

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

A Bill

SENATE BILL 1064

4
5 By: Senator Miller
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

18
19 THE BEVERAGE CONTAINER LITTER REDUCTION
20 ACT.
21
22
23

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

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

28 Subchapter 6. Beverage Container Litter Reduction Fees.

29 8-9-601. Title.

30 This subchapter shall be known and may be cited as the "Beverage
31 Container Litter Reduction Act".
32

33 8-9-602. Legislative findings and purpose.

34 (a) The General Assembly declares that in order for the State of
35 Arkansas to meet the municipal waste reduction goal established by § 8-9-101,
36 it is imperative that new opportunities for recycling, particularly in rural



1 areas of the state, be developed.

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

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

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

10 (2) Increases opportunities for recycling and provides financial
 11 incentives to recycle and reuse;

12 (3) Builds upon existing recycling infrastructure;

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

15 (5) Helps fund environmental education.

16
 17 8-9-603. Definitions.

18 As used in this subchapter:

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

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

22 (B) Wine, wine coolers, spirits, and distilled spirit
 23 coolers;

24 (C) Coffee and tea drinks;

25 (D) Carbonated water, including soda and carbonated
 26 mineral waters;

27 (E) Carbonated soft drinks; and

28 (F) Bottled water, sport drinks, one hundred percent
 29 (100%) fruit juices, and other juice drinks to which carbonation has been
 30 added;

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

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

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

4 (5)(A) "Distributor" means a person who engages in the sale of
5 beverages in beverage containers to a dealer in this state.

6 (B) "Distributor" includes a manufacturer who engages in
7 the sale of beverages in this state;

8 (6) "Empty returnable container" means a beverage container that
9 contain nothing except the residue of the original contents and are labeled
10 according to the requirements of this subchapter;

11 (7) "Handling fee" means a per-beverage-container payment to
12 redemption centers;

13 (8) "Manufacturer" means a person who bottles or otherwise fills
14 containers for sale to distributors or dealers in this state;

15 (9) "Nonrefillable" means a beverage container that, after being
16 used by a consumer, is not to be reused as a beverage container by a
17 manufacturer;

18 (10) "Person" means an individual, partnership, corporation, or
19 other legal entity;

20 (11) "Recycling" means the systematic collection, sorting,
21 decontaminating, and returning of waste materials to commerce as commodities
22 for use or exchange;

23 (12) "Redemption center" means a place of business that:

24 (A) Accepts empty returnable beverage containers from any
25 person;

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

27 (C) Is approved by the regional solid waste management
28 district; and

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

31 (13) "Return value" means the amount paid to any person that
32 returns an empty returnable container to a redemption center.

33
34 8-9-604. Labeling required.

35 Beginning January 1, 2007, it is unlawful for any dealer to sell
36 beverages in a beverage container in this state that is not labeled as

1 required in this subchapter.

2
3 8-9-605. Beverage container litter reduction fee.

4 (a) Beginning January 1, 2007, a manufacturer who fills beverage
5 containers for consumption in the state, a distributor who imports beverages
6 into the state for consumption in this state, and a dealer who imports
7 beverages from an out-of-state distributor into the state for consumption in
8 this state, shall remit a beverage container litter reduction fee of five
9 cents (5¢) per beverage container to the Department of Finance and
10 Administration and shall clearly label all beverage containers with the word
11 “Arkansas” or “AR” and with the return value of the beverage containers in
12 clearly visible type on the beverage container by embossing or imprinting or
13 by using a stamp on the normal product label.

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

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

19 (A) The amount of return value for each beverage
20 container; and

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

23
24 8-9-606. Fee collection.

25 (a) The fee levied under § 8-9-605 on beverage containers that contain
26 spirits, beer, ale, or other malt beverages shall be reported and paid in the
27 manner prescribed by state law for other alcoholic beverage taxes and fees.

28 (b) The fee levied under § 8-9-605 on beverage containers that contain
29 wine coolers or distilled spirits coolers shall be reported and paid in the
30 manner prescribed by § 3-7-111.

31 (c) The fee levied under § 8-9-605 on beverage containers that contain
32 coffee or tea drinks, soft drinks, nonalcoholic carbonated drinks in liquid
33 form intended for human consumption, bottled water, sport drinks, one hundred
34 percent (100%) fruit juices, and other juice drinks to which carbonation has
35 been added shall be reported and paid in the manner prescribed by the
36 Arkansas Soft Drink Tax Act, § 26-57-901 et seq.

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

3 (e) The fees collected under this section shall be special revenues and
4 credited to the Beverage Container Litter Reduction Grant Fund.

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

7
8 8-9-607. Return value.

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

11 (b) Each beverage container shall have the return value clearly
12 indicated on the beverage container.

13
14 8-9-608. Redemption centers.

15 (a)(1) A redemption center may be established by a person, a county,
16 or a municipality, a regional solid waste management district, or any other
17 governmental entity operating a solid waste management program if it is:

18 (A) Approved by the regional solid waste management
19 district in which the center will be located; and

20 (B) Certified by the Arkansas Department of Environmental
21 Quality.

22 (2) Any existing recycling business operating for profit shall
23 be given priority for consideration as a redemption center.

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

27 (2) However, the curbside recycling program will receive the
28 return value for the containers that are recovered and presented to a
29 redemption center.

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

34
35 8-9-609. Reimbursement for return value.

36 (a)(1) A redemption center shall accept an empty returnable container

1 from any person and shall pay to the person its full return value.

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

4 (A) Broken bottles;

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

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

9 (D) Any beverage container whose label or embossing cannot
10 be discerned.

11 (b) An operator of a redemption center may limit the total number of
12 beverage containers that the operator will accept from a person in a business
13 day, but the limit shall not be fewer than two hundred fifty (250) beverage
14 containers.

15 (c)(1) In order to receive reimbursement for return value paid on
16 beverage containers, the redemption center must submit a report to the
17 regional solid waste management district in which the redemption center is
18 located.

19 (2) The report shall be submitted by the tenth day of each month
20 and shall include the number of the beverage containers accepted and the
21 total amount of return value paid during the previous month.

22
23 8-9-610. Distribution of funds.

24 (a)(1) By the twentieth day of each month, the regional solid waste
25 management district shall submit the reports required by § 8-9-609 to the
26 Arkansas Department of Environmental Quality.

27 (2) The department may develop a form for the report.

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

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

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

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

4 (b) Three hundredths of a cent (0.03¢) per returned beverage container
5 shall be transferred to the Department of Finance and Administration for
6 collection of the fees, and three hundredths of a cent (0.03¢) per returned
7 beverage container shall be retained by the Arkansas Department of
8 Environmental Quality.

9 (c) Funds remaining in the Beverage Container Litter Reduction Grant
10 Fund shall be used to pay the administrative fee of the regional solid waste
11 districts, the handling fee for the redemption centers, and the processing
12 fees of the Department of Finance and Administration and the Arkansas
13 Department of Environmental Quality.

14 (d) After the end of each fiscal year, any unallocated and unclaimed
15 fund balances in the Beverage Container Litter Reduction Grant Fund, shall be
16 deposited in the State Treasury to the General Revenue Fund Account of the
17 State Apportionment Fund.

18
19 8-9-611. Violations.

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

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

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

32
33 8-9-612. Rules – Fees.

34 (a) The Arkansas Department of Environmental Quality may promulgate
35 rules and may charge fees as necessary for the implementation of this
36 subchapter.

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

3 8-9-613. Beverage Container Litter Reduction Grant Fund.

4 (a) There is created on the books of the Treasurer of State, the
5 Auditor of State, and the Chief Fiscal Officer of the State to be known as
6 the "Beverage Container Litter Reduction Grant Fund".

7 (b)(1) All moneys collected under § 8-9-606 shall be deposited into
8 the State Treasury to the credit of the fund as special revenues.

9 (2) The fund shall also consist of any other revenues as may be
10 authorized by law.

11 (c) The fund shall be used by the Arkansas Department of Environmental
12 Quality for the administration of this subchapter.

13 (d) After all distributions are made, the department shall transfer
14 surplus funds in the fund to the General Revenue Fund Account of the State
15 Apportionment Fund according to the provisions of this subchapter.

17 SECTION 2. This act is effective January 1, 2007.

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