

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

HOUSE BILL 2265

5 By: Representative Judy
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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.

11
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.

34
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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