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INTERSTATE BOTTLE REDEMPTION FRAUD

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This report provides information about provisions in state bottle bills to prevent interstate beverage container redemption fraud.

SUMMARY

Ten states, including Connecticut, have a beverage container redemption law, also known as a bottle bill, which allows people to redeem certain containers purchased in the state for deposits paid at purchase. The types of beverage containers included in a bottle bill vary by state but may include containers for beer and malt beverages, soft drinks, and water.

Six states (California, Maine, Massachusetts, Michigan, New York, and Vermont) have provisions in statute or regulations to prevent people from redeeming beverage containers purchased out-of-state for deposits they did not pay in the state where they are redeemed. The penalties for violating these laws vary but may include fines, imprisonment, or both. The fines range from \$100 to \$25,000 depending on the state where the violation occurs and the circumstances of the violation. The terms of possible imprisonment also varies.

The information in this report was obtained from the Container Recycling Institute's (CRI) [Bottle Bill Resource Guide](#) and a review of the states' beverage container redemption laws. CRI is a national nonprofit

organization that studies and promotes policies and programs to increase beverage container recovery and recycling.

INTERSTATE BOTTLE REDEMPTION FRAUD

Ten states (California, Connecticut, Hawaii, Iowa, Maine, Massachusetts, Michigan, New York, Oregon, and Vermont) have a beverage container redemption law. States that collect refundable deposits are commonly referred to as bottle bill states.

One form of bottle bill fraud occurs when someone attempts to redeem or redeems in a bottle bill state a container purchased in a state that does not collect refundable deposits on beer, soft drink, or other beverage containers. Six states have bottle bills with provisions to prevent interstate bottle redemption or to provide penalties for redeeming containers purchased out-of-state: California, Maine, Massachusetts, Michigan, New York, and Vermont. Brief summaries of these states' laws follow.

California

California law prohibits a person from defrauding the state by redeeming or attempting to redeem beverage containers purchased out-of-state or bringing out-of-state containers to the marketplace for redemption. It also prohibits a person from receiving any refund for beverage container material that he or she knows or should know was brought from out-of-state ([Cal. Pub. Res. Code § 14595.5](#)).

A person convicted of fraud for redeeming out-of-state containers or bringing out-of-state containers to the marketplace for redemption is subject to a fine, imprisonment, or both. The penalty for committing this fraud varies depending, in part, on the amount of money obtained illegally. A person who obtains less than \$950 is subject to a fine of up to \$1,000, imprisonment for up to six months, or both. More serious penalties are imposed on someone convicted of illegally obtaining more than \$950. For a crime not involving received money, the violation is an infraction which subjects a violator to a fine of \$100 for each initial violation and up to \$1,000 for each subsequent violation. Additional civil penalties are possible and a person may be required to pay restitution ([Cal. Pub. Res. Code § 14591 et seq.](#)).

Maine

Maine law prohibits a person from trying to redeem more than 48 empty beverage containers if they know or have reason to know that the containers were sold out-of-state. A violator is subject to a civil penalty of the greater of \$100 for each container or \$25,000 for each tender of

containers. Redemption locations must display a sign informing people of the prohibition and penalty ([Me. Rev. Stat. Ann. tit. 32, §§ 1866\(8\) to 1866\(11\)](#)).

The law generally requires a person who brings over 2,500 beverage containers for redemption to provide the facility with his or her name, address, and license plate number of the vehicle used to transport the containers. This information is provided to the Department of Agriculture, Food, and Natural Resources, which retains it for at least 12 months ([Me. Rev. Stat. Ann. tit. 32, § 1866](#)).

It is also a violation to possess over 48 improperly labeled beverage containers and a violator may forfeit \$100 for each container over this number. Licensed waste facilities are not subject to this requirement. Manufacturers and distributors can bring a civil action against someone, other than a local redemption center, who possesses more than 48 beverage containers that he or she knows or has reason to know were sold out-of-state. A prevailing manufacturer or distributor is entitled to attorney's fees and court costs ([Me. Rev. Stat. Ann. tit. 32 § 1872](#)).

Massachusetts

Massachusetts law prohibits a person from trying to redeem more than 240 empty beverage containers that he or she knows or has reason to know were not sold in the state ([Mass. Gen. Laws ch. 94, § 323](#)). The law subjects violators to a civil penalty of the greater of \$100 for each container or \$25,000 for each tender of containers ([Mass. Gen. Laws ch. 94, § 327](#)).

Michigan

Michigan law prohibits returning or attempting to return a beverage container that a person knows or should know was purchased out-of-state. It subjects the person to a civil fine and possible imprisonment depending upon the number of nonreturnable containers involved and whether the action is a first or subsequent offense.

For example, returning 25 to 100 nonreturnable containers subjects a person to a fine of up to \$100. If someone returns more than 100 but fewer than 10,000 nonreturnable containers or is a repeat offender of returning 25 to 100 nonreturnable containers, he or she may be guilty of a misdemeanor and subject to a fine of up to \$1,000, imprisonment for up to 93 days, or both. Felony convictions with higher fines and lengths of imprisonment are possible (i.e., up to \$5,000, up to five years, or both).

Dealers and distributors are generally subject to similar penalties for knowingly accepting nonreturnable containers and paying deposits on them. Courts must order a person found guilty for violating this law to pay restitution ([Mich. Comp. Laws § 445.574a](#)).

Dealers must post a sign where returnable containers are redeemed informing the public that someone who returns out-of-state containers for a refund is subject to penalties including imprisonment and civil fines ([Mich. Comp. Laws § 445.574b](#)).

In 2008, several bills to prevent the fraudulent redemption of out-of-state containers became law. Among other things, the new laws required a machine-readable, unique state-specific mark on certain beverage containers ([Mich. Comp. Laws § 445.572a\(10\)](#)). The mark had to indicate whether the container was redeemable. Violators of this requirement were subject to possible fines and imprisonment. But in November 2012, the Sixth Circuit Court of Appeals determined this requirement was unconstitutional because it violated the U.S. Constitution's Commerce Clause. Specifically, the court ruled that it created an impermissible extraterritorial effect by requiring manufacturers and distributors to adopt the unique labeling system without considering less burdensome alternatives ([American Beverage Association v. Snyder](#), 2012 WL 5954834 (C.A.6 (Mich.))).

New York

New York law prohibits knowingly redeeming an empty beverage container that was not sold in the state. Dealers (retailers) must post a sign at the point of sale to inform customers that, among other things, it is illegal to return beverage containers for a refund if the containers were not purchased in New York ([N.Y. Eenvtl. Conserv. § 27-1007](#)).

A violation of the law is a public nuisance and violators are subject to a civil penalty of up to \$500 and up to \$500 for each day the violation continues. A distributor who violates the law is subject to a civil penalty of up to \$1,000 and up to \$1,000 for each day that the violation continues. The law also provides a specific civil penalty that may be assessed against a person who willfully tenders more than 48 empty beverage containers for redemption when the person knows or should reasonably know that the containers were not sold in the state. This penalty is a fine of up to \$100 for each container or up to \$25,000 for each tender of containers. Redemption locations must have a sign warning people of this penalty ([N.Y. Eenvtl. Conserv. § 27-1015](#)).

The law also contains a provision requiring beverage container labels to be registered and bear a unique Universal Product Code (UPC) specific to New York. The unique UPC would identify the product as being offered for sale in the state and prevent illegal redemption of containers purchased out-of-state. But this provision is permanently enjoined and not enforceable as the result of stipulated final judgments in *IBWA v. Paterson* ([N.Y. Envtl. Conserv. § 27-1012\(12\)](#)). (In *IBWA*, the plaintiffs alleged, among other things, that the unique UPC requirement violated the Commerce Clause of the U.S. Constitution.)

Vermont

Vermont law prohibits a person from knowingly trying to redeem a container purchased out-of-state with a retailer or redemption center. The law subjects a violator to a fine of up to \$1,000 for each violation ([Vt. Stat. Ann. tit. 10 §§ 1525 and 1527](#)). Similarly, the law prohibits knowingly trying to redeem a container that is improperly labeled. Redemption centers and retailers can also be penalized for redeeming foreign (i.e., unlabeled) containers ([Vt. Code R. §§ 10-103 and 10-110](#)).

HYPERLINKS

The Container Recycling Institute's *Bottle Bill Resource Guide*, <http://www.bottlebill.org/>, last visited January 11, 2013.

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