

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Denis E. Guyer

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to promote recycling in the Commonwealth's communities and schools.

PETITION OF:

NAME:

Denis E. Guyer

DISTRICT/ADDRESS:

2nd Berkshire

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3314 OF 2007-2008.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and Nine
—————

AN ACT TO PROMOTE RECYCLING IN THE COMMONWEALTH'S COMMUNITIES AND SCHOOLS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Purpose

2 Whereas, the Commonwealth of Massachusetts aims to increase recycling in order to reduce solid waste,
3 Whereas, all citizens of the Commonwealth can help reduce solid waste by recycling,
4 Whereas, Chapter 94 of the General Laws successfully helped reduce solid waste and increase recycling in the
5 Commonwealth,
6 Whereas, the consumption of beverages other than defined under Chapter 94 section 321 has increased dramatically
7 since 1992,
8 Whereas, the escheat provision of 1989 to use abandoned deposits into the Clean Environment Fund (CEF) has been
9 eliminated and the recycling projects supported by funding from the CEF have been reduced or eliminated, and
10 Whereas, the Clean Environment Fund is self-sustaining and supports essential programs,
11 Therefore, the General Court finds it necessary to expand the current bottle recycling program and to reestablish the
12 clean environment fund to support recycling in schools and municipalities across the commonwealth:
13

14 SECTION 2. Chapter 29 of the General Laws is hereby amended by inserting the following new section:

15 Section 2000. – CLEAN ENVIRONMENT FUND

- 16 (a) There shall be established on the books of the commonwealth a separate fund to be known as the
17 Clean Environment Fund, the funds of which shall be expended for the purpose of increasing
18 recycling in the commonwealth.
19 (b) The fund shall consist of the amounts specified in and collected pursuant to section 323D of Chapter
20 94 and any interest earned from this fund.
21 (c) The state treasurer shall deposit these amounts annually into the fund, which shall be expended
22 according to the following formula:
23 a. 20% to the Department of Environmental Protection (DEP) to fund recycling programs in
24 schools, including technical assistance, equipment, curriculum and other aspects of school-
25 based recycling programs,

- 26 b. Up to 15% to the DEP for costs incurred from the implementation, enforcement and
27 administrative duties performed under Chapter 94 Section 321-327 of the Massachusetts
28 General Laws,
29 c. Up to 10% to the DEP for low-interest loans for businesses defined as “bottler”, “dealer”,
30 “distributor”, or “redemption center” under Chapter 94 Section 321 to improve management
31 relating to Chapter 94 Section 321-327,
32 d. Up to 5% to be used by the Office of the State Auditor for oversight, enforcement, and other
33 costs resulting from Chapter 94 Section 321-327.
34 e. All remaining amounts shall be utilized for efforts to create, enhance and expand municipal
35 recycling programs.
36

37 SECTION 3. Section 321 of Chapter 94 of the General Laws is hereby amended by striking out the definitions for
38 “beverage” and “beverage container” and inserting in place thereof the following definitions:

39 “Beverage”, soda water or similar carbonated soft drinks; non-carbonated beverages including mineral
40 water, flavored and unflavored water, spring water, and other water beverages; tea, coffee, sports drinks,
41 isotonic drinks; hard cider, beer and other malt beverages; wine and wine-based drinks; spirits and spirit-
42 based drinks; and all other non-alcoholic carbonated drinks in liquid form intended for human consumption
43 except milk and beverages that are primarily derived from dairy products, infant formula, and FDA
44 approved medicines.

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

49 “Plastic Bottle”, a plastic container that has a neck that is smaller than the body of the container, accepts a
50 screw-type, snap cap or other closure and has a capacity of one and one-half fluid ounces or more, but less
51 than five gallons.

52 “Rigid plastic container”, any formed or molded container, other than a bottle, intended for single use,
53 composed predominantly of plastic resin and has a relatively inflexible finite shape or form and has a
54 capacity of one and one-half fluid ounces or more, but less than five gallons.
55

56 SECTION 4. Section 321 of Chapter 94 of the General Laws is hereby amended by adding the following
57 definitions:

58 “Redemption center”, any business whose primary purpose is the redemption of beverage containers and is
59 not ancillary to any other business, and that employs at least two full-time employees who spend at least
60 seventy-five percent of their time in the business of collecting and redeeming empty beverage containers.

61 “Small Dealer”, any business, including any operator of a vending machine, employing the equivalent of
62 ten full-time employees or less, who engages in the sale of beverages in beverage containers to consumers
63 in the Commonwealth.
64

65 SECTION 5. Section 323 of Chapter 94 of the General Laws is hereby amended by striking paragraphs (a), (b), (c),
66 (d) and (e) and inserting in place thereof the following:

67 (a) Every consumer shall deposit with the dealer the full refund value of each beverage container purchased
68 for that dealer.

69 (b) Except as provided in paragraph (f), a distributor shall accept from any person during business hours
70 any empty beverage container of the type, size and brand sold by the dealer within the past sixty days
71 and shall pay that person the full refund value of each beverage container returned.

72 (c) Except as provided in paragraph (f), a distributor shall accept from any dealer any empty beverage
73 container of the type, size and brand sold by the distributor within the past sixty days and shall pay the
74 dealer the refund value to the beverage container plus a handling fee of at least three cents per
75 container if the empty beverage container is presented at the time and of and at the location at which
76 the dealer obtains billed beverage containers from the distributor. The handling fee shall be reviewed
77 semi-annually by the Secretary of the Executive Office of Environmental Affairs and adjustments
78 made to reflect increases in costs incurred by redemption facilities.

79 (d) Except as provided in paragraph (f), a bottler shall accept from a distributor of a dealer any empty
80 reusable beverage container of the type, size, and brand sold by the bottler within the past sixty days
81 and shall pay the distributor or dealer the refund value of the reusable beverage container plus a

82 handling fee of at least three cents per container if the empty reusable beverage container is presented
83 at the time and at the location where the distributor or dealer obtains filled reusable beverage
84 containers from the bottler; provided, however, that a bottler other than a bottler of soft drinks
85 manufacturing in the commonwealth who offers to refund deposits in accordance with this section,
86 shall not require a distributor to deposit with the bottler the refund value of a beverage container which
87 is not reusable, nor shall a bottler require of a distributor that beverage containers which are not
88 reusable, be presented to the bottler at the location where the distributor obtains filled beverage
89 containers. The handling fee shall be reviewed semi-annually by the Secretary of the Executive Office
90 of Environmental Affairs and adjustments made to reflect increases in costs incurred by redemption
91 facilities.

- 92 (e) Any person may establish a redemption center and shall have the right to determine what type, size and
93 brand of beverage container shall be accepted. Except as provided in paragraph (f), a distributor shall
94 take from any redemption center any empty beverage container of the type, size and brand sold by the
95 distributor within the past sixty days and shall pay the redemption center the full refund value of the
96 container plus a handling fee of at least three cents per container. The executive office of
97 environmental affairs shall promulgate rules and regulations for the licensure of redemption centers,
98 and may set fees for the licensing of such redemption centers. The handling fee shall be reviewed
99 semi-annually by the Secretary of the Executive Office of Environmental Affairs and adjustments
100 made to reflect increases in costs incurred by redemption facilities.

101
102 SECTION 6. Section 323 of Chapter 94 of the General Laws is hereby amended by striking paragraph (i) and
103 inserting in place thereof the following:

- 104 (i) The obligations to accept or take empty beverage containers and to pay the refund value and handling
105 fees for such containers as described in paragraphs (b), (c), (d) and (e) shall apply only to containers
106 originally sold in the commonwealth as filled beverage containers. Any person who tenders to a
107 dealer, distributor, redemption center or bottler more than one hundred empty beverage containers
108 each, which he knows or has reason to know were not originally sold in the commonwealth as filled
109 beverage containers, for the purpose of obtaining a refund value or handling fee, shall be subject to the
110 enforcement action and civil or administrative penalties set forth in section three hundred and twenty-
111 seven. At each location where persons tender containers for redemption, dealers and redemption
112 centers shall conspicuously display a sign in letters that are at least one inch in height with the
113 following information: "WARNING: Persons tendering containers for redemption that were not
114 originally purchased in Massachusetts may be subject to a fine of the greater of one-hundred dollars
115 per container or twenty-five thousand dollars for each tender of containers (G.L. C.94 s.327)." For the
116 purpose of this section and section three hundred and twenty-seven, the term person shall include any
117 individual, partnership, corporation, or other combination or entity.

118
119 SECTION 7. Section 326 of Chapter 94 of the General Laws, is hereby amended by striking the first paragraph and
120 inserting in place thereof the following:

121 The secretary of environmental affairs shall administer the provisions of sections three hundred and twenty-
122 one, three hundred and twenty-two, paragraphs (a) to (f), inclusive, and paragraph (i) of section three
123 hundred and twenty-three, three hundred and twenty-three F, three hundred and twenty-four and three
124 hundred and twenty-five. Said secretary shall promulgate and from time to time revise rules and
125 regulations to effectuate the purposes of said sections. Said secretary shall have the discretion to exempt
126 small dealers, as defined in section 321 of chapter 94, from the provisions of said sections as pertaining to
127 wine and wine-based drinks, spirits and spirit-based drinks, hard cider, and all non-carbonated drinks until
128 June first, two thousand and nine, in order to allow small dealers sufficient time to comply with these
129 additional requirements.

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131 SECTION 8. Section 326 of Chapter 94 of the General Laws, is hereby amended by inserting at the end of the
132 section the following new paragraph:

133 The secretary shall file an annual report on the implementation of the "Bottle Bill," so-called, with the
134 house and senate committees on ways and means on or before December thirty-first of each year. The
135 report shall contain, but not be limited to, information concerning state wide redemption rates of beverage
136 containers, an evaluation of the bottle bill program, and as necessary, suggestions to improve the program.

137

138 SECTION 9. Section 327 of Chapter 94 of the General Laws, as so appearing, is hereby amended by inserting after
139 the first paragraph the following new paragraphs:

140 The department of environmental protection shall have authority to enforce the provisions of sections three
141 hundred and twenty-one; three hundred and twenty-two; paragraphs (a) through (f) inclusive, and
142 paragraph (i) of section three hundred and twenty-three; three hundred and twenty-three A; three hundred
143 and twenty-three F; three hundred and twenty-four; and three hundred and twenty-five. Any bottler,
144 distributor, redemption center or dealer who violates any of the foregoing provisions shall be subject to an
145 administrative penalty for each violation of at least five hundred dollars and not more than two thousand
146 dollars.

147
148 The department of revenue shall have authority to enforce the provisions of paragraphs (g) and (h) of
149 section three hundred and twenty-three and sections three hundred and twenty-three B to three hundred and
150 twenty-three E, inclusive. Any bottler, distributor, redemption center, or dealer who violates any of the
151 foregoing provisions shall be subject to an administrative penalty for each violation of at least five hundred
152 dollars and not more than two thousand dollars.

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154 SECTION 10. Section 327 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding after
155 the word "civil" in line 14 the words "or administrative".

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157 SECTION 11. This act shall take effect on January first, two thousand and nine.
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