SENATE DOCKET, NO. 522 FILED ON: 1/16/2013

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 passage of the accompanying:

An Act updating the bottle bill .

PETITION OF:

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

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

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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.

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

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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:

SECTION 1. Section 321 of chapter 94 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the words "carbonated soft drinks" the following words:- "and noncarbonated non-alcoholic beverages in liquid form intended for human consumption, except beverages that are primarily derived from dairy products, infant formula, and FDA-approved medicines."

SECTION 2. Paragraph 3 of 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 3. Said section 321 of said chapter 94, as so appearing, is hereby further amended by inserting after the definition of "Plastic bottle" the following definition:- "Redemption Center", any business whose primary purpose is the redemption of beverage containers and which is not ancillary to any other business,

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

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

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

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

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

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

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

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

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

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

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

49 SECTION 10. Said chapter 94 is hereby further amended by inserting after section 323E
50 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.