

MAINE STATE LEGISLATURE

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

HOUSE AMENDMENT "D" 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

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.

1 1. This amendment removes the exception for reverse vending machines from the 1¢
2 increase of the handling fee for beverage containers proposed by Committee Amendment
3 "A" and maintains the 1¢ increase for the handling fee as proposed by the bill.

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

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

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

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

18 6. It puts a moratorium on the Department of Agriculture, Food and Rural Resources'
19 issuance of new licenses for redemption centers from September 30, 2009 to December
20 31, 2009.

21 **SPONSORED BY:** _____

22 (Representative CASAVANT)

23 **TOWN: Biddeford**