

MAINE STATE LEGISLATURE

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

HOUSE AMENDMENT "C" 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 §1866, sub-§4, ¶A, as amended by PL 2003, c. 499, §6, is further amended to read:

A. In addition to the payment of the refund value, the initiator of the deposit under section 1863-A, subsections 1, 2 and 4 shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863-A, in an amount that equals at least 3¢ per returned container for containers picked up by the initiator before March 1, 2004 and at least 3 1/2¢ for containers picked up on or after March 1, 2004 and before March 1, 2010 and at least 4¢ for containers picked up on or after March 1, 2010. The initiator of the deposit may reimburse the dealer or local redemption center directly or indirectly through a party with which it has entered into a commingling agreement.

Sec. 2. 32 MRSA §1866, sub-§4, ¶B, as corrected by RR 2003, c. 1, §34, is amended to read:

B. In addition to the payment of the refund value, the initiator of the deposit under section 1863-A, subsection 3 shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863-A in an amount that equals at least 3¢ per returned container for containers picked up by the initiator before March 1, 2004 and at least 3 1/2¢ for containers picked up on or after March 1, 2004 and before March 1, 2010 and at least 4¢ for containers picked up on or after March 1, 2010. The initiator of the deposit may reimburse the dealer or local redemption center directly or indirectly through a contracted agent or through a party with which it has entered into a commingling agreement.

HOUSE AMENDMENT

AMS

1 **Sec. 3. 32 MRSA §1866, sub-§4, ¶D**, as amended by PL 2003, c. 688, Pt. E, §1,
2 is further amended to read:

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

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

14 **5-A. Plastic bags.** A dealer or redemption center has an obligation to pick up plastic
15 bags that are used by that dealer or redemption center to contain beverage containers.
16 Plastic bags used by a dealer or redemption center and the cost allocation of these bags
17 must conform to rules adopted by the department concerning size and gauge. Rules
18 adopted pursuant to this subsection are routine technical rules as defined in Title 5,
19 chapter 375, subchapter 2-A.

20 **Sec. 5. 32 MRSA §1866, sub-§10** is enacted to read:

21 **10. Bulk redemption.** In order to prevent fraud from the redemption of beverage
22 containers not originally sold in this State, this subsection governs the redemption of
23 more than 2,500 beverage containers.

24 A. A person tendering for redemption more than 2,500 beverage containers at one
25 time to a dealer or redemption center must provide to the dealer or redemption center
26 that person's name and address and the license plate number of the vehicle used to
27 transport the beverage containers. The dealer or redemption center redeeming these
28 beverage containers shall forward that information to the department within 10 days,
29 and the information must be kept on file for a minimum of 12 months.

30 B. After complying at least once with the requirements of paragraph A, a person
31 need not comply with paragraph A each subsequent time that person tenders to a
32 dealer or redemption center for redemption more than 2,500 beverage containers if:

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

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

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

40 **Sec. 6. 32 MRSA §1867, sub-§3**, as amended by PL 2001, c. 661, §6, is further
41 amended to read:

1 **3. Approval.** The commissioner shall may approve the licensing of a local
2 redemption center if the redemption center complies with the requirements established
3 under section 1871-A. The order approving a local redemption center license must state
4 the dealers to be served and the kinds, sizes and brand names of empty beverage
5 containers that the center accepts.

6 **Sec. 7. 32 MRSA §1871-A**, as enacted by PL 2001, c. 661, §9 and corrected by
7 RR 2001, c. 2, Pt. A, §41, is amended to read:

8 **§1871-A. Licensing requirements**

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

13 **1. Procedures; licensing fees.** The department shall adopt rules establishing the
14 requirements and procedures for issuance of licenses and annual renewals under this
15 section, including a fee structure. Initial rules adopted pursuant to this subsection are
16 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted
17 effective after calendar year 2003 are major substantive rules as defined in Title 5,
18 chapter 375, subchapter 2-A and are subject to review by the joint standing committee of
19 the Legislature having jurisdiction over business and economic development matters.

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

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

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

26 C. The proximity of the proposed redemption center to existing redemption centers
27 and the potential impact that the location of the proposed redemption center may have
28 on an existing redemption center;

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

31 E. The hours of operation of the proposed redemption center and existing redemption
32 centers in the proximity of the proposed redemption center.

33 **3. Location of redemption centers; population requirements.** The department
34 may grant a license to a redemption center if the following requirements are met:

35 A. The department may license up to 5 redemption centers in a municipality with a
36 population over 30,000;

37 B. The department may license up to 3 redemption centers in a municipality with a
38 population over 20,000 but no more than 30,000; and

39 C. The department may license up to 2 redemption centers in a municipality with a
40 population over 5,000 but no more than 20,000.

1 For a municipality with a population of no more than 5,000, the department may license
2 redemption centers in accordance with rules adopted by the department. Rules adopted
3 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
4 subchapter 2-A.

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

6 A. An owner of a redemption center who is renewing the license of a redemption
7 center licensed by the department as of April 1, 2009 need not comply with
8 subsection 3;

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

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

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

16 **Sec. 8. 32 MRSA §1871-D is enacted to read:**

17 **§1871-D. Denial of redemption center license**

18 **1. Denial of application.** The department shall notify an applicant denied a license
19 for a redemption center of the reasons for the denial. Written notification must be sent to
20 the mailing address given by the applicant in the application for a redemption center
21 license.

22 **2. Aggrieved applicants.** An applicant aggrieved by a decision made by the
23 department may appeal the decision by filing an appeal with the Superior Court and
24 -serving a copy of the appeal upon the department in accordance with the Maine Rules of
25 Civil Procedure, Rule 80C. The appeal must be filed and served within 30 days of the
26 mailing of the department's decision.'

27 **SUMMARY**

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

29 1. It raises the handling fee on beverage containers to 4¢ for containers picked up on
30 or after March 1, 2010.

31 2. It limits the number of redemption centers that may be licensed in a municipality
32 based on the population of the municipality. The population limits do not apply to
33 existing redemption centers, certain other licensed entities or certain reverse vending
34 machines and may be waived if the applicant shows a compelling need.

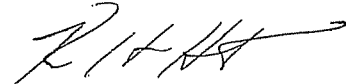
35 3. It requires any person who tenders more than 2,500 beverage containers for
36 redemption at any dealer or redemption center to provide a name, address and license
37 plate number and requires that the information be forwarded to the Department of
38 Agriculture, Food and Rural Resources and kept on file for a minimum of one year.

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4. It clarifies that the redemption center is responsible for the plastic bags used for the return of beverage containers and authorizes the department to adopt rules regarding the cost allocation, size and gauge of the bags.

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. It requires the department to notify applicants denied a license for a redemption center of the reasons for the denial and provides a procedure for appeal.

SPONSORED BY: 

(Representative HUNT)

TOWN: Buxton