

# MSDA REDEMPTION BEST PRACTICES

## STORES WITHOUT REVERSE VENDING MACHINES (RVMS)

1. A beverage distributor is obligated to accept from a dealer empty deposit containers which are of the same kind, size, and brand sold by the distributor – and pay to the dealer the 10 cent refund value for the container.

- If the container contains something other than the residue of its original contents, the distributor may refuse to accept it, and is not required to pay the 10 cent refund value to the dealer.
- If the container is not of the kind, size and brand sold by the distributor, then the distributor is not required to accept the container or pay the 10 cent refund.
- If the 10 cent refund value and the name of this state is not visible on the container, then the distributor is not required to accept the container or pay the refund value, even if the container is of the same kind, size, and brand sold by that distributor.

2. In order to determine if the empty container is of the same kind, size and brand sold by that distributor, and bears the MI 10 cent refund, the distributor must be able to visually identify the container. Thus, containers must be tendered in clear plastic bags.

- If the containers are presented to the distributor in an opaque bag or other opaque receptacle, the distributor is not required to accept the bag or receptacle, or open it to identify the contents.
- Similarly, with glass containers, if the containers are presented to the distributor in an opaque receptacle which does not lend itself to easy identification by the distributor that the containers are of like kind, size, and brand sold by the distributor, and bear the MI 10 cent refund value, the distributor is not required to accept those containers.

3. Unless the dealer wants to individually count the containers when presenting them to the distributor, the dealer must have the containers separated by material and size, and placed in uniform sized bags, or in the case of glass, placed in boxes or shells. The bags shall be filled with the following counts of redeemable aluminum or plastic containers, as indicated by a tie-off mark on the bag. Glass containers shall be in a full box /shell with a count identical to the number of containers contained in the box/shell when full product was delivered.

- 240 aluminum cans (bags)
- 120 PET plastic containers, 1 liter or smaller(bags)
- 40 PET plastic containers, 2 liter size (bags)
- 24 glass containers (or the number of containers in the box/shell generally sold by the industry when full, based on container size).

4. If a bag or box/shell is obviously not filled to the prescribed level, the distributor shall not take the bag or box/shell, or give redemption credit. In those instances where a distributor has reason to believe there has been a pattern of bags not filled to the proper count, or containing foreign, non -deposit, or other containers for which the distributor is not required to accept or pay a 10 cent refund value, the distributor should put an identifying sticker or tag on the bags from that dealer, and then audit the bags.
5. If the number of appropriately refundable containers in the bags is consistently short over a period of audits (two is recommended), the distributor should inform the dealer of the average shortfall, and provide notice that if the shortfall continues, the distributor will begin to reduce the 10 cent refunds to the dealer by an equivalent percentage. If a subsequent audit of the dealer's bags shows that the shortfall is continuing, the distributor should reduce refund values paid the dealer according to the dealer's average shortage, and continue the practice for two months, at which time the distributor shall re-audit and reevaluate the store accordingly.
6. A distributor should always credit a dealer for the number and kind of full bags or boxes/shells properly attributable to that distributor, and which the distributor accepts and removes from the store. A distributor should not give credit to a dealer for more than the number of full bags or boxes/shells properly attributable to that distributor, and which are accepted by the distributor and actually removed from the store.
7. A distributor should not remove from a store more bags or boxes/shells containing empty redeemable containers than are properly attributable to that distributor.
8. A distributor should not leave the dealer without a receipt in writing identifying the number of bags and boxes/shells taken, credits given, and the date.
9. A distributor should make available to the dealer a source from which it may acquire the appropriately sized clear plastic bags with a tie-off mark, and appropriate boxes/shells to hold empty glass containers.

## **STORES WITH REVERSE VENDING MACHINES (RVMS) THAT ARE NOT ON THIRD PARTY PICK-UP**

Numbers 4 through 9, above, apply to dealers with RVMs.

RVMs shall not commingle glass containers attributable to different distributors, and they shall be redeemed as outlined for stores without reverse vending machines (numbers 1 through 9, above).

RVMs commingle pet or aluminum containers from the various distributors into the same bag. While a distributor is not required to accept bags with containers that are not the same kind, size, and brand sold by the distributor to the dealer, as a matter of practice, distributors have been accepting such bags as an accommodation to the dealer (so the dealer can take advantage of the labor cost savings resulting from use of the RVMs). The containers in these bags must be flattened and must be able to be confirmed as Michigan 10 cent deposit containers.

The distributor should not accept and remove any bags of the commingled containers until a receipt is prepared by the dealer and given to the distributor. The receipt in writing given to the distributor by the dealer should be a printout from the RVM computer which shows the number of containers (translated into bags) attributable to that distributor since the distributor's last pick-up. Care should be taken to be certain the printout is an original (not a copy) with the correct date. If the printout is a reprint, it shall be clearly identified as a reprint, with the correct date, and shall be a separate original document.

Similar to 2, above, the bags must be clear so the distributor can visually ascertain that the containers are crushed deposit containers, separated by material.

Similar to 3 above, the bags should contain uniform counts of containers separated by material using one of the seven RVM change bag settings, as follows: 720, 600, or 480 aluminum cans; or 160, 120, 80, or 40 PET plastic containers, any size.

## **DEALER RIGHTS AND RESPONSIBILITIES UNDER THE MICHIGAN BEVERAGE CONTAINER LAW**

A dealer need not accept from a person, nor pay the refund value to a person, of a container which fits any one of the following descriptions:

- The container is not of the same kind, size, and brand sold by that dealer.
- The contents of the container were consumed in the dealer's sale or consumption area and the dealer did not charge a deposit when the container was purchased from the dealer.
- The container contains a substance which is something other than the residue of its original contents.
- A deposit was not paid when the container was purchased at retail.
- The container does not indicate, by embossing or other secure method, the refund value and the name of this state (MI).
- A deposit refund has already been paid on that container (unless it is a container sanitized and refilled by the manufacturer).

A dealer is not required to accept from a person more than \$25 worth of refundable containers in any one day.

A dealer shall post in the redemption area a notice that says substantially the following: "A person who returns for refund an out-of-state non returnable container is subject to penalties of up to 93 days in jail and a fine of \$500 and restitution."

## FRAUDULENT REDEMPTION

In recent years, the fraudulent redemption of out-of-state beverage containers in Michigan has become an issue of public concern. Unclaimed deposits paid to the state by beverage distributors declined from the peak of \$23.5 million in 2000, to \$8.9 million in 2007.

In more recent years, the level of unclaimed deposits paid to the state by distributors has hovered more in the range of \$15 to \$17 million annually. Many believe this reduction in unclaimed deposits from the highs of 2000 is due to increased fraudulent redemption of empty deposit containers. Fraudulent redemption most often occurs through one of three methods:

- Full product is transported into Michigan and sold by a wholesaler to retailers. Unfortunately, the Michigan beverage distributor, who later picks up the resulting empty container, had never collected a dime to begin with, but still must pay the retailer a dime out of the distributor's holdings of deposits.
- An empty non-deposit container is brought back to a store for redemption, and a dime is paid either through a reverse vending machines (RVM), or a through store clerk.
- A crushed non-deposit container is brought in to Michigan and tendered to Michigan distributors for the dime, working through cooperating retailers.

Michigan's soft drink bottlers and distributors for a number of years had already taken aggressive action to stop fraudulent redemption. We developed "redemption best practices" which were used by our bottlers and distributors to audit for foreign containers. In the mid 2000's we worked closely for months with the Michigan State Police and the Department of Treasury to successfully identify and apprehend organized redemption fraud schemes.

Prior to RVMs, our redemption best practices system relied on the individual delivery driver's ability to examine the clear bags of empty containers for nonconforming product, or to reject bags only partially full. But the way the RVM crushes and then commingles empty containers, it was no longer workable for individual inspection by the driver to be relied upon to ferret out foreign containers.

The MSDA member companies have stepped up to the challenge of trying to fight fraudulent redemption. They were central figures in the identification and investigation of a scheme that led to a multi-million bust in the early 2000's. Our members have recently intensified their efforts in this area when circumstances are noticed in the field that do not appear copacetic.