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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4868

05/06/2022 Authored by Jordan, Hollins, Hornstein and Reyer
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act
1.2 relating to solid waste; establishing program for beverage container deposits;
1.3 providing criminal penalties; requiring reports; appropriating money; proposing
1.4 coding for new law in Minnesota Statutes, chapter 115A.

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

1.6 Section 1. [115A.566] BEVERAGE CONTAINER DEPOSITS; DEFINITIONS.

1.7 For purposes of sections 115A.566 to 115A.5665, the following terms have the meanings
1.8 given:

1.9 (1) "applicable refund value" means the value established under section 115A.5661,
1.10 subdivision 1;

1.11 (2) "beverage" means a drinkable liquid intended for human oral consumption. Beverage
1.12 does not include:

1.13 (i) a drug regulated under the federal Food, Drug, and Cosmetic Act, United States Code,
1.14 title 21, section 301 et seq.;

1.15 (ii) infant formula; or

1.16 (iii) a meal replacement liquid;

1.17 (3) "beverage container" means a prepackaged beverage carton; pouch; aseptic package,
1.18 such as a juice box; or other container:

1.19 (i) made of any material, including glass, plastic, metal, or multimaterial; and

1.20 (ii) the volume of which is not more than 1 gallon;

2.1 (4) "beverage producer" means a person bottling, canning, or otherwise filling beverage  
 2.2 containers for sale to distributors, importers, or retailers;

2.3 (5) "consumer" means a person in the state who purchases a beverage in a beverage  
 2.4 container for use or consumption;

2.5 (6) "distributor" means a person who sells beverages in beverage containers to a retailer  
 2.6 in the state, including a manufacturer who engages in sales;

2.7 (7) "importer" means a retailer or manufacturer who directly imports beverage containers  
 2.8 into the state;

2.9 (8) "line breakage" means a beverage container that becomes defective or damaged  
 2.10 during manufacturing and that is not meant for sale and not eligible for redemption;

2.11 (9) "member" means a distributor or importer that joins the organization and pays the  
 2.12 applicable fees;

2.13 (10) "producer responsibility organization" or "organization" means the producer  
 2.14 responsibility organization established under section 115A.5663;

2.15 (11) "retailer" means a person in the state that sells beverages in beverage containers to  
 2.16 a consumer; and

2.17 (12) "reverse vending machine" means a device designed to properly identify and process  
 2.18 empty beverage containers eligible for redemption and provide a means for a deposit refund  
 2.19 or retail voucher.

2.20 **Sec. 2. [115A.5661] BEVERAGE CONTAINER DEPOSIT PROGRAM.**

2.21 Subdivision 1. **Applicable refund value.** (a) Every beverage container sold or offered  
 2.22 for sale in the state has the following refund value:

2.23 (1) ten cents for beverage containers of under 24 fluid ounces; and

2.24 (2) 15 cents for beverage containers of 24 fluid ounces or more.

2.25 (b) The commissioner may change the refund value:

2.26 (1) by deciding, in consultation with the producer responsibility organization, to change  
 2.27 the minimum refund amount in a material-neutral manner; or

2.28 (2) upon receiving a request from the organization for a change in the refund amount  
 2.29 and determining that the change is appropriate.

3.1 (c) The commissioner must not change the refund value under paragraph (b), clause (1),  
3.2 more than once every ten years.

3.3 (d) The commissioner must not change the refund value under paragraph (b), clause (2),  
3.4 more than once every five years.

3.5 (e) Before changing the refund value under paragraph (b), the commissioner must publish  
3.6 a notice in the State Register and allow a 60-day comment period.

3.7 (f) If the organization's publicly reported redemption rate required under section  
3.8 115A.5663, subdivision 5, shows that the redemption rate does not reach 85 percent for  
3.9 three years in a row after being required to reach this performance target under section  
3.10 115A.5663, subdivision 4, then every beverage container sold or offered for sale in the state  
3.11 must have the following refund value:

3.12 (1) 15 cents for beverage containers of under 24 fluid ounces; and

3.13 (2) 20 cents for beverage containers of 24 fluid ounces or more.

3.14 (g) The organization must use deposits not redeemed by the consumer to support the  
3.15 organization's administrative costs and to perform the duties required under section  
3.16 115A.5663.

3.17 Subd. 2. **Disposition of redeemed containers; dedicated account.** (a) When a consumer  
3.18 redeems a beverage container for the applicable refund value, the organization becomes the  
3.19 owner of the beverage container and may sell it to the end-market of the organization's  
3.20 choosing.

3.21 (b) Notwithstanding paragraph (a), for five years after the effective date of this section,  
3.22 the organization must transfer ten percent of the scrap value to the commissioner to be  
3.23 deposited in the state treasury and credited to the special revenue fund. The money is  
3.24 appropriated to the commissioner and must be spent only to support collecting household  
3.25 recyclables, including direct payments to household recycling collection operators, and  
3.26 household recycling education efforts.

3.27 Subd. 3. **Methods of redeeming.** (a) A retailer whose retail area is equal to or greater  
3.28 than 5,000 square feet must:

3.29 (1) accept a beverage container and pay the applicable refund value for up to 250 beverage  
3.30 containers per person per day;

4.1 (2) permit the organization to operate a bag drop program in the retailer's parking lot by  
4.2 providing space of the retailer's choosing within its parking lot sufficient to operate a bag  
4.3 drop as described in section 115A.5663, subdivision 3; or

4.4 (3) if the retailer has fewer than 30 parking spots under the retailer's control, permit the  
4.5 organization to install, maintain, and service at least two reverse vending machines.

4.6 (b) A retailer whose retail area is more than 1,000 square feet and less than 5,000 square  
4.7 feet must:

4.8 (1) accept a beverage container and pay the applicable refund value for up to 50 beverage  
4.9 containers per person per day;

4.10 (2) permit the organization to operate a bag drop program in the retailer's parking lot by  
4.11 providing space of the retailer's choosing within its parking lot sufficient to operate a bag  
4.12 drop as described in section 115A.5663, subdivision 3; or

4.13 (3) if the retailer has fewer than 30 parking spots under the retailer's control, permit the  
4.14 organization to install, maintain, and service at least one reverse vending machine.

4.15 (c) A retailer whose retail area is 1,000 square feet or less and who sells more than  
4.16 1,000,000 beverage containers per year must:

4.17 (1) accept a beverage container and pay the applicable refund value for up to 25 beverage  
4.18 containers per person per day;

4.19 (2) permit the organization to operate a bag drop program in the retailer's parking lot by  
4.20 providing space of the retailer's choosing within its parking lot sufficient to operate a bag  
4.21 drop as described in section 115A.5663, subdivision 3; or

4.22 (3) if the retailer has fewer than 30 parking spots under its control, permit the organization  
4.23 to install, maintain, and service at least one reverse vending machine.

4.24 (d) Notwithstanding paragraphs (a) to (c), a retailer must:

4.25 (1) upon request from the organization, offer for sale the standard bags that the  
4.26 organization deems necessary to operate the bag drop programs;

4.27 (2) permit the organization to install, service, and operate a reverse vending machine in  
4.28 space controlled by the retailer; and

4.29 (3) permit the organization to install, service, and operate a self-service kiosk that allows  
4.30 for printing redemption vouchers.

4.31 (e) The following retailers are exempt from this subdivision:

5.1 (1) a business that primarily prepares food for sale;

5.2 (2) a business that sells beverage containers to consumers through stand-alone vending  
5.3 machines or similar means; and

5.4 (3) a retailer whose retail area is 1,000 square feet or less and who sells less than  
5.5 1,000,000 beverage containers per year, except that paragraph (d) applies.

5.6 (f) Notwithstanding paragraphs (a) to (e), for zip codes in the state with a population  
5.7 density greater than 30,000 residents per square mile, the organization must ensure that all  
5.8 residents in the applicable zip code are within two miles of a bag drop redemption location  
5.9 and must build, service, and operate the organization's own bag drop redemption locations  
5.10 as necessary.

5.11 (g) Any facilities that the organization establishes in the state to aggregate, sort, and  
5.12 process the material collected at various redemption locations:

5.13 (1) must accept unlimited amounts of beverage containers eligible for redemption  
5.14 submitted in the standard bag from entities established and operated as described in section  
5.15 501(c)(3) of the Internal Revenue Code of 1986 or from nonprofit organizations established  
5.16 and operated under the tax law of any state; and

5.17 (2) may provide entities under clause (1) a premium as determined by the producer  
5.18 responsibility organization.

5.19 (h) The methods of redemption required under this section must be available to the public  
5.20 for not less than ten hours each day except for a federal or local holiday.

5.21 (i) The organization must provide information according to clauses (1) to (3) on how  
5.22 consumers can alert the organization to problems at redemption locations:

5.23 (1) on the organization's website;

5.24 (2) on clearly visible signs, measuring at least ten feet by ten feet, at the bag drop  
5.25 redemption locations described in this section; and

5.26 (3) on clearly visible signs, measuring at least two feet by two feet, on or within five  
5.27 feet of reverse vending machines.

5.28 Subd. 4. **Labeling.** (a) A manufacturer, importer, or distributor of a beverage container  
5.29 that is sold in the state must clearly display on the top lid or side of the beverage container  
5.30 the name or abbreviation of the state and the applicable refund value.

6.1 (b) The organization may require a manufacturer, importer, or distributor of a beverage  
6.2 container that is sold in the state to include a barcode or unique code verification on the  
6.3 beverage container to allow for automated identification.

6.4 Subd. 5. **Timing.** (a) All beverage containers that are made of aluminum, glass, high  
6.5 density polyethylene plastic, or polyethylene terephthalate and sold in the state must be  
6.6 labeled according to subdivision 4 no later than two years after the effective date of this  
6.7 section. All other beverage containers must be labeled according to subdivision 4 no later  
6.8 than three years after the effective date of this section.

6.9 (b) The commissioner may extend the deadlines under paragraph (a) for up to an  
6.10 additional 365 days.

6.11 Subd. 6. **Prohibitions.** (a) It is unlawful to distribute, import, or sell beverage containers  
6.12 in commerce in the state except in compliance with this section.

6.13 (b) It is unlawful to redeem a beverage container in the state that was not sold to a  
6.14 consumer in the state.

6.15 **Sec. 3. [115A.5663] PRODUCER RESPONSIBILITY ORGANIZATION.**

6.16 Subdivision 1. **Formation.** The producer responsibility organization must be established  
6.17 and operated as a not-for-profit organization. Only one producer responsibility organization  
6.18 is permitted to operate in the state. The organization may decide to operate jointly with  
6.19 organizations in one or more other states.

6.20 Subd. 2. **Members; fees.** (a) All distributors and importers of a beverage in or into the  
6.21 state must join the organization as members.

6.22 (b) The organization must charge a fee to members. The fee must be established in an  
6.23 amount that, together with unredeemed deposits, container recycling fees, or any other  
6.24 revenue sources that the organization may develop, covers the organization's cost of  
6.25 operations.

6.26 (c) The organization must charge member fees that vary by material type reflecting:

6.27 (1) the net cost of collecting, sorting, and processing each beverage container type after  
6.28 revenue is generated from the sale of the container; and

6.29 (2) the volume of each beverage container type that the member distributes or sells in  
6.30 the state.

7.1 (d) The organization must refund to members the proceeds of selling the redeemed  
7.2 beverage containers based on the relative scrap value of the beverage containers each member  
7.3 distributes or sells in the state.

7.4 Subd. 3. Duties; authorities. (a) The organization must pay for:

7.5 (1) installing, maintaining, and operating redemption in retailer parking lots according  
7.6 to section 115A.5661 that permit consumers to drop off bags with beverage containers  
7.7 eligible for redemption and get paid electronically the appropriate redemption value;

7.8 (2) installing, maintaining, and operating reverse vending machines at retailers according  
7.9 to section 115A.5661;

7.10 (3) installing, maintaining, and operating self-service kiosks at retailers according to  
7.11 section 115A.5661;

7.12 (4) building, servicing, and operating bag drop locations necessary to provide adequate  
7.13 access to certain zip codes as described in section 115A.5661;

7.14 (5) any facilities in the state necessary to efficiently aggregate, sort, and process the  
7.15 material collected at various redemption locations; and

7.16 (6) maintaining a list and map on the organization's website of all redemption locations  
7.17 and what redemption options are available at each location.

7.18 (b) The organization may use money generated under this section and section 115A.5661  
7.19 or other sources of revenue to:

7.20 (1) give grants for litter clean up and for education and outreach on recycling beverage  
7.21 containers or other containers; and

7.22 (2) directly or in partnership with a nongovernmental organization provide services to  
7.23 or enhance the redemption experience of diverse or low-income consumers redeeming  
7.24 beverage containers.

7.25 (c) To the extent allowed under law, the organization may refund money to organization  
7.26 members in a fiscal year in which the organization's revenues exceed the organization's  
7.27 costs under this section by more than 50 percent. Money refunded to members must not  
7.28 cause revenue to go below 150 percent of the organization's costs.

7.29 Subd. 4. Performance targets. (a) The organization must meet the following performance  
7.30 targets:

7.31 (1) beginning two years after all beverage containers sold in the state are labeled with  
7.32 the applicable deposit value, at least 75 percent redemption for all beverage containers;

8.1 (2) beginning four years after all beverage containers sold in the state are labeled with  
8.2 the applicable deposit value, at least 85 percent redemption target for all beverage containers;  
8.3 and

8.4 (3) beginning six years after all beverage containers sold in the state are labeled with  
8.5 the applicable deposit value, at least 90 percent redemption for all beverage containers.

8.6 (b) If the organization does not meet an applicable performance target under paragraph  
8.7 (a), the organization must submit a product stewardship plan to the commissioner. The plan  
8.8 must be submitted to the commissioner no more than 365 days after publication of the public  
8.9 data required under subdivision 5 showed that the applicable performance target in paragraph  
8.10 (a) was not met. The plan must detail the actions the organization will take to meet the  
8.11 performance targets.

8.12 (c) If the applicable performance targets under paragraph (a) have not been met three  
8.13 years after the organization submitted a product stewardship plan under paragraph (b), then  
8.14 the commissioner may:

8.15 (1) fine the organization up to \$250 per day that the targets are not met; and

8.16 (2) require the organization to submit a revised product stewardship plan.

8.17 (d) If the performance targets under paragraph (a) have not been met five years after the  
8.18 organization submitted a product stewardship plan under paragraph (b) then:

8.19 (1) if the organization's director has held office for more than 365 days, the governing  
8.20 board must appoint a new director; and

8.21 (2) the commissioner may fine the organization up to \$350 per day that the targets are  
8.22 not met.

8.23 (e) If the performance targets under paragraph (a) have not been met seven years after  
8.24 the organization submitted a product stewardship plan under paragraph (b), then the  
8.25 commissioner may assume the organization's operations and charge the member fees  
8.26 according to subdivision 2 until the performance targets are met. The commissioner must  
8.27 then transfer leadership of the organization back to organization's governing board within  
8.28 180 days after achieving the performance targets. The organization must reimburse the  
8.29 commissioner for costs that the commissioner incurs under this paragraph and that are not  
8.30 otherwise reimbursed.

8.31 (f) If the performance targets are not met for at least two years in a row within five years  
8.32 after the commissioner assumes operations under paragraph (e), the commissioner must



9.1 allow the members of the organization to choose a new organization director, in which case  
9.2 paragraphs (b) to (e) apply anew beginning three years after the new director is chosen.

9.3 Subd. 5. **Reporting.** (a) By July 1, 2026, and each year thereafter, the organization must  
9.4 make the information in clauses (1) to (17) for the preceding calendar year publicly available  
9.5 on the organization's website. The organization must keep an archive of the annual reports  
9.6 under this paragraph publicly available on the organization's website:

9.7 (1) the number of beverage containers sold in the state by material type for each quarter  
9.8 of the year;

9.9 (2) the percent of the total amount of beverage containers sold in the state that each  
9.10 material type represents for each quarter of the year;

9.11 (3) the percent of the total amount of fees charged to the members that each material  
9.12 type represents for each quarter of the year;

9.13 (4) the number of beverage containers redeemed by material type for each quarter of  
9.14 the year;

9.15 (5) the redemption rate for all beverage containers;

9.16 (6) the number of beverage containers redeemed at each bag drop location, reverse  
9.17 vending machine, or other redemption location that the organization operates;

9.18 (7) the end markets to which the organization sold beverage containers with an indication  
9.19 of what material type each end market bought from the organization;

9.20 (8) the percent of the total amount sold of each material type that went to each end  
9.21 market;

9.22 (9) all redemption locations in the state;

9.23 (10) the methods of redemption at each location in the state;

9.24 (11) the organization's total annual expenses;

9.25 (12) the organization's total annual revenue;

9.26 (13) the organization's total reserves;

9.27 (14) the number of redemption locations that provide services or an enhanced redemption  
9.28 experience for diverse or low-income consumers;

9.29 (15) aggregated employee demographic information that includes at a minimum the age  
9.30 and gender of employees working on-site at redemption locations or at facilities the

10.1 organization establishes to aggregate, sort, and process the material collected at redemption  
10.2 locations and of other organization employees;

10.3 (16) the number of consumer complaints per month by redemption location; and

10.4 (17) the total number of individual consumers per month that filed complaints by  
10.5 redemption location.

10.6 (b) The commissioner may require the organization to have an independent third party  
10.7 verify the information disclosed under paragraph (a). The commissioner must notify the  
10.8 organization no later than August 1 that an independent third-party review is required, and  
10.9 the organization must conduct the independent third-party review by December 31 of the  
10.10 year notified.

10.11 (c) The organization must establish safeguards to ensure its members do not have access  
10.12 to information regarding:

10.13 (1) the price paid by any individual buyer for the material sold; or

10.14 (2) how much of each material went to each individual recycler.

10.15 Subd. 6. **Advisory committees.** (a) The organization must establish an operations  
10.16 advisory committee that represents a range of stakeholders. The committee must include,  
10.17 at a minimum, a representative of:

10.18 (1) beverage container manufacturers or manufacturer trade associations;

10.19 (2) beverage producers or producer trade associations;

10.20 (3) local governments;

10.21 (4) environmental nonprofit organizations;

10.22 (5) end markets that buy or recycle beverage containers from the organization; and

10.23 (6) retailers or retailer trade associations.

10.24 (b) At least twice a year, the organization must give the operations advisory committee  
10.25 the opportunity to provide written or oral comments directly to the organization's president  
10.26 and board of directors. The operations advisory committee must annually submit to the  
10.27 legislature a written report with the committee's feedback on:

10.28 (1) the organization's operation; and

10.29 (2) the deposit return system generally.

11.1 (c) The organization must establish an equity and access advisory committee that helps  
 11.2 to ensure the organization's operations appropriately consider the diverse needs and cultures  
 11.3 of individuals who redeem beverage containers. The committee must include, at a minimum:

11.4 (1) a homeless advocate;

11.5 (2) a government social services office;

11.6 (3) a nongovernmental organization that advocates on behalf of one or more cultural  
 11.7 groups; and

11.8 (4) a specialist in diversity and inclusion.

11.9 (d) At least twice a year, the organization must give the equity and access committee  
 11.10 the opportunity to provide written or oral comments directly to the organization's president  
 11.11 and board of directors. The equity and access committee must annually submit to the  
 11.12 legislature a written report with:

11.13 (1) the committee's feedback on whether organization operations are appropriately  
 11.14 considering the diverse needs and cultures of individuals who redeem beverage containers;  
 11.15 and

11.16 (2) recommendations on how the organization can improve in terms of equity and access.

11.17 (e) The organization must publish the written reports to the legislature under paragraphs  
 11.18 (b) and (c) on the organization's website

11.19 **Sec. 4. [115A.5665] ENFORCEMENT.**

11.20 Subdivision 1. **Civil penalty.** In addition to any other applicable civil or criminal  
 11.21 penalties, the commissioner may impose a civil penalty for violating sections 115A.566 to  
 11.22 115A.5663 of \$100 per day for each initial separate violation and not more than \$1,000 per  
 11.23 day for each subsequent separate violation.

11.24 Subd. 2. **Criminal penalty.** (a) A person who, with intent to defraud, knowingly takes  
 11.25 any of the following actions is guilty of a crime:

11.26 (1) redeems out-of-state containers, rejected containers, line breakage, or containers that  
 11.27 have already been redeemed;

11.28 (2) returns redeemed containers to the state marketplace for redemption;

11.29 (3) brings out-of-state containers, rejected containers, or line breakage to the state  
 11.30 marketplace for redemption; or

12.1 (4) sells beverage containers not distributed or imported into the state by a member of  
12.2 the organization.

12.3 (b) If the money obtained from a criminal act under paragraph (a):

12.4 (1) is less than or equal to \$950, the person convicted is subject to imprisonment in a  
12.5 county jail for not more than six months, a fine not exceeding \$1,000, or both;

12.6 (2) exceeds \$950, the person convicted is subject to imprisonment in a county jail for  
12.7 not more than one year, a fine not exceeding \$10,000, or both.

12.8 Subd. 3. **Injunction.** The commissioner may bring a civil action to enjoin the distribution,  
12.9 importation, or sale into the state of a beverage sold in a beverage container in violation of  
12.10 section 115A.5661.

12.11 Subd. 4. **Organization fines.** The commissioner may fine the organization up to \$30,000  
12.12 annually per redemption location that receives complaints from more than 50 individuals  
12.13 per month according to the public reporting required in section 115A.5663, subdivision 5.

12.14 Subd. 5. **Disposition of proceeds.** All monetary penalties the commissioner recovers  
12.15 under this section must be deposited in the state treasury and credited to the special revenue  
12.16 fund. The money is appropriated to the commissioner to be used only for:

12.17 (1) administering sections 115A.566 to 115A.5665;

12.18 (2) building infrastructure that enhances recycling in the state;

12.19 (3) conducting outreach and education activities focused on recycling in the state;

12.20 (4) cleaning up litter in the state; or

12.21 (5) supporting collection of recyclable material from the households or in public spaces.

12.22 Sec. 5. **EFFECTIVE DATE.**

12.23 Sections 1 to 4 are effective July 1, 2023.