

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

A Bill

SENATE BILL 902

4
5 By: Senator Critcher
6
7

For An Act To Be Entitled

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

Subtitle

20
21 TO FACILITATE BEVERAGE CONTAINER
22 RECYCLING.
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26
27 SECTION 1. Arkansas Code Annotated Title 8, Chapter 9, is amended by
28 adding new subchapter 6 to read as follows:

29 Subchapter 6
30 Beverage Container Recycling.

31
32 8-9-601. Title.

33 This subchapter shall be known and be cited as the "Beverage Container
34 Recycling and Litter Reduction Act".

35
36 8-9-602. Legislative findings and purpose.

1 (a) The General Assembly declares that in order for the State of
 2 Arkansas to be able to meet the municipal waste reduction goal established by
 3 Act 749 of 1991, it is imperative that new opportunities for recycling,
 4 particularly in rural areas of the state, be developed.

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

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

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

19
 20 8-9-603. Definitions.

21 For purposes of this subchapter:

22 (1)(A) "Beverage" means beer and other malt beverages, wine and
 23 distilled spirit, coolers, teas, carbonated mineral and soda waters, and
 24 similar carbonated soft drinks in liquid form which are intended for human
 25 consumption;

26 (B) "Beverage" does not include wine, or wine from which alcohol
 27 has been removed in whole or in part, whether or not sparkling or carbonated.

28 (C) "Beverage" does not mean one hundred percent (100%) fruit
 29 juice to which carbonation is added;

30 (2) "Beverage container" means a nonrefillable bottle, jar or other
 31 container made of glass or plastic which has been sealed by a manufacturer
 32 and which, at the time of sale, contains between forty (40) and six and one-
 33 half (6.5) ounces of a beverage;

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

36 (4) "Dealer" means any person in this state who engages in the sale of

1 beverages in beverage containers to a consumer, whether or not the product is
2 in a vending machine;

3 (5) "Department" means the Arkansas Department of Environmental
4 Quality;

5 (6) "Distributor" means any person who engages in the sale of
6 beverages in beverage containers to a dealer in this state, including but not
7 limited to any manufacturer who engages in the sale;

8 (7) "Empty returnable containers" means beverage containers which
9 contain nothing except the residue of their original contents and are labeled
10 according to the requirements of this subchapter;

11 (8) "Handling fee" means a per container payment made to redemption
12 centers;

13 (9) "In this state" means within the exterior limits of the State of
14 Arkansas and includes all territory within these limits owned or coded in the
15 United States of America;

16 (10) "Certified redemption center" means a place of business which
17 deals in acceptance of empty returnable beverage containers from any person,
18 recycles at least one (1) other commodity, is approved by the county quorum
19 court, and is certified by the department as a redemption center;

20 (11) "Manufacturer" means any person who bottles or otherwise fills
21 containers for sale to distributors or dealers in this state;

22 (12) "Nonrefillable" means a beverage container which, after being
23 used by a consumer, is not to be reused as a beverage container by a
24 manufacturer;

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

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

30 (15) "Return value" means the sum paid to any person who returns an
31 empty returnable container to a certified redemption center.

32
33 8-9-604. Effective January 1, 2002, it shall be unlawful for any
34 dealer to sell beverages in a container that is not labeled in accordance
35 with this subchapter.

36

1 8-9-605. (a) Effective January 1, 2002, all manufactures who fill
2 beverage containers for consumption in the state, or distributors who import
3 beverages into the state for consumption or dealers who import beverages from
4 an out-of-state distributor into the state for consumption, shall remit a
5 "Beverage Container Recycling and Litter Reduction Fee" of five cents (5¢)
6 per container to the Department of Finance and Administration and clearly
7 label these containers with the word "Arkansas" or "AR" and the return value
8 of the containers in clearly visible type on the container by embossing or
9 imprinting, or using a stamp on the normal product label.

10 (b)(1) Dealers shall inform consumers that beverages are sold in
11 returnable beverage containers by placing a sign or a shelf label, or both,
12 in close proximity to any sales display of beverage containers.

13 (2) The sign or label shall indicate the amount of return value
14 for each beverage container and state that all labeled beverage containers as
15 described in this subsection are returnable and shall make available to the
16 public a list of redemption centers in the county.

17
18 8-9-606. (a) Every beverage container sold or offered for sale in
19 this state shall have a return value of at least three cents (3¢) per
20 container.

21 (b) Each beverage container shall have the return value clearly
22 indicated on the beverage container.

23
24 8-9-607. (a) Effective January 1, 2002, each county having
25 responsibility to establish a materials collection center, as mandated by the
26 laws beginning at § 8-6-701, shall establish and operate on its own, or
27 through contract or other agreement with another person or persons,
28 redemption centers where persons may return empty containers and receive the
29 refund value of the containers.

30 (b) In addition to counties, any other local government or person may
31 establish a redemption center, subject to the approval of the county quorum
32 court and the solid waste management district in which it is located, and
33 certified by the department.

34
35 8-9-608. (a) A redemption center shall not refuse to accept from any
36 person an empty returnable container, nor refuse to pay to the person its

1 full refund value in cash, except for broken bottles or any beverage
 2 container which is not empty or contains a significant amount of foreign
 3 material, or beverage containers that are not labeled as provided in this
 4 subchapter, or beverage containers whose labels or embossing cannot be
 5 discerned.

6 (b) An operator of a redemption center may limit the total number of
 7 beverage containers which he will accept from any one person in any one
 8 business day up to two hundred and fifty (250) containers.

9
 10 8-9-609. (a) The Department of Finance and Administration shall
 11 deposit the proceeds of the Beverage Container Recycling and Litter Reduction
 12 Fee in the State Treasury as special revenues and shall credit the proceeds
 13 to a special fund created on the books of the Treasurer of State, the Auditor
 14 of State, and the Chief Fiscal Officer of the State to be known as the
 15 "Beverage Container Recycling and Litter Reduction Grant Fund."

16 (b) In addition to all monies appropriated by the General Assembly to
 17 the fund, there shall be deposited in the fund:

18 (1) Any federal government monies designated to the fund;

19 (2) Any monies received by the state as a gift or donation to
 20 the fund;

21 (3) Fines from violators; and

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

23 (c) The fund shall be administered by the Arkansas Department of
 24 Environmental Quality, which shall authorize grants expenditures from the
 25 fund according to the provisions of this subchapter.

26 (d) The collection of funds under this section shall be subject to the
 27 Arkansas Tax Procedure Act.

28
 29 8-9-610. (a) The fee on beverage containers that contain beer and
 30 other malt beverages shall be reported and paid in the manner prescribed by §
 31 3-7-401.

32 (b) The fee on beverage containers that contain wine and distilled
 33 spirit coolers shall be reported and paid in the manner prescribed by §§ 3-7-
 34 701 and 3-7-702.

35 (c) The fee on beverage containers that contain tea, soft drinks, and
 36 all nonalcoholic carbonated drinks in liquid form intended for human

1 consumption shall be reported and paid in the manner prescribed by the
 2 Arkansas Soft Drink Tax Act.

3 (d) The Director of the Department of Finance and Administration shall
 4 prescribe the form and contents of the report.

5
 6 8-9-611. (a)(1) On or before the twentieth (20th) of each month,
 7 counties shall submit a report from each redemption center in their county to
 8 the department.

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

10 (3) Upon receiving the report, funds from the Beverage Container
 11 Recycling and Litter Reduction Fund shall be disbursed by the department as
 12 follows:

13 (A) \$0.0045 per returned container to the counties for an
 14 administrative fee;

15 (B) 3¢ to reimburse redemption centers the return value
 16 paid to the person returning the containers; and

17 (C) 0.012 per container to the redemption centers for a
 18 handling fee.

19 (b) Of the total fee for each container, \$.0015 will be retained by
 20 the Department of Finance and Administration and \$.0020 will be retained by
 21 the Arkansas Department of Environmental Quality.

22 (c) Any unclaimed funds shall be allocated on an annual basis as
 23 follows:

24 (1)(A) An amount shall be set aside annually for Keep Arkansas
 25 Beautiful.

26 (B) This amount shall be one hundred thousand dollars
 27 (\$100,000) or ten percent (10%) of available funds, whichever is greater, but
 28 shall not exceed two hundred thousand dollars (\$200,000).

29 (2)(A) The department shall set aside an amount annually for
 30 cleanup of illegal dumps.

31 (B) This amount shall be sixty five percent (65%) of the
 32 remainder of the unclaimed funds, or two million dollars (\$2,000,000),
 33 whichever is less.

34 (3)(A) The department shall retain the remainder, however, in no
 35 case shall this be less than thirty five percent (35%) of the unclaimed
 36 funds.

1 (B) These funds shall be used for operation, recycling and
2 environmental education and to assist in any other responsibilities of the
3 department.

4
5 8-9-612. (a) Any person found to be in violation of this subchapter
6 shall be subject to a civil penalty of not more than one thousand dollars
7 (\$1,000) for an initial offense and not more than five thousand dollars
8 (\$5,000) for each subsequent offense.

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

14 (c) All fines collected under this section shall be deposited in the
15 Beverage Container Recycling and Litter Reduction Grant Fund.

16
17 8-9-613. (a) The department may promulgate rules and regulations and
18 charge fees as necessary for the implementation of this subchapter.

19 (b) Fees shall be set by regulation.

20
21 SECTION 2. The act shall not become effective until January 1, 2002.

22
23
24
25
26
27
28
29
30
31
32
33
34
35
36