

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

One Hundred and Seventh Legislature

AT THE

1ST SPECIAL SESSION

JANUARY 19, 1976 TO APRIL 29, 1976

AND

2ND SPECIAL SESSION

JUNE 14, 1976

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature
AT THE FIRST SPECIAL SESSION
January 19, 1976 to April 29, 1976
AND THE SECOND SPECIAL SESSION
June 14, 1976

Supplementary to the Acts and Resolves of the Regular Session

[supplied from page 3097 of volume]

1. Reconsideration or additional appropriations. Meetings to reconsider action or to ask for additional appropriations must be called within 30 days of the regular budget meeting.
2. Special budget meeting. A special budget meeting may be called by the board of directors in a School Administrative District or by the board of trustees in a community school district.
3. Procedure for calling a special budget meeting. A special budget meeting must be called, within 15 days, by the board of directors in a School Administrative District or the board of trustees in community school districts whenever 10% of the voters voting in the last gubernatorial election in the member towns of the district have signed a petition for such a meeting specifying the article or articles to be acted upon at the special budget meeting.
4. Who may call a special budget meeting. A special budget meeting may be called by the school committee in a municipality which is responsible for the operation of its schools or may be called by using the petition procedures set forth in Title 30.
5. Invalidation of actions of a special budget meeting. Whenever a special budget meeting is called to reconsider action taken at a regular budget meeting or to consider additional appropriations, the actions of the meeting shall be invalid if the recorded vote is less than the vote recorded at the regular budget meeting on the appropriation articles.
6. Recording of "yes" or "no" votes. The moderators of each regular or special meeting where appropriations are approved shall require the clerk or secretary to record the number of "yes" votes and the number of "no" votes on each article considered at the meeting.
7. Municipalities. In municipalities where the council approves the school budget, reconsideration or additional appropriations may be initiated using the same procedures as outlined above. Council action shall be governed by the rules set forth in the charter.
8. Line item transfers. Meetings required by school committees or school directors for the purpose of transferring funds from one category or line item to another must be posted for voter or Council action within 15 days of the date of the request.

Sec. 4. **Effective date.** This Act shall become effective September 1, 1976.

Effective September 1, 1976

CHAPTER 739

AN ACT to Improve Solid Waste Management.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 5 MRSA § 1812, 1st ¶ is amended by adding at the end the following new sentences:

Whenever supplies and materials are available for purchase which are composed in whole or in part of recycled materials and are shown by the seller, supplier or manufacturer to be equal in quality and are competitively priced, the State Purchasing Agent shall purchase such recycled supplies and materials. For the purposes of this section, recycled materials means materials that are composed in whole or in part of elements that are reused or reclaimed.

Sec. 2. 17 MRSA § 2253, 3rd ¶, as enacted by PL 1969, c. 570, is amended to read:

Nothing in this section shall be construed to prohibit the transportation of waste matter into the State for use as a raw material for the production of new commodities which are not waste matter as defined, or for use to produce energy for use or sale.

Sec. 3. 17 MRSA § 2263, as enacted by PL 1971, c. 405, § 1 and as amended, is further amended by inserting before subsection 1 the following new paragraph:

As used in this section, unless the context otherwise indicates, the following words shall have the following meanings:

Sec. 4. 17 MRSA § 2263, sub-§§ 1-A and 1-B are enacted to read:

1-A. Committee. "Committee" means the Keep Maine Scenic Committee of the Department of Conservation.

1-B. Department. "Department" means the Department of Conservation.

Sec. 5. 17 MRSA § 2263, sub-§ 3, as enacted by PL 1971, c. 405, § 1 and as repealed and replaced by PL 1973, c. 235, § 1, is amended to read:

3. "Litter receptacle" means a ~~covered~~ container of suitable size which is clearly identified with a sign, symbol or other device as a place where the public may dispose of litter.

Sec. 6. 17 MRSA § 2263, sub-§ 4, as enacted by PL 1971, c. 405, § 1, is amended to read:

4. Vehicle. "~~Motor vehicle~~ Vehicle" means every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons, ~~except motorcycles, farm implements and snow-~~mobiles.

Sec. 7. 17 MRSA § 2264, 1st ¶, as enacted by PL 1971, c. 405, § 1, is amended to read:

No person shall throw, drop, deposit, discard or otherwise dispose of litter upon any public ~~or private~~ property or private property not owned by him in this State or in the waters of this State or on the ice over such waters, which

property shall include, but not be limited to, any ~~state~~ public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley, except:

Sec. 8. 17 MRSA § 2264, last ¶, as enacted by PL 1971, c. 405, § 1, is repealed and the following enacted in place thereof:

Any conduct in such violation of this section is a civil violation for which a forfeiture of not more than \$100 nor less than \$10 may be adjudged for the first violation and for a 2nd or subsequent violation a forfeiture of not more than \$500 nor less than \$100 may be adjudged. In addition thereto, in any court in which a forfeiture is adjudged against any person, the judge may direct that person to pick up and remove from any place any or all litter deposited thereon by anyone prior to the date of the adjudication.

Sec. 9. 17 MRSA § 2265, 1st ¶, as enacted by PL 1971, c. 405, § 1, is amended by adding after the first sentence a new sentence to read:

The operator of a vehicle shall not allow any person within the vehicle to throw, drop, deposit, discard or otherwise dispose of litter in violation of this section.

Sec. 10. 17 MRSA § 2265, 3rd ¶, as enacted by PL 1971, c. 405, § 1, is repealed and the following enacted in place thereof:

Any conduct in violation of this section is a civil violation for which a forfeiture of not more than \$100 nor less than \$10 may be adjudged for the first violation and for a 2nd or subsequent violation a forfeiture of not more than \$500 nor less than \$100 may be adjudged. In addition thereto, in any court in which a forfeiture is adjudged against any person, the judge may direct that person to pick up and remove from any place any or all litter deposited thereon by anyone prior to the date of the adjudication.

Sec. 11. 17 MRSA § 2266, last ¶, as last repealed and replaced by PL 1973, c. 235, § 3, is repealed and the following enacted in place thereof:

Any conduct in violation of this section is a civil violation for which a forfeiture of not more than \$100 nor less than \$10 may be adjudged for the first violation and for a 2nd or subsequent violation a forfeiture of not more than \$500 nor less than \$100 may be adjudged. In addition thereto, in any court in which a forfeiture is adjudged against any person, the judge may direct that person to pick up and remove from any place any or all litter deposited thereon by anyone prior to the date of the adjudication.

Sec. 12. 17 MRSA § 2267, 1st ¶, as enacted by PL 1971, c. 405, § 1, is amended to read:

No person shall throw, drop, deposit, discard or otherwise dispose of litter from any watercraft upon public or private property or along the right-of-way of any public highway, or in any public park, campground or upon any public beach or into any waters within the jurisdiction of this State, ~~or in or upon any other public place~~ except into a litter receptacle in such a manner that the litter will be prevented from being carried or deposited by the elements. The operator of a watercraft shall not allow any person within the watercraft to throw, drop, deposit, discard or otherwise dispose of litter in violation of this section. The operator of the watercraft, unless it is a watercraft being used for the carriage of passengers for hire, as well as the person

actually throwing, dropping, discarding or otherwise disposing of the litter will be in violation of this section.

Sec. 12-A. 17 MRSA § 2267, 2nd ¶, as enacted by PL 1971, c. 405, § 1, is repealed and the following enacted in place thereof:

Any conduct in violation of this section is a civil violation for which a forfeiture of not more than \$100 nor less than \$10 may be adjudged for the first violation and for a 2nd or subsequent violation a forfeiture of not more than \$500 nor less than \$100 may be adjudged.

Sec. 13. 17 MRSA § 2268, as enacted by PL 1971, c. 405, § 1 and as amended, is repealed and the following enacted in place thereof:

§ 2268. Enforcement

Every law enforcement officer in the State, including but not limited to State Police, county sheriffs and their deputies, municipal police, wardens of the Department of Inland Fisheries and Wildlife, wardens of the Department of Marine Resources, rangers of the Bureau of Forestry and liquor inspectors of the Department of Public Safety shall have authority to enforce this chapter.

Political subdivisions of the State may offer rewards for information which lead to the conviction of violators of this chapter.

Sec. 14. 17 MRSA § 2269, as enacted by PL 1971, c. 405, § 1 and as amended, is repealed and the following enacted in place thereof:

§ 2269. Litter receptacles; selection and placement

Litter receptacles as defined in section 2263 shall be placed at all public places or establishments which serve the public, including, but not limited to, campgrounds, trailer parks, drive-in restaurants, gasoline service stations, parking lots, shopping centers, grocery store parking lots, parking lots of major industrial firms, marinas, boat launching areas, boat moorage and fueling stations, beaches and bathing areas, the school grounds and business district sidewalks. The number of such receptacles required shall be as follows:

1. Campgrounds, trailer parks for transient habitation — one receptacle at each public rest room facility;

2. Drive-in restaurants, parking lots, shopping centers, grocery store parking lots and parking lots of major industrial firms — one receptacle, plus one additional receptacle for each 200 parking spaces in excess of 50 spaces;

3. Gasoline service stations — one receptacle per gasoline pump island;

4. Marinas, boat launching areas and boat moorage and fueling stations — one receptacle at each such location;

5. Beaches and bathing areas — one receptacle at each public rest room facility;

6. School grounds — one receptacle at each playground area and one at each school bus loading zone; and

7. Business district sidewalks — one receptacle per 1,000 feet of sidewalk curbing.

It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by this chapter to procure, place and maintain receptacles at their own expense in accordance with this chapter.

Any person or business organization, operating a business of the types described in this section, who fails to place such litter receptacles on the premises in the numbers required, or who fails to comply within 10 days of being notified by registered letter by the committee that he is in violation, shall be subject to a fine of \$10 for each violation. Each day a violation continues shall be a separate offense.

Sec. 15. 17 MRSA §§ 2272 to 2276 are enacted to read:

§ 2272. Promiscuous dumping prohibited

No person shall deposit household garbage, leaves, clippings, prunings or gardening refuse in any litter receptacle.

Persons violating the provisions of this section shall be liable for the same penalties as provided for violation of section 2264.

§ 2273. Penalty warning signs

Within the limits of its budget, the Department of Transportation may erect one sign within each 100 miles of state highway mileage in each county, warning motorists of the penalties for littering or asking for their cooperation in keeping the highways clean. One such sign shall be located within a reasonable distance of all state highway entry points into this State from other states or countries. If the state highway leads to or from an international border crossing point, the sign shall be bilingual.

§ 2274. Fines, distribution

All fines levied and collected for violations of this chapter shall be distributed as follows:

If the fine resulted from a complaint by a law officer of a state agency which receives a major share of its financial support from dedicated revenue, the fine, less court costs, shall be reimbursed to that agency; or

If the fine resulted from a complaint of a law officer of a state agency supported primarily by a General Fund appropriation, the fine, less court costs, shall be reimbursed to the committee to be used in an anti-litter educational program and shall be in addition to other General Fund moneys appropriated for that purpose.

§ 2275. Driver license and registration procedures

With the assistance of the committee, the Division of Motor Vehicles shall include a summary of this chapter with each reregistration and new vehicle operator license issued.

The Division of Motor Vehicles shall include a summary of this chapter in the next revision and printing of the driver license information materials and shall include at least one question concerning the contents of section 2265 in the driver's license examination.

§ 2276. Local regulations

Municipalities of this State may adopt more stringent ordinances, laws or regulations dealing with the subject matter of this chapter. Any less restrictive ordinances, laws or regulations now in effect dealing with the subject matter of this chapter and the minimum standards which it establishes are declared invalid and of no force and superseded by this chapter on its effective date.

Sec. 16. 32 MRSA c. 28 is enacted to read:

CHAPTER 28

MANUFACTURERS, DISTRIBUTORS AND DEALERS OF BEVERAGE CONTAINERS

§ 1861. Purpose

1. Legislative findings. The Legislature finds that beverage containers are a major source of nondegradable litter and solid waste in this State and that the collection and disposal of this litter and solid waste constitutes a great financial burden for the citizens of this State.

2. Intent. It is the intent of the Legislature to create incentives for the manufacturers, distributors, dealers and consumers of beverage containers to reuse or recycle beverage containers thereby removing the blight on the landscape caused by the disposal of these containers on the highways and lands of the State and reducing the increasing costs of litter collection and municipal solid waste disposal.

§ 1862. Definitions

As used in this chapter, unless the context otherwise indicates, the following words and phrases shall have the following meanings.

1. Beverage. "Beverage" means beer, ale or other drink produced by fermenting malt, soda water or other nonalcoholic carbonated drink in liquid form and intended for human consumption.

2. Beverage container. "Beverage container" means a glass, metal or plastic bottle, can, jar or other container which has been sealed by a manufacturer and which, at the time of sale, contains one gallon or less of a beverage.

3. Commissioner. "Commissioner" means the Commissioner of Agriculture.
4. Consumer. "Consumer" means an individual who purchases a beverage in a beverage container for use or consumption.
5. Dealer. "Dealer" means a person who sells, offers to sell or engages in the sale of beverages in beverage containers to a consumer, including, but not limited to, an operator of a vending machine containing beverages in beverage containers.
6. Department. "Department" means the Department of Agriculture.
7. Distributor. "Distributor" means a person who engages in the sale of beverages in beverage containers to a dealer in this State and includes a manufacturer who engages in such sales.
8. In this State. "In this State" means within the exterior limits of the State of Maine and includes all territory within these limits owned by or ceded to the United States of America.
9. Manufacturer. "Manufacturer" means a person who bottles, cans or otherwise places beverages in beverage containers for sale to distributors or dealers.
10. Operator of a vending machine. "Operator of a vending machine" means an owner of a vending machine, the person who refills it, or the owner or lessee of the property upon which it is located.
11. Person. "Person" means an individual, partnership, corporation or other legal entity.
12. Premises. "Premises" means the property of the dealer or his lessor on which the sale is made.
13. Use or consumption. "Use or consumption" means the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale, storage or retention for the purpose of sale of a beverage.

§ 1863. Refund value

Every beverage container sold or offered for sale to a consumer in this State shall have a refund value. The refund value shall be determined by the manufacturer according to the type, kind and size of the beverage container, but shall not be less than 5¢.

§ 1864. Dealer as distributor

Whenever a dealer or group of dealers receives a shipment or consignment of, or in any other manner acquires, beverage containers outside the State for sale to consumers in the State, such dealer or dealers shall comply with this chapter as if they were distributors, as well as dealers.

§ 1865. Labels; stamps; brand names

1. Labels. Except as provided under subsection 2, the refund value shall be clearly indicated on every beverage container sold or offered for sale by a dealer in this State, by embossing, stamping, labeling or other method of secure attachment to the beverage container. The refund value shall not be indicated on the bottom of the container. Metal beverage containers shall be embossed or stamped on the top of the container.

2. Brand name. Glass beverage containers having a refund value of not less than 5¢ prior to the effective date of this chapter and having a brand name permanently marked thereon, shall not be required to indicate the refund value under subsection 1.

§ 1866. Application

1. Dealer acceptance. Except as provided in this section, a dealer shall not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by the dealer, or refuse to pay in cash the refund value of the returned beverage container as established by section 1863. This section shall not require an operator of a vending machine to maintain a person to accept returned beverage containers on the premises where the vending machine is located.

2. Permissive refusal by dealer. A dealer may refuse to accept from a consumer or other person and to pay the refund value on any beverage container, if the place of business of the dealer and the kind, size and brand of beverage container are included in an order of the department approving a redemption center under section 1867.

3. Distributor acceptance. A distributor shall not refuse to accept from any dealer or local redemption center any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by the distributor or refuse to pay to the dealer or local redemption center the refund value of a beverage container as established by section 1863.

4. Reimbursement by distributor. In addition to the payment of the refund value, the distributor shall reimburse the dealer or local redemption center for the cost of handling beverage containers, in an amount which equals at least 1¢ per returned container.

§ 1867. Redemption centers

1. Establishment. Local redemption centers may be established and operated by any person, subject to the approval of the commissioner, to serve local dealers and consumers, at which consumers may return empty beverage containers as provided under section 1866.

2. Application for approval. Application for approval of a local redemption center shall be filed with the department. The application shall state the name and address of the person responsible for the establishment and operation of the center, the kinds, sizes and brand names of beverage containers which will be accepted and the names and addresses of dealers to be served and their distances from the local redemption center.

3. Approval. The commissioner shall approve a local redemption center if he finds that the center will provide a convenient service for the return of empty beverage containers. The order approving a local redemption center shall state the dealers to be served and the kinds, sizes and brand names of empty beverage containers which the center shall accept.

4. Redemption center acceptance. A local redemption center shall not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by a dealer served by the center or refuse to pay in cash the refund value of the returned beverage container as established by section 1863.

5. Posted lists. A list of the dealers served and the kinds, sizes and brand names of empty beverage containers accepted shall be prominently displayed at each local redemption center.

6. Withdrawal of approval. The commissioner may review at any time approval of a local redemption center. After written notice to the person responsible for the establishment and operation of the local redemption center and to the dealers served by the center, the commissioner may, after hearing, withdraw approval of a local redemption center if he finds there has not been compliance with the approval order or if the local redemption center no longer provides a convenient service to the public.

§ 1868. Prohibition on certain types of containers and holders

No beverage container shall be sold or offered for sale to consumers in this State:

1. Flip tops. In a metal container designed or constructed so that part of the container is detachable for the purpose of opening the container without the aid of a separate can opener; and

2. Connectors. With containers connected to each other by a separate holding device constructed of plastic rings or other device or material which cannot be broken down by bacteria into basic elements.

§ 1869. Penalties

1. Civil violation. A violation of this chapter by any person shall be a civil violation for which a forfeiture of not more than \$100 may be adjudged.

2. Separate violations. Each day that such violation continues or exists shall constitute a separate offense.

Referendum; effective date. Sections 1 to 15 of this Act shall take effect 90 days after adjournment of the Legislature. Section 16 of this Act shall take effect 90 days after the adjournment of the Legislature only for the purpose of presenting it to the legal voters of the State of Maine at the general state-wide election to be held on the Tuesday following the first Monday of November following the passage of this Act.

The aldermen of the cities, the selectmen of the towns and the assessors of the several plantations of this State are empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the

manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators and Representatives at the general state-wide election on the Tuesday following the first Monday of November following the passage of this Act, to give in their votes upon the acceptance or rejection of the foregoing Act, and the question shall be:

“Shall section 16 of ‘AN ACT to Improve Solid Waste Management,’ which section requires a minimum 5¢ deposit on all returnable beverage containers, as passed by the First Special Session of the 107th Legislature, become law?”

The inhabitants of said cities, towns and plantations shall indicate by a cross or check mark placed within a square upon their ballots their opinion of the same, those in favor of acceptance voting “Yes” and those opposed to acceptance voting “No” and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and return made to the office of the Secretary of State in the same manner as votes for Governor and Members of the Legislature, and the Governor and Council shall review the same and if it shall appear that a majority of the inhabitants voting on the question are in favor of section 16 of said Act, the Governor shall forthwith make known the fact by his proclamation and section 16 of the Act shall become effective January 1, 1978.

Secretary of State shall prepare ballots. The Secretary of State shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing Act, accompanied by a copy thereof.

Effective July 29, 1976

CHAPTER 740

AN ACT to Revise the Maine Criminal Code as Recommended by the Criminal Law Revision Commission.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Criminal Code as enacted by the 107th Legislature will soon become effective and several sections have been found to need amendment, correction or clarification; and

Whereas, the prompt correction of these problems will enable all sections of the Criminal Code, as amended, to become effective on the same date, enhancing an orderly transition to the application of the provisions of the new Code; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,