

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 86th General Assembly  
3 Regular Session, 2007

# A Bill

HOUSE BILL 2771

4  
5 By: Representatives J. Roebuck, Cook, Webb, Saunders, Stewart, D. Johnson, D. Evans, Powers, L.  
6 Smith, House, Hardwick

## 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 PERMIT REDEMPTION CENTERS AND ADOPT REGULATIONS;  
15 AND FOR OTHER PURPOSES.

## Subtitle

16  
17  
18  
19  
20 TO CREATE THE BEVERAGE CONTAINER LITTER  
21 REDUCTION FEE PROGRAM AND TO REDUCE  
22 LITTER, FACILITATE BEVERAGE CONTAINER  
23 RECYCLING, AND REQUIRE LABELING OF  
24 BEVERAGE CONTAINERS.

25  
26  
27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

28  
29 SECTION 1. Arkansas Code Title 8, Chapter 9 is amended to add an  
30 additional subchapter to read as follows:

### SUBCHAPTER 7. BEVERAGE CONTAINER LITTER REDUCTION.

#### 8-9-701. Title.

31  
32  
33  
34  
35 This subchapter shall be known and may be cited as the "Beverage  
36 Container Litter Reduction Act".



1  
2 8-9-702. 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 the construction of buildings within the  
21 education system of Arkansas that have environmentally beneficial features.

22  
23 8-9-703. Definitions.

24 As used in this subchapter:

25 (1)(A) "Beverage" means a liquid suitable for drinking such as  
26 beer, ale, or other drinks produced by fermenting malt, spirits, mixed  
27 spirits, wine, mixed wine, tea and coffee drinks, soda, carbonated and  
28 noncarbonated water, dairy products, and all other nonalcoholic drinks in  
29 liquid form and intended for human consumption.

30 (B) "Beverage" does not include medicines, products  
31 intended for use by infants only, frozen juices, and powders intended to be  
32 mixed with other liquids to produce a drinkable product.

33 (C) "Beverage" also does not include in liquid food  
34 products not intended to be consumed by drinking including, without  
35 limitation, such products as sauces, flavorings, and syrups;

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 four  
 3 gallons (4 gal.) 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 in this state whether  
 8 or not the product is sold in a vending machine;

9 (5) "Empty returnable containers" means beverage containers that  
 10 contain nothing except the residue of the original contents and are labeled  
 11 according to the requirements of this subchapter;

12 (6) "Handling fee" means a per beverage container payment to the  
 13 Arkansas Department of Environmental Quality;

14 (7) "In this state" means within the exterior limits of the  
 15 State of Arkansas and includes all territory within these limits owned by or  
 16 ceded to the United States;

17 (8) "Manufacturer" means a person that bottles or otherwise  
 18 fills containers for sale to distributors or dealers in this state;

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

22 (10) "Person" means an individual, a partnership, corporation,  
 23 or other legal entity;

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

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

28 (A) Accepts empty returnable beverage containers from any  
 29 person; and

30 (B) Is certified by the Arkansas Department of  
 31 Environmental Quality as a redemption center;

32 (13) "Return value" means the amount paid to any person that  
 33 returns an empty returnable beverage container to a redemption center; and

34 (14) "Green building" means a building designed to reduce both  
 35 direct and indirect environmental consequences associated with construction,  
 36 occupancy, operation, and maintenance of the building, and whose design is

1 evaluated for cost, quality of life, future flexibility, ease of maintenance,  
 2 energy and resource efficiency, and overall environmental impact, with an  
 3 emphasis on life-cycle cost analysis.

4  
 5 8-9-704. Labeling required.

6 Beginning July 1, 2008, it is unlawful for any dealer to sell beverages  
 7 in a beverage container in this state that is not labeled as required in this  
 8 subchapter.

9  
 10 8-9-705. Beverage container litter reduction fee.

11 Beginning July 1, 2008, any person, whether located in this state or  
 12 outside the state, selling beverages to a dealer or directly to a consumer in  
 13 this state for consumption in this state shall:

14 (1) Remit to the Department of Finance and Administration:

15 (A) A beverage container litter reduction fee of five  
 16 cents (5¢) per beverage container; and

17 (B) A handling fee of one and one half cents (1 1/2¢) per  
 18 beverage container; and

19 (2) Clearly label all beverage containers with the word  
 20 “Arkansas” or “AR” and with the return value of five cents (5¢) in clearly  
 21 visible type on the beverage container by embossing or imprinting or by using  
 22 a stamp on the normal product label.

23  
 24 8-9-706. Redemption centers.

25 (a)(1) Any person wishing to establish a redemption center shall  
 26 obtain the prior approval of the Arkansas Department of Environmental  
 27 Quality.

28 (2)(A) The department shall promulgate rules to establish the  
 29 criteria for approval of redemption centers.

30 (B) The rules shall be designed to establish as many  
 31 redemption centers as possible so as to:

32 (i) Make it easy for consumers to claim the return  
 33 value of beverage containers; and

34 (ii) Promote the other purposes of this subchapter.

35 (b)(1) A consumer may donate recyclable beverage containers through  
 36 the community’s curbside recycling program instead of taking the containers

1 to a redemption center.

2 (2) If a beverage container is donated, the curbside recycling  
3 program, instead of the consumer, will receive the return value for the  
4 containers that are recovered from the waste stream and presented to a  
5 redemption center.

6  
7 8-9-707. Payment of return value.

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

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

12 (A) Broken bottles;

13 (B) Any beverage container that is not empty or contains a  
14 significant amount of foreign material;

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

17 (D) Any beverage container whose label or embossing cannot  
18 be discerned.

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

23  
24 8-9-708. Beverage Container Litter Reduction Grant Fund.

25 (a) The Department of Finance and Administration shall deposit the  
26 proceeds of the Beverage Container Litter Reduction Fee in the State Treasury  
27 as special revenues and shall credit the proceeds to a special fund created  
28 on the books of the Treasurer of State, the Auditor of State, and the Chief  
29 Fiscal Officer of the State to be known as the "Beverage Container Litter  
30 Reduction Grant Fund".

31 (b) In addition to all moneys appropriated by the General Assembly to  
32 the fund, there shall be deposited into the fund:

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

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

36 (3) Fines from violators; and

1           (4) All interest upon money deposited into the fund.

2           (c) The fund shall be administered by the Arkansas Department of  
 3 Environmental Quality.

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

6  
 7           8-9-709. Fee collection.

8           The Director of the Department of Finance and Administration shall  
 9 prescribe the content of the fee reporting form.

10  
 11           8-9-710. Distribution of funds.

12           (a)(1) By the twentieth day of each month, each redemption center  
 13 shall submit a report to the Arkansas Department of Environmental Quality.

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

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

18                   (A) To each redemption center as reimbursement for return  
 19 value payments to the person returning the containers, six cents (6¢) per  
 20 beverage container returned at the redemption center; and

21                   (B) To the department as reimbursement for other expenses  
 22 incurred in the administration and enforcement of this subchapter, one-half  
 23 cents (1/2¢) per beverage container returned at the redemption center.

24           (b) The Arkansas Department of Environmental Quality shall prepare the  
 25 forms necessary for appropriate reporting.

26           (c)(1) At the end of each fiscal year, the department shall deposit  
 27 any unallocated and unclaimed fund balances in the Beverage Container Litter  
 28 Reduction Grant Fund to the Department of Education Public School Fund  
 29 Account.

30           (2) The Department of Education shall provide grants from the  
 31 funds received under subdivision (b)(1) of this section to school districts  
 32 for the construction of sustainable buildings.

33  
 34           8-9-711. Violations.

35           (a) Any person found to be in violation of this subchapter shall be  
 36 subject to a civil penalty of not more than one thousand dollars (\$1,000) for

1 an initial offense and not more than five thousand dollars (\$5,000) for a  
2 second or each subsequent offense.

3 (b) Any person that pays to the Department of Finance and  
4 Administration an amount less than the dollar amount required by this  
5 subchapter shall be subject to a civil penalty of not more than five thousand  
6 dollars (\$5,000) for an initial offense and not more than ten thousand  
7 dollars (\$10,000) for a second or each subsequent offense.

8 (c) All civil penalties collected under this section shall be  
9 deposited into the Beverage Container Litter Reduction Grant Fund.

10  
11 8-9-712. Rules and regulations.

12 (a) The Arkansas Department of Environmental Quality may promulgate  
13 rules as necessary for the implementation of this subchapter.

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

15  
16 SECTION 2. Arkansas Code Title 19, Chapter 6 is amended to add an  
17 additional section to read as follows:

18 19-6-502. Beverage Container Litter Reduction Grant Fund.

19 (a) There is established on the books of the Treasurer of State, the  
20 Auditor of State, and the Chief Fiscal Officer of the State a fund to be  
21 known as the "Beverage Container Litter Reduction Grant Fund".

22 (b) The fund shall consist of those special revenues as generated from  
23 Beverage Container Litter Reduction Act, § 8-9-701 et seq., along with other  
24 revenues generated by appropriations or other laws or acts.

25 (c) The fund shall be used only for the purposes set out in the  
26 Beverage Container Litter Reduction Act, § 8-9-701 et seq.

27  
28 SECTION 3. This act is effective January 1, 2008.

29  
30  
31  
32  
33  
34  
35  
36