

HOUSE No. 3082

The Commonwealth of Massachusetts

In the Year Two Thousand 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
3 reduce solid waste,

4 Whereas, all citizens of the Commonwealth can help reduce solid waste by recycling,

5 Whereas, Chapter 94 of the General Laws successfully helped reduce solid waste and
6 increase recycling in the Commonwealth,

7 Whereas, the consumption of beverages other than defined under Chapter 94 section 321
8 has increased dramatically since 1992,

9 Whereas, the escheat provision of 1989 to use abandoned deposits into the Clean
10 Environment Fund (CEF) has been eliminated and the recycling projects supported by funding
11 from the CEF have been reduced or eliminated, and

12 Whereas, the Clean Environment Fund is self-sustaining and supports essential programs,

13 Therefore, the General Court finds it necessary to expand the current bottle recycling
14 program and to reestablish the clean environment fund to support recycling in schools and
15 municipalities across the commonwealth:

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

18 Section 2000. – CLEAN ENVIRONMENT FUND

19 (a) There shall be established on the books of the commonwealth a separate fund to be
20 known as the Clean Environment Fund, the funds of which shall be expended for the purpose of
21 increasing recycling in the commonwealth.

22 (b) The fund shall consist of the amounts specified in and collected pursuant to section
23 323D of Chapter 94 and any interest earned from this fund.

24 (c) The state treasurer shall deposit these amounts annually into the fund, which shall
25 be expended according to the following formula:

26 a. 20% to the Department of Environmental Protection (DEP) to fund recycling
27 programs in schools, including technical assistance, equipment, curriculum and other aspects of
28 school-based recycling programs,

29 b. Up to 15% to the DEP for costs incurred from the implementation, enforcement
30 and administrative duties performed under Chapter 94 Section 321-327 of the Massachusetts
31 General Laws,

32 c. Up to 10% to the DEP for low-interest loans for businesses defined as “bottler”,
33 “dealer”, “distributor”, or “redemption center” under Chapter 94 Section 321 to improve
34 management relating to Chapter 94 Section 321-327,

35 d. Up to 5% to be used by the Office of the State Auditor for oversight, enforcement,
36 and other costs resulting from Chapter 94 Section 321-327.

37 e. All remaining amounts shall be utilized for efforts to create, enhance and expand
38 municipal recycling programs.

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

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

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

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

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

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

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

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

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

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

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

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

85 (d) Except as provided in paragraph (f), a bottler shall accept from a distributor of a
86 dealer any empty reusable beverage container of the type, size, and brand sold by the bottler
87 within the past sixty days and shall pay the distributor or dealer the refund value of the reusable
88 beverage container plus a handling fee of at least three cents per container if the empty reusable
89 beverage container is presented at the time and at the location where the distributor or dealer
90 obtains filled reusable beverage containers from the bottler; provided, however, that a bottler
91 other than a bottler of soft drinks manufacturing in the commonwealth who offers to refund
92 deposits in accordance with this section, shall not require a distributor to deposit with the bottler
93 the refund value of a beverage container which is not reusable, nor shall a bottler require of a
94 distributor that beverage containers which are not reusable, be presented to the bottler at the
95 location where the distributor obtains filled beverage containers. The handling fee shall be

96 reviewed semi-annually by the Secretary of the Executive Office of Environmental Affairs and
97 adjustments made to reflect increases in costs incurred by redemption facilities.

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

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

110 (i) The obligations to accept or take empty beverage containers and to pay the refund
111 value and handling fees for such containers as described in paragraphs (b), (c), (d) and (e) shall
112 apply only to containers originally sold in the commonwealth as filled beverage containers. Any
113 person who tenders to a dealer, distributor, redemption center or bottler more than one hundred
114 empty beverage containers each, which he knows or has reason to know were not originally sold
115 in the commonwealth as filled beverage containers, for the purpose of obtaining a refund value
116 or handling fee, shall be subject to the enforcement action and civil or administrative penalties
117 set forth in section three hundred and twenty-seven. At each location where persons tender

118 containers for redemption, dealers and redemption centers shall conspicuously display a sign in
119 letters that are at least one inch in height with the following information: “WARNING: Persons
120 tendering containers for redemption that were not originally purchased in Massachusetts may be
121 subject to a fine of the greater of one-hundred dollars per container or twenty-five thousand
122 dollars for each tender of containers (G.L. C.94 s.327).” For the purpose of this section and
123 section three hundred and twenty-seven, the term person shall include any individual,
124 partnership, corporation, or other combination or entity.

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

127 The secretary of environmental affairs shall administer the provisions of sections three
128 hundred and twenty-one, three hundred and twenty-two, paragraphs (a) to (f), inclusive, and
129 paragraph (i) of section three hundred and twenty-three, three hundred and twenty-three F, three
130 hundred and twenty-four and three hundred and twenty-five. Said secretary shall promulgate and
131 from time to time revise rules and regulations to effectuate the purposes of said sections. Said
132 secretary shall have the discretion to exempt small dealers, as defined in section 321 of chapter
133 94, from the provisions of said sections as pertaining to wine and wine-based drinks, spirits and
134 spirit-based drinks, hard cider, and all non-carbonated drinks until June first, two thousand and
135 nine, in order to allow small dealers sufficient time to comply with these additional requirements.

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

138 The secretary shall file an annual report on the implementation of the “Bottle Bill,” so-
139 called, with the house and senate committees on ways and means on or before December thirty-

140 first of each year. The report shall contain, but not be limited to, information concerning state
141 wide redemption rates of beverage containers, an evaluation of the bottle bill program, and as
142 necessary, suggestions to improve the program.

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

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

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

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

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