

By: Senator(s) Dawkins

To: Environment Prot, Cons
and Water Res

SENATE BILL NO. 2317

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,
12 separate, sealed glass, or plastic bottle, can, jar or carton
13 containing a beverage.

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

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

18 (e) "Dealer" means every person in this state who
19 engages in the sale of beverages in beverage containers to a
20 consumer, and includes a redemption center certified under this
21 act.

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

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

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

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

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

38 **SECTION 2.** (1) Except as provided in subsection (2), every
39 beverage container sold or offered for sale in this state shall
40 have a refund value of not less than Ten Cents (10¢).

41 (2) Every beverage container certified as provided in
42 Section 6 of this act sold or offered for sale in this state shall
43 have a refund value of not less than Four Cents (4¢).

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

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

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

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

57 (2) A dealer may refuse to accept and to pay the refund
58 value of empty beverage containers if the place of business of the
59 dealer and the kind and brand of empty beverage containers are

60 included in an order of the commission approving a redemption
61 center under Section 8 of this act.

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

66 (2) This section shall not apply to glass beverage
67 containers designed for beverages having a brand name permanently
68 marked thereon which on the operative date of this act had a
69 refund value of not less than Ten Cents (10¢).

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

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

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

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

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

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

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

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

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

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

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

121 (3) The commission shall approve a redemption center if it
122 finds the redemption center will provide a convenient service to
123 consumers for the return of empty beverage containers. The order
124 of the commission approving a redemption center shall state the

125 dealers to be served by the redemption center and the kind and
126 brand names of empty beverage containers which the redemption
127 center must accept. The order may contain such other provisions
128 to insure the redemption center will provide a convenient service
129 to the public as the commission may determine.

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

138 **SECTION 9.** (1) Any person who violates Section 2, 3 or 5 of
139 this act shall be guilty of a misdemeanor, and upon conviction
140 shall be punished by imprisonment for not more than thirty (30)
141 days or by a fine of not more than One Thousand Dollars
142 (\$1,000.00), or both.

143 (2) In addition to the penalty prescribed by subsection (1),
144 the commission may revoke or suspend the license of any person who
145 willfully violates Section 2, 3 or 5 of this act.

146 **SECTION 10.** This act shall take effect and be in force from
147 and after July 1, 2006.