

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 140

By: Wilson

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5  
6 AS INTRODUCED

7 An Act relating to recycling; creating the Oklahoma  
8 Bottle Recycling Act; providing short title; stating  
9 legislative findings; stating intent; defining terms;  
10 requiring certain beverages be contained in  
11 returnable beverage containers; stating requirements  
12 for containers and dealers; authorizing manufacturers  
13 and dealers to set amount of certain deposits;  
14 stating requirements for marking containers; stating  
15 exceptions; providing for redemption centers;  
16 requiring dealers to accept containers; providing for  
17 refunds and refusals; requiring certain educational  
18 materials; prohibiting use of certain materials;  
19 stating penalties; creating the Oklahoma Bottle  
20 Recycling Deposit Fund; stating purpose; providing  
21 for certain collection, distribution and accounting  
22 of funds; authorizing Tax Commission and Board of  
23 Environmental Quality to promulgate rules; providing  
24 for codification; providing for noncodification; and  
providing an effective date.

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

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

22 This act shall be known and may be cited as the "Oklahoma Bottle  
23 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; that, in  
8 addition to this unnecessary expenditure of tax dollars, 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 illegal disposal of these  
17 containers and reducing the costs of litter collection and disposal.

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

21 As used in the Oklahoma Bottle Recycling Act:

22 1. "Beverage" means any carbonated or noncarbonated bottled or  
23 canned liquid intended for human consumption, including flavored or  
24 unflavored water, soda water, soft drinks, juices, or milk, and

1 shall also include any beer, ale or other malt beverage containing  
2 alcohol;

3 2. "Beverage container" means any airtight, aluminum,  
4 nonaluminous or plastic single-serving size container of a beverage;

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

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

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

12 6. "Department" shall mean the Department of Environmental  
13 Quality;

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

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

21 9. "Manufacturer" means any person who bottles, cans, packs or  
22 otherwise fills beverage containers for sale to distributors or  
23 dealers;

24

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

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

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

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

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

17 15. "Returnable beverage container" means a beverage container  
18 for which a refund or equal value is payable upon return, whether  
19 such container is refillable or not. This definition and the  
20 provisions of this act shall not apply to any beverage container  
21 which is capable of containing 64 or more ounces of beverage.

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

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

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

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

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

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

23       A. The manufacturer or the distributor shall set the amount of  
24 the deposit required and may develop a schedule of deposits varying

1 according to the size of the container involved. A deposit of not  
2 less than five cents (\$0.05) shall be paid by the consumer on each  
3 beverage container sold at the retail level and that same amount  
4 shall be refunded to the consumer upon return of the empty beverage  
5 container to a dealer or a redemption center.

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

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

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

16 B. This section shall not apply to beverage containers which  
17 are certified as refillable by the distributor and which have such a  
18 notation permanently printed or embossed on the container.

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

22 A. Any person may establish a redemption center subject to  
23 approval of the Department of Environmental Quality.

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1 B. Application for approval of a redemption center shall be  
2 filed with the Department. The application shall state the name and  
3 address of the person responsible for the establishment and  
4 operation of the center, the kinds, sizes and brand names of  
5 beverage containers which will be accepted and the addresses of  
6 dealers to be served.

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

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

22 E. A redemption center may at its discretion also accept for  
23 reuse or recycling materials other than beverage containers.

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1 F. The Board of Environmental Quality is authorized to  
2 promulgate rules for designating recycling centers as authorized by  
3 this section.

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

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

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

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

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

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

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

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

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

17 No beverage shall be sold or offered for sale at retail in this  
18 state:

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

21 2. In containers connected to each other with plastic rings or  
22 similar devices which are not classified by the Department of  
23 Environmental Quality as biodegradable, photodegradable or  
24 recyclable; or

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

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

6 A. There is hereby created within the Oklahoma Tax Commission  
7 the "Oklahoma Bottle Recycling Deposit Fund". The Fund shall be  
8 administered by the Tax Commission pursuant to the provisions of  
9 this act.

10 B. The Oklahoma Bottle Recycling Deposit Fund shall consist of:

11 1. All monies received by the Commission as proceeds from the  
12 assessment of any deposits required by this act; and

13 2. Money received by the Commission in the form of gifts,  
14 grants, reimbursements, or from any other source intended to be used  
15 for the purposes specified by or collected pursuant to the  
16 provisions of this act.

17 C. Monies collected pursuant to the requirements of this act  
18 and deposited in the Fund shall be available for:

19 1. Reimbursing manufacturers, dealers, distributors, recycling  
20 centers or any other person or entity entitled to receive  
21 reimbursement for payment for returned beverage containers in  
22 accordance with the provisions of this act; and

23 2. Monies deposited in the Fund not used for reimbursements or  
24 subject to being held in reserve for such reimbursements shall be

1 eligible for specific legislative appropriation. Monies collected  
2 and remaining unredeemed shall be accounted for on an annual basis  
3 and the amount available for legislative appropriation shall be  
4 reported by the Tax Commission to the Governor and the President Pro  
5 Tempore of the Senate and the Speaker of the House of  
6 Representatives.

7 D. Monies collected pursuant to this act shall be remitted  
8 monthly to the Tax Commission in the same manner and at the same  
9 time as sales taxes are remitted, or as otherwise determined  
10 appropriate by the Tax Commission. Any person or entity subject to  
11 remitting deposits who is not otherwise subject to remitting sales  
12 taxes shall be required to establish a monthly remitting system with  
13 the Tax Commission as the Commission determines appropriate.

14 E. The Tax Commission and the Board of Environmental Quality  
15 are authorized to promulgate rules and develop policies as necessary  
16 to coordinate the collection and distribution of monies into and out  
17 of this Fund pursuant to the provisions of this act.

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

21 A. Any person violating the Oklahoma Bottle Recycling Act or  
22 any rule duly promulgated thereunder, shall be punishable as  
23 follows:  
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1           1. If the violation has been completed, by a civil penalty  
2 imposed by the district court of the county where the violation  
3 occurred of not less than Two Hundred Fifty Dollars (\$250) nor more  
4 than One Thousand Dollars (\$1,000.00) for each completed violation;  
5 if the violation has been completed and there is a substantial  
6 likelihood that it will reoccur, the Executive Director of the  
7 Department of Environmental Quality may also seek a permanent or  
8 preliminary injunction or temporary restraining order in the  
9 district court; or

10           2. If the violation is continuing, the Executive Director may  
11 seek a monetary penalty as provided in paragraph 1 of this  
12 subsection. If the violation is continuing or is threatening to  
13 begin, the Executive Director may also seek a temporary restraining  
14 order or permanent injunction in the district court. In his or her  
15 discretion, the Executive Director may endeavor by conciliation to  
16 obtain compliance with all requirements of this act. Conciliation  
17 shall be giving written notice to the responsible party:

- 18           a. specifying the complaint,
- 19           b. proposing a reasonable time for its correction,
- 20           c. advising that a hearing on the complaint may be had if  
21           requested by a date stated in the notice, and
- 22           d. notifying that a proposed correction date will be  
23           ordered unless a hearing is requested. If no hearing  
24           is requested on or before the date stated in the

1 notice, the Executive Director may order that the  
2 correction be fully implemented by the proposed date  
3 or may, on his or her own initiative, convene a  
4 hearing, in which the Executive Director shall  
5 publicly hear and consider any relevant submission  
6 from the responsible party as otherwise provided by  
7 law.

8 B. The Executive Director of the Department shall have the  
9 authority to enforce this subchapter.

10 SECTION 13. NEW LAW A new section of law not to be  
11 codified in the Oklahoma Statutes reads as follows:

12 The Board of Environmental Quality and the Oklahoma Tax  
13 Commission are authorized to promulgate any rules necessary to  
14 implement the provisions of this act.

15 SECTION 14. This act shall become effective November 1, 2011.

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