

# MAINE STATE LEGISLATURE

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(EMERGENCY)

FIRST REGULAR SESSION

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ONE HUNDRED AND TWELFTH LEGISLATURE

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Legislative Document

No. 1014

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H.P. 704

House of Representatives, March 13, 1985

Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24.

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

EDWIN H. PERT, Clerk

Presented by Representative Michael of Auburn.

Cosponsored by Senator Erwin of Oxford, Senator Black of Cumberland and Representative Parent of Benton.

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STATE OF MAINE

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

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**AN ACT to Implement Procedures for  
Insuring the Safe Return and Proper Disposal of  
Restricted Pesticide Containers.**

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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, by Public Law 1983, chapter 542, the Legislature required for certain limited and restricted use pesticide container deposits sufficient to promote return of the containers, identifying stickers to be affixed to the containers, triple rinsing or equivalent cleaning of the containers and provisions for refunding deposits; and

Whereas, the Legislature required that the provisions of that Act shall go into effect by April 1, 1985; and

1           Whereas, the statute must be clarified to provide  
2 for a constitutional method to collect deposits, provide  
3 for oversight of triple rinsing and provide for  
4 the refund of deposits on certain pesticide containers  
5 purchased out-of-state; and

6           Whereas, in the judgment of the Legislature,  
7 these facts create an emergency within the meaning of  
8 the Constitution of Maine and require the following  
9 legislation as immediately necessary for the preservation  
10 of the public peace, health and safety; now,  
11 therefore,

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

14           Sec. 1. 22 MRSA §1471-Q, as enacted by PL 1983,  
15 c. 542, §§2 and 3, is amended to read:

16           §1471-Q. Return and disposal of limited and re-  
17           stricted use pesticide containers

18           1. Purpose. The purpose of this section is to  
19 insure the triple rinsing or equivalent of limited  
20 and restricted use pesticide containers in accord  
21 with the board's regulations, and provide an incentive  
22 through a deposit system for the return of triple  
23 rinsed pesticide containers. All limited and re-  
24 stricted use pesticide containers shall have a sticker  
25 supplied by the board. That sticker shall be used  
26 to identify those limited and restricted use pesti-  
27 cide containers for which a deposit is required.

28           2. Scope. This section applies to all limited  
29 and restricted use pesticide containers, excluding  
30 those packaged in a cardboard, fiberboard or paper  
31 container, which are sold, bartered or traded within  
32 the State, or ~~transported to the State for use in~~  
33 which, though purchased out-of-state, are held for  
34 use or used within the State.

35           3. Deposit established. The board shall by  
36 ~~regulation~~ rule establish a deposit for restricted  
37 and limited use pesticide containers within the scope  
38 of this section which are sold, bartered or traded  
39 within the State, or ~~transported into the State for~~

1 use in which, though purchased out-of-state, are held  
2 for use or used within the State. The deposit amount  
3 should be sufficient to promote the return of the  
4 limited and restricted use pesticide containers.

5 These regulations adopted by the board in accordance  
6 with the Maine Administrative Procedure Act, Title 5,  
7 chapter 375, shall thereafter be in effect until 90  
8 days after the date of adjournment of the next regu-  
9 lar session of the Legislature, unless the next regu-  
10 lar session shall adopt by legislative enactment that  
11 regulation.

12 4. Deposits collected. All For pesticide con-  
13 tainers within the scope of this section and pur-  
14 chased within the State, pesticide dealers shall, at  
15 the time of purchase, collect the deposit established  
16 by the board for each such pesticide container sub-  
17 ject to this section, which is sold, bartered or  
18 traded within the State or transported into the State  
19 for use in the State. For pesticide containers within  
20 the scope of this section which, though purchased  
21 out-of-state, are held for use or used within the  
22 State, deposits established by the board shall be  
23 collected and held by the board or its agent, as pro-  
24 vided by the board in its rules.

25 5. Stickers required. Upon the sale, trade or  
26 barter of any pesticide container subject to this  
27 section and purchased in the State, the pesticide  
28 dealer shall affix a sticker supplied by the board to  
29 identify those containers. For pesticide containers  
30 subject to this section which, though purchased out-  
31 of-state, are held for use or used within the State,  
32 the person who has ownership or control of the con-  
33 tainer within the State shall obtain and affix a  
34 sticker supplied by the board or its agent and shall  
35 pay a deposit to the board or its agent in accordance  
36 with procedures prescribed by the board by rule. The  
37 sticker shall indicate that the deposit has been paid  
38 and shall be designed so that it can be used to iden-  
39 tify both the dealer and the purchaser in accord with  
40 the board's rules.

41 The board may charge a reasonable fee, in addition to  
42 the required deposit, to pay for the cost of produc-  
43 ing and distributin, stickers.

1 After April 1, 1985, it shall be unlawful for any  
2 person to possess a limited or restricted use pesti-  
3 cide container subject to this ~~regulation~~ section  
4 without a properly approved and affixed sticker, ex-  
5 cept pesticide dealers and distributors may hold con-  
6 tainers if they are for sale and not for personal  
7 use.

8 6. Deposits refunded. Deposits will be refunded  
9 by pesticide dealers on all pesticide containers  
10 bearing the board's stickers at the place of business  
11 of the pesticide dealer who sold, bartered or traded  
12 the restricted or limited use pesticide, or if pur-  
13 chased out-of-state, by the board or its agent, or at  
14 a place otherwise established by regulation, provided  
15 that the containers have been triple rinsed or the  
16 equivalent in accord with the board's regulations  
17 prior to return.

18 7. Authority to adopt rules. The board may  
19 promulgate rules and take such other actions as it  
20 deems necessary to carry out the provisions of this  
21 section.

22 **Sec. 2. Adoption of rules.** Pursuant to the  
23 Maine Revised Statute Title 22, section 1471-Q, sub-  
24 section 3, the Legislature adopts the rules promul-  
25 gated by the Board of Pesticides Control establishing  
26 the following deposits:

27 1. Containers of less than 30 gallons capacity,  
28 \$5 per container; and

29 2. Containers of 30 gallons capacity and over,  
30 \$10 per container.

31 **Emergency clause.** In view of the emergency cited  
32 in the preamble, this Act shall take effect when ap-  
33 proved.

34 STATEMENT OF FACT

35 This bill clarifies the authority of the Board of  
36 Pesticides Control to collect and return deposits on  
37 limited and restricted use pesticides purchased out-  
38 of-state and brought into Maine for use in Maine.

1 This authority was not explicitly granted in "The Act  
2 to Provide for the Return and Proper Disposal of Con-  
3 tainers," enacted by the Legislature in Public Law  
4 1983, chapter 542. An emergency preamble is required  
5 because certain provisions of chapter 542 take effect  
6 April 1, 1985.

7 Section 1 provides:

8 1. That pesticide containers purchased out-  
9 of-state, but held or used within the State, are in-  
10 cluded in the scope of the enabling legislation for  
11 the Pesticides Containers Program;

12 2. That the Board of Pesticides Control estab-  
13 lish the deposit for containers purchased out-  
14 of-state;

15 3. That the board collect the deposits for these  
16 containers not sold by dealers in the State;

17 4. That the person holding containers purchased  
18 out-of-state affix to the container the sticker pro-  
19 vided by the board;

20 5. That the board charge a fee for the cost of  
21 producing and distributing the stickers; and

22 6. That the board, or its designated agent, re-  
23 fund the deposit for those containers purchased out-  
24 of-state.

25 Section 2 fulfills the requirement of the Maine  
26 Revised Statutes, Title 22, section 1471-Q, subsec-  
27 tion 3, that the Legislature adopt rules of the board  
28 establishing fees for container deposits.

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