

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 25

H.P. 27

House of Representatives, January 26, 1989

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads 'Ed Pert'.

EDWIN H. PERT, Clerk

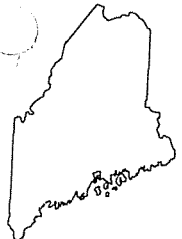
Presented by Representative PARADIS of Old Town.

Cosponsored by Senator PEARSON of Penobscot, Representative MICHAUD of East Millinocket and Representative TUPPER of Orrington.

STATE OF MAINE

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

**AN ACT to Reduce the Amount of Materials from the Waste Stream
by Encouraging Recycling.**



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

3 **36 MRSA c. 719** is enacted to read:

5 **CHAPTER 719**

7 **WASTE REDUCTION PACKAGING TAX**

9 **§4841. Definitions**

11 As used in this chapter, unless the context otherwise
13 indicates, the following terms have the following meanings.

15 1. Container. "Container" means a rigid or semirigid
17 package made in whole or in part of paper, paperboard, fiber,
19 glass, metal, plastic or any combination of those materials, in
21 any shape or form, including, but not limited to, barrels,
baskets, bottles, boxes, cans, cartons, carrying cases, cups,
cylinders, drums, glasses, jars, jugs, pails, pots, rigid foil
containers, trays, tubs, tubes, tumblers and vessels intended for
use in packing or packaging any product intended for sale.

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

27 3. Recovered material. "Recovered material" means any
29 material recovered from or destined for the waste stream,
31 including post-consumer material, industrial scrap material and
33 overstock or obsolete inventories from distributors, wholesalers
and other companies. It does not include any material and
by-product generated from, and commonly reused within, an
original manufacturing process.

35 **§4842. Tax imposed**

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

41 2. Liability. The tax is imposed on the seller or supplier
43 of the container. If the seller or supplier has no business
45 situs in this State, the tax is imposed upon the purchaser of the
47 container. Sellers and suppliers having no business situs in
this State who sell or supply containers to retailers in this
State may pay the tax so as to prevent its imposition on the
retailer.

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

- 1 A. Containers sold or supplied containing a product
2 intended for use in manufacturing processes;
3
4 B. Containers used to package a prescription medication
5 sold or supplied for retail sale;
6
7 C. Containers used to package food or food products sold
8 for human consumption, except containers used to package
9 wine or other alcoholic beverages and containers of food and
10 drink of any nature when sold in or by restaurants, taverns
11 or other establishments which sell prepared food at retail;
12 and
13
14 D. Containers sold or furnished for retail sale for which
15 the seller or retailer requires a refundable deposit of at
16 least 5¢ per container and which may be redeemed for its
17 refund value by a consumer.

19 §4843. Credits

21 The following credits shall be allowed for containers under
22 the following circumstances.

23
24 The office shall adopt by rule, in accordance with the Maine
25 Administrative Procedure Act, Title 5, chapter 375, a list of
26 containers for which credits against the tax imposed by this
27 chapter are allowed. A container may be listed for one or both
28 of the following credits.

29
30 1. Recycling. A 1¢ credit shall be allowed for a container
31 if the office determines that the container is capable of being
32 recycled using the following criteria:

33 A. The ability to separate the container from mixed solid
34 waste, so as to facilitate the preparation and processing of
35 the container for recycling;

36
37 B. The ability to prepare and process the container for
38 recycling when the container is comprised of more than one
39 material;

40
41 C. The homogeneity of the materials of which the container
42 is made;

43
44 D. The economic feasibility of reclaiming and recycling the
45 container, including the ability of the recycling industry
46 to absorb the container into the recovered materials market,
47 the cost of processing the container into a shape, form or
48 matter suitable for use as a raw material in manufacturing
49 or for reuse, or the ability or willingness of manufacturers
50 to utilize the container, once processed into a recovered
51

1 material suitable as a substitute for virgin raw materials,
2 in the manufacturing process; and

3
4 E. Other factors which the office considers to be suitable
5 qualities and characteristics of the container for
6 determining whether it is capable of being recycled.

7
8 2. Recovered material. A 1¢ credit shall be allowed for a
9 container if the office determines that the container is
10 manufactured from the maximum feasible proportion of recovered
11 material. In determining the maximum feasible proportion of
12 recovered material, the office shall consider the industry
13 standard to be less than the maximum feasible proportion unless
14 the container manufacturer demonstrates that it is technically
15 impossible or economically infeasible to increase the proportion
16 of recovered materials above the industry standard.

17 **§4844. Administration**

18
19 1. Collection. The State Tax Assessor shall collect the
20 tax provided by this chapter and shall adopt rules, in accordance
21 with the Maine Administrative Procedure Act, Title 5, chapter
22 375, providing for the due dates and method of collection of the
23 tax.

24
25 2. Penalties. Failure to pay the tax required by this
26 chapter or to file any of the forms required by the State Tax
27 Assessor shall be subject to the penalties and procedures
28 provided in chapter 7.

29
30 **§4845. Use of revenues**

31
32 Revenues from the tax provided by this chapter shall be
33 deposited in the General Fund and may be appropriated for the
34 following purposes and in the following order of priority:

35
36 1. Collection. Collection of the tax;

37
38 2. Recycling. Funding the activities of the Office of
39 Waste Recycling and Reduction established in Title 38, section
40 1310-J; and

41
42 3. Grants to municipalities. Funding grants to
43 municipalities for solid waste landfill closure and remediation
44 plans under Title 38, section 1310-F.

45
46
47
48 **STATEMENT OF FACT**

49
50 The State has recently recognized the importance of the
51 issue of solid waste disposal as a hazard to the environment and
as a cost to consumers, businesses and governments. In

1 recognition of the importance of this issue, the State has
3 adopted, in Public Law 1987, chapter 517, a comprehensive state
5 strategy to meet the solid waste disposal needs of the State and
7 local governments.

9 An important part of any solid waste strategy is the
11 reduction of waste sources and the encouragement of the use of
13 materials that are either easily and safely degradable or capable
15 of being recycled and are reusable. Packaging materials and
17 containers of many kinds pose a particular solid waste problem.
19 These materials are generally a common source of waste, and with
21 the benefit of encouragement and sanction, are a promising area
23 for improving the level of effort to best recycle products.

25 The purpose of this bill is to encourage the use of
27 reuseable packaging, packaging which can be recycled and
29 packaging made from the maximum feasible amount of recovered
31 materials. It is also the intent of this bill to encourage the
33 development of markets for recycled materials and to provide
35 financial assistance for the remediation of solid waste landfills.

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

47 This bill would authorize credits against the tax based upon
49 the ability of containers to be recycled or based upon the amount
51 of recovered materials used in manufacturing the containers. The
53 Office of Waste Recycling and Reduction will review packages and
55 containers to determine eligibility for credits against or
57 exemptions from the waste reduction packaging tax. Revenues from
59 the tax would be available to be used for state grants for
61 recycling and landfill remediation, and for administrative costs
63 to implement the waste reduction packaging tax, to administer the
65 solid waste management program and to support the Office of Waste
67 Recycling and Reduction.

69 Although revenue projections are very difficult and will
71 depend upon the number of credits granted, it is anticipated that
73 this tax will produce approximately \$4,000,000 to \$5,000,000
75 which, after deducting for the costs of collection, would be used
77 to fund grants to municipalities for the cost of solid waste
79 landfill closure and remediation and for activities designed to
81 encourage recycling and the use of recycled materials.