

**HOUSE . . . . . No. 2513**

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The Commonwealth of Massachusetts

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PRESENTED BY:

***John J. Binienda***

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act improving recycling in the Commonwealth.

\_\_\_\_\_

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*John J. Binienda*

*17th Worcester*

*Michael O. Moore*

*Second Worcester*

**HOUSE . . . . . No. 2513**

By Mr. Binienda of Worcester, a petition (accompanied by bill, House, No. 2513) of John J. Binienda and Michael O. Moore for legislation to establish a municipal recycling enhancement fund from certain grants and revenue provided from unclaimed beverage container deposits. Revenue.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

An Act improving recycling in the Commonwealth.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. PURPOSE: An economically sound and environmentally progressive solid  
2 waste management strategy includes components of conservation, source reduction, reuse,  
3 recycling and litter control. Businesses, consumers, and governments share responsibility for  
4 managing solid waste and all must cooperate in developing and maintaining the best programs to  
5 manage solid waste effectively and efficiently. These statutory changes are necessary to ensure  
6 effective solid waste management recovery systems in the Commonwealth including expanded  
7 access to and participation in comprehensive recycling programs at home, in public places, and  
8 in commercial settings; better recycling promotion and education efforts; incentives for  
9 households and businesses to recycle more of their solid waste; and development of  
10 comprehensive litter prevention and control programs.

11   
12 SECTION 2. Chapter 21H of the General Laws is hereby amended by inserting after section 7  
13 the following section:-

14 Section 7A. The Department shall establish a program to increase recycling opportunities at  
15 public facilities visited by at least five thousand individuals annually including, but not limited  
16 to, stadiums, arenas, marinas, airports, theaters, and parks. The Department shall work with  
17 MassPort, the Massachusetts Cultural Council, the State Racing Commission, the Bureau of  
18 State Office Buildings and other entities in order to establish a program. The Department shall  
19 file a report on the program annually with the Joint Committee on Environment, Natural  
20 Resources and Agriculture, the Joint Committee on Telecommunications, Utilities and Energy,  
21 and the House and Senate Committees on Ways and Means on or before December thirty-first of

22 each year. The report shall contain, but not be limited to, activities promoting recycling at public  
23 facilities visited by at least five thousand individuals annually.

24

25 SECTION 3. Section 33 of chapter 92 of the General Laws, as appearing in the 2010 Official  
26 Edition, is hereby amended by inserting at the end thereof the following paragraph:-

27 The division shall include the provision of recycling opportunities into all new designs and  
28 redesigns of reservations and shall establish a program to increase recycling opportunities in all  
29 reservations located within the urban parks district. The division shall file an annual report on  
30 activities promoting recycling with the Joint Committee on Environment, Natural Resources and  
31 Agriculture, the Joint Committee on Telecommunications, Utilities and Energy, and the House  
32 and Senate Committees on Ways and Means on or before December thirty-first of each year.

33

34 SECTION 4. Effective July 1, 2013, Chapter 94 of the General Laws is hereby amended by  
35 inserting after section 323 the following section:-

36

37 Section 323G. Municipal Recycling Enhancement Fund.

38 40 shall be used, subject to appropriation, for programs described in paragraphs (c) and (d) of this  
41 section.

42

43 44 members of the Board shall consist of eleven persons appointed by the Governor including: the  
45 Secretary of Environmental Affairs, five distributor/wholesaler representatives subject to the  
46 recycling fee pursuant to Section 323H of Chapter 94, two representatives of the solid waste  
47 management and recycling industries, two representatives of statewide environmental  
48 organizations, and one representative of organized labor.

49

50 unit-based pricing programs; implementation of single-stream collection programs; municipal  
53 grants for recycling equipment and technical assistance; private sector grants to qualified  
54 redemption centers in order to develop innovative materials collection operations; and recycling  
55 media and education campaigns. Funds shall be distributed through a combination of  
56 population-based and merit-based formulas based on the recommendations of the Board.

57

58

62 laws in state/municipal-owned places and areas that are accessible to the public. Funds shall be  
63 distributed through a combination of population-based and merit-based formulas based on the  
64 recommendations of the Board.

65

66  (e) The Board shall work with the Department to develop best practices and standards to use as  
67 criteria for awarding grants and other funding for recycling and litter control programs.

68

69  (f) The Board shall submit to the Secretary of Administration and Finance, the House and  
70 Senate

71  Committees on Ways and Means, the Joint Committee on Telecommunications, Utilities and  
72  Energy, and the Joint Committee on Environment, Natural Resources and Agriculture an  
73 annual report of its activities and an evaluation of any and all programs entered into during the  
74 course of the fiscal year.

75

76  SECTION 5. Section 323D of said chapter 94, as so appearing, is hereby amended by  
77 inserting at the end thereof the following sentence:-

78

79  Effective July 1, 2013, 50% of amounts collected by the commissioner of revenue pursuant to  
80 this section shall be deposited in the Municipal Recycling Enhancement Fund established  
81 pursuant to section 323G.

82

83  SECTION 6. Said chapter 94 is hereby further amended by inserting after section 323F the  
84 following section:-

85

86  323H. Assessment.

87  (a) Beginning July 1, 2014 all beverages in beverage containers sold in the Commonwealth  
88 shall be subject to a 1¢ recycling fee.

89

90  (b) The recycling fee shall be levied on the sale of beverages in beverage containers by a  
91 distributor/wholesaler. Beverage containers sold for consumption outside of the Commonwealth  
92 are exempt from the fee.

93

94  (c) The Commissioner of Revenue (“commissioner”) shall develop implementing regulations  
95 for the collection and deposit of the recycling fee into the Fund including procedures for  
96 identifying and registering distributor/wholesalers subject to the fee and for quarterly payment of  
97 the fee by distributor/wholesalers. The commissioner shall also develop an annual payment  
98 procedure to reduce the administrative burden on smaller distributor/wholesalers. The  
99 commissioner shall prepare an annual report at the conclusion of each fiscal year listing  
100 registered distributor/wholesalers and reporting total Fund collections. Payment amounts from  
101 individual distributor/wholesalers shall be considered confidential business information and not

102 disclosed by the Commissioner except in conjunction with audits conducted under (d).

103

104  (d) The Commissioner shall coordinate periodic audits of distributor/wholesalers to ensure that  
105 appropriate records exist to document fee payments and that all distributor/wholesalers subject to  
106 the fee are paying in to the Fund.

107

108  SECTION 7. Said chapter 94 is hereby further amended by striking out section 321 and  
109 inserting in place thereof the following section:-

110

111  Section 321. DEFINITIONS. The following definitions shall, unless the context clearly  
112 requires otherwise, have the following meaning:

113  "Beverage," carbonated, noncarbonated-alcoholic and noncarbonated-nonalcoholic drinks  
114 intended for human consumption except milk and dairy derived products, infant formula, or  
115 medical food.

116  "Beverage container," any sealable bottle, can, jar, or carton, which is primarily composed of  
117 glass, metal, plastic, paper, or any combination of those materials, has a capacity of 4 liters or  
118 less, and is produced for purpose of containing a beverage.

119  "Carbonated beverage," soda water or similar carbonated soft drinks, mineral water, and beer  
120 and other malt beverages intended for human consumption.

121  "Dealer," any person including any operator of a vending machine, who sells, offers to sell or  
122 engages in the sale of beverages in beverage containers to consumers in the state.

123  "Distributor/wholesaler," any person who engages in the sale of beverages in beverage  
124 containers directly to dealers in the state, including any manufacturer who engages in such sales.

125  "Infant formula," any liquid food described or sold as an alternative for human milk for the  
126 feeding of infants.

127  "Manufacturer," any person who bottles, cans, or otherwise places beverages in beverage  
128 containers for sale to a distributor/wholesaler or dealer.

129  "Medical food," a food or beverage that is formulated to be consumed, or administered  
130 enterally under the supervision of a physician, and that is intended for specific dietary  
131 management of diseases or health conditions for which distinctive nutritional requirements,  
132 based on recognized scientific principles, are established by medical evaluation. A "medical  
133 food" is a specially formulated and processed product, for the partial or exclusive feeding of a  
134 patient by means of oral intake or enteral feeding by tube, and is not a naturally occurring  
135 foodstuff used in its natural state. "Medical food" includes any product that meets the definition  
136 of "medical food" in the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec.360ee (b)(3)).

137  "Noncarbonated-alcoholic beverage," any liquid intended for human consumption and  
138 containing one-half of one percent or more of alcohol by volume at sixty degrees Fahrenheit,  
139 including wine and wine-based drinks, spirits and spirit-based drinks and hard cider.

140  "Noncarbonated-nonalcoholic beverage," fruit and vegetable juices, still, flavored, and  
141 enhanced waters, iced tea, sports drinks, and other noncarbonated drinks intended for human

142 consumption, except for milk and dairy derived products, infant formula, or medical food.  
143 “Sales within the state,” within the exterior limits of the state of Massachusetts and includes all  
144 territory within these limits owned by or ceded to the United States of America.  
145   
146 SECTION 8. Section 322, 323 and 323B of said chapter 94 of the General Laws are hereby  
147 repealed.  
148   
149 SECTION 9. Said chapter 94 is hereby further amended by striking out section 323C and  
150 inserting in place thereof the following section:-  
151 Section 323C. Abandoned deposit amounts; determination.  
152 Any amounts that are or should be in a bottler’s or distributor’s Deposit Transaction Fund and  
153 that are in excess of the sum of (a) income earned on amounts in said account and (b) the total  
154 amount of refund values received by said bottler or distributor for non-reusable beverage  
155 containers shall be deemed to constitute abandoned deposit amounts. Income earned on said fund  
156 may be transferred from said fund for use as funds of the bottler or distributor.  
157   
158 SECTION 10. Said chapter 94 is hereby further amended by striking out section 323D and  
159 inserting in place thereof the following section:-  
160   
161 Section 323D. Transfer of abandoned deposit amounts.  
162 Each bottler or distributor shall turn over to the commissioner of revenue any deposit amounts  
163 deemed to be abandoned, pursuant to section three hundred and twenty-three C. Such amounts  
164 may be paid from the Deposit Transaction Fund. Amounts collected by the commissioner of  
165 revenue pursuant to this section shall be deposited into the Municipal Recycling Enhancement  
166 Fund, established pursuant to section three hundred and twenty-three G.  
167   
168 SECTION 11. Section 323E and 325 of said chapter 94 of the General Laws are hereby  
169 repealed.  
170   
171 SECTION 12. Said chapter 94 is hereby further amended by striking out section 326 and  
172 inserting in place thereof the following section:-  
173   
174 Section 326. Administration; rules and regulations.  
175  (a) The Secretary of the Executive Office of Energy and Environmental Affairs shall  
176 administer the provisions of sections three hundred and twenty-one, three hundred and twenty-  
177 three G (b) through (f), and three hundred and twenty-four. Said Secretary shall promulgate and  
178 from time to time revise rules and regulations to effectuate the purposes of said sections. Said  
179 Secretary shall determine through rules and regulations which plastic bottles and rigid plastic  
180 containers may be exempt from the labeling requirements of section three hundred and twenty-  
181 three A, including but not limited to the following: (1) readily identifiable plastic bottles and

182 rigid plastic containers; (2) plastic bottles and rigid plastic containers for which there is no  
183 technological capability for recycling, reclamation or reuse; and (3) plastic bottles and rigid  
184 plastic containers for which recycling, reclamation or reuse is not economically feasible.

185

186  (b) The Commissioner of the Department of Revenue shall administer the provisions of  
187 sections three hundred and twenty-three C, three hundred and twenty-three D, three hundred and  
188 twenty-three G (a), and three hundred and twenty-three H. The collection of revenues pursuant to  
189 sections three hundred and twenty-three D and three hundred and twenty-three H by said  
190 commissioner shall, to the extent consistent with this chapter, be governed by the provisions of  
191 chapter sixty-two C. The Commissioner of the Department of Revenue shall promulgate and  
192 from time to time revise rules and regulations to effectuate the purposes of said sections.

193

194  SECTION 13. Said chapter 94 is hereby further amended by striking out section 327 and  
195 inserting in place thereof the following section:-

196

197  Section 327. Enforcement; penalty; interest.

198  The Attorney General and District Attorneys shall enforce the provisions of sections three  
199 hundred and twenty-one to three hundred and twenty-seven, inclusive. Any manufacturer,  
200 wholesaler, distributor, or dealer who knowingly violates any provisions of sections three  
201 hundred and twenty-one to three hundred and twenty-six, inclusive, shall be subject to a civil  
202 penalty for each violation of not more than one thousand dollars.

203  Any manufacturer, wholesaler, distributor, or retailer failing to make full and timely payments  
204 as required by section three hundred and twenty-three H shall pay interest on any unpaid  
205 amounts at the rate of one and one-half percent for each month or part thereof until payment is  
206 made in full.

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208  SECTION 14. Sections 7 to 13 shall take effect on July 1, 2014.

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