

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

SENATE BILL 822

4
5 By: Senator Madison

For An Act To Be Entitled

9 AN ACT TO CREATE THE BEVERAGE CONTAINER LITTER
10 REDUCTION FEE PROGRAM; TO REDUCE LITTER,
11 FACILITATE BEVERAGE CONTAINER RECYCLING, AND
12 REQUIRE LABELING OF BEVERAGE CONTAINERS, TO
13 REQUIRE PREPAYMENT FOR BEVERAGE CONTAINER
14 DISPOSAL AND PROVIDE FOR DISTRIBUTION OF THE
15 DISPOSAL PREPAYMENT FEE; TO FUND GENERAL
16 REVENUES; TO ALLOW THE ARKANSAS DEPARTMENT OF
17 ENVIRONMENTAL QUALITY TO PERMIT REDEMPTION
18 CENTERS AND ADOPT REGULATIONS; AND FOR OTHER
19 PURPOSES.

Subtitle

21 TO CREATE THE BEVERAGE CONTAINER LITTER
22 REDUCTION FEE PROGRAM; TO REDUCE LITTER,
23 FACILITATE BEVERAGE CONTAINER RECYCLING,
24 AND REQUIRE LABELING OF BEVERAGE
25 CONTAINERS, TO REQUIRE PREPAYMENT FOR
26 BEVERAGE CONTAINER DISPOSAL.

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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 Litter Reduction Fees.

35 8-9-601. Title.

36 This subchapter shall be known and may be cited as the "Beverage



03082003EAN1148.VJF558

1 Container Litter Reduction Act”.

2
3 8-9-602. Legislative findings and purpose.

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

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

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

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

16 (2) Increases opportunities for recycling and provides financial
17 incentives to recycle and reuse;

18 (3) Builds upon existing recycling infrastructure;

19 (4) Stimulates statewide creation of new jobs and wider
20 employment in the recycling industry; and

21 (5) Helps fund environmental education.

22
23 8-9-603. Definitions.

24 As used in this subchapter:

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

27 (A) Beer, ale, and other malt beverages;

28 (B) Wine, wine coolers, spirits, and distilled spirit coolers;

29 (C) Coffee and tea drinks;

30 (D) Carbonated water, including soda and carbonated mineral
31 waters;

32 (E) Carbonated soft drinks; and

33 (F) Bottled water, sport drinks, one hundred percent (100%)
34 fruit juices, and other juice drinks to which carbonation has been added;

35 (2) “Beverage container” means a nonrefillable bottle, jar, or other
36 container made of glass, aluminum, metal, or plastic that is sealed by a

1 manufacturer and that, at the time of sale, contains no more than forty (40)
 2 nor less than six and five-tenths ounces (6.5oz.) of a beverage;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (D) Is certified by the department as a redemption center; and
 2 (15) "Return value" means the amount paid to any person who returns an
 3 empty returnable container to a redemption center.

4
 5 8-9-604. Labeling required.

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

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

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

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

25 (2) The sign or shelf label shall:

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

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

30
 31 8-9-606. Return value.

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

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

1 8-9-607. Redemption centers.

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

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

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

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

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

21
 22 8-9-608. Return value.

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

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

27 (A) Broken bottles;

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

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

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

34 (b) An operator of a redemption center may limit the total number of
 35 beverage containers that the operator will accept from a person in a business
 36 day, but the limit shall not be less than two hundred and fifty (250)

1 beverage containers.

3 8-9-609. Beverage Container Litter Reduction Grant Fund.

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

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

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

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

15 (3) Fines from violators; and

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

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

19 (2) After all distributions are made, the department shall
 20 transfer surplus funds in the fund to general revenues according to the
 21 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 for other alcoholic beverage taxes and fees.

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, the
29 department shall deposit the net proceeds of the Beverage Container Litter
30 Reduction Fee after distributions in the State Treasury as general revenues.

31 (d) The Department of Environmental Quality shall prepare the forms
32 necessary for appropriate reporting.

33
34 8-9-612. Violations.

35 (a) Any person found to be in violation of this subchapter shall be
36 subject to a civil penalty of not more than one thousand dollars (\$1,000) for

1 an initial offense and not more than five thousand dollars (\$5,000) for a
2 second or each subsequent offense.

3 (b) Any distributor, manufacturer, or dealer who pays to the
4 Department of Finance and Administration an amount that is less than the
5 dollar amount required by this subchapter shall be subject to a civil penalty
6 of not more than five thousand dollars (\$5,000) for an initial offense and
7 not more than ten thousand dollars (\$10,000) for a second or each subsequent
8 offense.

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

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12 8-9-613. Rules and regulations.

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

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

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18 SECTION 2. This act is effective January 1, 2004.
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