

MAINE STATE LEGISLATURE

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Date: 6-2-09

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STATE OF MAINE
SENATE
124TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A" 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 §1862, sub-§2, as amended by PL 1993, c. 591, §1 and affected by §5, is further amended to read:

2. Beverage container. "Beverage container" means a bottle, can, jar or other container made of glass, metal or plastic that has been sealed by a manufacturer and at the time of sale contains ~~4~~ 2 liters or less of a beverage. This term does not include a container composed, in whole or in part, of aluminum and plastic or aluminum and paper in combination as long as the aluminum content represents 10% or less of the unfilled container weight, the container materials represent 5% or less of the total weight of the container and its contents, and the container is filled with a nonalcoholic beverage.

Sec. 2. 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. 3. 32 MRSA §1866, sub-§4, ¶B, as corrected by RR 2003, c. 1, §34, is further amended to read:

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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.

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

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 annually sells no more than 250,000 containers each containing no more than one gallon of its product. In addition to the payment of the refund value, an initiator of deposit under section 1863-A, subsections 1 to 4 who is also a brewer or vintner who annually produces no more than 50,000 gallons of its product or a bottler of water who annually sells no more than 250,000 containers each containing no more than one gallon of its product 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.

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

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

Sec. 6. 32 MRSA §1866, sub-§10 is enacted to read:

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

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

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

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

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

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

Sec. 7. 32 MRSA §1867, sub-§3, as amended by PL 2001, c. 661, §6, is further amended to read:

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

Sec. 8. 32 MRSA §1871-A, as enacted by PL 2001, c. 661, §9 and corrected by RR 2001, c. 2, Pt. A, §41, is further amended to read:

§1871-A. Licensing requirements

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

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

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

- A. The health and safety of the public, including sanitation protection when food is also sold on the premises; and
- B. The convenience for the public, including standards governing the distribution of centers by population or by distance, or both;
- C. The proximity of the proposed redemption center to existing redemption centers and the potential impact that the location of the proposed redemption center may have on an existing redemption center;
- D. The proposed owner's record of compliance with this chapter and rules adopted by the department pursuant to this chapter; and
- E. The hours of operation of the proposed redemption center and existing redemption centers in the proximity of the proposed redemption center.

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

- A. The department may license up to 5 redemption centers in a municipality with a population over 30,000;
- B. The department may license up to 3 redemption centers in a municipality with a population over 20,000 but no more than 30,000;
- C. The department may license up to 2 redemption centers in a municipality with a population over 5,000 but no more than 20,000; and
- D. The department may license no more than one redemption center in a municipality with a population of no more than 5,000.

4. Exceptions. Notwithstanding subsection 3:

- A. An owner of a redemption center who is renewing or selling the license of a redemption center licensed by the department as of April 1, 2009 need not comply with subsection 3;
- B. An entity that is a food establishment or distributor licensed by or registered with the department need not comply with subsection 3;
- C. A reverse vending machine is not considered a redemption center for purposes of subsection 3 when it is located in a licensed redemption center; and
- D. The department may grant a license that is inconsistent with the requirements set out in subsection 3 only if the applicant has demonstrated a compelling public need for an additional redemption center in the municipality.

Sec. 9. 32 MRSA §1871-D is enacted to read:

§1871-D. Denial of redemption center license

- 1. Denial of application. The department shall notify an applicant denied a license for a redemption center of the reasons for the denial. Written notification must be sent to the mailing address given by the applicant in the application for a redemption center license.
- 2. Aggrieved applicants. An applicant aggrieved by a decision made by the department may appeal the decision by filing an appeal with the Superior Court and serving a copy of the appeal upon the department in accordance with the Maine Rules of Civil Procedure, Rule 80C. The appeal must be filed and served within 30 days of the mailing of the department's decision.'

SUMMARY

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

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

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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 139, L.D. 397

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existing redemption centers, certain other licensed entities or certain reverse vending machines and may be waived if the applicant shows a compelling need.

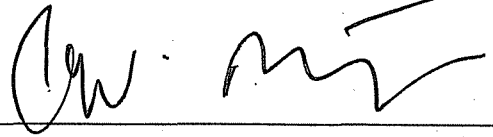
3. It requires any person who tenders more than 2,500 beverage containers for redemption at any dealer or redemption center to provide a name, address and license plate number and requires that the information be forwarded to the Department of Agriculture, Food and Rural Resources and kept on file for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

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. Current law provides for the redemption of beverage containers that contain 4 liters or less of a beverage. This amendment changes that amount to 2 liters or less.

6. 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.

7. 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: 

(Senator RECTOR)
COUNTY: Knox

FISCAL NOTE REQUIRED
(See attached)

SENATE AMENDMENT



Approved: 06/01/09 *MAC*

124th MAINE LEGISLATURE

LD 397

LR 52(07)

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 Senate Amendment "A" to Committee Amendment "A"

Sponsor: Sen. Rector of Knox

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs to the Department of Agriculture, Food and Rural Resources can be absorbed within existing budgeted resources.