

REFERENCE TITLE: environmental technology; biomass; forestry products

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
First Regular Session  
2021

# HB 2714

Introduced by  
Representative Nutt

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~~ ON initial application, submit to the department of  
45 commerce the information required by section 49-109, subsection B in the

1 manner prescribed in section 49-109, subsection C or the information  
2 required by section 49-109, subsection G, as applicable. The department  
3 of commerce shall consider the information submitted pursuant to this  
4 paragraph in its determination of certification and may deny certification  
5 if after consultation with the department of environmental quality  
6 serious, substantial and continuing violations of federal or state  
7 environmental 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 PERCENT 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~~ PERCENT of the process  
7 solution used to produce the finished product is recycled on site for  
8 additional production.

9 (iv) Fabricate or manufacture finished paper products that consist  
10 of at least eighty ~~per cent~~ PERCENT 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~~ \$20,000,000 of new capital investment in this state within  
14 five years after construction begins or commencement of installation of  
15 improvements.

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

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

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

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

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

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

42 (c) The department of revenue to require the taxpayer to file  
43 appropriate amended tax returns reflecting the recapture of the tax  
44 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~~ PERCENT noncellulosic material such as laminates,  
26 binders or saturants, that has economic value to a consumer or purchaser  
27 and that is 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 PERCENT recycled materials, including all machinery and equipment designed  
40 and 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~~ PERCENT of the process  
4 solution used to produce the finished product is recycled on site for  
5 additional production.

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