

HOUSE BILL No. 5147

August 29, 2007, Introduced by Reps. Bieda, Warren, LeBlanc, Condino, Young, Donigan, Simpson, Ebli, Corriveau, Farrah, Rocca, Lemmons, Accavitti, Gaffney, Hune, Virgil Smith, Mayes, Melton, Kathleen Law, Miller, Hopgood, Constan, Meisner, Polidori, Griffin, Leland, Robertson, Alma Smith, Stakoe, Dean, Johnson, Angerer, Sheltroun, Wojno, Pastor, Garfield, Meltzer, Brown, Byrum, Cushingberry, Lahti, Lindberg, McDowell, Ward, Palsrok, Moolenaar, Moss, Marleau, Hansen, Walker, Emmons, Agema, Proos, Meekhof, Bauer, Coulouris, Cheeks, Meadows, Vagnozzi, Hammon, Hammel, Tobocman, Sak, Valentine, Bennett, Hood, Gillard, Espinoza, Scott, Byrnes, Spade, Robert Jones, Wenke and Clemente and referred to the Committee on Great Lakes and Environment.

A bill to provide standards for reverse vending machines; to prohibit the use, replacement, leasing, transfer, and sales of certain designs of reverse vending machines; to prescribe penalties for violations of this act; and to provide for the powers and duties of certain state and local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "reverse vending machine act".

3 Sec. 3. As used in this act:

4 (a) "Beverage container" means that term as defined in section
5 1 of the beverage container law, MCL 445.571.

6 (b) "Beverage container law" means the Initiated Law of 1976,

1 MCL 445.571 to 445.576.

2 (c) "Dealer" means that term as defined in section 1 of the
3 beverage container law, MCL 445.571.

4 (d) "Department" means the department of treasury.

5 (e) "Distributor" means that term as defined in section 1 of
6 the beverage container law, MCL 445.571.

7 (f) "Foreign container" means a beverage container that does
8 not contain an embossment, stamp, label, or other marking clearly
9 indicating the refund value and the name of this state as required
10 under section 2(7) of the beverage container law, MCL 445.572, for
11 which no cash refund is payable by a dealer or distributor.

12 (g) "Law enforcement agency" means the attorney general or a
13 law enforcement agency as defined in section 2804 of the public
14 health code, 1978 PA 368, MCL 333.2804.

15 (h) "Manufacturer" means that term as defined in section 1 of
16 the beverage container law, MCL 445.571.

17 (i) "Person" means an individual, partnership, corporation,
18 association, limited liability company, governmental entity, or
19 other legal entity. The term includes a dealer, distributor, or
20 manufacturer.

21 (j) "Returnable container" means that term as defined in
22 section 1 of the beverage container law, MCL 445.571.

23 (k) "Reverse vending machine" means a device designed to
24 properly identify an empty returnable container and provide a means
25 for a deposit refund.

26 (l) "Reverse vending machine manufacturer" means a person who
27 engages in any of the following and the representatives of that

1 person:

2 (i) Designing or manufacturing a reverse vending machine.

3 (ii) Selling or leasing a reverse vending machine to a dealer
4 in this state.

5 (iii) Servicing or replacing a reverse vending machine of a
6 dealer in this state.

7 Sec. 5. (1) A reverse vending machine manufacturer shall not
8 lease, sell, or otherwise transfer a reverse vending machine to a
9 dealer for use in this state if the reverse vending machine does
10 not meet all of the following requirements:

11 (a) It identifies at least 85% of foreign containers returned
12 for a refund and does not provide or authorize a refund for those
13 foreign containers.

14 (b) It captures and destroys at least 85% of the foreign
15 containers placed in it for a refund.

16 (c) On a weekly basis, it provides an accurate printed report
17 containing all of the following:

18 (i) The number of returnable containers accepted by the reverse
19 vending machine over a weekly time period.

20 (ii) The brand name of each beverage container accepted by the
21 reverse vending machine.

22 (iii) The kind, type, and size of beverage containers accepted
23 by the reverse vending machine.

24 (iv) The number of foreign containers captured and destroyed by
25 the reverse vending machine.

26 (2) A dealer in this state shall not do any of the following:

27 (a) Replace, lease, or purchase a reverse vending machine that

1 does not meet the requirements described in subsection (1).

2 (b) If the dealer conducts business at multiple locations in
3 this state, transfer a reverse vending machine that does not meet
4 the requirements described in subsection (1) from 1 of those
5 locations to another.

6 (c) Sell a reverse vending machine that does not meet the
7 requirements described in subsection (1) to another dealer located
8 in this state.

9 (3) A person shall not change, alter, or modify a reverse
10 vending machine used or intended for use in this state in a manner
11 designed to prevent the reverse vending machine from meeting the
12 requirements described in subsection (1).

13 Sec. 7. Each dealer shall retain the originals of the reports
14 described in section 5(1)(c) for at least 2 years, shall make the
15 original reports available for inspection by any distributor that
16 provides a refund to the dealer under section 2(6) of the beverage
17 container law, MCL 445.572, and shall provide copies of the reports
18 to that distributor on request.

19 Sec. 9. (1) Each dealer shall allow the department and any law
20 enforcement agency to inspect the dealer's reverse vending machines
21 and the reports described in section 7 for the purpose of enforcing
22 this act.

23 (2) If the department receives a complaint of a violation of
24 this act, the department shall investigate to determine if a
25 violation of this act has occurred.

26 (3) If the department determines or discovers that a violation
27 of this act has occurred, the department shall notify the

1 appropriate law enforcement agency of the violation.

2 Sec. 11. (1) A person who violates this act is guilty of a
3 misdemeanor punishable by imprisonment for not more than 180 days
4 or a fine of not more than \$10,000.00, or both.

5 (2) In addition to the penalty imposed under subsection (1), a
6 court shall order a person convicted of a violation of this act to
7 make restitution to this state and to any dealer, manufacturer, or
8 distributor for any loss caused by the violation.

9 Sec. 13. (1) This act does not require a dealer, distributor,
10 or manufacturer to redesign a beverage container or place any
11 additional identifying marks on a beverage container other than
12 those required in section 2(7) of the beverage container law, MCL
13 445.572.

14 (2) This act does not prohibit any law enforcement agency from
15 investigating violations of this act that occur within its
16 jurisdiction.

17 (3) This act does not prohibit all the manufacturers doing
18 business in this state and all reverse vending machine
19 manufacturers from mutually agreeing to a modification in the
20 design of a beverage container in a manner that allows a reverse
21 vending machine to meet the requirements of section 5.