

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

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ONE HUNDRED AND THIRTEENTH LEGISLATURE

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Legislative Document

NO. 2243

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H.P. 1644 House of Representatives, February 11, 1988

Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 26.

Reference to the Committee on Taxation suggested and  
ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative PARADIS of Old Town.

Cosponsored by Representatives CASHMAN of Old Town,  
MICHAUD of East Millinocket and Senator SEWALL of Lincoln.

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STATE OF MAINE

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

---

1 AN ACT to Establish a Packaging Tax to  
2 Minimize the Use of  
3 Nonbiodegradable Packaging Materials.  
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5 Be it enacted by the People of the State of Maine as  
6 follows:

7 36 MRSA c. 719 is enacted to read:

8 CHAPTER 719

Page 1-LR4029

1                    WASTE REDUCTION PACKAGING TAX

2    §4841. Definitions

3        As used in this chapter, unless the context  
4 otherwise indicates, the following terms have the  
5 following meanings.

6        1. Container. "Container" means a rigid or  
7 semirigid package made in whole or in part of paper,  
8 paperboard, fiber, glass, metal, plastic or any  
9 combination of those materials, in any shape or form,  
10 including barrels, baskets, bottles, boxes, cans,  
11 cartons, carrying cases, cups, cylinders, drums,  
12 glasses, jars, jugs, pails, pots, rigid foil  
13 containers, trays, tubs, tubes, tumblers and vessels  
14 intended for use in packing or packaging any product  
15 intended for sale.

16        2. Office. "Office" means the Office of Waste  
17 Recycling and Reduction established in Title 38,  
18 section 1310-J.

19        3. Recovered material. "Recovered material"  
20 means any material recovered from or otherwise  
21 destined for the waste stream, including post-consumer  
22 material, industrial scrap material and overstock or  
23 obsolete inventories from distributors, wholesalers  
24 and other companies. It does not include any material  
25 and by-product generated from, and commonly reused  
26 within, an original manufacturing process.

27    §4842. Tax imposed

28        1. Amount of tax. A tax is imposed in the amount  
29 of 3¢ on the sale of each container, whether filled or  
30 unfilled, which is sold or supplied for resale at  
31 retail or as a container for a product for retail sale.

32        2. Liability. The tax is imposed on the seller  
33 or supplier of the container. If the seller or  
34 supplier has no business situs in this State, the tax  
35 is imposed upon the purchaser of the container.  
36 Sellers and suppliers having no business situs in this

1 State who sell or supply containers to retailers in  
2 this State may pay the tax so as to prevent its  
3 imposition on the retailer.

4 3. Exemptions. The following containers are  
5 exempt from the tax imposed by this chapter:

6 A. Containers sold or supplied containing a  
7 product intended for use in manufacturing  
8 processes;

9 B. Containers used to package a prescription  
10 medication sold or supplied for retail sale;

11 C. Containers used to package food or food  
12 products sold for human consumption, except  
13 containers used to package wine or other alcoholic  
14 beverages and containers of food and drink of any  
15 nature when sold in or by restaurants, taverns or  
16 other establishments which sell prepared food at  
17 retail; and

18 D. Containers sold or furnished for retail sale  
19 for which the seller or retailer requires a  
20 refundable deposit of at least 5¢ per container  
21 and which may be redeemed for its refund value by  
22 a consumer.

23 §4843. Credits

24 The following credits shall be allowed for  
25 containers under the following circumstances.

26 The office shall adopt by rule, in accordance with  
27 the Maine Administrative Procedure Act, Title 5,  
28 chapter 375, a list of containers for which credits  
29 against the tax imposed by this chapter are allowed.  
30 A container may be listed for one or both of the  
31 following credits.

32 1. Recycling. A 1¢ credit shall be allowed for a  
33 container if the office determines that the container  
34 is capable of being recycled using the following  
35 criteria:

1 A. The ability to separate the container from  
2 mixed solid waste, so as to facilitate the  
3 preparation and processing of the container for  
4 recycling;

5 B. The ability to prepare and process the  
6 container for recycling when the container is  
7 comprised of more than one material;

8 C. The homogeneity of the materials of which the  
9 container is made;

10 D. The economic feasibility of reclaiming and  
11 recycling the container, including the ability of  
12 the recycling industry to absorb the container  
13 into the recovered materials market, the cost of  
14 processing the container into a shape, form or  
15 matter suitable for use as a raw material in  
16 manufacturing or for reuse, or the ability or  
17 willingness of manufacturers to utilize the  
18 container, once processed into a recovered  
19 material suitable as a substitute for virgin raw  
20 materials, in the manufacturing process; and

21 E. Other factors which the office considers to be  
22 suitable qualities and characteristics of the  
23 container for determining whether it is capable of  
24 being recycled.

25 2. Recovered material. A 1¢ credit shall be  
26 allowed for a container if the office determines that  
27 the container is manufactured from the maximum  
28 feasible proportion of recovered material. In  
29 determining the maximum feasible proportion of  
30 recovered material, the office shall consider the  
31 industry standard to be less than the maximum feasible  
32 proportion unless the container manufacturer  
33 demonstrates that it is technically impossible or  
34 economically infeasible to increase the proportion of  
35 recovered materials above the industry standard.

36 §4844. Administration

37 1. Collection. The State Tax Assessor shall  
38 collect the tax provided by this chapter and shall

1 adopt rules, in accordance with the Maine  
2 Administrative Procedure Act, Title 5, chapter 375,  
3 providing for the due dates and method of collection  
4 of the tax.

5 2. Penalties. Failure to pay the tax required by  
6 this chapter or file any of the forms required by the  
7 State Tax Assessor shall be subject to the penalties  
8 and procedures provided in chapter 7.

9 §4845. Use of revenues

10 Revenues from the tax provided by this chapter  
11 shall be deposited in the General Fund and may be  
12 appropriated for the following purposes and in the  
13 following order of priority:

14 1. Collection. Collection of the tax;

15 2. Recycling. Funding the activities of the  
16 Office of Waste Recycling and Reduction established in  
17 Title 38, section 1310-J; and

18 3. Grants to municipalities. Funding grants to  
19 municipalities for solid waste closure and remediation  
20 plans under Title 38, section 1310-F.

21 STATEMENT OF FACT

22 The State has recently recognized the importance  
23 of the issue of solid waste disposal as a hazard to  
24 the environment and as a cost to consumers, businesses  
25 and governments. In recognition of the importance of  
26 this issue, the State has adopted, in Public Law 1987,  
27 chapter 517, a comprehensive state strategy to meet  
28 the solid waste disposal needs of the State and local  
29 governments.

30 An important part of any solid waste strategy is  
31 the reduction of waste sources and the encouragement  
32 of the use of materials that are either easily and  
33 safely degradable or capable of being recycled and are  
34 reusable. Packaging materials and containers of many  
35 kinds pose a particular solid waste problem. These

1 materials are generally a common source of waste, and  
2 with the benefit of encouragement and sanction, are a  
3 promising area for improving the level of effort to  
4 best recycle products.

5 The purpose of this bill is to encourage the use  
6 of reuseable packaging, packaging which can be  
7 recycled and packaging made from the maximum feasible  
8 amount of recovered materials. It is also the intent  
9 of this bill to encourage the development of markets  
10 for recycled materials and to provide financial  
11 assistance for the remediation of solid waste  
12 landfills.

13 This bill would levy a 3¢ per unit tax on certain  
14 rigid and semirigid containers used to package nonfood  
15 products and fast-food products which are intended for  
16 sale at retail. Containers which have a refund value  
17 or deposit of at least 5¢ per container would be  
18 exempt from the tax imposed by this bill.

19 This bill would authorize credits against the tax  
20 based upon the ability of containers to be recycled or  
21 based upon the amount of recovered materials used in  
22 manufacturing the containers. The Office of Waste  
23 Recycling and Reduction will review packages and  
24 containers to determine eligibility for credits  
25 against or exemptions from the waste reduction  
26 packaging tax. Revenues from the tax would be  
27 available to be used for state grants for recycling  
28 and landfill remediation, and for administrative costs  
29 to implement the waste reduction packaging tax, to  
30 administer the solid waste management program and to  
31 support the Office of Waste Recycling and Reduction.

32 Although revenue projections are very difficult  
33 and will depend upon the number of credits granted, it  
34 is anticipated that this tax will produce  
35 approximately \$4,000,000 to \$5,000,000 which, after  
36 deducting for the costs of collection, would be used  
37 to fund grants to municipalities for the cost of solid  
38 waste landfill closure and remediation and for  
39 activities designed to encourage recycling and the use  
40 of recycled materials.

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