

REFERENCE TITLE: environmental technology; biomass; forestry products

State of Arizona
House of Representatives
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HB 2640

Introduced by
Representatives Nutt: Biasiucci, Blackman, Finchem, Roberts, Weninger

AN ACT

AMENDING SECTION 41-1514.02, ARIZONA REVISED STATUTES; RELATING TO THE
ARIZONA COMMERCE AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1514.02, Arizona Revised Statutes, is amended
3 to read:

4 41-1514.02. Environmental technology assistance; definitions

5 A. On July 1, 2011, the Arizona commerce authority succeeds to the
6 remaining functions and responsibilities formerly performed by the
7 department of commerce under this section. Any reference to department in
8 this section is considered to refer to the Arizona commerce authority.

9 B. The department of commerce shall establish and conduct an
10 environmental technology assistance program to promote business and
11 economic development by recruiting and expanding companies that
12 manufacture, produce or process solar and other renewable energy products
13 or products from recycled materials under the conditions prescribed by
14 this section. The department shall:

15 1. Assist qualified environmental technology manufacturers,
16 producers or processors in locating or expanding facilities in this state.

17 2. Encourage the use of environmental technology products.

18 3. Encourage the development of an environmental technology
19 industry in this state.

20 C. Until June 30, 1996, the department of commerce shall identify
21 and certify to the department of revenue the names and relevant
22 information relating to the facilities of qualified environmental
23 technology manufacturers, producers and processors for purposes of
24 available tax incentives. The department of commerce may revoke the
25 certification for failure to qualify and comply with the terms and
26 conditions prescribed by this section and shall immediately notify the
27 department of revenue of a revocation. The department of revenue may also
28 revoke the certification if it obtains information indicating a failure to
29 qualify and comply. If the department of revenue proposes to revoke the
30 certification of an environmental technology manufacturer, producer or
31 processor, it shall afford that person the rights of appeal as provided in
32 title 42, chapter 1, article 6. The department of commerce shall not
33 certify any new qualified environmental technology manufacturers,
34 producers or processors for the purposes of this section after June 30,
35 1996. To obtain and maintain certification, an environmental technology
36 manufacturer, producer or processor must:

37 1. Apply to the department of commerce.

38 2. Submit and retain copies of all required information including
39 information relating to the actual or projected number of employees at
40 qualified environmental technology facilities in this state and the actual
41 or projected annual capital investment in those facilities.

42 3. Allow such inspections and audits as are necessary to verify the
43 accuracy of the submitted information.

44 4. Upon initial application, submit to the department of commerce
45 the information required by section 49-109, subsection B in the manner

1 prescribed in section 49-109, subsection C or the information required by
2 section 49-109, subsection G, as applicable. The department of commerce
3 shall consider the information submitted pursuant to this paragraph in its
4 determination of certification and may deny certification if after
5 consultation with the department of environmental quality serious,
6 substantial and continuing violations of federal or state environmental
7 laws are found.

8 D. Within sixty days after receipt of a complete application and
9 all information required, as prescribed by the department of commerce, the
10 department of commerce shall grant or deny certification and give written
11 notice by certified mail to the applicant. The applicant is certified as
12 a qualified environmental technology manufacturer, producer or processor
13 on the date the notice of certification is delivered to the applicant.

14 E. To qualify for assistance under this section, an environmental
15 technology manufacturer, producer or processor must meet the following
16 requirements:

17 1. A manufacturer, producer or processor that is certified not
18 later than July 1, 1995 by the department of commerce pursuant to this
19 section, shall not import hazardous waste, as defined in section 49-921 as
20 of July 1, 1993, or special waste, as defined in section 49-851 as of July
21 1, 1993, into this state from another state or country. Any other
22 manufacturer, producer or processor that is certified by the department of
23 commerce pursuant to this section, after July 1, 1995, shall not as of the
24 date of certification import hazardous waste, as defined in section
25 49-921, and as interpreted by federal and state regulations or special
26 waste, as defined in section 49-851, into this state from another state or
27 country. This paragraph does not apply to any environmental technology
28 manufacturer, producer or processor, or facilities and their subsequent
29 expansions and replacements that, as of July 1, 1993, hold a storage or
30 treatment facility permit issued by the department of environmental
31 quality pursuant to 40 Code of Federal Regulations section 270.10 or has
32 obtained plan approval from the department of environmental quality
33 pursuant to section 49-762, that specifically authorizes the acceptance of
34 special waste, for an existing or proposed recycling operation, or import
35 hazardous or special wastes for recycling purposes.

36 2. The manufacturer, producer or processor shall locate or make an
37 additional capital investment in a facility in this state that:

38 (a) Is either owned by a qualified environmental technology
39 manufacturer, producer or processor, or leased by a qualified
40 environmental technology manufacturer, producer or processor for a term of
41 five or more years.

42 (b) Is used predominantly to do any of the following:

43 (i) Sort, store, prepare, convert, fabricate, manufacture or
44 otherwise process finished products consisting of at least ninety per cent
45 recycled materials.

1 (ii) Prepare, fabricate, manufacture or otherwise process finished
2 products that are powered exclusively with solar or other specific
3 renewable energy.

4 (iii) Prepare, fabricate, manufacture or otherwise process raw
5 material or intermediate product exclusively through a hydrometallurgical
6 process where at least eighty-five per cent of the process solution used
7 to produce the finished product is recycled on site for additional
8 production.

9 (iv) Fabricate or manufacture finished paper products that consist
10 of at least eighty per cent recycled material.

11 (v) **PROCESS BIOMASS AND FORESTRY INDUSTRY PRODUCTS.**

12 (c) Costs, or is expected to cost, an aggregate of at least twenty
13 million dollars of new capital investment in this state within five years
14 after construction begins or commencement of installation of improvements.

15 F. Certification and qualification by an environmental technology
16 manufacturer, producer or processor for purposes of this section does not
17 constitute compliance with any provision of title 49 or any rule, order,
18 procedure, permit or other regulatory measure required pursuant to title
19 49. An environmental technology manufacturer, producer or processor shall
20 comply with all applicable environmental requirements of the department of
21 environmental quality separately and independently from qualifying for
22 assistance under this section. For purposes of complying with title 49,
23 all definitions in that title and those adopted in rules pursuant to that
24 title shall be applicable.

25 G. To qualify for tax incentives the taxpayer shall:

26 1. Agree with the department of commerce in writing to furnish
27 information relating to the amount of tax benefits the taxpayer receives
28 each year. If the taxpayer fails to provide the required information, the
29 department of commerce shall immediately revoke the taxpayer's
30 qualification and notify the department of revenue.

31 2. Enter into a memorandum of understanding with this state through
32 the department of commerce containing employment goals. Each year the
33 taxpayer shall report in writing to the department of commerce its
34 performance in achieving the goals. The memorandum shall contain
35 provisions that allow:

36 (a) The department of commerce to stop, readjust or recapture all
37 or part of the tax incentives provided to the taxpayer on noncompliance
38 with the terms of the memorandum.

39 (b) The department of commerce to notify the department of revenue
40 of the conditions of noncompliance.

41 (c) The department of revenue to require the taxpayer to file
42 appropriate amended tax returns reflecting the recapture of the tax
43 incentives.

1 H. A manufacturer, producer or processor who is certified by the
2 department of commerce to qualify for assistance under this section shall
3 not have the certification revoked and shall not be disqualified because
4 of the adoption after certification of a rule or a federal regulation
5 relating to the requirements under subsection E of this section.

6 I. Retroactive to July 1, 1996, the certification of a qualified
7 environmental technology manufacturer, producer or processor may be
8 assigned or transferred to one or more successor taxpayers, manufacturers,
9 producers or processors that have acquired and continue to operate a
10 facility that was used to meet the qualifications prescribed in subsection
11 E of this section and that continues to be used predominantly for the
12 purposes prescribed in subsection E, paragraph 2, subdivision (b) of this
13 section.

14 J. For purposes of this section:

15 1. "Environmental technology" means solar and other renewable
16 energy products or recycled materials.

17 2. "Facility" includes a single facility, a combination of
18 facilities, land, improvements, building improvements, real and personal
19 property used for environmental protection facilities as defined in
20 section 42-14154, property used to generate on-site power or energy and
21 machinery and equipment.

22 3. "Finished paper product" means a paper item or commodity or one
23 of its components, including newsprint, paper napkins, paper towels,
24 corrugated paper and related cellulosic products, that contains not more
25 than ten per cent noncellulosic material such as laminates, binders or
26 saturants, that has economic value to a consumer or purchaser and that is
27 ready to be used with or without further altering its form.

28 4. "Finished product" means a marketable product or component of a
29 product that has economic value to a consumer or purchaser and that is
30 ready to be used with or without further altering its form.

31 5. "Hydrometallurgical processing" includes facilities used
32 exclusively for solvent extraction electrowinning, hydrometallurgical
33 recovery, precipitation and refining, but does not include smelters, open
34 pit and underground mines, and concentrator processes.

35 6. "Machinery and equipment" means machinery and equipment that are
36 directly or indirectly used to do any of the following:

37 (a) Sort, store, prepare, convert, fabricate, manufacture or
38 otherwise process finished products consisting of at least ninety per cent
39 recycled materials, including all machinery and equipment designed and
40 used for environmental protection on site as well as all machinery and
41 equipment used to generate power or energy for use on site.

42 (b) Prepare, fabricate, manufacture or otherwise process finished
43 products that are powered exclusively with solar or other specific
44 renewable energy.

1 (c) Prepare, fabricate, manufacture or otherwise process raw
2 material or intermediate product exclusively through a hydrometallurgical
3 process where at least eighty-five per cent of the process solution used
4 to produce the finished product is recycled on site for additional
5 production.

6 (d) Fabricate or manufacture finished paper products that consist
7 of at least eighty per cent recycled materials, including all machinery
8 and equipment that is designed and used for environmental protection on
9 site and machinery and equipment that is used to generate power or energy
10 for use on site.

11 7. "Process solution" means solution that is required throughout
12 the hydrometallurgical process and from which the finished product is
13 extracted.

14 8. "Qualified environmental technology manufacturer, producer or
15 processor" or "qualified environmental technology facility" means an
16 entity that for purposes of titles 42 and 43 meets the qualifications
17 prescribed in subsection E of this section and is certified by the
18 department of commerce pursuant to subsection C of this section.

19 9. "Recycled materials" means materials that have been separated,
20 recovered or diverted from the solid waste stream and processed and
21 returned to the economic stream in the form of raw materials or finished
22 products. Recycled materials include work in process by the environmental
23 technology manufacturing, producing or processing company that is composed
24 of at least ninety per cent recycled materials and that will be further
25 processed into a finished product.

26 10. "Renewable energy" means energy that is supplied from sources
27 that are continually replenished from the sun, the earth or the waste
28 stream, including hydroelectric, solar-thermal, photovoltaic, biomass,
29 wind and geothermal processes.

30 11. "Solid waste" means any garbage, trash, rubbish, refuse, sludge
31 from a waste treatment plant, water supply treatment plant or pollution
32 control facility and other discarded material, including solid, liquid,
33 semisolid or contained gaseous material resulting from industrial,
34 agricultural, silvicultural and commercial operations and from community
35 activities, but not including domestic sewage or hazardous waste unless
36 such waste is received by an environmental technology manufacturer,
37 producer or processor that holds a storage facility permit issued by the
38 department of environmental quality pursuant to 40 Code of Federal
39 Regulations section 270.10 as of July 1, 1993.