

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Returnable Container Bill: Enforcement Authority
32 M.R.S.A. 1861 et seq.
32 M.R.S.A. 1867

STATE OF MAINE

Inter-Departmental Memorandum Date January 21, 1977

To Clayton F. Davis, Director,
Inspections

Dept. Agriculture

From Donald G. Alexander, Deputy

Dept. Attorney General

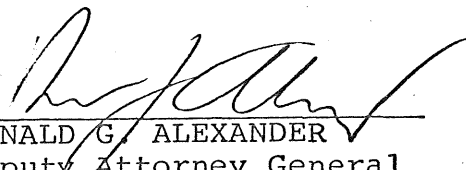
Subject Returnable Container Legislation

This responds to your request for an opinion dated January 17, 1977. The question you posed is: "Is the Department of Agriculture responsible for enforcement of the entire bill or just the Section 1867 redemption centers?"

We construe the term "entire bill" in your request to mean 32 M.R.S.A. c. 28. Specifically, your question appears to be: Does the Department of Agriculture have enforcement responsibility for 32 M.R.S.A. §§ 1863 through 1866 and 32 M.R.S.A. §§ 1868 and 1869. We answer your question in the negative.

We note that the Department of Agriculture is the only department mentioned in the definitions of the legislation, 32 M.R.S.A. § 1862-3 and § 1862-6. However, the only other point at which the Department of Agriculture is mentioned is in regard to § 1867 redemption centers. Further, the law specifies penalties for violation without specifying the manner of their enforcement, 32 M.R.S.A. § 1869. Accordingly, it would appear that the other sections of the law are mandatory and may be enforced by any appropriate law enforcement agency, including the Department of Public Safety and the Department of the Attorney General. (Compare 17 M.R.S.A. § 2268, also adopted by P.L. 1975, c. 739, although not subject to referendum.) It is a well accepted principle of law that state agencies only have authority to act in areas where such authority is specifically granted by the Legislature. No specific grant to the Department of Agriculture appears here except in § 1867.

The authority of the Department of Public Safety and the Department of the Attorney General, on the other hand, is derived from their general authority and responsibility to enforce the laws of the State, including enforcement of the penalties provided in 32 M.R.S.A. § 1869, if other provisions of Chapter 28 are violated.


DONALD G. ALEXANDER
Deputy Attorney General

DGA/ec