

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 696

By: Wilson

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6 AS INTRODUCED

7 An Act relating to environment and natural resources;
8 creating the Oklahoma Bottle Recycling Act; providing
9 short title; stating legislative findings; stating
10 intent; defining terms; requiring certain beverages
11 be contained in returnable beverage containers;
12 stating requirements for containers and dealers;
13 authorizing manufacturers and dealers to set amount
14 of certain deposits; stating requirements for marking
15 containers; stating exceptions; providing for
16 redemption centers; requiring dealers to accept
17 containers; providing for refunds and refusals;
18 requiring certain educational materials; prohibiting
19 use of certain materials; stating penalties;
20 authorizing Board of Environmental Quality to
21 promulgate rules; providing for codification; and
22 providing an effective date.
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2-11-701 of Title 27A, unless
20 there is created a duplication in numbering, reads as follows:

21 This act shall be known and may be cited as the "Oklahoma Bottle
22 Recycling Act".
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1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-11-702 of Title 27A, unless
3 there is created a duplication in numbering, reads as follows:

4 The Legislature hereby finds that beverage containers are a
5 major source of nondegradable litter in this state and that the
6 collection and disposal of this litter and solid waste constitutes a
7 great financial burden for the citizens of this state; and, that, in
8 addition to this unnecessary expenditure of tax moneys, such litter
9 unreasonably interferes with the enjoyment of life and property by
10 our citizens; and that the practice of littering is not compatible
11 with previously adopted policies of the state in regard to proper
12 use and protection of our natural resources.

13 It is the intent of the Legislature to create incentives for the
14 manufacturers, distributors, dealers and consumers of beverage
15 containers to reuse or recycle beverage containers thereby removing
16 the blight on the landscape caused by the disposal of these
17 containers on the highways and lands of the state and reducing the
18 increasing costs of litter collection and disposal.

19 SECTION 3. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2-11-703 of Title 27A, unless
21 there is created a duplication in numbering, reads as follows:

22 As used in the Oklahoma Bottle Recycling Act:

23 1. "Beverage" means any mineral waters, (but not including
24 naturally sparkling mineral waters), soda waters or any other

1 carbonated beverage not containing alcohol that is commonly known as
2 a "soft drink" and any beer, ale or other malt beverage containing
3 alcohol;

4 2. "Beverage container" means any airtight nonaluminous
5 container containing less than two (2) gallons of a beverage under
6 pressure of carbonation;

7 3. "Biodegradable or photodegradable material" means material
8 which is capable of being broken down by bacteria or light;

9 4. "Consumer" means any person who purchases a beverage in a
10 beverage container for final use or consumption;

11 5. "Dealer" means any person who engages in the sale of
12 beverages in beverage containers to a consumer and shall include
13 groups of retailers or retail chains;

14 6. "Department" shall mean the Department of Environmental
15 Quality;

16 7. "Deposit" means the sum paid to the distributor by the
17 dealer or to the dealer by the consumer when beverages are purchased
18 in returnable beverage containers, and which is refunded when the
19 beverage container is returned;

20 8. "Distributor" means any person who engages in the sale of
21 beverages in beverage containers to a dealer including any
22 manufacturer who engages in such sale;

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1 9. "Manufacturer" means any person who bottles, cans, packs or
2 otherwise fills beverage containers for sale to distributors or
3 dealers;

4 10. "On-premise sales" means sales transactions in which
5 beverages are purchased by a consumer for immediate consumption
6 within the area under control of the dealer;

7 11. "Recyclable" means substances or products that can be
8 recovered from the waste stream and reused in total or in part for
9 the same or other uses;

10 12. "Recycling" means the process of sorting, cleansing,
11 treating and reconstituting discarded materials for the purpose of
12 reusing the materials in the same or altered form;

13 13. "Redemption center" means a store or other location where
14 any person may, during normal business hours, redeem the amount of
15 the deposit for any empty beverage container for which a deposit was
16 required pursuant to this act;

17 14. "Refund" means the sum, equal to the deposit, that is given
18 to the consumer or the dealer or both in exchange for empty
19 returnable beverage containers; and

20 15. "Returnable beverage container" means a beverage container
21 for which a refund or equal value is payable upon return, whether
22 such container is refillable or not. This definition and this
23 subchapter shall not apply to any beverage container which is
24 capable of containing 64 or more ounces of beverage.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-11-704 of Title 27A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Any beverage in a beverage container sold or offered for
5 sale in this state shall be in a returnable beverage container.

6 B. A dealer shall not procure beverages in beverage containers
7 from distributors who refuse to accept from the dealer any
8 returnable beverage containers of the kind, size and brand sold by
9 the distributor and pay to the dealer the refund value of the
10 beverage container.

11 C. Dealers shall inform consumers that beverages are sold in
12 returnable beverage containers by placing a sign, or a shelf label,
13 or both, in close proximity to any sales display of beverages in
14 returnable containers. Such a sign or label shall indicate the
15 amount of deposit required for each container and that all
16 containers are returnable. If the dealer participates in a
17 redemption center, the location of that center shall be posted.

18 D. No person under twenty-one (21) years of age shall return
19 any beverage container, the use of which has been to contain beer,
20 ale or other malt beverage containing alcohol, to any redemption
21 center, which also, as part of its business, is engaged in the
22 selling of alcoholic beverages.

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1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-11-705 of Title 27A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The manufacturer or the distributor shall set the amount of
5 the deposit required and may develop a schedule of deposits varying
6 according to the size of the container involved. A deposit of not
7 less than five cents (\$0.05) shall be paid by the consumer on each
8 beverage container sold at the retail level and refunded to the
9 consumer upon return of the empty beverage container to a dealer or
10 a redemption center.

11 B. A deposit shall not be required for on-premise sales if the
12 empty beverage containers are returned to the distributor.

13 SECTION 6. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2-11-706 of Title 27A, unless
15 there is created a duplication in numbering, reads as follows:

16 A. Every beverage container sold or offered for sale in this
17 state shall clearly indicate by embossing or imprinting on the
18 normal product label, or in the case of a metal beverage container
19 on the top of the container, the word "Oklahoma" and the refund
20 value of the container in not less than one-quarter inch type size.

21 B. This section shall not apply to beverage containers which
22 are certified as refillable by the distributor and which have
23 deposit notations permanently printed or embossed on the container.

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1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-11-707 of Title 27A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Any dealer, distributor, manufacturer, person, or any
5 combination thereof may establish a redemption center subject to
6 approval of the Department of Environmental Quality.

7 B. Application for approval of a redemption center shall be
8 filed with the Department. The application shall state the name and
9 address of the person responsible for the establishment and
10 operation of the center, the kinds, sizes and brand names of
11 beverage containers which will be accepted and the addresses of
12 dealers to be served.

13 C. The Department shall approve a redemption center if it finds
14 that the center will provide a convenient service to persons for the
15 return of empty beverage containers. The order approving a
16 redemption center shall state the dealers to be served and the
17 kinds, sizes and brand names of empty beverage containers which the
18 center shall accept. The order may contain such other provisions to
19 insure the redemption center will provide convenient service to the
20 public as the Department may determine.

21 D. The Department may review at any time approval of a
22 redemption center. After written notice to the person responsible
23 for the establishment and operation of the redemption center and to
24 the dealers served by the center, the Department may, after hearing,

1 withdraw approval of the center if it finds there has not been
2 compliance with the approval order or if the redemption center no
3 longer provides a convenient service to the public.

4 E. A redemption center may also accept for reuse or recycling
5 materials other than beverage containers.

6 SECTION 8. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2-11-708 of Title 27A, unless
8 there is created a duplication in numbering, reads as follows:

9 A. A dealer shall accept from a consumer any empty beverage
10 container of the kind, size and brand sold by the dealer, and pay
11 the consumer the refund on the appropriately labeled returnable
12 beverage container.

13 B. A dealer may refuse to refund deposits on beverage
14 containers if a redemption center or centers are established in the
15 vicinity which serve the public need.

16 C. A dealer or redemption center may refuse to refund deposits
17 on beverage containers which are broken, or unclean, or not empty.
18 Such dealer or center may refuse to accept beverage containers from
19 any person who attempts to return one hundred twenty (120) or more
20 containers at the same time, or within a one week period.

21 D. A dealer or a redemption center upon redeeming beverage
22 containers shall be reimbursed by the manufacturer or distributor of
23 such beverage containers in an amount which is at least twenty
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1 percent (20%) of the deposit returned to the consumer in addition to
2 the refund.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2-11-709 of Title 27A, unless
5 there is created a duplication in numbering, reads as follows:

6 A. State informational material such as travel pamphlets, road
7 maps and similar publications submitted for printing on or after
8 January 1, 2010, shall bear information relating to this subchapter.
9 This information shall take the form of a standard public statement
10 relating to the deposit law, urging travelers to avoid littering.

11 B. The Department of Education and any other state agency
12 distributing public education materials shall incorporate
13 information on this act in educational material which it normally
14 distributes to primary and secondary educational institutions within
15 the state, urging an end to littering.

16 SECTION 10. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2-11-710 of Title 27A, unless
18 there is created a duplication in numbering, reads as follows:

19 No beverage shall be sold or offered for sale at retail in this
20 state:

21 1. In a metal container designed and constructed so that part
22 of the container is detachable in opening the container;

23 2. In containers connected to each other with plastic rings or
24 similar devices which are not classified by the Department of

1 Environmental Quality as biodegradable, photodegradable or
2 recyclable; or

3 3. In a glass beverage container which is not recyclable or
4 refillable.

5 SECTION 11. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2-11-711 of Title 27A, unless
7 there is created a duplication in numbering, reads as follows:

8 A. Any person violating the Oklahoma Bottle Recycling Act or
9 any rule duly promulgated thereunder, shall be punishable as
10 follows:

11 1. If the violation has been completed, by a civil penalty
12 imposed by the district court of the county where the violation
13 occurred of not less than Two Hundred Fifty Dollars (\$250) nor more
14 than One Thousand Dollars (\$1,000.00) for each completed violation;
15 if the violation has been completed and there is a substantial
16 likelihood that it will reoccur, the Executive Director of the
17 Department of Environmental Quality may also seek a permanent or
18 preliminary injunction or temporary restraining order in the
19 district court; or

20 2. If the violation is continuing, the Executive Director may
21 seek a monetary penalty as provided in paragraph 1 of this
22 subsection. If the violation is continuing or is threatening to
23 begin, the Executive Director may also seek a temporary restraining
24 order or permanent injunction in the district court. In his or her

1 discretion, the Executive Director may endeavor by conciliation to
2 obtain compliance with all requirements of this act. Conciliation
3 shall be giving written notice to the responsible party:

- 4 a. specifying the complaint,
- 5 b. proposing a reasonable time for its correction,
- 6 c. advising that a hearing on the complaint may be had if
7 requested by a date stated in the notice, and
- 8 d. notifying that a proposed correction date will be
9 ordered unless a hearing is requested. If no hearing
10 is requested on or before the date stated in the
11 notice, the Executive Director may order that the
12 correction be fully implemented by the proposed date
13 or may, on his or her own initiative, convene a
14 hearing, in which the Executive Director shall
15 publicly hear and consider any relevant submission
16 from the responsible party as otherwise provided by
17 law.

18 B. The Executive Director of the Department shall have the
19 authority to enforce this subchapter.

20 SECTION 12. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-11-712 of Title 27A, unless
22 there is created a duplication in numbering, reads as follows:

23 The Board of Environmental Quality is authorized to promulgate
24 any rules necessary to implement the provisions of this act.

1 SECTION 13. This act shall become effective November 1, 2010.

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