

MAINE STATE LEGISLATURE

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JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

February 16, 1978

Honorable Rodney S. Quinn
House of Representatives
State House
Augusta, Maine

Dear Representative Quinn:

We are responding to your request for advice from this office relative to matters set forth in a proposed joint resolution (S.P. 698). The proposed resolution would express the desire of the Legislature that the Department of Agriculture grant an additional 30-day grace period for retailers of certain beverages to bring themselves into compliance with the returnable container provisions set forth in 32 M.R.S.A. Chapter 28. You ask whether the Department of Agriculture has the authority to grant such grace period.

The statutory returnable beverage container provisions in question were enacted by the Legislature as P.L. 1975, Chapter 739, § 16, which was approved at a state-wide referendum held in November of 1976. The Department of Agriculture is identified as the enforcement agency and given the authority to issue the necessary rules and regulations in order to carry the provisions into effect. P.L. 1977, Chapter 381. Once the legislation was approved at referendum, it became effective on January 1, 1978. There is no provision in the statute for extending the effective date or to provide for grace periods.

It is our understanding that the Department of Agriculture has attempted to provide a reasonable method of requiring enforcement of the returnable container provisions and lessen any hardships upon retailers. Nevertheless, we note that there is no statutory authority for the grace period which the department has granted. It should also be noted that the Legislature has the legislative power to amend the statute to specifically grant such authority to the Department if the Legislature so desires. Art. IV, Pt. 3rd, § 1, Constitution of Maine.

Please continue to call on us whenever we may be of assistance.

Sincerely,

S. KIRK STUDSTRUP
Assistant Attorney General

SKS:mfe