

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
4

As Engrossed: H3/20/07

A Bill

HOUSE BILL 2771

5 By: Representatives J. Roebuck, Cook, Webb, Stewart, D. Johnson, D. Evans, Powers, L. Smith, House,
6 Hardwick, Blount, E. Brown, Cash, Cheatham, Edwards, Hardy, J. Johnson, Lamoureux, Pennartz,
7 Rainey, Wagner, Woods, Gaskill, S. Prater
8 By: Senators Madison, Trusty
9

For An Act To Be Entitled

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

Subtitle

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22 TO CREATE THE BEVERAGE CONTAINER LITTER
23 REDUCTION FEE PROGRAM AND TO REDUCE
24 LITTER, FACILITATE BEVERAGE CONTAINER
25 RECYCLING, AND REQUIRE LABELING OF
26 BEVERAGE CONTAINERS.
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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

34 SUBCHAPTER 7. BEVERAGE CONTAINER LITTER REDUCTION.
35

36 8-9-701. Title.



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

3
4 8-9-702. Legislative findings and purpose.

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

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

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

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

17 (2) Increases opportunities for recycling and provides financial
18 incentives to recycle and reuse;

19 (3) Builds upon existing recycling infrastructure;

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

22 (5) Helps fund the construction of buildings within the
23 education system of Arkansas that have environmentally beneficial features.

24
25 8-9-703. Definitions.

26 As used in this subchapter:

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

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

35 (C) "Beverage" also does not include in liquid food
36 products not intended to be consumed by drinking including, without

1 limitation, such products as sauces, flavorings, and syrups;

2 (2) "Beverage container" means a nonrefillable bottle, jar, or
3 other container made of glass, aluminum, metal, or plastic that is sealed by
4 a manufacturer and that at the time of sale contains no more than four
5 gallons (4 gal.) of a beverage;

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

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

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

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

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

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

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

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

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

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

30 (A) Accepts empty returnable beverage containers from any
31 person; and

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

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

36 (14) "Green building" means a building designed to reduce both

1 direct and indirect environmental consequences associated with construction,
2 occupancy, operation, and maintenance of the building, and whose design is
3 evaluated for cost, quality of life, future flexibility, ease of maintenance,
4 energy and resource efficiency, and overall environmental impact, with an
5 emphasis on life-cycle cost analysis.

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7 8-9-704. Labeling required.

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

11
12 8-9-705. Beverage container litter reduction fee.

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

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

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

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

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

25
26 8-9-706. Redemption centers.

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

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

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

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

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

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

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

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

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

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

14 (A) Broken bottles;

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

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

19 (D) Any beverage container whose label or embossing cannot
20 be discerned.

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

25
26 8-9-708. Beverage Container Litter Reduction Grant Fund.

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

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

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

36 (2) Any moneys received by the state as a gift or donation to

1 the fund;

2 (3) Fines from violators; and

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

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

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

8
9 8-9-709. Fee collection.

10 The Director of the Department of Finance and Administration shall
11 prescribe the content of the fee reporting form.

12
13 8-9-710. Distribution of funds.

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

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

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

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

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

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

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

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

35
36 8-9-711. Violations.

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

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

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

12
13 8-9-712. Violations.

14 (a)(1) Any dealer, distributor, or manufacturer who violates this act
15 is subject to a fine of not less than one hundred dollars (\$100) or more than
16 one thousand dollars (\$1,000) and is liable for the costs of prosecution.

17 (2) Each day a violation occurs, a separate offense is
18 committed.

19 (b) A person shall not return or attempt to return to a redemption
20 center a beverage container that the person knows or should know was not
21 purchased in this state.

22 (c) A person who violates this subsection is subject to the following
23 penalties:

24 (1) If the person returns twenty-five (25) or more but not more
25 than one hundred (100) nonreturnable containers, the person is guilty of a
26 misdemeanor punishable by a fine of not more than one hundred dollars (\$100).

27 (2) If the person returns more than one hundred (100)
28 nonreturnable containers or violates subdivision (a) for a second or
29 subsequent time, the person is guilty of a misdemeanor punishable by
30 imprisonment for not more than ninety (90) days or a fine of not more than
31 five hundred dollars (\$500), or both.

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33 8-9-713. Rules and regulations.

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

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

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

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

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

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

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

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

/s/ J. Roebuck, et al