

Regular Session, 2013

HOUSE BILL NO. 445

BY REPRESENTATIVE LAMBERT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ENVIRONMENT/RECYCLING: Creates the La. Beverage Container Law

1 AN ACT

2 To enact Part III of Chapter 21 of Subtitle II of Title 30 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 30:2553 through 2553.9, relative to the regulation
4 of beverage containers; to provide for legislative findings and purpose; to provide
5 for definitions; to provide for refund value; to provide for beverage container
6 requirements and prohibitions; to provide for acceptance of beverage containers; to
7 provide for refusal of acceptance; to provide for authority of the secretary of the
8 Department of Environmental Quality; to provide for unredeemed deposits; to
9 provide for violations; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Part III of Chapter 21 of Subtitle II of Title 30 of the Louisiana Revised
12 Statutes of 1950, comprised of R.S. 30:2553 through 2553.9, is hereby enacted to read as
13 follows:

14 PART III. THE LOUISIANA BEVERAGE

15 CONTAINER LAW

16 §2553. Citation

17 This Part may be cited as the "Louisiana Beverage Container Law".

18 §2553.1. Legislative findings; policy; purpose

19 A. The legislature hereby finds that litter composed of discarded soft drink
20 and alcoholic beverage bottles and cans is a growing problem of state concern and

1 a direct threat to the health and safety of the citizens of this state. Discarded
2 beverage bottles and cans create a hazard to vehicular traffic, a source of physical
3 injury to pedestrians, farm animals, and machinery, and an unsightly accumulation
4 of litter, which must be disposed of at an increasing public expense. Beverage
5 bottles and cans also create an unnecessary addition to the state's and municipalities'
6 already overburdened solid waste and refuse and disposal systems. Unsegregated
7 disposal of such bottles and cans creates an impediment to the efficient operation of
8 resource recovery plans.

9 B. The legislature hereby finds that the uninhibited discard of beverage
10 containers constitutes a waste of both mineral and energy resources.

11 C. The legislature hereby finds that requiring a deposit on all beverage
12 containers, along with certain other facilitating measures, will provide a necessary
13 incentive for the economically efficient and environmentally benign collection and
14 recycling of such containers as well as economic opportunities for small businesses
15 and a consistent source of the materials for recycling and reuse of the earth's natural
16 resources.

17 §2553.2. Definitions

18 As used in this Chapter, the following terms shall have the meaning ascribed
19 to them in this Section unless the context clearly indicates otherwise:

20 (1) "Beverage" means water, flavored water, or nutritionally enhanced water;
21 carbonated soft drinks, mineral water, soda water, or other nonalcoholic carbonated
22 drinks; beer, ale, or other malt drink of whatever alcoholic content; or a mixed wine
23 drink or a mixed spirit drink.

24 (2) "Beverage container" means the individual, separate, sealed metal,
25 plastic, or glass, can, bottle, or jar used for containing a beverage intended for use
26 or consumption in this state, which at the time of sale contains less than seventy fluid
27 ounces of a beverage.

28 (3) "Dealer" means every person, firm, or corporation who engages in the
29 sale of, or offers for sale, beverages in beverage containers to a consumer for off-

1 premises consumption in this state, including an operator of a vending machine
2 containing a beverage container.

3 (4) "Department" means the Louisiana Department of Environmental
4 Quality.

5 (5) "Distributor" means any person, firm, or corporation which sells
6 beverages in beverage containers to a dealer within this state and includes a
7 manufacturer who engages in such sales.

8 (6) "Manufacturer" means a person who bottles, cans, or otherwise places
9 beverages in beverage containers for sale to distributors, dealers, consumers, or
10 importers of filled beverage containers into the United States.

11 (7) "Mixed spirit drink" means a drink containing ten percent or less alcohol
12 by volume of distilled spirits mixed with nonalcoholic beverages or flavoring or
13 coloring materials and which may contain water, fruit juices, fruit adjuncts, sugar,
14 carbon dioxide, or preservatives, or any spirits-based beverage, regardless of the
15 percent of alcohol by volume.

16 (8) "Mixed wine drink" means a drink or similar product marketed as a wine
17 cooler and containing less than seven percent alcohol by volume, consisting of wine
18 and plain, sparkling, or carbonated water and containing any one or more of the
19 following: nonalcoholic beverages, flavoring, coloring materials, fruit juices, fruit
20 adjuncts, sugar, carbon dioxide, or preservatives.

21 (9) "Operator of a vending machine" means equally its owner, the person
22 who fills it, and the owner or lessee of the property upon which it is located.

23 (10) "Person" means an individual, partnership, corporation, association, or
24 other legal entity.

25 (11) "Place of business" means the location at which a dealer sells or offers
26 for sale beverages in beverage containers to consumers.

27 (12) "Redeemer" means every person who demands the refund value
28 provided for in this Part in exchange for the empty beverage containers.

1 (13) "Redemption center" means any establishment authorized to give credit
2 for the refund value and handling fees of a beverage container under the provisions
3 of R.S. 30:2553.7.

4 (14) "Secretary" means the secretary of the Department of Environmental
5 Quality.

6 (15) "Use or consumption" means the exercise of any right or power incident
7 to the ownership of a beverage other than the sale or the keeping or retention of a
8 beverage, for the purpose of sale.

9 (16) "Within this state" means within the exterior limits of the state of
10 Louisiana, including the territory within these limits owned or ceded to the United
11 States of America. Beverage containers sold or distributed aboard interstate carriers
12 shall be considered as intended for use of consumption outside this state.

13 §2553.3. Refund value; deposit collection

14 Every beverage container sold or offered for sale in this state shall have a
15 minimum refund value of five cents. The deposit of the refund value shall be
16 collected by the dealer at the time of sale and remitted monthly to the Department
17 of Environmental Quality in accordance with rules and regulations adopted pursuant
18 to this Part. The deposit shall be paid to a redeemer upon return of a beverage
19 container to an authorized redemption center in accordance with R.S. 30:2553.5.

20 §2553.4. Beverage container requirements and prohibitions

21 A.(1) Every beverage container sold or offered for sale in this state by a
22 manufacturer, distributor, or dealer shall clearly indicate by permanently marking or
23 embossing the container or by printing as part of the product label in one-fourth inch
24 type size, on the body of the container, the refund value of the container and the
25 letters "LA Refund". Such information may be embossed or printed on a label which
26 is securely or permanently affixed to the beverage container. Other state refunds
27 may also appear on the label.

28 (2) A bottle beverage container shall also have such refund value information
29 on the neck of the bottle.

1 (3) A can beverage container shall also have such refund value information
2 indicated on the top of the can.

3 (4) Such embossing or permanent imprinting on the beverage container shall
4 be the responsibility of the person, firm, or corporation which bottles, cans, or
5 otherwise fills or packages a beverage container; however, the duly authorized
6 registered agent of any such person, firm, or corporation may indicate such refund
7 value by a label securely affixed on any beverage imported into this state.

8 B. The provisions of Paragraph (A)(1) of this Section shall not apply to glass
9 beverage containers having a brand name permanently marked thereon which, on
10 August 1, 2013, had a refund value in accordance with R.S. 30:2553.3.

11 §2553.5. Acceptance; handling fee

12 Except as provided in R.S. 30:2553.6, beginning December 1, 2013:

13 (1) Every authorized redemption center shall accept from a redeemer any
14 empty beverage container and shall pay the redeemer the Louisiana refund value of
15 each.

16 (2) For each empty aluminum can the handling fees paid by the department
17 to the redemption center shall not be less than one cent and for all other types of
18 beverage containers the fee shall not be less than two cents for each empty beverage
19 container.

20 §2553.6. Refusal of acceptance of a beverage container

21 A. A redemption center may refuse to accept any broken glass bottle,
22 dismembered container, or any beverage container which contains a free-flowing
23 liquid, does not properly indicate a Louisiana refund value, or contains a foreign
24 material. For purposes of this Subsection:

25 (1) A glass bottle is broken if it is not able to hold liquid or to be resealed,
26 is not in its original shape, or is cracked.

27 (2) A can or plastic bottle is dismembered if its body is not in one piece.

28 (3) A can or plastic bottle which is crushed or flattened is not dismembered.

1 (4) Small amounts of dust, dirt, or moisture do not constitute a significant
2 amount of foreign material.

3 B. A dealer which also operates an authorized redemption center at his place
4 of business may, but is not required to, accept from a redeemer empty beverage
5 containers for a refund in excess of twenty dollars on any given day.

6 §2553.7. Authority of the secretary

7 A. The secretary may promulgate rules and regulations governing:

8 (1) The circumstances in which authorized redemption centers, individually
9 or collectively, are required to accept the return of empty beverage containers and
10 make payment therefor.

11 (2) The monthly reporting requirements from dealers of the amount of
12 deposits collected and paid to the department and from authorized redemption
13 centers on the beverage containers redeemed. The department shall pay the
14 authorized redemption center the amount of the deposits paid to redeemers and the
15 applicable handling fees as provided in R.S. 30:2553.5.

16 (3) The rules for redemption at an authorized redemption center operated at
17 a dealer's place of business.

18 (4) The right to restrict or limit the number of containers redeemed.

19 (5) The redemption of containers from a beverage for which sales have
20 discontinued.

21 (6) The pickup of returned beverage containers, including the party to whom
22 such expense is to be charged, the frequency of such pickups, and the payment for
23 refunds and handling fees thereon.

24 B. The secretary may promulgate rules and regulations governing the
25 initiation of deposits, the sale of beverages in containers through vending machines
26 and for on-premises consumption, recordkeeping, refunding for refillable beverage
27 containers, embossing, imprinting, or labeling of refund values and for enforcement,
28 all of which may be necessary and appropriate for the implementation of this Part.

1 C. The secretary is authorized to issue permits to persons, firms, or
 2 corporations which establish redemption centers, subject to applicable provisions of
 3 local and state laws, at which redeemers may return empty beverage containers and
 4 receive payment of the refund value and applicable handling fees of such beverage
 5 containers. No dealer shall be required to obtain a permit to operate a redemption
 6 center at the same location as the dealer's place of business. Operators of such
 7 redemption centers shall receive from the department payment of the refund value
 8 and applicable handling fees of each beverage container as provided under R.S.
 9 30:2553.5.

10 §2553.8. Unredeemed deposit

11 Any amounts paid to the department pursuant to R.S. 30:2553.3 which are
 12 not required to be remitted to authorized redemption centers shall be deposited into
 13 the Environmental Trust Fund established in R.S. 30:2015 and shall be used for the
 14 administration of this Part.

15 §2553.9. Violations; penalties

16 Any person found to be in violation of any provision of this Part, after notice
 17 and an opportunity for a hearing, shall be liable for a civil penalty of not more than
 18 five thousand dollars and an additional civil penalty of not more than five hundred
 19 dollars for each day during which such violation continues.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Lambert

HB No. 445

Abstract: Provides for a system of deposits and redemption on glass and metal beverage containers.

Proposed law creates the La. Beverage Container Law as follows:

- (1) Defines "beverage", "beverage container", "dealer", "department", "distributor", "manufacturer", "mixed spirit drink", "mixed wine drink", "operator of a vending machine", "person", "place of business", "redeemer", "redemption center", "secretary", "use or consumption", and "within this state".

- (2) Provides for a minimum refund of 5¢ on every beverage container sold or offered for sale which will be collected by a dealer and forwarded to the Dept. of Environmental Quality (DEQ).
- (3) Requires every authorized redemption center to accept the container from and pay to the redeemer the La. refund value, beginning Dec. 1, 2013.
- (4) Requires handling fees to be not less than 1¢ per aluminum can and 2¢ per other beverage container paid by the department to the redemption center.
- (5) Requires every beverage container sold in this state to clearly indicate the refund value of the container and the letters "LA Refund". Exempts glass beverage containers which already have a refund value on the container.
- (6) Allows a redemption center to refuse to accept any broken glass bottle, dismembered container, or any container which contains a free-flowing liquid, does not properly indicate a La. refund value, or contains a foreign material.
- (7) Allows, but does not require, a dealer who is also an authorized redemption center to accept from a redeemer empty beverage containers for a refund in excess of \$20 on any given day.
- (8) Allows the secretary of DEQ to promulgate rules and regulations concerning the circumstances in which a dealer is required to accept the return of empty containers and make payments, reporting requirements of dealers and redemption centers, the payment of handling fees, the rules for redemption at the dealer's place of business, the right of dealers to restrict or limit the number of containers redeemed, the redemption of containers from a beverage for which sales have discontinued, the pickup of returned beverage containers and the initiations of deposits, sales through vending machines and on-premises consumption, recordkeeping, refunding for refillable containers, or labeling.
- (9) Authorizes the secretary to issue permits to establish redemption centers. Allows dealers to operate a redemption center at their same location without a permit.
- (10) Requires deposits paid to DEQ which are not required to be remitted to authorized redemption centers, which are unredeemed deposits, shall be deposited into the Environmental Trust Fund and shall be used for the administration of proposed law.
- (11) Subjects violators to civil penalty of not more than \$5,000 for violations and additional penalties of not more than \$500 for each day the violation continues.

(Adds R.S. 30:2553-2553.9)