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HOUSE BILL 72

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Miguel P. Garcia

AN ACT

**RELATING TO GLASS BEVERAGE CONTAINERS; ENACTING THE BEVERAGE
CONTAINER DEPOSIT ACT; ESTABLISHING A DEPOSIT FEE; ESTABLISHING
A REFUND FEE AND PROVIDING FOR REFUNDS ON GLASS BEVERAGE
CONTAINERS; PROVIDING PENALTIES.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. SHORT TITLE.--This act may be cited as the
"Beverage Container Deposit Act".**

**Section 2. DEFINITIONS.--As used in the Beverage
Container Deposit Act:**

- A. "beverage" means beer or other malt beverages;**
- B. "beverage container" means the individual,
separate, sealed glass container containing a beverage;**
- C. "consumer" means a person who purchases a
beverage in a beverage container for use or consumption;**

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 D. "dealer" means a person in New Mexico who
2 engages in the sale of beverages in beverage containers to a
3 consumer;

4 E. "department" means the department of
5 environment;

6 F. "distributor" means a person who engages in the
7 sale of beverages in beverage containers to a dealer, including
8 a manufacturer who engages in these sales;

9 G. "manufacturer" means a person bottling beverages
10 or filling glass beverage containers for sale to distributors
11 or dealers; and

12 H. "place of business" means the location at which
13 a dealer sells or offers for sale beverages in beverage
14 containers to consumers.

15 Section 3. REFUND VALUE REQUIRED. -- The price of every
16 beverage container sold or offered for sale shall include a
17 deposit fee of five cents (\$.05) and have a refund value of not
18 less than five cents (\$.05).

19 Section 4. PRACTICES REQUIRED OF DEALERS AND
20 DISTRIBUTORS. --

21 A. A dealer shall not refuse to accept from a
22 person an empty beverage container of the kind, size and brand
23 sold by the dealer or refuse to pay to that person the refund
24 value of a beverage container as established by Section 3 of
25 the Beverage Container Deposit Act.

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[bracketed material] = delete

1 contaminated by a substance other than water, residue of the
2 original contents or ordinary dust; or

3 2. more than 144 individual beverage
4 containers from one person during one day. "

5 E. Signs required to be posted pursuant to
6 Subsection D of this section shall be made available by the
7 department at a minimal cost to dealers.

8 Section 6. INDICATION OF REFUND VALUE REQUIRED. -- Every
9 beverage container sold or offered for sale in this state by a
10 dealer shall clearly indicate by embossing or by a stamp, label
11 or other method securely affixed to the beverage container, the
12 refund value of the container.

13 Section 7. ADMINISTRATION-- PENALTIES. --

14 A. The department shall administer the Beverage
15 Container Deposit Act.

16 B. Complaints about the implementation of the
17 Beverage Container Deposit Act shall be filed in writing with
18 the department and shall be investigated within five days of
19 the date on which the complaint is received by the department.
20 The department shall attempt to resolve the complaint after
21 completing the investigation either informally or by mediation,
22 as appropriate to the complaint.

23 C. The department shall provide an opportunity for
24 an unresolved complaint to be heard pursuant to rules of the
25 department. Notice shall be provided by the department to the

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[bracketed material] = delete

1 parties to the hearing at least fifteen days prior to the
2 hearing.

3 D. The department shall assess an administrative
4 fine up to one thousand dollars (\$1,000) for each occurrence of
5 a violation of Sections 4 and 6 of the Beverage Container
6 Deposit Act.

7 E. An administrative fine of one hundred dollars
8 (\$100) shall be imposed by the department on a dealer who fails
9 to provide signs required in Subsection D of Section 5 of the
10 Beverage Container Deposit Act.

11 Section 8. EFFECTIVE DATE. --The effective date of the
12 provisions of this act is July 1, 2003.