

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2727

By: Friskup

AS INTRODUCED

An Act relating to environment and natural resources; creating the Oklahoma Beverage Container Recycling Act; defining terms; requiring certain containers to have a refund value; setting values; requiring acceptance of certain beverage containers; providing exceptions; requiring certain postings; requiring refund amount to be affixed to beverage container; providing for certification of designs and containers; specifying certain conditions; authorizing reviews and withdrawals of certifications; providing for establishment of redemption centers; setting out procedures; providing for approvals and reviews; requiring compliance with the Administrative Procedures Act; requiring promulgation of rules; 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 2-11-601 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this act shall be known and may be cited as the "Oklahoma Beverage Container Recycling Act".

B. For purposes of the Oklahoma Beverage Container Recycling Act:

1. "Beverage" means beer or other malt beverages and mineral waters, soda water and similar carbonated soft drinks and water 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. "Board" means the Environmental Quality Board;

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

5. "Dealer" means every person in this state who engages in the sale of beverages in beverage containers to a consumer or means a redemption center certified under Section 5 of this act;

6. "Department" means the Department of Environmental Quality;

7. "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 such sales;

8. "In this state" means within the exterior limits of the State of Oklahoma and includes all territory within these limits owned by or ceded to the United States of America;

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

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

11. "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.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-602 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section, every beverage container sold or offered for sale in this state shall have a refund value of not less than five cents (\$.05).

B. Every beverage container certified as provided in Section 5 of this act and sold or offered for sale in this state shall have a refund value of not less than two cents (\$.02).

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-603 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in the Oklahoma Beverage Container Recycling Act:

1. A dealer shall not refuse to accept from any person any empty beverage containers of the kind, size and brand sold by the dealer or refuse to pay to that person the refund value of a beverage container as established by Section 2 of this act; or

2. A distributor shall not refuse to accept from a dealer any empty beverage containers of the kind, size and brand sold by the distributor or refuse to pay the dealer the refund value of a beverage container as established by Section 2 of this act.

B. A dealer may refuse to:

1. Accept from any person any empty beverage container which does not state thereon a refund value as established by Section 2 of this act;

2. Accept and to pay the refund value of empty beverage containers if the place of business of the dealer and the kind and brand of empty beverage containers are included in an order of the Department approving a redemption center under Section 6 of this act;

3. Accept and to pay the refund value of any beverage container visibly containing or contaminated by a substance other than water, residue of the original contents or ordinary dust; and

4. Accept and to pay the refund value of more than one hundred forty-four (144) individual beverage containers returned by any one person during a twenty-four-hour period.

C. A distributor may refuse to accept from a dealer any empty beverage container which does not state thereon a refund value as established by Section 2 of this act.

D. In order to refuse containers under paragraph 3 or 4 of subsection B of this section, the dealer must post in each area where containers are received a clearly visible and legible sign containing the following information:

"NOTICE:

OKLAHOMA LAW ALLOWS A DEALER TO REFUSE TO ACCEPT:

1. BEVERAGE CONTAINERS VISIBLY CONTAINING OR CONTAMINATED BY A SUBSTANCE OTHER THAN WATER, RESIDUE OF THE ORIGINAL CONTENTS OR ORDINARY DUST; OR

2. MORE THAN ONE HUNDRED FORTY-FOUR (144) INDIVIDUAL BEVERAGE CONTAINERS FOR ANY ONE PERSON DURING A TWENTY-FOUR-HOUR PERIOD."

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-604 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Every beverage container sold or offered for sale in this state by a dealer shall clearly indicate by embossing or by a stamp, or by a label or other method securely affixed to the beverage container, the refund value of the container.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-605 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. To promote the use in this state of reusable beverage containers of uniform design and to facilitate the return of containers to manufacturers for reuse as a beverage container, the Department of Environmental Quality may certify beverage containers which satisfy the requirements of this section.

B. 1. A beverage container may be certified if:

a. it is reusable as a beverage container by more than one manufacturer in the ordinary course of business, and

b. more than one manufacturer will, in the ordinary course of business, accept the beverage container for

reuse as a beverage container and pay the refund value of the container.

2. The Environmental Quality Board may by rule establish appropriate liquid capacities and shapes for beverage containers to be certified or decertified in accordance with the purposes set forth in subsection A of this section.

3. A beverage container shall not be certified under this section if by reason of its shape or design, or by reason of words or symbols permanently inscribed thereon, whether by engraving, embossing, painting or other permanent method, it is reusable as a beverage container in the ordinary course of business only by a manufacturer of a beverage sold under a specific brand name.

C. Unless an application for certification under this section is denied by the Department within sixty (60) days after the filing of the application, the beverage container shall be deemed certified.

D. The Department may review at any time certification of a beverage container. If after such review, with written notice and hearing afforded to the person who filed the application for certification under this section, the Department determines the container is no longer qualified for certification, it shall withdraw certification.

E. Withdrawal of certification shall be effective not less than thirty (30) days after written notice to the person who filed the application for certification and to the manufacturers referred to in subsection B of this section.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-606 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. To facilitate the return of empty beverage containers and to serve dealers of beverages, any person may establish a redemption center, subject to the approval of the Department of Environmental

Quality, at which any person may return empty beverage containers and receive payment of the refund value of such beverage containers.

B. Application for approval of a redemption center shall be filed with the Department. The application shall state the name and address of the person responsible for the establishment and operation of the redemption center, the kind and brand names of the beverage containers which will be accepted at the redemption center and the names and addresses of the dealers to be served by the redemption center. The application shall include such additional information as the Department may require.

C. The Department shall approve a redemption center if it finds the redemption center will provide a convenient service to persons for the return of empty beverage containers. The order of the Department approving a redemption center shall state the dealers to be served by the redemption center and the kind and brand names of empty beverage containers which the redemption center must accept. The order may contain such other provisions to ensure the redemption center will provide a convenient service to the public as the Department may determine.

D. The Department may review at any time approval of a redemption center. After written notice to the person responsible for the establishment and operation of the redemption center and to the dealers served by the redemption center, the Department may, after hearing, withdraw approval of a redemption center if the Department finds there has not been compliance with its order approving the redemption center or if the redemption center no longer provides a convenient service to the public.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-607 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The procedures for certifications or withdrawal of certifications provided for in the Oklahoma Beverage Container

Recycling Act shall be in accordance with the Administrative Procedures Act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-608 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The Environmental Quality Board shall promulgate rules to implement the provisions of the Oklahoma Beverage Container Recycling Act.

SECTION 9. This act shall become effective November 1, 2002.

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