

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2745

By: Condit

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5
6 AS INTRODUCED

7 An Act relating to environment and natural resources;
8 creating the Oklahoma Beverage Containers Control
9 Act; providing definitions; establishing the refund
10 value of a beverage container sold in the state;
11 providing for the return of the refund value to the
12 consumer; requiring a distributor to reimburse
13 certain persons who redeem empty beverage containers
14 a certain amount; allowing certain persons to compact
15 empty metal beverage containers; prohibiting a dealer
16 from refusing to accept an empty beverage container
17 from a consumer; providing for the acceptance and
18 pickup of empty beverage containers by a distributor;
19 limiting payment requirement on nonrefillable
20 beverage containers; requiring a distributor to
21 accept certain empty beverage containers from a
22 dealer agent; allowing a dealer, distributor,
23 licensee and manufacturer or distributor to refuse to
24 accept empty beverage containers without certain
marking and under certain conditions; requiring
beverage containers sold in the state to be marked in
a certain manner with the refund value; prohibiting
the importation of unmarked beverage containers;
providing exceptions for certain sized beverage
containers; providing exception for certain
refillable glass beverage containers; allowing
persons to establish a redemption center upon
approval of the Department of Environmental Quality;
specifying contents of the application; providing for
approval of redemption centers by the Department;
allowing the Department to review and withdraw the
approval of a redemption center; requiring redemption
centers to meet certain health standards; authorizing
persons to establish an unapproved redemption center;
directing the Board of Environmental Quality to
promulgate rules; authorizing certain judicial

1 review; providing penalties for certain violations
2 and actions; providing certain definition; limiting
3 application of certain penalties; authorizing certain
4 contracts or agreements by distributors; providing
5 for the redemption of refused nonrefillable metal
6 beverage containers; requiring beer distributors to
7 provide for certain facilities; providing penalty;
8 prohibiting the final disposal of beverage containers
9 in solid waste facilities after certain date;
10 directing the Department to establish an independent
11 redemption center grant program; defining certain
12 term; creating the Independent Redemption Center
13 Grant Revolving Fund; stating source of funding;
14 stating purpose of monies; requiring expenditures to
15 be on warrants; requiring the Department to provide
16 grants for certain purposes; limiting grant amounts;
17 limiting payment of administrative costs; providing
18 for codification; providing an effective date; and
19 declaring an emergency.

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

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

24 This act shall be known and may be cited as the "Oklahoma
Beverage Containers Control Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2-11-702 of Title 27A, unless
there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Beverage Containers Control Act:

1. "Beverage" means wine, alcoholic beverage and beer as
defined in Section 506 of Title 37 of the Oklahoma Statutes, mineral

1 water, soda water and similar carbonated soft drinks in liquid form
2 and intended for human consumption;

3 2. "Beverage container" means any sealed glass, plastic, or
4 metal bottle, can, jar or carton containing a beverage;

5 3. "Board" means the Environmental Quality Board;

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

8 5. "Dealer" means any person who engages in the sale of
9 beverages in beverage containers to a consumer;

10 6. "Dealer agent" means a person who solicits or picks up empty
11 beverage containers from a dealer for the purpose of returning the
12 empty beverage containers to a distributor or manufacturer;

13 7. "Department" means the Department of Environmental Quality;

14 8. "Distributor" means any person who engages in the sale of
15 beverages in beverage containers to a dealer in this state,
16 including any manufacturer who engages in such sales;

17 9. "Executive Director" means the Executive Director of the
18 Department of Environmental Quality;

19 10. "Geographic territory" means the geographical area within a
20 perimeter formed by the outermost boundaries served by a
21 distributor;

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

1 12. "Nonrefillable beverage container" means a beverage
2 container not intended to be refilled for sale by a manufacturer;
3 and

4 13. "Redemption center" means a facility at which consumers may
5 return empty beverage containers and receive payment for the refund
6 value of the empty beverage containers.

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

10 A. A refund value of not less than five cents (\$0.05) shall be
11 paid by the consumer on each beverage container sold in this state
12 by a dealer for consumption off the premises. Upon return of the
13 empty beverage container upon which a refund value has been paid to
14 the dealer or person operating a redemption center and acceptance of
15 the empty beverage container by the dealer or person operating a
16 redemption center, the dealer or person operating a redemption
17 center shall return the amount of the refund value to the consumer.

18 B. In addition to the refund value provided in Subsection A of
19 this Section, a dealer or person operating a redemption center who
20 redeems empty beverage containers or a dealer agent shall be
21 reimbursed by the distributor required to accept the empty beverage
22 containers an amount which is one cent (\$0.01) per container. A
23 dealer, dealer agent, or person operating a redemption center may
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1 compact empty metal beverage containers with the approval of the
2 distributor required to accept the containers.

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

6 Except as provided for in Section 5 of this act:

7 1. A dealer shall not refuse to accept from a consumer any
8 empty beverage container of the kind, size and brand sold by the
9 dealer or refuse to pay to the consumer the refund value of a
10 beverage container as provided under Section 3 of this act.

11 2. A distributor shall accept and pick up from a dealer served
12 by the distributor or a redemption center for a dealer served by the
13 distributor at least weekly or when the distributor delivers the
14 beverage product if deliveries are less frequent than weekly, any
15 empty beverage container of the kind, size and brand sold by the
16 distributor and shall pay to the dealer or person operating a
17 redemption center the refund value of a beverage container and the
18 reimbursement as provided under Section 3 of this act within one (1)
19 week following pickup of the containers or when the dealer or
20 redemption center normally pays the distributor for the deposit on
21 beverage products purchased from the distributor if less frequent
22 than weekly. A distributor or employee or agent of a distributor is
23 not in violation of this section if a redemption center is closed

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1 when the distributor attempts to make a regular delivery or a
2 regular pickup of empty beverage containers.

3 3. A distributor shall not be required to pay to a manufacturer
4 a deposit or refund value on a nonrefillable beverage container.

5 4. A distributor shall accept from a dealer agent any empty
6 beverage container of the kind, size, and brand sold by the
7 distributor and which was picked up by the dealer agent from a
8 dealer within the geographic territory served by the distributor and
9 the distributor shall pay the dealer agent the refund value of the
10 empty beverage container and the reimbursement as provided in
11 Section 3 of this act.

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

15 A. Except as provided in Subsection C of Section 6 of this act,
16 a dealer, a person operating a redemption center, a distributor or a
17 manufacturer may refuse to accept any empty beverage container which
18 does not have stated on it a refund value as provided under Section
19 3 of this act.

20 B. A dealer may refuse to accept and to pay the refund value of
21 any empty beverage container if the place of business of the dealer
22 and the kind and brand of empty beverage containers are included in
23 an order of the Department of Environmental Quality approving a
24 redemption center under Section 7 of this act.

1 C. A manufacturer or distributor may refuse to accept and to
2 pay the refund value and reimbursement as provided in Section 3 of
3 this act on any empty beverage container that was picked up by a
4 dealer agent from a dealer outside the geographic territory served
5 by the manufacturer or distributor.

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

9 A. Each beverage container sold or offered for sale in this
10 state by a dealer shall clearly indicate by embossing or by a stamp,
11 label or other method securely affixed to the container, the refund
12 value of the container. The Department of Environmental Quality
13 shall specify by rule the minimum size of the refund value
14 indication on the beverage containers.

15 B. A person, except a distributor, shall not import into this
16 state after July 1, 2017 a beverage container which does not have
17 securely affixed to the container the refund value indication. The
18 provisions of this subsection shall not apply if:

19 1. For beverage containers containing alcoholic beverages as
20 defined in Section 506 of Title 37 of the Oklahoma Statutes, the
21 total capacity of the containers is not more than one (1) quart or
22 in the case of alcoholic beverage personally obtained outside the
23 United States, one (1) gallon;

1 2. For beverage containers containing beer as defined in
2 Section 506 of Title 37 of the Oklahoma Statutes the total capacity
3 of the containers is not more than two hundred eighty-eight (288)
4 fluid ounces; and

5 3. For all other beverage containers, the total capacity of the
6 containers is not more than five hundred seventy-six (576) fluid
7 ounces.

8 C. The provisions of Subsections A and B of this section shall
9 not apply to a refillable glass beverage container which has a brand
10 name permanently marked on it and which has a refund value of not
11 less than five cents (\$0.05), to any other refillable beverage
12 container which has a refund value of not less than five cents
13 (\$0.05) and which is exempted by the Executive Director under rules
14 adopted by the Environmental Quality Board or to a beverage
15 container sold aboard a commercial airliner or passenger train for
16 consumption on the premises.

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

20 A. To facilitate the return of empty beverage containers and to
21 serve dealers of beverages, any person may establish a redemption
22 center, subject to the approval of the Department of Environmental
23 Quality, at which consumers may return empty beverage containers and
24 receive payment of the refund value of the beverage containers.

1 B. An 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 redemption center, the kind and brand names of the
5 beverage containers which will be accepted at the redemption center,
6 and the names and addresses of the dealers to be served by the
7 redemption center. The application shall contain any other
8 information as the Executive Director may reasonably require.

9 C. The Department shall approve a redemption center if it finds
10 that the redemption center will provide a convenient service to
11 consumers for the return of empty beverage containers. The order of
12 the Department approving a redemption center shall state the dealers
13 to be served by the redemption center and the kind and brand names
14 of empty beverage containers which the redemption center shall be
15 required to accept. The order may contain any other provisions to
16 ensure that the redemption center will provide a convenient service
17 to the public as the Executive Director may determine.

18 D. The Department may review the approval of any redemption
19 center at any time. After written notice to the person responsible
20 for the establishment and operation of the redemption center and to
21 the dealers served by the redemption center, the Environmental
22 Quality Board may, after hearing, withdraw approval of a redemption
23 center if the Board finds there has not been compliance with the
24 order of the Department approving the redemption center or if the

1 redemption center no longer provides a convenient service to the
2 public.

3 E. All approved redemption centers shall meet applicable health
4 standards.

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

8 Any person may establish a redemption center which has not been
9 approved by the Department of Environmental Quality at which a
10 consumer may return empty beverage containers and receive payment of
11 the refund value of the beverage containers. The establishment of
12 an unapproved redemption center shall not relieve any dealer from
13 the responsibility of redeeming any empty beverage containers of the
14 kind and brand sold by the dealer.

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

18 The Board of Environmental Quality shall promulgate, upon
19 recommendation of the Executive Director, rules necessary to carry
20 out the provisions of the Oklahoma Beverage Containers Control Act.

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

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1 Any person aggrieved by an order of the Department of
2 Environmental Quality relating to the approval or withdrawal of
3 approval for a redemption center may seek judicial review of the
4 order.

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 provisions of Sections 3, 4 or 6 of
9 this act or a rule adopted under by the Board of Environmental
10 Quality shall be guilty of a misdemeanor.

11 B. If a distributor collects or attempts to collect a refund
12 value on an empty beverage container when the distributor has paid
13 the refund value on the container to a dealer, redemption center or
14 consumer, the distributor shall be considered to have participated
15 in a fraudulent practice and shall be guilty of a misdemeanor.

16 C. Any person who does any of the following acts shall be
17 considered to have participated in a fraudulent practice and shall
18 be guilty of a misdemeanor:

19 1. Collects or attempts to collect the refund value on the
20 container a second time, with the knowledge that the refund value
21 has once been paid by the distributor to a dealer, redemption center
22 or consumer;

23 2. Manufactures, sells, possesses or applies a false or
24 counterfeit label or indication which shows or purports to show a

1 refund value for a beverage container with intent to use the false
2 or counterfeit label or indication; and

3 3. Collects or attempts to collect a refund value on a
4 container with the use of a false or counterfeit label or indication
5 showing a refund value knowing the label or indication to be false
6 or counterfeit.

7 D. As used in this section, a false or counterfeit label or
8 indication means a label or indication purporting to show a valid
9 refund value which has not been initially applied as authorized by a
10 distributor.

11 E. Subsection B and paragraph 1 of Subsection C of this section
12 shall have no application to empty beverage containers which are
13 intended to be refillable and are in a standard of condition except
14 for sanitization to be refillable by the manufacturer.

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

18 A distributor may enter into a contract or agreement with any
19 other distributor, manufacturer or person for the purpose of
20 collecting or paying the refund value on or disposing of beverage
21 containers as provided in the Oklahoma Beverage Containers Control
22 Act.

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1 SECTION 13. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-11-713 of Title 27A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. If the refund value indication required under Section 6 of
5 this act on an empty nonrefillable metal beverage container is
6 readable but the redemption of the container is lawfully refused by
7 a dealer or person operating a redemption center under other
8 sections of the Oklahoma Beverage Containers Control Act or rules
9 adopted pursuant to the Act, the container shall be accepted and the
10 refund value paid to a consumer as provided for in this Section.
11 Each beer distributor selling nonrefillable metal beverage
12 containers in this state shall provide individually or collectively
13 by contract or agreement with a dealer, person operating a
14 redemption center or another person, at least one (1) facility in
15 the county seat of each county where refused empty nonrefillable
16 metal beverage containers having a readable refund value indication
17 as required by the Act are accepted and redeemed. In cities having
18 a population of twenty-five thousand (25,000) or more, the number of
19 the facilities provided shall be one for each twenty-five thousand
20 population or a fractional part of that population.

21 B. A beer distributor violating this section shall be guilty of
22 a misdemeanor.

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1 SECTION 14. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-11-714 of Title 27A, unless
3 there is created a duplication in numbering, reads as follows:

4 Beginning July 1, 2017, the final disposal of beverage
5 containers by a dealer, distributor, manufacturer or person
6 operating a redemption center in a solid waste facility shall be
7 prohibited. Beginning July 1, 2018, the final disposal of beverage
8 containers used to contain alcoholic beverages as defined in Section
9 506 of Title 37 of the Oklahoma Statutes by a dealer, distributor,
10 manufacturer or person operating a redemption center in a solid
11 waste facility shall be prohibited.

12 SECTION 15. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2-11-715 of Title 27A, unless
14 there is created a duplication in numbering, reads as follows:

15 A. An independent redemption center grant program shall be
16 established by the Department of Environmental Quality to award
17 grants for improvements to independent redemption centers. An
18 "independent redemption center" is a redemption center that is also
19 a nonprofit or a for-profit facility that has existed prior to July
20 1, 2016, and that is not affiliated with or in any way a subsidiary
21 of a dealer, a distributor, or a manufacturer.

22 B. There is hereby created in the State Treasury a revolving
23 fund for the Department of Environmental Quality to be designated
24 the "Independent Redemption Center Grant Revolving Fund". The fund

1 shall be a continuing fund, not subject to fiscal year limitations,
2 and shall consist of all monies received by the Department from
3 monies appropriated to the Fund or for purposes of the grant
4 program. All monies accruing to the credit of said fund are hereby
5 appropriated and may be budgeted and expended by the Department for
6 the purpose of the independent redemption center grant program.
7 Expenditures from said fund shall be made upon warrants issued by
8 the State Treasurer against claims filed as prescribed by law with
9 the Director of the Office of Management and Enterprise Services for
10 approval and payment.

11 C. 1. Moneys in the Independent Redemption Center Grant

12 Revolving Fund shall be used by the Department to provide grants to
13 independent redemption centers for purposes of making improvements
14 to the centers. The Department shall not award grants in a fiscal
15 year in an aggregate of more than One Million Dollars
16 (\$1,000,000.00). A grant shall not exceed Fifteen Thousand Dollars
17 (\$15,000.00) for any independent redemption center.

18 2. The Department shall not pay administrative costs relating
19 to the management of the grant program in excess of three and one-
20 half percent (3 1/2%) of the monies in the Independent Redemption
21 Center Grant Revolving Fund in a fiscal year.

22 SECTION 16. This act shall become effective July 1, 2016.

23 SECTION 17. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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