

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1888

H. P. 1609

House of Representatives, May 20, 1975

Reported by Majority from the Committee on Business Legislation and printed under Joint Rules No. 18.

EDWIN H. PERT, Clerk

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 nonreturnable beverage containers constitute a blight to the Maine landscape, an expensive factor in the collection and disposal of solid waste and a threat to the health and welfare of the citizens of Maine, and that such beverage containers should therefore be banned from the 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, 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.

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. Person. "Person" means an individual, partnership, corporation or other legal entity.

11. Premises. "Premises" means the property of the dealer or his lessor on which the sale is made, provided that consumption can reasonably be expected to take place within 100 yards of the place of actual sale and the dealer provides suitable means for the disposal of beverage containers once consumed.

12. Refillable. "Refillable" means a beverage container which can be refilled at least 5 times.

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 in this State shall have a refund value of not less than 5¢.

§ 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. 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 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. A dealer may refuse to accept from any consumer or other person not a dealer any 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.

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 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.

3. Reimbursement by distributor. In addition to payment of the refund value of a beverage container, a dealer or a person operating a redemption center under section 1866 who redeems beverage containers shall be reimbursed by the distributor of such beverage containers in an amount which is at least 1¢ per container.

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 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 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 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. **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. Refillable containers

1. Except as provided in subsection 2, no person may sell beverages in glass beverage containers which have not been approved as refillable by the Commissioner of Agriculture.

2. Subsection 1 shall not apply to beverages in glass beverage containers imported from outside the United States.

§ 1868. Penalties

1. **Civil violation.** A violation of this chapter by any person is 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.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Department of Agriculture the sum of \$3,539 to carry out the purposes of this Act. The breakdown shall be as follows:

1976-77

AGRICULTURE, DEPARTMENT OF

Division of Inspections

Personal Services

(1) \$3,539

Sec. 3. 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 cities, the selectmen of 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,’ passed by 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 returns 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 January 1, 1977.

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 \$3,539 will be used for the salary of an additional inspector for the Department of Agriculture, Division of Inspections, beginning January 1, 1977.

STATEMENT OF FACT

Requiring beverage containers to be refundable will reduce their costs 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.