

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 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 2210

4
5 By: Representatives Borhauer, Elliott
6 By: Senator Critcher

For An Act To Be Entitled

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8
9
10 AN ACT TO AMEND ARKANSAS CODE TITLE 8, CHAPTER 9
11 TO ADD AN ADDITIONAL SUBCHAPTER TO REDUCE LITTER;
12 TO FACILITATE BEVERAGE CONTAINER RECYCLING AND
13 REQUIRE LABELING OF BEVERAGE CONTAINERS; TO
14 REQUIRE PREPAYMENT FOR BEVERAGE CONTAINER
15 DISPOSAL AND PROVIDE FOR DISTRIBUTION OF THE
16 DISPOSAL PREPAYMENT FEE; TO FUND ENVIRONMENTAL
17 EDUCATION; TO ALLOW THE ARKANSAS DEPARTMENT OF
18 ENVIRONMENTAL QUALITY TO PERMIT REDEMPTION
19 CENTERS AND ADOPT REGULATIONS; AND FOR OTHER
20 PURPOSES.

Subtitle

21
22
23 TO PROVIDE FOR BEVERAGE CONTAINER
24 RECYCLING; TO REQUIRE LABELING OF
25 BEVERAGE CONTAINERS; TO ASSESS A
26 PREPAYMENT FOR BEVERAGE CONTAINER
27 DISPOSAL.

28
29
30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

31
32 SECTION 1. Arkansas Code Title 8, Chapter 9, is amended to add an
33 additional subchapter to read as follows:

34 Subchapter 6. Beverage Container Disposal Fees.

35
36 8-9-601. Title.



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1 This subchapter shall be known and may be cited as the “Beverage
 2 Container Litter Reduction Act”.

3
 4 8-9-602. Legislative findings and purpose.

5 (a) The General Assembly declares that in order for the State of
 6 Arkansas to meet the municipal waste reduction goal established by § 8-9-101,
 7 it is imperative that new opportunities for recycling, particularly in rural
 8 areas of the state, be developed.

9 (b) The General Assembly finds that containers, especially beverage
 10 containers, are the most valuable and recyclable commodity in the waste
 11 stream and that the discarding of these containers is an unnecessary addition
 12 to the state’s litter problem and its already overburdened solid waste
 13 disposal system.

14 (c) The General Assembly further finds that it is in the public
 15 interest to establish a program for the recycling of containers that:

- 16 (1) Reduces the volume of waste and litter;
- 17 (2) Increases opportunities for recycling and provides financial
 18 incentives to recycle and reuse;
- 19 (3) Builds upon existing recycling infrastructure;
- 20 (4) Stimulates statewide creation of new jobs and wider
 21 employment in the recycling industry; and
- 22 (5) Helps fund environmental education.

23
 24 8-9-603. Definitions.

25 As used in this subchapter:

26 (1) “Beverage” means any of the following products in liquid form
 27 intended for human consumption:

- 28 (A) Beer, ale, and other malt beverages;
- 29 (B) Wine, wine coolers, spirits, and distilled spirit coolers;
- 30 (C) Coffee and tea drinks;
- 31 (D) Carbonated water, including soda and carbonated mineral
 32 waters;
- 33 (E) Carbonated soft drinks; and
- 34 (F) Bottled water, sport drinks, one hundred percent (100%)
 35 fruit juices, and other juice drinks to which carbonation has been added;

36 (2) “Beverage container” means a nonrefillable bottle, jar, or other

1 container made of glass, aluminum, metal, or plastic that is sealed by a
 2 manufacturer and that, at the time of sale, contains no more than forty (40)
 3 nor less than six and five-tenths (6.5) ounces of a beverage;

4 (3) "Consumer" means a person who purchases a beverage in a beverage
 5 container for final use or consumption;

6 (4) "Dealer" means a person in this state who engages in the sale of
 7 beverages in beverage containers to a consumer whether or not the product is
 8 sold in a vending machine;

9 (5) "Department" means the Arkansas Department of Environmental
 10 Quality;

11 (6)(A) "Distributor" means a person who engages in the sale of
 12 beverages in beverage containers to a dealer in this state; and

13 (B) Includes a manufacturer who engages in the sale of beverages
 14 in this state;

15 (7) "Empty returnable containers" means beverage containers that
 16 contain nothing except the residue of the original contents and are labeled
 17 according to the requirements of this subchapter;

18 (8) "Handling fee" means a per beverage container payment to
 19 redemption centers;

20 (9) "In this state" means within the exterior limits of the State of
 21 Arkansas and includes all territory within these limits owned or ceded to the
 22 United States of America;

23 (10) "Manufacturer" means a person who bottles or otherwise fills
 24 containers for sale to distributors or dealers in this state;

25 (11) "Nonrefillable" means a beverage container that, after being used
 26 by a consumer, is not to be reused as a beverage container by a manufacturer;

27 (12) "Person" means an individual, partnership, corporation, or other
 28 legal entity;

29 (13) "Recycling" means the systematic collection, sorting,
 30 decontaminating, and returning of waste materials to commerce as commodities
 31 for use or exchange; and

32 (14) "Redemption center" means a place of business that:

33 (A) Accepts empty returnable beverage containers from any
 34 person;

35 (B) Recycles at least one (1) other commodity;

36 (C) Is approved by the regional solid waste management district;

1 and

2 (D) Is certified by the department as a redemption center;

3 (15) "Return value" means the amount paid to any person who returns an
 4 empty returnable container to a redemption center.

5
 6 8-9-604. Labeling required.

7 Beginning January 1, 2004, it shall be unlawful for any dealer to sell
 8 beverages in a beverage container in this state that is not labeled as
 9 required in this subchapter.

10
 11 8-9-605. Beverage Container Litter Reduction Fee.

12 (a) Beginning January 1, 2004, a manufacturer who fills beverage
 13 containers for consumption in the state, a distributor who imports beverages
 14 into the state for consumption in this state, and a dealer who imports
 15 beverages from an out-of-state distributor into the state for consumption in
 16 this state, shall remit a "beverage container litter reduction fee" of eight
 17 cents (8¢) per beverage container to the Department of Finance and
 18 Administration and shall clearly label all beverage containers with the word
 19 "Arkansas" or "AR" and the return value of the beverage containers in clearly
 20 visible type on the beverage container by embossing or imprinting, or using a
 21 stamp on the normal product label.

22 (b)(1) A manufacturer, distributor, or dealer shall inform consumers
 23 that beverages are sold in returnable beverage containers by placing a sign,
 24 a shelf label, or both in close proximity to any sales display of beverage
 25 containers.

26 (2) The sign or shelf label shall:

27 (A) State the amount of return value for each beverage
 28 container; and

29 (B) State that all labeled beverage containers as
 30 described in this subsection are returnable.

31
 32 8-9-606. Return value.

33 (a) Every beverage container sold or offered for sale in this state
 34 shall have a return value of at least five cents (5¢) per beverage container.

35 (b) Each beverage container shall have the return value clearly
 36 indicated on the beverage container.

1
2 8-9-607. Redemption centers.

3 (a)(1) A redemption center may be established by a person, a county or
4 local government, a regional solid waste management district, or any other
5 governmental entity operating a solid waste management program if approved by
6 the regional solid waste management district in which the center will be
7 located, and if the center is certified by the Arkansas Department of
8 Environmental Quality.

9 (2) Any existing recycling business currently operating for
10 profit shall be given priority for consideration as a redemption center and
11 will not be denied without due process and just cause.

12 (b)(1) A consumer may donate recyclable beverage containers through
13 the community's curbside recycling program instead of taking the containers
14 to a redemption center.

15 (2) However, the curbside recycling program, instead of the
16 consumer, will receive the return value for the containers that are recovered
17 from the waste stream and presented to a redemption center.

18 (c) A local government recycling facility licensed by the Arkansas
19 Department of Environmental Quality may serve as a redemption center for
20 beverage containers collected through its recycling program, but may not pay
21 any return value to consumers.

22
23 8-9-608. Return value.

24 (a)(1) A redemption center shall accept an empty returnable container
25 from any person and shall pay to the person its full return value.

26 (2) The redemption center may refuse to pay the return value
27 for:

28 (A) Broken bottles;

29 (B) Any beverage container which is not empty or contains
30 a significant amount of foreign material;

31 (C) Any beverage container that is not labeled as provided
32 in this subchapter; or

33 (D) Any beverage container whose label or embossing cannot
34 be discerned.

35 (b) An operator of a redemption center may limit the total number of
36 beverage containers that the operator will accept from a person in a business

1 day, but the limit shall not be less than two hundred and fifty (250)
 2 beverage containers.

4 8-9-609. Beverage Container Litter Reduction Grant Fund.

5 (a) The Department of Finance and Administration shall deposit the
 6 proceeds of the Beverage Container Litter Reduction Fee in the State Treasury
 7 as special revenues and shall credit the proceeds to a special fund created
 8 on the books of the Treasurer of State, the Auditor of State, and the Chief
 9 Fiscal Officer of the State to be known as the "Beverage Container Litter
 10 Reduction Grant Fund."

11 (b) In addition to all moneys appropriated by the General Assembly to
 12 the fund, there shall be deposited in the fund:

13 (1) Any federal government moneys designated to the fund;

14 (2) Any moneys received by the state as a gift or donation to
 15 the fund;

16 (3) Fines from violators; and

17 (4) All interest upon money deposited in the fund.

18 (c)(1) The fund shall be administered by the Arkansas Department of
 19 Environmental Quality.

20 (2) The department shall authorize grant expenditures from the
 21 fund according to the provisions of this subchapter.

22 (d) The collection of fees under this section shall be subject to the
 23 Arkansas Tax Procedure Act.

25 8-9-610. Fee collection.

26 (a) The fee on beverage containers that contain spirits, beer, ale, or
 27 other malt beverages shall be reported and paid in the manner prescribed by
 28 state law.

29 (b) The fee on beverage containers that contain wine coolers or
 30 distilled spirits coolers shall be reported and paid in the manner prescribed
 31 by §§ 3-7-701 and 3-7-702.

32 (c) The fee on beverage containers that contain coffee or tea drinks,
 33 soft drinks, nonalcoholic carbonated drinks in liquid form intended for human
 34 consumption, bottled water, sport drinks, one hundred percent (100%) fruit
 35 juices, and other juice drinks to which carbonation has been added shall be
 36 reported and paid in the manner prescribed by the Arkansas Soft Drink Tax

1 Act.

2 (d) The Director of the Department of Finance and Administration shall
 3 prescribe the content of the fee reporting form.

4
 5 8-9-611. Distribution of funds.

6 (a)(1) By the twentieth (20th) day of each month, the regional solid
 7 waste management district shall submit a report from each redemption center
 8 in the district to the Arkansas Department of Environmental Quality.

9 (2) The department may develop a form for this report.

10 (3) Upon receiving the monthly report, the Arkansas Department
 11 of Environmental Quality shall distribute funds from the Beverage Container
 12 Litter Reduction Fund as follows:

13 (A) To each regional solid waste management district as an
 14 administrative fee, forty-five hundredths of a cent (0.45¢) per beverage
 15 container for each container returned in the district;

16 (B) To each redemption center as reimbursement for return
 17 value payments to the person returning the containers, five cents (5¢) per
 18 beverage container returned at the redemption center; and

19 (C) To each redemption center as reimbursement for other
 20 expenses in handling containers, two and two-tenths of a cent (2.2¢) per
 21 beverage container returned at the redemption center.

22 (b) Of the total fee for each beverage container, fifteen hundredths
 23 of a cent (0.15¢) per returned beverage container shall be transferred to the
 24 Department of Finance and Administration for collection of the fees and two-
 25 tenths of a cent (0.2¢) per returned beverage container shall be retained by
 26 the Arkansas Department of Environmental Quality.

27 (c) After the end of each fiscal year, any unallocated and unclaimed
 28 fund balances in the Beverage Container Litter Reduction Grant Fund shall be
 29 reallocated annually as follows:

30 (1) There shall be transferred to the Keep Arkansas Beautiful
 31 Fund Account to be used by the Keep Arkansas Beautiful Commission an amount
 32 equal to the greater of one hundred thousand dollars (\$100,000) or ten
 33 percent (10%) of unallocated and unclaimed funds, but the amount shall not
 34 exceed two hundred thousand dollars (\$200,000); and

35 (2) The remainder shall be used as follows:

36 (A) For cleanup of illegal dumps, an amount equal to

1 fifty-five percent (55%) of the remaining available funds or two million
 2 dollars (\$2,000,000), whichever is less; and

3 (B) For operation, recycling, environmental education, and
 4 to assist in any other responsibilities of the department, no less than
 5 forty-five percent (45%) of the remaining available funds.

6 (3) For the operation of any local government glass reprocessing
 7 facility which accepts from any redemption center glass beverage containers
 8 for which a litter reduction fee has been paid the actual costs plus
 9 administration costs of operating the glass reprocessing facility shall be
 10 reimbursed quarterly to the local government.

11 (4) The Department of Environmental Quality shall prepare such
 12 forms necessary for appropriate reporting.

13
 14 8-9-612. Violations.

15 (a) Any person found to be in violation of this subchapter shall be
 16 subject to a civil penalty of not more than one thousand dollars (\$1,000) for
 17 an initial offense and not more than five thousand dollars (\$5,000) for a
 18 second or each subsequent offense.

19 (b) Any distributor, manufacturer, or dealer who fails to pay to the
 20 Department of Finance and Administration an amount that is less than the
 21 dollar amount required by this subchapter shall be subject to a civil penalty
 22 of not more than five thousand dollars (\$5,000) for an initial offense and
 23 not more than ten thousand dollars (\$10,000) for a second or each subsequent
 24 offense.

25 (c) All civil penalties collected under this section shall be
 26 deposited in the Beverage Container Litter Reduction Grant Fund.

27
 28 8-9-613. Rules and regulations.

29 (a) The Arkansas Department of Environmental Quality may promulgate
 30 rules and regulations and may charge fees as necessary for the implementation
 31 of this subchapter.

32 (b) Any fees shall be set by regulation.

33
 34 SECTION 2. The act shall be effective January 1, 2004.

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