

MAINE STATE LEGISLATURE

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Part 77. Bill: State Obligations To Beverage Containers
Times
32 M.R.S.A. § 1862.5

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February 16, 1978

Honorable Peter Truman
House of Representatives
State House
Augusta, Maine

Re: The Law Regarding Manufacturers, Distributors and Dealers
of Beverage Containers.

Dear Representative Truman:

This is in response to your oral request of February 6, 1978,
to the Office of the Attorney General for an opinion on the follow-
ing two questions, the answers to which are discussed herein:

1. Is a grocer or other retailer required under either
statute or regulation to accept return of beverage containers at
any time that his place of business is open? Yes.

2. Is a grocer or other retailer required by statute or reg-
ulation to accept return of beer bottles or cans at times when his
place of business is open but is not allowed to sell beer or other
alcoholic beverages? Yes.

DISCUSSION:

The legislation concerning beverage containers includes grocers
and other retailers in the definition of "dealer" in Title 32 M.R.S.A.
§ 1862.5, and defines the obligations of dealers in Title 32 M.R.S.A.
§ 1866, which provides, in pertinent part, as follows:

"Dealer acceptance. Except as provided in
this section, a dealer shall not refuse to
accept from any consumer or other person
not a dealer an empty, unbroken, and reason-
ably clean beverage container of the kind,
size and brand sold by the dealer, or refuse
to pay in cash the refund value of the re-
turned beverage container as established by
section 1863. . . ." (emphasis supplied)

The only exceptions in the statute from this provision are the exemption for certain vending machine operators and the general exception for dealers in areas where redemption centers have been approved. Title 32 M.R.S.A. § 1866.1, Section 1866.2.

In enacting this legislation, the Maine Legislature stated that its intent was

"to create incentive for the manufacturers, distributors, dealers and consumers of beverage containers to reuse or recycle beverage containers. . . ." 32 M.R.S.A. § 1861.2.

As a general rule, words of the statute are to be construed according to the common meaning of their language. Title 1 M.R.S.A. § 72. In interpreting a statute, the primary concern is to give effect to the intention of the Legislature. Where the statute conveys a clear and definite meaning, the statute should be construed according to the natural and obvious import of its language, "without resorting to subtle and forced constructions for the purpose of either limiting or extending the operation." Pease v. Foulkes, 128 Me. 293, 298 (1929) (construing the statutes concerning the possession and sale of intoxicating liquors).

In view of the statement of the legislative concern for creating incentives for a system of returning beverage containers, and in view of the complete lack of any limitations or exemptions as to times wherein dealers must accept such containers, section 1861 must be read as mandatory. There is nothing in the legislation which would indicate that a dealer could establish limited times for accepting bottles. Nor does there appear to be any other reason why beer bottles and cans cannot be returned at all times, including those when alcoholic beverages may not otherwise be sold. The return of empty alcoholic beverage containers does not logically appear to involve the same public purpose as the prohibition of buying of filled containers of this kind. Accordingly, no reasonable purpose would be served by so limiting the hours when empty alcoholic beverage containers could be returned.

Sincerely,



DONALD G. ALEXANDER
Deputy Attorney General

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