

MAINE STATE LEGISLATURE

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Date: 6/4/19

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1171, L.D. 1628, Bill, "An Act To Implement Recommendations of the Department of Environmental Protection Regarding the State's Container Redemption Laws"

Amend the bill in section 5 in the first line (page 7, line 12 in L.D.) by striking out the following: "and 17-B" and inserting the following: ', 17-B and 17-C'

Amend the bill in section 5 by inserting after subsection 17-A the following:

'17-B. Recycling. "Recycling" or "recycle" means a series of activities by which material that has reached the end of its current use is processed into material for use in the production of new products.'

Amend the bill in section 5 by renumbering the subsections to read consecutively.

Amend the bill in section 7 in the first line (page 8, line 1 in L.D.) by striking out the following: "enacted by PL 2015, c. 166, §14, is" and inserting the following: 'amended by PL 2019, c. 133, §1, is further'

Amend the bill in section 7 in §3106 by striking out all of subsection 1 (page 8, lines 3 to 12 in L.D.) and inserting the following:

1. Dealer acceptance. Except as otherwise provided in this section, a dealer operating a retail space of 5,000 square feet or more may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container ~~of the kind, size and brand sold by the dealer,~~ or refuse to pay in cash the refund value of the returned beverage container as established by section 3103. ~~This section does not require an operator of a vending machine to maintain a person to accept returned beverage containers on the premises where the vending machine is located.~~ unless the dealer has a written agreement with a redemption center to provide redemption services on behalf of the dealer and that redemption center:

A. Is located within 10 miles from the dealer, as measured along public roadways; or

COMMITTEE AMENDMENT

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1 B. If there is no redemption center located within 10 miles from the dealer under
2 paragraph A, is the redemption center in closest proximity to the dealer, as measured
3 along public roadways.

4 This subsection does not require an operator of a vending machine to maintain a person to
5 accept returned beverage containers on the premises where the vending machine is
6 located.'

7 Amend the bill in section 7 in §3106 by striking out all of subsection 7 (page 9, lines
8 4 to 45 and page 10, lines 1 to 8 in L.D.) and inserting the following:

9 **'7. Reimbursement of handling costs.** Reimbursement of handling costs is
10 governed by this subsection.

11 A. In addition to the payment of the refund value, the initiator of the deposit under
12 section 3103, subsections 1, 2 and 4 shall reimburse the dealer or ~~local~~ redemption
13 center for the cost of handling beverage containers subject to section 3103, in an
14 amount that equals at least 3¢ per returned container for containers picked up by the
15 initiator before March 1, 2004, at least 3 1/2¢ for containers picked up on or after
16 March 1, 2004 and before March 1, 2010, at least 4¢ for containers picked up on or
17 after March 1, 2010 and before January 1, 2020 and at least 4 1/2¢ for containers
18 picked up on or after January 1, 2020. The initiator of the deposit may reimburse the
19 dealer or ~~local~~ redemption center directly or indirectly through a party with which it
20 has entered into a commingling agreement.

21 B. In addition to the payment of the refund value, the initiator of the deposit under
22 section 3103, subsection 3 shall reimburse the dealer or ~~local~~ redemption center for
23 the cost of handling beverage containers subject to section 3103 in an amount that
24 equals at least 3¢ per returned container for containers picked up by the initiator
25 before March 1, 2004, at least 3 1/2¢ for containers picked up on or after March 1,
26 2004 and before March 1, 2010, at least 4¢ for containers picked up on or after March
27 1, 2010 and before January 1, 2020 and at least 4 1/2¢ for containers picked up on or
28 after January 1, 2020. The initiator of the deposit may reimburse the dealer or ~~local~~
29 redemption center directly or indirectly through a contracted agent or through a party
30 with which it has entered into a commingling agreement.

31 ~~D. Paragraphs A and B do not apply to a brewer who annually produces no more~~
32 ~~than 50,000 gallons of its product or a bottler of water who annually sells no more~~
33 ~~than 250,000 containers each containing no more than one gallon of its product. In~~
34 ~~addition to the payment of the refund value, an initiator of deposit under section~~
35 ~~3103, subsections 1 to 4 who is also a brewer who annually produces no more than~~
36 ~~50,000 gallons of its product or a bottler of water who annually sells no more than~~
37 ~~250,000 containers each containing no more than one gallon of its product shall~~
38 ~~reimburse the dealer or local redemption center for the cost of handling beverage~~
39 ~~containers subject to section 3103 in an amount that equals at least 3¢ per returned~~
40 ~~container, except that, beginning January 1, 2020, the initiator of deposit shall~~
41 ~~reimburse the dealer or local redemption center at least 3 1/2¢ per returned container.'~~

42 Amend the bill in section 9 in §3109 in subsection 5-A in the 3rd line (page 16, line
43 10 in L.D.) by striking out the following: "containers" and inserting the following:
44 'receptacles'

COMMITTEE AMENDMENT

1 Amend the bill in section 9 in §3109 by inserting after subsection 5-A the following:

2 **5-B. Beverage container auditing.** A redemption center shall prepare beverage
3 containers for pickup by pick-up agents, which are subject to audit pursuant to rules
4 adopted by the department in accordance with this subsection.

5 A. A redemption center shall label each shell, shipping carton, bag or other
6 receptacle with the business name, initials, redemption center license number or other
7 unique identifying mark and with the number of beverage containers contained in
8 each shell, shipping carton, bag or other receptacle.

9 B. The department may audit shells, shipping cartons, bags or other receptacles that
10 have been prepared for pickup by a redemption center.

11 (1) An audit may be conducted by the department on site at the redemption
12 center or off site at a different location. Off-site audits may involve the use of
13 bulk redemption technology.

14 (2) An audit must be conducted on a minimum of 1,000 beverage containers.

15 (3) If the results of an audit vary from the beverage container count labeled in
16 accordance with paragraph A, the department shall, in the case of an on-site
17 audit, require the redemption center to add or remove containers to address the
18 variation in the results of the audit or, in the case of an off-site audit, require the
19 redemption center to accept payment from the initiator of deposit or pick-up
20 agent adjusted in accordance with the variation in the results of the audit.

21 (4) The department may deny an application for approval of a redemption center
22 under subsection 2 if the redemption center, pursuant to audits conducted by the
23 department in accordance with this subsection, has repeatedly prepared for
24 pickup shells, shipping cartons, bags or other receptacles containing less than
25 97% of the beverage containers that such shells, shipping cartons, bags or other
26 receptacles are labeled as containing.'

27 Amend the bill in section 10 in §3113 in subsection 4 by striking out all of paragraph
28 B (page 17, lines 21 and 22 in L.D.) and inserting the following:

29 'B. An entity that is a ~~food establishment~~ or distributor licensed by or registered with
30 the department need not comply with subsection 3;'

31 Amend the bill by adding after section 14 the following:

32 **'Sec. 15. Initiator of deposit and pick-up agent reporting of beverage**
33 **container sales and redemption data for calendar year 2018; report.** No later
34 than November 1, 2019, each initiator of deposit and each pick-up agent that is not an
35 initiator of deposit shall report to the Department of Environmental Protection, in a
36 manner consistent with the Maine Revised Statutes, Title 38, section 3119, information
37 regarding its beverage container sales and redemptions for calendar year 2018 which
38 must include for calendar year 2018 the number of containers picked up from each
39 redemption center by container type and by redemption value. Upon receipt of the data
40 under this section, the department shall assess the efficiency and convenience of the
41 beverage container redemption system and develop recommendations to improve
42 efficiencies in the handling and transportation of beverage containers and to ensure

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1 convenient collection of beverage containers for consumers. On or before January 15,
2 2020, the department shall submit a report to the Joint Standing Committee on
3 Environment and Natural Resources detailing the department's findings and
4 recommendations, including any proposed legislation. The report under this section may
5 be included in the report required pursuant to Public Law 2019, chapter 133, section 3.
6 After reviewing the report, the committee may report out legislation to the Second
7 Regular Session of the 129th Legislature to implement recommendations contained in the
8 report.'

9 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
10 section number to read consecutively.

11 **SUMMARY**

12 This amendment amends the bill as follows.

13 1. It includes a definition for the term "recycling" or "recycle" as applicable to the
14 container redemption laws.

15 2. It authorizes the Department of Environmental Protection to conduct audits of
16 beverage containers prepared for pickup by pick-up agents at redemption centers and to
17 adopt rules regarding such audits.

18 3. It amends the bill to provide that a dealer of beverage containers with 5,000 or
19 more square feet of retail space must accept beverage container returns unless the dealer
20 has a written agreement with a redemption center located within 10 miles of the dealer, or
21 with the redemption center in closest proximity to the dealer, to provide redemption
22 services on the dealer's behalf.

23 4. It retains in the law the exception from the population requirements for licensing
24 of redemption centers by distributors, but removes the exception for food establishments.
25 The bill removed the exception for both food establishments and distributors.

26 5. It requires that no later than November 1, 2019, each initiator of deposit and each
27 pick-up agent that is not an initiator of deposit must report to the department information
28 regarding its beverage container sales and redemptions for calendar year 2018, which the
29 department must use in developing findings and recommendations for inclusion in a
30 report, due January 15, 2020, to the Joint Standing Committee on Environment and
31 Natural Resources. The committee is authorized to report out legislation to implement
32 those recommendations.

33 **FISCAL NOTE REQUIRED**

34 (See attached)



129th MAINE LEGISLATURE

LD 1628

LR 2466(02)

An Act To Implement Recommendations of the Department of Environmental Protection Regarding the State's Container Redemption Laws

Fiscal Note for Bill as Amended by Committee Amendment *A(H-461)*

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Net Cost (Savings)				
General Fund	\$0	\$0	\$0	\$1,250,000
Revenue				
General Fund	\$0	\$0	\$0	(\$1,250,000)

Fiscal Detail and Notes

This bill implements the Department of Environmental Protection (DEP) recommendations regarding the State's beverage container redemption laws as included in the DEP's annual report on the State's product stewardship programs. The recommendations include; increasing the annual license fee for redemption centers from \$50 to \$100, creating specific responsibilities of initiators of deposit regarding container pick-ups, clarification of the rules regarding commingling agreements, a requirement that all initiators of deposit enter into a commingling agreement by January 1, 2023, clarification of the licensing requirements for redemption centers and adding new reporting requirements for initiators of deposit and redemption centers.

Under current law, unclaimed deposits for redeemable beverage containers not subject to a commingling agreement are turned over to the State and eventually are credited to the General Fund. A requirement that all initiators of deposit enter into a commingling agreement would reduce General Fund revenue by approximately \$1,250,000 in fiscal year 2022-23 and by \$2,500,000 annually afterward. An increase to the annual license fee for redemption centers will increase Other Special Revenue Funds revenue. The amount of increase is not expected to be significant.