

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
124TH LEGISLATURE  
FIRST REGULAR SESSION

HOUSE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to S.P. 139,  
L.D. 397, Bill, "An Act To Amend the Laws Governing Bottle Redemption and To  
Establish the Department of Agriculture, Food and Rural Resources as the Agent in the  
State for the Purposes of Bottle Redemption"

Amend the amendment by striking out everything after the substitute title and before  
the summary and inserting the following:

'Amend the bill by striking out everything after the enacting clause and before the  
summary and inserting the following:

'Sec. 1. 32 MRSA §1863-A, as enacted by PL 1991, c. 819, §3, is amended to  
read:

§1863-A. Refund value

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

1. Refillable containers. For refillable beverage containers, except wine and spirits  
containers, the manufacturer 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 must be 5¢.

2. Nonrefillable containers; exclusive distributorships. For nonrefillable beverage  
containers, except wine and spirits 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¢.

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

4. Wine and spirits containers. For wine and spirits containers of greater than 50  
milliliters, the refund value may not must be less than 15¢. On January 1, 1993, the  
department shall issue a finding on the percentages of wine containers and spirits

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1 containers returned for deposit. If the department finds the return rate of wine containers  
2 was less than 60% during the year ending September 1992, then, on July 1, 1993, the  
3 refund value on wine containers may not be less than 25¢. If the department finds the  
4 return rate of spirits containers was less than 60% during the year ending September  
5 1992, then, on July 1, 1993, the refund value of spirits containers may not be less than  
6 25¢.

7 **Sec. 2. 32 MRSA §1866, sub-§5-A** is enacted to read:

8 5-A. Plastic bags. A dealer or redemption center has an obligation to pick up plastic  
9 bags that are used by that dealer or redemption center to contain beverage containers.  
10 Plastic bags used by a dealer or redemption center must conform to rules adopted by the  
11 department concerning size and gauge. Rules adopted pursuant to this subsection are  
12 major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

13 **Sec. 3. 32 MRSA §1866, sub-§10** is enacted to read:

14 10. Bulk redemption. In order to prevent fraud from the redemption of beverage  
15 containers not originally sold in this State, this subsection governs the redemption of  
16 more than 3,000 beverage containers.

17 A. When a person tenders for redemption more than 3,000 beverage containers at  
18 one time to a dealer or redemption center, the dealer or redemption center shall,  
19 before processing the beverage containers, contact the department or the Department  
20 of Public Safety. The department or the Department of Public Safety shall  
21 investigate the transaction to verify that the containers are legitimate containers for  
22 redemption in this State.

23 B. Paragraph A does not apply to a person who tenders to a dealer or redemption  
24 center for redemption more than 3,000 beverage containers if:

25 (1) All of the containers were collected at one location in this State;

26 (2) All proceeds of the refund value benefit a nonprofit organization that has been  
27 determined by the United States Internal Revenue Service to be exempt from  
28 taxation under the United States Internal Revenue Code, Section 501(c)(3); and

29 (3) The person tendering the containers for redemption signs a declaration  
30 indicating the person's name, the address of the collection point and the name of  
31 the organization or organizations that will receive the refund value.

32 **Sec. 4. 32 MRSA §1871-A**, as enacted by PL 2001, c. 661, §9 and corrected by  
33 RR 2001, c. 2, Pt. A, §41, is amended to read:

34 **§1871-A. Licensing requirements**

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

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

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

6 **2. Criteria for licensing rules.** In developing rules under subsection 1 for licensing  
7 redemption centers, the department shall consider at least the following:

8 A. The health and safety of the public, including sanitation protection when food is  
9 also sold on the premises; and

10 B. The convenience for the public, including standards governing the distribution of  
11 centers by population or by distance, or both;

12 C. The proximity of the proposed redemption center to existing redemption centers  
13 and the potential impact that the location of the proposed redemption center may have  
14 on an existing redemption center;

15 D. The proposed owner's record of compliance with this chapter and rules adopted  
16 by the department pursuant to this chapter; and

17 E. The hours of operation of the proposed redemption center and existing redemption  
18 centers in the proximity of the proposed redemption center.

19 **3. Location of redemption centers; population requirements; rules.** The  
20 department may grant a license to a redemption center that meets the population  
21 requirements established by the department by rule. Rules adopted pursuant to this  
22 subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

23 **4. Exceptions.** Notwithstanding subsection 3:

24 A. An owner of a redemption center who is renewing or selling the license of a  
25 redemption center licensed by the department as of April 1, 2009 need not comply  
26 with subsection 3;

27 B. An entity that is a food establishment or distributor licensed by or registered with  
28 the department need not comply with subsection 3;

29 C. A reverse vending machine is not considered a redemption center for purposes of  
30 subsection 3 when it is located in a licensed redemption center; and

31 D. The department may grant a license that is inconsistent with the requirements set  
32 out in subsection 3 only if the applicant has demonstrated a compelling public need  
33 for an additional redemption center in the municipality.

34 **Sec. 5. Moratorium.** The Department of Agriculture, Food and Rural Resources  
35 may not issue a new license for a redemption center from September 30, 2009 to  
36 December 31, 2009.'

37 **SUMMARY**

38 This amendment makes the following changes to the beverage container laws.

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1. It requires the Department of Agriculture, Food and Rural Resources to establish rules that limit the number of redemption centers that may be licensed in a municipality based on the population of the municipality. The population limits do not apply to existing redemption centers, certain other licensed entities or certain reverse vending machines and may be waived if the applicant shows a compelling need.

2. It prohibits a manufacturer from increasing or decreasing the refund value of any beverage container.

3. It requires a dealer or redemption center to contact the Department of Agriculture, Food and Rural Resources or the Department of Public Safety when a person tenders more than 3,000 beverage containers at one time for redemption.

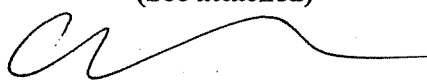
4. It clarifies that the redemption center is responsible for the plastic bags used for the return of beverage containers and that the bags must be of a specific size and thickness, to be determined by rule by the department.

5. It requires that, in adopting rules for licensing redemption centers, the department consider the proximity of the proposed redemption center to existing redemption centers, the potential impact that the location of the proposed redemption center may have on an existing redemption center, the owner's record of compliance and the hours of operation of the proposed redemption center and existing redemption centers in the proximity of the proposed redemption center.

6. The amendment puts a moratorium on the Department of Agriculture, Food and Rural Resources from issuing new licenses for redemption centers from September 30, 2009 to December 31, 2009.

**FISCAL NOTE REQUIRED**

(See attached)

SPONSORED BY: 

(Representative CASAVANT)

TOWN: Biddeford



# 124th MAINE LEGISLATURE

LD 397

LR 52(10)

**An Act To Amend the Laws Governing Bottle Redemption and To Establish the Department of Agriculture, Food and Rural Resources as the Agent in the State for the Purposes of Bottle Redemption**

**Fiscal Note for House Amendment "B" to Committee Amendment "A"**

**Sponsor: Rep. Casavant of Biddeford**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Additional costs to the Departments of Agriculture, Food and Rural Resources and Public Safety associated with changes in licensing criteria and changes in enforcement, respectively, can be absorbed within existing budgeted resources.