

MAINE STATE LEGISLATURE

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M
R.O.S.

L.D. 1257

DATE: 4-2-04

(Filing No. H-855)

BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 931, L.D. 1257, Bill, "An Act To Increase Returnable Beverage Container Redemption Rates"

Amend the bill by striking out the title and substituting the following:

'An Act To Amend the Laws Concerning Returnable Beverage Containers'

Further amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the ability of initiators of deposit to enter into commingling agreements is of great benefit to those initiators, to redemption centers, to the environment and to the citizens of this State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

COMMITTEE AMENDMENT

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2 **Sec. 1. 32 MRSA §1866, sub-§4, ¶D**, as enacted by PL 2003, c.
499, §6, is amended to read:

4
6 D. Paragraphs A, B and C of this subsection do not apply to
a brewer or vintner who annually produces no more than
50,000 gallons of its product or a bottler of water who
8 annually sells no more than 250,000 containers each
containing no more than one gallon of its product. In
10 addition to the payment of the refund value, an initiator of
deposit under section 1863-A, subsections 1 to 4 who is also
12 a brewer who annually produces no more than 50,000 gallons
of its product or a bottler of water who annually sells no
14 more than 250,000 containers each containing no more than
one gallon of its product shall reimburse the dealer or
16 local redemption center for the cost of handling beverage
containers subject to section 1863-A in an amount that
18 equals at least 3¢ per returned container.

20 **Sec. 2. 32 MRSA §1866, sub-§4, ¶E** is enacted to read:

22 E. Notwithstanding provisions of this subsection to the
contrary, if a commingling agreement for a product group was
24 filed with the department by March 1, 2004, an initiator of
deposit, whether or not a party to that agreement, is not
26 required to pay the 1/2¢ handling fee increase required by
this subsection until October 1, 2004 for beverage
28 containers in that product group picked up by the initiator
between March 1, 2004 and October 1, 2004. Within 10
30 business days of October 1, 2004, an initiator of deposit
shall pay the 1/2¢ handling fee increase for beverage
32 containers in that product group picked up by the initiator
between March 1, 2004 and October 1, 2004 that are not
34 covered by a qualified commingling agreement as of October
1, 2004.

36 **Sec. 3. 32 MRSA §1866-E, sub-§§2, 4 and 5**, as enacted by PL
38 2003, c. 499, §8, are amended to read:

40 **2. Reports.** An initiator of deposit shall report to the
~~executive director of Maine Revenue Services within the~~
42 ~~Department of Administrative and Financial Services~~ State Tax
Assessor by the 20th day of each month concerning transactions
44 affecting its deposit transaction fund in the preceding month.
The report must be in a form prescribed by the ~~executive director~~
46 assessor and must include: the number of nonrefillable beverage
containers sold and the number of nonrefillable beverage
48 containers returned in the applicable month; the amount of
deposits received in and payments made from the fund in the
50 applicable month and the most recent 3-month period; any income

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2 earned on amounts in the fund during the applicable month; the
3 balance in the fund at the close of the applicable month; and
4 such other information as the executive ~~director~~ assessor may
5 require ~~to perform the duties of this section.~~ The report
6 required by this subsection must be treated by the assessor as a
7 return, as the term is defined by Title 36, section 111,
8 subsection 4.

9
10 **4. Transfer of abandoned deposit amounts.** By the 20th day
11 of each month, an initiator shall turn over to the executive
12 ~~director of Maine Revenue Services within the Department of~~
13 ~~Administrative and Financial Services~~ State Tax Assessor the
14 initiator's abandoned deposit amounts determined pursuant to
15 subsection 3. Those amounts may be paid from the deposit
16 transaction fund. Amounts collected by the executive ~~director~~
17 assessor pursuant to this subsection must be treated by the
18 assessor as a tax, as that term is defined by Title 36, section
19 111, subsection 5, and must be deposited in the General Fund.

20 **5. Reimbursement of initiators of deposit.** If in any month
21 the authorized payments from the deposit transaction fund by an
22 initiator pursuant to this section exceed the funds that are or
23 should be in the initiator's deposit transaction fund, the State
24 Tax Assessor shall reimburse the initiator, from amounts received
25 pursuant to subsection 4, for those refunds paid by the initiator
26 for nonrefillable beverage containers for which the funds that
27 are or should be in the initiator's deposit transaction fund are
28 insufficient; except that reimbursements paid by the State
29 assessor to an initiator may not exceed amounts paid by the
30 initiator ~~to the State~~ pursuant to subsection 4 in the preceding
31 24 months less amounts paid ~~by the State~~ to the initiator
32 pursuant to this subsection during that same 24-month period.

33 **Sec. 4. 32 MRSA §1866-E, sub-§5-A** is enacted to read:

34
35 **5-A. Administration by State Tax Assessor.** The uniform tax
36 administration provisions of Title 36, chapter 7 apply to the
37 State Tax Assessor's administration of the reports and payments
38 required by this section.

39 **Sec. 5. 32 MRSA §1866-E, sub-§7** is enacted to read:

40
41 **7. Phase in.** Notwithstanding provisions of this section
42 and section 1866 to the contrary, if a commingling agreement for
43 a product group was filed with the department by March 1, 2004,
44 an initiator of deposit, whether or not a party to that
45 agreement, is not required to turn over to the State Tax Assessor
46 the initiator of deposit's abandoned deposit amounts for that
47 product group as required by subsection 4 until October 1, 2004.
48 On October 1, 2004, an initiator of deposit shall turn over to
49
50

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2 the State Tax Assessor the abandoned deposit amounts that have
3 accrued since March 1, 2004 for all beverage containers that are
4 not covered by a qualified commingling agreement, as described in
5 section 1866, as of October 1, 2004.

6 **Sec. 6. Routine technical rule.** Any rule change necessary to
7 implement the inclusion of vintners within the exemption for
8 small brewers described in the Maine Revised Statutes, Title 32,
9 section 1866, subsection 4, paragraph D is a routine technical
10 rule as defined in Title 5, chapter 375, subchapter 2-A.

11 **Emergency clause.** In view of the emergency cited in the
12 preamble, this Act takes effect when approved.'

14
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16 **SUMMARY**

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18 This amendment is the minority report of the committee. The
19 amendment phases in the transfer of unclaimed deposits and
20 handling fee increases for beverage containers in product groups
21 that are the subject of commingling agreements that have been
22 filed by March 1, 2004 with the Department of Agriculture, Food
23 and Rural Resources regardless of whether the initiator of
24 deposit was a party to that agreement. On October 1, 2004,
25 initiators of deposit must transfer unclaimed deposits and pay
26 the additional 1/2¢ handling fee for beverage containers not
27 included in a qualified commingling agreement, including
28 unclaimed deposits and handling fees that were not transferred or
29 paid during the period of March 1, 2004 to October 1, 2004. The
30 amendment also enables unclaimed deposit amounts to be treated as
31 a tax and reports concerning unclaimed deposit amounts to be
32 treated as returns, for the purposes of collection and
33 enforcement, and designates the State Tax Assessor as the
34 collector of these amounts.

35
36 Additionally, the amendment corrects an error in Public Law
37 2003, chapter 499 by including vintners within the exemption to
38 commingling requirements and handling fee increases, as was
39 originally intended and incorrectly understood to be accomplished
40 by use of the term "brewer." The amendment also specifies that
41 any rule change necessary to implement the inclusion of vintners
42 is a routine technical rule.

43
44 Finally, the amendment adds an emergency preamble and
emergency clause.