

BOTTLING AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Ty McCartney

This act relates to Environmental Quality. This act requires a deposit on the purchase of specified beverage containers, provides for a refund of the container deposit, provides labeling requirements for deposit containers, and provides standards for containers.

This act authorizes redemption centers. This act takes effect on June 1, 2003.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

19-9-101, Utah Code Annotated 1953

19-9-102, Utah Code Annotated 1953

19-9-103, Utah Code Annotated 1953

19-9-104, Utah Code Annotated 1953

19-9-105, Utah Code Annotated 1953

19-9-106, Utah Code Annotated 1953

19-9-107, Utah Code Annotated 1953

19-9-108, Utah Code Annotated 1953

19-9-109, Utah Code Annotated 1953

19-9-110, Utah Code Annotated 1953

19-9-111, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **19-9-101** is enacted to read:

CHAPTER 9. CONTAINER DEPOSIT ACT**19-9-101. Definitions.**

As used in this chapter:

(1) "Beverage" means:



(a) soda water or similar carbonated drinks commonly known as soft drinks;

(b) mineral water, including naturally sparkling water; and

(c) beer, ale, and other malt beverages.

(2) "Container" means each sealable bottle, can, jar, or carton:

(a) composed primarily of glass, metal, plastic, or any combination of these materials;

(b) produced for the purpose of containing a beverage; and

(c) that has a capacity of one gallon or less.

(3) (a) "Dealer" means any person, including the operator of a vending machine, who engages in the sale of beverages in containers to consumers in the state.

(b) "Dealer" does not include persons selling beverages to be consumed on the premises under Section 19-9-104.

(4) "Distributor" means any person, including manufacturers, who engages in the sale of beverages in containers to dealers in the state.

(5) "Manufacturer" means any person who bottles, cans, or otherwise fills beverage containers for sale to distributors or dealers.

(6) "Refillable" means a container designed and constructed so it is structurally capable of being refilled and resold by a manufacturer at least ten times after its initial use.

Section 2. Section **19-9-102** is enacted to read:

19-9-102. Container deposit.

Every beverage container sold or offered for sale in this state, except those offered for sale on interstate passenger carriers, is subject to a deposit:

(1) of at least 5 cents for beverage containers that hold a maximum of 24 ounces at the time of sale; and

(2) of at least 10 cents for containers that hold more than 24 ounces at the time of sale.

Section 3. Section **19-9-103** is enacted to read:

19-9-103. Container labeling.

(1) (a) Every beverage container, except permanently labeled glass containers under Subsections (2) and (3), shall clearly indicate in type, not less than 1/4 inch in size, the legend:

(i) "UT 5¢" or "UT 10¢" according to container size; or

(ii) "UT" followed by any other amount specified by the manufacturer or distributor.

(b) The legend shall be placed on the container by embossing, stamp, label, or other

method that securely affixes the legend to the container. The legend may not be placed on the bottom of the container.

(2) Refillable glass beverage containers on which the brand name is embossed in clearly legible type, other than on the bottom of the container, are not subject to the requirements of Subsection (1) but are subject to the deposit and refund requirements of this section.

(3) Beginning on January 1, 2004, all newly manufactured refillable glass beverage containers produced in this state or imported into this state for sale in this state shall have the legend required under Subsection (1) embossed on the container.

Section 4. Section 19-9-104 is enacted to read:

19-9-104. Deposit collection -- Dealers -- Exception.

(1) A dealer who sells beverages in containers in this state shall charge the consumer the deposit required under this section, except under Subsection (2).

(2) A dealer who operates a business for the sale of prepared food or alcoholic beverages, or both, for immediate consumption in the area under the dealer's control is not required to charge a deposit under this section.

Section 5. Section 19-9-105 is enacted to read:

19-9-105. Deposit collection -- Manufacturers.

A manufacturer or distributor who sells beverages in containers to dealers shall charge the dealer the deposit required under this section.

Section 6. Section 19-9-106 is enacted to read:

19-9-106. Redemption of containers -- Conditions.

(1) Except under Subsections (2) and (3), a dealer during his business hours shall accept from any person any empty beverage container of the type, size, and brand sold by the dealer within the past 60 days for redemption if the container is labeled according to this section, the label is readable, and the container meets the following conditions:

(a) if the container is refillable glass, the container is able to hold liquid, is resealable, holds its original shape, and is not chipped or cracked;

(b) if the container is nonrefillable glass, the container may be chipped, but may not have the bottom broken out or the neck broken off;

(c) if the container is a metal can or plastic bottle, the container must be identifiable

90 and reasonably intact; and

91 (d) the container does not contain any free flowing liquid or any other material except
92 the minimal residue left after the container has been emptied of the beverage that was sold in it.

93 (2) If the dealer is the operator of a vending machine, the dealer is not obligated to
94 accept containers for redemption if the vending machine is clearly and conspicuously posted
95 with a notice that a refund of 5 cents or 10 cents, as applicable, is available on each container
96 purchased, and locations where the refund may be obtained.

97 (3) A dealer may refuse to refund container deposits totaling more than \$25 to any
98 person in a 24-hour period.

99 Section 7. Section **19-9-107** is enacted to read:

100 **19-9-107. Discontinuance of sale of container.**

101 (1) If a dealer discontinues sale of a container, the dealer shall refund deposits for the
102 container for not less than 60 days after the dealer has discontinued sale of the container.

103 (2) The dealer shall conspicuously post at the place where the container to be
104 discontinued is sold a clearly legible notice stating the last date the container will be sold and
105 also the last date when refunds on the container deposits will be made.

106 (3) The notice shall be posted no later than the last date of sale of the container.

107 Section 8. Section **19-9-108** is enacted to read:

108 **19-9-108. Refunds by distributors.**

109 (1) Distributors shall refund container deposits to the dealers for containers that meet
110 the conditions under Subsection 19-9-106(1).

111 (2) The distributor shall remove the containers from the premises of a dealer serviced
112 by the distributor if the dealer is located within the territory of the distributor.

113 (3) The distributor shall pay the refund value to the dealer in accordance with the
114 schedule for payment by the dealer to the distributor or manufacturer for full beverage
115 containers.

116 Section 9. Section **19-9-109** is enacted to read:

117 **19-9-109. Handling fee.**

118 The distributor or manufacturer shall pay the dealer for each beverage container a
119 handling fee of not less than 2 cents.

120 Section 10. Section **19-9-110** is enacted to read:

19-9-110. Redemption centers.

(1) Redemption centers for containers described in this part may be established by dealers, distributors, manufacturers, or independent third parties.

(2) A distributor or manufacturer may not refuse to accept or redeem from the operator of a redemption center any beverage container that:

(a) meets the conditions under Section 19-9-106; and

(b) is of the type sold by any dealer serviced by that distributor or of the type produced by that manufacturer.

(3) The distributor or manufacturer shall pay the operator of the redemption center for each beverage container he returns under this section:

(a) the redemption value for the container under this chapter; and

(b) a handling fee of not less than 2 cents for each beverage container.

Section 11. Section **19-9-111** is enacted to read:

19-9-111. Penalties.

(1) A violation of this section is subject to a civil penalty of not more than:

(a) \$100 for the first violation;

(b) \$200 for a second violation within six months of the first violation; and

(c) \$300 for any subsequent violation within six months of the second violation.

(2) Each violation involving a container is a separate violation.

Section 12. **Effective date.**

This act takes effect on June 1, 2003.

Legislative Review Note

as of 2-17-03 2:25 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note**Bottling Amendments***24-Feb-03***Bill Number HB0368***3:37 PM*

State Impact

Provisions of this bill has a minimal fiscal effect on state government. Some implementation and oversight will be required by local governments.

Individual and Business Impact

A significant fiscal effort will be required by businesses that are required to charge the container fee or disburse the refund to consumers. Individuals will be charged the fee required by the bill but will have the option to return the containers for a refund.

Office of the Legislative Fiscal Analyst