

# MAINE STATE LEGISLATURE

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L.D. 687

DATE: 6/15/95

(Filing No. H- 498)

MAJORITY  
BUSINESS AND ECONOMIC DEVELOPMENT

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
117TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 506, L.D. 687, Bill, "An Act Regarding Unredeemed Deposits on Beverage Containers"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 32 MRSA §1863-B, as enacted by PL 1991, c. 819, §3, is repealed.

Sec. 2. 32 MRSA §1866, sub-§7, as amended by PL 1991, c. 819, §9, is repealed.

Sec. 3. 32 MRSA §1866-A, as amended by PL 1991, c. 819, §§10 and 11, is repealed.

Sec. 4. 32 MRSA §1866-B is enacted to read:

§1866-B. State payments to deposit initiators

1. Overpayments. If a deposit initiator has paid the Treasurer of State more than 50% of its unclaimed minimum deposits during calendar year 1995, the deposit initiator may apply for a refund of the overpayment. Applications for refunds must be filed with the Treasurer of State between March 1, 1996 and April 20, 1996. The Treasurer of State shall refund to the initiator documented claims of overpayment.

**COMMITTEE AMENDMENT**

2 2. Over-redemptions. If a deposit initiator retained a  
3 carry-over credit of 50% of over-redeemed minimum deposits from  
4 prior years at the end of calendar year 1994, the deposit  
5 initiator may apply for a cash payment of any amount of the  
6 carry-over credit that remains as of December 31, 1995.  
7 Applications for payment of carry-over credits must be filed with  
8 the Treasurer of State between March 1, 1996 and April 20, 1996.  
9 After the payments have been made, and to the extent that  
10 sufficient revenues from deposits collected during calendar year  
11 1995 remain, the Treasurer of State may equitably pay deposit  
12 initiators for a maximum of 50% of documented over-redeemed  
13 minimum deposits in calendar year 1995. Deposit initiators  
14 seeking payment for 50% of over-redeemed deposits from 1995 must  
15 file application for payment with the Treasurer of State between  
16 March 1, 1996 and April 20, 1996.

17 Sec. 5. 32 MRSA §1866-C is enacted to read:

18 §1866-C. Reporting and payment obligations

19 Any distributor or manufacturer who was subject to the  
20 reporting and payment obligations under former section 1866-A and  
21 who failed to comply with the requirements of that section shall  
22 file reports and immediately make payments to the Treasurer of  
23 State in accordance with that former section. Deposit initiators  
24 who fail to comply with this section are subject to the penalties  
25 in section 1869, subsections 1 and 2. If reports were not filed  
26 in accordance with former section 1866-A, reimbursements or  
27 credits for over-redeemed minimum deposits may not be allowed.  
28 The Treasurer of State may conduct audits of any distributor or  
29 manufacturer subject to the former section 1866-A to determine  
30 whether that distributor or manufacturer has come into compliance.

31 Sec. 6. 32 MRSA §1869, sub-§3, as amended by PL 1991, c. 591,  
32 Pt. R, §5, is repealed.

33 Sec. 7. 32 MRSA §1871, 2nd ¶, as enacted by PL 1991, c. 591,  
34 Pt. R, §6, is repealed and the following enacted in its place:

35 The Treasurer of State has continuing authority to enforce  
36 rules, previously adopted in implementation of former section  
37 1866, subsection 7 and former section 1866-A, to conduct audits,  
38 to pursue payments owed or to seek penalties against any deposit  
39 initiator in accordance with section 1869, subsections 1 and 2,  
40 who failed to meet that initiator's responsibilities under former  
41 sections 1866, subsection 7 and 1866-A.

42 Sec. 8. 38 MRSA §2201, last ¶, as repealed and replaced by PL  
43 1993, c. 410, Pt. C, §8, is amended to read:

**ADD**

2 Funds related to administration may only be expended only in  
 4 accordance with allocations approved by the Legislature for  
 6 administrative expenses directly related to the agency's and the  
 8 department's programs, including actions by the department  
 10 necessary to abate imminent threats to public health, safety and  
 12 welfare posed by the illegal disposal of solid waste. Funds  
 14 related to operations may only be expended only in accordance  
 16 with allocations approved by the Legislature and solely for the  
 18 development and operation of publicly owned facilities owned or  
 20 approved by the agency and for the repayment of any obligations  
 22 of the agency incurred under article 3. These allocations must  
 24 be based on estimates of the actual costs necessary for the  
 26 agency and the department to administer their programs, to  
 28 provide financial assistance to regional associations and to  
 30 provide other financial assistance necessary to accomplish the  
 purposes of this chapter. Beginning in the fiscal year ending on  
 June 30, 1991 and thereafter, the fund must annually transfer to  
 the General Fund an amount necessary to reimburse the costs of  
 the Bureau of Taxation incurred in the administration of Title  
 36, section 5219-D and Title 36, chapter 719 and an amount equal  
 to the General Fund revenues lost as the result of Title 36,  
 sections 2526 and 5219-D. ~~Beginning in the fiscal year ending  
 June 30, 1994 and thereafter, the fund must support allocations  
 approved by the Legislature for administrative expenses and  
 reimbursement costs directly related to the administration of  
 Title 32, section 1866, subsection 7 and Title 32, section 1866-A  
 by the Treasurer of State.~~ Allowable expenditures include  
 "Personal Services," "All Other" and "Capital Expenditures"  
 associated with all agency activities other than those included  
 in the operations account.

32 **Sec. 9. Allocation.** The following funds are allocated from  
 34 Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
<b>(OFFICE OF) TREASURER OF STATE</b>		
<b>Administration - Treasury</b>		
Positions	(-1.0)	(-2.0)
Personal Services	(\$27,872)	(\$64,566)
All Other	(5,596)	(5,747)
Deallocates funds due to the repeal of the unclaimed beverage container program including the elimination of one Clerk II position in fiscal year 1995-96 and the		

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additional elimination of an Auditor I position in fiscal year 1996-97.

(OFFICE OF) TREASURER OF STATE TOTAL

(\$33,468) (\$70,313)

Sec. 10. Transition provisions.

1. Notwithstanding the repeal of the reporting requirements contained in the Maine Revised Statutes, Title 32, section 1866-A, subsection 1 by this Act, each deposit initiator shall submit a final report on or before March 20, 1996.

2. Notwithstanding the repeal by this Act of Title 32, section 1866-A, subsection 2, each deposit initiator shall submit a final payment to the Treasurer of State on or before March 20, 1996 in an amount equal to 50% of the unclaimed minimum deposits held by the deposit initiator for the 3-month period ending on the last day of December 1995.

3. Subject to audit, all unclaimed minimum deposits in deposit transaction accounts remaining after any required payment to the State, or, as of March 20, 1996, whichever is later, may be retained by and become the property of the deposit initiator.

4. Notwithstanding the repeal by this Act of the provisions relating to the administrative costs of the Treasurer of State in Title 38, section 2201, the Maine Solid Waste Management Fund must support allocations approved by the Legislature for administrative expenses and reimbursement costs directly related to the phaseout of the unclaimed beverage container deposit laws through June 30, 1996. Auditing and reimbursement costs of the Treasurer of State may be paid from any amounts recovered in enforcement efforts continuing beyond June 30, 1996.

Sec. 11. Effective date. Sections 1 to 3 and 5 to 8 of this Act take effect December 31, 1995.'

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

Table with columns for 1995-96 and 1996-97, and rows for APPROPRIATIONS/ALLOCATIONS and Other Funds.

2 Repealing the laws related to unclaimed beverage containers,  
3 effective December 31, 1995, will result in a loss of budgeted  
4 dedicated revenue to the Solid Waste Management Fund. The most  
5 recent revenue estimates assume that the amounts of dedicated  
6 revenue received from unclaimed bottle deposits will be  
7 approximately offset by payments to deposit initiators for  
8 overpayments and over-redemptions and by funding for the Office  
9 of the Treasurer of State for the costs to administer revenue  
10 collection activities.

12 While the exact impact on revenue can not be determined,  
13 sufficient net revenue is available to support an Auditor I  
14 position in the Office of the Treasurer of State during fiscal  
15 year 1995-96. The bill includes deallocations to reflect the  
16 elimination of a Clerk II position effective with fiscal year  
17 1995-96 and to reflect elimination of the entire program in  
18 fiscal year 1996-97.

20 The Governor's proposed current services budget includes  
21 changes that may affect this bill's impact. This estimate of the  
22 fiscal impact may need to be adjusted based on final legislative  
23 actions on the current services budget.'

## 26 STATEMENT OF FACT

28 This amendment phases out the laws relating to unclaimed  
29 beverage container deposits, with the exception of laws allowing  
30 for any necessary audit and enforcement activity against deposit  
31 initiators who failed to meet their prior statutory  
32 responsibilities.

34 This amendment clarifies the intent of the Legislature that  
35 reimbursements were to be no greater than 50% of over-redeemed  
36 minimum deposits and further, that there is no statutory right to  
37 any reimbursements for over-redemptions in calendar year 1995.

38 The amendment also adds an allocation section and a fiscal  
40 note to the bill.