

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1189

By: York

AS INTRODUCED

An Act relating to public health and safety; creating the Oklahoma Beverage Container Recycling Act; stating legislative intent; providing definitions; authorizing the State Department of Health to promulgate rules to administer the act; requiring certification of recycling centers; providing conditions for certification; providing requirements for the operation of recycling centers; requiring certification of processors; providing conditions for certification; providing requirements for the operation of processors; requiring the Department to review certification applications; providing for field investigations of applicants; allowing dual certification as processor and recycling center; requiring certification of drop-off or collection programs; requiring use of postfilled glass by container manufacturers; authorizing Department to increase percentage of use of postfilled glass; allowing waiver or reduction of percentage requirements under certain circumstances; establishing amount of redemption payment into the fund; establishing amount of minimum refund value; requiring periodic review of the fund; providing for an increase in

redemption payments under certain circumstances; providing for reduction in redemption payments under certain circumstances; exempting refillable beverage containers from refund; requiring certain information from certain persons; requiring recycling centers to accept and pay refund for beverage containers; providing for certain amount of reimbursement to processors; requiring proof of recycling for reimbursement; requiring processors to pay refund value to certain entities; creating the Beverage Container Recycling Fund; directing the Department to make annual reports; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Beverage Container Recycling Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

It is the intent of the Legislature and the purpose of the Oklahoma Beverage Container Recycling Act to encourage and increase more convenient beverage container recycling and redemption opportunities for all consumers in the state. The act will create and maintain a market place where it is profitable to establish recycling centers and locations to provide consumers in the state with convenient recycling opportunities through the establishment of

minimum refund values. The program established by this act will contribute significantly to the reduction of the beverage container component of litter in this state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Beverage Container Recycling Act:

1. "Act" means the Oklahoma Beverage Container Recycling Act;
2. "Beverage" means beer or other malt beverage, wine and distilled spirit coolers, carbonated mineral and soda waters and similar carbonated soft drinks in liquid form which are intended for human consumption. "Beverage" does not include wine from which alcohol has been removed in whole or in part or one hundred percent (100%) fruit juice to which carbonation is added;
3. "Beverage container" means the individual, separate bottle, jar or other receptacle, thirty-two (32) ounces or less, in which a beverage is sold and which is constructed of glass. "Beverage container" does not include cups or other similar open or loosely sealed receptacles;
4. "Consumer" means every person who, for consumption, purchases a beverage in a beverage container from a dealer, and includes but is not limited to a lodging, eating or drinking establishment and soft drink vending machines;
5. "Container manufacturer" means any person who produces beverage containers for filling by beverage manufacturers;
6. "Dealer" means every person in this state who engages in the sale of beverages in beverage containers to consumers;
7. "Department" means the State Department of Health;
8. "Distributor" means every person who engages in the sale of beverages in beverage containers to a dealer in this state, including any manufacturer who engages in these sales;

9. "Drop-off or collection programs" means any person, association, nonprofit corporation, church, club or other organization certified by the Department, which accepts or collects empty beverage containers from consumers with the intention to recycle them;

10. "Empty beverage container" means a beverage container which has the seal or closure broken or removed, does not contain foreign material other than the residue of the beverage originally packaged in the beverage container, bears the message required by Section 9 of this act and has a refund value established pursuant to Section 10 of this act;

11. "Fund" means the Beverage Container Recycling Fund established pursuant to Section 15 of this act;

12. "Postfilled container" means any container which had been previously filled with a beverage;

13. "Processor" means any person certified by the Department who purchases empty beverage containers which have a refund value established pursuant to this act from recycling centers;

14. "Recycle", "recycled", "recycling" or "recyclable" means the reuse or refilling of empty beverage containers or the process of sorting, cleansing, treating, and reconstituting empty beverage containers for the purpose of using the altered form;

15. "Recycling center" means an operation which is certified by the Department and which accepts from consumers and pays or provides the refund value established pursuant to Section 10 of this act for empty beverage containers intended to be recycled;

16. "Redemption" and "redeem" means the return to a recycling center or location of an empty beverage container for a refund;

17. "Redemption payment" means the minimum amount paid by a distributor to the Department for every beverage container sold or transferred to a dealer;

18. "Refund value" means the minimum refundable value established for a beverage container pursuant to Section 10 of this act;

19. "Refillable beverage container" means any glass beverage container which has a deposit and which ordinarily would be returned to the manufacturer to be refilled and resold; and

20. "Wine and distilled spirit cooler" means a beverage containing wine or distilled spirits to which is added concentrated or unconcentrated juice or flavoring material containing not more than seven percent (7%) alcohol by volume.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be administered by the State Department of Health. The Department may promulgate rules necessary to implement this act or the duties of the Department imposed pursuant to this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Health shall certify the operators of recycling centers pursuant to this section. A recycling center shall meet all of the standards and requirements contained in the rules for certification. The Department rules shall require that the following conditions be met for certification:

1. The operator demonstrates a willingness to operate in accordance with this act;

2. The operator shall notify the Department of any material change in the nature of the recycling center operations; and

3. The operator fulfills any other conditions specified by the Department.

B. A certified recycling center shall comply with the following requirements for operation:

1. The operator shall not pay a refund value for or receive a refund value from any processor for a beverage container which does not have a refund value;

2. A certified recycling center shall accept and pay at least the refund value for all empty beverage containers;

3. A certified recycling center shall not pay any refund value on empty beverage containers which the center knew, or should have known, were coming into the state from out of the state; and

4. A certified recycling center shall prepare and maintain all the required documents as specified by the Department.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Health shall certify processors pursuant to this section. The Department shall require that the following conditions be met for certification:

1. The processor demonstrates a willingness to operate in accordance with this act;

2. The processor notifies the Department promptly of any material change in the nature of the operations of the processor; and

3. The processor fulfills any other conditions specified by the Department.

B. A certified processor shall comply with the following requirements for operations:

1. The processor shall not pay a refund value for, or receive a refund value from the Department for any beverage container which does not have a refund value;

2. The processor shall accept and pay at least the refund value for all empty beverage containers;

3. A processor shall not pay refund values to a noncertified recycler;

4. A processor shall not pay refund values on an empty beverage container which the processor knew, or should have known, was coming into the state from out of the state;

5. A processor shall take the actions necessary and approved by the Department to cancel containers to render them unfit for redemption; and

6. A processor shall prepare and maintain the required documents as specified by the Department.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.7 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Department shall review and verify all applications for certification of recycling centers and processors and may conduct field investigations of an applicant in a manner the Department deems necessary. The Department is not prohibited from certifying the same location or entity as both a processor and a recycling center.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.8 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Department of Health shall certify drop-off or collection programs which meet the requirements of this act as determined by the Department.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.9 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. By January 1, 1995, each container manufacturer shall use a minimum of fifteen percent (15%) postfilled containers in the manufacturing of their glass food, drink or beverage containers.

The State Department of Health may increase the percentage on an annual basis as it deems feasible.

B. If the Department determines that container manufacturers cannot achieve the minimum percentage of postfilled containers required to be used pursuant to subsection A of this section because of lack of available glass collected or because it is technologically infeasible for the container manufacturer to achieve the percentage requirements, the Department may grant a reduction or waiver of the percentage requirements for the container manufacturer.

C. A container manufacturer shall clearly indicate on every beverage container sold or offered for sale by a beverage manufacturer in the state the message "Oklahoma Redemption Value" by either printing or embossing the beverage container or by securely affixing a clear and prominent stamp, label, or other device to the beverage container.

D. Any refillable beverage container sold or offered for sale is exempt from the requirements set forth in subsection C of this section.

E. Except for refillable beverage containers exempt under subsection D of this section, no person shall offer to sell or sell to a consumer a beverage container which has not been labeled pursuant to subsection C of this section.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.10 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Beginning September 1, 1994, every beverage distributor shall pay to the State Department of Health, for deposit into the fund, a redemption payment of five cents (\$0.05) for every beverage container sold or offered for sale in this state by the distributor.

B. Beginning January 1, 1995, every beverage container sold or offered for sale in this state shall have a minimum refund value of three cents (\$0.03).

C. The Department shall periodically review the fund to ensure that there are adequate reserves in the fund to pay the refund values and other disbursements required by this act.

D. If the Department determines there will not be adequate reserves in the fund for payment of the refund values and other disbursements, the Department shall increase the redemption payment by an additional one-half cent (\$0.005) for a total redemption payment of five and one-half cents (\$0.055) per beverage container. The Department shall provide at least sixty (60) days' notice to distributors of the increase.

E. If, at any time after the Department has increased the redemption payment pursuant to subsection D of this section, the Department determines that the increase is no longer needed to ensure that there are adequate reserves in the fund to pay the refund value and other disbursements, the Department shall reduce the payment by no more than one-half cent (\$0.005). The Department shall provide at least sixty (60) days' notice to distributors of the decrease.

F. This section shall not apply to any refillable beverage container.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.11 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Department of Health may require any dealer, beverage distributor or recycling center to provide information to the Department concerning compliance with this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.12 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A certified recycling center shall accept from any consumer or drop-off or collection program any empty beverage container and shall pay the refund value of the beverage container.

B. Only a certified recycling center may pay the refund value to consumers or drop-off or collection programs.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.13 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Upon presentation of a completed claim form adopted by the State Department of Health, the Department shall pay four cents (\$0.04) to a processor for every empty beverage container received by the processor.

B. The Department shall require proof that the empty beverage containers have been shipped to a beverage container manufacturer for use in the manufacture of containers.

C. The Department shall make payment within thirty (30) days of presentation of a claim.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.14 of Title 63, unless there is created a duplication in numbering, reads as follows:

A processor shall pay to a certified recycling center or drop-off or collection program the refund value for every empty beverage container received from the recycling center or drop-off or collection program.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.15 of Title 63, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the "Beverage Container Recycling Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department as redemption payments from distributors.

All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for payment of refund values to processors pursuant to this act and other costs related to the administration of this act.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010.16 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Department of Health shall submit an annual report to the Governor and Legislature containing an analysis of the total amount of redemption payments collected and the total amount of funds used for program administration and for payment of refund values. The report shall also contain recommendations for enhancing the recycling program and methods for enhancing opportunities for all consumers in the state to return beverage containers conveniently, efficiently and economically.

SECTION 17. This act shall become effective September 1, 1993.

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