

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

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Filed November 27, 1974 under Joint Rule 6 by Mr. McKernan of Bangor.
To be printed and delivered to the House of Representatives of the 107th
Legislature.

E. LOUISE LINCOLN, Clerk

Presented by Mr. McKernan of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Require Returnable Beverage Containers.

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

Sec. 1. 32 MRSA, c. 28, is enacted to read

CHAPTER 28

**MANUFACTURERS, DISTRIBUTORS AND DEALERS OF
RETURNABLE BEVERAGE CONTAINERS**

§ 1861. Purpose

1. Legislative findings. The Legislature finds that litter composed of beverage containers is a major source of pollution in all areas of this State, that the collection and disposal of solid waste composed of such containers impose a great cost burden on this State and its political subdivisions, that nonreturnable beverage containers on which no refundable money deposit is required from the consumer pose a threat to the health, safety and welfare of individuals, animals and the environment in this State, and that such containers, representing as they do a high cost in the form of litter and solid waste management, should be banned from this State.

2. Intent. It is therefore the purpose of this chapter to assist in solving this problem by requiring a refundable money deposit on beverage containers to encourage their return to manufacturers for reuse.

§ 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; soft drink; 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 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, dealers or consumers.

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. Place of business of a dealer. "Place of business of a dealer" means the location at which a dealer sells or offers for sale beverages in beverage containers to a consumer.

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 or the storage or retention for the purpose of sale of a beverage.

§ 1863. Refund value

1. Beverage containers not certified. Except as provided in subsection 2, every beverage container sold or offered for sale in this State shall have a refund value of not less than 5¢, which shall be determined by the manufacturer according to the type, kind and size of the beverage container.

2. Certified beverage containers. Every beverage container certified as provided in section 1867, sold or offered for sale in this State shall have a refund value of not less than 2¢.

§ 1864. Labels; 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.

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

§ 1865. 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, or if a certified container under section 1867, of the kind and size, sold by the dealer, or refuse to pay in cash the refund value of the returned beverage container as established by section 1863.

2. Distributor acceptance. Except as provided in this section, 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, or if a certified container under section 1867, of the kind and size, 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.

3. 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 1866.

4. Prohibition of certain types of metal beverage containers. No dealer or other person shall sell or offer for sale to a consumer in this State any metal beverage container designed and constructed so that a part of the container is detachable for the purpose of opening the container without the aid of a separate can opener.

§ 1866. 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 1865.

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, or if certified containers under section 1867, the kinds and sizes, 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. The application shall include such additional information as the department may require.

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, or if certified containers under section 1867, the kinds and sizes of empty beverage containers which the center shall accept. The order may contain such other provisions as the department may determine to insure the local redemption center will provide a convenient service to the public.

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, or if a certified container under section 1867, of the kind and size, 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.

§ 1867. Certification of containers

1. **Purpose.** To promote the use in this State of reuseable beverage containers of uniform design and to facilitate the return of containers to manufacturers for reuse as beverage containers, the commissioner shall certify beverage containers which satisfy the requirements of this section.

2. **Requirements.** A beverage container shall be certified if:

A. It is reuseable as a beverage container by more than one manufacturer in the ordinary course of business; and

B. More than one manufacturer will in the ordinary course of business accept the beverage container for reuse as a beverage container and pay the refund value of the container.

3. **Prohibition.** A beverage container shall not be certified under this section if by reason of its shape or design, or by reason of words or symbols permanently inscribed therein whether by engraving, embossing, painting

or other permanent method, it is reuseable as a beverage container in the ordinary course of business only by a manufacturer of a beverage sold under a specific brand name.

4. **Withdrawal of certification.** The commissioner may review at any time certification of a beverage container. After written notice and hearing afforded to the person who filed the application for certification, the commissioner shall withdraw certification of any beverage container if he finds that the requirements of subsections 1, 2 or 3 are not satisfied.

5. **Notice of withdrawal.** Withdrawal of certification shall not be effective until 30 days after written notice to the person who filed the application for certification and to the manufacturers referred to in subsection 2.

§ 1868. Exemption

This chapter shall not apply to beverages sold in beverage containers for consumption on the premises of the selling dealer.

§ 1869. Penalties

1. **Misdemeanor.** Any person who violates this chapter shall be guilty of a misdemeanor and upon conviction shall be punished for each offense by a fine of not less than \$100 nor more than \$1,000 or by imprisonment for not more than 30 days or by both.

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

Sec. 2. Appropriation. There is appropriated from the General Fund to the Department of Agriculture the sum of \$8,225 to carry out the purposes of this Act. The breakdown shall be as follows:

	1975-76	1976-77
AGRICULTURE, DEPARTMENT OF		
Division of Inspections		
Personal Services	(1) \$1,147	(1) \$7,078

Referendum; effective date. 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 a special 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 a special 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 ‘An Act to Require Returnable Beverage Containers’ 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 said Act, the Governor shall forthwith make known the fact by his proclamation and the Act shall thereupon become effective April 30, 1976.

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.

FISCAL NOTE

The \$8,225 will be used for the salary of an additional inspector for the Department of Agriculture, Division of Inspections, beginning April 30, 1976.

STATEMENT OF FACT

Requiring beverage containers to be refundable will reduce their cost to the consumer, reduce their incidence as litter, provide an incentive for picking them up, create jobs for Maine people, reduce throw-away packaging which is a large part of Maine's domestic solid waste and reduce the cost of state and local solid waste management.