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Jane Dee Hull
Secretary of State

CHAPTER 216

HOUSE BILL 2529

AN ACT

AMENDING SECTION 41-1514.02, ARIZONA REVISED STATUTES; RELATING TO ENVIRONMENTAL TECHNOLOGY ASSISTANCE.

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

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

13 2. Encourage the use of environmental technology products.

14 3. Encourage the development of an environmental technology industry
15 in this state.

16 B. Until June 30, 1996, the department of commerce shall identify and
17 certify to the department of revenue the names and relevant information
18 relating to qualified environmental technology manufacturers, producers and
19 processors for purposes of available tax incentives. The department of
20 commerce may revoke the certification for failure to qualify and comply with
21 the terms and conditions prescribed by this section and shall immediately
22 notify the department of revenue of a revocation. The department of revenue

1 may also revoke the certification if it obtains information indicating a
2 failure to qualify and comply. If the department of revenue proposes to
3 revoke the certification of an environmental technology manufacturer,
4 producer or processor, it shall afford that person the rights of appeal as
5 provided in sections 42-122 and 42-124. The department of commerce shall not
6 certify any new qualified environmental technology manufacturers, producers
7 or processors for the purposes of this section after June 30, 1996. To
8 obtain and maintain certification, an environmental technology manufacturer,
9 producer or processor must:

10 1. Apply to the department of commerce.

11 2. Submit and retain copies of all required information including
12 information relating to the actual or projected number of employees at
13 qualified environmental technology facilities in this state and the actual
14 or projected annual capital investment in those facilities.

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

17 4. Upon initial application, submit to the department of commerce the
18 information required by section 49-109, subsection B in the manner prescribed
19 in section 49-109, subsection C or the information required by section
20 49-109, subsection G, as applicable. The department of commerce shall
21 consider the information submitted pursuant to this paragraph in its
22 determination of certification and may deny certification if after
23 consultation with the department of environmental quality serious,
24 substantial and continuing violations of federal or state environmental laws
25 are found.

26 C. Within sixty days after receipt of a complete application and all
27 information required, as prescribed by the department of commerce, the
28 department of commerce shall grant or deny certification and give written
29 notice by registered mail to the applicant. The applicant is certified as
30 a qualified environmental technology manufacturer, producer or processor on
31 the date the notice of certification is delivered to the applicant.

32 D. To qualify for assistance under this section, an environmental
33 technology manufacturer, producer or processor must meet the following
34 requirements:

35 1. A manufacturer, producer or processor that is certified not later
36 than July 1, 1995 by the department of commerce pursuant to this section,
37 shall not import hazardous waste, as defined in section 49-921 as of July 1,
38 1993, or special waste, as defined in section 49-851 as of July 1, 1993, into
39 this state from another state or country. Any other manufacturer, producer
40 or processor that is certified by the department of commerce pursuant to this
41 section, after July 1, 1995, shall not as of the date of certification import
42 hazardous waste, as defined in section 49-921, and as interpreted by federal
43 and state regulations or special waste, as defined in section 49-851, into
44 this state from another state or country. This paragraph does not apply to

1 any environmental technology manufacturer, producer or processor, or
2 facilities and their subsequent expansions and replacements that, as of July
3 1, 1993, hold a storage or treatment facility permit issued by the department
4 of environmental quality pursuant to 40 Code of Federal Regulations section
5 270.10 or has obtained plan approval from the department of environmental
6 quality pursuant to section 49-762, that specifically authorizes the
7 acceptance of special waste, for an existing or proposed recycling operation,
8 or import hazardous or special wastes for recycling purposes.

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

11 (a) Is either owned by the manufacturer, producer or processor, or
12 leased by the manufacturer, producer or processor for a term of five or more
13 years.

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

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

18 (ii) Prepare, fabricate, manufacture or otherwise process finished
19 products that are powered exclusively with solar or other specific renewable
20 energy.

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

25 (iv) FABRICATE OR MANUFACTURE FINISHED PAPER PRODUCTS THAT CONSIST OF
26 AT LEAST EIGHTY PER CENT RECYCLED MATERIAL.

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

30 E. Certification and qualification by an environmental technology
31 manufacturer, producer or processor for purposes of this section does not
32 constitute compliance with any provision of title 49 or any rule, order,
33 procedure, permit or other regulatory measure required pursuant to title 49.
34 An environmental technology manufacturer, producer or processor shall comply
35 with all applicable environmental requirements of the department of
36 environmental quality separately and independently from qualifying for
37 assistance under this section. For purposes of complying with title 49, all
38 definitions in that title and those adopted in rules pursuant to that title
39 shall be applicable.

40 F. To qualify for tax incentives the taxpayer shall:

41 1. Agree with the department of commerce in writing to furnish
42 information relating to the amount of tax benefits the taxpayer receives each
43 year. If the taxpayer fails to provide the required information, the

1 department of commerce shall immediately revoke the taxpayer's qualification
2 and notify the department of revenue.

3 2. Enter into a memorandum of understanding with this state through
4 the department of commerce containing employment goals. Each year the
5 taxpayer shall report in writing to the department of commerce its
6 performance in achieving the goals. The memorandum shall contain provisions
7 that allow:

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

11 (b) The department of commerce to notify the department of revenue of
12 the conditions of noncompliance.

13 (c) The department of revenue to require the taxpayer to file
14 appropriate amended tax returns reflecting the recapture of the tax
15 incentives.

16 G. A manufacturer, producer or processor who is certified by the
17 department of commerce to qualify for assistance under this section shall not
18 have the certification revoked and shall not be disqualified because of the
19 adoption after certification of a rule or a federal regulation relating to
20 the requirements under subsection D of this section.

21 H. For purposes of this section:

22 1. "Environmental technology" means solar and other renewable energy
23 products or recycled materials.

24 2. "Facility" includes a single facility, a combination of facilities,
25 land, improvements, building improvements, real and personal property used
26 for environmental protection facilities as defined in section 42-144.02,
27 property used to generate on-site power or energy and machinery and
28 equipment.

29 3. "FINISHED PAPER PRODUCT" MEANS A PAPER ITEM OR COMMODITY OR ONE OF
30 ITS COMPONENTS, INCLUDING NEWSPRINT, PAPER NAPKINS, PAPER TOWELS, CORRUGATED
31 PAPER AND RELATED CELLULOSIC PRODUCTS, THAT CONTAINS NOT MORE THAN TEN PER
32 CENT NONCELLULOSIC MATERIAL SUCH AS LAMINATES, BINDERS OR SATURANTS, THAT HAS
33 ECONOMIC VALUE TO A CONSUMER OR PURCHASER AND THAT IS READY TO BE USED WITH
34 OR WITHOUT FURTHER ALTERING ITS FORM.

35 ~~3~~ 4. "Finished product" means a marketable product or component of
36 a product that has economic value to a consumer or purchaser and that is
37 ready to be used with or without further altering its form.

38 ~~4~~ 5. "Hydrometallurgical processing" includes facilities used
39 exclusively for solvent extraction electrowinning, hydrometallurgical
40 recovery, precipitation and refining, but does not include smelters, open pit
41 and underground mines, and concentrator processes.

42 ~~5~~ 6. "Machinery and equipment" means machinery and equipment that
43 are directly or indirectly used to do any of the following:

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

6 (b) Prepare, fabricate, manufacture or otherwise process finished
7 products that are powered exclusively with solar or other specific renewable
8 energy.

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

13 (d) FABRICATE OR MANUFACTURE FINISHED PAPER PRODUCTS THAT CONSIST OF
14 AT LEAST EIGHTY PER CENT RECYCLED MATERIALS, INCLUDING ALL MACHINERY AND
15 EQUIPMENT THAT IS DESIGNED AND USED FOR ENVIRONMENTAL PROTECTION ON-SITE AND
16 MACHINERY AND EQUIPMENT THAT IS USED TO GENERATE POWER OR ENERGY FOR USE
17 ON-SITE.

18 ~~6-~~ 7. "Process solution" means solution that is required throughout
19 the hydrometallurgical process and from which the finished product is
20 extracted.

21 ~~7-~~ 8. "Qualified environmental technology manufacturer, producer or
22 processor" or "qualified environmental technology facility" means an entity
23 that for purposes of titles 42 and 43 meets the qualifications prescribed in
24 subsection D of this section and is certified by the department of commerce
25 pursuant to subsection B of this section.

26 ~~8-~~ 9. "Recycled materials" means materials that have been separated,
27 recovered or diverted from the solid waste stream and processed and returned
28 to the economic stream in the form of raw materials or finished products.
29 Recycled materials include work in process by the environmental technology
30 manufacturing, producing or processing company that is composed of at least
31 ninety per cent recycled materials and that will be further processed into
32 a finished product.

33 ~~9-~~ 10. "Renewable energy" means energy that is supplied from sources
34 that are continually replenished from the sun, the earth or the waste stream,
35 including hydroelectric, solar-thermal, photovoltaic, biomass, wind and
36 geothermal processes.

37 ~~10-~~ 11. "Solid waste" means any garbage, trash, rubbish, refuse,
38 sludge from a waste treatment plant, water supply treatment plant or
39 pollution control facility and other discarded material, including solid,
40 liquid, semisolid or contained gaseous material resulting from industrial,
41 agricultural, silvicultural and commercial operations and from community
42 activities, but not including domestic sewage or hazardous waste unless such
43 waste is received by an environmental technology manufacturer, producer or
44 processor that holds a storage facility permit issued by the department of

1 environmental quality pursuant to 40 Code of Federal Regulations section
2 270.10 as of July 1, 1993.

3 Sec. 2. Applicability

4 A. Section 41-1514.02, Arizona Revised Statutes, as amended by this
5 act, applies to an environmental technology manufacturer, producer or
6 processor that is certified pursuant to that section before or after the
7 effective date of this act.

8 B. The addition by this act of section 41-1514.02, subsection D,
9 paragraph 2, subdivision (b), item (iv), Arizona Revised Statutes, does not
10 preclude a paper manufacturer from qualifying as an environmental technology
11 manufacturer, producer or processor pursuant to section 41-1514.02,
12 subsection D, paragraph 2, subdivision (b), item (i), Arizona Revised
13 Statutes.

APPROVED BY THE GOVERNOR APRIL 18, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 1996