

# **HOUSE . . . . . No. 4317**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, JULY 17, 2014.

The committee on Telecommunications Utilities and Energy to whom were referred petition (accompanied by bill, Senate, No. 379) of Michael O. Moore, Michael J. Rodrigues, Stephen L. DiNatale, Michael R. Knapik and other members of the General Court for legislation to improve recycling in the Commonwealth, petition (accompanied by bill, Senate, No. 1588) of Cynthia S. Creem, Benjamin B. Downing, Daniel A. Wolf, Martha M. Walz and other members of the General Court for legislation to update the bottle bill, petition (accompanied by bill, Senate, No. 1598) of Robert L. Hedlund for legislation to improve recycling, petition (accompanied by bill, Senate, No. 1605) of Michael O. Moore, Stephen L. DiNatale, Michael R. Knapik, Cory Atkins and other members of the General Court for legislation relative to expansion of the Bottle Bill, petition (accompanied by bill, Senate, No. 1614) of Michael F. Ruggeri for legislation relative to the redemption of beverage containers, petition (accompanied by bill, Senate, No. 1616) of Karen E. Spilka for legislation relative to reusable beverage containers, petition (accompanied by bill, House, No. 2923) of Cheryl A. Coakley-Rivera relative to the definition of "beverage" under the bottle law, so-called, petition (accompanied by bill, House, No. 2942) of Colleen M. Garry for legislation to update the bottle deposit system and lower the cost of recycling beverage containers in the Commonwealth, 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, petition (accompanied by bill, House, No. 2973) of Tom Sannicandro relative to reverse vending

machine bottle and can deposit redemption, petition (accompanied by bill, House, No. 2984) of Thomas M. Stanley and others for legislation to require deposits on certain non-carbonated beverage containers, and petition (accompanied by bill, House, No. 2992) of Daniel B. Winslow for legislation to include certain non-alcoholic carbonated and noncarbonated drinks in liquid form in the "bottle law", so-called, reports recommending that the accompanying bill (House, No. 4317) ought to pass.

For the committee,

JOHN D. KEENAN.

**HOUSE . . . . . No. 4317**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Fourteen**  
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An Act relative to solid waste management and recycling.

*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. Chapter 16 of the General Laws, as appearing in the 2012 Official Edition,  
2 are hereby amended by inserting after section 21, the following sections:-

3           SECTION 21A. The department shall establish performance standards for municipal  
4 solid waste reduction on the basis of pounds per resident served of solid waste generated for  
5 disposal. Cities and towns shall report to the department no later than September 1 of each year  
6 the total weight of solid waste generated for disposal through said city or town’s solid waste  
7 program during the prior fiscal year, as well as the number of households and residents believed  
8 to participate in said program. The department shall issue a report for all municipal solid waste  
9 programs no later than December 1 of that year which provides per resident served solid waste  
10 disposal statistics for all municipal solid waste programs. Said report may disaggregate solid  
11 waste tonnage information to highlight categories of waste, including waste that is beyond the  
12 ability of a city or town to control, such as waste from natural disasters. The department may  
13 establish such reasonable rules and regulations consistent with this section as may be necessary  
14 to carry out the administration thereof.

15           SECTION 21B. The Secretary of Energy and Environmental Affairs, in consultation with  
16 the Department of Environmental Protection and the Department of Energy Resources, shall  
17 develop a Municipal Solid Waste Standards Action Plan to assist municipalities in achieving the  
18 standards set forth under section 21A. The Secretary shall review the effectiveness of existing  
19 recycling programs and other incentives available to achieve said standards and shall provide any  
20 recommendation, including but not limited to, potential regulatory and statutory changes,  
21 changes to the plan developed under section 21, changes to any plan developed under chapter  
22 21N, or recommended changes to the green communities program administered by the

23 department of energy resources. The Secretary shall consult with the Solid Waste Advisory  
24 Committee in developing said plan.

25 SECTION 2. Chapter 94 of the General Laws, as so appearing, is hereby amended by  
26 striking section 321 and inserting in place thereof the following section:-

27 Section 321. In sections 321 to 327, inclusive, the following definitions shall, unless the  
28 context clearly requires otherwise, have the following meaning:-

29 “Beverage”, soda water or other similar carbonated soft drinks, mineral water, water  
30 beverages, and beer and other malt beverages, but shall not include alcoholic beverages other  
31 than beer and malt beverages as defined in chapter 138, dairy products, natural fruit juices or  
32 wine;

33 “Beverage container”, any sealable bottle, can jar, or carton which is primarily composed  
34 of glass, metal, plastic or any combination of those materials and is produced for the purpose of  
35 containing a beverage. This definition shall not include containers (i) 3 liters or more in size; or  
36 (ii) made of paper-based biodegradable material, aseptic multi-material packaging, and other  
37 biodegradeable materials as determined by the department of environmental protection.

38 “Bottler,” any person filling beverage containers for sale to distributors or dealers,  
39 including dealers who bottle or sell their own brand of beverage.

40 “Consumer”, any person who purchases a beverage in a beverage container for use or  
41 consumption with no intent to resell such beverage.

42 “Dealer”, any person, including any operator of a vending machine, who engages in the  
43 sale of beverages in beverage containers to consumers in the commonwealth.

44 “Distributor”, any person who engages in the sale of beverages in beverage containers to  
45 dealers in the commonwealth including any bottler who engages in such sales.

46 “Label”, a molded imprint or raised symbol on or near the bottom of a plastic product.

47 “Plastic”, any material made of polymeric organic compounds and additives that can be  
48 shaped by flow.

49 “Plastic bottle”, a plastic container that has a neck that is smaller than the body of the  
50 container, accepts a screwtype, snap cap, or other closure and has a capacity of 16 fluid ounces  
51 or more, but less than 5 gallons.

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

54 “Reusable beverage container”, any beverage container so constructed and designed that  
55 it is structurally capable of being refilled and resold by a bottler at least 10 times after its initial  
56 use.

57 “Rigid plastic container”, any formed or molded container; other than a bottle, intended  
58 for single use, composed predominantly of plastic resin and having a relatively inflexible finite  
59 shape or form with a capacity of 8 ounces or more but less than 5 gallons

60 “Transition Date”, means the first day of May on the first year following 2 consecutive  
61 calendar years during which the total solid waste generated in the commonwealth for disposal is  
62 less than 3,275,000 tons of disposal per calendar year as determined by the department of  
63 environmental protection.

64 “Water beverage”, means water, including flavored water, nutritionally enhanced water  
65 and any beverage that is identified through the use of letters, words or symbols on such  
66 beverage's product label as a type of water.

67 SECTION 3. Subsection (e) of section 323 of said chapter 94, as so appearing is hereby  
68 amended by adding the following sentence:- The executive office of energy and environmental  
69 affairs shall promulgate rules and regulations for the licensure of redemption centers, and may  
70 set fees for such licensing.

71 SECTION 4. Said section 323 of said chapter 94, as so appearing, is hereby further  
72 amended by inserting after the word “civil”, in line 73, the following words:- or administrative

73 SECTION 5. Subsection (i) of section 323 of said chapter 94, as so appearing, is hereby  
74 further amended by inserting, at the end thereof, the following sentence:-

75 At each location where persons tender containers for redemption, dealers and redemption  
76 centers shall clearly and conspicuously display a sign, in such form and manner as prescribed in  
77 regulations promulgated by the secretary of energy and environmental affairs, that notifies  
78 persons that they shall be subject to civil penalties as set forth under section 327 for violating  
79 provisions of this subsection.

80 SECTION 6. Chapter 94, as so appearing, is hereby further amended by striking section  
81 323C and inserting in place thereof the following section:-

82 Section 323C. At the end of each month, 90 per cent of any amounts that are or should  
83 be in a bottler's or distributor's Deposit Transaction Fund and that are in excess of the sum of (a)  
84 income earned on amounts in said account during that month and (b) the total amount of refund  
85 values received by said bottler or distributor for non-reusable beverage containers during that  
86 month and the two preceding months shall be deemed to constitute abandoned deposit amounts.  
87 Income earned on said fund and the remaining 10 per cent of any amounts that are or should be

88 in a bottle's or distributor's said fund may be transferred from said fund for use as funds of the  
89 bottler or distributor.

90 SECTION 7. Said chapter 94 is hereby further amended by inserting after section 323E  
91 the following sections:-

92 Section 323F. There shall be established on the books of the commonwealth a separate  
93 fund to be known as the Clean Environment Fund. Amounts to be deposited in said Fund shall be  
94 used, subject to appropriation, for programs including but not limited to (i) projects supporting  
95 the proper management of solid waste, water resource protection, parkland, urban forestry, air  
96 quality and climate protection; (ii) projects supporting reductions in the total solid waste  
97 generated in the commonwealth for disposal; and (iii) projects achieving the standards set forth  
98 under section 21A of chapter 16; provided, however, that no funds shall be used for costs  
99 associated with incineration.

100 Section 323G. Notwithstanding any other provision of this chapter or any other general  
101 or special law to the contrary, the department of environmental protection may exempt dealers or  
102 any class thereof from subsection (b) of section 323, provided that the department of  
103 environmental protection determines that such exemption is consistent with the public interest  
104 and such exemption does not place an unreasonable burden on consumers.

105 Section 323H. (a) Beginning the first day of May, 4 years after the transition date, all  
106 beverages in beverage containers sold in the Commonwealth shall be subject to a 1 cent  
107 recycling fee.

108 (b) The recycling fee shall be levied on the sale of beverages in beverage containers by a  
109 distributor or bottler. Beverage containers sold for consumption outside of the Commonwealth  
110 are exempt from the fee.

111 (c) The Commissioner of revenue shall develop implementing regulations for the  
112 collection and deposit of the recycling fee into the fund established under section 323F including  
113 procedures for identifying and registering distributors and bottlers subject to the fee and for  
114 quarterly payment of the fee by distributors and bottlers. Said commissioner shall also develop  
115 an annual payment procedure to reduce the administrative burden on small distributors and  
116 bottlers, as determined by said commissioner. Said commissioner shall prepare an annual report  
117 at the conclusion of each fiscal year listing registered distributors and bottlers and reporting total  
118 collections. Payment amounts from individual distributors and bottlers shall be considered  
119 confidential business information and not disclosed by said commissioner except in conjunction  
120 with audits conducted under subsection (d).

121 (d) The commissioner of revenue shall coordinate periodic audits of distributors and  
122 bottlers to ensure that appropriate records exist to document fee payments and that all  
123 distributors and bottlers subject to the fee are complying.

124 SECTION 8. Chapter 94 of the general laws, as so appearing, is hereby further amended  
125 by inserting after Section 326, the following new section:-

126 Section 326A. Notwithstanding sections 321 to 323G, inclusive, and sections 324 to 327,  
127 inclusive, to the contrary, on the first day of May, 4 years after the transition date, (i) a bottler,  
128 distributor, redemption center or dealer shall be exempt from any obligation imposed under  
129 sections 321 to 323G, inclusive, and sections 324 to 327, inclusive, and (ii) beverage containers  
130 may be sold or offered for sale in the commonwealth without a refund value.

131 SECTION 9. Section 327 of said chapter 94 of the General Laws, as so appearing, is  
132 hereby amended by inserting after the word “civil”, in line 14, the words “or administrative”.

133 SECTION 10. Section 327 of said chapter 94, as so appearing, is hereby further amended  
134 by inserting after the first paragraph the following paragraphs:—

135 The department of environmental protection may enforce the provisions of section 321;  
136 subsections (a) through (f), inclusive, of section 322; subsection (i) of section 323; section 323A;  
137 section 324 and section 325. Any bottler, distributor, redemption center, or dealer who violates  
138 any of the foregoing provisions shall be subject to an administrative penalty for each violation of  
139 not more than \$1,000.

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

144 SECTION 11. (a) There shall be in the executive Office of Environmental Affairs an  
145 advisory commission, chaired by the Secretary or his designee, for beverage container recycling  
146 and litter control policy review.

147 (b) The commission shall consist of 13 members: 1 of whom shall be appointed by the  
148 president of the senate; 1 of whom shall be appointed by the speaker of the house of  
149 representatives; and 11 of whom shall be appointed by the secretary of energy and environmental  
150 Affairs, 1 of whom shall be a representative of beer brewers and distributors, 1 of whom shall be  
151 a representative of non-alcoholic beverage makers and distributors, 1 of whom shall be a  
152 representative of supermarkets, 1 of whom shall be a representative of convenience stores, 1 of  
153 whom shall be a representative of independent redemption centers, 1 of whom shall be a  
154 representative of redemption equipment providers, 1 of whom shall be a representative of  
155 processors of materials recovered from beverage containers, 1 of whom shall be a representative  
156 of the massachusetts municipal association, 1 of whom shall be a representative of the  
157 massachusetts product stewardship council, 1 of whom shall be an individual representing a  
158 consumer advocacy organization, and 1 of whom shall be a representative of a statewide  
159 conservation organization.

160 (c) Appointments to the advisory commission shall be made not later than 30 days after  
161 the effective date of this act. If a vacancy occurs on the commission, the vacancy shall be filled  
162 within 30 days. The commission shall convene its first meeting within 60 days of the effective  
163 date of this act.

164 (c) The commission established under this subsection shall have the following duties:  
165 (i) compile and analyze data on the effectiveness of the beverage container deposit system,  
166 curbside recycling systems, drop-off recycling centers, business and private recycling programs,  
167 and municipal and state public space recycling programs; (ii) determine whether the container  
168 deposit system, or any other mandatory recycling system, should be continued or discontinued,  
169 and shall make its recommendation to the secretary of energy and environmental affairs and the  
170 General Court for possible legislative or administrative action, (iii) make recommendations  
171 concerning enhancing or modifying state-wide solid waste and recycling to include public space  
172 recycling, urban center recycling, curbside and multi-unit dwelling recycling, composting,  
173 creation of a public education program, establishing per capita waste reduction goals and  
174 municipal recycling, and changes to a beverage container deposit law, (iv) advise the secretary of  
175 energy and environmental affairs on policy and program development regarding beverage  
176 container litter, (v) make recommendations to the secretary of energy and environmental affairs  
177 and the joint committee on environment, natural resources, and agriculture on changes to the  
178 existing laws and regulations concerning recycling of beverage containers, as well as amending  
179 statutes and regulations to increase diversion of beverage containers from the waste stream and  
180 the efficiency of said system, (vi) the advisory commission shall meet at least one time a year  
181 and shall convene special meeting at the call of the Commissioner.

182 (d) A written record of all meetings of the committee shall be maintained by the  
183 secretary of energy and environmental affairs, or his designee. Members of the commission shall  
184 serve without compensation.

185 SECTION 12. The department of environmental protection shall conduct a study into the  
186 registration and regulation of entities that provide solid waste collection services in the  
187 commonwealth, hereafter referred to as haulers. The study shall identify the regulatory structure  
188 and business models for haulers in the commonwealth. The study shall identify and make  
189 recommendations regarding reformed regulatory models for haulers that better align hauler  
190 business models with the commonwealth's solid waste reduction goals. The department shall  
191 submit a copy of the study not later than July 15th, 2015 to the clerks of the house of  
192 representatives and the senate who shall forward a copy of the study to the joint committee on  
193 telecommunications utilities and energy and the joint committee on environment, natural  
194 resources, and agriculture.

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196 SECTION 13. The department of environmental protection shall promulgate  
197 performance standards under section 21A of chapter 16 of the general laws not later than 120  
198 days after the effective date of this act.

199 SECTION 14. Standards promulgated by the department of environmental protection  
200 under section 21A of chapter 16 of the general laws shall reduce solid waste to no more than four  
201 hundred fifty pounds per resident served by July 1, 2020.

202 SECTION 15. Sections 2 to 11, inclusive, of this act shall take effect on April 22, 2015.