



ANNO VICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1975

No. 77 of 1975

An Act to provide for the paying of refunds on certain containers; to prohibit the sale of certain containers; for matters incidental thereto and for other purposes.

[Assented to 23rd October, 1975]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

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| Short title. | 1. This Act may be cited as the "Beverage Container Act, 1975". |
| Commencement. | 2. This Act shall come into operation on a day to be fixed by proclamation. |
| Division of Act. | 3. This Act is divided as follows:—
PART I—PRELIMINARY
PART II—REFUND AMOUNT
PART III—GLASS CONTAINERS
PART IV—OTHER CONTAINERS
PART V—PROHIBITION ON SALE OF CERTAIN CONTAINERS
PART VI—MISCELLANEOUS. |
| Interpretation. | 4. In this Act, unless the contrary intention appears—
"beverage" means—
(a) brandy, gin, rum, whisky, cordials containing spirits, wine, cider, perry, mead, ale, porter, beer or any other spirituous, malt, vinous or fermented liquors;
(b) any carbonated soft drink or waters;
or
(c) any liquid intended for human consumption by drinking, declared by regulation to be a beverage for the purposes of this Act: |

“collection area” in relation to a container of a particular description, means an area comprising a part of the State delineated pursuant to section 9 of this Act as a collection area in relation to containers of that description:

“collection depot” in relation to containers of a particular description, means a collection depot the establishment of which is approved of pursuant to section 9 of this Act in relation to containers of that description:

“container” means a receptacle that is made or produced for the purpose of holding a beverage being such a receptacle that is or was, at the time it held that beverage, closed but does not include an exempt container or a container being a glass container intended for use for containing wine or spirituous liquor whether or not at the material time, that container is an empty container:

“description” in relation to a container that contains or contained a particular beverage means the product identification or brand name of that beverage:

“exempt container” means a container of a class or kind declared by regulation to be a class or kind of container to which this Act does not apply:

“glass container” means a container manufactured of glass whether alone or in combination with any other substance or thing but does not include a container of a class or kind for the time being declared by proclamation under section 5 of this Act not to be a glass container:

“refund amount” in relation to a container of a class, kind or description means an amount not exceeding five cents prescribed as the refund amount in relation to containers of that class, kind or description:

“retailer” means a person whose business is or includes that of selling a beverage for the purpose of the use or consumption of that beverage and in the case of such sale by means of a vending machine includes the owner of that vending machine unless that owner has leased or otherwise let out on hire that vending machine in which case the expression includes the person to whom that vending machine has been leased or let out on hire:

“sell” includes offer to sell and hold out for sale, and its derivatives and correlatives have a corresponding meaning:

“the appointed day” means the day declared by proclamation under section 5 of this Act to be the appointed day.

5. (1) The Governor may by proclamation declare a day to be the appointed day for the purposes of this Act. Proclamations.

(2) The Governor may by proclamation declare a class or kind of container not to be a glass container.

(3) The Governor may by proclamation amend, vary or revoke a declaration under subsection (2) of this section.

PART II

PART II

REFUND AMOUNT

Marking of
refund amount
on beverage
containers.

6. (1) On or after the appointed day a retailer shall not sell or cause, suffer or permit to be sold a beverage in a container unless that container is marked in a form and manner approved of by the Minister with a statement showing the refund amount applicable to that container.

Penalty: Two hundred dollars.

(2) In proceedings for an offence that is a contravention of subsection (1) of this section, a writing purporting to be under the hand of the Minister setting out the form and manner of marking the container (to which the proceedings relate) with a statement showing the refund amount applicable to that container shall be conclusive evidence of the form and manner so approved.

PART III

PART III

GLASS CONTAINERS

Payment of
refund amount.

7. (1) Except as is provided in this section, on or after the appointed day, a retailer who sells or causes, suffers or permits to be sold a beverage in a glass container of a particular description shall not refuse or fail or suffer or permit a person apparently acting on his behalf to refuse or fail—

(a) to accept delivery of empty glass containers of that description being such containers that are marked in the manner referred to in subsection (1) of section 6 of this Act;

and

(b) in respect of each such container, to pay to the person delivering that container the refund amount applicable to that container.

Penalty: Two hundred dollars.

(2) A retailer referred to in subsection (1) of this section shall not be obliged to accept delivery of any container that is in an unclean condition.

(3) In proceedings for an offence that is a contravention of subsection (1) of this section an averment that the retailer sells beverages in a container of a particular description shall in the absence of proof to the contrary be proof of the fact averred.

PART IV

PART IV

OTHER CONTAINERS

8. In this Part "container" means a container other than a glass container. Definition.

9. (1) The Minister may, on application being made in the prescribed manner and form, by notice published in the *Gazette*— Establishment of collection depots and collection areas.

(a) approve the establishment of a collection depot in relation to containers of a specified description or containers of specified descriptions;

(b) delineate a collection area in relation to that collection depot;

(c) impose such conditions as are prescribed or as he sees fit as to the operation of that collection depot or as to the disposal from that collection depot of empty containers delivered to that collection depot.

(2) The Minister may by notice published in the *Gazette* amend or vary any notice referred to in subsection (1) and upon that publication the notice as amended or varied shall have effect according to its tenor.

(3) The Minister, by notice published in the *Gazette*—

(a) shall at the request of the person for the time being operating a collection depot, revoke the approval of the establishment of that depot given under subsection (1) of this section;

and

(b) may, if he is of the opinion that a contravention of any condition referred to in subsection (1) has occurred, revoke his approval of the establishment of the collection depot, in relation to which the contravention occurred,

and upon that revocation that collection depot shall cease to be a collection depot for the purposes of this Act and the collection area delineated in relation to that collection depot shall cease to be a collection area for the purposes of this Act.

10. (1) On or after the appointed day a retailer shall not sell or cause, suffer or permit to be sold a beverage for consumption off the premises of the retailer in a container of a particular description unless the place or premises from which that sale takes place is situated within a collection area delineated in relation to a collection depot that will accept delivery of containers of that description. Limitation on sale of certain containers.

Penalty: Two hundred dollars.

(2) In proceedings for an offence that is a contravention of subsection (1) of this section a writing purporting to be under the hand of the Minister stating that a specified place or premises is in relation to a container of a specified description not within a collection area delineated in relation to a collection depot that will accept containers of that description shall be conclusive evidence of the matter so stated.

PART IV

Exhibition of signs.

11. (1) On or after the appointed day a retailer, who sells a beverage in a container of a particular description from a place or premises that is situated within one or more collection areas delineated in relation to a collection depot or collection depots that will accept delivery of containers of that description, shall not refuse or fail to exhibit and keep exhibited at or in that place or premises a sign in a form approved of by the Minister specifying the location of that collection depot or those collection depots.

Penalty: Two hundred dollars.

(2) In proceedings for an offence that is a contravention of subsection (1) of this section a writing purporting to be under the hand of the Minister setting out a description of a sign approved by him for the purposes of that subsection shall be conclusive evidence of the form of the sign so approved for the purposes of that section.

Delivery of containers to collection depots.

12. (1) Except as is provided in this section on or after the appointed day the person in charge of a collection depot shall not refuse or fail or suffer or permit a person apparently acting on his behalf to refuse or fail—

(a) to accept delivery of empty containers of a description in relation to which the establishment of that collection depot was approved being such containers that are marked in the manner referred to in subsection (1) of section 6 of this Act;

and

(b) in respect of each such container, to pay to the person delivering that container the refund amount applicable to that container.

Penalty: Five hundred dollars.

(2) A person referred to in subsection (1) of this section shall not be obliged to accept delivery of any container that is in an unclean condition.

PART V**PART V****PROHIBITION ON THE SALE OF CERTAIN CONTAINERS**

"Ring pull" containers.

13. (1) In this section "ring pull container" means a sealed container wholly or mainly constructed of metal whether or not of more than one kind of metal and being capable of being opened, without the aid of any instrument, by the removal of portion of the container in such a manner as results or may result in a severance from the body of the container of the portion so removed.

(2) On or after the thirtieth day of June, 1976, a retailer shall not sell any beverage contained in a ring pull container.

Penalty: Five hundred dollars.

PART VI

PART VI

MISCELLANEOUS

14. Where a person charged with an offence against this Act is a body corporate, a person who is concerned or takes part in the management of that body corporate may be charged with a like offence and where the body corporate is convicted of the offence a person who is so concerned or takes part in the management of the body corporate may be convicted of the like offence unless he proves the act or omission constituting the offence took place without his knowledge or consent.

Offences by
bodies
corporate.

15. In proceedings for an offence that is a contravention of this Act an averment—

Evidentiary.

(a) that a liquid is a beverage;

or

(b) that a container is a glass container,

shall in the absence of proof to the contrary be proof of the fact averred.

16. Proceedings for an offence against this Act shall be disposed of summarily.

Summary
proceedings.

17. (1) The Governor may make such regulations as are necessary or expedient for the purposes of giving effect to the provisions and objects of this Act.

Regulations.

(2) Without limiting the generality of subsection (1) of this section the regulations may—

(a) prescribe an amount as being the refund amount applicable to a container of a class, kind or description and may so prescribe different amounts as being the refund amount applicable to containers of different classes, kinds or descriptions;

and

(b) provide for and prescribe penalties not exceeding in each case two hundred dollars for a breach of a provision of the regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor