

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

As Engrossed: H4/3/01 S4/11/01

## A Bill

Act 1720 of 2001  
HOUSE BILL 2265

5 By: Representative Judy  
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7

### For An Act To Be Entitled

9 AN ACT TO MAKE IT UNLAWFUL TO DIVERT FOR PERSONAL  
10 USE OR COMMERCIAL PURPOSES ANY RECYCLABLE  
11 MATERIALS PLACED IN RECYCLING CONTAINERS OF  
12 ANOTHER PERSON OR ENTITY; AND FOR OTHER PURPOSES.  
13

### Subtitle

14 TO MAKE IT UNLAWFUL TO DIVERT FOR  
15 PERSONAL OR COMMERCIAL USE ANY  
16 RECYCLABLE MATERIALS PLACED IN RECYCLING  
17 CONTAINERS.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code Title 5, Chapter 36, Subchapter 1 is amended  
24 to add the following new section:

25 5-36-120. Theft of recyclable materials - Penalty.

26 (a)(1) No person shall divert to personal use any recyclable material  
27 valued at fifty dollars (\$50.00) or more and placed in a container as a part  
28 of a recycling program, without the consent of the generator or the collector  
29 of the recyclable material or the person owning or operating the container as  
30 a part of the recycling program.

31 (2)(A) For a first offense under this subsection (a), a person  
32 shall be issued a citation which shall be a warning citation and no court  
33 appearance shall be required or penalty shall be imposed by the court.

34 (B) A record of each warning citation issued shall be  
35 maintained and for the second or a subsequent offense, an offender shall be  
36 subject to the penalties prescribed.

1                   (3) Any person who pleads guilty or nolo contendere to or is  
2 found guilty of violating this subsection (a) for a second or a subsequent  
3 offense shall be guilty of a Class C misdemeanor.

4                   (b)(1) No person shall divert to commercial use any recyclable material  
5 placed in a container as a part of a recycling program, without the consent of  
6 the generator or the collector of the recyclable material or the person owning  
7 or operating the container as a part of the recycling program.

8                   (2) Any person who pleads guilty, nolo contendere, or is found  
9 guilty of violating the provisions of this subsection shall be guilty of a  
10 Class A misdemeanor.

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12                   SECTION 2. Arkansas Code 8-6-211(e), concerning municipal solid waste  
13 management systems, is amended to read as follows:

14                   (e) The governing body of a municipality shall have the right to  
15 establish policies for and enact laws concerning all phases of the operation  
16 of a solid waste management system, including hours of operation, the  
17 character and kinds of wastes accepted at the disposal site, the separation of  
18 wastes according to type by those generating them prior to collection, the  
19 type of container for storage of wastes, the prohibition of the diverting of  
20 recyclable materials by persons other than the generator or collector of the  
21 recyclable material, the prohibition of burning of wastes, the pretreatment of  
22 wastes, and such other rules as may be necessary or appropriate, so long as  
23 the laws, policies, and rules are consistent with, in accordance with, and not  
24 more restrictive than those adopted by, under, or pursuant to this subchapter  
25 or any laws, rules, regulations, or orders adopted by state law or  
26 incorporated by reference from federal law, the commission, or the regional  
27 solid waste management boards or districts, unless there exists a fully  
28 implemented comprehensive area-wide zoning plan and corresponding laws or  
29 ordinances covering the entire municipality or unless the municipality has  
30 made a request to the regional solid waste management board or district to  
31 adopt a more restrictive rule, regulation, order, or standard and no public  
32 hearing has been held within sixty (60) days or the request has not been acted  
33 upon within ninety (90) days.

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35                   SECTION 3. Arkansas Code 8-6-212(e), concerning county solid waste  
36 management systems, is amended to read as follows:

1 (e) A county shall have the right to issue orders, to establish  
2 policies for, and to enact ordinances concerning all phases of the operation  
3 of a solid waste management system, including hours of operation, the  
4 character and kinds of wastes accepted at the disposal site, the separation of  
5 wastes according to type by those generating them prior to collection, the  
6 type of container for storage of wastes, the prohibition of the diverting of  
7 recyclable materials by persons other than the generator or collector of the  
8 recyclable materials, the prohibition of burning of wastes, the pretreatment  
9 of wastes, and such other rules as may be necessary or appropriate, so long as  
10 such orders, policies, and ordinances are consistent with, in accordance with,  
11 and not more restrictive than, those adopted by, under, or pursuant to this  
12 subchapter or any other laws, rules, regulations, or orders adopted by state  
13 law or incorporated by reference from federal law, the Arkansas Pollution  
14 Control and Ecology Commission, or the regional solid waste management boards  
15 or districts, unless there exists a fully implemented comprehensive area-wide  
16 zoning plan and corresponding laws or ordinances covering the entire county or  
17 unless the county has made a request to the regional solid waste management  
18 board or district to adopt a more restrictive rule, regulation, order, or  
19 standard and no public hearing has been held within sixty (60) days or the  
20 request has not been acted upon within ninety (90) days.

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22 SECTION 4. Arkansas Code 8-6-720(e), concerning recyclable materials  
23 collection under regional solid waste management district boards, is amended  
24 to read as follows:

25 (e)(1) A board shall not prevent a person generating or collecting  
26 recyclable materials from delivering the recyclable materials to a recycling  
27 facility of the generator's or collector's choice.

28 (2) However, no person shall divert to personal use or commercial  
29 purpose any recyclable materials placed in a container as a part of a regional  
30 recycling program, without the consent of the generator or the collector.

31 (3) Any person who pleads guilty, nolo contendere, or is found  
32 guilty of unlawfully diverting recyclable materials under a regional recycling  
33 program shall be guilty of a Class C misdemeanor.

34 /s/ Judy  
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APPROVED: 4/17/2001