

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 671

Short Title: Beautify Roads and Clean Up Countryside. (Public)

Sponsors: Representatives Hamilton, Haire, Hall, and Harrison (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Rules, Calendar, and Operations of the House.

April 7, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO BEAUTIFY NORTH CAROLINA ROADWAYS AND CLEAN UP ITS
3 COUNTRYSIDE AND TO PROMOTE TOURISM AND MAKE NORTH CAROLINA
4 MORE INVITING TO NEW INDUSTRY, BY DISCOURAGING LITTERING AND BY
5 RESTORING ORPHAN CONTAMINATED WASTE SITES.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by
8 adding a new Part to read:

9 "Part 2H. Beverage Container Deposits and Refunds.

10 "**§ 130A-309.130. Findings; intent.**

11 (a) The General Assembly finds that:

- 12 (1) Beverage containers constitute a major source of nondegradable litter and
13 solid waste in this State.
- 14 (2) Litter remains a large problem in North Carolina despite other efforts to
15 discourage littering and to establish criminal penalties under G.S. 14-399 for
16 first-time and subsequent offenses of littering.
- 17 (3) The collection and disposal of litter imposes a great financial burden on the
18 citizens of North Carolina.
- 19 (4) A more concerted effort to reduce litter is needed in North Carolina.
- 20 (5) Beverage containers should be reused or recycled.
- 21 (6) Other states' experience shows that beverage container deposit legislation is
22 successful in reducing litter and increasing recycling of discarded beverage
23 containers.
- 24 (7) Beverage container deposit legislation is consistent with the State's policy,
25 set forth in G.S. 130A-309.04, to promote methods of solid waste
26 management that are alternatives to disposal in landfills.
- 27 (8) It is the intent of the General Assembly to create incentives for
28 manufacturers, distributors, retailers, and consumers of beverages in
29 beverage containers to recycle and reuse beverage containers, while
30 addressing the blight that litter imposes on the highways and lands of this
31 State.

32 "**§ 130A-309.131. Definitions.**

33 Unless a different meaning is required by the context, the following definitions apply
34 throughout this Part:



- 1 (1) 'Beverage' means any ready-to-drink liquid intended for human
2 consumption. Beverage includes any malt beverage; spirituous liquor;
3 fortified wine; unfortified wine; wine cooler; soda or noncarbonated water;
4 and any nonalcoholic carbonated or noncarbonated drink in liquid form.
- 5 (2) 'Beverage container' means a bottle, can, jar, or other container that has been
6 sealed by a manufacturer, contains a beverage, and is made of glass, metal,
7 or plastic.
- 8 (3) 'Consumer' means an individual who purchases a beverage in a beverage
9 container for use or consumption.
- 10 (4) 'Distributor' means a person who engages in the sale of beverages in
11 beverage containers to a retailer, including any manufacturer who engages in
12 such sales.
- 13 (5) 'Fortified wine' has the same meaning as in G.S. 18B-101.
- 14 (6) 'Malt beverage' has the same meaning as in G.S. 18B-101.
- 15 (7) 'Operator of a vending machine' means its owner, the person who refills it, or
16 the owner or lessor of the property upon which it is located.
- 17 (8) 'Private redemption center' means an individual or a privately owned
18 establishment approved by the Secretary under G.S. 130A-309.136.
- 19 (9) 'Retailer' means a person who sells or offers for sale in this State to
20 consumers a beverage in a beverage container, including an operator of a
21 vending machine containing a beverage in a beverage container.
- 22 (10) 'Spirituous liquor' has the same meaning as in G.S. 18B-101.
- 23 (11) 'Unfortified wine' has the same meaning as in G.S. 18B-101.
- 24 (12) 'Use or consumption' means the exercise of any right or power over a
25 beverage incident to the ownership thereof, other than the sale, storage, or
26 retention for the purposes of sale of a beverage.
- 27 (13) 'Wine cooler' means a beverage of less than eight percent (8%) alcohol
28 content by volume consisting of wine and both of the following:
- 29 a. Plain, sparkling, or carbonated water.
- 30 b. Any one or more of the following:
- 31 1. Fruit juices.
- 32 2. Fruit adjuncts.
- 33 3. Artificial or natural flavors or flavorings.
- 34 4. Preservatives.
- 35 5. Coloring.
- 36 6. Any other natural or artificial blending material.

37 **"§ 130A-309.132. Deposit and refund value; requirements concerning beverage**
38 **containers.**

39 (a) Every consumer who purchases a beverage in a beverage container shall pay a
40 deposit equal to the refund value under subsection (b) of this section.

41 (b) Every beverage container sold or offered for sale to a consumer in this State that
42 contains one gallon or less of a beverage shall have a refund value, as follows:

- 43 (1) For beverage containers, except malt beverage and spirituous liquor
44 containers, the refund value shall be five cents (5¢).
- 45 (2) For malt beverage and spirituous liquor containers of greater than 50
46 milliliters, the refund value shall be ten cents (10¢).

47 (c) Every beverage container that contains a beverage that is sold or offered for sale in
48 this State shall clearly indicate by embossing or imprinting on the normal product label or, in
49 the case of metal beverage containers, on the top of the container the words 'North Carolina' or
50 the initials 'N.C.' and the refund value of the container in not less than one-fourth inch type
51 size. This subsection does not apply to any permanently labeled glass beverage container

1 having a refund value of not less than ten cents (10¢) prior to the effective date of this Part and
2 having a brand name permanently marked thereon, unless the glass beverage container contains
3 spirituous liquors, fortified or unfortified wines, or malt beverages.

4 (d) Every beverage container that contains a beverage that is sold or offered for sale in
5 this State shall be made of materials that are recyclable or made of recycled materials.

6 (e) Every five years, the Department shall determine the percentages of each category
7 of beverage containers under subsection (b) of this section that are being returned. If the
8 Department finds that the return rate for any category is less than seventy-five percent (75%),
9 the Department may increase the refund rate for that category of beverage containers by five
10 cents (5¢).

11 **"§ 130A-309.133. Duties of retailers.**

12 (a) Every retailer shall pay to the distributor deposits equal to the value of the refunds
13 under G.S. 130A-309.132 when the retailer purchases beverages from a distributor and shall
14 receive deposits from consumers at the time of sale.

15 (b) Subject to subsections (d) and (e) of this section, a retailer shall accept at the
16 retailer's regular place of business from any consumer or other person not a retailer any empty
17 beverage container of any kind, size, and brand sold by that retailer and shall pay to the
18 consumer the refund value in cash.

19 (c) A retailer may limit the total number of beverage containers that the retailer will
20 accept from any one consumer or other person in any one business day to 24 containers or any
21 other number greater than 24.

22 (d) A retailer or a private redemption center may refuse to redeem from a consumer,
23 and a distributor may refuse to redeem from a retailer or a private redemption center, all of the
24 following:

25 (1) An empty beverage container that is not labeled as required by
26 G.S. 130A-309.132.

27 (2) A beverage container that is not empty and not free of materials foreign to
28 the original contents of the container.

29 (3) A glass beverage container that is broken.

30 (e) A retailer may refuse to accept beverage containers if the retailer has contracted
31 with a private redemption center under G.S. 130A-309.136 and the order approving that
32 redemption center states that the private redemption center serves that retailer.

33 **"§ 130A-309.134. Duties of distributors.**

34 (a) A distributor shall accept from any retailer or any private redemption center any
35 empty beverage container of any kind, size, and brand sold by that distributor and shall pay the
36 retailer or the operator of the redemption center the refund value plus a handling fee equal to
37 five cents (5¢) for each empty beverage container accepted.

38 (b) Any distributor who receives deposits under this Part shall segregate these deposits
39 in a fund that shall be maintained separately from all other revenues. The distributor may use
40 this fund only to pay refund values and handling fees under this section. The distributor shall
41 maintain this fund on behalf of consumers who purchased beverages in beverage containers and
42 on behalf of the State. Except as provided in G.S. 130A-309.139, the moneys in this fund are
43 not the property of the distributor. The distributor shall report on a monthly basis to the
44 Department in a manner prescribed by the Department the amount of these deposits and the
45 amount refunded.

46 (c) The Department may establish, by rule, criteria prescribing the manner in which the
47 distributor shall have the obligation to pick up any empty, unbroken, and reasonably clean
48 beverage containers of the particular kind, size, and brand sold by the distributor from retailers
49 to whom a distributor has sold those beverages and from redemption centers. The obligation
50 may be fulfilled by the distributor or indirectly through a contracted agent. The rules may
51 establish a minimum number or value of containers below which a distributor is not required to

1 respond to a request to pick up empty containers. Any rules adopted under this subsection shall
2 allocate the burdens associated with the handling, storage, and transportation of empty
3 containers to prevent unreasonable financial or other hardship. These rules may require a
4 retailer and a private redemption center to transport all returned containers to a material
5 recovery facility and to require a material recovery facility to sell the beverage containers to a
6 private recycling firm at market prices.

7 **"§ 130A-309.135. Retailer acting as distributor.**

8 Whenever any retailer or group of retailers receives a shipment or consignment of, or in any
9 other manner acquires, beverage containers outside the State for sale to consumers in the State,
10 such retailer shall comply with this Part as if the retailer were a distributor as well as a retailer.

11 **"§ 130A-309.136. Private redemption centers.**

12 (a) Any retailer, group of retailers, or any person or other entity may seek the approval
13 of the Secretary to operate a private redemption center to serve local retailers and consumers, at
14 which consumers may return empty beverage containers pursuant to G.S. 130A-309.133.

15 (b) Application for approval of a private redemption center shall be filed with the
16 Department. The application shall state the names and addresses of the operator of the center
17 and the person responsible for the center and the names and addresses of retailers to be served
18 and their distances from the redemption center.

19 (c) The Secretary shall approve a private redemption center if the Secretary determines
20 that the center will provide a convenient service for the return of empty beverage containers.
21 The order approving a redemption center shall state the retailers to be served and the kinds,
22 sizes, and brand names of empty beverage containers that the center will accept.

23 (d) Subject to G.S. 130A-309.133(d), a private redemption center shall accept from any
24 consumer or other person not a retailer any beverage container of the kind, size, and brand sold
25 by a retailer served by the center and shall pay the refund value in cash.

26 (e) A list of the retailers served, the kinds, sizes, and brand names of empty beverage
27 containers accepted, and the hours the private redemption center will accept returnable
28 beverage containers shall be prominently displayed at each private redemption center.

29 (f) The Secretary may withdraw approval of a private redemption center if the private
30 redemption center has not complied with the approval order or if the private redemption center
31 no longer provides a convenient service to the public.

32 **"§ 130A-309.137. Alternate redemption arrangements for vending machines.**

33 Any retailer who is an operator of a vending machine and who is not otherwise a retailer,
34 may elect to arrange with another retailer or a private redemption center, within five miles of
35 the location of the vending machine, to redeem beverage containers from the vending machine.
36 The vending machine operator, so long as the arrangement is in effect, shall be relieved of the
37 duty to redeem beverage containers under this Part. The vending machine operator shall post on
38 each vending machine the name and address of the redeeming retailer.

39 **"§ 130A-309.138. Unredeemed Beverage Container Deposits Fund.**

40 (a) The Unredeemed Beverage Container Deposits Fund is created in the Department,
41 to be administered by the Department. The Unredeemed Beverage Container Deposits Fund is a
42 nonreverting fund that consists of abandoned deposits remitted by distributors and credited to
43 the Fund under G.S. 130A-309.139. Interest earned shall accrue to the Fund.

44 (b) The Unredeemed Beverage Container Deposits Fund shall be used to fund the
45 following:

- 46 (1) The costs to the Department for administering the Fund and for
47 administering this Part.
- 48 (2) Reimbursements to distributors under G.S. 130A-309.140 for refund
49 redemptions and handling fees paid by distributors that exceed the deposits
50 collected by the distributor.

- 1 (3) Any funds remaining at the end of a calendar quarter that were not used
2 under subdivision (1) or (2) of this subsection shall be credited to the
3 Inactive Hazardous Sites Cleanup Fund established under G.S. 130A-310.11.

4 **"§ 130A-309.139. Abandoned deposit amounts; determination.**

5 (a) At the end of each month, any amounts that are in the distributor's segregated fund
6 under G.S. 130A-309.134 and that are in excess of the total amount of refund values received
7 by the distributor for beverage containers during that month and the two preceding months shall
8 be deemed to constitute abandoned deposit amounts. Income earned on the distributor's
9 segregated fund under G.S. 130A-309.134 may be transferred to the distributor and is the
10 distributor's property.

11 (b) By the tenth day of each month, each distributor shall remit to the State Treasurer
12 any deposit amounts deemed to be abandoned under subsection (a) of this section as of the
13 close of the preceding month. The State Treasurer shall credit these moneys to the Unredeemed
14 Beverage Container Deposits Fund.

15 **"§ 130A-309.140. Reimbursements to distributors.**

16 If in any month the payments by a distributor under G.S. 130A-309.134 as refunds and
17 handling fees exceed the distributor's segregated fund under G.S. 130A-309.134, the distributor
18 shall be reimbursed from the Unredeemed Beverage Container Deposits Fund.

19 **"§ 130A-309.141. Penalties.**

20 A person may be assessed a civil penalty not to exceed one thousand dollars (\$1,000) per
21 violation if the person does any of the following:

- 22 (1) Sells or offers for sale beverages in containers not labeled in accordance
23 with G.S. 130A-309.132.
24 (2) Refuses to accept and return the deposit on a beverage container in
25 accordance with G.S. 130A-309.133, 130A-309.134, or 130A-309.136.
26 (3) Operates a private redemption center without the order of approval required
27 under G.S. 130A-309.136.
28 (4) Makes a report required under G.S. 130A-309.134 that is false."

29 **SECTION 2.** The Department of Environment and Natural Resources shall
30 conduct a study to determine at least all of the following:

- 31 (1) This act's economic impact on North Carolina retailers, distributors, and
32 manufacturers of alcoholic and nonalcoholic beverages and their containers.
33 (2) The problems, if any, incurred in the distribution, sale, and return of
34 beverage containers.
35 (3) The effectiveness of this act in reducing the proportion of beverage
36 containers in litter found along the State's roads and highways and along its
37 streams and rivers.
38 (4) The effectiveness of this act in increasing recycling or reuse of beverage
39 containers.
40 (5) The balance of the Unredeemed Beverage Container Deposits Fund as of
41 July 1, 2012 and again as of July 1, 2013, as well as an itemization of how
42 much of the Unredeemed Beverage Container Deposits Fund was used each
43 previous fiscal year for the cost of administering the Fund and for
44 disbursements to distributors under G.S. 130A-309.138(b), as enacted by
45 Section 1 of this act, and how much was credited to the Inactive Hazardous
46 Sites Cleanup Fund.
47 (6) Any other issues deemed pertinent by the Department of Environment and
48 Natural Resources.

49 No later than December 10, 2012, the Department of Environment and Natural
50 Resources shall submit an interim report to the Environmental Review Commission and a final
51 report no later than December 1, 2013, to the General Assembly and to the Environmental

1 Review Commission detailing its findings made pursuant to the study under this section. The
2 final report shall include recommendations and any legislative proposals considered to be
3 appropriate as determined by the study under this section.

4 **SECTION 3.** The Department of Environment and Natural Resources may adopt
5 rules to implement this act.

6 **SECTION 4.** This act becomes effective January 1, 2012, and applies to beverage
7 containers sold or offered for sale on or after that date.