

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)

Corrected 2/27/76

FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2248

H. P. 2089

House of Representatives, February 25, 1976

Reported by Mr. Peterson from the Committee on Natural Resources reports in Report "A", pursuant to H. P. 1669 and printed under Joint Rules No. 3.

EDWIN H. PERT, Clerk

Filed under Joint Rule No. 3, pursuant to H. P. 1669 (Report A).

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT to Improve Solid Waste Management in this State.

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

Sec. 1. 5 MRSA § 1812, fist ¶ is amended by adding 2 new sentences at the end to read:

Whenever supplies and materials are available for purchase which are composed in whole or in part of recycled materials and are shown by the seller, supplier or manufacturer to be equal in quality and are competitively priced, the State Purchasing Agent shall purchase such recycled supplies and materials. For the purposes of this section, recycled materials means materials that are composed in whole or in part of elements that are reused or reclaimed.

Sec. 2. 17 MRSA § 2253, 3rd ¶, as enacted by PL 1969, c. 570, is amended to read:

Nothing in this section shall be construed to prohibit the transportation of waste matter into the State for use as a raw material for the production of new commodities which are not waste matter as defined, or for use to produce energy for use or sale.

Sec. 3. 17 MRSA § 2263, sub-§§ 1-A and 1-B are enacted to read:

1-A. Committee. "Committee" means the Keep Maine Scenic Committee of the Department of Conservation.

1-B. Department. "Department" means the Department of Conservation.

Sec. 4. 17 MRSA § 2263, sub-§ 3, as repealed and replaced by PL 1973, c. 235, § 1, is amended to read:

3. "Litter receptacle" means a ~~covered~~ container of suitable size which is clearly identified with a sign, symbol or other device as a place where the public may dispose of litter.

Sec. 5. 17 MRSA § 2263, sub-§ 4, as enacted by PL 1971, c. 405, § 1, is repealed and the following enacted in place thereof.

4. **Vehicle.** "Vehicle" means every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons, except motorcycles, farm implements and snowmobiles.

Sec. 6. 17 MRSA § 2264, first and last ¶¶, as enacted by PL 1971, c. 405, § 1, are repealed and the following enacted in place thereof:

No person shall throw, drop, deposit, discard or otherwise dispose of litter upon any public property or private property not owned by him in this State or in the waters of this State or on the ice over such waters, which property shall include, but not be limited to, any public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley, except:

Any person violating this section shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than \$10 nor more than \$100 for the first offense, and by a fine of not less than \$100 nor more than \$500 for a 2nd or subsequent conviction. In addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any public place or any private property, with prior permission of the legal owner, any or all litter deposited thereon prior to the date of execution of sentence.

Sec. 7. 17 MRSA § 2265, first ¶, as enacted by PL 1971, c. 405, § 1, is amended by adding after the first sentence a new sentence to read:

The operator of a vehicle shall not allow any person within the vehicle to throw, drop, deposit, discard or otherwise dispose of litter in violation of this section.

Sec. 8. 17 MRSA § 2265, 3rd ¶, as enacted by PL 1971, c. 405, § 1, is amended to read:

The fine for violation of this section shall not be less than \$10 nor more than \$100 for ~~each~~ the first offense and ~~is~~ not less than \$100 nor more than \$500 for a 2nd or subsequent conviction. In addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any place any or all litter deposited thereon by anyone prior to the date of execution of sentence.

Sec. 9. 17 MRSA § 2266, last ¶, as last repealed and replaced by PL 1973, c. 235, § 3, is repealed and the following enacted in place thereof:

The fine for violation of this section shall not be less than \$10 nor more than \$100 for the first offense and not less than \$100 nor more than \$500 for

a 2nd or subsequent conviction. In addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any place any or all litter deposited thereon by anyone prior to the date of execution of sentence.

Sec. 10. 17 MRSA § 2267, first and 2nd ¶¶, as enacted by PL 1971, c. 405, § 1, are amended to read:

No person shall throw, drop, deposit, discard or otherwise dispose of litter from any watercraft upon public or private property or along the right-of-way of any public highway, or in any public park, campground or upon any public beach or into any waters within the jurisdiction of this State, ~~or in or upon any other public place~~ except into a litter receptacle in such a manner that the litter will be prevented from being carried or deposited by the elements. The operator of a watercraft shall not allow any person within the watercraft to throw, drop, deposit, discard or otherwise dispose of litter in violation of this section. The operator of the watercraft, unless it is a watercraft being used for the carriage of passengers for hire, as well as the person actually throwing, dropping, discarding or otherwise disposing of the litter will be in violation of this section.

Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$10 nor more than \$100 for each violation the first conviction, and by a fine of not less than \$100 nor more than \$500 for a second or subsequent conviction.

Sec. 11. 17 MRSA § 2268, as enacted by PL 1971, c. 405, § 1, and as amended, is repealed and the following enacted in place thereof:

§ 2268. Enforcement

Every law enforcement officer in the State, including but not limited to State Police, county sheriffs and their deputies, municipal police, wardens of the Department of Inland Fisheries and Wildlife, wardens of the Department of Marine Resources, rangers of the Bureau of Forestry and liquor inspectors of the State Liquor Commission shall have authority to enforce this chapter.

Political subdivisions of the State may offer rewards for information which leads to the conviction of violators of this chapter.

Sec. 12. 17 MRSA § 2269, as enacted by PL 1971, c. 405, § 1, and as amended, is repealed and the following enacted in place thereof:

§ 2269. Litter receptacles; selection and placement

Litter receptacles as defined in section 2263 shall be placed at all public places or establishments which serve the public, including, but not limited to, campgrounds, trailer parks, drive-in restaurants, gasoline service stations, parking lots, shopping centers, grocery store parking lots, parking lots of major industrial firms, marinas, boat launching areas, boat moorage and fueling stations, beaches and bathing areas, the school grounds and business district sidewalks. The number of such receptacles required shall be as follows:

1. Campgrounds, trailer parks for transient habitation — one receptacle at each public rest room facility;

2. Drive-in restaurants, parking lots, shopping centers, grocery store parking lots and parking lots of major industrial firms — one receptacle, plus one additional receptacle for each zoo parking spaces in excess of 50 spaces;
3. Gasoline service stations — one receptacle per gasoline pump island;
4. Marinas, boat launching areas and boat moorage and fueling stations — one receptacle at each such location;
5. Beaches and bathing areas — one receptacle at each public rest room facility;
6. School grounds — one receptacle at each playground area and one at each school bus loading zone; and
7. Business district sidewalks — one receptacle per 1,000 feet of sidewalk curbing.

It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by this chapter to procure, place and maintain receptacles at their own expense in accordance with this chapter.

Any person or business organization, operating a business of the types described in this section, who fails to place such litter receptacles on the premises in the numbers required, or who fails to comply within 10 days of being notified by registered letter by the committee that he is in violation, shall be subject to a fine of \$10 for each violation. Each day a violation continues shall be a separate offense.

Sec. 13. 17 MRSA §§ 2272 to 2276 are enacted to read:

§ 2272. Promiscuous dumping prohibited

No person shall deposit household garbage, leaves, clippings, prunings or gardening refuse in any litter receptacle.

Persons violating the provisions of this section shall be liable for the same penalties as provided for violation of section 2264.

§ 2273. Penalty warning signs

The Department of Transportation shall erect one sign within each 100 miles of state highway mileage in each county, warning motorists of the penalties for littering or asking for their cooperation in keeping the highways clean. One such sign shall be located within a reasonable distance of all state highway entry points into this State from other states or countries. If the state highway leads to or from an international border crossing point, the sign shall be bilingual.

§ 2274. Fines, distribution

All fines levied and collected for violations of this chapter shall be distributed as follows:

If the fine resulted from an arrest by a law officer of a state agency which receives a major share of its financial support from dedicated revenue, the fine, less court costs, shall be reimbursed to that agency.

If the fine resulted from an arrest of a law officer of a state agency supported primarily by a General Fund appropriation, the fine, less court costs, shall be reimbursed to the committee to be used in an anti-litter educational program and shall be in addition to other General Fund moneys appropriated for that purpose.

§ 2275. Driver license and registration procedures

With the assistance of the committee, the Division of Motor Vehicles shall include a summary of this chapter with each reregistration and new vehicle operator license issued.

The Division of Motor Vehicles shall include a summary of this chapter in the next revision and printing of the driver license information materials and shall include at least one question concerning the contents of section 2265 in the driver's license examination.

§ 2276. Local regulations

Municipalities of this State may adopt more stringent ordinances, laws or regulations dealing with the subject matter of this chapter. Any less-restrictive ordinances, laws or regulations now in effect dealing with the subject matter of this chapter and the minimum standards which it establishes are declared invalid and of no force and superseded by this chapter on its effective date.

Sec. 14. 32 MRSA c. 28 is enacted to read:

CHAPTER 28

MANUFACTURERS, DISTRIBUTORS AND DEALERS OF BEVERAGE CONTAINERS

§ 1861. Purpose

1. Legislative findings. The Legislature finds that beverage containers are a major source of nondegradable litter and solid waste in this State and that the collection and disposal of this litter and solid waste constitutes a great financial burden for the citizens of this State.

2. Intent. It is the intent of the Legislature to create incentives for the manufacturers, distributors, dealers and consumers of beverage containers to reuse or recycle beverage containers thereby removing the blight on the landscape caused by the disposal of these containers on the highways and lands of the State and reducing the increasing costs of litter collection and municipal solid waste disposal.

§ 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, wine, liquor or alcohol as defined by Title 28, section 2, subsections 1, 13 and 25, 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, 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 or dealers.
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. 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.
13. Refillable. "Refillable" means a beverage container which can be refilled at least 5 times.
14. Refundable container. "Refundable container" means a beverage container that has a refund value under section 1863, and is labeled under section 1866, subsections 1 and 3.

15. 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 to a consumer in this State shall have a refund value, unless a disposal charge has been paid on the container as provided in section 1864. The refund value shall be determined by the manufacturer according to the type, kind and size of the beverage container, but shall not be less than 5¢, unless the container is certified under section 1868, when it shall not be less than 3¢.

§ 1864. Disposal charge

Prior to January 1, 1980, every manufacturer or distributor may pay to the State a disposal charge in lieu of setting a refund value as provided in section 1863. After January 1, 1980, only beverage containers containing liquor or alcohol, as defined in Title 28, section 2, subsections 1 and 13 and wine, except table wine, as defined in Title 28, section 2, subsections 25 and 25-A, may pay a disposal charge in lieu of setting a refund value. The disposal charge paid to the State on each beverage container shall be as follows.

1. Wine, liquor or alcohol. For beverage containers containing wine, liquor or alcohol, the charge shall be 5¢ on each container.
2. All other. For all other beverage containers, the charge shall be 2¢ on each container.

§ 1865. Dealer as distributor

Whenever a dealer or group of dealers receives a shipment or consignment of, or in any other manner acquires, beverage containers outside the State for sale to consumers in the State, such dealer or dealers shall comply with this chapter as if they were distributors, as well as dealers.

§ 1866. Labels; stamps; brand names

1. Labels. Except as provided under subsections 2 and 3, the refund value shall be clearly indicated on every refundable 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. Nonreturnable containers. Every nonreturnable container on which the disposal charge has been paid, as required under section 1864, and which clearly indicates that the disposal charge has been paid and that the container is nonreturnable, shall not be required to indicate the refund value under subsection 1.
3. Brand name. Glass beverage containers having a refund value of not less than 5¢ prior to the effective date of this chapter and having a brand name permanently marked thereon, shall not be required to indicate the refund value under subsection 1.

§ 1867. 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 refundable container of the kind, size and brand, or if a certified container under section 1868, 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. 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 1869.

3. On premise consumption. A dealer may refuse to pay to the consumer the refund value of the returned refundable container, if the beverage container was sold to the consumer from a vending machine, or for consumption on the premises of the dealer, and the consumer made no deposit of the refund value on the beverage container.

4. Distributor acceptance. 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.

5. Reimbursement by distributor. In addition to the payment of the refund value, the distributor shall reimburse the dealer or local redemption center for the cost of handling refundable beverage containers, in an amount which equals at least 1¢ per returned container.

§ 1868. Certification of containers

1. Purpose. To promote the use in this State of refillable 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 refillable 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 thereon, 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 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.

§ 1869. 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 refundable containers as provided under section 1867.

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 1868, the kinds and sizes, of refundable containers which will be accepted and the names and addresses of dealers to be served and their distances from the local redemption center.

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 refundable 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 1868, the kinds and sizes, of empty refundable containers which the center shall accept.

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 refundable container of the kind, size and brand, or if a certified container under section 1868, 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 refundable 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.

§ 1870. Prohibition on certain types of containers and holders

After January 1, 1977, no beverage container shall be sold or offered for sale to consumers in this State:

1. Flip tops. In a metal container designed or constructed so that part of the container is detachable for the purpose of opening the container without the aid of a separate can opener; and

2. Connectors. With containers connected to each other by a separate holding device constructed of plastic rings or other device or material which cannot be broken down by bacteria into basic elements.

§ 1871. Grants-in-aid for solid waste management

Any municipality, county or regional refuse disposal district may apply for grants-in-aid to plan, provide, maintain and operate facilities for the recovery of energy from solid waste, or for recycling or collection, preparation, transportation or sale for reuse of solid waste. The Commissioner of Environmental Protection shall receive and review applications, and shall approve those applications that effectively and efficiently meet the solid waste disposal problem of the area by encouraging well-planned and economically viable recycling, reuse or recovery programs.

The Commissioner of Environmental Protection shall enter into an agreement for implementation of an approved application and for reimbursement for the cost of the approved activities, such reimbursement not to exceed 90% of the actual cost of such activities or not to exceed the proportional share on a per capita basis of the money available in any one year under section 1872, subsection 2, whichever is less. No municipality, county or regional refuse disposal district shall receive more than one grant in any one year. All applications for such grants shall be received by the Department of Environmental Protection by October 31st of the year prior to the date of implementation of the program and applications shall be disapproved or approved and the agreements entered into by December 31st of the year prior to the date of implementation of the program.

§ 1872. Disposition of fees

All charges collected pursuant to this chapter shall be allocated to the Disposal Fund. The Disposal Fund does not lapse and charges collected or allocated in any one year may be used in the same or any succeeding year.

The Treasurer of State shall make only the following disbursements from the Disposal Fund:

1. Administration.

Department of Agriculture	\$ 10,000
For enforcement of this chapter	
Department of Transportation	5,000
For increased litter collecting activities	
Department of Taxation	250,000
For administration and collection of the disposal charge	

Department of Environmental Protection	50,000
For providing additional solid waste management services under Title 38, chapter 13	
Keep Maine Scenic Committee	25,000
For increased anti-litter education and providing litter bags.	

2. Grants-in-aid. Seventy-five percent of the annual receipts remaining after the disbursements provided for in subsection 1, shall be disbursed at the direction of the Commissioner of Environmental Protection to those municipalities, counties or regional refuse disposal districts qualifying for grants-in-aid under section 1871, and in amounts to each as specified in the agreements between the Department of Environmental Protection and the municipality, county or regional refuse disposal district.

3. Solid waste grants. Twenty-five percent of the annual receipts remaining after the disbursements provided for in subsection 1 shall be disbursed annually to all municipalities, on a per capita proportional basis, to financially assist them in their solid waste disposal programs.

Sec. 15. 38 MRSA § 1304, sub-§ 6 is enacted to read:

6. Solid waste coordination. The department shall provide personnel who will coordinate solid waste management, resource recovery and recycling in this State to:

- A. Gather complete data on all solid waste industries, proposals and operations in the State;
- B. Establish a directory of all markets for secondary materials within Maine and New England including materials purchased, types, qualities and specifications, purchase prices, transportation costs and volume capacities;
- C. Provide technical assistance to local or regional units of government, including market data, methods and costs of resource recovery and types and sources of equipment; and
- D. Provide economic data to show the advantage or disadvantage of shipping materials to the market at any one time from a particular location.

The coordinators shall develop an educational program to inform government officials and citizens of the various alternatives of resource recovery available and the methods of implementing them. To the extent possible, the coordinators shall publish in existing department or state publications information acquired on all aspects of solid waste management. The coordinators shall consult with the Office of Energy Resources, which shall provide available information and data on resource recovery and recycling that will result in energy conservation or be a source of energy production.

FISCAL NOTE

The revenue generated by this bill, if no containers are returnable and all containers pay the tax, is approximately 8 to 9 million dollars annually, based

on 400 million beer and soft drink containers, 9 million liquor containers and 1 million to 4 million wine containers sold annually in the State. If all containers that can, become returnable, then the revenue will be approximately \$500,000 to \$800,000 annually.

All revenue raised under this bill is allocated to a dedicated fund.

Thus, there will be no increase in General Fund revenues; nor will there be a decrease, as all expenses of this bill will come from the dedicated fund.

STATEMENT OF FACT

This bill results from the study of the Natural Resources Committee pursuant to H. P. 1669. This proposal is intended to provide for reduction of the volume of solid waste, encourage the reuse of materials and the conservation of resources. It provides funds, to communities, many of whom must change their present solid waste programs because of air and water pollution laws to explore alternate possible methods of disposing of solid waste. Several communities are interested in the possibility of energy recovery to generate steam from solid waste incineration. Funds will be available to assist small communities to transport recyclable materials to centers, where sufficient volume encourages private enterprise to pick up the materials for resale and reuse. Strengthened litter laws along with refund value on containers will result in decreased accumulations of litter on our streets and roads. Receptacles and increased awareness of the problem through education has resulted in marked decreases in litter in other states. The sections of the bill pertaining to beverage containers encourages their return to the distributors by providing a refund value. In addition, it encourages the use of standard size and types of containers that are refillable by many manufacturers saving resources, energy and costs.