

A bill for an act

relating to solid waste; requiring a refund to be placed on recyclable beverage containers; requiring labeling of beverage containers; establishing an account; providing reports; appropriating money; amending Minnesota Statutes 2010, section 13.7411, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 115A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 13.7411, subdivision 4, is amended to read:

Subd. 4. **Waste management.** (a) **Transfer station data.** Data received by a county or district from a transfer station under section 115A.84, subdivision 5, are classified under that section.

(b) **Solid waste records.** Records of solid waste facilities received, inspected, or copied by a county pursuant to section 115A.882 are classified pursuant to section 115A.882, subdivision 3.

(c) **Customer lists.** Customer lists provided to counties or cities by solid waste collectors are classified under section 115A.93, subdivision 5.

(d) **Beverage container payment.** Data regarding manufacturer payments for beverage containers sold or offered for sale in the state are classified under section 115A.1339.

(e) **Beverage container reporting.** Data reported regarding refunds for beverage containers are classified under section 115A.1342.

Sec. 2. **[115A.1335] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 115A.1335 to 115A.1348, the following terms have the meaning given.

Subd. 2. **Agency.** "Agency" means the Pollution Control Agency.

Subd. 3. **Beverage.** (a) "Beverage" means:

(1) a soft drink, soda water, carbonated or uncarbonated natural or mineral water, juice, tea, or coffee;

(2) beer, ale, or other malt liquor;

(3) mixed spirits, wine, or mixed wine; and

(4) other drinks in liquid form intended for human consumption.

(b) "Beverage" does not include a liquid that is:

(1) milk;

(2) a syrup;

(3) in concentrated form;

(4) typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces, or condiments;

(5) a drug or infant formula, as defined in the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321, paragraph (g), clause (1), and paragraph (z), respectively; or

(6) a medical food, as defined in the 1988 Orphan Drug Act Amendments, United States Code, title 21, section 360ee, paragraph (b), clause (3).

Subd. 4. **Beverage container.** "Beverage container" means an airtight metal, glass, or plastic container, or a container composed of a combination of these materials, that, when sold or offered for sale, contains no more than three liters of a beverage.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subd. 6. **Convenience store.** "Convenience store" means an establishment that retails a limited selection of food and nonfood items, including snacks and prepared foods, cigarettes, and beverages in beverage containers and may also retail automotive fuel. A convenience store is assigned a North American Industry Classification System code of 445120 or 447110 by the United States Census Bureau.

Subd. 7. **Distilled spirits.** "Distilled spirits" has the meaning given in section 340A.101, subdivision 9.

Subd. 8. **Department.** "Department" means the Department of Revenue.

Subd. 9. **Exclusive liquor store.** "Exclusive liquor store" has the meaning given in section 340A.101, subdivision 10.

Subd. 10. **Grocery store.** "Grocery store" means an establishment retailing a general line of food, including canned and frozen foods, fresh fruits and vegetables, fresh and prepared meats, fish, poultry, dairy products, beverages in beverage containers, and

nonfood items. A grocery store is assigned a North American Industry Classification System code of 445110 by the United States Census Bureau.

Subd. 11. **Hauler.** "Hauler" means a person who makes a commercial arrangement to collect and transport empty beverage containers to be redeemed, processed, or recycled.

Subd. 12. **Intact beverage container.** "Intact beverage container" means an empty beverage container that is not broken, cracked, or compressed and on which the labeling required under section 115A.1336 is clearly readable.

Subd. 13. **Large general merchandise store.** "Large general merchandise store" means an establishment retailing a wide range of general merchandise, including groceries, beverages in beverage containers, apparel, furniture, and appliances. A large general merchandise store is assigned a North American Industry Classification System code of 452910 by the United States Census Bureau.

Subd. 14. **Malt liquor.** "Malt liquor" has the meaning given in section 340A.101, subdivision 16.

Subd. 15. **Manufacturer.** "Manufacturer" means a person who places beverages in beverage containers for eventual sale to consumers.

Subd. 16. **Mixed spirits.** "Mixed spirits" means a drink containing ten percent or less alcohol by volume, consisting of distilled spirits mixed with nonalcoholic beverages or flavoring or coloring materials.

Subd. 17. **Mixed wine.** "Mixed wine" means a drink containing less than seven percent alcohol by volume, consisting of wine and plain, sparkling, or carbonated water and other nonalcoholic ingredients.

Subd. 18. **On-site seller.** "On-site seller" means a person, other than a convenience store, who sells beverages in or from beverage containers to retail customers for consumption on-site, including, but not limited to, a seasonal permanent food stand, as defined in section 157.15, subdivision 12a; a school concession stand, as defined in section 157.15, subdivision 12b; and a special event food stand, as defined in section 157.15, subdivision 14.

Subd. 19. **Processor.** "Processor" means a person who physically reduces the volume of empty beverage containers received from a transporter through crushing, shredding, grinding, or other physical processes, which may include the removal of extraneous materials such as labels, caps, and rings, in order to prepare the containers for recycling.

Subd. 20. **Program year.** "Program year" means the period from July 1 through June 30.

Subd. 21. **Recycling.** "Recycling" means the manufacturing of glass, plastic, or metal from empty beverage containers that have been previously processed.

Subd. 22. **Redeem.** "Redeem" means to pay the refund value of an empty beverage container to a person.

Subd. 23. **Retailer.** "Retailer" means a grocery store, a convenience store, an exclusive liquor store, or a large general merchandise store subject to the provisions of section 115A.1342, but does not include an on-site seller.

Subd. 24. **Unclaimed refunds.** "Unclaimed refunds" means the revenues remaining in the account established in section 115A.1338 after payment of all refunds, handling fees, and costs incurred by the agency and the department to implement and administer sections 115A.1335 to 115A.1348.

Subd. 25. **Wholesaler.** "Wholesaler" has the meaning given in section 340A.101, subdivision 28.

Subd. 26. **Wine.** "Wine" has the meaning given in section 340A.101, subdivision 29.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. **[115A.1336] BEVERAGE CONTAINER LABELING.**

After January 1, 2012, no beverage container may be sold or offered for sale in this state unless it clearly indicates by embossing or imprinting on the product label, or in the case of a metal beverage container, on top of the container, the word "Minnesota" or the letters "MN" and the refund value of the container in type at least one-eighth inch in height, or an alternate indication as may be approved by the commissioner. The names or abbreviations of other states that have enacted legislation comparable to that in sections 115A.1335 to 115A.1348 may be indicated on the container.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. **[115A.1337] MANUFACTURER REGISTRATION.**

(a) A manufacturer of beverage containers sold or offered for sale in this state after November 15, 2011, must submit a registration by that date to the agency that includes:

(1) a list of the manufacturer's brands of beverages sold in beverage containers offered for sale in this state and the size, shape, and material of the beverage containers;

(2) the name, address, and contact information of a person responsible for ensuring compliance with sections 115A.1335 to 115A.1348; and

(3) a certification that the manufacturer has complied and will continue to comply with the requirements of sections 115A.1335 to 115A.1348.

(b) A manufacturer who begins to sell or offer for sale beverage containers in this state after November 15, 2011, and has not filed a registration under this section must submit a registration to the agency within ten days of beginning to sell or offer for sale beverage containers in this state.

(c) A registration must be updated within 30 days after a change in the size, shape, or material of a manufacturer's brands of beverage containers sold or offered for sale in this state.

(d) A registration is effective upon receipt by the agency and is valid until June 30 of each program year.

(e) The agency must review each registration and notify the manufacturer of any information required by this section that is omitted from the registration. Within 30 days of receipt of a notification from the agency, the manufacturer must submit a revised registration providing the information noted by the agency.

(f) The agency must maintain on its Web site the names of manufacturers and the manufacturers' brands listed in registrations filed with the agency. The agency must update the Web site information promptly upon receipt of a new or updated registration.

(g) A retailer is not responsible for an unlawful sale under this section if the manufacturer's registration expired or was revoked and the retailer took possession of a beverage container prior to the expiration or revocation of the manufacturer's registration.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. [115A.1338] MANUFACTURER'S REGISTRATION FEE; CREATION OF ACCOUNT.

Subdivision 1. **Registration fee.** (a) Each manufacturer that registers under section 115A.1337 must, by July 1 each year, pay to the commissioner an annual registration fee. The commissioner of revenue must deposit the fee in the account established in subdivision 2.

(b) The registration fee for a manufacturer's initial year of registration is \$3 per 10,000 beverage containers sold in Minnesota during the previous 12 months and \$1 per 10,000 beverage containers sold in Minnesota during the previous 12 months thereafter.

Subd. 2. **Creation of account; appropriations.** (a) The beverage container recycling account is established in the environmental fund. The commissioner of revenue must deposit receipts from the fees established in subdivision 1 and section 115A.1339 and any penalties received from violations of sections 115A.1335 to 115A.1348 in the account. Any interest earned on the account must be credited to the account. Money from other sources may be credited to the account.

(b) Until June 30, 2014, money in the account is annually appropriated to the Pollution Control Agency for implementing sections 115A.1335 to 115A.1348.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 6. [115A.1339] MANUFACTURER PAYMENTS.

(a) Beginning January 1, 2012, each manufacturer registered under section 115A.1337 must pay monthly to the commissioner of revenue, for each beverage container sold or offered for sale in this state during the previous month, a refund value of ten cents and a handling fee of two cents.

(b) Data reported under this section by an individual manufacturer is nonpublic data, as defined in section 13.02, subdivision 9, except that the department or agency may release the data in summary form in which individual manufacturers are not identified and from which neither their identities nor any other characteristics that could uniquely identify an individual manufacturer is ascertainable.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 7. [115A.1340] FOREIGN MANUFACTURERS; REGISTRATION FEE AND PAYMENTS.

(a) A manufacturer who places beverages in beverage containers outside the United States that sells to a single wholesaler more than \$5,000 annually in beverage containers to be offered for sale in Minnesota must comply with the requirements of section 115A.1337.

(b) A wholesaler must pay the registration fee established in section 115A.1338 and the payments in section 115A.1339 for each manufacturer located outside the United States from whom the wholesaler purchases more than \$5,000 annually in beverage containers to be sold or offered for sale in Minnesota. A wholesaler has the right to recover payments made under this section from a manufacturer who places beverages in beverage containers outside the United States.

Sec. 8. [115A.1341] REFUND CENTERS.

(a) Any person may establish a refund center, subject to the approval of the commissioner, at which a person may return empty beverage containers and receive payment of the containers' refund value.

(b) Application for approval of a refund center must be made on a form prescribed by the commissioner.

(c) The commissioner must approve a request to establish a refund center if the commissioner determines that the refund center provides a convenient service to persons for the return of empty beverage containers and complies with local land use regulations.

(d) The commissioner may review approval of a request to establish a refund center at any time and may, after public hearing, withdraw approval of a refund center if the commissioner finds that the refund center no longer provides a convenient service to the public or has violated a provision of this section or section 115A.1342.

(e) A refund center may make commercial arrangements with a hauler to transport beverage containers or with on-site sellers of beverage containers to accept empty beverage containers and may pay the transporters or on-site sellers less than the full refund value of the containers. A refund center arranging to accept empty beverage containers from an on-site seller must certify chain of custody of unredeemed empty beverage containers from on-site sellers and certify that no redeemed empty beverage containers are mixed with unredeemed empty beverage containers.

(f) A refund center may contract with organizers of special events to collect, process, and recycle empty beverage containers.

(g) A refund center may process empty beverage containers it has redeemed or unredeemed containers it has received under paragraph (e) or (f).

(h) A nonprofit organization may receive refunds on empty beverage containers it brings to a refund center.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 9. [115A.1342] RETAILERS' AND REFUND CENTERS' RESPONSIBILITIES.

Subdivision 1. Acceptance of beverage containers. (a) A retailer or refund center must accept and pay the refund value of any empty beverage container that:

(1) is an intact beverage container;

(2) does not visibly contain a substance other than water, residue from its original contents, or ordinary dust; and

(3) is labeled as required under section 115A.1336.

(b) A retailer or refund center must not accept or pay the refund value of an empty beverage container that does not comply with each of the provisions of paragraph (a).

Subd. 2. Payment of refund value. (a) A retailer must ensure that the process of redeeming empty beverage containers is no more time-consuming and no less efficient than making a retail purchase at the retailer's store.

(b) Except as provided in this subdivision, subdivision 1, paragraph (b), and section 115A.1345, a retailer or refund center must pay the refund value of any empty beverage container to a person who brings the empty beverage container to the retailer.

(c) A retailer may accept, but is not required to accept, empty beverage containers from a person for a refund in excess of \$20 on any given day. A refund center may accept, but is not required to accept, empty beverage containers from a person for a refund in excess of \$100 on any given day.

(d) A retailer may offer, at the retailer's discretion, in lieu of a cash refund, in-store credit in an amount equal to the cash refund owed to a person bringing empty beverage containers to the retailer for redemption.

Subd. 3. Disposition of containers. (a) Empty beverage containers redeemed by a retailer or refund center are the property of the retailer or refund center.

(b) To minimize opportunities for fraud, a retailer or refund center must, within one business day after paying a refund on an empty beverage container, crush, shred, or clearly and permanently mark the empty beverage container as redeemed. Until one of these treatment methods is applied to a redeemed empty beverage container, a retailer or refund center must provide for secure storage of the redeemed empty beverage container.

(c) A retailer or refund center may process empty beverage containers it has redeemed and treated under paragraph (b) to make the empty beverage containers ready to be recycled.

(d) A retailer or refund center may contract with a person to transport empty beverage containers it has redeemed to a processor or recycler or contract directly with a processor or recycler for processing or recycling of empty beverage containers. A retailer or refund center is responsible for maintaining, for a period of three years, documentation indicating where all empty beverage containers it redeems are transported for processing and recycling.

Subd. 4. Retailer and refund center compensation. A retailer or refund center is entitled to monthly payment from the department of the refund value of each empty beverage container the retailer or refund center redeems, plus the following compensation for handling:

(1) for a large general merchandise store, one cent per empty beverage container redeemed by the large general merchandise store;

(2) for a grocery store or convenience store, two cents per empty beverage container redeemed by the grocery store or convenience store;

(3) for an exclusive liquor store, two cents per empty beverage container redeemed by the exclusive liquor store; and

(4) for refund centers, two cents per empty beverage container redeemed by the refund center.

Subd. 5. **Reporting.** A retailer or refund center must report monthly to the commissioner on a form developed by the commissioner:

(1) the amount of refunds paid to redeem empty beverage containers;

(2) a separate count of the number of empty glass, metal, and plastic beverage containers redeemed;

(3) to whom and in what amounts redeemed empty beverage containers were transported; and

(4) any other information requested by the commissioner.

Subd. 6. **Nonpublic data.** Data reported under subdivision 5 by an individual retailer or refund center are classified as nonpublic data, as defined in section 13.02, subdivision 9, except that the agency may release the data in summary form in which individual retailers or refund centers are not identified and from which neither their identities nor any other characteristics that could uniquely identify an individual retailer or refund center is ascertainable.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 10. [115A.1343] HAULERS' RESPONSIBILITIES.

(a) A hauler may arrange with a retailer, refund center, processor, or recycler to collect and transport redeemed empty beverage containers to a processor or recycler.

(b) A hauler may arrange with an on-site seller, homeowner, owner of multifamily housing, or municipality to collect and transport unredeemed empty beverage containers to a refund center, processor, or recycler.

(c) A hauler collecting and transporting unredeemed empty beverage containers must certify to the person to whom the unredeemed empty beverage containers are delivered that no redeemed empty beverage containers are mixed with unredeemed empty beverage containers.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 11. [115A.1344] PROCESSORS' RESPONSIBILITIES.

(a) A processor may accept for processing:

(1) redeemed empty beverage containers from a hauler, retailer, or refund center; and

(2) unredeemed empty beverage containers from a homeowner, an owner of multifamily housing, an on-site seller, a hauler, or a municipality utilizing a curbside collection system.

(b) A processor must be able to certify that redeemed empty beverage containers are not mixed in with unredeemed empty beverage containers accepted for processing.

(c) A processor is entitled to be paid an amount for documented unredeemed empty beverage containers in its possession based on the weight of the material, as established by the commissioner under section 115A.1346, subdivision 1.

(d) A processor may sell processed empty beverage container material to a material trader or a recycler.

(e) A processor must report each month to the commissioner both the number of redeemed and unredeemed empty beverage containers it receives, processes, and transports.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 12. **[115A.1345] ON-SITE SELLERS' RESPONSIBILITIES.**

(a) An on-site seller may, but is not required to, redeem empty beverage containers.

(b) An on-site seller that elects to redeem empty beverage containers:

(1) is eligible to receive directly from the department the refund value and a handling fee payment of 2 cents for each empty beverage container redeemed; and

(2) must comply with the provisions of section 115A.1342 to which a retailer is subject.

(c) An on-site seller that elects not to redeem empty beverage containers is not eligible to receive directly from the department the refund value or a handling fee payment for empty beverage containers.

(d) An on-site seller must offer conveniently placed and adequately sized containers for the disposal by customers and employees of empty beverage containers holding beverages consumed by retail customers on site. The containers must be clearly labeled to indicate that no material other than empty beverage containers may be deposited in them.

(e) An on-site seller may arrange with a hauler or a refund center to take possession of the on-site seller's unredeemed empty beverage containers and may receive all or a portion of the revenue the transporter or refund center receives for redeeming the empty beverage containers.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 13. **[115A.1346] AGENCY AND DEPARTMENT DUTIES.**

Subdivision 1. **Agency duties.** (a) The agency shall administer sections 115A.1335 to 115A.1348.

(b) The agency shall establish procedures for receipt and maintenance of the registrations filed with the agency under section 115A.1337 and shall make them easily available to manufacturers, retailers, and members of the public.

(c) The agency shall establish a refund value to be paid based on the weight of empty beverage containers redeemed.

(d) The agency shall annually review:

(1) the amount of empty beverage containers collected, processed, and recycled by material type, by type of retailer, and by refund centers;

(2) the manufacturers' registration fee; and

(3) the reports submitted under section 115A.1344.

(e) The agency shall review the monthly reports from retailers and refund centers required under section 115A.1342 and the report required from processors under section 115A.1344, certify the proper amount of refund due to each entity submitting a report, and request the department to remit refunds in those amounts to each entity.

(f) On or before December 1, 2013, and each year thereafter, the agency shall provide a report to the governor and the legislature on the implementation of sections 115A.1335 to 115A.1348. For each program year, the report must discuss the total amount of beverage containers recycled and a summary of information in the reports submitted by retailers and refund centers under section 115A.1342, subdivision 5. The report must also discuss the various collection programs used to collect beverage containers and information about beverage containers, if any, being disposed of in landfills in the state. The report must include a description of enforcement actions under sections 115A.1335 to 115A.1348. The agency may include in its report other information received or developed by the agency regarding the implementation of sections 115A.1335 to 115A.1348.

(g) The agency shall enforce sections 115A.1335 to 115A.1348 in the manner provided by sections 115.071, subdivisions 1, 3, 4, 5, and 6; and 116.072.

(h) The agency shall develop a form retailers and refund centers must use to report information under section 115A.1342, subdivision 5.

Subd. 2. **Department duties.** (a) The department shall pay refunds as directed by the agency under subdivision 1, paragraph (e).

(b) The department shall manage the account established in section 115A.1338, subdivision 2. If the revenues in the account exceed the amount that the department determines is necessary for efficient and effective administration of the program, including

12.1 any amount for contingencies, the agency must recommend to the legislature that the
12.2 registration fee be lowered to reduce revenues collected in the subsequent program year
12.3 by the estimated amount of the excess.

12.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.5 Sec. 14. **[115A.1347] UNCLAIMED REFUNDS.**

12.6 From all unclaimed refunds in the beverage container recycling account, the
12.7 commissioner shall transfer at the end of each quarter:

12.8 (1) 90 percent to the environmental fund; and

12.9 (2) ten percent, divided in equal amounts, to each county for the purpose of solid
12.10 waste management.

12.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.12 Sec. 15. **[115A.1348] VIOLATIONS.**

12.13 Actions that violate sections 115A.1335 to 115A.1347 include, but are not limited
12.14 to, the following:

12.15 (1) collecting or attempting to collect the refund value or handling fee on an empty
12.16 beverage container after the applicable refund or handling fee has been paid on the empty
12.17 beverage container;

12.18 (2) manufacturing, selling, possessing, or affixing a false or counterfeit label
12.19 purporting to comply with the requirements of section 115A.1336; and

12.20 (3) collecting or attempting to collect the refund value or handling fee on an empty
12.21 beverage container with the use of a false or counterfeit label.

12.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.