

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 H3/25/05*

# A Bill

HOUSE BILL 2692

5 By: Representative Cook  
6 By: *Senator Miller*  
7

## For An Act To Be Entitled

10 AN ACT TO CREATE THE BEVERAGE CONTAINER LITTER  
11 REDUCTION FEE PROGRAM; TO REDUCE LITTER,  
12 FACILITATE BEVERAGE CONTAINER RECYCLING AND  
13 REQUIRE LABELING OF BEVERAGE CONTAINERS; TO  
14 REQUIRE PREPAYMENT FOR BEVERAGE CONTAINER  
15 DISPOSAL AND PROVIDE FOR DISTRIBUTION OF THE  
16 DISPOSAL PREPAYMENT FEE; TO PERMIT REDEMPTION  
17 CENTERS AND ADOPT REGULATIONS; AND FOR OTHER  
18 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; AND TO REQUIRE PREPAYMENT  
26 FOR BEVERAGE CONTAINER DISPOSAL.  
27  
28

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

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

33 Subchapter 6. Beverage Container Litter Reduction Fees.  
34 8-9-601. Title.

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



1  
2 8-9-602. Legislative findings and purpose.

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

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

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

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

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

17 (3) Builds upon existing recycling infrastructure;

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

20 (5) Helps fund environmental education.

21  
22 8-9-603. Definitions.

23 As used in this subchapter:

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

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

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

29 (C) Coffee and tea drinks;

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

32 (E) Carbonated soft drinks; and

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

36 (2) "Beverage container" means a nonrefillable bottle, jar, or

1 other container made of glass, aluminum, metal, or plastic that is sealed by  
2 a manufacturer and that, at the time of sale, contains no more than forty  
3 (40) nor less than six and five-tenths ounces (6.5 oz.) of a beverage;

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

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

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

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

13 (B) "Distributor" includes a manufacturer that engages in  
14 the sale of beverages in this state;

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

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

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

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

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

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

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

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

34 (A) Accepts empty returnable beverage containers from any  
35 person;

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

1 (C) Is approved by the regional solid waste management  
2 district; and

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

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

7  
8 8-9-604. Labeling required.

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

12  
13 8-9-605. Beverage container litter reduction fee.

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

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

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

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

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

33  
34 8-9-606. Return value.

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

1       (b) Each beverage container shall have the return value clearly  
2 indicated on the beverage container.

3  
4       8-9-607. Redemption centers.

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

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

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

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

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

24  
25       8-9-608. Return value.

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

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

30               (A) Broken bottles;

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

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

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

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

5  
6       8-9-609. Beverage Container Litter Reduction Grant Fund.

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

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

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

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

18               (3) Fines from violators; and

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

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

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

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

27  
28       8-9-610. Fee collection.

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

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

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

1 consumption, bottled water, sport drinks, one hundred percent (100%) fruit  
2 juices, and other juice drinks to which carbonation has been added shall be  
3 reported and paid in the manner prescribed by the Arkansas Soft Drink Tax  
4 Act, § 26-57-901 et seq.

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

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

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

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

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

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

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

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

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

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

34 (d) After the end of each fiscal year, any unallocated and unclaimed  
35 fund balances in the Beverage Container Litter Reduction Grant Fund, shall be  
36 deposited in the net proceeds of the Beverage Container Litter Reduction Fee,

1 after distributions, in the State Treasury as general revenues.

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

4  
5 8-9-612. Violations.

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

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

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

18  
19 8-9-613. Rules and regulations.

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

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

24  
25 SECTION 2. This act is effective January 1, 2006.

26  
27 */s/ Cook*