

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senators Bell and Snyder**

A Bill

SENATE BILL 461

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE TITLE 8, CHAPTER 9 TO
9 REDUCE LITTER; TO FACILITATE BEVERAGE CONTAINER RECYCLING;
10 TO REQUIRE LABELING OF BEVERAGE CONTAINERS; TO PROVIDE A
11 BEVERAGE CONTAINER RECYCLING AND LITTER REDUCTION FEE; TO
12 PROVIDE FOR DISTRIBUTION OF THE FEE; TO ALLOW POLLUTION
13 CONTROL AND ECOLOGY TO PERMIT REDEMPTION CENTERS AND ADOPT
14 REGULATIONS; AND FOR OTHER PURPOSES."

Subtitle

16
17 "TO FACILITATE BEVERAGE CONTAINER RECYCLING."
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Annotated Title 8, Chapter 9, is amended by
22 adding new Subchapter 5 to read as follows:

23 "8-9-501.

24 The provisions of this subchapter shall be known and may be cited as the
25 Beverage Container Recycling and Litter Reduction Act.

26 8-9-502.

27 The General Assembly declares that in order for the State of Arkansas to
28 be able to meet the municipal waste reduction goal adopted in Act 749 of 1991,
29 as codified at Arkansas Code §8-9-101, it is imperative that new opportunities
30 for recycling, particularly in rural areas of the state, be developed. The
31 General Assembly finds that containers, especially beverage containers, are
32 the most valuable and recyclable commodity in the waste stream and that the
33 discarding of these containers is an unnecessary addition to the state's
34 litter problem and its already overburdened solid waste disposal system. The
35 General Assembly further finds that it is in the public interest to establish

1 a program for the recycling of containers which:

2 (1) Reduces the volume of waste and litter;

3 (2) Increases opportunities for recycling and provides financial
4 incentives for consumers to do so;

5 (3) Builds upon existing recycling infrastructure;

6 (4) Stimulates statewide creation of new jobs and wider employment in
7 the recycling industry.

8 8-9-503.

9 (a) Beverage means beer, ale or other drink produced by fermenting
10 malt, spirits, wine, wine coolers, soda or noncarbonated water, and all
11 nonalcoholic carbonated or noncarbonated drinks in liquid form and intended
12 for human consumption, except for milk and dairy-derived products.

13 (b) Beverage container means a nonrefillable bottle, can, jar or
14 other container made of glass, bimetel or plastic which has been sealed by a
15 manufacturer and which, at the time of sale, contains one gallon or less of a
16 beverage. Beverage container does not include cans made solely of aluminum or
17 ferrous metal and applies only to bimetel containers which contain beer, ale
18 or other drink produced by fermenting malt and all nonalcoholic carbonated
19 drinks. *Beverage container does not include plastic containers containing*
20 *eight ounces (8 oz.) or less of a beverage.*

21 (c) Bimetel container means a beverage container which consists of
22 one or more metals and which is composed primarily of steel.

23 (d) Consumer means any person who purchases a beverage in a beverage
24 container for final use or consumption.

25 (e) Dealer means any person in this state who engages in the sale of
26 beverages in beverage containers to a consumer, whether or not the product is
27 in a vending machine.

28 (f) Department means the Arkansas Department of Pollution Control and
29 Ecology.

30 (g) Distributor means any person who engages in the sale of beverages
31 in beverage containers to a dealer in this state, including but not limited to
32 any manufacturer who engages in such sale.

33 (h) Empty returnable containers means beverage containers which
34 contain nothing except the residue of its original contents and are labeled
35 according to the requirements of this subchapter.

1 (i) Handling fee means a per container payment made to redemption
2 centers.

3 (j) In this state means within the exterior limits of the State of
4 Arkansas and includes all territory within these limits owned or coded in the
5 United States of America.

6 (k) Permitted redemption center means a place of business which deals
7 in acceptance of empty returnable beverage containers from any person, accepts
8 at least one other recyclable commodity, is approved by the county and is
9 permitted by the department as a redemption center.

10 (l) Manufacturer means any person who bottles, cans, or otherwise
11 fills containers for sale to distributors or dealers in this state.

12 (m) Nonrefillable means a beverage container which, after being used
13 by a consumer, is not to be reused as a beverage container by a manufacturer.

14 (n) Person means an individual, partnership, corporation or other
15 legal entity.

16 (o) Recycling means the systematic collection, sorting,
17 decontaminating, and returning of waste materials to commerce as commodities
18 for use or exchange.

19 (p) Return value means the sum paid to any person who returns an
20 empty returnable container to a permitted redemption center.

21 8-9-504.

22 On or after January 1, 1994, it shall be unlawful for any dealer to sell
23 beverages in a container that is not labeled in accordance with this
24 subchapter.

25 8-9-505.

26 (a) On or after January 1, 1994, all manufacturers who fill beverage
27 containers for consumption in the State of Arkansas, or distributors who
28 import beverages into the State of Arkansas for consumption, or dealers who
29 import beverages from an out-of-state distributor into the State of Arkansas
30 for consumption, shall remit a Beverage Container Recycling and Litter
31 Reduction Fee of five cents (\$0.05) per container to the Department of
32 Finance and Administration and clearly label these containers with the word
33 Arkansas or AR and the return value of the containers in clearly visible
34 type on the container by the following means:

35 (1) Embossing or imprinting, or using a stamp on the normal product

1 label.

2 (2) For bimetal beverage containers, embossing, imprinting or stamping
3 on the top of the container or using any other method which securely affixes
4 the required language to the beverage container.

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6 (b) Dealers shall inform consumers that beverages are sold in
7 returnable beverage containers by placing a sign or a shelf label, or both, in
8 close proximity to any sales display of beverage containers. The sign or
9 label shall indicate the amount of return value for each beverage container
10 and state that all labeled beverage containers as described in this subchapter
11 are returnable and shall make available to the public a list of redemption
12 centers in the county.

13 8-9-506.

14 (a) Every beverage container sold or offered for sale in this state
15 shall have a return value of not less than three cents (\$.03) per container.

16 (b) Each beverage container shall have the return value clearly
17 indicated thereon, as provided in this subchapter.

18 8-9-507.

19 On and after January 1, 1994, each county having responsibility to
20 establish a materials collection center, as mandated in Act 752 of 1991,
21 Arkansas Code §8-6-701 et seq., shall establish and operate on its own, or
22 through contract or other agreement with another person or persons, redemption
23 centers where persons may return empty containers and receive the return value
24 of the containers. In addition to counties, any other local government or
25 person may establish a redemption center, subject to the approval of the
26 county in which it is located, and permitted by the department.

27 8-9-508.

28 A redemption center shall not refuse to accept from any person an empty
29 returnable container nor refuse to pay to the person its full return value in
30 cash, except for broken bottles, corroded or dismembered cans, or any beverage
31 container which is not empty or contains a significant amount of foreign
32 material, or beverage containers that are not labeled as provided in this
33 subchapter. An operator of a redemption center may limit the total number of
34 beverage containers which he will accept from any one person in any one
35 business day up to *two hundred and fifty (250)* containers.

1 8-9-509.

2 (a) The tax on beverage containers that contain beer, ale, or other
3 drink produced by fermenting malt shall be reported and paid in the manner
4 prescribed by §3-7-401.

5 (b) The tax on beverage containers that contain spirits, imported
6 wines, and wine coolers shall be reported and paid in the manner prescribed by
7 §§ 3-7-301 and 3-7-302.

8 (c) The tax on beverage containers that contain native wines shall be
9 reported and paid in the manner prescribed by § 3-7-501.

10 (d) The tax on beverage containers that contain soda or noncarbonated
11 water and all nonalcoholic carbonated or noncarbonated drinks in liquid form
12 intended for human consumption shall be reported and paid in the manner
13 prescribed by Section 7 of Act 7 of the Second Extraordinary Session of 1992.

14 (e) The Director of the Department of Finance and Administration shall
15 prescribe the form and contents of the report.

16 8-9-510.

17 (a) The Department of Finance and Administration shall deposit the
18 proceeds of the beverage container recycling and litter reduction fee in the
19 State Treasury as special revenues and shall credit the proceeds to a special
20 fund created on the books of the State Treasurer, the State Auditor, and the
21 Chief Fiscal Officer of the State to be known as the Beverage Container
22 Recycling and Litter Reduction Grant Fund.

23 (b) In addition to all monies appropriated by the General Assembly to
24 the fund, there shall be deposited in the fund any federal government monies
25 designated to enter the fund, any monies received by the state as a gift or
26 donation to the fund, fines from violators and all interest upon money
27 deposited in the fund. The Beverage Container Recycling and Litter Reduction
28 Grant Fund shall be administered by the Department of Pollution Control &
29 Ecology, which shall authorize grants and administrative expenditures from the
30 fund according to the provisions of this subchapter.

31 (c) The collection of funds under this section shall be subject to the
32 Arkansas Tax Procedure Act, §26-18-101 et seq.

33 8-9-511.

34 (a) On or before the twentieth (20th) of each month, counties must
35 submit a report from each redemption center in their county to the department.

1 The department may develop a form for this report. Upon receiving the
2 report, funds from the Beverage Container Recycling and Litter Reduction Fund
3 will be *disbursed, subject to availability, by the department to each county*
4 *filing a report. Upon receipt of funds from the department, the county shall*
5 *retain one-half cent (\$.005) per returned container as and administrative fee,*
6 *and shall disburse the balance of the proceeds as follows: three cents (\$.03)*
7 *per container to reimburse redemption centers the return value paid to the*
8 *person returning the container; and one and one quarter cents (\$.0125) per*
9 *container to the redemption center for a handling fee. Of the total fee for*
10 *each container, fifteen-hundredths of a cent (\$.0015) will be retained by the*
11 *Department of Finance and Administration and one-tenth of a cent (\$.001) will*
12 *be retained by the Department of Pollution Control and Ecology.*

13 (b) *An amount shall be disbursed annually for the benefit of the Keep*
14 *Arkansas Beautiful Commission. This amount shall be one hundred thousand*
15 *dollars (\$100,000) or ten percent (10%) of available funds, whichever is*
16 *greater, but shall not exceed two hundred thousand dollars (\$200,000) with any*
17 *funds deemed by the department to be in excess of program needs to be*
18 *transferred to the Solid Waste and Recycling Fund at such times as determined*
19 *by the department.*

20 8-9-512.

21 (a) Any person found to be in violation of this subchapter shall be
22 subject to a civil penalty by the department of not more than one thousand
23 dollars (\$1,000) for an initial offense and not more than five thousand
24 dollars (\$5,000) for each subsequent offense.

25 (b) Any distributor, manufacturer, or dealer who remits to the
26 Department of Finance and Administration less than the dollar amount required
27 by this subchapter shall be subject to a civil penalty by the Department of
28 Finance and Administration of not more than five thousand dollars (\$5,000) for
29 an initial offense and not more than ten thousand dollars (\$10,000) for each
30 subsequent offense.

31 (c) All fines collected under this subchapter shall be deposited in the
32 Beverage Container Recycling and Litter Reduction Grant Fund.

33 8-9-513.

34 The department is hereby authorized to promulgate rules and regulations
35 and charge fees necessary for the implementation of this subchapter. Fees

1 shall be set by regulation."

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3 SECTION 2. The provisions of this act shall not become effective until
4 January 1, 1994.

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6 SECTION 3. All provisions of this act of a general and permanent nature
7 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
8 Revision Commission shall incorporate the same in the Code.

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10 SECTION 4. If any provision of this act or the application thereof to
11 any person or circumstance is held invalid, such invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are declared to be severable.

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16 SECTION 5. All laws and parts of laws in conflict with this act are
17 hereby repealed.

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19 */s/ Senators Bell and Snyder*

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