

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2319

By: Miller (Ray)

AS INTRODUCED

An Act relating to environment and natural resources; creating the Oklahoma Beverage Container Disposal Act; defining terms; setting refund value; providing for labeling or embossing; providing process; requiring registration for operation of redemption centers; providing for application; providing for contents; requiring acceptance of certain containers; providing for payment of refund value; providing for redeeming beverage containers; providing for certain procedures; requiring promulgation of rules; requiring payment of certain handling fees; providing for penalties; 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 2-16-101 of Title 27A, 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 Disposal Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-16-102 of Title 27A, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Beverage Container Disposal Act:

1. "Beverage" means beer or other malt beverages and mineral waters, soda water and similar carbonated soft drinks in liquid form and intended for human consumption;

2. "Beverage container" means the individual, separate, sealed glass, metal or plastic bottle, can, jar or carton containing a beverage;

3. "Consumer" means every person who purchases a beverage in a beverage container for use or consumption;

4. "Dealer" means every person who engages in the sale of beverages in beverage containers to a consumer;

5. "Distributor" means every person who engages in the sale of beverages in beverage containers to a dealer in this state including, but not limited to, any manufacturer who engages in such sale and includes a dealer who engages in the sale of beverages in beverage containers on which no deposit has been collected prior to retail sale;

6. "Manufacturer" means every person bottling, canning or otherwise filling beverage containers for sale to distributors or dealers;

7. "Place of business of a dealer" means the location at which a dealer sells or offers for sale beverages in beverage containers to consumers;

8. "Redemption center" means any facility established to redeem empty beverage containers from consumers or to collect and sort empty beverage containers from dealers and to prepare the containers for redemption by the appropriate distributors;

9. "Use or consumption" includes the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for the purposes of sale; and

10. "Nonrefillable beverage container" means a beverage container which is not designed to be refilled and reused in its original shape.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-16-103 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Every beverage container sold or offered for sale in this state, except beverage containers sold or offered for sale for

consumption on an interstate passenger carrier, shall have a refund value. The refund value shall not be less than five cents (\$0.05) and shall be a uniform amount throughout the distribution process in this state.

B. Every beverage container sold or offered for sale in this state, except beverage containers sold or offered for sale for consumption on an interstate passenger carrier, shall clearly indicate by embossing or by a stamp or by a label or other method securely affixed to the beverage container:

1. Either the refund value of the container or the words "return for deposit" or "return for refund" or other words as approved by the Department of Environmental Quality; and

2. Either the word "Oklahoma" or the abbreviation "OK". This subsection shall not apply to glass beverage containers permanently marked or embossed with a brand name.

C. No person shall sell or offer for sale in this state any metal beverage container:

1. A part of which is designed to be detached in order to open such container; or

2. That is connected to another beverage container by a device constructed of a material which does not decompose by photodegradation, chemical degradation or biodegradation within a reasonable time after exposure to the elements.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-16-104 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. No person shall establish a redemption center without registering with the Department of Environmental Quality on a form provided by the Department with such information as the Department deems necessary including, but not limited to:

1. The name of the business principals of the redemption center and the address of the business;

2. The name and address of the sponsors and dealers to be served by the redemption center;

3. The types of beverage containers to be accepted;

4. The hours of operation; and

5. Whether beverage containers will be accepted from consumers.

B. The operator of the redemption center shall report any change in procedure to the Department within forty-eight (48) hours of such change. Any person establishing a redemption center shall have the right to determine what kind, size or brand of beverage container shall be accepted. A redemption center may be established to serve all persons or to serve certain specified dealers.

C. 1. A dealer shall not refuse to accept at the dealer's place of business, from any person, any empty beverage containers of the kind, size or brand sold by the dealer or refuse to pay to such person the refund value of a beverage container as established by subsection A of Section 3 of this act unless:

- a. the container contains materials which are foreign to the normal contents of the container,
- b. the container is not labeled in accordance with subsection B of Section 3 of this act,
- c. the dealer sponsors, solely or with others, a redemption center which is located within a one-mile radius of the dealer's place of business and which accepts beverage containers of the kind, size or brand sold by the dealer at the dealer's place of business, or
- d. there is established by others a redemption center which is located within a one-mile radius of the dealer's place of business and which accepts beverage containers of the kind, size or brand sold by the dealer at the dealer's place of business.

2. A dealer shall redeem an empty container of a kind, size or brand the sale of which has been discontinued by the dealer for not less than sixty (60) days after the last sale by the dealer of the kind, size or brand of beverage container.

3. Sixty (60) days before such date, the dealer shall post, at the point of sale, notice of the last date on which the discontinued kind, size or brand of beverage container shall be redeemed.

D. 1. A distributor shall not refuse to accept from a dealer or from an operator of a redemption center, located and operated exclusively within the territory of the distributor or whose operator certifies to the distributor that redeemed containers were from a dealer located within such territory, any empty beverage containers of the kind, size or brand sold by the distributor or refuse to pay to such dealer or redemption center operator the refund value of a beverage container as established by subsection A of Section 3 of this act unless:

- a. the container contains materials which are foreign to the normal contents of the container, or
- b. the container is not labeled in accordance with subsection B of Section 3 of this act.

2. A distributor shall remove any empty beverage container from the premises of a dealer serviced by the distributor or from the premises of a redemption center sponsored by dealers serviced by the distributor, provided such premises are located within the territory of the distributor.

E. The distributor shall pay the refund value to dealers in accordance with the schedule for payment by the dealer to the distributor for full beverage containers and shall pay such refund value to operators of redemption centers not more than twenty (20) days after receipt of the empty container. For the purposes of this subsection, a redemption center shall be considered to be sponsored by a dealer if:

1. The dealer refuses to redeem beverage containers and refers consumers to the redemption center; or

2. There is an agreement between the dealer and the operator of the redemption center requiring the redemption center to remove empty beverage containers from the premises of the dealer.

F. 1. A distributor shall redeem an empty container of a kind, size or brand of beverage container the sale of which has been discontinued by the distributor for not less than one hundred fifty (150) days after the last delivery of such kind, size or brand of beverage container.

2. Not less than one hundred twenty (120) days before the last date such containers may be redeemed, the distributor shall notify such dealer who bought the discontinued kind, size or brand of beverage container that such distributor shall not redeem an empty beverage container of such kind, size or brand of beverage containers.

G. The Board of Environmental Quality shall promulgate rules to implement the provisions of the Oklahoma Beverage Container Disposal Act. Such rules shall include, but not be limited to:

1. Provisions for the redemption of beverage containers dispensed through automatic vending machines;

2. The use of vending machines which dispense cash to consumers for redemption of beverage containers;

3. Scheduling for redemption by dealers and distributors; and

4. Exemptions or modifications to the labeling requirements of subsection B of Section 3 of this act.

H. 1. In addition to the refund value of a beverage container as provided in subsection A of Section 3 of this act, a distributor shall pay to any dealer or operator of a redemption center a handling fee of:

a. at least one and one-half cents (\$0.015) for each container of beer or other malt beverage, and

- b. two cents (\$0.02) for each container of mineral waters, soda water or similar carbonated soft drinks returned for redemption.

2. A distributor shall not be required to pay to a manufacturer the refund value of a nonrefillable beverage container.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-16-105 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Any person who is convicted of violating any provision of the Oklahoma Beverage Container Disposal Act shall be fined not less than:

1. Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00);
2. One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) for a second offense; and
3. Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00) for a third offense.

SECTION 4. This act shall become effective November 1, 2002.

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