

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 125

H. P. 95

House of Representatives, January 7, 1981

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Jacques of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Eliminate Rule-Making Authority Under the Bottle Bill and to Repeal Changes made in the Bottle Bill since it was Approved by the Voters.

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

Sec. 1. 32 MRSA c. 28, as amended, is repealed.

Sec. 2. 32 MRSA c. 28-A is enacted to read:

CHAPTER 28-A

MANUFACTURERS, DISTRIBUTORS AND DEALERS OF

BEVERAGE CONTAINERS

§ 1881. 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.

§ 1882. Definitions

As used in this chapter, unless the context otherwise indicates, the following words and phrases have the following meanings.

1. **Beverage.** "Beverage" means beer, ale or other drink produced by fermenting malt, soda water and 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, Food and Rural Resources.
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, Food and Rural Resources.
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 those 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 of his lessor on which the sale is made.
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.

§ 1883. Refund value

Every beverage container sold or offered for sale to a consumer in this State shall have a refund value. 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¢.

§ 1884. 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, the dealer or dealers shall comply with this chapter as if they were distributors, as well as dealers.

§ 1885. Labels; stamps; 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 may 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 chapter and having a brand name permanently marked thereon, are not required to indicate the refund value under subsection 1.

§ 1886. Application.

1. **Dealer acceptance.** Except as provided in this section, a dealer may 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 the dealer, or refuse to pay in cash the refund value of the returned beverage container as established by section 1883. This section does not require an operator of a vending machine to maintain a person to accept returned beverage containers on the premises where the vending machine is located.

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 1887.

3. **Distributor acceptance.** A distributor may 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 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 1883.

4. **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 beverage containers, in an amount which equals at least 1¢ per returned container.

§ 1887. 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 1886.

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.

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.

4. **Redemption center acceptance.** A local redemption center may 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 1883.

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 approval order or if the local redemption center no longer provides a convenient service to the public.

§ 1888. Prohibition on certain types of containers and holders

No beverage container may 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.

§ 1889. **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 constitutes a separate offense.

STATEMENT OF FACT

This bill repeals the present bottle bill and reenacts it in the same form that was approved by the voters in November, 1976, consequently removing the rule-making authority of the Commissioner of Agriculture, Food and Rural Resources which was added by the Legislature in 1977.