

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 2184

H.P. 1685

House of Representatives, March 19, 2002

**An Act to Implement the Recommendations of the Returnable Container
Handling and Collection Study.**

Reported by Representative RICHARDSON for the Joint Standing Committee on Business
and Economic Development pursuant to Joint Order 2001, H.P. 1389.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

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

2
4 **Sec. 1. 32 MRSA §1861, sub-§2**, as amended by PL 1979, c. 731, §19, is further amended to read:

6 **2. Intent.** It is the intent of the Legislature to create
8 incentives for the manufacturers, distributors, dealers and
10 consumers of beverage containers to reuse or recycle beverage
12 containers thereby removing the blight on the landscape caused by
the disposal of these containers on the highways and lands of the
State and reducing the increasing costs of litter collection and
municipal solid waste disposal.

14 ~~This chapter will be administered by the Department of~~
16 ~~Agriculture, Food and Rural Resources with the authority to~~
18 ~~interpret the chapter and to issue the necessary rules and~~
20 ~~regulations in order to carry it into effect.~~

22 **Sec. 2. 32 MRSA §1862, sub-§§8-A and 8-B** are enacted to read:

24 **8-A. Initiator of deposit.** "Initiator of deposit" means a
26 manufacturer, distributor or other person who initiates a deposit
28 on a beverage container under section 1863-A.

30 **8-B. Local redemption center.** "Local redemption center"
32 means a place of business that deals in acceptance of empty
34 returnable beverage containers from either consumers or from
36 dealers, or both, and that must be licensed under section 1871-A.

38 **Sec. 3. 32 MRSA §1865, sub-§3** is enacted to read:

40 **3. Label registration.** An initiator of deposit shall
42 register the container label of any beverage offered for sale in
44 the State on which it initiates a deposit. Registration must be
46 on forms or in an electronic format provided by the department
48 and shall include the universal product code for each combination
of beverage and container manufactured. The initiator of deposit
shall renew a label registration annually and whenever that label
is revised by altering the universal product code or whenever the
container on which it appears is changed in size, composition or
glass color. The initiator of deposit shall also include as part
of the registration the method of collection for that type of
container, identification of a collection agent and proof of the
collection agreement. The department may charge a fee for
registration and registration renewals under this subsection.
Rules adopted pursuant to this subsection that establish fees are
major substantive rules as defined in Title 5, chapter 375,
subchapter II-A and subject to review by the joint standing

2 committee of the Legislature having jurisdiction over business
3 and economic development matters.

4 **Sec. 4. 32 MRSA §1866-B**, as enacted by PL 1995, c. 395, Pt.
5 P, §4, is repealed.

6 **Sec. 5. 32 MRSA §1866-C**, as enacted by PL 1995, c. 395, Pt.
7 P, §5 and affected by §11, is repealed.

8 **Sec. 6. 32 MRSA §1867, sub-§3**, as enacted by PL 1975, c. 739,
9 §16, is amended to read:

10 **3. Approval.** The commissioner shall approve the licensing
11 of a local redemption center if he finds that the center will
12 provide a convenient service for the return of empty beverage
13 containers the redemption center complies with the requirements
14 established under section 1871-A. The order approving a local
15 redemption center shall license must state the dealers to be
16 served and the kinds, sizes and brand names of empty beverage
17 containers which that the center shall ~~accept~~ accepts.

18 **Sec. 7. 32 MRSA §1867, sub-§4**, as amended by PL 1991, c. 819,
19 §12, is further amended to read:

20 **4. Redemption center acceptance.** A local redemption center
21 may not refuse to accept from any consumer or other person not a
22 dealer any empty, unbroken and reasonably clean beverage
23 container of the kind, size and brand sold by a dealer served by
24 the center as long as the label for the container is registered
25 under section 1865, subsection 3 or refuse to pay in cash the
26 refund value of the returned beverage container as established by
27 section 1863-A.

28 **Sec. 8. 32 MRSA §1871**, as amended by PL 1995, c. 395, Pt. P,
29 §7 and affected by §11, is repealed.

30 **Sec. 9. 32 MRSA §§1871-A, 1871-B and 1871-C** are enacted to
31 read:

32 **§1871-A. Licensing requirements**

33 A license issued annually by the department is required
34 before any person may initiate deposits under section 1863-A,
35 operate a redemption center under section 1867 or act as a
36 contracted agent for the collection of beverage containers under
37 section 1866, subsection 5, paragraph B.

38 **1. Procedures; licensing fees.** The department shall adopt
39 rules establishing the requirements and procedures for issuance
40 of licenses and annual renewals under this section, including a

2 fee structure. Initial rules adopted pursuant to this subsection
3 are routine technical rules as defined in Title 4, chapter 375,
4 subchapter II-A. Rules adopted effective after calendar year
5 2003 are major substantive rules as defined in Title 5, chapter
6 375, subchapter II-A and are subject to review by the joint
7 standing committee of the Legislature have jurisdiction over
8 business and economic development matters.

9
10 2. **Criteria for licensing rules.** In developing rules under
11 subsection 1 for licensing redemption centers, the department
12 shall consider at least the following:

13
14 A. The health and safety of the public, including
15 sanitation protection when food is also sold on the
16 premises; and

17
18 B. The convenience for the public, including standards
19 governing the distribution of centers by population or by
20 distance, or both.

21 **§1871-B. Beverage Container Enforcement Fund**

22
23 1. **Creation.** The Beverage Container Enforcement Fund,
24 referred to in this section as the "fund," is created under the
25 jurisdiction and control of the department.

26
27 2. **Sources of money.** The fund consists of the following:

28
29 A. Fees for issuance of licenses and license renewals under
30 section 1871-A;

31
32 B. Fees for registration of beverage container labels and
33 registration renewals under section 1865, subsection 3; and

34
35 C. All other money appropriated or allocated for inclusion
36 in the fund.

37
38 3. **Application of fund.** The department may combine
39 administration and inspection responsibilities of other programs
40 it administers with administration and enforcement
41 responsibilities under this chapter for efficiency purposes;
42 however, money in the fund may be used to fund only the portion
43 of staff time devoted to administration and enforcement
44 activities under this chapter.

45
46 4. **Revolving fund.** The fund is a nonlapsing, revolving
47 fund. All money in the fund must be continuously applied by the
48 department to carry out the administrative and enforcement
49 responsibilities of the department under this chapter.

50
51 **§1871-C. Department administration**

52
53 The department shall administer this chapter and has the
54 authority, following public hearing, to adopt necessary rules to

2 carry it into effect. The department may adopt rules governing
4 local redemption centers that receive beverage containers from
6 dealers supplied by distributors other than the distributors
8 servicing the area in which the local redemption center is
located in order to prevent the distributors servicing the area
within which the redemption center is located from being unfairly
penalized. In addition to other actions required by this
chapter, department responsibilities include the following.

10 **1. Registry of labels.** The department shall establish and
12 maintain a registry of beverage container labels. The registry
14 must contain the information for each beverage type and beverage
16 container filed under section 1865, subsection 3 arranged and
displayed in an organized and comprehensible manner. The
department shall update the registry regularly and make
information from the registry available upon request.

18 **2. Provision of information.** The department shall provide
20 information about the operation of this chapter to any affected
22 person whose premises it inspects or visits as part of its
licensing and inspection responsibilities.

24 **Sec. 10. 32 MRSA §1872, sub-§1,** as enacted by PL 1989, c. 585,
Pt. D, §§9 and 11, is repealed.

26 **Sec. 11. Implementation of label registration requirements.** In
28 implementing the label registration requirements of the Maine
Department of Agriculture, Food and Rural Resources shall
30 coordinate with the Department of Public Safety, Bureau of Liquor
Enforcement and the Department of Administrative and Financial
32 Services, Bureau of Alcoholic Beverages and Lottery Operations so
that, to the maximum extent possible, registration of beer, wine
34 and spirits under that subsection does not duplicate registration
requirements enforced by those bureaus.

36 **Sec. 12. Implementation of licensing fees.** In adopting rules
38 establishing licensing fees under the Maine Revised Statutes,
Title 32, section 1871-A, the Department of Agriculture, Food and
40 Rural Resources shall base the amount of fees on the actual cost
of implementing increased responsibilities under this Act.
42 Initially, fees may be set at a level to cover one-time start-up
costs, but after that fees must be set at a level to cover
44 ongoing costs only, except for calendar years 2003 and 2004 when
the department shall issue redemption centers a 2-year license
46 for a fee not to exceed \$40. Under the direction of the joint
standing committee of the Legislature have jurisdiction over
48 business and economic development matters, the department shall
consult with affected parties in developing the licensing fee
50 schedule.

2 **Sec. 13. Committee reestablished.** The Committee to Study
3 Reimbursement Rates for Maine's Bottle Redemption Businesses and
4 Other Issues Related to the Handling and Collection of Returnable
5 Containers, established by Joint Order 2001, H.P. 1389 in the
6 First Regular Session of the 120th Legislature and referred to in
7 this section as the "committee," is reestablished as follows.

8
9 1. All members who were members of the committee appointed
10 by the President of the Senate and the Speaker of the House after
11 the First Regular Session of the 120th Legislature may continue
12 to serve on the committee. Members who choose not to continue
13 serving as members may be replaced by the respective appointing
14 authority, except that 2 of the legislative members must be
15 members of the Joint Standing Committee on Business and Economic
16 Development. In addition to the original 13 members, the
17 committee is composed of the following members:

18 A. One member representing beverage manufacturers who is
19 not a distributor, appointed by the Speaker of the House; and

20 B. The Commissioner of Agriculture, Food and Rural
21 Resources, or the commissioner's designee.

22
23 All additional appointments must be made no later than 30 days
24 following the effective date of this Act. The appointing
25 authorities shall notify the Executive Director of the
26 Legislative Council upon making their appointments. The Senator
27 named to the committee serves as Senate chair and the first named
28 House member serves as House chair. The committee shall meet at
29 the call of the cochairs.

30
31 2. The committee shall study issues related to the
32 operation of bottle redemption businesses and to the handling and
33 collection of returnable containers. In examining these issues,
34 the committee shall:

35 A. Develop a process for identifying ways to improve the
36 efficiency of the returnable container deposit law;

37 B. Examine potential improvements including redesigning the
38 operation of the system;

39 C. Study the viability of establishing cooperative
40 container pick-up arrangements between redemption centers,
41 distributors and collection agents;

42 D. Further study possible technological improvements that
43 will enhance the efficiency of the returnable container
44 deposit law; and
45

2 E. Further examine the impact on rates of return of a
4 proposal included in the report of the Committee to Study
6 Reimbursement Rates for Maine's Bottle Redemption Businesses
8 and Other Issues Related to the Handling and Collection of
Returnable Containers that would decrease from 15¢ to 5¢ the
refund value of wine and spirit containers of greater than
50 milliliters that are sold in the State.

10 3. The State Planning Office shall absorb costs to provide
12 staffing for the committee and other costs of the study, except
legislative per diem and legislative expenses.

14 4. Committee members who are Legislators are entitled to
16 receive the legislative per diem, as defined in the Maine Revised
18 Statutes, Title 3, section 2, and reimbursement for travel and
other necessary expenses for their attendance at authorized
meetings of the committee.

20 5. The cochairs of the committee, with assistance from the
22 committee staff, shall administer that portion of the committee's
24 budget related to legislative per diem and legislative expenses.
26 Within 10 days after its first meeting, the committee shall
present a work plan and proposed budget to the Legislative
Council for its approval. The committee may not incur expenses
that would result in the committee's exceeding its approved
budget.

28 6. The committee shall submit a report that includes its
30 findings and recommendations including suggested legislation to
32 the joint standing committee of the Legislature having
jurisdiction over business and economic development matters and
34 the Legislative Council by December 1, 2002. Following receipt
and review of the report, the joint standing committee of the
36 Legislature having jurisdiction over business and economic
development matters may report out a bill to the First Regular
38 Session of the 121st Legislature to implement the committee's
40 recommendations. If the committee requires a limited extension
of time to conclude its study and to make its report, it may
apply to the Legislative Council, which may grant the extension.

42 **Sec. 14. Rulemaking.** Rules adopted for the initial
44 implementation of this Act, with the exception of that part that
enacts Title 32, section 1871-A, are major substantive rules as
46 defined in the Title 5, chapter 375, subchapter II-A and are
subject to review by the joint standing committee of the
48 Legislature having jurisdiction over business and economic
development matters. Following adoption of rules for the initial

2 implementation of this Act, unless otherwise specified in the
law, rules adopted to implement this Act are routine technical
rules.

4 **Sec. 15. Appropriations and allocations.** The following
6 appropriations and allocations are made.

8 **AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

10 **Beverage Container Enforcement Fund**

12 Initiative: Allocates funds for 2 additional Consumer
14 Protection Inspector positions, one additional Management
Analyst position, one additional 1/2-time Compliance Officer
16 position, one additional 1/2-time Clerk Typist III position and
start-up, rulemaking and operational costs necessary to
administer a licensing program for bottle redemption centers.

	2001-02	2002-03
Other Special Revenue funds		
Positions - Legislative Count	(0.000)	(4.000)
Personal Services	\$0	\$56,994
All Other	0	28,249
Total	<u>\$0</u>	<u>\$85,243</u>

26 **AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**
28 **DEPARTMENT TOTALS**

	2001-02	2002-03
OTHER SPECIAL REVENUE FUNDS	\$0	\$85,243
DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$85,243</u>

32 **LEGISLATURE**

34 **Commission to Study Reimbursement Rates for Maine's Bottle**
36 **Redemption Businesses and Other Issues Related to the Handling**
38 **and Collection of Returnable Containers**

40 Initiative: Provides funds for the per diem and expenses of
legislative members of the Commission to Study Reimbursement
42 Rates for Maine's Bottle Redemption Businesses and Other Issues
Related to the Handling and Collection of Returnable Containers.

	2001-02	2002-03
General Fund		
Personal Services	\$0	\$825
All Other	0	750
Total	<u>\$0</u>	<u>\$1,575</u>

50 **LEGISLATURE**

2	DEPARTMENT TOTALS	2001-02	2002-03
4	GENERAL FUND	\$0	\$1,575
6	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$1,575
8	SECTION TOTALS	2001-02	2002-03
10	GENERAL FUND	\$0	\$1,575
12	OTHER SPECIAL REVENUE FUNDS	\$0	\$85,243
14	SECTION TOTAL - ALL FUNDS	\$0	\$86,818

14 **FISCAL NOTE**

16 **2002-03**

18 **APPROPRIATIONS/ALLOCATIONS**

20	General Fund	\$1,575
22	Other Funds	85,243

24 **REVENUES**

26	Other Funds	\$85,243
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28
30 The Legislature will require an additional General Fund
32 appropriation of \$1,575 in fiscal year 2002-03 for the per diem
34 and expenses of legislative members of the Commission to Study
Reimbursement Rates for Maine's Bottle Redemption Businesses and
Other Issues Related to the Handling and Collection of Returnable
Containers.

36 The bill requires that the State Planning Office within the
38 Executive Department absorb the costs of providing the staffing
40 needs and study costs incurred by the Commission to Study
42 Reimbursement Rates for Maine's Bottle Redemption Businesses and
44 Other Issues Related to the Handling and Collection of Returnable
Containers. In order to complete this additional requirement
within currently budgeted resources, the State Planning Office
may not be able to complete other previously budgeted
responsibilities.

46 The Beverage Container Enforcement Fund program will require
48 an initial Other Special Revenue funds allocation of \$85,243 in
50 fiscal year 2002-03 for 2 Consumer Protection Inspector
positions, one Management Analyst position, one 1/2-time
Compliance Officer position, one 1/2-time Clerk Typist III

2 position and start-up, rulemaking and operating expenses
4 necessary to administer a licensing program for bottle redemption
6 centers. The starting date for the newly established positions
8 is assumed to be April 1, 2003. To pay for these additional
10 expenses, the program will also be authorized to collect
equivalent amounts of certain registration and licensing fees to
be deposited as dedicated revenues in the Beverage Container
Enforcement Fund. In addition, the program will require
additional Other Special revenue funds allocations of \$275,249
and \$279,844 in fiscal years 2003-04 and 2004-05, respectively.

12 The additional costs associated with cooperating with other
14 state agencies to minimize certain registration requirements can
be absorbed by the Department of Administrative and Financial
Services utilizing existing budgeted resources.

16
18

SUMMARY

20 This bill implements the recommendations of the Committee to
22 Study Reimbursement Rates for Maine's Bottle Redemption
Businesses and Other Issues Related to the Handling and
Collection of Returnable Containers created pursuant to Joint
Order 2001, H.P. 1389.

24

The bill does the following:

26

28 1. Requires the label of each type of beverage subject to
30 the returnable container deposit law to be registered with the
Department of Agriculture, Food and Rural Resources; requires the
department to maintain a register of current beverage container
32 labels and to make that information available to redemption
centers; and authorizes redemption centers to refuse to accept
empty containers whose labels are not registered;

34

36 2. Requires a license from the department to initiate
deposits, operate a redemption center or act as a 3rd-party
collection agent under the law;

38

40 3. Authorizes the department to establish by rule fees for
licensing and registration; requires the fees be based on the
department's costs in implementing the law; and directs the
42 department to work with affected parties in developing the fees.
Departmental rules governing fees are routine technical rules;

44

46 4. Requires the department to provide education on the
requirements of the law as part of its licensing and inspection
responsibilities;

48

2 5. Establishes a dedicated fund to pay the costs of
administration and enforcement of the law by the department. The
4 fund consists of licensing and registration fees charged by the
department; and

6 6. Reestablishes the Committee to Study Reimbursement Rates
for Maine's Bottle Redemption Businesses and Other Issues Related
8 to the Handling and Collection of Returnable Containers to
examine ways to improve the efficiency of the law through
10 redesign of the bottle redemption system, establishment of
cooperative agreements, introduction of technological
12 improvements or other methods. It also adds 2 additional members
to the committee.