

By: Representative Franks

To: Ways and Means

HOUSE BILL NO. 1467

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

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

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

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

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

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

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

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

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

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

26 (h) "Manufacturer" means every person bottling, canning or
27 otherwise filling beverage containers for sale to distributors or
28 dealers.

29 (i) "Place of business of a dealer" means the location at
30 which a dealer sells or offers for sale beverages in beverage
31 containers to consumers.

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

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

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

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

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

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

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

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

60 **SECTION 5.** (1) Every beverage container sold or offered for
61 sale in this state by a dealer shall clearly indicate by embossing

62 or by a stamp or by a label or other method securely affixed to
63 the beverage container the refund value of the container.

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

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

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

77 (2) A beverage container shall be certified if:

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

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

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

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

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

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

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

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

119 (3) The commission shall approve a redemption center if it
120 finds the redemption center will provide a convenient service to
121 consumers for the return of empty beverage containers. The order
122 of the commission approving a redemption center shall state the
123 dealers to be served by the redemption center and the kind and
124 brand names of empty beverage containers which the redemption
125 center must accept. The order may contain such other provisions

126 to insure the redemption center will provide a convenient service
127 to the public as the commission may determine.

128 (4) The commission may review at any time approval of a
129 redemption center. After written notice to the person responsible
130 for the establishment and operation of the redemption center, and
131 to the dealers served by the redemption center, the commission
132 may, after hearing, withdraw approval of a redemption center or
133 the commission finds there has not been compliance with its order
134 approving the redemption center, or the redemption center no
135 longer provides a convenient service to the public.

136 **SECTION 9.** (1) Any person who violates Section 2, 3 or 5 of
137 this act shall be guilty of a misdemeanor, and upon conviction
138 shall be punished by imprisonment for not more than thirty (30)
139 days or by a fine of not more than One Thousand Dollars
140 (\$1,000.00), or both.

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

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

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

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

158 (c) The effectiveness of the provisions of Sections 1
159 through 10 of this act in the reduction of the incidence of the
160 littering by beverage containers in this state.

161 (d) The costs incurred in the enforcement of the
162 provisions of Sections 1 through 10 of this act.

163 (2) Prior to January 1, 2006, the legislative study
164 committee shall prepare and submit to both houses of the
165 Legislature a report of its findings made pursuant to subsection
166 (1) of this section and its recommendations with respect to any
167 legislative proposal considered by it to be necessary as the
168 result of the study conducted as required by subsection (1) of
169 this section.

170 **SECTION 11.** This act shall take effect and be in force from
171 and after July 1, 2005.