

SENATE No. 1777

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

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 relative to conditional expansion of the bottle bill.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>

SENATE No. 1777

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 1777) of John F. Keenan, Kenneth J. Donnelly, Ruth B. Balser, Donald H. Wong and other members of the General Court for legislation relative to conditional expansion of the bottle bill. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to conditional expansion of 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 326 of chapter 94 of the General Laws, as appearing in the 2012
2 Official Edition, shall be amended by adding the following paragraph:-

3 The Department of Environmental Protection shall publish a report on November 1 of
4 each calendar year which shall include reporting on municipal recycling rates and a statewide
5 recycling rate as of the end of the preceding calendar year. For the purpose of this section
6 “recycling rate” shall be defined as total tons diverted divided by total tons generated. The
7 department shall make this report available to the public, and shall file a copy of each annual
8 report with the chairs of the Joint Committee on the Environment, Natural Resources and
9 Agriculture.

10 SECTION 2. Section 321 of chapter 94 of the General Laws, as appearing in the 2012
11 Official Edition, is hereby amended by striking out the definition of “Beverage” and inserting in
12 place thereof the following definition:-

13 “Beverage”, soda water or similar carbonated soft drinks; beer and other malt beverages;
14 noncarbonated soft drinks including, but not limited to, mineral water, flavored and unflavored
15 water, spring water, fruit drinks that contain less than 10 per cent juice, sports drinks and other
16 water beverages; coffee and coffee-based drinks; and all other nonalcoholic carbonated and
17 noncarbonated drinks in liquid form intended for human consumption; provided, however, that
18 “beverage” shall not include milk and beverages that are primarily derived from dairy products,
19 beverages containing a minimum of 10 per cent juice, infant formula and medicines approved by
20 the United States Food and Drug Administration; and provided further, that “beverage” shall not
21 include wine or alcoholic beverages other than beer and malt beverages as defined in section 1 of
22 chapter 138.

23 SECTION 3. The definition of “Beverage container” in said section 321 of said chapter
24 94, as so appearing, is hereby amended by striking out the last sentence and inserting in place
25 thereof the following sentence:- “Beverage container” shall not include containers made of
26 paper-based biodegradable material and aseptic multi-material packaging.

27 SECTION 4. Said section 321 of said chapter 94, as so appearing, is hereby further
28 amended by inserting after the definition of “Plastic bottle” the following 2 definitions:-

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

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

33 SECTION 5. Said section 321 of said chapter 94, as so appearing, is hereby further
34 amended by adding the following definition:-

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

39 SECTION 6. Section 322 of said chapter 94, as so appearing, is hereby amended by
40 adding the following 2 sentences:- The secretary of energy and environmental affairs shall
41 review the refund value every 5 years and may increase that amount to reflect the consumer price
42 index as reported by the United States Department of Labor, but the refund value shall not be
43 less than 5 cents. The secretary shall promulgate regulations which establish the maximum
44 acceptable container size.

45 SECTION 7. Section 323 of said chapter 94, as so appearing, is hereby amended by
46 striking out, in lines 11 and 12, and in line 19, the words “one cent” and inserting in place
47 thereof, in each instance, the following words:- 3 and 1/2 cents.

48 SECTION 8. Paragraph (c) of said section 323 of said chapter 94, as so appearing, is
49 hereby amended by adding the following sentence:- The handling fee shall be reviewed and may
50 be adjusted every 5 years by the secretary of energy and environmental affairs to reflect the
51 consumer price index as reported by the United States Department of Labor and industry-specific
52 increases or decreases in costs incurred by redemption facilities.

53 SECTION 9. Paragraph (d) of said section 323 of said chapter 94, as so appearing, is
54 hereby amended by adding the following sentence:- The handling fee shall be reviewed and may
55 be adjusted every 5 years by the secretary of energy and environmental affairs to reflect the
56 consumer price index as reported by the United States Department of Labor and industry-specific
57 increases in costs incurred by redemption facilities.

58 SECTION 10. Paragraph (e) of said section 323 of chapter 94, as so appearing, is hereby
59 amended by adding the following sentence:- The executive office of energy and environmental
60 affairs shall promulgate rules and regulations for the licensure of redemption centers and may set
61 fees for such licensing.

62 SECTION 11. Said section 323 of said chapter 94, as so appearing, is hereby further
63 amended by inserting after the word “civil”, in line 73, the following words:- or administrative.

64 SECTION 12. Paragraph (i) of said section 323 of said chapter 94, as so appearing, is
65 hereby amended by adding the following sentence:- At each location where persons tender
66 containers for redemption, dealers and redemption centers shall conspicuously display a sign in
67 letters that are at least 1 inch in height with the following information: “WARNING: Any person
68 who tenders to a dealer, distributor, redemption center or bottler more than 10 cases of 24 empty
69 beverage containers each, which such person knows or has reason to know were not originally
70 sold in the commonwealth as filled beverage containers, for the purpose of obtaining a refund
71 value or handling fee shall be subject to a civil penalty of the greater of \$100 for each container
72 or \$25,000 for each tender of containers, under Massachusetts General Laws, chapter 94”.

73 SECTION 13. Section 323D of said chapter 94, as so appearing, is hereby amended by
74 striking out, in lines 7 and 8, the words “Clean Environment Fund, established pursuant to

75 section three hundred and twenty-three F” and inserting in place thereof the following words:-
76 General Fund.

77 SECTION 14. Said section 323D of said chapter 94, as so appearing, is hereby further
78 amended by adding the following paragraph:-

79 Notwithstanding the first paragraph, 100 per cent of amounts collected by the
80 commissioner of revenue under this section that result from the sale of noncarbonated soft drinks
81 including, but not limited to, mineral water, flavored and unflavored water, spring water, fruit
82 drinks that contain less than 10 per cent juice, sports drinks and other water beverages, coffee
83 and coffee-based drinks shall be deposited as follows: (i) 50 per cent to the Massachusetts
84 Community Preservation Trust Fund established in section 9 of chapter 44B and (ii) 50 per cent
85 to the Brownfields Redevelopment Fund established in section 29A of chapter 23G.

86 SECTION 15. Section 326 of said chapter 94, as so appearing, is hereby amended by
87 striking out, in lines 2 to 5, inclusive, the words “three hundred and twenty-one, three hundred
88 and twenty-two, paragraphs (a) to (f), inclusive, of section three hundred and twenty-three, three
89 hundred and twenty-three F, three hundred and twenty-four and three hundred and twenty-five”
90 and inserting in place thereof the following figures:- 321, 322, 324 and 325.

91 SECTION 16. Section 327 of said chapter 94, as so appearing, is hereby amended by
92 inserting after the word “civil”, in line 14, the words “or administrative”.

93 SECTION 17. Said section 327 of said chapter 94, as so appearing, is hereby further
94 amended by inserting after the first paragraph the following 2 paragraphs:-

95 The department of environmental protection may enforce section 323, section 323A,
96 section 324 and section 325. A bottler, distributor, redemption center or dealer who violates any
97 of the foregoing sections shall be subject to an administrative penalty for each violation of not
98 more than \$1,000. The department of revenue may enforce paragraphs (g) and (h) of section 323
99 and sections 323B to 323E, inclusive. A bottler, distributor, redemption center or dealer who
100 violates any of the foregoing sections shall be subject to an administrative penalty for each
101 violation of not more than \$1,000.

102 SECTION 18. If the reported statewide recycling rate falls below the rate for the
103 preceding calendar year, then The Department of Environmental Protection shall give notice to
104 the Secretary of Energy and Environmental Affairs.

105 SECTION 19. Sections 2 through 17 of this Act shall become effective on June 30th of
106 the subsequent calendar year after a notice is given pursuant to section 18, and shall remain
107 effective each year thereafter.