

Updating the Bottle Bill

Ms. Creem and Messrs. Rush, Keenan, Ross, Barrett, Brownsberger, Donnelly, Eldridge, Hedlund, Wolf, Pacheco and Joyce and Ms. Chang-Diaz and Ms. Lovely and Messrs. DiDomenico and McGee moved that the proposed new text be amended by inserting after section 71 the following 15 sections:-

“SECTION 71A. Section 321 of chapter 94 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the definition of “Beverage” and inserting in place thereof the following definition:-

“Beverage”, soda water or similar carbonated soft drinks; beer and other malt beverages; noncarbonated soft drinks, including, but not limited to mineral water, flavored and unflavored water, spring water, fruit drinks that contain less than 10 per cent juice, sports drinks and other water beverages, coffee and coffee-based drinks; and all other nonalcoholic carbonated and noncarbonated drinks in liquid form intended for human consumption, except milk and beverages that are primarily derived from dairy products, beverages containing a minimum of 10 per cent juice, infant formula and medicines approved by the United States Food and Drug Administration; but shall not include alcoholic beverages other than beer and malt beverages as defined in chapter 138 and wine.

SECTION 71B. The definition of “Beverage container” in said section 321 of said chapter 94, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- This definition shall not include containers made of paper-based biodegradable material and aseptic multi-material packaging.

SECTION 71C. Said section 321 of said chapter 94, as so appearing, is hereby further amended by inserting after the definition of “Plastic bottle” the following 2 definitions:-

“Redemption center”, a business the primary purpose of which is the redemption of beverage containers and which is not ancillary to any other business.

“Redemption facility” a person or business who engages in the refund of deposits for beverage containers as described in this section.

SECTION 71D. Said section 321 of said chapter 94, as so appearing, is hereby further amended by adding the following definition:-

“Small dealer”, a person or business, including an operator of a vending machine, who engages in the sale of beverages in beverage containers to consumers, with a contiguous retail space of 3,000 square feet or less, exclusive of office and stockroom space, and fewer than 4 locations under the same ownership within the commonwealth.

SECTION 71E. Section 322 of said chapter 94, as so appearing, is hereby amended by adding the following 2 sentences:- The secretary of energy and environmental affairs shall review the refund value every 5 years and may increase that amount to reflect the consumer price index as

reported by the United States Department of Labor, but the refund value shall not be less than \$.05. The secretary of energy and environmental affairs shall promulgate regulations which establish maximum acceptable container size.

SECTION 71F. Section 323 of said chapter 94, as so appearing, is hereby amended by striking out, in lines 11 and 12, and in line 19, the words “one cent” and inserting in place thereof, in each instance, the following words:- 3 and one half cents.

SECTION 71G. Paragraph (c) of said section 323 of said chapter 94, as so appearing, is further amended by adding the following sentence:- The handling fee shall be reviewed and may be adjusted every 5 years by the secretary of energy and environmental affairs to reflect the consumer price index as reported by the United States Department of Labor and industry-specific increases or decreases in costs incurred by redemption facilities.

SECTION 71H. Paragraph (d) of said section 323 of said chapter 94, as so appearing, is hereby further amended by adding the following sentence:- The handling fee shall be reviewed and may be adjusted every 5 years by the secretary of energy and environmental affairs to reflect the consumer price index as reported by the United States Department of Labor and industry-specific increases or decreases in costs incurred by redemption facilities.

SECTION 71I. Paragraph (e) of section 323 of said chapter 94, as so appearing, is hereby amended by adding 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 71J. Said section 323 of said chapter 94, as so appearing, is hereby further amended by inserting after the word “civil”, in line 73, the following words:- or administrative.

SECTION 71K. Paragraph (i) of said section 323 of said chapter 94, as so appearing, is hereby amended by adding the following sentence:- At each location where persons tender containers for redemption, dealers and redemption centers shall conspicuously display a sign in letters that are at least 1 inch in height with the following information: “WARNING: Any person who tenders to a dealer, distributor, redemption center or bottler more than 10 cases of 24 empty beverage containers each, which such person knows or has reason to know were not originally sold in the commonwealth as filled beverage containers, for the purpose of obtaining a refund value or handling fee shall be subject to a civil penalty of the greater of \$100 for each container or \$25,000 for each tender of containers, under Massachusetts General Laws, chapter 94”.

SECTION 71L. Section 323D of said chapter 94, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words “Clean Environment Fund, established pursuant to section three hundred and twenty-three F” and inserting in place thereof the following words:- General Fund.

SECTION 71M. Said section 323D of said chapter 94, as so appearing, is hereby further amended by adding the following paragraph:-

Notwithstanding the first paragraph, amounts collected by the commissioner of revenue under this section that result from the sale of noncarbonated soft drinks including, but not limited to, flavored and unflavored water, spring water, fruit drinks that contain less than 10 per cent juice,

sports drinks and other water beverages, coffee and coffee-based drinks, shall be deposited in the Massachusetts Community Preservation Trust Fund established in section 9 of chapter 44B of the General Laws.

SECTION 71N. Section 327 of said chapter 94, as so appearing, is hereby amended by inserting after the word “civil”, in line 14, the words “or administrative”.

SECTION 71O. Said section 327 of said chapter 94, as so appearing, is hereby further amended by inserting after the first paragraph the following 2 paragraphs:-

The department of environmental protection may enforce section 321, paragraphs (a) to (f), inclusive, of section 322, paragraph (i) of section 323, section 323A, section 323F and sections 324 and 325. A 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 \$1,000.

The department of revenue may enforce paragraphs (g) and (h) of section 323 and sections 323B to 323E, inclusive. A 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 \$1,000.”;

and by inserting after section 139 the following section:-

“SECTION 139A. Notwithstanding any general or special law to the contrary, the secretary of energy and environmental affairs shall, not later than January 1, 2014, promulgate regulations providing small dealers as defined in section 321 of chapter 94 of the General Laws with the right to seek exemptions from accepting empty deposit containers. The regulations shall consider at least the health and 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 dealers 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 shall state the dealers to be served and the kinds, sizes and brand names of empty beverage containers that the center accepts.”;

and by inserting after section 143 the following section:-

“SECTION 144A. Sections 71A to 71O, inclusive, shall take effect on April 22, 2014.”