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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO HEALTH AND SAFETY -- MINIATURE ALCOHOLIC BEVERAGE
CONTAINER ACT OF 2021

Introduced By: Representative David A. Bennett

Date Introduced: January 25, 2021

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 18.18

4 MINIATURE ALCOHOLIC BEVERAGE CONTAINER DEPOSIT RECYCLING ACT OF

5 2021

6 **23-18.18-1. Definitions.**

7 As used in this chapter:

8 (1) "Beverage" means an alcoholic beverage as described in chapter 1 of title 3, including,
9 but not limited to, beer and other malt beverages, wine, or liquor.

10 (2) "Beverage container" means any sealable bottle, can, jar, or carton which is primarily
11 composed of glass, metal, plastic or any combination of those materials and is produced for the
12 purpose of containing a beverage. This definition shall not include containers made of
13 biodegradable material.

14 (3) "Bottler" means any person filling miniature alcoholic beverage containers for sale to
15 distributors or dealers, including dealers who bottle or sell their own brand of beverage.

16 (4) "Consumer" means any person who purchases an alcoholic beverage in a miniature
17 alcoholic beverage container for use or consumption with no intent to resell such beverage.

18 (5) "Dealer" means any person, who engages in the sale of alcoholic beverages in miniature

1 alcoholic beverage containers to consumers in this state.

2 (6) "Distributor" means any person who engages in the sale of alcoholic beverages in
3 miniature alcoholic beverage containers to dealers in this state including any bottler who engages
4 in such sales.

5 (7) "Label" means a molded imprint or raised symbol on or near the bottom of a plastic
6 product.

7 (8) "Miniature alcoholic beverage container" means any sealable bottle, can, jar, or carton,
8 which is primarily composed of glass, metal, plastic, rigid plastic, or any combination of those
9 materials that has a capacity of not more than one hundred milliliters (100 ml) and is produced for
10 the purpose of containing an alcoholic beverage as described in chapter 1 of title 3, which containers
11 are sometimes colloquially referred to as "nips."

12 (9) "Plastic" means any material made of polymeric organic compounds and additives that
13 can be shaped by flow.

14 **23-18.18-2. Refund value; Exemption.**

15 Every miniature alcoholic beverage container sold or offered for sale in the state shall have
16 a refund value of not less than fifty cents (\$0.50). The provisions of this section shall not apply to
17 such containers sold by a distributor for use by a common carrier in the conduct of interstate
18 passenger service.

19 **23-18.18-3. Refund of miniature alcoholic beverage container; Refusal to accept**
20 **miniature alcoholic beverage container.**

21 (a) Every consumer shall deposit with the dealer the refund value of each miniature
22 alcoholic beverage container purchased from that dealer.

23 (b) Except as provided in subsection (f) of this section, a dealer shall accept from any
24 person during business hours any empty miniature alcoholic beverage container of the type, size
25 and brand sold by the dealer within the past sixty (60) days and shall pay that person the refund
26 value of each miniature alcoholic beverage container returned.

27 (c) Except as provided in subsection (f) of this section, a distributor shall accept from any
28 dealer any empty miniature alcoholic beverage container of the type, size and brand sold by the
29 distributor within the past sixty (60) days and shall pay the dealer the refund value of the miniature
30 alcoholic beverage container plus a handling fee of at least four cents (\$0.04) per container if the
31 empty miniature alcoholic beverage container is presented at the time of and at the location at which
32 the dealer obtains filled miniature alcoholic beverage containers from the distributor.

33 (d) Except as provided in subsection (f) of this section, a bottler shall accept from a
34 distributor or a dealer any empty reusable miniature alcoholic beverage container of the type, size,

1 and brand sold by the bottler within the past sixty (60) days and shall pay the distributor or dealer
2 the refund value of the beverage container plus a handling fee of at least four cents (\$0.04) per
3 container.

4 (e) Any person may establish a redemption center and shall have the right to determine
5 what type, size and brand of miniature alcoholic beverage container shall be accepted. Except as
6 provided in subsection (f) of this section, a distributor shall take from any redemption center any
7 empty miniature alcoholic beverage container of the type, size and brand sold by the distributor
8 within the past sixty (60) days and shall pay the redemption center the refund value of the container
9 plus a handling fee of at least four cents (\$0.04) per container.

10 (f) A dealer, distributor, redemption center or bottler may refuse to accept any miniature
11 alcoholic beverage container which contains material foreign to the normal contents of the
12 container.

13 (g) Any bottler or distributor who receives deposits and/or handling charges under this
14 chapter shall segregate said deposits or handling charges in a fund which shall be maintained
15 separately from all other revenues. Said bottler or distributor shall report on a monthly basis to the
16 Rhode Island resource recovery corporation and the division of revenue, the amount of said deposits
17 or handling charges received and the amount refunded.

18 (h) Any bottler or distributor who is subject to the provisions of subsection (c), (d) or (e)
19 of this section shall maintain a separate account to be known as the deposit transaction fund. Said
20 fund shall be kept separate from all other revenues and accounts. Each bottler or distributor shall
21 place in said fund the refund value for all miniature alcoholic beverage containers it sells subject
22 to the provisions of this chapter.

23 Except as specified in subsection (d) of this section, amounts in such fund may only be
24 expended to pay refund values paid after January 1, 2022, for returned miniature alcoholic beverage
25 containers pursuant to subsection (c), (d) or (e) of this section. Amounts in such fund shall not be
26 used to pay any handling fees required by subsection (c), (d) or (e) of this section. Each such fund
27 shall be maintained by said bottlers and distributors on behalf of consumers who have purchased
28 refundable miniature alcoholic beverage containers and on behalf of the state; except as specified
29 in § 23-18.18-6, for no purpose are amounts in such fund to be regarded as income of said bottlers
30 or distributors.

31 (i) The obligations to accept or take empty miniature alcoholic beverage containers and to
32 pay the refund value and handling fees for such containers as described in subsections (b), (c), (d)
33 and (e) of this section shall apply only to containers originally sold in this state as filled miniature
34 alcoholic beverage containers. Any person who tenders to a dealer, distributor, redemption center

1 or bottler more than ten (10) cases of twenty-four (24) empty miniature alcoholic beverage
2 containers each, which a person knows or has reason to know were not originally sold in this state
3 as filled miniature alcoholic beverage containers, for the purpose of obtaining a refund value or
4 handling fee, shall be subject to the enforcement action and civil penalties set forth in § 23-18.18-
5 10. For the purpose of this section and § 23-18.18-10, the term "person" shall include any
6 individual, partnership, corporation, or other combination or entity.

7 **23-18.18-4. Reports by bottlers and distributors of transactions affecting deposit**
8 **transaction fund.**

9 Every bottler or distributor shall report to the director of the division of revenue by the
10 tenth day of each month, concerning transactions affecting its deposit transaction fund in the
11 preceding month. Such report shall be made in a form prescribed by said director and shall include
12 the number of miniature alcoholic beverage containers sold and the number of miniature alcoholic
13 beverage containers returned in said month, the amount of deposits received in and payments made
14 from said fund in said month and the most recent three (3) month period, any income earned on
15 amounts in the deposit transaction fund during said preceding month, the balance in said deposit
16 transaction fund at the close of said preceding month, and such other information as the director of
17 revenue may require in furtherance of the director's duties pursuant to this chapter.

18 **23-18.18-5. Abandoned deposit amounts; Determination and transfer.**

19 (a) At the end of each month, any amounts that are or should be in a bottler's or distributor's
20 deposit transaction fund and that are in excess of the sum of:

21 (1) Interest income earned on amounts in said account during that month; and

22 (2) The total amount of refund values received by said bottler or distributor for miniature
23 alcoholic beverage containers during that month and the two (2) preceding months, shall be deemed
24 to constitute abandoned deposit amounts. Income earned on said fund may be transferred from said
25 fund for use as funds of the bottler or distributor.

26 (b) By the tenth day of each month, each bottler or distributor shall turn over to the director
27 of the division of revenue any deposit amounts deemed to be abandoned at the close of the
28 preceding month, pursuant to subsection (a) of this section. Such amounts may be paid from the
29 deposit transaction fund. Amounts collected by the director of the division of revenue pursuant to
30 this subsection shall be deposited in the water pollution control revolving fund established by § 46-
31 12.2-6.

32 **23-18.18-6. Reimbursements to bottlers or distributors.**

33 If in any month the authorized payments from the deposit transaction fund by a bottler or
34 distributor pursuant to § 23-18.18-2 exceed the funds that are or should be in its deposit transaction

1 fund, the state shall reimburse said bottler or distributor, from amounts received pursuant to § 23-
2 18.18-5, for those refunds paid by the bottler or distributor for miniature alcoholic beverage
3 containers for which the funds that are or should be in its deposit transaction fund are insufficient;
4 provided, however, that such reimbursements to a bottler or distributor for a month shall not exceed
5 the excess of:

6 (1) Amounts paid by said bottler or distributor to the state pursuant to § 23-18.18-5 in the
7 preceding twenty-four (24) months over;

8 (2) Amounts paid by this state to said bottler or distributor pursuant to this section during
9 said twenty-four (24) months.

10 **23-18.18-7. Holding or connecting devices; Breakdown by bacteria or light.**

11 No dealer shall sell or offer for sale in the state containers connected to each other by a
12 separate holding device constructed of plastic rings or any other device or material which cannot
13 be broken down by bacteria and or by light into constituent parts as provided in chapter 38 of this
14 title.

15 **23-18.18-8. Refund value; Statement on container.**

16 Every miniature alcoholic beverage container, or offered for sale in the state by a bottler,
17 distributor, or dealer shall clearly indicate, by embossing or by stamp, or by label, or other method
18 securely affixed to any portion except the bottom of the miniature alcoholic beverage container,
19 the refund value of the container. A permanently labelled reusable glass miniature alcoholic
20 beverage container first imported into, or offered for sale in this state after the effective date of this
21 chapter by a bottler, distributor, or dealer shall clearly indicate, by embossing or by stamp, or by
22 label, or other method securely affixed to any portion except the bottom of the permanently labelled
23 reusable glass miniature alcoholic beverage container, that the container may be returned for
24 deposit. A dealer, distributor, redemption center, or bottler, may refuse to accept from any person
25 any empty miniature alcoholic beverage container which does not state thereon a refund value.

26 **23-18.18-9. Administration of provisions relating to bottlers and distributors; rules**
27 **and regulations.**

28 (a) The director of the department of environmental management shall administer the
29 provisions of §§ 23-18.18-1, 23-18.18-2, 23-18.18-3(a) through (f), inclusive, 23-18.18-7, and 23-
30 18.18-8. Said director shall promulgate rules and regulations to effectuate the purposes of said
31 sections.

32 (b) The director of the division of revenue shall administer the provisions of §§ 23-18.18-
33 3 (g) through (i), 23-18.18-4, 23-18.18-5 and 23-18.18-6.

34 The director of the division of revenue shall promulgate and from time to time revise rules

1 and regulations to effectuate the purposes of said sections. Said rules and regulations shall include
2 a provision to permit bottlers or distributors to borrow, without any interest charge, against their
3 deposit transaction funds subject to such terms and conditions as the director deems appropriate.

4 **23-18.18-10. Enforcement.**

5 (a) The attorney general shall enforce the provisions of this chapter. Any bottler,
6 distributor, redemption center or dealer who violates any provisions of this chapter or any person
7 who violates § 23-18.1-3 shall be subject to a civil penalty for each violation of not more than one
8 thousand dollars (\$1,000).

9 (b) Any bottler or distributor failing to make full and timely payments as required by § 23-
10 18.18-5 shall pay interest on any unpaid amounts at the rate of one and one-half percent (1.5%) for
11 each month or part thereof until payment is made in full; provided, however, that any person,
12 including a bottler, distributor, redemption center or dealer, who violates the provisions of § 23-
13 18.18-3(i) shall be subject to a civil penalty of not less than one hundred dollars (\$100) for each
14 container or twenty-five thousand dollars (\$25,000) for each tender of containers.

15 SECTION 2. This act shall take effect on January 1, 2022.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- MINIATURE ALCOHOLIC BEVERAGE
CONTAINER ACT OF 2021

- 1 This act would create a refundable fifty cent (\$0.50) deposit for miniature alcoholic
- 2 beverage containers, often referred to as "nips."
- 3 This act would take effect on January 1, 2022.

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