

MANDATORY DEPOSIT REVIEW
BY THE
SENATE COMMITTEE ON ENERGY

Report to Members of the
Second Session of the Sixty-seventh General Assembly

State of Iowa
1978

F I N A L R E P O R T
of the
SENATE COMMITTEE ON ENERGY
MANDATORY DEPOSIT LEGISLATION. -- HOUSE FILE 187

December, 1977

Membership of the Senate Committee on Energy

Senator James V. Gallagher, Chairperson
Senator John R. Scott, Vice Chairperson
Senator Cliff Burroughs, Ranking Member
Senator Stephen W. Bisenius
Senator James E. Briles
Senator Louis P. Culver
Senator Gene W. Glenn
Senator Richard R. Ramsey
Senator Norman G. Rodgers

Committee Meetings

The Senate Committee on Energy held four meetings during the 1977 interim to study the provisions of House File 187, as amended, passed and reprinted by the House during the 1977 Session of the Sixty-seventh General Assembly. House File 187 provides for a mandatory deposit of ten cents on liquor, beer and carbonated soft drink containers and imposes a gross receipts tax on the wholesale value of packaging products, newsprint and other paper materials used for printing or reproduction purposes and an additional barrel tax on beer to fund a comprehensive litter control program. As adopted by the House, House File 187 provides for the Iowa Beer and Liquor Control Department to administer the mandatory deposit provisions, the Department of Revenue to administer and collect the gross receipts tax, and the Department of Environmental Quality to administer the litter control program in cooperation with the State Conservation Commission and the Department of Transportation.

August 10 Meeting

At its first meeting on August 10, 1977, the Committee reviewed and discussed the provisions of House File 187 as passed by the House and an alternative proposal prepared by Mr. Robert Haug, Senate Majority Caucus Research Analyst. The alternative proposal provides for a three cent litter tax to be imposed on nonrefillable beverage containers, commencing with one cent the first year, two cents the second year, and three cents during the third and each succeeding year. When the three-cent tax has been imposed, the redemption of nonrefillable aluminum containers would be encouraged with a reward of two cents per container upon its return by the consumer and a reward of one cent per container for all other nonrefillable containers returned. The proposal would also prohibit the sale of snap tab containers and the sale of beverages in nonrefillable containers for consumption on premise at

establishments licensed by the Iowa Beer and Liquor Control Department.

August 31 Meeting

At its second meeting on August 31, 1977, the Committee heard testimony from the Iowa Beer and Liquor Control Department, the Department of Environmental Quality, the Department of Revenue, the State Department of Transportation and the State Conservation Commission. Mr. Rolland Gallagher, Director of the Iowa Beer and Liquor Control Department, recommended that his department should not be involved in the administration of House File 187 because of the lack of expertise and staff. He recommended that the Department of Environmental Quality would be more suitable to administer mandatory deposit provisions along with the litter control and solid waste management responsibilities.

Mr. Larry Crane, Executive Director of the Department of Environmental Quality, recommended that the mandatory deposit provisions of House File 187 be simplified by removing certification requirements for uniform containers if the deposit is to remain uniform for certified and noncertified containers, and by eliminating or making voluntary the establishment of redemption centers. He also stated that the financial incentive of twenty percent of the refund value to be paid to retailers or redemption centers by manufacturers or distributors is not necessary for the effective operation of a mandatory deposit system. Concerning the gross receipts litter tax proposal, Mr. Crane suggested that other alternatives such as an increased retail sales tax would be easier and less costly to administer.

Mr. J. Elliott Hibbs, Deputy Director of the Department of Revenue, discussed the problems and costs related to the imposition of a gross receipts tax on packaging products and paper products generally constituting litter. He stated that a gross receipts tax in Iowa would require a separate administrative system at the projected first-year cost of \$120,000. The state of Washington which imposes a litter tax on gross receipts, already had a gross receipts tax system operating before the litter tax was enacted. Therefore, the cost of adding an additional rate to an existing tax system was minimal. In addition, he outlined other problems which may arise when collecting taxes imposed on wholesalers located outside of the state of Iowa.

Mr. Walt McDonald, representing the State Department of Transportation, expressed concern about the safety factors involved in the imposition of a penalty of litter gathering along public highways, the cost of replacing highway litter signs if House File 187 is enacted requiring new or additional information to be posted, and the cost of establishing off-roadway facilities for litter receptacles to meet the requirements of House File 187. Mr. McDonald further stated that the results of a litter survey conducted by the Department in April, 1977, showed that along I-80 and U.S. Highway 6 in a metropolitan area near Des Moines fifty

percent of the volume of the litter collected was nonreturnable bottles and cans and in a nonmetropolitan area along U.S. Highway 65, eighty-three percent of the litter was cans and bottles. This survey contrasted considerably with previous department estimates that twenty-five percent of the volume of litter was beverage containers.

Mr. William Brabham, representing the State Conservation Commission, testified that the Commission paid \$328,838 in one year for litter pick up, equipment operation, and landfill charges. He added that this cost does not include any litter costs paid by the ninety-eight county conservation boards.

September 21 Meeting

At its third meeting on September 21, 1977, the Committee voted to amend House File 187, as amended, passed and reprinted by the House, by striking everything after the enacting clause and imposing a three-cent tax on each disposable beverage container sold in this state. The amendment would also include a prohibition against the sale of snap tab containers and a prohibition against the sale of beverages in disposable containers by persons licensed by the Iowa Beer and Liquor Control Department for on premise consumption. The prohibition would not apply to beverages imported from foreign nations in disposable containers. The receipts from the tax would be distributed one-third to cities and counties on a per capita basis and two-thirds to the general fund of the state.

October 19 Meeting

At its final meeting on October 19, 1977, the Committee received testimony from proponents and opponents of the mandatory deposit and beverage container tax proposals under consideration by the Committee.

Mr. Pat Bice, representing the Aluminum Workers of America, testified that both proposals, the mandatory deposit and the container tax, were discriminatory against aluminum and other metal containers. He urged the Committee to encourage recycling and resource recovery programs in the state as a viable alternative.

Mr. Russell Laird, representing the Iowa Wholesale Beer Distributors Association, presented testimony in opposition to the two proposals. He stated the three-cent tax proposal would increase the tax on a case of beer to a total of \$1.03 1/2. He added that this would have an adverse economic impact on the Association and cause enforcement problems particularly along the border areas of the state.

Ms. Kappie Spencer, Ms. Linda Nicholson representing the American Association of University Women, Ms. Mary Scallan representing Free Environment, and Ms. Diane MacEachern representing the National Clearinghouse on Deposit Legislation, supported the concept of mandatory deposits because it reduces

litter, promotes recycling and resource recovery, and has received widespread public support.

Mr. Gene Kennedy representing the Iowa Soft Drink Association, and Mr. Everett Fuller representing the American Can Company, questioned the claims of strong public support for mandatory deposit legislation and suggested that such legislation would not materially reduce litter without other governmentally-sponsored programs such as Keep Oregon Livable, Stamp Out Litter and Vandalism, and the Youth Litter Patrol initiated in Oregon.

After the testimony, the Committee voted to reconsider its previous action to amend House File 187 to impose a three-cent tax on each disposable beverage container sold in this state and defeated the tax proposal after further consideration.

The Committee then voted to amend House File 187, as amended, passed and reprinted by the House, by striking everything after the enacting clause and inserting an amendment providing mandatory deposits on beverage containers. The amendment has the following major provisions:

1. A five-cent minimum deposit on all containers containing beer, malt beverages, soda water, and other carbonated soft drink unless the container is certified (reusable by more than one manufacturer), in which case the minimum deposit is three cents.
2. The manufacturer or distributor is to reimburse the retailer or redemption center at least twenty percent of the refund value of the containers returned.
3. Redemption centers may be established as a collection point for returned containers with the approval of the department.
4. Snap tab beverage containers are prohibited.
5. The Department of Environmental Quality is responsible for the administration of the Act.

The mandatory deposit amendment was approved by the Committee subject to review of the final draft as prepared by the Legislative Service Bureau.

Final Recommendation and Report

The Senate Committee on Energy, at its November 16 meeting, reviewed the mandatory deposit amendment to House File 187 as amended, passed and reprinted by the House and voted to recommend passage of House File 187 as amended by the Committee amendment to the Senate. A copy of the Committee amendment is attached to and by this reference made a part of this report.

RESPECTFULLY SUBMITTED,

SENATOR JAMES V. GALLAGHER, CHAIRPERSON
COMMITTEE ON ENERGY

HOUSE FILE 187

1 Amend House File 187, as amended, passed and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

5 "Section 1. NEW SECTION. DEFINITIONS. As used
6 in this Act unless the context otherwise requires:

7 1. "Beverage" means beer as defined in section
8 one hundred twenty-three point three (123.3),
9 subsection nine (9) of the Code, other alcoholic malt
10 beverages and mineral water, soda water and similar
11 carbonated soft drinks in liquid form and intended
12 for human consumption.

13 2. "Beverage container" means any glass, plastic,
14 or metal bottle, can, jar or carton containing a
15 beverage.

16 3. "Consumer" means any person who purchases a
17 beverage in a beverage container for use or
18 consumption.

19 4. "Dealer" means any person who engages in the
20 sale of beverages in beverage containers to a consumer.

21 5. "Distributor" means any person who engages
22 in the sale of beverages in beverage containers to
23 a dealer, including any manufacturer who engages in
24 such sales.

25 6. "Manufacturer" means any person who bottles,
26 cans, or otherwise fills beverage containers for sale
27 to distributors or dealers.

28 7. "Director" means the executive director of
29 the department of environmental quality.

30 8. "Department" means the department of
31 environmental quality.

32 9. "Commission" means the solid waste disposal
33 commission of the department of environmental quality.

34 Sec. 2. NEW SECTION. REFUND VALUES.

35 1. A refund value of not less than five cents
36 shall be paid by the consumer on each beverage
37 container sold in this state by a dealer. However,
38 if a beverage container is certified by the department
39 as provided in section three (3) of this Act, a refund
40 value of not less than three cents shall be paid by
41 the consumer on each certified beverage container
42 sold in this state. Upon return of the beverage
43 container to the dealer or person operating a
44 redemption center and acceptance of the beverage
45 container by the dealer or person operating a
46 redemption center, the dealer or person operating
47 a redemption center shall return the amount of the
48 refund value to the consumer.

49 2. A dealer, or person operating a redemption
50 center, who redeems beverage containers shall upon

1 return of the beverage containers to the manufacturer
2 or distributor be reimbursed by the manufacturer
3 or distributor in an amount which is at least twenty
4 percent more than the amount of the refund value
5 returned by the dealer or the person operating a
6 redemption center to the consumer.

7 Sec. 3. NEW SECTION. REQUIREMENTS FOR CERTIFICA-
8 TION.

9 1. The department shall certify a beverage
10 container if it is reusable as a beverage container
11 by more than one manufacturer in the ordinary course
12 of business and if more than one manufacturer will
13 accept in the ordinary course of business the beverage
14 container for reuse as a beverage container and pay
15 the refund value of the container.

16 2. A beverage container shall not be certified
17 by the department under this section if by reason
18 of its shape or design or by reason of words or symbols
19 permanently inscribed on the container, whether by
20 engraving, embossing, painting or other permanent
21 method, it is reusable as a beverage container in
22 the ordinary course of business only by a manufacturer
23 of a beverage sold under a specific brand name.

24 Sec. 4. NEW SECTION. ISSUANCE, REVIEW, AND
25 WITHDRAWAL OF CERTIFICATION.

26 1. If an application for certification under
27 section three (3) of this Act has not been denied
28 by the department within sixty days after the date
29 of application, the beverage container shall be deemed
30 certified.

31 2. The department may review the certification
32 of a beverage container at any time. If after such
33 review, with written notice and a hearing before the
34 commission afforded to the person who filed the
35 application for certification under section three
36 (3) of this Act, the commission determines the con-
37 tainer is no longer qualified for certification, the
38 certification shall be withdrawn.

39 3. The withdrawal of certification shall be
40 effective no earlier than thirty days after written
41 notice to the person who filed the application for
42 certification and to the manufacturers referred to
43 in section three (3) of this Act.

44 Sec. 5. NEW SECTION. PAYMENT OF REFUND VALUE.
45 Except as provided in section six (6) of this Act:

46 1. A dealer shall not refuse to accept from a
47 consumer any empty beverage container of the kind,
48 size and brand sold by the dealer, or refuse to pay
49 to the consumer the refund value of a beverage
50 container as determined under section two (2) of this

1 Act.

2 2. A distributor shall not refuse to accept from
3 a dealer any empty beverage container of the kind,
4 size and brand sold by the distributor, or refuse
5 to pay the dealer the refund value of a beverage
6 container as determined under section two (2) of this
7 Act.

8 Sec. 6. NEW SECTION. REFUSAL TO ACCEPT CONTAINERS.

9 1. A dealer may refuse to accept from a consumer
10 and a distributor may refuse to accept from a dealer,
11 any empty beverage container which does not have
12 stated on it a refund value as determined under section
13 two (2) of this Act.

14 2. A dealer may refuse to accept and to pay the
15 refund value of any empty beverage container if the
16 place of business of the dealer and the kind and brand
17 of empty beverage containers are included in an order
18 of the department approving a redemption center under
19 section eight (8) of this Act.

20 Sec. 7. NEW SECTION. REFUND VALUE STATED ON CON-
21 TAINER.

22 1. Each beverage container sold or offered for
23 sale in this state by a dealer shall clearly indicate
24 by embossing or by a stamp, label or other method
25 securely affixed to the container, the refund value
26 of the container. The department shall specify, by
27 rule, the minimum size of the refund value indication
28 on the beverage containers.

29 2. The provisions of subsection one (1) of this
30 section shall not apply to glass beverage containers
31 having a brand name permanently marked on it which,
32 on the effective date of this Act, has a refund value
33 of not less than five cents.

34 Sec. 8. NEW SECTION. REDEMPTION CENTERS.

35 1. To facilitate the return of empty beverage
36 containers and to serve dealers of beverages, any
37 person may establish a redemption center, subject
38 to the approval of the department, at which consumers
39 may return empty beverage containers and receive
40 payment of the refund value of such beverage con-
41 tainers.

42 2. An application for approval of a redemption
43 center shall be filed with the department. The
44 application shall state the name and address of the
45 person responsible for the establishment and operation
46 of the redemption center, the kind and brand names
47 of the beverage containers which will be accepted
48 at the redemption center, and the names and addresses
49 of the dealers to be served by the redemption center.
50 The application shall contain such other information

1 as the director may reasonably require.
2 3. The department shall approve a redemption
3 center if it finds that the redemption center will
4 provide a convenient service to consumers for the
5 return of empty beverage containers. The order of
6 the department approving a redemption center shall
7 state the dealers to be served by the redemption
8 center and the kind and brand names of empty beverage
9 containers which the redemption center must accept.

10 The order may contain such other provisions to insure
11 that the redemption center will provide a convenient
12 service to the public as the director may determine.

13 4. The department may review the approval of any
14 redemption center at any time. After written notice
15 to the person responsible for the establishment and
16 operation of the redemption center, and to the dealers
17 served by the redemption center, the commission may,
18 after hearing, withdraw approval of a redemption
19 center if the commission finds there has not been
20 compliance with the department's order approving the
21 redemption center, or if the redemption center no
22 longer provides a convenient service to the public.

23 Sec. 9. NEW SECTION. SNAP-TOP CANS PROHIBITED.
24 A person shall not sell or offer for sale at retail
25 in this state any metal beverage container so designed
26 and constructed that a part of the container is
27 detachable in opening the container without the aid
28 of a can opener.

29 Sec. 10. NEW SECTION. RULES ADOPTED. The
30 commission shall adopt, upon recommendation of the
31 director, the rules necessary to carry out the
32 provisions of this Act, subject to the provisions
33 of chapter seventeen A (17A) of the Code.

34 Sec. 11. NEW SECTION. APPEAL. Any person
35 aggrieved by an order of the department relating to
36 certification or withdrawal of certification of a
37 beverage container, or to the approval or withdrawal
38 of approval for a redemption center may seek judicial
39 review of such order as provided in chapter seventeen
40 A (17A) of the Code.

41 Sec. 12. NEW SECTION. PENALTY. Any person
42 violating the provisions of sections two (2), five
43 (5), seven (7), and nine (9) of this Act shall be
44 guilty of a simple misdemeanor.

45 Sec. 13. This Act is effective January 1, 1979."

46 2. Amend the title by striking lines 2 through
47 5 and inserting in lieu thereof the partial word
48 "tainers".

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COMMITTEE ON ENERGY
James V. Gallagher,
Chairperson