

**HOUSE . . . . . No. 2943**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Jonathan Hecht***

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*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 adoption of the accompanying bill:

An Act updating the bottle bill.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>

<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Daniel B. Winslow</i>	<i>9th Norfolk</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>William M. Straus</i>	<i>10th Bristol</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>

<i>Carlos Henriquez</i>	<i>5th Suffolk</i>
<i>Brian R. Mannal</i>	<i>2nd Barnstable</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Christopher G. Fallon</i>	<i>33rd Middlesex</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Rhonda Nyman</i>	<i>5th Plymouth</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Mayor Thomas M. Menino</i>	<i>One City Hall Square, Suite 500 Boston, MA 02201-2013</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</i>

**HOUSE . . . . . No. 2943**

By Mr. Hecht of Watertown, a petition (accompanied by bill, House, No. 2943) of Jonathan Hecht and others for legislation to include noncarbonated non-alcoholic beverages in the bottle law, so-called. Telecommunications, Utilities and Energy.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

An Act updating the bottle bill.

*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

2 Section 321 of chapter 94 of the General Laws, as appearing in the 2008 Official Edition,  
3 is hereby amended by inserting after the words “carbonated soft drinks” the following words:-

4 “and noncarbonated non-alcoholic beverages in liquid form intended for human  
5 consumption, except beverages that are primarily derived from dairy products, infant formula,  
6 and FDA-approved medicines.”

7 SECTION 2

8 Paragraph 3 of said section 321 of said chapter 94, as so appearing, is hereby amended by  
9 striking out the last sentence and inserting in place thereof the following sentence:-

10 This definition shall not include containers made of paper-based biodegradable material  
11 and aseptic multi-material packaging.

12 SECTION 3

13 Said section 321 of said chapter 94, as so appearing, is hereby further amended by  
14 inserting after the definition of “Plastic bottle” the following definition:-

15 “Redemption Center”, any business whose primary purpose is the redemption of  
16 beverage containers and which is not ancillary to any other business,

17 SECTION 4

18 Said section 321 of said chapter 94, as so appearing, is hereby further amended by  
19 inserting after the definition of “Reusable beverage container” the following definition:-

20 “Small dealer”, any person or business, including any operator of a vending machine,  
21 who engages in the sale of beverages in beverage containers to consumers in the commonwealth,  
22 with a contiguous retail space of 3,000 square feet or less, exclusive of office and stock room  
23 space; and fewer than four (4) locations under the same ownership within the Commonwealth.

24 “Redemption Facility” any person or business who engages in the refund of deposits for  
25 beverage containers as described herein.

#### 26 SECTION 5

27 Section 322 of said chapter 94, is hereby amended by inserting after section 322 the  
28 following sections:-

29 Section 322A: The Secretary shall review the refund value as referenced in section 322  
30 every five (5) years and increase said amount to reflect the Consumer Price Index as reported by  
31 the U.S. Department of Labor, but in no case shall the refund value be less than five (5) cents.

32 Section 322B: The Secretary shall promulgate regulations which establish maximum  
33 acceptable container size.

#### 34 SECTION 6

35 Section 323 of said chapter 94, as so appearing, is hereby amended by inserting before  
36 the first sentence of paragraph (e) the following sentence:-

37 The executive office of environmental affairs shall promulgate rules and regulations for  
38 the licensure of redemption centers, and may set fees for such licensing.

#### 39 SECTION 7

40 Paragraph (c) of said section 323 of said chapter 94 of the General Laws, as so appearing,  
41 is hereby amended by striking out the words “one cent” and inserting in place thereof the words  
42 “three and one half cents” and by adding the following sentence:-

43 The handling fee shall be reviewed every four (4) years by the secretary of the executive  
44 office of energy and environmental affairs and adjustments made to reflect the Consumer Price  
45 Index as reported by the US Department of Labor as well as industry-specific increases or  
46 decreases in costs incurred by redemption facilities.

#### 47 SECTION 8

48 Paragraph (d) of said section 323 of said chapter 94, as so appearing, is hereby amended  
49 by striking out the words “one cent” and inserting in place thereof the words “three and one half  
50 cents” and by adding the following sentence:-

51 The handling fee shall be reviewed every four 4 years by the secretary of the executive  
52 office of energy and environmental affairs and adjustments made to reflect the Consumer Price  
53 Index as reported by the US Department of Labor as well as industry-specific increases or  
54 decreases in costs incurred by redemption facilities.

#### 55 SECTION 9

56 Said section 323 of said chapter 94, as so appearing, is hereby further amended by  
57 inserting after the word “civil”, , in subsection (i) the words “or administrative”.

#### 58 SECTION 10

59 Said chapter 94 is hereby further amended by inserting after section 323E the following  
60 section:-

61 Section 323F. (a) There shall be established on the books of the commonwealth a  
62 separate fund to be known as the Clean Environment Fund. Amounts to be deposited in said  
63 Fund shall be used, subject to appropriation, for programs including but not limited to projects  
64 supporting the proper management of solid waste, water resource protection, parkland, urban  
65 forestry, air quality and climate protection; provided, however, that no funds shall be used for  
66 costs associated with incineration nor any process which disposes of solid waste by combustion  
67 or conversion to combustion fuels.

#### 68 SECTION 11

69 Notwithstanding any general or special law to the contrary, the secretary of the executive  
70 office of energy and environmental affairs shall, on or before January 1, 2014, promulgate  
71 regulations providing small dealers as defined herein with the right to seek exemptions from  
72 accepting empty deposit containers. Said regulations shall consider at least the health and safety  
73 of the public; the convenience for the public, including standards governing distribution of  
74 centers by population or by distance or both, the size and storage capacity of the dealer(s) to be  
75 served by the redemption center and the size and storage capacity of the redemption center. The  
76 order approving a local redemption center license must state the dealers to be served and the  
77 kinds, sizes and brand names of empty beverage containers that the center accepts.

#### 78 SECTION 12

79 Section 323 of Chapter 94 of the General Laws, as so appearing, is hereby amended by  
80 adding in subsection(i) after the first instance of the word “twenty-seven.” the following:—

81 At each location where persons tender containers for redemption, dealers and redemption  
82 centers shall conspicuously display a sign in letters that are at least one inch in height with the  
83 following information:— “WARNING: Any person who tenders to a dealer, distributor,  
84 redemption center or bottler more than ten cases of twenty-four empty beverage containers each,  
85 which he knows or has reason to know were not originally sold in the commonwealth as filled  
86 beverage containers, for the purpose of obtaining a refund value or handling fee, shall be subject  
87 to a civil penalty of the greater of one hundred dollars for each container or twenty-five thousand  
88 dollars for each tender of containers. (G.L. c. 94).

89 SECTION 13

90 Section 327 of said chapter 94 of the General Laws, as so appearing, is hereby amended  
91 by inserting after the first paragraph the following paragraphs:—

92 The department of environmental protection may enforce the provisions of section 321;  
93 paragraphs (a) through (f), inclusive, of section 322; paragraph (i) of section 323; section 323A;  
94 section 323F; section 324 and section 325. Any bottler, distributor, redemption center, or dealer  
95 who violates any of the foregoing provisions shall be subject to an administrative penalty for  
96 each violation of not more than \$1,000.

97 The department of revenue may enforce the provisions of paragraphs (g) and (h) of  
98 section 323 and sections 323B to 323E, inclusive. Any bottler, distributor, redemption center, or  
99 dealer who violates any of the foregoing provisions shall be subject to an administrative penalty  
100 for each violation of not more than \$1,000.

101 SECTION 14

102 Said section 327 of said chapter 94 of the General Laws, as so appearing, is hereby  
103 further amended by inserting after the word “civil”, in line 14, the words “or administrative”.

104 SECTION 15

105 This act shall take effect on April 22, 2014.