers from either consumers or from dealers, or both, and that must be licensed.

(m) "Manufacturer" means a person who bottles, cans or otherwise places beverages in beverage containers for sale to distributors or dealers.

(n) "Member Dealer" means any dealer who is included in the license approving a local redemption center as issued by the Commissioner.

(o) "Milk and "dairy-derived products" means whole milk, skim milk, cream, low-fat milk, or any combination and includes other products of which the single largest ingredient is whole milk or milk fat or milk with varying percentages of milk fat.

(p) "Nonrefillable" means a beverage container which, after being used by a consumer, is not to be reused as a beverage container by a manufacturer.

(q) "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.

(r) "Paper or cardboard container" means a container which is composed of at least 80 percent by volume of paper material and does not require a deposit.

(s) "Person" means an individual, partnership, corporation or other legal entity.

(t) "Premises" means the property of the dealer or his lessor on which the sale is made.

(u) "Private Label" means the label on a beverage container which is manufactured for exclusive sale or use by a retailer, organization or entity.

(v) "Refillable" means a beverage container which, after being used by a consumer, is to be reused as a beverage container at least five (5) times by a manufacturer

(w) "Redemption Center" means any place of business which accepts empty returnable beverage containers from either consumers or from dealers, or both, and which is licensed by the State Tax Commission as a redemption center.

Reverse Vending Machines are considered to be a Redemption Center if they are used as "stand alone" devices and not as a part of a licensed Redemption Center. If a reverse vending machine is used as a "stand alone" device and not as part of a licensed redemption center, it will be the responsibility of the lessee or device owner to license the location as a redemption center as required by this act.

(x) "Retailer" means a ~~business~~^{Person} who sells, offers, or exposes for retail sale, beverages in beverage containers.

(y) "Reverse Vending Machine" or "RVM" means an automated device that uses a laser scanner, microprocessor, or other technology to accurately recognize the Universal Product Code (UPC) on containers and accumulates information regarding containers redeemed, thereby enabling the RVM to accept containers from redeemers and to issue script for their refund value.

(z) "Rice milk" means any liquid intended for internal human consumption of which the primary protein source is rice protein derived from partially milled brown rice.

(aa) "Use or consumption" means the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale, storage or retention for the purpose of sale of a beverage.

(bb) "Shell" means the standard trade package made of fiberboard, wood or plastic designed for packaging, carrying or transporting glass or plastic beverage containers.

(cc) "Shipping carton: means the standard trade package made of cardboard or other material designed for packaging, carrying or transporting all types of beverage containers, and includes plastic bags used for the return of such containers.

(dd) "Size" means the liquid content of a beverage container, such as five hundred (500) milliliters, two (2) liters.

(ee) "Spirits" means any beverage containing more than four percent (4%) of alcohol by weight produced by distillation of fermented grain, starch, molasses or sugar, including dilutions and mixtures of these beverages.

(ff) "Type" means the unique physical design or construction of a beverage container, such as a flip top container.

(gg) "Unflavored soymilk" means any liquid containing no additional flavoring ingredients and intended for internal human consumption, the primary protein source of which is soy protein derived from whole soybeans, isolated soy protein, soy protein concentrate, soy flour, spray-dried tofu or spray-dried soymilk.

(hh) "Universal Product Code or UPC Code" means a standard for encoding a set of lines and spaces that can be scanned and interpreted into numbers to identify a product. Universal Product Code may also mean any accepted industry barcode which replaces the UPC code including but not limited to Universal Product Code (UPC), EAN and other codes that may be used to identify a product.

(ii) "Wine" or "vinous liquor" means any product obtained from the alcoholic fermentation of the juice of sound, ripe

grapes, fruits or berries and made in accordance with the revenue laws of the United States.

(jj) "Wine cooler" means any beverage of less than eight (8) percent alcohol.

SECTION 12. (1) ~~Refillable containers.~~ For any refillable and non-refillable beverage containers, the manufacturer shall determine the deposit and refund value according to the type, kind and size of the beverage container. The deposit and refund value may not be less than ten cents (10 c).

SECTION 13. Dealer as distributor. Whenever a dealer or group of dealers receives a shipment or consignment of, or in any other manner acquires, beverage containers outside the State for sale to consumers in the State, such dealer or dealers shall comply with this act as if they were distributors, as well as dealers.

SECTION 14. Labels. (1) Except as otherwise provided under section, the refund value and the word "Mississippi" or the abbreviation "MS" must be clearly indicated on every refundable beverage container sold or offered for sale by a dealer in this State, by embossing, stamping, labeling or other method of secure attachment to the beverage container. The refund value may not be indicated on the bottom of the container. Metal beverage containers must be embossed or stamped on the top of the container.

(a) Non-refillable containers; nonexclusive distributorships. Nonrefillable beverage containers shall have the refund value and the word "Mississippi" or the abbreviation "MS" clearly indicated on every refundable beverage container sold or offered for sale by a dealer in this State, by permanently embossing or permanently stamping the beverage containers, except in instances when the initiator of the deposit has specific permission from the department to use stickers or similar devices. The refund value may not be indicated on the bottom of the container. Metal beverage containers must be permanently embossed or permanently stamped on the tops of the containers.

(b) Nonrefillable containers; exclusive distributorships. Nonrefillable beverage containers shall have the refund value and the word "Mississippi" or the abbreviation "MS" may be clearly indicated on refundable beverage containers sold or

offered for sale by a dealer in this State by use of stickers or similar devices if those containers are not otherwise marked in accordance with subsection. A redemption center shall accept containers identified by stickers in accordance with this subsection or by embossing or stamping in accordance with subsection.

(2) **Brand name.** Refillable glass beverage containers of carbonated beverages that have a refund value of not less than ten cents (10¢) and a brand name permanently marked on the container are not required to comply with subsection (1). The exception provided by this subsection does not apply to glass beverage containers that contain spirits, wine or malt liquor as defined by section 1 of this act.

(3) **Label registration.** An initiator of deposit shall register the container label of any beverage offered for sale in the state on which it initiates a deposit. Registration must be on forms or in an electronic format provided by the department and must include the universal product code for each combination of beverage and container manufactured. The initiator of deposit shall renew a label registration annually with the State Tax Commission and whenever that label is revised by altering the universal product code or whenever the container on which it appears is changed in size, composition or glass color. The initiator of deposit shall also include as part of the registration the method of collection for that type of container, identification of a collection agent, identification of all of the parties to a commingling agreement that applies to the container and proof of the collection agreement. The commission may charge a fee for registration and registration renewals under this subsection.

SECTION 15. (1) **Dealer acceptance.** Except as provided in this section, a dealer may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by the dealer, or refuse to pay in cash the refund value of the returned beverage container. This section does not require an operator of a vending machine to maintain a person to accept returned beverage containers on the premises where the vending machine is located.

(2) **Permissive refusal by dealer.** (a) A dealer may refuse to accept from a consumer or other person, or to pay the refund

value on any beverage container, if the place of business of the dealer and the kind, size and brand of beverage container are included in an order of the commission approving a redemption center.

(b) A dealer may limit the total number of beverage containers which he will accept from any one consumer or other person in any one business day to two hundred and forty (240) containers, or any other number greater than two hundred and forty (240).

(c) A dealer may refuse to accept beverage containers during no more than three (3) hours in any one business day. If a dealer refuses to accept containers under this subsection, the hours during which he will not accept containers shall be conspicuously posted.

(3) **Distributor acceptance.** A distributor may not refuse to accept from any dealer or local redemption center any empty, unbroken and reasonably clean beverage container or any beverage container that has been processed through an approved reverse vending machine that meets the requirements of rules adopted by the commission pursuant to this act of the kind, size and brand sold by the distributor or refuse to pay to the dealer or local redemption center the refund value of a beverage container.

(4) **Reimbursement of handling costs.** (a) In addition to the payment of the refund value, the initiator of the deposit shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject, in an amount that equals at least three and one-half cents (3.5c) per returned container. The initiator of the deposit may reimburse the dealer or local redemption center directly or indirectly through a party with which it has entered into a commingling agreement.

(b) The reimbursement that the initiator of the deposit is obligated to pay the dealer or redemption center must be reduced by one-half cents (1/2c) for any returned container that is subject to a qualified commingling agreement that allows the dealer or redemption center to commingle beverage containers of like product group, material and size. A commingling agreement is qualified for purposes of this paragraph if the commission determines that fifty percent (50%) or more of the beverage containers of like product group, material and size for which the deposits are being initiated in the State are covered by the commingling agreement. Once the initiator of deposit has established a qualified commingling agreement for containers of a like product group, material and size, the commission shall allow additional brands to be included from a different product group if they are of like material. The State Tax Commission shall make every reasonable effort to enter into a qualified commingling agreement with every other initiator of deposits for beverage containers that are of like product group, size and material as the beverage containers for which the State is the initiator of deposit.

(c) The requirements of this section shall not apply to a brewer or vintner who annually produces no more than fifty thousand (50,000) gallons of its product or a bottler of water who annually sells no more than two hundred and fifty thousand (250,000) containers each containing no more than one gallon of its product. In addition to the payment of the refund value, an initiator of deposit, one who is also a brewer or vintner who annually produces no more than fifty thousand (50,000) gallons of its product or a bottler of water who annually sells no more than two hundred and fifty thousand (250,000) containers each containing no more than one gallon of its product shall reimburse the dealer or local redemption center for the cost of handling beverage containers in an amount that equals at least three (3) cents per returned container.

(5) **Obligation to pick up containers.** The obligation to pick up beverage containers subject to this chapter is determined as follows:

(a) A distributor that initiates the deposit has the obligation to pick up any empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the distributor from dealers to whom that distributor has sold those beverages and from licensed redemption centers designated to serve those dealers pursuant to an order entered. A distributor that, within this State, sells beverages under a particular label exclusively to one dealer, which dealer offers those labeled beverages for sale at retail exclusively at the dealer's establishment, shall pick up any empty, unbroken and reasonably clean beverage containers of the kind, size and brand sold by the distributor to the dealer only from those licensed redemption centers that serve the various establishments of the dealer. A dealer that manufactures its own beverages for exclusive sale by that dealer at retail has the obligation of a distributor under this section. The commissioner may establish by rule and regulations, in accordance with the Administrative Procedure Law, criteria providing the manner in which distributors shall fulfill the obligations imposed by this paragraph. The rules and regulations may establish a minimum number or value of containers below which a distributor is not required to respond to a request to pick up empty containers. Any rules promulgated under this paragraph must allocate the burdens associated with the handling, storage and transportation

of empty containers to prevent unreasonable financial or other hardship.

(b) The initiator of the deposit for nonrefillable containers, except wine and spirits has the obligation to pick up any empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the initiator from dealers to whom a distributor has sold those beverages and from licensed redemption centers designated to serve those dealers pursuant to an order entered under section 1867. The obligation may be fulfilled by the initiator directly or indirectly through a contracted agent.

(c) An initiator of the deposit for nonrefillable containers and wine and spirits has the obligation to pick up any empty, unbroken and reasonably clean beverage containers that are commingled pursuant to a commingling agreement along with any beverage containers that the initiator is otherwise obligated to pick up pursuant to paragraphs A and B. The obligation of the initiator of the deposit under this subsection may be fulfilled by the initiator directly or through a party with which it has entered into a commingling agreement.

(6) Application to containers originally sold in the State. The obligations to accept or take empty beverage containers and to pay the refund value and handling fees for such containers apply only to containers originally sold in this State as filled beverage containers. A person who tenders to a dealer, distributor, redemption center or bottler more than 48 empty beverage containers that the person knows or has reason to know were not originally sold in this State as filled beverage containers is subject to the enforcement action and civil penalties set forth in this subsection. At each location where customers tender containers for redemption, dealers and redemption centers must conspicuously display a sign in letters that are at least one inch in height with the following information: "WARNING: Persons tendering containers for redemption that were not originally purchased in this State may be subject to a fine of the greater of One Hundred Dollars (\$100) per container or Twenty-Five Thousand Dollars (\$25,000) for each tender." A person who violates the provisions of this subsection is subject to a civil penalty of the greater of \$100 for each container or \$25,000 for each tender of containers.

SECTION 16. Unclaimed deposits.

(1) An initiator of deposit shall maintain a separate account to be known as the initiator's deposit transaction fund. The initiator shall keep that fund separate from all other revenues and accounts. The initiator shall place in that fund the refund value for all nonrefillable beverage containers it sells subject to the provisions of this act. Except as specified in subsections (3) and (4) of this section, amounts in the initiator's deposit transaction fund may only be expended to pay refund values for returned nonrefillable beverage containers. Amounts in the fund may not be used to pay the handling fees required by this act. The fund must be maintained by the initiator on behalf of consumers who have purchased products in refundable nonrefillable beverage containers and on behalf of the State; except as specified in subsections (3) and (4), amounts in the fund may not be regarded as income of the initiator.

(2) An initiator of deposit shall report to the State Tax Commission by the twentieth (20th) day of each month concerning transactions affecting its deposit transaction fund in the preceding month. The report must be in a form prescribed by the commission and must include: the number of nonrefillable beverage containers sold and the number of nonrefillable beverage containers returned in the applicable month; the amount of deposits received in and payments made from the fund in the applicable month and the most recent three (3) month period; any income earned on amounts in the fund during the applicable month; the balance in the fund at the close of the applicable month; and such other information as the assessor may require. The report required by this subsection must be treated by the commission as a return.

(3) The initiator's abandoned deposit amount, at the end of each month, is the amount equal to the amount of deposits that are or should be in the fund, less the sum of income earned on amounts in the fund during that month, and the total amount of refund values received by the initiator for nonrefillable

beverage containers during that month and the two (2) preceding months.

(4) By the twentieth (20th) day of each month, an initiator shall turn over to the State Tax Assessor the initiator's abandoned deposit amounts determined pursuant to subsection (3). Those amounts may be paid from the deposit transaction fund. Amounts collected by the assessor pursuant to this subsection must be treated by the commissioner as a tax and must be deposited in the Mississippi Adequate Education Fund.

(5) (a) If in any month the authorized payments from the deposit transaction fund by an initiator pursuant to this section exceed the funds that are or should be in the initiator's deposit transaction fund, the State Tax Assessor shall reimburse the initiator, from amounts received pursuant to subsection (4), for those refunds paid by the initiator for nonrefillable beverage containers for which the funds that are or should be in the initiator's deposit transaction fund are insufficient; except that reimbursements paid by the assessor to an initiator may not exceed amounts paid by the initiator pursuant to subsection 4 in the preceding 24 months less amounts paid to the initiator pursuant to this subsection during that same twenty four (24) month period.

(b) The uniform tax administration provisions apply to the State Tax Commission's administration of the reports and payments required by this section.

(6) A brewer who produces no more than fifty thousand (50,000) gallons of its product or a bottler of water who sells no more than two hundred and fifty thousand (250,000) containers each containing no more than one gallon of its product in a calendar year is exempt from the requirements of this section for that year.

(7) The provisions of this section apply only to those beverage containers that are not subject to a commingling agreement.

SECTION 17. Redemption centers. (1) Local redemption centers may be established and operated by any person, municipality, state agency or governing authority, subject to the approval of the commissioner, to serve local dealers and consumers, at which consumers may return empty beverage containers as provided.

(2) Application for approval of a local 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 center, the kinds, sizes and brand names of beverage containers which will be accepted and the names and addresses of dealers to be served and their distances from the local redemption center.

(3)The commissioner shall approve the licensing of a local redemption center if the redemption center complies with the requirements established under this act. The order approving a local redemption center license must state the dealers to be served and the kinds, sizes and brand names of empty beverage containers that the center accepts.

(4)A local redemption center may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by a dealer served by the center as long as the label for the container is registered under this act, or refuse to pay in cash the refund value of the returned beverage container as established by this act.

(5)A list of the dealers served and the kinds, sizes and brand names of empty beverage containers accepted shall be prominently displayed at each local redemption center.

(6)The circuit or chancery court of the county in which a redemption center is located, may, in a manner consistent with the Mississippi Administrative Procedures Law, withdraw approval of a local redemption center if there has not been compliance with the approval order or if the local redemption center no longer provides a convenient service to the public.

SECTION 18. Prohibition of certain metallic containers.

(1)A beverage may not be sold or offered for sale to consumers in this State in a metal container designed or constructed so that part of the container is detachable for the purpose of opening the container without the aid of a separate can opener, except those metal containers with the only detachable part is a piece of adhesive-backed tape. (2) A beverage may not be sold or offered for sale to consumers in this State in a container composed of one or more plastics if the basic structure of the container, exclusive of the closure device, also includes aluminum or steel.

SECTION 19. Licensing requirements. (1)A license issued annually by the commission is required before any person may initiate deposits or operate a redemption center under this act.

The department shall adopt rules establishing the requirements and procedures for issuance of licenses and annual renewals under this section, including a fee structure and are subject to review by the Legislature.

(2) In developing rules under subsection 1 for licensing redemption centers, the department shall consider at least the health and safety of the public, including sanitation protection when food is also sold on the premises, and the convenience for the public, including standards governing the distribution of centers by population or by distance, or both.

SECTION 20. The Beverage Container Enforcement Fund. The Beverage Container Enforcement Fund, referred to in this section as the "fund," is created under the jurisdiction and control of the department.

(1) The fund consists of the fees for issuance of licenses and license renewals, fees for registration of beverage container labels and registration renewals and all other money appropriated or allocated for inclusion in the fund.

(2) Any monies in the fund may be used to fund the Mississippi Adequate Education Fund.

(3) The fund is a nonlapsing, revolving fund.

SECTION 21. Licensing of Redemption Centers. (1) All redemption centers within the State must be licensed with the State Tax Commission prior to beginning operation. Applications for approval of redemption centers shall be filed with the Commission, a Fifty Dollars (\$50.00) annual license fee shall accompany each application. Redemption centers must be inspected by the State Tax Commission and meet all applicable requirements prior to licensure.

(2) Applications shall be made on a Commission form entitled "Redemption Center License Application" and shall supply the information requested thereon.

(3) The Commissioner may approve an application for a redemption center if he finds that the center will provide a convenient service for the return of empty beverage containers, has agreements with local retailers or dealers, and meets all other licensing requirements. In making this determination with respect to an existing center, the Commissioner may consider its compliance with the requirements of this chapter and the quality of the service provided.

(4) Redemption centers shall apply to the Commissioner for approval of any additional retailers/ dealers obtained after the then-current annual license has been issued. The Commissioner's decision shall be made according to the criteria set forth in this act.

(5) All licenses are subject to suspension or non-renewal for good cause shown, including but not limited to unsafe practices, falsification of reports, or serious or continued violation, subject to the Administrative Procedures Law.

SECTION 22 . (1) All Initiators of Deposit distributing or selling beverages in the State of ~~Mississippi~~ must be licensed with the ~~State Tax Commission~~ *State Tax Commission* prior to beginning operation. Applications for approval of Initiators of Deposit, with the exception of small brewers who produce no more than fifty thousand (50,000) gallons of its product or a bottler of water who annually sells no more than two hundred and fifty (250,000) containers each containing no more than one gallon of its product, shall be filed with the Commission, a Five Hundred

Dollar \$500.00 annual license fee shall accompany each application.

Applications for approval of Initiators of Deposit of small brewers who produce no more than fifty thousand (50,000) gallons of its product or a bottler of water who annually sells no more than two hundred fifty (250,000) containers each containing no more than one gallon of its product shall be filed with the Commission a Fifty Dollars (\$50.00) annual license fee shall accompany each application.

(2) Applications shall be made on a Commission form entitled "Application for Initiator of Deposit License" and shall supply the information requested thereon.

(3) Initiators of Deposit shall annually provide current lists of beverages on which they initiate deposit.

(4) Initiators of deposit must notify the Commission whenever products on which they initiate deposits are added or discontinued.

SECTION 23. (1) All Contracted Agents operating in the State must be licensed with the Commission prior to beginning operation. Applications for approval of Contracted Agents shall be filed with the Department, a Five Hundred Dollars (\$500.00) annual license fee shall accompany each application.

(2) A Contracted Agent shall be required to perform all of the pickup functions of the initiator of deposit with whom they contract unless expressly exempted in the contractual agreement between the initiator and the Contracted Agent.

(3) Applications shall be made on a Commission form entitled "Application for Contracted Agent License" and shall supply the information requested thereon.

(4) Contracted Agents shall annually provide current lists of Initiators of Deposit with whom they have contracts and beverage containers which they pick up.

(5) Contracted Agents shall notify the Commission whenever Initiators of Deposit with whom they have contracts and/or beverages containers which they pick up are added or discontinued.

SECTION 24. (1) Registration of beverage container labels must take place at the manufacturer level or, if the beverage container has a "private label", the brand owner shall be responsible for label registration.

(2) Any beverage, with the exception of wine, requiring a deposit and refund value must have affixed, a label that is registered with the Commission that bears a Universal Product Code.

(3) Any wine requiring a deposit and refund value must have affixed, a label that is registered with the Commission

(4) Wine, unless labeled by the manufacturer with the deposit and refund value, must be labeled by the use of a refund/deposit sticker which clearly identifies the initiator of deposit and the refund value. Prior to the sale of a wine container to which a separate sticker stating the refund value is to be affixed, the manufacturer or initiator of deposit must submit a sample of the sticker to Commission for approval. Placement, suitability and security of the mark will be examined by the Commission

(5) The registration of beer, wine and spirits beverage container labels shall be coordinated, to the maximum extent possible, to eliminate duplicate registration between the Commission

(6) The registration period for each beverage label shall be from January 1 to December 31 and applications for label registration shall be on forms of in an electronic format provided by the Commission. Labels may be registered for a one (1) to three (3) year period.

(7) If a Universal Product Code on a beverage container is changed during the registration period it will be considered discontinued and an application for registration of the label bearing the new UPC code and appropriate registration fee must be submitted to the Commission.

(8) Fees for the registration of beverage labels are as follows:

(a) Wine labels: One Dollar (\$1.00) annually.

(b) All other beverage labels: Four Dollars (\$ 4.00) annually.

SECTION 25. (1) All empty beverage containers shall be separated from food products sold on the premises by a solid partition.

(2) Redemption centers shall be operated in such a manner as not to be a nuisance to the surrounding area and shall the following

(a) All necessary precautions to eliminate and protect against insect and rodent infestation inside and surrounding the premises and;

(b) Have facilities to ensure adequate personal hygiene for employees.

(c) Hold a valid retail food establishment license issued by the Commission and meet all applicable sanitation requirements if foods or beverages are sold, if the redemption centers sell foods and/or beverages .

(d) Comply with the inspection standards contained n the Commission form entitled "Redemption Center Inspection."

(3) Redemption centers shall be open for business (i.e., acceptance of empty beverage containers) a reasonable number of hours, the volume of returns and area population considered. Redemption centers shall post their hours of operation in a conspicuous place.

(4) The location of proposed and existing redemption centers shall be convenient to the customers to be served.

(5) Redemption centers may charge a fee to members.

(6) A redemption center may pick up beverage containers from non-members.

SECTION 26. (1) Reverse Vending Machines must identify, cancel, and destroy one-way deposit containers and reject refillable containers. Reverse Vending Machines shall collect accounting information for deposit and scrap settlement.

(2) Reverse Vending Machines must meet the requirements of the Commission and be designed to provide an accurate printed report containing all of the following:

(a) The number of containers placed in the reverse vending machine over a predetermined time period; and

(b) The brand name of each beverage container placed in the reverse vending machine; and

(c) The kind, size, and brand of each beverage container placed in the reverse vending machine.

(3) A reverse vending machine and any report that it provides are subject to inspection and audit by the Commission.

(4) Each distributor of beverage containers which have been processed through a reverse vending machine shall have the opportunity to pick up their share of scrap material, as determined from information gathered from the reverse vending machine.

(5) In a Reverse Vending Machine (RVM) System, the RVM provider shall be required to accumulate and maintain data to

allow for geographical allocation of scrap pick-up equal to a distributor's share of containers.

SECTION 27. (1) A dealer or redemption center shall tender to a distributor only empty, unbroken and reasonably clean beverage containers of the kind, size and brand sold by the distributor, unless the containers have been processed through an approved reverse vending machine which meets the requirements of these rules.

(2) With the exception of beverage containers specifically exempted, a dealer or redemption center shall sort beverage containers by kind, size, and brand unless a mutually acceptable agreement, as described in section 11, is reached between the dealer or redemption center and the distributor.

Empty containers, unless they have been processed through an approved reverse vending machine which meets the requirements of these rules, shall be tendered to the distributor in shells or shipping cartons provided by the distributor, or other containers mutually agreed upon by the distributor and retailer.

(3) Pick-up of such beverage containers from a dealer or local redemption center shall be the responsibility and expense of the distributor, unless the distributor has made other arrangements satisfactory to the dealer or redemption center for recycling or disposal of beverage containers.

(4) Containers may be sorted in other manners consistent with this act.

SECTION 28. Each time the distributor makes a regularly scheduled delivery of beverages, he shall pick up beverage containers from licensed redemption centers designated to serve those dealers to whom that distributor has sold those beverages; and a distributor who is part of a qualified commingling agreement is required to pick up beverage containers for all distributors who are members in the commingling agreement each time the distributor makes a regularly scheduled delivery unless the local redemption center agrees otherwise; provided, however, that where a distributor can affirmatively demonstrate to the Commissioner that the following conditions exist, a waiver may be granted:

(a) The redemption center shall not request pickup of containers where the amount on hand is less than a combined total of 1,000 containers for which that distributor or contracted agent is responsible. In order to be eligible for a waiver, the distributor or contracted agent must demonstrate that:

(i) The stops required under this rule yields, on the average, less than 1,000 containers for which the distributor is responsible; and

(ii) Less frequent stops would alleviate an unreasonable financial or other hardship.

(b) After a waiver is granted, a distributor or contracted agent shall continue to have the obligation to pick up containers from a licensed redemption center designated to serve those dealers to whom that distributor has sold those beverages, but only in accordance with the following:

(i) The distributor or contracted agent shall initiate pick up within one week of the request.

(ii) Pick up by the distributor or contracted agent shall be during the regular business hours of the redemption center, provided the redemption center is in operation at least forty (40) hours per week. Those redemption centers who conduct business less than forty (40) hours per week shall cooperate with a prearranged pickup time at the convenience of the distributor and shall allow for transportation delays.

SECTION 29. The distributor or contracted agent shall pay the dealer or local redemption center all applicable refunds, deposits and handling charges no later than ten (10) business days after acceptance. If payment is made by mail, payment shall be deemed to take place upon mailing.

SECTION 30. These rules shall not be interpreted to prohibit any other arrangements for sorting, delivery, acceptance of payment or other matter related to beverage containers, which arrangement is consistent with the provisions of this act and is mutually agreed upon in writing between the distributor and the dealer or redemption center, or reverse vending provider and the distributor and/or dealer or redemption center.

SECTION 31. Distributors, contracted agents, dealers, and redemption centers shall not refuse to pay the refund value of the returned beverage container, except that distributors, dealers and redemption centers may refuse to pay such refund value in the following situations:

(a) A distributor may refuse to pay the refund value if the distributor has given notice, in writing, to dealers to whom the distributor sold similar beverage containers and the licensed redemption centers serving those dealers that the particular kind size and brand offered for refund has been discontinued and at least 4 months have elapsed since the mailing of such notice;

(b) A dealer or redemption center may refuse to pay the refund value of beverages discontinued by distributor in accordance with this section and no sooner than three (3) months after the distributor has mailed the notice required by section; and

(c) In no event shall a dealer or redemption center refuse to pay the refund value of discontinued beverages unless such dealer or redemption center shall have posted for at least 30 days a conspicuous notice advising consumers of the final date of acceptance.

SECTION 32. Initiation of the deposit for non refillable containers sold through distributorships which have no exclusive geographic area may take place at the manufacturer level at the manufacturer's discretion; otherwise initiation of the deposit shall take place at the distributor level. Initiators of Deposit must be licensed with the State Tax Commission.

SECTION 33. (1) On printed labels, the refund value and the word "Mississippi" or the abbreviation "MS" shall be clearly and conspicuously displayed on every beverage container using letters, numerals and symbols not less than one eighth (1/8) inch high in clear and prominent typeface and a color contrasting with its

background. The refund value shall not be indicated on the bottom of the container.

(2) Approval of container labels. Prior to sale within the State, manufacturers or distributors must submit the entire label, including any printed material on the container, to the State Tax Commission for approval.

(4) Additionally, if a manufacturer directly prints, embosses, or incises the Mississippi redemption value on the beverage container, the manufacturer or in the case of a private label, the brand owner must submit such labeled container to the Commission for approval. Placement suitability and security of the mark will be examined.

(5) With the exception of wine products, all beverage containers sold in the State shall bear a Universal Product Code (UPC) for that product.