

HOUSE BILL 174

By Faison

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 5; Title 6; Title 39; Title 57; Title 62; Title 68;
Title 69 and Title 70, relative to the Tennessee
CLEAN Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding the following
as a new chapter:

68-205-101.

(a) This chapter is known and may be cited as the "Tennessee Cleaner
Landscapes for the Economy, Agriculture, and Nature (CLEAN) Act".

(b) It is the intent of the general assembly that this chapter affect the
development and implementation of a comprehensive approach to addressing litter in
this state, to include:

- (1) Incentivizing the prevention of litter in this state;
- (2) Reducing and removing litter on roads, on the landscape, and in
waters;
- (3) Reducing costs to businesses, farmers, and governmental entities
that result from litter; and
- (4) Providing economic development opportunities that will create jobs
and enhance the quality of life for all residents and visitors to this state.

68-205-102. As used in this chapter, unless the context otherwise requires:

- (1)

(A) "Beverage container" means an individual, separate, and sealed container that is made entirely or of any combination of glass, aluminum, steel or other metal, or plastic, regardless of size, and is used for containing, at the time of sale to a consumer, a beverage for consumption;

(B) "Beverage container" does not include refillable containers that are intended to be refilled and reused more than once for sale or distribution;

(2)

(A) "Carryout bag" means any bag made of paper or plastic that is designed for one (1) use and provided gratuitously by a grocery store, retail store, or food service establishment at the point of sale for the purpose of transporting groceries, prepared foods, or consumer goods;

(B) "Carryout bag" does not include:

(i) A bag that lacks handles and is used to prevent an item of food from damaging or contaminating another food item;

(ii) A bag intended to contain an unwrapped food item, food items sold in bulk, or a hot food item;

(iii) A bag used as part of distributing newspapers; or

(iv) A bag used by a customer to transport dry cleaning or pharmaceuticals;

(3) "Commission" means the Tennessee clean commission;

(4) "Consumer" means any person, company, entity, or organization who purchases or seeks to collect the redemption deposit value of any beverage container sold within this state;

(5) "Food service establishment" means any establishment, place, or location, whether permanent, temporary, seasonal, or itinerant, where food is prepared and the public is offered to be served, or is served, prepared food;

(6) "Grocery store" means a business primarily engaged in the retail sale of packaged food for offsite consumption;

(7) "Redemption center" means a public or private, for profit or nonprofit entity, organization, or company, that is certified by this state, to receive and collect beverage containers and disburse monies in the amount of the redemption deposit value to persons, organizations, companies, or agencies placed on each beverage container presented at the center;

(8) "Redemption deposit value" means the amount of money assigned to a beverage container that may be collected by the purchaser of the beverage container when the beverage container is delivered to a certified redemption center; and

(9) "Retail store" means a business engaged in the sale of consumer goods.

68-205-103.

(a) There is created the Tennessee CLEAN commission, referred to in this chapter as the "commission," to consist of thirteen (13) members, all of whom must be citizens of this state.

(b) The commission is comprised as follows:

(1) Four (4) persons appointed by the governor to include:

(A) One (1) person representative of county governments;

(B) One (1) person representative of the agriculture industry;

(C) One (1) person representative of the solid waste industry; and

(D) One (1) person representative of the conservation community;

(2) Three (3) persons appointed by the speaker of the senate to include:

(A) One (1) representative of retailers who sell or give away deposit beverage containers or carryout bags;

(B) One (1) representative of manufacturers or distributors of deposit beverage containers or carryout bags; and

(C) One (1) representative of businesses that utilize recycled glass, aluminum, or plastic in their manufacturing operations;

(3) Three (3) persons appointed by the speaker of the house of representatives to include:

(A) One (1) representative of retailers who sell or give away deposit beverage containers or carryout bags;

(B) One (1) representative of manufacturers or distributors of deposit beverage containers or carryout bags; and

(C) One (1) representative of businesses that utilize recycled glass, aluminum, or plastic in their manufacturing operations;

(4) The commissioner of environment and conservation or the commissioner's designee, who serves as a voting ex officio member;

(5) The commissioner of transportation or the commissioner's designee, who serves as a voting ex officio member; and

(6) The commissioner of agriculture or the commissioner's designee, who serves as a voting ex officio member.

(c) Except as provided in subsection (d) for initial appointments, the terms of the members of the commission appointed by the speaker of the senate and the speaker of the house of representatives are for four (4) years and the terms of the members of the commission appointed by the governor are for six (6) years.

(d)

(1) In order to stagger the terms of the newly appointed commission members, initial appointments are made as follows:

(A) The persons appointed under subdivisions (b)(1)(A)-(D) serve an initial term of four (4) years, which expires on June 30, 2025;

(B) The persons appointed under subdivisions (b)(2)(A)-(C) serve an initial term of five (5) years, which expires on June 30, 2026; and

(C) The persons appointed under subdivisions (b)(3)(A)-(C) serve an initial term of six (6) years, which expires on June 30, 2027.

(2) Following the expiration of members' initial terms as prescribed in subdivision (d)(1), all terms begin on July 1 and terminate on June 30 of the year of expiration.

(e) The commission members shall elect a chair and a vice chair, whose duties are established by the commission.

(f) In making the appointments under subsection (b), the appointing authorities shall strive to ensure that the commission is composed of persons who are diverse in professional or educational background, ethnicity, race, sex, geographic residency, heritage, perspective, and experience.

(g)

(1) The commissioner of agriculture shall call the first meeting of the commission. The commission shall elect its chair and vice chair at the first meeting of the commission and annually thereafter.

(2) The commission shall fix a time and place for regular meetings and shall meet no less than once quarterly. Except for the first meeting of the commission called in accordance with subdivision (g)(1), all other meetings of the

commission, including emergency meetings, shall be at the call of the chair with written notice given to all commission members.

(3) The commission may conduct special or regular meetings by electronic or other means pursuant to § 8-44-108.

(h) A majority of the voting members of the commission constitutes a quorum, and all official action of the commission requires a quorum.

(i) Appointments to complete unexpired terms of service, vacant for any cause, must be made in the same manner as the original appointments.

(j) The respective appointing authorities may remove a non ex officio member of the commission for misconduct, incapacity, or neglect of duty.

(k) The commission members receive no compensation for their services on the commission but receive reimbursement for expenses incurred in attending meetings of the commission and for travel incident thereto, in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

68-205-104.

(a) The purposes of this chapter are to:

(1) Create and implement a program for plastic, glass, and aluminum beverage containers which utilizes a redemption deposit value to incentivize consumers to collect and deliver beverage containers to redemption centers in order to collect the redemption deposit value;

(2) Reduce a key constituent of litter on the landscape, source of contamination to recycling systems, source of injury to wildlife and livestock, and threat to Tennessee's agricultural industry by developing a carryout bag reduction program to address the proliferation of carryout bags; and

(3) Develop and implement a statewide litter program to comprehensively address litter prevention and reduction.

(b) The purposes of this chapter must be completed and implemented by June 30, 2023.

68-205-105. In developing the programs under § 68-205-104, the commission shall:

(1) Determine the numerical monetary amount of the redemption deposit value for individual beverage containers in order to meet the purposes of this chapter. This amount must not be less than five cents (5¢) per individual beverage container and must be an amount sufficient to set and meet an eighty-five percent (85%) minimum annual beverage container redemption goal by the third full year of the program being implemented, and shall maintain the eighty-five percent (85%) level of redemption thereafter;

(2) Determine how unclaimed monies generated from a beverage container program, as required in § 68-205-104(a)(1), is utilized to meet the purposes of this chapter;

(3) Develop and implement a system to prevent fraud and abuse of programs created by the commission;

(4) Establish civil penalties to deter fraud; and

(5) Take any other action directly related to the development of such programs and to effectuate the purposes of this chapter generally.

68-205-106. The commission shall prepare and submit a report to the governor and the general assembly upon its implementation of the three (3) programs described in § 68-205-104 that details the operational framework of the programs and thereafter shall prepare and submit a financial report on the program to the governor and the general assembly between July 1 and July 15 of each year.

68-205-107. The commission is authorized to promulgate rules to effectuate the purposes of this chapter. All such rules shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

68-205-108. Prior to the development of the programs by the commission under § 68-205-104 and § 68-205-105 and the submission of the report by the commission under § 68-205-106, the Tennessee advisory commission on intergovernmental relations (TACIR) shall research, evaluate, and develop recommendations in order to determine the most effective methods and actions necessary to effectuate the purposes of this chapter. TACIR shall consult with the commission and the commission shall provide input as necessary to complete the recommendations.

68-205-109. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to that end this chapter is declared to be severable.

SECTION 2. Tennessee Code Annotated, Section 4-29-245(a), is amended by adding the following subdivision:

() Tennessee CLEAN commission, created by § 68-205-103;

SECTION 3. For the purpose of making appointments to the commission, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2021, the public welfare requiring it.