

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)

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

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

4 ~~49-831.~~ Definitions

5 In this article, unless the context otherwise requires:

6 1. "Agency" means this state or a state agency, county, municipality
7 or political subdivision.

8 2. "Collection" means the act of picking up post-consumer secondary
9 materials from homes, businesses, governmental agencies, institutions or
10 industrial sites.

11 3. "Consumer" means a person who purchases a product for use,
12 consumption or any purpose other than resale.

13 4. "Consumer of newsprint" means a person who uses newsprint in a
14 commercial printing operation or in a commercial publishing operation.

15 5. "DISPOSABLE BAG" MEANS ANY PLASTIC, LATEX, POLYPROPYLENE OR PAPER
16 BAG THAT IS INTENDED TO BE DISPOSABLE, THAT IS PROVIDED TO A CONSUMER AT ANY
17 RETAIL FACILITY AND THAT IS INTENDED FOR USE IN CARRYING OR PROTECTING GOODS
18 SOLD OR SERVICED, INCLUDING A GROCERY BAG, A FAST FOOD BAG AND A DRY CLEANER
19 BAG OR COVER.

20 ~~5-~~ 6. "Disposition" means the transportation, placement, reuse, sale,
21 donation, transfer or temporary storage for a period of not more than six
22 months of designated recyclable materials for all possible uses, except for
23 disposal as solid waste.

24 ~~6-~~ 7. "Municipal or county solid waste" means any garbage, trash,
25 rubbish, refuse, sludge from a waste treatment plant, water supply treatment
26 plant or pollution control facility and other discarded material, including
27 solid, liquid, semisolid or contained gaseous material but not including
28 domestic sewage or hazardous waste.

29 ~~7-~~ 8. "Municipality" means an incorporated city or town with a
30 population of more than five thousand persons.

31 ~~8-~~ 9. "Natural resources" means the supply of materials, not made by
32 man, that are used for making goods.

33 ~~9-~~ 10. "Newsprint" means uncoated paper, whether supercalendered or
34 machine finished, including the type generally used for the publication of
35 newspapers, commercial advertising inserts, directories or commercial
36 advertising mailers, ~~which~~ THAT is made primarily from mechanical wood pulps
37 combined with some chemical wood pulp. Newsprint includes paper made from
38 old newspapers ~~which~~ THAT have been deinked, using the recycled pulp in lieu
39 of virgin pulp. Newsprint includes all grades of paper sold as newsprint,
40 supercalendered (SC) uncoated groundwood or machine finished (MF) uncoated
41 groundwood.

42 ~~10-~~ 11. "Paper" means newspaper, high grade office paper, fine paper,
43 bond paper, offset paper, xerographic paper, duplicator paper and related
44 types of cellulosic material containing not more than ten per cent by weight

1 or volume of noncellulosic material such as laminates, binders, coatings or
2 saturants.

3 ~~11-~~ 12. "Paper product" means paper items or commodities, including
4 paper napkins, towels, corrugated paper and related types of cellulosic
5 products containing not more than ten per cent by weight or volume of
6 noncellulosic material such as laminates, binders, coatings or saturants.

7 ~~12-~~ 13. "Plastic container" means a container ~~which~~ THAT is
8 hermetically sealed or made airtight with a metal or plastic cap with a
9 minimum wall thickness of not less than 0.010 inches and ~~which~~ THAT is
10 composed of thermoplastic synthetic polymeric materials.

11 ~~13-~~ 14. "Plastics" means a specific polymer or mix of polymers in
12 combination with various amounts of plasticizers, stabilizers, colorants,
13 fillers and other organic and inorganic compounds.

14 ~~14-~~ 15. "Post-consumer material" means a discard generated by a
15 business or residence that has fulfilled its useful life. Post-consumer
16 material does include discards from industrial or manufacturing processes.

17 ~~15-~~ 16. "Process" or "processing" means the reduction, separation,
18 recovery, conversion or recycling of solid waste.

19 ~~16-~~ 17. "Recyclable material" means post-consumer materials ~~which~~ THAT
20 may be collected, separated, cleansed, treated or reconstituted and returned
21 to the economic stream in the form of raw materials or products.

22 ~~17-~~ 18. "Recycled" means a process by which post-consumer materials
23 are collected, separated, cleansed, treated or reconstituted and returned to
24 the economic stream in the form of raw materials or products.

25 ~~18-~~ 19. "Recycled-content newsprint" means newsprint ~~which~~ THAT
26 contains post-consumer wastepaper.

27 ~~19-~~ 20. "Recycled materials" means those materials ~~which~~ THAT have
28 been separated from the municipal or county solid waste stream, processed and
29 returned to the economic stream in the form of raw materials or products.

30 ~~20-~~ 21. "Recycled paper" means paper products ~~which~~ THAT have been
31 manufactured from materials otherwise destined for the waste stream.

32 ~~21-~~ 22. "Recycling" means the process of collecting, separating,
33 cleansing, treating and reconstituting post-consumer materials that would
34 otherwise become solid waste and returning them to the economic stream in the
35 form of raw material for reconstituted products ~~which~~ THAT meet the quality
36 standards necessary to be used in the marketplace, but does not include
37 incineration or other similar processes.

38 ~~22-~~ 23. "Recycling equipment" means any machinery or apparatus used
39 exclusively to recycle post-consumer waste material or manufacturing
40 machinery used exclusively to produce finished products composed
41 substantially of post-consumer waste materials.

42 ~~23-~~ 24. "Recycling program" means the program prepared and adopted by
43 this state and approved by the department to implement the recycling program
44 goals of this state or a program prepared and adopted by a county or
45 municipality of this state.

1 ~~24.~~ 25. "Reuse" means the return of a commodity into the economic
2 stream for use in the same kind of application as before without change in
3 its identity.

4 ~~25.~~ 26. "Source reduction" means any action ~~which~~ THAT causes a net
5 reduction in the generation of solid waste and includes reducing the use of
6 nonrecyclable materials, replacing disposable materials and products with
7 reusable materials and products, reducing packaging, reducing the amount of
8 yard waste generated, establishing garbage rate structures with incentives to
9 reduce the amount of wastes that generators produce and increasing the
10 efficiency of the use of paper, cardboard, glass, metal, plastic and other
11 materials in the manufacturing process. Source reduction does not include
12 the following:

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

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

18 ~~26.~~ 27. "Storage" means the containment or holding of materials,
19 either on a temporary or long-term basis, in such a manner as not to
20 constitute disposal of such materials.

21 ~~27.~~ 28. "Used oil" means any oil ~~which~~ THAT has been refined from
22 crude or synthetic oil and, as a result of use, storage or handling, ~~which~~
23 THAT has become unsuitable for its original purpose due to the presence of
24 impurities or loss of original properties but ~~which~~ THAT may be suitable for
25 further use and may be economically recyclable.

26 ~~28.~~ 29. "Waste generator" means a person, business, government agency
27 or other organization that produces solid waste.

28 ~~29.~~ 30. "Waste stream" means the solid waste material output of a
29 community, region or facility.

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

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

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

36 ~~49-832.~~ Administration and enforcement by department of
37 environmental quality; powers and duties

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

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

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

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

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

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

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

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

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

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

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

18 10. Monitor municipalities and counties for compliance with sections
19 9-500.07 and 11-269 concerning an opportunity to engage in recycling and
20 waste reduction.

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

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

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

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

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

33 49-838. Disposable bag recycling surcharge; bag recycling
34 location

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

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

1 C. THE SURCHARGE PRESCRIBED BY THIS SECTION SHALL BE PAID TO AND
2 COLLECTED BY THE DEPARTMENT OF REVENUE AT THE SAME TIME THAT ANY TRANSACTION
3 PRIVILEGE TAX IS OR WOULD BE COLLECTED. MONIES COLLECTED BY THE DEPARTMENT
4 OF REVENUE SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE
5 DISPOSABLE BAG RECYCLING FUND ESTABLISHED BY SECTION 49-839.

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

10 49-839. Disposable bag recycling fund

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

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

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

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

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

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

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