

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2131

H.P. 1519

House of Representatives, January 9, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Business Legislation suggested and ordered printed.

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

EDWIN H. PERT, Clerk

Presented by Representative HOGLUND of Portland.
Cosponsored by Senator BALDACCI of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act Relating to Unredeemed Deposits.



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

4 Sec. 1. 28-A MRSA §1651, sub-§1, ¶C, as affected by PL 1989,
c. 869, Pt. C, §12, is amended to read:

6 C. The commission shall add any cost to the State, related
8 to handling containers returned for refund pursuant to Title
10 32, section ~~1863~~ 1863-A, to the established price without
markup.

12 Sec. 2. 32 MRSA §1863, as amended by PL 1991, c. 591, Pt. R,
§1, is repealed.

14 Sec. 3. 32 MRSA §§1863-A and 1863-B are enacted to read:

16 §1863-A. Refund value

18 To encourage container reuse and recycling, every beverage
20 container sold or offered for sale to a consumer in this State
22 must have a deposit and refund value. The deposit and refund
value are determined according to the provisions of this section.

24 1. Refillable containers. For refillable beverage
26 containers, except wine and spirits containers, the manufacturer
28 shall determine the deposit and refund value according to the
type, kind and size of the beverage container. The deposit and
refund value may not be less than 5¢.

30 2. Nonrefillable containers; exclusive distributorships.
32 For nonrefillable beverage containers, except wine and spirits
34 containers, sold through geographically exclusive
distributorships, the distributor shall determine and initiate
the deposit and refund value according to the type, kind and size
of the beverage container. The deposit and refund value must not
be less than 5¢.

36 3. Nonrefillable containers; nonexclusive
38 distributorships. For nonrefillable beverage containers, except
40 wine and spirits containers, not sold through geographically
exclusive distributorships, the deposit and refund value may not
be less than 5¢.

42 4. Wine and spirits containers. For wine and spirits
44 containers of greater than 50 milliliters, the refund value may
46 not be less than 15¢. On January 1, 1992, the department shall
48 issue a finding on the percentages of wine containers and spirits
containers returned for deposit. If the department finds the
return rate of wine containers was less than 60% during 1991,
then, on July 1, 1992, the refund value on wine containers may
not be less than 25¢. If the department finds the return rate of

2 spirits containers was less than 60% during 1991, then, on July
3 1, 1992, the refund value of spirits containers may not be less
4 than 25¢.

6 **§1863-B. Abandoned deposits on nonrefillable containers**

8 The minimum deposit established by section 1863-A,
9 subsection 2, 3 or 4 is the property of the consumer who
10 purchases a beverage container and is held in trust by the
11 deposit initiator for the consumer or for the State if the
12 deposit is abandoned by the consumer. Any such deposit amount
13 established in excess of the minimum deposit is held in trust by
14 the deposit initiator for the consumer and is the property of the
15 deposit initiator if abandoned by the consumer.

16 **Sec. 4. 32 MRSA §1865, sub-§1-A,** as enacted by PL 1991, c.
17 491, §2, is amended to read:

18 **1-A. Labels; nonrefillable containers; nonexclusive**
19 **distributorships.** With respect to nonrefillable beverage
20 containers the deposits for which are initiated pursuant to
21 section ~~1863~~ 1863-A, subsection 2-B 3, the refund value and the
22 word "Maine" or the abbreviation "ME" must be clearly indicated
23 on every refundable beverage container sold or offered for sale
24 by a dealer in this State, by permanently embossing or
25 permanently stamping the beverage containers, except in instances
26 when the initiator of the deposit has specific permission from
27 the department to use stickers or similar devices. The refund
28 value may not be indicated on the bottom of the container. Metal
29 beverage containers must be permanently embossed or permanently
30 stamped on the tops of the containers.

32 **Sec. 5. 32 MRSA §1865, sub-§2,** as amended by PL 1989, c. 817,
33 §3 and c. 869, Pt. C, §§3 and 15, is repealed and the following
34 enacted in its place:

36 **2. Brand name.** Refillable glass beverage containers of
37 carbonated beverages, for which the deposit is initiated under
38 section 1863-A, subsection 1, that have a refund value of not
39 less than 5¢ and a brand name permanently marked on the container
40 are not required to comply with subsection 1. The exception
41 provided by this subsection does not apply to glass beverage
42 containers that contain spirits, wine or malt liquor as those
43 terms are defined by Title 28-A, section 2.

46 **Sec. 6. 32 MRSA §1866, sub-§§1 and 3,** as enacted by PL 1975, c.
47 739, §16, are amended to read:

48 **1. Dealer acceptance.** Except as provided in this section, a
49 dealer shall may not refuse to accept from any consumer or other
50

2 person not a dealer any empty, unbroken and reasonably clean
3 beverage container of the kind, size and brand sold by the
4 dealer, or refuse to pay in cash the refund value of the returned
5 beverage container as established by section ~~1863~~ 1863-A. This
6 section shall does not require an operator of a vending machine
7 to maintain a person to accept returned beverage containers on
8 the premises where the vending machine is located.

9
10 **3. Distributor acceptance.** A distributor shall may not
11 refuse to accept from any dealer or local redemption center any
12 empty, unbroken and reasonably clean beverage container of the
13 kind, size and brand sold by the distributor or refuse to pay to
14 the dealer or local redemption center the refund value of a
15 beverage container as established by section ~~1863~~ 1863-A.

16 **Sec. 7. 32 MRSA §1866, sub-§4, ¶¶A and B,** as enacted by PL
17 1989, c. 869, Pt. C, §4 and affected by §15, are amended to read:

18
19 A. In addition to the payment of the refund value, the
20 initiator of the deposit under section ~~1863~~ 1863-A,
21 subsections 1, 2-A 2 and 3 4 shall reimburse the dealer or
22 local redemption center for the cost of handling beverage
23 containers subject to section ~~1863~~ 1863-A, in an amount that
24 equals at least 3¢ per returned container.

25
26 B. In addition to the payment of the refund value, the
27 initiator of the deposit under section ~~1863~~ 1863-A,
28 subsection 2-B 3 shall reimburse the dealer or local
29 redemption center for the cost of handling beverage
30 containers subject to section ~~1863~~ 1863-A in an amount that
31 equals at least 3¢ per returned container. The initiator of
32 the deposit may reimburse the dealer or local redemption
33 center directly or indirectly through a contracted agent.

34
35 **Sec. 8. 32 MRSA §1866, sub-§5, ¶¶A and B,** as enacted by PL
36 1989, c. 869, Pt. C, §5 and affected by §15, are amended to read:

37
38 A. A distributor that initiates the deposit under section
39 ~~1863~~ 1863-A, subsection 2-A 2 or 3 4 has the obligation to
40 pick up any empty, unbroken and reasonably clean beverage
41 containers of the particular kind, size and brand sold by
42 the distributor from dealers to whom that distributor has
43 sold those beverages and from licensed redemption centers
44 designated to serve those dealers pursuant to an order
45 entered under section 1867. A distributor that, within this
46 State, sells beverages under a particular label exclusively
47 to one dealer, which dealer offers those labeled beverages
48 for sale at retail exclusively at the dealer's
49 establishment, shall pick up any empty, unbroken and
50 reasonably clean beverage containers of the kind, size and

2 brand sold by the distributor to the dealer only from those
3 licensed redemption centers that serve the various
4 establishments of the dealer, under an order entered under
5 section 1867. A dealer that manufactures its own beverages
6 for exclusive sale by that dealer at retail has the
7 obligation of a distributor under this section. The
8 commissioner may establish by rule, in accordance with the
9 Maine Administrative Procedure Act, criteria prescribing the
10 manner in which distributors shall fulfill the obligations
11 imposed by this paragraph. The rules may establish a
12 minimum number or value of containers below which a
13 distributor is not required to respond to a request to pick
14 up empty containers. Any rules promulgated under this
15 paragraph must allocate the burdens associated with the
16 handling, storage and transportation of empty containers to
17 prevent unreasonable financial or other hardship.

18 B. The initiator of the deposit under section ~~1863~~ 1863-A,
19 subsection ~~2-B~~ 3 has the obligation to pick up any empty,
20 unbroken and reasonably clean beverage containers of the
21 particular kind, size and brand sold by the initiator from
22 dealers to whom a distributor has sold those beverages and
23 from licensed redemption centers designated to serve those
24 dealers pursuant to an order entered under section 1867.
25 The obligation may be fulfilled by the initiator directly or
26 indirectly through a contracted agent.

28 **Sec. 9. 32 MRSA §1866, sub-§7**, as enacted by PL 1991, c. 591,
29 Pt. R, §3 and affected by §18, is amended to read:

30 **7. Deposit transaction account.** Each distributor and
31 manufacturer shall maintain an escrow account, known as the
32 deposit transaction account, for the collection of deposit and
33 refund values pursuant to section ~~1863~~ 1863-A and the
34 distribution of refund values and unclaimed deposits pursuant to
35 subsection 3 and section 1866-A, except that a distributor and
36 manufacturer are not required to maintain a deposit transaction
37 account, for any purpose, for deposit and refund values with
38 respect to containers governed by section 1863-A, subsection 1.
39 Funds deposited in the deposit transaction account may not be
40 used for the reimbursement of handling costs pursuant to
41 subsection 4 or for any other purpose not expressly authorized in
42 this subsection.

44 **Sec. 10. 32 MRSA §1866-A, first ¶**, as enacted by PL 1991, c.
45 591, Pt. R, §4 and affected by §18, is amended to read:

48 Deposits Except for deposits on containers that are
49 initiated pursuant to section 1863-A, subsection 1, deposits are
50 presumed abandoned and are unclaimed deposits when retained by a

2 manufacturer or distributor 60 days after being collected during
any 3-month period ending the last day of March, June, September
4 or December. Deposit initiators pursuant to section 1863 1863-A,
subsections 2, 3 and 4 must report deposit-related activity and
6 disburse unclaimed deposits in accordance with the provisions of
this section.

8 **Sec. 11. 32 MRSA §1867, sub-§4**, as enacted by PL 1975, c. 739,
§16, is amended to read:

10
12 **4. Redemption center acceptance.** A local redemption center
shall may not refuse to accept from any consumer or other person
14 not a dealer any empty, unbroken and reasonably clean beverage
container of the kind, size and brand sold by a dealer served by
16 the center or refuse to pay in cash the refund value of the
returned beverage container as established by section 1863 1863-A.

18
20 **STATEMENT OF FACT**

22 The First Regular Session of the 115th Legislature enacted a
law requiring initiators of deposits to remit to the State 50% of
24 the deposits collected on bottles that are not returned by the
consumer. This bill exempts refillable and reusable containers
26 from that law in recognition of the fact that these containers
further the State's goal of promoting recycling and source
28 recycling and source reduction.