

**SENATE . . . . . No. 1588****The Commonwealth of Massachusetts**

PRESENTED BY:

***Cynthia S. Creem***

*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>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>

<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>
<i>Brian R. Mannal</i>	<i>2nd Barnstable</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Anthony W. Petruccelli</i>	<i>First Suffolk and Middlesex</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>William M. Straus</i>	<i>10th Bristol</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>
<i>Thomas M. Menino</i>	<i>One City Hall Square, Suite 500 Boston, MA 02201-2013</i>

# SENATE . . . . . No. 1588

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By Ms. Creem, a 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 . Telecommunications, Utilities and Energy.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1650 OF 2011-2012.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
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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. Section 321 of chapter 94 of the General Laws, as appearing in the 2008  
2 Official Edition, is hereby amended by inserting after the words “carbonated soft drinks” the  
3 following words:- “and noncarbonated non-alcoholic beverages in liquid form intended for  
4 human consumption, except beverages that are primarily derived from dairy products, infant  
5 formula, and FDA-approved medicines.”

6           SECTION 2. Paragraph 3 of said section 321 of said chapter 94, as so appearing, is  
7 hereby amended by striking out the last sentence and inserting in place thereof the following  
8 sentence:- This definition shall not include containers made of paper-based biodegradable  
9 material and aseptic multi-material packaging.

10          SECTION 3. Said section 321 of said chapter 94, as so appearing, is hereby further  
11 amended by inserting after the definition of “Plastic bottle” the following definition:-  
12 “Redemption Center”, any business whose primary purpose is the redemption of beverage  
13 containers and which is not ancillary to any other business,

14          SECTION 4. Said section 321 of said chapter 94, as so appearing, is hereby further  
15 amended by inserting after the definition of “Reusable beverage container” the following  
16 definition:- “Small dealer”, any person or business, including any operator of a vending machine,

who engages in the sale of beverages in beverage containers to consumers in the commonwealth, with a contiguous retail space of 3,000 square feet or less, exclusive of office and stock room space; and fewer than four (4) locations under the same ownership within the Commonwealth.

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

SECTION 5. Section 322 of said chapter 94, is hereby amended by inserting after section 322 the following sections:-

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

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

SECTION 6. Section 323 of said chapter 94, as so appearing, is hereby amended by inserting before the first sentence of paragraph (e) the following sentence:- The executive office of environmental affairs shall promulgate rules and regulations for the licensure of redemption centers, and may set fees for such licensing.

SECTION 7. Paragraph (c) of said section 323 of said chapter 94 of the General Laws, as so appearing, is hereby amended by striking out the words “one cent” and inserting in place thereof the words “three and one half cents” and by adding the following sentence:- The handling fee shall be reviewed every four (4) years by the secretary of the executive office of energy and environmental affairs and adjustments made to reflect the Consumer Price Index as reported by the US Department of Labor as well as industry-specific increases or decreases in costs incurred by redemption facilities.

SECTION 8. Paragraph (d) of said section 323 of said chapter 94, as so appearing, is hereby amended by striking out the words “one cent” and inserting in place thereof the words “three and one half cents” and by adding the following sentence:-

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

SECTION 9. Said section 323 of said chapter 94, as so appearing, is hereby further amended by inserting after the word “civil”, , in subsection (i) the words “or administrative”.

SECTION 10. Said chapter 94 is hereby further amended by inserting after section 323E the following section:-

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

58           SECTION 11. Notwithstanding any general or special law to the contrary, the secretary  
59 of the executive office of energy and environmental affairs shall, on or before January 1, 2014,  
60 promulgate regulations providing small dealers as defined herein with the right to seek  
61 exemptions from accepting empty deposit containers. Said regulations shall consider at least the  
62 health and safety of the public; the convenience for the public, including standards governing  
63 distribution of centers by population or by distance or both, the size and storage capacity of the  
64 dealer(s) to be served by the redemption center and the size and storage capacity of the  
65 redemption center. The order approving a local redemption center license must state the dealers  
66 to be served and the kinds, sizes and brand names of empty beverage containers that the center  
67 accepts.

68           SECTION 12. Section 323 of Chapter 94 of the General Laws, as so appearing, is hereby  
69 amended by adding in subsection(i) after the first instance of the word “twenty-seven.” the  
70 following:— At each location where persons tender containers for redemption, dealers and  
71 redemption centers shall conspicuously display a sign in letters that are at least one inch in height  
72 with the following information:— “WARNING: Any person who tenders to a dealer, distributor,  
73 redemption center or bottler more than ten cases of twenty-four empty beverage containers each,  
74 which he knows or has reason to know were not originally sold in the commonwealth as filled  
75 beverage containers, for the purpose of obtaining a refund value or handling fee, shall be subject  
76 to a civil penalty of the greater of one hundred dollars for each container or twenty-five thousand  
77 dollars for each tender of containers. (G.L. c. 94).

78           SECTION 13. Section 327 of said chapter 94 of the General Laws, as so appearing, is  
79 hereby amended by inserting after the first paragraph the following paragraphs:—

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

85           The department of revenue may enforce the provisions of paragraphs (g) and (h) of  
86 section 323 and sections 323B to 323E, inclusive. Any bottler, distributor, redemption center, or

87 dealer who violates any of the foregoing provisions shall be subject to an administrative penalty  
88 for each violation of not more than \$1,000.

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

92 SECTION 15. This act shall take effect on April 22, 2014.