

Refilling Returnables 3-304.17

(A) Except as specified in paragraphs (B) through (E) of this section, empty containers returned to a food establishment for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant; ^P

(B) A take-home food container returned to a food establishment may be refilled at a food establishment with food if the food container is:

- 1) Designed and constructed for reuse and in accordance with the requirements specified under Part 4-1, Materials for Construction and Repair, and 4-2, Design and Construction; ^P
- 2) One that was initially provided by the food establishment to the consumer, either empty or filled with food by the food establishment, for the purpose of being returned for reuse;
- 3) Returned to the food establishment by the consumer after use;
- 4) Subject to the following steps before being refilled with food:
 - a) Cleaned as specified under Part 4-6, Cleaning of Equipment and Utensils;
 - b) Sanitized as specified under Part 4-7, Sanitization of Equipment and Utensils; ^P
 - c) Visually inspected by a food employee to verify that the container, as returned, meets the requirements specified under Part 4-1 and 4-2 as above ; ^P and

C) A take-home food container returned to a food establishment may be refilled at a food establishment with beverage if:

- 1) The beverage is not a time/temperature control for safety food;
- 2) The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the food establishment;
- 3) Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;
- 4) The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and
- 5) The container is refilled by:
 - a) An employee of the food establishment, or
 - b) The owner of the container if the beverage system includes a contamination-free transfer process as specified under Sections 4-204.13, Dispensing Equipment, Protection of Equipment and Food, (A), (B) and (D) that cannot be bypassed by the container owner.

D) Consumer-owned, personal take-out beverage containers, such as thermally insulated bottles, non-spill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under Section 4-204.13(A), (B) and (D).

E) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

(Document updated November, 2018 after MA adopted the 2013 Federal Food Code and the 2015 Amendments.)

It is important to keep in mind that paragraphs (B), (C), (D) and (E) are exceptions to (A), which requires food containers to be refilled in a regulated FOOD PROCESSING PLANT. Any single exception may be used, provided the conditions for the individual exception are met.

Both FOOD and BEVERAGE are defined terms in the Code, which lists beverages as a type of food. Therefore, the intent of the Food Code is to include beverage containers with other types of food containers under paragraph (B). This requires the container to be washed, sanitized and inspected before it is refilled by a food employee only.

Paragraph (C) is a less restrictive exception to (A). It allows take-home containers that are provided by the establishment and cleaned/rinsed by the consumer to be refilled by either the owner of the container or a food employee. Because of this, there are some additional requirements: only a non-TCS food may be dispensed into these containers, the beverage is refilled only for the same consumer who owns that container, and, if it is refilled by the consumer, the equipment must have a contamination-free transfer process.

Paragraph (D) makes clear that personal re-usable take-out beverage containers may be refilled by consumers if there is a contamination-free transfer process. I think a good example would be a consumer refilling a re-usable "Big Gulp" cup purchased on Amazon at a 7-Eleven.

Paragraph (E) allows water to be dispensed into containers that are not necessarily food specific at water vending/self-serve stations (not sure how a regulatory agency would enforce this anyway).

In short, beverage containers may be refilled at a food establishment as an exception to Paragraph (A) under Paragraphs (B), (C), (D) or (E). However, each exception has its own restrictions and requirements. Non-beverage containers may only be refilled under the requirements of paragraph (B).