

REFERENCE TITLE: disposable bags; recycling; surcharge; fund

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2761

Introduced by
Representatives Sinema, Ableser, Lujan, Schapira, Young Wright: Bradley, Campbell CH, Campbell CL,
Chabin, Farley, Gallardo, Lopes, Lopez, Meza, Rios P, Ulmer

AN ACT

AMENDING SECTIONS 49-831 AND 49-832, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 49-838 AND 49-839; RELATING TO THE ARIZONA RECYCLING PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 49-831, Arizona Revised Statutes, is amended to read:

49-831. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means this state or a state agency, county, municipality or political subdivision.
2. "Collection" means the act of picking up post-consumer secondary materials from homes, businesses, governmental agencies, institutions or industrial sites.
3. "Consumer" means a person who purchases a product for use, consumption or any purpose other than resale.
4. "Consumer of newsprint" means a person who uses newsprint in a commercial printing operation or in a commercial publishing operation.
5. **"DISPOSABLE BAG" MEANS ANY PLASTIC, LATEX, POLYPROPYLENE OR PAPER BAG THAT IS INTENDED TO BE DISPOSABLE, THAT IS PROVIDED TO A CONSUMER AT ANY RETAIL FACILITY AND THAT IS INTENDED FOR USE IN CARRYING OR PROTECTING GOODS SOLD OR SERVICED, INCLUDING A GROCERY BAG, A FAST FOOD BAG AND A DRY CLEANER BAG OR COVER.**
- ~~5:~~ 6. "Disposition" means the transportation, placement, reuse, sale, donation, transfer or temporary storage for a period of not more than six months of designated recyclable materials for all possible uses, except for disposal as solid waste.
- ~~6:~~ 7. "Municipal or county solid waste" means any garbage, trash, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant or pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material but not including domestic sewage or hazardous waste.
- ~~7:~~ 8. "Municipality" means an incorporated city or town with a population of more than five thousand persons.
- ~~8:~~ 9. "Natural resources" means the supply of materials, not made by man, that are used for making goods.
- ~~9:~~ 10. "Newsprint" means uncoated paper, whether supercalendered or machine finished, including the type generally used for the publication of newspapers, commercial advertising inserts, directories or commercial advertising mailers, ~~which~~ **THAT** is made primarily from mechanical wood pulps combined with some chemical wood pulp. Newsprint includes paper made from old newspapers ~~which~~ **THAT** have been deinked, using the recycled pulp in lieu of virgin pulp. Newsprint includes all grades of paper sold as newsprint, supercalendered (SC) uncoated groundwood or machine finished (MF) uncoated groundwood.
- ~~10:~~ 11. "Paper" means newspaper, high grade office paper, fine paper, bond paper, offset paper, xerographic paper, duplicator paper and related types of cellulosic material containing not more than ten per cent by weight or volume of noncellulosic material such as laminates, binders, coatings or saturants.
- ~~11:~~ 12. "Paper product" means paper items or commodities, including paper napkins, towels, corrugated paper and related types of cellulosic products containing not more than ten per cent by weight or volume of noncellulosic material such as laminates, binders, coatings or saturants.
- ~~12:~~ 13. "Plastic container" means a container ~~which~~ **THAT** is hermetically sealed or made airtight with a metal or plastic cap with a minimum wall thickness of not less than 0.010 inches and ~~which~~ **THAT** is composed of thermoplastic synthetic polymeric materials.
- ~~13:~~ 14. "Plastics" means a specific polymer or mix of polymers in combination with various amounts of plasticizers, stabilizers, colorants, fillers and other organic and inorganic compounds.
- ~~14:~~ 15. "Post-consumer material" means a discard generated by a business or residence that has fulfilled its useful life. Post-consumer material does include discards from industrial or manufacturing processes.
- ~~15:~~ 16. "Process" or "processing" means the reduction, separation, recovery, conversion or recycling of solid waste.
- ~~16:~~ 17. "Recyclable material" means post-consumer materials ~~which~~ **THAT** may be collected, separated, cleansed, treated or reconstituted and returned to the economic stream in the form of raw materials or products.
- ~~17:~~ 18. "Recycled" means a process by which post-consumer materials are collected, separated, cleansed, treated or reconstituted and returned to the economic stream in the form of raw materials or products.
- ~~18:~~ 19. "Recycled-content newsprint" means newsprint ~~which~~ **THAT** contains post-consumer wastepaper.
- ~~19:~~ 20. "Recycled materials" means those materials ~~which~~ **THAT** have been separated from the municipal or county solid waste stream, processed and returned to the economic stream in the form of raw materials or products.
- ~~20:~~ 21. "Recycled paper" means paper products ~~which~~ **THAT** have been manufactured from materials otherwise destined for the waste stream.
- ~~21:~~ 22. "Recycling" means the process of collecting, separating, cleansing, treating and reconstituting post-consumer materials that would otherwise become solid waste and returning them to the economic stream in the form of raw material for reconstituted products ~~which~~ **THAT** meet the quality standards necessary to be used in the marketplace, but does not include incineration or other similar processes.
- ~~22:~~ 23. "Recycling equipment" means any machinery or apparatus used exclusively to recycle post-consumer waste material or manufacturing machinery used exclusively to produce finished products composed substantially of post-consumer waste materials.
- ~~23:~~ 24. "Recycling program" means the program prepared and adopted by this state and approved by the department to implement the recycling program goals of this state or a program prepared and adopted by a county or municipality of this state.
- ~~24:~~ 25. "Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.
- ~~25:~~ 26. "Source reduction" means any action ~~which~~ **THAT** causes a net reduction in the generation of solid waste and includes reducing the use of nonrecyclable materials, replacing disposable materials and products with reusable materials and

products, reducing packaging, reducing the amount of yard waste generated, establishing garbage rate structures with incentives to reduce the amount of wastes that generators produce and increasing the efficiency of the use of paper, cardboard, glass, metal, plastic and other materials in the manufacturing process. Source reduction does not include the following:

(a) Steps taken after the material becomes solid waste or actions ~~which~~ **THAT** would impact air or water resources in lieu of land, such as incineration or pyrolysis or burning for energy recovery.

(b) Replacing disposable material or products with alternative disposable materials or products.

~~26:~~ **27.** "Storage" means the containment or holding of materials, either on a temporary or long-term basis, in such a manner as not to constitute disposal of such materials.

~~27:~~ **28.** "Used oil" means any oil ~~which~~ **THAT** has been refined from crude or synthetic oil and, as a result of use, storage or handling, ~~which~~ **THAT** has become unsuitable for its original purpose due to the presence of impurities or loss of original properties but ~~which~~ **THAT** may be suitable for further use and may be economically recyclable.

~~28:~~ **29.** "Waste generator" means a person, business, government agency or other organization that produces solid waste.

~~29:~~ **30.** "Waste stream" means the solid waste material output of a community, region or facility.

~~30:~~ **31.** "Waste tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

~~31:~~ **32.** "Wastepaper" means recyclable paper and paperboard, including high grade office paper, computer paper, fine paper, bond paper, offset paper, xerographic paper, duplicator paper and corrugated paper.

Sec. 2. Section 49-832, Arizona Revised Statutes, is amended to read:

49-832. Administration and enforcement by department of environmental quality; powers and duties

A. The department of environmental quality shall administer and oversee the enforcement of this article.

B. In addition to its other powers and duties, the department shall:

1. Prepare, update and oversee implementation of the Arizona recycling program consistent with the goals of this article.

2. Designate an Arizona recycling coordinator to oversee the program.

3. Serve as the agency of this state for the receipt of monies from the federal government or other public or private institutions.

4. Cooperate with appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out its duties under this article.

5. Initiate, conduct and support research, demonstration projects and investigations and monitor all agency research programs in this state pertaining to recycling and source reduction.

6. Administer and distribute monies in the recycling fund for public education programs on recycling and source reduction that the department believes will provide technical assistance for recycling and source reduction, for research and for other purposes consistent with this article.

7. Administer and distribute monies in the recycling fund designated for the award of grants established under this article.

8. Adopt rules pursuant to title 41, chapter 6 to implement, administer and enforce ~~the provisions of~~ this article.

9. Encourage the use of private industry through contracts for some or all of the requirements of the Arizona recycling program and other activities as may be considered necessary.

10. Monitor municipalities and counties for compliance with sections 9-500.07 and 11-269 concerning an opportunity to engage in recycling and waste reduction.

11. ADMINISTER AND DISTRIBUTE MONIES IN THE DISPOSABLE BAG RECYCLING FUND ESTABLISHED BY SECTION 49-839.

C. The department of environmental quality, in consultation with the department of health services regarding matters of public health significance, shall do both of the following:

1. Initiate, conduct and support research, demonstration projects and investigations and coordinate all state agency research programs pertaining to municipal and county solid waste management systems.

2. Spend monies for studies and research with respect to the provisions and goals of this article and the rules adopted under it.

Sec. 3. Title 49, chapter 4, article 8, Arizona Revised Statutes, is amended by adding sections 49-838 and 49-839, to read:

49-838. Disposable bag recycling surcharge; bag recycling location

A. A RETAIL PROVIDER OF GOODS OR SERVICES THAT ROUTINELY PROVIDES A DISPOSABLE BAG TO A CONSUMER SHALL PAY A SURCHARGE OF TWENTY-FIVE CENTS FOR EACH PLASTIC DISPOSABLE BAG AND FIFTEEN CENTS FOR EACH PAPER DISPOSABLE BAG THAT IS PROVIDED TO A CONSUMER. THE RETAIL PROVIDER MAY CHARGE THE CONSUMER THE SURCHARGE FOR EACH BAG.

B. A RETAIL PROVIDER OF GOODS OR SERVICES THAT IS REQUIRED TO PAY A SURCHARGE PURSUANT TO SUBSECTION A OF THIS SECTION SHALL PROVIDE A LOCATION NEAR THE FRONT OF THE RETAIL FACILITY FOR CUSTOMERS TO DEPOSIT THEIR DISPOSABLE PLASTIC BAGS FOR RECYCLING. THE BAG RECYCLING LOCATION SHALL BE EASILY ACCESSIBLE TO CUSTOMERS AND SHALL BE DESIGNATED BY AN EASILY READABLE SIGN.

C. THE SURCHARGE PRESCRIBED BY THIS SECTION SHALL BE PAID TO AND COLLECTED BY THE DEPARTMENT OF REVENUE AT THE SAME TIME THAT ANY TRANSACTION PRIVILEGE TAX IS OR WOULD BE COLLECTED. MONIES COLLECTED BY THE DEPARTMENT OF REVENUE SHALL BE DEPOSITED, PURSUANT

TO SECTIONS 35-146 AND 35-147, IN THE DISPOSABLE BAG RECYCLING FUND ESTABLISHED BY SECTION 49-839.

D. THE DEPARTMENT OF ENVIRONMENTAL QUALITY, IN COOPERATION WITH THE DEPARTMENT OF REVENUE, SHALL DEVELOP AND ADMINISTER A METHOD OF REPORTING, CONFIRMING AND AUDITING, AS APPROPRIATE, THE ACCURACY AND AMOUNT OF SURCHARGES COLLECTED.

49-839. Disposable bag recycling fund

A. THE DISPOSABLE BAG RECYCLING FUND IS ESTABLISHED CONSISTING OF MONIES COLLECTED PURSUANT TO SECTION 49-838, LEGISLATIVE APPROPRIATIONS, GIFTS, GRANTS AND DONATIONS. THE DIRECTOR SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

B. ON NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED IN SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

C. MONIES IN THE FUND SHALL BE USED FOR THE FOLLOWING:

1. DEVELOPMENT AND PROMOTION OF SCHOOL RECYCLING PROGRAMS FOR KINDERGARTEN PROGRAMS AND GRADES ONE THROUGH TWELVE.

2. ON ESTABLISHMENT OF RECYCLING PROGRAMS IN ALL SCHOOLS IN THIS STATE FOR KINDERGARTEN PROGRAMS AND GRADES ONE THROUGH TWELVE, MAKING GRANTS TO CITIES, TOWNS AND COUNTIES TO ESTABLISH RECYCLING PROGRAMS.

Sec. 4. Requirements for enactment; two-thirds vote

Pursuant to article IX, section 22, Constitution of Arizona, this act is effective only on the affirmative vote of at least two-thirds of the members of each house of the legislature and is effective immediately on the signature of the governor or, if the governor vetoes this act, on the subsequent affirmative vote of at least three-fourths of the members of each house of the legislature.