

# MAINE STATE LEGISLATURE

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R.D.S.

L.D. 985

DATE: 5-20-03

(Filing No. S-217)

**BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**

Reported by: **Majority**

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**STATE OF MAINE  
SENATE  
121ST LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 326, L.D. 985, Bill, "An Act To Improve the State's Returnable Bottle Law and Adjust Handling Fees"

Amend the bill by inserting after section 2 the following:

'Sec. 3. 32 MRSA §1862, sub-§12-E is enacted to read:

12-E. Reverse vending machine. "Reverse vending machine" means an automated device that uses a laser scanner and microprocessor to accurately recognize the universal product code on containers and to accumulate information regarding containers redeemed, enabling the reverse vending machine to accept containers from redeemers and to issue script for the containers' refund value.'

Further amend the bill by inserting after section 3 the following:

'Sec. 4. 32 MRSA §1866, sub-§3, as amended by PL 1991, c. 819, §6, is further amended to read:

**3. Distributor acceptance.** A distributor may not refuse to accept from any dealer or local redemption center any empty, unbroken and reasonably clean beverage container or any beverage container that has been processed through an approved reverse vending machine that meets the requirements of rules adopted by the department pursuant to this chapter of the kind, size and brand sold by the distributor or refuse to pay to the dealer or local redemption center the refund value of a beverage container as established by section 1863-A.'

**COMMITTEE AMENDMENT**

2 Further amend the bill in section 4 by striking out all of  
subsection 4 and inserting in its place the following:

4 '4. Reimbursement of handling costs. Reimbursement of  
6 handling costs is governed by this subsection.

8 A. In addition to the payment of the refund value, the  
initiator of the deposit under section 1863-A, subsections  
10 1, 2 and 4 shall reimburse the dealer or local redemption  
center for the cost of handling beverage containers subject  
12 to section 1863-A, in an amount that equals at least 3¢ per  
returned container for containers picked up by the initiator  
14 before January 1, 2004 and at least 3 1/2¢ for containers  
picked up on or after January 1, 2004. The initiator of the  
16 deposit may reimburse the dealer or local redemption center  
directly or indirectly through a party with which it has  
18 entered into a commingling agreement.

20 B. In addition to the payment of the refund value, the  
initiator of the deposit under section 1863-A, subsection 3  
22 shall reimburse the dealer or local redemption center for  
the cost of handling beverage containers subject to section  
24 1863-A in an amount that equals at least 3¢ per returned  
container for containers picked up by the initiator before  
26 January 1, 2004 and at least 3 1/2¢ for containers picked up  
on or after January 1, 2004. The initiator of the deposit  
28 may reimburse the dealer or local redemption center directly  
or indirectly through a contracted agent or through a party  
30 with which it has entered into a commingling agreement.

32 C. The reimbursement that the initiator of the deposit is  
obligated to pay the dealer or redemption center pursuant to  
34 paragraph A or B must be reduced by 1/2¢ for any returned  
container that is subject to a qualified commingling  
36 agreement that allows the dealer or redemption center to  
commingle beverage containers of like material and size. A  
38 commingling agreement is qualified for purposes of this  
paragraph if the department determines that 50% or more of  
40 the beverage containers of like material and size for which  
the deposits are being initiated in the State are covered by  
42 the commingling agreement. The State, through the  
Department of Administrative and Financial Services, Bureau  
44 of Alcoholic Beverages and Lottery Operations, shall make  
every reasonable effort to enter into a qualified  
46 commingling agreement under this subparagraph with every  
other initiator of deposits for beverage containers that are  
48 of like size and material as the beverage containers for  
which the State is the initiator of deposit.'

2 Further amend the bill in section 6 in that part designated  
3 "~~§1866-D.~~" by striking out all of subsection 1 and inserting in  
4 its place the following:

6 '1. Commingling requirement. If initiators of deposit  
7 enter into a commingling agreement pursuant to this section,  
8 commingling of beverage containers must be by all containers of  
9 like material and size. An initiator of deposit required pursuant  
10 to section 1866, subsection 5 to pick up beverage containers  
11 subject to a commingling agreement also shall pick up all other  
12 beverage containers subject to the same agreement. The initiator  
13 of deposit may not require beverage containers that are subject  
14 to a commingling agreement to be sorted separately by a dealer or  
15 redemption center.'

16 Further amend the bill in section 6 in that part designated  
17 "~~§1866-D.~~" by striking out all of subsection 3.

18 Further amend the bill in section 6 in that part designated  
19 "~~§1866-D.~~" by renumbering the subsections to read consecutively.

20 Further amend the bill in section 6 by striking out all of  
21 that part designated "~~§1866-E.~~" and inserting in its place the  
22 following:

23 '§1866-E. Unclaimed deposits

24 1. Deposit transaction fund. An initiator of deposit shall  
25 maintain a separate account to be known as the initiator's  
26 deposit transaction fund. The initiator shall keep that fund  
27 separate from all other revenues and accounts. The initiator  
28 shall place in that fund the refund value for all nonrefillable  
29 beverage containers it sells subject to the provisions of this  
30 chapter. Except as specified in subsections 3 and 4, amounts in  
31 the initiator's deposit transaction fund may only be expended to  
32 pay refund values for returned nonrefillable beverage containers.  
33 Amounts in the fund may not be used to pay the handling fees  
34 required by this chapter. The fund must be maintained by the  
35 initiator on behalf of consumers who have purchased products in  
36 refundable nonrefillable beverage containers and on behalf of the  
37 State; except as specified in subsections 3 and 4, amounts in the  
38 fund may not be regarded as income of the initiator.

39 2. Reports. An initiator of deposit shall report to the  
40 executive director of Maine Revenue Services within the  
41 Department of Administrative and Financial Services by the 20th  
42 day of each month concerning transactions affecting its deposit  
43 transaction fund in the preceding month. The report must be in a  
44 form prescribed by the executive director and must include: the  
45

number of nonrefillable beverage containers sold and the number of nonrefillable beverage containers returned in the applicable month; the amount of deposits received in and payments made from the fund in the applicable month and the most recent 3-month period; any income earned on amounts in the fund during the applicable month; the balance in the fund at the close of the applicable month; and such other information as the executive director may require to perform the duties of this section.

**3. Determination of abandoned deposit amounts.** The initiator's abandoned deposit amount, at the end of each month, is the amount equal to the amount of deposits that are or should be in the fund, less the sum of:

A. Income earned on amounts in the fund during that month; and

B. The total amount of refund values received by the initiator for nonrefillable beverage containers during that month and the 2 preceding months.

Income on the fund may be transferred from the fund for use as funds of the initiator.

**4. Transfer of abandoned deposit amounts.** By the 20th day of each month, an initiator shall turn over to the executive director of Maine Revenue Services within the Department of Administrative and Financial Services the initiator's abandoned deposit amounts determined pursuant to subsection 3. Those amounts may be paid from the deposit transaction fund. Amounts collected by the executive director pursuant to this subsection must be deposited in the General Fund.

**5. Reimbursement of initiators of deposit.** If in any month the authorized payments from the deposit transaction fund by an initiator pursuant to this section exceed the funds that are or should be in the initiator's deposit transaction fund, the State shall reimburse the initiator, from amounts received pursuant to subsection 4, for those refunds paid by the initiator for nonrefillable beverage containers for which the funds that are or should be in the initiator's deposit transaction fund are insufficient; except that reimbursements paid by the State to an initiator may not exceed amounts paid by the initiator to the State pursuant to subsection 4 in the preceding 24 months less amounts paid by the State to the initiator pursuant to this subsection during that same 24-month period.

**6. Small bottlers exempt.** A bottler who produces no more than 50,000 gallons of its product in a calendar year is exempt from the requirements of this section for that year.'

2 Further amend the bill by inserting after section 6 the  
following:

4 'Sec. 7. Appropriations and allocations. The following  
6 appropriations and allocations are made.

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

10 **Beverage Container Enforcement Fund 0971**

12 Initiative: Appropriates funds to establish one Agricultural  
Compliance Officer position and operating costs necessary to  
14 verify commingling agreements.

16 <b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
18 Positions - Legislative Count	(1.000)	(1.000)
Personal Services	\$39,257	\$51,181
All Other	11,225	15,000
20 General Fund Total	<u>\$50,482</u>	<u>\$66,181'</u>

22 Further amend the bill by relettering or renumbering any  
24 nonconsecutive Part letter or section number to read  
consecutively.

26  
28 **SUMMARY**

30 This amendment, which is the majority report of the  
committee, does the following.

32  
34 1. It requires dealers and distributors to accept beverage  
containers processed through reverse vending machines.

36 2. It raises the handling fee to 3 1/2¢ for an initiator of  
deposit who, after January 1, 2004, fails to enter into a  
38 qualified commingling agreement.

40 3. It requires an initiator of deposit, other than a  
42 bottler who produces no more than 50,000 gallons in a calendar  
year, to establish and maintain a deposit transaction fund and to  
report and pay to the Department of Administrative and Financial  
44 Services, Maine Revenue Services the amount in the fund  
attributable to unclaimed deposits on a monthly basis.  
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COMMITTEE AMENDMENT "A" to S.P. 326, L.D. 985

2           4. It directs that abandoned deposit amounts be deposited  
into the General Fund.

4

**FISCAL NOTE REQUIRED**  
**(See attached)**

6

**121st Maine Legislature  
Office of Fiscal and Program Review**

**LD 985**

**An Act To Improve the State's Returnable Bottle Law and Adjust  
Handling Fees**

**LR 1324(02)**

**Fiscal Note for Bill as Amended by Committee Amendment *AS-217*  
Committee: Business, Research and Economic Development**

**Fiscal Note Required: Yes**

**Majority Report**

**Fiscal Note**

	<b>2003-04</b>	<b>2004-05</b>	<b>Projections 2005-06</b>	<b>Projections 2006-07</b>
<b>Net Cost (Savings)</b>				
General Fund	(\$1,262,018)	(\$1,683,819)	(\$1,681,172)	(\$1,678,419)
<b>Appropriations/Allocations</b>				
General Fund	\$50,482	\$66,181	\$68,828	\$71,581
<b>Revenue</b>				
General Fund	\$1,312,500	\$1,750,000	\$1,750,000	\$1,750,000

**Fiscal Detail and Notes**

As amended, this bill requires that unclaimed deposits paid on returnable containers be deposited into the General Fund; the estimated amounts are \$1,312,500 in fiscal year 2003-04 and \$1,750,000 for each fiscal year thereafter. It also includes General Fund appropriations for the Department of Agriculture, Food and Rural Resources to reflect changes in the Returnable Bottle Law ; the amounts are \$50,482 and \$66,181 in fiscal years 2003-04 and 2004-05, respectively. Adjusting reimbursement fees for returnable containers may have the effect of increasing Other Special Revenue Funds revenue; the amounts will depend on the number of commingling agreements that are entered into and can not be determined at this time.