

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 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/11/05

A Bill

HOUSE BILL 2692

5 *By: Representative Cook*
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; AND TO REQUIRE PREPAYMENT
24 FOR BEVERAGE CONTAINER DISPOSAL.
25
26
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



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
24 form intended for human consumption:

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

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

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

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

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

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

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

12 (B) "Distributor" includes a manufacturer that engages in
13 the sale of beverages 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
20 State of Arkansas and includes all territory within these limits owned by or
21 ceded to the United States;

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

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

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

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

1 district; and

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

3 and

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

6
7 8-9-604. Labeling required.

8 Beginning January 1, 2006, it is unlawful for any dealer to sell
9 beverages in a beverage container in this state that is not labeled as
10 required in this subchapter.

11
12 8-9-605. Beverage container litter reduction fee.

13 (a) Beginning January 1, 2006, a manufacturer that fills beverage
14 containers for consumption in the state, a distributor that imports beverages
15 into the state for consumption in this state, and a dealer that imports
16 beverages from an out-of-state distributor into the state for consumption in
17 this state, shall remit a beverage container litter reduction fee of five
18 cents (5¢) per beverage container to the Department of Finance and
19 Administration and shall clearly label all beverage containers with the word
20 "Arkansas" or "AR" and with the return value of the beverage containers in
21 clearly visible type on the beverage container by embossing or imprinting or
22 by using a stamp on the normal product label.

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

27 (2) The sign or shelf label shall state:

28 (A) The amount of return value for each beverage
29 container; and

30 (B) That all labeled beverage containers as described in
31 this subsection are returnable.

32
33 8-9-606. Return value.

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

36 (b) Each beverage container shall have the return value clearly

1 indicated on the beverage container.

2
3 8-9-607. Redemption centers.

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

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

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

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

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

23
24 8-9-608. Return value.

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

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

29 (A) Broken bottles;

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

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

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

36 (b) An operator of a redemption center may limit the total number of

1 beverage containers that the operator will accept from a person in a business
2 day, but the limit shall not be less than two hundred fifty (250) beverage
3 containers.

4
5 8-9-609. Beverage Container Litter Reduction Grant Fund.

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

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

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

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

17 (3) Fines from violators; and

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

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

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

24 (d) The collection of fees under this section shall be subject to the
25 Arkansas Tax Procedure Act, § 26-18-101 et seq.

26
27 8-9-610. Fee collection.

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

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

34 (c) The fee on beverage containers that contain coffee or tea drinks,
35 soft drinks, nonalcoholic carbonated drinks in liquid form intended for human
36 consumption, bottled water, sport drinks, one hundred percent (100%) fruit

1 juices, and other juice drinks to which carbonation has been added shall be
2 reported and paid in the manner prescribed by the Arkansas Soft Drink Tax
3 Act, § 26-57-901 et seq.

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

6
7 8-9-611. Distribution of funds.

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

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

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

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

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

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

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

29 (c) The unredeemed fees shall be used to pay the administrative fee of
30 the regional solid waste districts, the handling fee for the redemption
31 centers, and the processing fees of the Department of Finance and
32 Administration and the Arkansas Department of Environmental Quality.

33 (d) After the end of each fiscal year, any unallocated and unclaimed
34 fund balances in the Beverage Container Litter Reduction Grant Fund, shall be
35 deposited in the net proceeds of the Beverage Container Litter Reduction Fee,
36 after distributions, in the State Treasury as general revenues.

