

# HOUSE . . . . . No. 3515

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act to improve recycling rates in the Commonwealth..

*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. Section 321 of Chapter 94 of the General Laws, as appearing in the 2002  
2   Official Edition, is hereby amended by striking out the definitions for “beverage” and “beverage  
3   container,” and inserting in place thereof the following definitions:—

4           “Beverage,” soda water or similar carbonated soft drinks; noncarbonated beverages  
5   including mineral water, flavored and unflavored water, vitamin water, and other water  
6   beverages, tea, sports drinks, isotonic drinks; beer and other malt beverages; and all other non-  
7   alcoholic carbonated and noncarbonated drinks in liquid form intended for human consumption  
8   except milk and beverages that are primarily derived from dairy products, infant formula, and  
9   FDA-approved medicines.

10          “Beverage container,” any sealable bottle, can, jar, or carton which is primarily composed  
11   of glass, metal, plastic, or any combination of those materials and is produced for the purpose of  
12   containing a beverage, which, at the time of sale, contains one-hundred and thirty-five ounces or  
13   less of a beverage. This definition shall not include containers made of paper-based  
14   biodegradable material and aseptic multi-material packaging.

15           SECTION 2. Section 321 of Chapter 94 of the General Laws, as appearing in the 2002  
16 Official Edition, is hereby amended by adding, after the definition of “Plastic bottle” the  
17 following definition:— “Redemption center,” any business whose primary purpose is the  
18 redemption of beverage containers and is not ancillary to any other business,

19           SECTION 3. Section 321 of Chapter 94 of the General Laws, as so appearing, is hereby  
20 amended by adding, after the definition of “Reusable beverage container,” the following  
21 definition:—

22           “Small dealer,” any person, including any operator of a vending machine, employing the  
23 equivalent of ten full time employees or less, who engages in the sale of beverages in beverage  
24 containers to consumers in the Commonwealth.

25           SECTION 4. Section 323 of Chapter 94 of the General Laws, as so appearing, is hereby  
26 amended by adding in line 30 after the letter “(e),” the following:—

27           The Executive Office of Environmental Affairs shall promulgate rules and regulations for  
28 the licensure of redemption centers, and may set fees for the licensing of such redemption  
29 centers.

30           SECTION 5. Section 323, paragraph (a), of Chapter 94 of the General Laws, as appearing  
31 in the 1998 Official Edition, is hereby amended by striking out in line the words “the refund  
32 value” and inserting in place thereof the words “the full refund value”.

33           SECTION 6. Section 323, paragraph (b), of Chapter 94 of the General Laws, as  
34 appearing in the 1998 Official Edition, is hereby amended by striking out the words “one cent”  
35 and inserting in place thereof the words “three and one quarter cents” and placing the following

36 sentence at the end of the paragraph. “The handling fee shall be reviewed semi-annually by the  
37 Secretary of the Executive Office of Environmental Affairs and adjustments made to reflect  
38 increases in costs incurred by redemption facilities.”

39 SECTION 7. Section 323, paragraph (c), of Chapter 94 of the General Laws, as appearing  
40 in the 2002 Official Edition, is hereby amended by striking out in the words “one cent” and  
41 inserting in place thereof the words “three and one quarter cents” and placing the following  
42 sentence at the end of the paragraph. “The handling fee shall be reviewed semi-annually by the  
43 Secretary of the Executive Office of Environmental Affairs and adjustments made to reflect  
44 increases in costs incurred by redemption facilities.”

45 SECTION 8. Section 323 of Chapter 94 of the General Laws, as so appearing, is hereby  
46 amended by adding in line 73, after the word “civil,” the words “or administrative.”

47 SECTION 9. Chapter 94 of the General Laws, as so appearing, is hereby amended by  
48 adding a new section after 323F:— SECTION 323G. Redemption Centers.

49 (a) Only small dealers may apply for an exemption with the department.

50 (b) Application for an exemption shall be jointly filed with the department by the small  
51 dealer and redemption center. The application shall state the name and address of the person  
52 responsible for the establishment and operation of the center, the kinds, sizes and brand names of  
53 beverage containers that will be accepted and the names and addresses of dealer(s) to be served  
54 and their distance from the local redemption center.

55 (c) In approving the exemption, the department shall consider at least the health and  
56 safety of the public; the convenience for the public, including standards governing distribution of

centers by population or by distance or both, the size and storage capacity of the dealer(s) to be served by the redemption center and the size and storage capacity of the redemption center. The order approving a local redemption center license must state the dealers to be served and the kinds, sizes and brand names of empty beverage containers that the center accepts.

(d) A local redemption center may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by a dealer served by the center, or refuse to pay in cash the full refund value of the returned beverage container as established by Section 322 of Chapter 94 of the General Laws.

(e) A list of the dealers served and the kinds, sizes and brand names accepted shall be promptly displayed at each local redemption centers.

(f) The name and location of the redemption center serving the dealer shall be conspicuously displayed at the dealer.

SECTION 10. Section 327 of Chapter 94 of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following new paragraphs:— The Department of Environmental Protection shall have authority to enforce the provisions of sections three hundred and twenty-one; three hundred and twenty-two; paragraphs (a) through (f) inclusive, and paragraph (i) of section three hundred and twenty-three; three hundred and twenty-three A; three hundred and twenty-three F; three hundred and twenty-four; and three hundred and twenty-five. Any bottler, distributor, redemption center, or dealer who violates any of the foregoing provisions shall be subject to an administrative penalty for each violation of not more than one thousand dollars.

The Department of Revenue shall have authority to enforce the provisions of paragraphs (g) and (h) of section three hundred and twenty-three and sections three hundred and twenty-three B to three hundred and twenty-three E, inclusive. Any bottler, distributor, redemption center, or dealer who violates any of the foregoing provisions shall be subject to an administrative penalty for each violation of not more than one thousand dollars.

SECTION 11. Section 327 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding after the word "civil" in line 14 the words "or administrative."

SECTION 12. Section 323F. of Chapter 94 of the General Laws, is hereby amended by replacing the existing text with the following:

(a) There shall be established on the books of the Commonwealth a separate fund to be known as the Clean Environment Fund as established in Section 323D of Chapter 94 of the General Laws. Amounts deposited in said fund shall be used, subject to appropriation, solely for programs and projects in the management of solid waste and for environmental protection; provided, however, that no funds shall be used for costs associated with incineration.

(b) Not less than fifty percent of amounts deposited in the Fund shall be used for recycling, composting and solid waste source reduction projects and programs.

(c) Not less than an additional twenty percent of amounts deposited in the Fund shall be used for recycling and other solid waste projects and programs.

(d) Not more than thirty percent of amounts deposited in the fund shall be used for other environmental programs consistent with the purposes of the "'bottle bill", so-called.

99           (e) Of amounts expended under paragraphs (b) through (d), not more than fifty percent  
100 shall be used for debt service on capital outlays authorized prior to January first, nineteen  
101 hundred and eighty-eight.

102           SECTION 13. This act shall take effect on December first, two thousand eleven.