

Regular Session, 2010

HOUSE BILL NO. 760

BY REPRESENTATIVE LAMBERT

ENVIRONMENT/RECYCLING: Creates the Louisiana Beverage Container Law

1 AN ACT

2 To enact Part III of Chapter 21 of Subtitle II of Title 30 of the Louisiana Revised Statutes  
3 of 1950, to be comprised of R.S. 30:2553 through 2553.9, relative to the regulation  
4 of beverage containers; to provide for legislative findings and purpose; to provide  
5 for definitions; to provide for refund value; to provide for beverage container  
6 requirements and prohibitions; to provide for mandatory acceptance of beverage  
7 containers; to provide for refusal of acceptance; to provide for authority of the  
8 secretary of the Department of Environmental Quality; to provide for unredeemed  
9 deposits; to provide for violations; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Part III of Chapter 21 of Subtitle II of Title 30 of the Louisiana Revised  
12 Statutes of 1950, comprised of R.S. 30:2553 through 2553.9, is hereby enacted to read as  
13 follows:

14 PART III. THE LOUISIANA BEVERAGE

15 CONTAINER LAW

16 §2553. Citation

17 This Part may be cited as the "Louisiana Beverage Container Law".

18 §2553.1. Legislative findings; policy; purpose

19 A. The legislature hereby finds that litter composed of discarded soft drink  
20 and alcoholic beverage bottles and cans is a growing problem of state concern and

1 a direct threat to the health and safety of the citizens of this state. Discarded  
2 beverage bottles and cans create a hazard to vehicular traffic, a source of physical  
3 injury to pedestrians, farm animals, and machinery, and an unsightly accumulation  
4 of litter, which must be disposed of at an increasing public expense. Beverage  
5 bottles and cans also create an unnecessary addition to the state's and municipalities'  
6 already overburdened solid waste and refuse and disposal systems. Unsegregated  
7 disposal of such bottles and cans creates an impediment to the efficient operation of  
8 resource recovery plants.

9 B. The legislature hereby finds that the uninhibited discard of beverage  
10 containers constitutes a waste of both mineral and energy resources.

11 C. The legislature hereby finds that requiring a deposit on all beverage  
12 containers, along with certain other facilitating measures, will provide a necessary  
13 incentive for the economically efficient and environmentally benign collection and  
14 recycling of such containers.

15 §2553.2. Definitions

16 As used in this Chapter, the following terms shall have the meaning ascribed  
17 to them in this Section unless the context clearly indicates otherwise:

18 (1) "Beverage" means carbonated soft drinks, mineral water, soda water, or  
19 other nonalcoholic carbonated drinks; beer, ale, or other malt drink of whatever  
20 alcoholic content; or a mixed wine drink or a mixed spirit drink.

21 (2) "Beverage container" means the individual, separate, sealed metal,  
22 plastic, or glass, can, bottle, or jar used for containing a beverage intended for use  
23 or consumption in the state, which at the time of sale contains less than seventy fluid  
24 ounces of a beverage.

25 (3) "Dealer" means every person, firm, or corporation who engages in the  
26 sale of, or offers for sale, beverages in beverage containers to a consumer for off-  
27 premises consumption in this state, including an operator of a vending machine  
28 containing a beverage container.

1           (4) "Department" means the Louisiana Department of Environmental  
2           Quality.

3           (5) "Distributor" means any person, firm, or corporation which sells  
4           beverages in beverage containers to a dealer within this state and includes a  
5           manufacturer who engages in such sales.

6           (6) "Manufacturer" means a person who bottles, cans, or otherwise places  
7           beverages in beverage containers for sale to distributors, dealers, consumers, or  
8           importers of filled beverage containers into the United States.

9           (7) "Mixed spirit drink" means a drink containing ten percent or less alcohol  
10          by volume of distilled spirits mixed with nonalcoholic beverages or flavoring or  
11          coloring materials and which may contain water, fruit juices, fruit adjuncts, sugar,  
12          carbon dioxide, or preservatives, or any spirits-based beverage, regardless of the  
13          percent of alcohol by volume.

14          (8) "Mixed wine drink" means a drink or similar product marketed as a wine  
15          cooler and containing less than seven percent alcohol by volume, consisting of wine  
16          and plain, sparkling, or carbonated water and containing any one or more of the  
17          following: nonalcoholic beverages, flavoring, coloring materials, fruit juices, fruit  
18          adjuncts, sugar, carbon dioxide, or preservatives.

19          (9) "Operator of a vending machine" means equally its owner, the person  
20          who fills it, and the owner or lessee of the property upon which it is located.

21          (10) "Person" means an individual, partnership, corporation, association, or  
22          other legal entity.

23          (11) "Place of business" means the location at which a dealer sells or offers  
24          for sale beverages in beverage containers to consumers.

25          (12) "Redeemer" means every person who demands the refund value  
26          provided for herein in exchange for the empty beverage containers.

27          (13) "Redemption center" means any establishment authorized to give credit  
28          for the refund value and handling fees of a beverage container under the provisions  
29          of R.S. 30:2553.7.

1           (14) "Secretary" means the secretary of the Department of Environmental  
2           Quality.

3           (15) "Unredeemed deposits" means money lost or held by a manufacturer for  
4           containers in the possession of distributors, dealers, and consumers.

5           (16) "Use or consumption" means the exercise of any right or power incident  
6           to the ownership of a beverage other than the sale or the keeping or retention of a  
7           beverage, for the purpose of sale.

8           (17) "Within this state" means within the exterior limits of the state of  
9           Louisiana, including the territory within these limits owned or ceded to the United  
10          States of America. Beverage containers sold or distributed aboard interstate carriers  
11          shall be considered as intended for use of consumption outside this state.

12          §2553.3. Refund value

13           Every beverage container sold or offered for sale in this state shall have a  
14          minimum refund value of ten cents.

15          §2553.4. Beverage container requirements and prohibitions

16           A.(1) Every beverage container sold or offered for sale in this state by a  
17          manufacturer, distributor, or dealer shall clearly indicate by permanently marking or  
18          embossing the container or by printing as part of the product label in one-fourth inch  
19          type size, on the body of the container, the refund value of the container and the  
20          letters "LA Refund". Such information may be embossed or printed on a label which  
21          is securely or permanently affixed to the beverage container. Other state refunds  
22          may also appear on the label.

23           (2) A bottle beverage container must also have such refund value  
24          information on the neck of the bottle.

25           (3) A can beverage container must also have such refund value information  
26          indicated on the top of the can.

27           (4) Such embossing or permanent imprinting on the beverage container shall  
28          be the responsibility of the person, firm, or corporation which bottles, cans, or  
29          otherwise fills or packages a beverage container; however, the duly authorized

1 department registered agent of any such person, firm, or corporation may indicate  
2 such refund value by a label securely affixed on any beverage imported into this  
3 state.

4 B. The provisions of Paragraph (A)(1) of this Section and R.S.  
5 30:2553.6(A)(1) shall not apply to glass beverage containers having a brand name  
6 permanently marked thereon which, on the effective date of this Part, had a refund  
7 value in accordance with R.S. 30:2553.3.

8 C. No distributor or dealer shall sell or offer for sale in this state, at  
9 wholesale or retail, any metal beverage container so designed and constructed that  
10 a part of the container is detachable in opening the container.

11 D. No distributor or dealer shall sell or offer for sale in this state beverage  
12 containers connected to each other by a separate holding device constructed of  
13 plastic.

14 §2553.5. Mandatory acceptance

15 Except as provided in R.S. 30:2553.6:

16 (1) Every dealer who sells beverages in beverage containers shall during his  
17 normal course of business accept from a redeemer, any empty beverage containers  
18 of the same type, size, and brand sold by him and shall pay the redeemer the  
19 Louisiana refund value of each.

20 (2) Every distributor who sells beverages in beverage containers shall, during  
21 his normal course of business accept, from a dealer or authorized redemption center,  
22 any empty beverage containers of the size, type, and brand sold by him and shall pay  
23 the dealer the Louisiana refund value and handling fee of each.

24 (3) Every manufacturer who sells beverage containers shall during his  
25 normal course of business, accept from a distributor, any empty beverage containers  
26 of the size, type, and brand sold by him and shall reimburse the distributor the  
27 Louisiana refund value and handling fee of each.

28 (4) Handling fees paid by distributors to dealers or redemption centers will  
29 be:

1           (a) Beverage containers with a volume of less than thirty-two ounces—not  
2           less than two cents.

3           (b) Beverage containers with a volume of thirty-two ounces or more—not  
4           less than four cents.

5           §2553.6. Refusal of acceptance of a beverage container

6           A. A dealer or redemption center may refuse to accept any broken glass  
7           bottle, dismembered container, or any beverage container which contains a free-  
8           flowing liquid, does not properly indicate a Louisiana refund value, or contains a  
9           foreign material. For purposes of this Subsection:

10           (1) A glass bottle is broken if it is not able to hold liquid or to be resealed,  
11           is not in its original shape, or is cracked.

12           (2) A can or plastic bottle is dismembered if its body is not in one piece.

13           (3) A can or plastic bottle which is crushed or flattened is not dismembered.

14           (4) Small amounts of dust, dirt, or moisture do not constitute a significant  
15           amount of foreign material.

16           B. A dealer may but is not required to accept from a redeemer empty  
17           beverage containers for a refund in excess of twenty dollars on any given day.

18           §2553.7. Authority of the secretary

19           A. The secretary may promulgate rules and regulations governing:

20           (1) The circumstances in which dealers, distributors, and manufacturers,  
21           individually or collectively, are required to accept the return of empty beverage  
22           containers and make payment therefor.

23           (2) The sorting of the containers, which a distributor or manufacturer may  
24           require of dealers and distributors.

25           (3) The pickup of returned beverage containers by distributors, including the  
26           party to whom such expense is to be charged, the frequency of such pickups, and the  
27           payment for refunds and handling fees thereon.

28           (4) The right of dealers to restrict or limit the number of containers  
29           redeemed.

1           (5) The rules for redemption at the dealer's place of business.

2           (6) The redemption of containers from a beverage for which sales have  
3           discontinued.

4           (7) The reporting requirements from manufactures of the amount of deposits  
5           collected and paid, and the required amounts to be paid for unredeemed deposits to  
6           the department or return of payments by the department.

7           B. The secretary may promulgate rules and regulations governing the  
8           initiations of deposits, the sale of beverages in containers through vending machines  
9           and for on-premises consumption, recordkeeping, refunding for refillable beverage  
10           containers, embossing, imprinting, or labeling of refund values and for enforcement,  
11           all of which may be necessary and appropriate for the implementation of this Part.

12           C. The secretary is authorized to issue permits to persons, firms, or  
13           corporations which establish redemption centers, subject to applicable provisions of  
14           local and state laws, at which redeemers and dealers may return empty beverage  
15           containers and receive payment of the refund value and applicable handling fees of  
16           such beverage containers. No dealer or distributor, as defined in R.S. 30:2553.2,  
17           shall be required to obtain a permit to operate a redemption center at the same  
18           location as the dealer's or distributor's place of business. Operators of such  
19           redemption centers shall receive payment of the refund value and applicable  
20           handling fees of each beverage container from the appropriate manufacturer or  
21           distributor as provided under R.S. 30:2553.5.

22           §2553.8. Unredeemed deposit

23           On or before March thirtieth of each year, each manufacturer shall report to  
24           the department the total dollar amount of deposits collected and the total amount of  
25           deposits refunded, and pay the appropriate portion of unredeemed deposits to the  
26           department or apply for return of payments from the two previous years, pursuant to  
27           rules and regulations promulgated by the department.

- 1           §2553.9. Violations; penalties
- 2                   Any person violating any provision of this Part shall be liable for a civil
- 3           penalty of not more than five thousand dollars, and an additional civil penalty of not
- 4           more than five hundred dollars for each day during which such violation continues.
- 5           Any civil penalty may be assessed following a hearing or opportunity to be heard.
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## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Lambert

HB No. 760

**Abstract:** Provides for a system of deposits and redemption on glass and metal beverage containers.

Proposed law creates the La. Beverage Container Law as follows:

- (1) Defines "beverage", "beverage container", "dealer", "department", "distributor", "manufacturer", "mixed spirit drink", "mixed wine drink", "operator of a vending machine", "person", "place of business", "redeemer", "redemption center", "secretary", "unredeemed deposits", "use or consumption", and "within this state".
- (2) Requires every beverage container sold in this state to clearly indicate the refund value of the container and the letters "LA Refund". Exempts glass beverage containers which already have a refund value on the container.
- (3) Prohibits the sale of any metal beverage container with a detachable part for opening the container. Prohibits the sale of beverage containers connected by a separate plastic holding device.
- (4) Requires every dealer who sells beverages in beverage containers to accept the container from and pay to the redeemer the La. refund value. Requires every distributor to accept any empty beverage containers from the dealer or authorized redemption center and to pay the dealer the La. refund value and handling fee of each. Requires each manufacturer who sells beverage containers to accept from a distributor any empty containers and reimburse the distributor the La. refund value and handling fee of each.
- (5) Requires handling fees to be not less than 2¢ on beverage containers with a volume of less than 32 oz. and not less than 4¢ on beverage containers with a volume of 32 oz. or more.
- (6) Allows a dealer or redemption center to refuse to accept any broken glass bottle, dismembered container, or any container which contains a free-flowing liquid, does not properly indicate a La. refund value, or contains a foreign material.
- (7) Allows, but does not require, a dealer to accept from a redeemer empty beverage containers for a refund in excess of \$20 on any given day.
- (8) Allows the secretary of DEQ to promulgate rules and regulations concerning the circumstances in which a dealer is required to accept the return of empty containers



- and make payments, the sorting of the containers which a distributor or manufacturer may require, the pickup of returned containers by distributors, the right of dealers to restrict or limit the number of containers redeemed, the rules for redemption at the dealer's place of business, the redemption of containers from a beverage for which sales have discontinued and the initiations of deposits, sales through vending machines and on-premises consumption, recordkeeping, refunding for refillable containers, labeling, and reporting and payment requirements of manufacturers.
- (9) Authorizes the secretary to issue permits to establish redemption centers. Allows dealers or distributors to operate a redemption center at their same location without a permit.
- (10) Requires each manufacturer to report to DEQ, on or before March 30 of each year, the total dollar amount of deposits collected and refunded, and pay the appropriate portion of the unredeemed deposits to DEQ or apply for return of payments from previous years.
- (11) Subjects violators to civil penalty of not more than \$5,000 for violations and additional penalties of not more than \$500 for each day the violation continues.

(Adds R.S. 30:2553-2553.9)