

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
4

As Engrossed: S3/25/03

A Bill

SENATE BILL 822

5 By: Senators Madison, *Critchler*
6
7

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 PERMIT REDEMPTION
16 CENTERS AND ADOPT REGULATIONS; AND FOR OTHER
17 PURPOSES.

Subtitle

19 TO CREATE THE BEVERAGE CONTAINER LITTER
20 REDUCTION FEE PROGRAM; TO REDUCE LITTER,
21 FACILITATE BEVERAGE CONTAINER RECYCLING,
22 AND REQUIRE LABELING OF BEVERAGE
23 CONTAINERS, TO REQUIRE PREPAYMENT FOR
24 BEVERAGE CONTAINER DISPOSAL.
25
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27

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

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

32 Subchapter 6. Beverage Container Litter Reduction Fees.

33 8-9-601. Title.

34 This subchapter shall be known and may be cited as the "Beverage
35 Container Litter Reduction Act".
36



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1 8-9-602. Legislative findings and purpose.

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

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

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

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

20
21 8-9-603. Definitions.

22 As used in this subchapter:

23 (1) "Beverage" means any of the following products in liquid form
24 intended for human consumption:

- 25 (A) Beer, ale, and other malt beverages;
26 (B) Wine, wine coolers, spirits, and distilled spirit coolers;
27 (C) Coffee and tea drinks;
28 (D) Carbonated water, including soda and carbonated mineral
29 waters;

30 (E) Carbonated soft drinks; and
31 (F) Bottled water, sport drinks, one hundred percent (100%)
32 fruit juices, and other juice drinks to which carbonation has been added;

33 (2) "Beverage container" means a nonrefillable bottle, jar, or other
34 container made of glass, aluminum, metal, or plastic that is sealed by a
35 manufacturer and that, at the time of sale, contains no more than forty (40)
36 nor less than six and five-tenths ounces (6.5oz.) of a beverage;

1 (3) “Consumer” means a person who purchases a beverage in a beverage
2 container for final use or consumption;

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

6 (5) “Department” means the Arkansas Department of Environmental
7 Quality;

8 (6)(A) “Distributor” means a person who engages in the sale of
9 beverages in beverage containers to a dealer in this state; and

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

12 (7) “Empty returnable containers” means beverage containers that
13 contain nothing except the residue of the original contents and are labeled
14 according to the requirements of this subchapter;

15 (8) “Handling fee” means a per beverage container payment to
16 redemption centers;

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

20 (10) “Manufacturer” means a person who bottles or otherwise fills
21 containers for sale to distributors or dealers in this state;

22 (11) “Nonrefillable” means a beverage container that, after being used
23 by a consumer, is not to be reused as a beverage container by a manufacturer;

24 (12) “Person” means an individual, partnership, corporation, or other
25 legal entity;

26 (13) “Recycling” means the systematic collection, sorting,
27 decontaminating, and returning of waste materials to commerce as commodities
28 for use or exchange; and

29 (14) “Redemption center” means a place of business that:

30 (A) Accepts empty returnable beverage containers from any
31 person;

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

33 (C) Is approved by the regional solid waste management district;
34 and

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

36 (15) “Return value” means the amount paid to any person who returns an

1 empty returnable container to a redemption center.

2
3 8-9-604. Labeling required.

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

7
8 8-9-605. Beverage Container Litter Reduction Fee.

9 (a) Beginning January 1, 2004, a manufacturer who fills beverage
10 containers for consumption in the state, a distributor who imports beverages
11 into the state for consumption in this state, and a dealer who imports
12 beverages from an out-of-state distributor into the state for consumption in
13 this state, shall remit a "beverage container litter reduction fee" of five
14 cents (5¢) per beverage container to the Department of Finance and
15 Administration and shall clearly label all beverage containers with the word
16 "Arkansas" or "AR" and the return value of the beverage containers in clearly
17 visible type on the beverage container by embossing or imprinting, or using a
18 stamp on the normal product label.

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

23 (2) The sign or shelf label shall:

24 (A) State the amount of return value for each beverage
25 container; and

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

28
29 8-9-606. Return value.

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

32 (b) Each beverage container shall have the return value clearly
33 indicated on the beverage container.

34
35 8-9-607. Redemption centers.

36 (a)(1) A redemption center may be established by a person, a county or

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

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

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

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

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

19
20 8-9-608. Return value.

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

23 (2) The redemption center may refuse to pay the return value
24 for:

25 (A) Broken bottles;

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

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

30 (D) Any beverage container whose label or embossing cannot
31 be discerned.

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

36

1 8-9-609. Beverage Container Litter Reduction Grant Fund.

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

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

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

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

13 (3) Fines from violators; and

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

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

17 (2) After all distributions are made, the department shall
18 transfer surplus funds in the fund to general revenues according to the
19 provisions of this subchapter.

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

22
23 8-9-610. Fee collection.

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

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

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

36 (d) The Director of the Department of Finance and Administration shall

1 prescribe the content of the fee reporting form.

2
3 8-9-611. Distribution of funds.

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

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

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

11 (A) To each regional solid waste management district as an
12 administrative fee, three-tenths of a cent (0.3¢) per beverage container for
13 each container returned in the district;

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

17 (C) To each redemption center as reimbursement for other
18 expenses in handling containers, one cent (1¢) per beverage container
19 returned at the redemption center.

20 (b) Of the total fee for each beverage container, three hundredths of
21 a cent (0.03¢) per returned beverage container shall be transferred to the
22 Department of Finance and Administration for collection of the fees and three
23 hundredths of a cent (0.03¢) per returned beverage container shall be
24 retained by the Arkansas Department of Environmental Quality.

25 (c) The unredeemed fees shall be used to pay the administrative fee of
26 the regional solid waste districts, the handling fee for the redemption
27 centers, and the processing fees of the Department of Finance and
28 Administration and the Department of Environmental Quality.

29 (d) After the end of each fiscal year, any unallocated and unclaimed
30 fund balances in the Beverage Container Litter Reduction Grant Fund, the
31 department shall deposit the net proceeds of the Beverage Container Litter
32 Reduction Fee after distributions in the State Treasury as general revenues.

33 (e) The Department of Environmental Quality shall prepare the forms
34 necessary for appropriate reporting.

35
36 8-9-612. Violations.

