



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3424

Introduced 2/14/2020, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

See Index

Creates the Illinois Container Fee and Deposit Act. Provides for a deposit value of 5 cents to be paid by consumers on each beverage container sold in the State by a dealer for consumption. Provides that upon the return to a dealer or person operating a redemption center, the dealer or redemption center shall pay the value of the deposit back to the consumer as a refund. Sets forth requirements for the administration of the program. Provides certain exemptions to the program. Requires that the refund value be clearly indicated on all beverage containers sold in the State. Provides for the Environmental Protection Agency to certify redemption centers. Prohibits snap-top beverage containers. Provides that persons violating the Act shall be guilty of a Class C misdemeanor. Prohibits the manufacture of certain plastic metal beverage containers. Prohibits the disposal of beverage containers at sanitary landfills. Provides that deposits not passed on to the consumer through bottle redemption shall be distributed as follows: 75% to the Agency for environmental and conservation-related programs, and 25% to each distributor in proportion to the amount of beverage containers each distributor sold in the State. Amends the State Finance Act to create the Illinois Container Fee and Deposit Fund. Amends the Illinois Food, Drug and Cosmetic Act. Provides that a full service restaurant or quick service restaurant shall not provide single use plastic disposable foodware items to a consumer ordering or purchasing dine-in food unless requested by the consumer. Contains other specified requirements for full service or quick service restaurants and provides civil penalties for any violations. Effective July 1, 2021.

LRB101 18089 CPF 67528 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Illinois Container Fee and Deposit Act.

6 Section 5. Definitions. As used in this Act, the following
7 terms shall have the meanings indicated, unless the context
8 otherwise requires:

9 "Agency" means the Illinois Environmental Protection
10 Agency.

11 "Beverage" means (i) wine, alcoholic liquor, or beer as
12 defined in the Liquor Control Act of 1934 or (ii) mineral
13 water, tea, coffee, soda water, or similar carbonated soft
14 drinks, bottled water, juice, or other drinks in liquid form
15 intended for human consumption and excluding products that are
16 primarily derived from dairy.

17 "Beverage container" means any glass, plastic, aluminum,
18 or other metal can, bottle, jar, or carton, in which the
19 bottler or the manufacturer has sealed the contents.

20 "Consumer" means a person who purchases or acquires a
21 beverage in a beverage container for the use of its contents.

22 "Dealer" means a person who sells or offers for sale to
23 consumers within this State a beverage in a beverage container,

1 including an operator of a vending machine containing a
2 beverage in a beverage container.

3 "Dealer agent" means a person who solicits or picks up
4 empty beverage containers from a dealer for the purpose of
5 returning the empty beverage containers to the distributor or
6 the manufacturer.

7 "Director" means the Director of the Illinois
8 Environmental Protection Agency.

9 "Distributor" means a person who engages in the sale of
10 beverages in beverage containers to a dealer in the State,
11 including a manufacturer who engages in those sales.

12 "Geographic territory" means the geographical area within
13 a perimeter formed by the outermost boundaries of the area
14 served by a distributor.

15 "Illinois Container Fee and Deposit Fund" means a fund
16 created for the deposit and disbursement of all deposit and
17 redemption center fee moneys generated through the
18 administration of this Act.

19 "Manufacturer" means a person who bottles, cans, or
20 otherwise fills beverage containers for sale to distributors or
21 dealers.

22 "Nonrefillable beverage container" means a beverage
23 container that, after being used by a consumer, is not intended
24 to be refilled for sale by a manufacturer.

25 "Redemption center" means a business at which consumers may
26 return empty beverage containers and receive payment for the

1 refund value of the empty beverage containers.

2 Section 10. The Illinois Container Fee and Deposit Fund.
3 The Illinois Container Fee and Deposit Fund is created as a
4 special Fund in the State treasury. All moneys retrieved
5 through the administration of this Act shall be deposited into
6 the Fund and administered by the Agency. Distributors shall
7 submit via deposit to the Fund the deposit and redemption
8 center fee moneys from the beverage containers they sell in
9 this State. The Fund shall then be used to distribute these
10 moneys to redemption centers in accordance with the rules
11 adopted for administration of this Act.

12 Section 15. Deposit values.

13 (a) A deposit value of 5 cents shall be paid by the
14 consumer on each beverage container sold in the State by a
15 dealer for consumption. Upon the return to a dealer or person
16 operating a redemption center of the empty beverage container
17 upon which a deposit has been paid and the acceptance of the
18 empty beverage container by the dealer or the person operating
19 the redemption center, the dealer or redemption center must
20 refund the value of the deposit to the consumer.

21 (b) In addition to the deposit refund provided in
22 subsection (a), a dealer, dealer agent, or person operating a
23 redemption center who redeems empty beverage containers shall
24 be reimbursed by any distributor required to accept the empty

1 beverage containers a value of 2-cents per container (the
2 "redemption center fee"). A dealer, dealer agent, or person
3 operating a redemption center may compact empty metal beverage
4 containers with the approval of the distributor required to
5 accept the containers.

6 Section 20. Payment of deposit value; notice to consumers.
7 Except as provided in Section 25:

8 (1) A dealer may not refuse to accept from a consumer
9 any empty beverage container of the kind, size, or brand
10 sold by the dealer or refuse to pay to the consumer the
11 deposit value of the beverage container as stated in
12 Section 15, provided that the beverage container is
13 returned to the dealer in an empty, unbroken, and
14 reasonably clean state.

15 (2) A dealer must place a sign or shelf label in close
16 proximity to any sales display of beverage containers to
17 inform consumers that containers are returnable. The sign
18 or label shall indicate the value of the deposit required
19 for each beverage container and that containers are
20 returnable.

21 (3) An operator of a vending machine that sells
22 containers shall post a conspicuous notice on the vending
23 machine indicating that a deposit refund is available on
24 each container purchased and indicating where and from whom
25 that refund may be obtained. This Section does not require

1 vending machine operators to provide refunds at the
2 premises where the vending machine is located.

3 (4) A dealer may limit the total number of beverage
4 containers that he or she will accept from one consumer on
5 any business day to 100 containers. The dealer may refuse
6 to accept containers for a period of not more than 3 hours
7 during any business day, provided that the hours during
8 which containers will not be accepted are conspicuously
9 posted.

10 (5) A distributor shall accept and pick up all empty
11 beverage containers of the kind, size, or brand sold by the
12 distributor from all dealers served by the distributor and
13 from all redemption centers. If the distributor delivers
14 the beverage product less frequently than weekly, then the
15 distributor shall accept and pick up any empty beverage
16 container of the kind, size, or brand sold by the
17 distributor at the time of that delivery. The distributor
18 shall pay to the dealer or the redemption center the
19 deposit refund value of the beverage container and the
20 redemption center fee as provided under Section 15 of this
21 Act either within one week following the pickup of the
22 containers or when the dealer or redemption center normally
23 pays the distributor for the deposit on beverage products
24 purchased from the distributor if less frequently than
25 weekly. A distributor, employee, or agent of a distributor
26 is not in violation of this paragraph if a redemption

1 center is closed when the distributor attempts to make a
2 regular delivery or a regular pickup of empty beverage
3 containers.

4 (6) A distributor shall accept from a dealer agent any
5 empty beverage container of the kind, size, or brand sold
6 by the distributor that was picked up by the dealer agent
7 from a dealer within the geographic territory served by the
8 distributor. The distributor shall pay the dealer agent the
9 deposit value of the empty beverage container and the
10 redemption center fee as provided in Section 15.

11 (7) The Agency shall adopt rules regulating the
12 recycling and disposal of empty beverage containers. The
13 rules shall give priority to the recycling of empty
14 beverage containers to the extent possible.

15 Section 25. Refusal to accept containers.

16 (a) A dealer, redemption center, distributor, or
17 manufacturer may refuse to accept any empty beverage container
18 that does not have stated on it a deposit value as provided
19 under Section 30.

20 (b) A dealer may refuse to accept any type of container
21 that the dealer has not sold within the past 60 days.

22 (c) A dealer may refuse to accept and to pay the refund
23 value of any empty beverage container if the place of business
24 of the dealer and the kind and brand of empty beverage
25 containers are included in an order of the Agency approving a

1 redemption center under Section 35.

2 (d) An owner or operator of an establishment who sells
3 beverages for consumption only on the premises may refuse to
4 accept and to pay the refund value on an empty alcoholic liquor
5 container except from a consumer who has purchased and consumed
6 the beverage at that establishment.

7 (e) A manufacturer or distributor may refuse to accept and
8 to pay the refund value and reimbursement as provided in
9 Section 25 on any empty beverage container that was picked up
10 by a dealer agent from a dealer outside the geographic
11 territory served by that manufacturer or distributor.

12 (f) A distributor may refuse to accept beverage containers
13 from any person who is not a dealer in a quantity of fewer than
14 300 containers of the type, size, or brand sold by the
15 distributor.

16 Section 30. Deposit value stated on container; exceptions.

17 (a) Each beverage container sold or offered for sale in
18 this State by a dealer shall clearly indicate by embossing or
19 by a stamp, label, or other method securely affixed to the
20 container the refund value of that container. The Agency shall
21 specify, by rule, the minimum size of the deposit value
22 indication on the beverage containers.

23 (b) A distributor shall not import into this State after
24 January 1, 2020 a beverage container that does not have the
25 deposit value indication securely affixed to the container.

1 (c) A person may not bring beverage containers into this
2 State after January 1, 2020 that do not have the deposit value
3 indication securely affixed unless for each occurrence:

4 (1) For beverage containers containing alcoholic
5 liquor as defined in the Liquor Control Act of 1934, the
6 total capacity of the container is not more than one quart
7 or, in the case of alcoholic liquor personally obtained
8 outside the United States, one gallon.

9 (2) For beverage containers containing beer as defined
10 in the Liquor Control Act of 1934, the total capacity of
11 the container is not more than 288 fluid ounces.

12 (3) For all other beverage containers, the total
13 capacity of the container is not more than 565 fluid
14 ounces.

15 (d) The provisions of subsections (a), (b), and (c) do not
16 apply to a refillable glass beverage container that has a brand
17 name permanently marked on it and that has a deposit value of
18 greater than 5 cents, to any other refillable beverage
19 container that has a deposit value of not less than 5 cents and
20 that is exempted by the Director under rules adopted by the
21 Agency, or to a beverage container sold aboard a commercial
22 airliner or passenger train for consumption on the premises.

23 Section 35. Redemption centers.

24 (a) To facilitate the return of empty beverage containers
25 and to serve dealers of beverages, any person may establish a

1 redemption center, subject to the approval of the Agency, at
2 which consumers may return empty beverage containers and
3 receive payment of the stated deposit value.

4 (b) An application for approval of a redemption center
5 shall be filed with the Agency. The application shall state the
6 name and address of the person responsible for the
7 establishment and operation of the redemption center, the kind
8 and brand names of the beverage containers that will be
9 accepted at the redemption center, and the names and addresses
10 of the dealers to be served by the redemption center. The
11 application shall contain any other information that the
12 Director may reasonably require.

13 (c) The Agency shall approve a redemption center if it
14 finds that the redemption center will provide a convenient
15 service to consumers for the return of empty beverage
16 containers. The order of the Agency approving a redemption
17 center shall state the dealers to be served by the redemption
18 center and the kind and brand names of empty beverage
19 containers that the redemption center must accept. The order
20 may contain such other provisions to ensure that the redemption
21 center will provide a convenient service to the public as the
22 Director may determine.

23 (d) The Agency may review the approval of any redemption
24 center at any time. After written notice to the person
25 responsible for the establishment and operation of the
26 redemption center, and to the dealers served by the redemption

1 center, the Agency may, after hearing, withdraw approval of the
2 redemption center if the Agency finds there has not been
3 compliance with the Agency's order approving the redemption
4 center, or if the redemption center no longer provides a
5 convenient service to the public.

6 (e) All approved redemption centers shall meet applicable
7 health standards.

8 Section 40. Snap-top cans prohibited. No person shall sell
9 or offer for sale at retail in this State any metal beverage
10 container so designed and constructed that a part of the
11 container is detachable in opening the container.

12 Section 45. Rules. The Agency shall adopt, upon
13 recommendation of the Director, the rules necessary to carry
14 out the provisions of this Act, subject to the provisions of
15 the Illinois Administrative Procedure Act.

16 Section 50. Appeals. Any person aggrieved by an order of
17 the Agency relating to the approval or withdrawal of approval
18 for a redemption center may seek judicial review of such order
19 as provided in the Administrative Review Law.

20 Section 55. Penalties.

21 (a) A person violating the provisions of Sections 15, 20,
22 25, or 40 or a rule adopted pursuant to Section 45 of this Act

1 is guilty of a Class C misdemeanor.

2 (b) A distributor who collects or attempts to collect a
3 deposit value on an empty beverage container when the
4 distributor has paid the deposit value on the container to a
5 dealer, redemption center, or consumer is guilty of a business
6 offense.

7 (c) Any person who does any of the following acts is guilty
8 of a business offense:

9 (1) Collects or attempts to collect the deposit value
10 on the container a second time, with the knowledge that the
11 deposit value has once been paid by the distributor to a
12 dealer, redemption center, or consumer.

13 (2) Manufactures, sells, possesses, or applies a false
14 or counterfeit label or indication to a beverage container
15 that shows or purports to show a deposit value for a
16 beverage container, with the intent to obtain a refund of
17 the deposit value for the false or counterfeit label or
18 indication.

19 (3) Collects or attempts to collect a deposit refund
20 value on a container with the use of a false or counterfeit
21 label or indication showing a deposit value, knowing the
22 label or indication to be false or counterfeit.

23 (d) As used in this Section, "false or counterfeit label or
24 indication" means a label or indication purporting to show a
25 valid deposit value that has not been initially applied as
26 authorized by a distributor.

1 Section 60. Distributor agreements authorized. A
2 distributor may enter into a contract or agreement with any
3 other distributor, manufacturer, or person for the purpose of
4 collecting or paying the deposit value on or disposing of
5 beverage containers.

6 Section 65. Redemption of refused nonrefillable metal
7 beverage containers.

8 (a) If the deposit value indication required under Section
9 30 on an empty nonrefillable metal beverage container is
10 readable but the redemption of the container is lawfully
11 refused by a dealer or person operating a redemption center,
12 the container shall be accepted and the deposit value paid to a
13 consumer as provided in this Section. Each beer distributor
14 selling nonrefillable metal beverage containers in this State
15 shall provide individually or collectively by contract or
16 agreement with a dealer, redemption center, or another person,
17 at least one facility in the county seat of each county where
18 refused empty nonrefillable metal beverage containers having a
19 readable deposit value indication as required by this Act are
20 accepted and redeemed. In counties having a population of
21 100,000 or more, the number of the facilities provided shall be
22 one facility for every 100,000 population or a fractional part
23 of that population.

24 (b) A beer distributor violating this Section is guilty of

1 a Class C misdemeanor.

2 Section 70. Plastic cans prohibited.

3 (a) Beginning on the effective date of this Act, a person
4 shall not manufacture, offer for sale, or sell any
5 single-serving beverage container that is a plastic can nor
6 offer for sale or sell any beverage packaged in a
7 single-serving plastic can. For the purposes of this Section,
8 "plastic can" means a beverage container that, in addition to
9 the closure mechanism, is composed of plastic and metal.

10 (b) A person violating this Section is guilty of a Class A
11 misdemeanor.

12 Section 75. Disposal at sanitary landfill prohibited.
13 Beginning one year after the effective date of this Act, the
14 final disposal of beverage containers by a dealer, distributor,
15 manufacturer, or a person operating a redemption center in a
16 sanitary landfill is prohibited. Beginning one year after the
17 effective date of this Act, the final disposal of beverage
18 containers used to contain alcoholic liquor, as defined in the
19 Liquor Control Act of 1934, by a dealer, distributor,
20 manufacturer, or redemption center in a sanitary landfill is
21 prohibited.

22 Section 80. Unclaimed deposits. All moneys deposited into
23 the Illinois Container Fee and Deposit Fund and not passed on

1 to the consumer through bottle redemption shall be used by the
2 Agency to administer this Act, with excess funds to be
3 disbursed by the Agency in the following manner:

4 (1) 75% to environmental and conservation-related
5 programs, as determined by the Agency; and

6 (2) 25% to each distributor, proportionally determined
7 by the amount of beverage containers each distributor has
8 sold in this State during the previous complete period from
9 January 1 to December 30 after the effective date of this
10 Act.

11 Section 85. Local powers. Nothing in this Act is intended
12 to limit the municipal or county power granted in the Solid
13 Waste Planning and Recycling Act to establish or operate a
14 recycling or redemption center.

15 Section 90. The Illinois Food, Drug and Cosmetic Act is
16 amended by adding Section 16.10 as follows:

17 (410 ILCS 620/16.10 new)

18 Sec. 16.10. Single use plastic disposable foodware.

19 (a) In this Section:

20 "Compostable material" means products or materials that
21 will completely break down into organic matter within 180 days
22 and the microorganisms present in compost will consume the
23 material at the same rate they would natural materials.

1 "Department" means the Department of Public Health.

2 "Dine-in" means food and beverages that are intended to be
3 consumed on the premises of a full service restaurant or quick
4 service restaurant.

5 "Disposable cup" means a beverage cup designed for a single
6 use to serve beverages, including, but not limited to, water,
7 cold drinks, hot drinks, and alcoholic beverages.

8 "Disposable foodware" means containers, bowls, plates,
9 trays, cartons, cups, lids, forks, spoons, knives, napkins, and
10 other items that are designed for one-time use for beverages,
11 prepared food, or leftovers from meals prepared by a food
12 dispensing establishment. "Disposable foodware" does not
13 include items composed entirely of aluminum.

14 "Expanded polystyrene" means blown polystyrene and
15 expanded and extruded foams that are thermoplastic
16 petrochemical materials utilizing a styrene monomer and
17 processed by multiple techniques, including, but not limited
18 to, fusion of polymer spheres, expanded bead polystyrene,
19 injection molding, foam molding, extrusion-blow molding, and
20 extruded foam polystyrene.

21 "Expanded polystyrene food service products" means food
22 containers, plates, hot and cold beverage cups, meat and
23 vegetable trays, egg cartons, and other products made of
24 expanded polystyrene and used for selling or providing food.

25 "Full service restaurant" means a food dispensing
26 establishment with the primary business purpose of serving

1 food, where food may be consumed on the premises and where all
2 of the following actions are taken by an employee of the
3 establishment:

4 (1) A consumer is escorted or assigned to an assigned
5 eating area. The employee may choose the assigned eating
6 area or may seat the consumer according to the consumer's
7 need for accommodation or other request.

8 (2) A consumer's food and beverage orders are taken
9 after the consumer has been seated at the assigned seating
10 area.

11 (3) Food and beverage orders are delivered directly to
12 the consumer.

13 (4) Any requested items associated with a consumer's
14 food or beverage order are brought to the consumer.

15 (5) The check is delivered directly to the consumer at
16 the assigned eating area.

17 "Prepared food" means foods or beverages that are prepared
18 and served by a food dispensing establishment on the licensed
19 premises by cooking, chopping, slicing, mixing, freezing,
20 squeezing, or other processing and which require no further
21 preparation for human consumption. "Prepared food" does not
22 include raw, uncooked whole fruits or vegetables that are not
23 chopped, squeezed, or mixed, or raw uncooked meat products.

24 "Quick service restaurant" means a food dispensing
25 establishment that has minimal table service and makes food
26 available upon order and pickup from a vehicle.

1 "Reusable foodware" means foodware, including, but not
2 limited to, plates, bowls, cups, trays, glasses, stirrers,
3 condiment cups, and utensils, that is:

4 (1) manufactured from durable materials;

5 (2) specifically designed and manufactured to be
6 washed, sanitized, and used repeatedly over an extended
7 period of time; and

8 (3) safe for washing and sanitizing according to
9 applicable regulations.

10 "Single use plastic disposable foodware" means any
11 disposable foodware item, including, but not limited to:
12 stirrers, napkins, and utensils; condiment cups and packets;
13 cup sleeves, tops, lids, and spill plugs; and other similar
14 accessory or accompanying disposable foodware items used as
15 part of food or beverage service or packaging.

16 "Takeout food" means prepared food that is purchased to be
17 consumed off the licensed premises of a food dispensing
18 establishment. "Takeout food" includes, but is not limited to,
19 prepared food carried out by a customer or delivered by a food
20 dispensing establishment or a takeout food delivery service.

21 "Takeout food delivery service" means a third party
22 delivery service that picks up takeout food from a food
23 dispensing establishment and delivers it to a customer for
24 consumption off of the licensed premises.

25 (b) A full service restaurant or quick service restaurant
26 shall not provide single use plastic disposable foodware items

1 to a consumer ordering or purchasing dine-in food unless
2 requested by the consumer. Plastic drinking straws must be
3 provided when specifically requested.

4 (c) Single use plastic disposable foodware items provided
5 when requested by customers may not be packaged in plastic.

6 (d) A food dispensing establishment or takeout food
7 delivery service must provide options for a customer to
8 affirmatively request accessory disposable foodware items
9 separate from the customer's order for a food or beverage
10 across all ordering or point of sale platforms, including, but
11 not limited to, the Internet, a smartphone application, other
12 digital platforms, by telephone, and in person.

13 (e) A full service restaurant or quick service restaurant
14 offering condiments may use dispensers rather than prepackaged
15 disposable condiment packets.

16 (f) A full service restaurant or quick service restaurant
17 must post a sign indicating that single use plastic disposable
18 foodware will be made available to the customer upon request or
19 at a self serve station.

20 (g) Nothing in this Section prohibits a full service
21 restaurant or quick service restaurant from making single use
22 plastic straws available to customers ordering or purchasing
23 dine-in food by making available cylinders, dispensers,
24 containers, or any other means of allowing for single use
25 plastic straws to be obtained at the affirmative volition of
26 the customer if a sign is posted encouraging the customer to

1 reduce the use of single use plastics.

2 (h) The first violation of this Section shall result in a
3 notice of violation, and any subsequent violation shall be
4 punishable by a civil penalty of \$25 for each day a full
5 service restaurant or quick service restaurant is in violation
6 of this Section, not to exceed \$300 annually. All civil
7 penalties collected under this Section shall be paid to the
8 Department.

9 Section 900. The State Finance Act is amended by adding
10 Section 5.930 as follows:

11 (30 ILCS 105/5.930 new)

12 Sec. 5.930. The Illinois Container Fee and Deposit Fund.

13 Section 999. Effective date. This Act takes effect July 1,
14 2021.

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