

LEGISLATIVE BILL 63

Approved by the Governor March 8, 1993

Introduced by Elmer, 38

AN ACT relating to plastic containers; to adopt the Plastic Container Coding Act; and to provide severability.
Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 7 of this act shall be known and may be cited as the Plastic Container Coding Act.

Sec. 2. For purposes of the Plastic Container Coding Act:

(1) Code shall mean a molded, imprinted, or raised symbol on or near the bottom of a plastic bottle or rigid plastic container;

(2) Department shall mean the Department of Environmental Quality;

(3) Plastic shall mean any material made of polymeric organic compounds and additives that can be shaped by flow;

(4) Plastic bottle shall mean a plastic container intended for a single use that:

(a) Has a neck smaller than the body of the container;

(b) Is designed for a screw-top, snap cap, or other closure;

and

(c) Has a capacity of not less than sixteen fluid ounces or

more than five gallons; and

(5) Rigid plastic container shall mean any formed or molded container intended for a single use, composed predominately of plastic resin, that has a relatively inflexible finite shape or form with a capacity of not less than eight ounces or more than five gallons. Rigid plastic container shall not include a plastic bottle.

Sec. 3. (1) This section and any rules or regulations adopted and promulgated under the Plastic Container Coding Act shall be interpreted to conform with nationwide plastics industry standards.

(2) No person shall manufacture or distribute a plastic bottle or rigid plastic container unless such bottle or container is imprinted with a code identifying the appropriate resin type used to produce the structure of the container. The code shall consist of a number placed within three triangulated arrows and letters placed below the triangle of arrows. The triangulated arrows shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the arrowhead from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints, shall depict a clockwise path around the code number.

(3) The codes shall be:

- (a) 1 and PETE, representing polyethylene terephthalate;
- (b) 2 and HDPE, representing high density polyethylene;
- (c) 3 and V, representing vinyl;
- (d) 4 and LDPE, representing low density polyethylene;
- (e) 5 and PP, representing polypropylene;
- (f) 6 and PS, representing polystyrene; and
- (g) 7 and OTHER.

(4) The department shall maintain a list of the symbols and provide a copy of the list to any person on request.

Sec. 4. (1) After being notified by the department that a plastic bottle or rigid plastic container does not comply with section 3 of this act or the rules and regulations promulgated under such section, a person violating such section shall be subject to a civil penalty of fifty dollars for each violation up to a maximum of five hundred dollars and may be enjoined from further violations.

(2) For any violation of section 3 of this act or the rules and regulations promulgated under the Plastic Container Coding Act, the Attorney General or county attorney shall institute proceedings to recover the civil penalty imposed under this section.

Sec. 5. The Environmental Quality Council shall adopt and promulgate rules and regulations to carry out the Plastic Container Coding Act.

Sec. 6. Administrative costs incurred in implementing the Plastic Container Coding Act shall not exceed five thousand dollars and shall be paid solely from the Integrated Solid Waste Management Cash Fund.

Sec. 7. Except for plastic bottles and rigid plastic containers used by the health care facilities defined in section 71-2017.01, the Plastic Container Coding Act shall apply to plastic bottles and rigid plastic containers manufactured or distributed on or after January 1, 1994. The act shall apply to plastic bottles and rigid plastic containers used by such health care facilities on and after January 1, 1997.

Sec. 8. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.