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Offered: 5/23/77  
Referred: Finance

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL 171

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to litter control; and providing for  
7 an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. It is the intent of this Act to avoid the waste of nonre-  
10 newable resources, to decrease litter in Alaska, to provide jobs for Alaskans  
11 in those business concerns recycling beverage containers, and to avoid the  
12 increasing pollution of our environment by requiring the sale of refundable,  
13 reusable, biodegradable beverage containers and by authorizing redemption  
14 centers for the convenient return of the containers, and to accomplish litter  
15 control throughout the state by delegating to a single state agency with  
16 effective enforcement power the authority to conduct a permanent and con-  
17 tinuous program to control and remove litter from the state to the maximum  
18 extent possible. Other departments of the state and all local governmental  
19 units and agencies of the state shall cooperate with the Department of  
20 Environmental Conservation in the administration and enforcement of the  
21 provisions of this Act. The legislative intent is to add to and to coordi-  
22 nate existing litter control and reclamation efforts.

23 \* Sec. 2. AS 18 is amended by adding a new chapter to read:

24 CHAPTER 32. LITTER CONTROL.

25 ARTICLE 1. RETURNABLE BEVERAGE CONTAINERS.

26 Sec. 18.32.010. REFUND VALUE REQUIREMENTS OF BEVERAGE CONTAINERS.

27 (a) Every beverage container sold or offered for sale in this state  
28 shall have a refund value of not less than 10 cents.

29 (b) The refund value as established by (a) of this section and

1 payable under sec. 30 of this chapter shall be included in the price of  
2 a beverage, however, the dealer or distributor may claim the refund  
3 value as a deduction from gross receipts taxable under AS 43.71.

4 Sec. 18.32.020. REDEMPTION CENTER OR DISTRIBUTOR REFUSAL TO ACCEPT  
5 PROHIBITED. (a) Except as provided in secs. 30 and 50 of this chapter,  
6 no redemption center may refuse to accept from a person an empty bev-  
7 erage container which states on it the refund value as established by  
8 sec. 10 of this chapter.

9 (b) Except as provided in secs. 30 and 60(c) of this chapter, no  
10 distributor may refuse to accept from a redemption center an empty  
11 beverage container or refuse to pay the department the refund value of a  
12 beverage container established under sec. 10 of this chapter.

13 Sec. 18.32.030. REDEMPTION CENTER AND DISTRIBUTOR REFUSALS TO  
14 ACCEPT CONTAINERS. (a) A redemption center may refuse to accept from a  
15 person, and a distributor may refuse to accept from a redemption center,  
16 an empty beverage container which does not state on it a refund value as  
17 established by sec. 10 of this chapter.

18 (b) A redemption center or distributor may refuse to accept an  
19 otherwise reusable beverage container which has been damaged in a manner  
20 to preclude its reuse or which is in an unsanitary condition. The  
21 department shall adopt regulations defining when a beverage container is  
22 not reusable or is in an unsanitary condition.

23 (c) A distributor shall not collect the refund value of an empty  
24 beverage container at the time of sale from a dealer located in an area  
25 of the state which does not have access throughout the year to Anchorage  
26 Ketchikan, Juneau, or Fairbanks by road, railroad or state mainline  
27 ferry system.

28 Sec. 18.32.040. CONTAINER MARKING AND CONSTRUCTION. (a) No  
29 beverage container may be sold or offered for sale in this state after

1 July 1, 1978 unless it is reusable, recyclable or biodegradable.

2 (b) Each beverage container sold or offered for sale in this state  
3 by a dealer or distributor shall clearly indicate by embossing or by a  
4 stamp, or by a label or other method securely affixed to the beverage  
5 container, the refund value of the container.

6 (c) The requirement in (b) of this section does not apply to glass  
7 beverage containers which were manufactured before the effective date of  
8 this chapter and which have a brand name permanently marked on them, but  
9 such containers shall have a refund value of not less than 10 cents.

10 (d) No person may sell or offer for sale in this state a non-glass  
11 beverage container so designed and constructed that the container can be  
12 opened by detaching a part of the container.

13 Sec. 18.32.050. REDEMPTION CENTERS. (a) The state shall provide  
14 redemption centers. The state may do this through contractual arrange-  
15 ment. The public may return empty beverage containers to a redemption  
16 center and receive payment of the refund value for the beverage con-  
17 tainers.

18 (b) Application for approval of a contractual redemption center  
19 shall be filed with the department. The application shall state the  
20 name and address of the person responsible for the establishment and  
21 operation of the redemption center. The application shall include  
22 additional information as the department requires.

23 (c) The department shall approve a contractual redemption center  
24 if it finds the redemption center will provide a convenient service to  
25 the public for the return of empty beverage containers. The department  
26 may adopt regulations necessary to implement the purpose of this sec-  
27 tion.

28 (d) The department may review the approval of a contractual re-  
29 demption center at any time. After written notice to the person respon-

1 sible for the establishment and operation of the redemption center, the  
2 department may, after hearing, withdraw approval of a contractual re-  
3 demption center if the department finds there has not been compliance  
4 with its order approving the redemption center, or if the redemption  
5 center no longer provides a convenient service to the public.

6 (e) A distributor who sells beverages in Alaska shall monthly pay  
7 to the department an amount equal to the refund value of all beverage  
8 containers sold by that distributor. The department shall deposit the  
9 amount received from each distributor in the refund value revolving  
10 fund.

11 (f) The department shall adopt regulations establishing procedures  
12 for approval or withdrawal of approval under this section.

13 Sec. 18.32.060. FUND ESTABLISHED. (a) There is established the  
14 refund value revolving fund which shall be administered by the commis-  
15 sioner of environmental conservation. The fund shall be used to pay the  
16 refund value on beverage containers received by a redemption center  
17 established under this chapter. The fund is composed of money paid to  
18 the department under sec. 50(e) of this chapter.

19 (b) All surplus remaining in the fund at the end of a fiscal year  
20 shall be paid into the general fund.

21 Sec. 18.32.070. PENALTY. A person who violates secs. 10 - 20 or  
22 sec. 40 of this chapter, upon conviction, is punishable for a misde-  
23 meanor.

#### 24 ARTICLE 2. LITTER MANAGEMENT.

25 Sec. 18.32.080. LITTER PATROL. (a) The commissioner shall  
26 establish and administer a state litter patrol to patrol the parks,  
27 beaches, campgrounds, trailer parks, and other public places of the  
28 state. The litter patrol shall consist of as many full-time patrolmen  
29 in the classified service and additional part-time patrolmen as needed

1 to implement the provisions of secs. 80 - 140 of this chapter.

2 (b) In enforcing the provisions of secs. 80 - 140 of this chapter  
3 the litter patrol shall be aided by all peace officers in the state as  
4 well as fish and game enforcement officers and state park employees. The  
5 persons named in this section have the authority to issue citations and  
6 to arrest, without warrant, persons violating provisions of secs. 80 -  
7 140 of this chapter or regulations adopted under this chapter. The  
8 persons named in this section may serve and execute warrants, citations,  
9 and other process issued by the courts of this state in enforcing the  
10 provisions of secs. 80 - 140 of this chapter. Mailing by registered  
11 mail to the last known address of the person sought to be issued a  
12 warrant, citation or other process is personal service on the person  
13 charged.

14 (c) The commissioner shall promulgate regulations under the Admin-  
15 istrative Procedure Act (AS 44.62) necessary to carry out the provisions  
16 of secs. 80 - 140 of this chapter.

17 Sec. 18.32.090. PROHIBITED ACTS. (a) A person may not throw,  
18 drop, deposit, discard, or otherwise dispose of litter on public or  
19 private property in the state or in waters in the state or under state  
20 jurisdiction except

21 (1) when the property is designated by the state or an  
22 agency or political subdivision of the state as property to be used for  
23 the disposal of garbage or refuse and the person is authorized to use  
24 the property for that purpose;

25 (2) into a litter receptacle so that the litter will be pre-  
26 vented from being carried away or deposited by the elements upon public  
27 or private property or waters in the state or under state jurisdiction.

28 (b) A person violating a provision of this section is guilty of a  
29 misdemeanor and upon conviction is punishable by a fine of not more than

1 \$500, or by imprisonment for not more than 30 days, or by both. In the  
2 discretion of the court issuing sentence under the provisions of this  
3 section the court may require that the person found guilty of violating  
4 a provision of this section engage, for a time designated and over an  
5 area designated, in gathering and properly disposing of all litter in  
6 the area designated by the court.

7 Sec. 18.32.100. NOTICE TO PUBLIC. The commissioner shall, by  
8 posting pertinent provisions of secs. 80 - 140 of this chapter in appro-  
9 priate places, make known the content and penalty provisions of secs.  
10 80 - 140 of this chapter.

11 Sec. 18.32.110. LITTER RECEPTACLES. (a) The commissioner shall  
12 design one or more types of litter receptacles which are uniform as to  
13 size, shape, capacity and color for wide and extensive distribution  
14 throughout the public places of the state. Each receptacle shall bear  
15 an antilitter symbol or logo designated and adopted by the division, as  
16 well as a statement of the penalties for littering. In addition, all  
17 receptacles shall have heavy lids constructed of a suitable and durable  
18 material which is so designed as to attract attention and encourage the  
19 depositing of litter.

20 (b) Litter receptacles provided for in (a) of this section shall  
21 be placed in all parks, campgrounds, trailer parks, drive-in restau-  
22 rants, gasoline service stations, tavern parking lots, shopping centers  
23 and parking lots of major industrial firms, marinas, boat launching  
24 areas, boat moorage and fueling stations, public and private piers,  
25 beaches and bathing areas, and other places in the state that the com-  
26 missioner considers appropriate.

27 (c) A person operating a business of the type described in (b) of  
28 this section, who fails to place the receptacles provided for in this  
29 section in readily accessible areas and in the numbers required by the

1 commissioner is guilty of littering and is punishable in the same manner  
2 as provided for in sec. 90 of this chapter.

3 Sec. 18.32.120. LITTER BAGS. The department shall design and  
4 produce a litter bag bearing the state antilitter symbol or logo and a  
5 statement of the penalties for littering in the state. The department  
6 shall make available to the Department of Public Safety a number of  
7 these bags so that each person upon renewing his motor vehicle regis-  
8 tration may be given one along with his license plates. The division of  
9 motor vehicles shall distribute one litter bag for each set of license  
10 plates issued. The department shall make litter bags available to all  
11 watercraft owners and persons entering the state by automobile. The  
12 commissioner shall pick key distribution points so that the broadest  
13 possible distribution is made to persons entering the state by auto-  
14 mobile or watercraft; for example, marinas, airports, ports of entry or  
15 similar centers of transportation activity. No charge is to be made for  
16 the litter bags distributed under this section.

17 Sec. 18.32.130. REMOVAL OF LITTER. Responsibility for the removal  
18 of litter from litter receptacles placed in parks, beaches, campgrounds,  
19 trailer parks, and other publicly owned places shall remain upon those  
20 state and local agencies performing litter removal.

21 Sec. 18.32.140. ADDITIONAL DUTIES OF DEPARTMENT. The department  
22 shall

23 (1) serve as the coordinating agency between the various  
24 industry organizations seeking to aid in litter control;

25 (2) recommend to the governing bodies of all general law or  
26 home rule municipalities that they adopt ordinances similar to the  
27 provisions of secs. 80 - 140 of this chapter;

28 (3) cooperate with all municipalities to accomplish coordina-  
29 tion of local litter control efforts;

1 (4) encourage, organize and coordinate voluntary local  
2 litter control campaigns seeking to focus the attention of the public on  
3 the programs of this state to control and remove litter;

4 (5) investigate the availability of, and apply for and  
5 disperse funds available from any private or public source to be used in  
6 litter control programs.

7 ARTICLE 3. GENERAL PROVISIONS.

8 Sec. 18.32.150. REPORT TO THE LEGISLATURE. (a) Before January 1,  
9 1980, the department shall submit a report to the legislature to include  
10 but not be limited to an analysis of

11 (1) the economic impact of this chapter on

12 (A) persons licensed under AS 04.10;

13 (B) persons who engage in the nonalcoholic beverage  
14 manufacturing business; and

15 (C) persons engaged in the business of manufacturing  
16 beer and other malt beverages;

17 (2) the problems, if any, incurred in the distribution, sale  
18 and return of beverage containers subject to this chapter;

19 (3) the effectiveness of the provisions of this chapter in  
20 the reduction of the incidence of littering in the state, which shall be  
21 based upon an annual comprehensive litter measurement program of selec-  
22 ted roads, highways, parks, recreation areas and working and living  
23 areas of the state, beginning July 1, 1977, and ending before January 1,  
24 1980;

25 (4) the costs incurred in the enforcement of the provisions  
26 of this chapter.

27 (b) The department may recommend legislative changes based on the  
28 analysis required under (a) of this section.

29 Sec. 18.32.160. DEFINITIONS. In this chapter

1 (1) "beverage" means beer or other malt beverages, mineral  
2 waters, soda water and similar carbonated or uncarbonated soft drinks in  
3 liquid form and intended for human consumption;

4 (2) "beverage container" means the individual, separate,  
5 sealed glass, metal can, jar, or plastic bottle, containing a beverage;

6 (3) "commissioner" means the commissioner of the Department  
7 of Environmental Conservation;

8 (4) "dealer" means a person in this state who engages in the  
9 sale of beverages in beverage containers to a consumer;

10 (5) "department" means the Department of Environmental Con-  
11 servation;

12 (6) "distributor" means a person located in the state who  
13 engages in the sale of beverages in beverage containers to a dealer in  
14 this state, including a manufacturer who engages in sales to a dealer;

15 (7) "manufacturer" means a person bottling, canning, or  
16 otherwise filling beverage containers for sale to distributors or  
17 dealers;

18 (8) "place of business of a dealer" means the location at  
19 which a dealer sells or offers for sale beverages in beverage containers  
20 to consumers;

21 (9) "redemption center" means a facility established by the  
22 department or a contractor selected by the department for the receipt of  
23 beverage containers from the public and the payment of refund values  
24 required under this chapter;

25 (10) "use or consumption" includes the exercise of a right or  
26 power over a beverage incident to its ownership other than the sale or  
27 the retention of a beverage for the purposes of sale.

28 \* Sec. 3. AS 43 is amended by adding a new chapter to read:

29 CHAPTER 71. LITTER CONTROL TAX.

1           Sec. 43.71.010. TAX ON MANUFACTURER, WHOLESALER AND RETAILER. (a)

2       There is levied a tax of one-twentieth of one per cent on gross receipts  
3       of all sales of retailers engaged in business in the state and all sales  
4       of products by manufacturers and wholesalers for use or consumption in  
5       the state. This tax shall be collected by the Department of Revenue  
6       under procedures of the Department of Revenue, and the proceeds of the  
7       tax shall be deposited in the general fund of the state. The legisla-  
8       ture may appropriate an amount equal to the proceeds of the litter con-  
9       trol tax for the purpose of funding the duties of the Department of  
10      Environmental Conservation established under AS 18.32.

11           (b) The tax provided for in (a) of this section applies only to  
12      the value of or the gross receipts of sales of the following manufac-  
13      tured, wholesaled, or retailed items:

- 14           (1) food for human or pet consumption when containerized or  
15      packaged in any way;
- 16           (2) cigarettes and tobacco products;
- 17           (3) soft drinks and carbonated waters;
- 18           (4) beer and other malt beverages;
- 19           (5) wine;
- 20           (6) newspapers and magazines;
- 21           (7) household paper and paper products;
- 22           (8) glass containers or any product sold in glass containers;
- 23           (9) metal containers or any product sold in metal containers;
- 24           (10) plastic or fiber containers made of synthetic material or  
25      any product sold in plastic or fiber containers;
- 26           (11) cleaning agents and toiletries;
- 27           (12) nonprescriptioned patented or nonpatented medicines and  
28      remedies.

29           Sec. 43.71.020. REGULATIONS. The Department of Revenue shall

1 adopt appropriate regulations implementing sec. 10 of this chapter under  
2 the Administrative Procedure Act (AS 44.62).

3 Sec. 43.71.030. TAX EXEMPTIONS. The activity of growing food  
4 products or raising animals for food products is exempt from the gross  
5 receipts tax provided for in sec. 10 of this chapter.

6 \* Sec. 4. AS 11.20.590(b) and (e) are repealed.

7 \* Sec. 5. This Act expires March 15, 1983.

8 \* Sec. 6. Section 4 of this Act and the provisions of AS 18.32.080 - 18.-  
9 32.140 and 18.32.150, enacted in sec. 2 of this Act, and AS 43.71.010 - 43.-  
10 71.030, enacted in sec. 3 of this Act, take effect July 1, 1977.

11 \* Sec. 7. The provisions of AS 18.32.010 - 18.32.030, 18.32.040(a) - (c),  
12 18.32.050 - 18.32.070, and 18.32.160 enacted in sec. 2 of this Act, take  
13 effect July 1, 1978.

14 \* Sec. 8. The provisions of AS 18.32.040(d), enacted in sec. 2 of this  
15 Act, take effect July 1, 1978.

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