

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

---

Legislative Document

No. 1910

---

H.P. 1226

House of Representatives, May 9, 2023

### **An Act to Amend the Returnable Beverage Container Program**

---

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

  
ROBERT B. HUNT  
Clerk

Presented by Representative CROCKETT of Portland.  
Cosponsored by Representatives: BRIDGEO of Augusta, CAMPBELL of Orrington,  
DUCHARME of Madison, GRAHAM of North Yarmouth, PARRY of Arundel, PERRY of  
Bangor.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 38 MRSA §3102, sub-§2-A** is enacted to read:

3 **2-A. Bag drop program.** "Bag drop program" means a recycling program that allows  
4 a person to drop off beverage containers in a bag or other receptacle to receive a deposit or  
5 script for refunds asynchronously and meets the requirements of section 3109-A.

6 **Sec. 2. 38 MRSA §3102, sub-§3-A** is enacted to read:

7 **3-A. Commingling group.** "Commingling group" means a group of initiators of  
8 deposit or distributors subject to a commingling agreement.

9 **Sec. 3. 38 MRSA §3102, sub-§12-A** is enacted to read:

10 **12-A. Maine Commingling Cooperative or cooperative.** "Maine Commingling  
11 Cooperative" or "cooperative" means the entity established in section 3107-A.

12 **Sec. 4. 38 MRSA §3102, sub-§16-A**, as enacted by PL 2019, c. 526, §5, is amended  
13 to read:

14 **16-A. Pick-up agent.** "Pick-up agent" means an initiator of deposit, a distributor or a  
15 contracted agent of an initiator of deposit or a distributor a commingling group that receives  
16 redeemed beverage containers from a redemption center and transports those containers for  
17 recycling.

18 **Sec. 5. 38 MRSA §3102, sub-§19**, as enacted by PL 2015, c. 166, §14, is amended  
19 to read:

20 **19. Reverse vending machine.** "Reverse vending machine" means an automated  
21 device that uses a laser scanner and microprocessor to accurately recognize the universal  
22 product code on ~~each~~ beverage ~~containers~~ container and to accumulate information  
23 regarding containers redeemed, enabling the reverse vending machine to accept containers  
24 from redeemers and to issue script for the containers' refund value. "Reverse vending  
25 machine" does not include a hand scanner or other similar device.

26 **Sec. 6. 38 MRSA §3103, sub-§2**, as enacted by PL 2015, c. 166, §14, is amended  
27 to read:

28 **2. Nonrefillable containers; ~~exclusive distributorships.~~** For nonrefillable beverage  
29 containers, except wine and spirits containers, sold through geographically exclusive  
30 distributorships, the distributor shall determine and initiate the deposit and refund value  
31 according to the type, kind and size of the beverage container. The ~~the~~ deposit and refund  
32 value may not be less than ~~is~~ 5¢.

33 **Sec. 7. 38 MRSA §3103, sub-§3**, as enacted by PL 2015, c. 166, §14, is repealed.

34 **Sec. 8. 38 MRSA §3103, sub-§4**, as amended by PL 2017, c. 140, §1 and affected  
35 by c. 140, §3, is further amended to read:

36 **4. Wine and spirits containers.** For wine and spirits containers of ~~50~~ 500 milliliters  
37 or less, the refund value ~~may not be more than~~ is 5¢. For wine and spirits containers of  
38 greater than ~~50~~ 500 milliliters, the refund value ~~may not be less than~~ is 15¢.

39 **Sec. 9. 38 MRSA §3105**, as amended by PL 2019, c. 526, §6, is further amended to  
40 read:

1           **§3105. Labels; stamps; brand names**

2           **1. Labels.** Except as provided under subsections ~~2 and 4 and 4-A~~, the refund value or  
3 the abbreviation "RV" and the word "Maine" or the abbreviation "ME" must be clearly  
4 indicated on every refundable beverage container sold or offered for sale by a dealer in this  
5 State, by embossing, stamping, labeling or other method of secure attachment to the  
6 beverage container. The refund value may not be indicated on the bottom of the container.

7           ~~**2. Labels; nonrefillable containers; nonexclusive distributorships.** With respect to~~  
8 ~~nonrefillable beverage containers the deposits for which are initiated pursuant to section~~  
9 ~~3103, subsection 3, the refund value and the word "Maine" or the abbreviation "ME" must~~  
10 ~~be clearly indicated on every refundable beverage container sold or offered for sale by a~~  
11 ~~dealer in this State, by permanently embossing or permanently stamping the beverage~~  
12 ~~containers, except in instances when the initiator of the deposit has specific permission~~  
13 ~~from the department to use stickers or similar devices. The refund value may not be~~  
14 ~~indicated on the bottom of the container.~~

15           ~~**3. Labels; nonrefillable containers; exclusive distributorships.** Notwithstanding~~  
16 ~~subsection 1 and with respect to nonrefillable beverage containers, for the deposits that are~~  
17 ~~initiated pursuant to section 3103, subsection 2, the refund value and the word "Maine" or~~  
18 ~~the abbreviation "ME" may be clearly indicated on refundable beverage containers sold or~~  
19 ~~offered for sale by a dealer in this State by use of stickers or similar devices if those~~  
20 ~~containers are not otherwise marked in accordance with subsection 1. A redemption center~~  
21 ~~shall accept containers identified by stickers in accordance with this subsection or by~~  
22 ~~embossing or stamping in accordance with subsection 1.~~

23           ~~**4. Brand name Refillable glass containers.** Refillable glass beverage containers of~~  
24 ~~carbonated beverages, for which the deposit is initiated under section 3103, subsection 1,~~  
25 ~~that have a refund value of not less than 5¢ and a brand name permanently marked on the~~  
26 ~~container are not required to comply with subsection 1. The exception provided by this~~  
27 ~~subsection does not apply to glass beverage containers that contain spirits, wine or malt~~  
28 ~~liquor as those terms are defined by Title 28-A, section 2.~~

29           ~~**4-A. Permission of department.** A refundable beverage container sold or offered for~~  
30 ~~sale by a dealer in this State is not required to comply with subsection 1 in instances when~~  
31 ~~the initiator of the deposit has specific permission from the department to use stickers or~~  
32 ~~similar devices.~~

33           **5. Label registration.** An initiator of deposit shall register the container label of any  
34 beverage offered for sale in the State on which it initiates a deposit. Registration must be  
35 on forms or in an electronic format provided by the department and must include the  
36 universal product code for each combination of beverage and container manufactured. The  
37 initiator of deposit shall renew a label registration annually and whenever that label is  
38 revised by altering the universal product code or whenever the container on which it  
39 appears is changed in size, composition or glass color. The initiator of deposit shall also  
40 include as part of the registration the ~~method of collection for that type of container,~~  
41 ~~identification of a collection agent, identification of all of the parties to a commingling~~  
42 ~~agreement that applies to the container and proof of the collection agreement the~~  
43 ~~commingling group to which the initiator of deposit belongs.~~ The department may charge  
44 a fee for registration and registration renewals under this subsection. The department shall

1 collect data relating to the registrations required by this subsection. The department shall  
2 provide that data to the Maine Commingling Cooperative.

3 **6. Removal of product.** A product that is sold or distributed in the State that is not in  
4 compliance with the initiator of deposit or the labeling registration requirements established  
5 in this section or the reporting requirements under section 3107-A, subsection 3 may be  
6 removed from sale by the department.

7 **Sec. 10. 38 MRSA §3106, sub-§5,** as amended by PL 2019, c. 526, §7, is further  
8 amended to read:

9 **5. Distributor Commingling group acceptance.** A ~~distributor~~ commingling group  
10 or its pick-up agent may not refuse to accept from any dealer or redemption center any  
11 empty, unbroken and reasonably clean beverage container or any beverage container that  
12 has been processed through an approved reverse vending machine or bag drop program that  
13 meets the requirements of rules adopted by the department pursuant to this chapter of the  
14 kind, size and brand sold by the distributor or refuse to pay to the dealer or redemption  
15 center the refund value of a beverage container as established by section 3103.

16 **Sec. 11. 38 MRSA §3106, sub-§6,** as amended by PL 2019, c. 526, §7, is further  
17 amended to read:

18 **6. Obligation to preserve recycling value.** Notwithstanding subsection 8, a  
19 ~~distributor~~ commingling group or its pick-up agent may refuse to accept, or pay the refund  
20 value and handling costs to a dealer, redemption center or other person for, a beverage  
21 container that has been processed by a reverse vending machine or bag drop program in a  
22 way that has reduced the recycling value of the container below current market value. This  
23 subsection may not be interpreted to prohibit a written processing agreement between the  
24 commingling group to which a distributor or initiator of deposit belongs and a dealer or  
25 redemption center and does not relieve the commingling group to which a distributor or  
26 initiator of deposit belongs of its obligation under subsection 8 to accept empty, unbroken  
27 and reasonably clean beverage containers. The department shall adopt rules to establish  
28 the recycling value of beverage containers under this subsection and the rules may  
29 authorize the use of a 3rd-party vendor to determine if a beverage container has been  
30 processed by a reverse vending machine or bag drop program in a manner that has reduced  
31 the recycling value below current market value. The rules must outline the method of  
32 allocating among the parties involved the payment for 3rd-party vendor costs.

33 **Sec. 12. 38 MRSA §3106, sub-§7,** as amended by PL 2019, c. 526, §7, is further  
34 amended to read:

35 **7. Reimbursement of handling costs.** Reimbursement of handling costs is governed  
36 by this subsection.

37 A. In addition to the payment of the refund value, the ~~initiator of the deposit under~~  
38 ~~section 3103, subsections 1, 2 and 4~~ commingling group to which an initiator of deposit  
39 belongs shall reimburse the dealer or redemption center for the cost of handling  
40 beverage containers subject to section 3103, in an amount that equals ~~at least 3¢ per~~  
41 ~~returned container for containers picked up by the initiator before March 1, 2004, at~~  
42 ~~least 3 1/2¢ for containers picked up on or after March 1, 2004 and before March 1,~~  
43 ~~2010, at least 4¢ for containers picked up on or after March 1, 2010 and before January~~  
44 ~~1, 2020 and at least 4 1/2¢ for containers picked up on or after January 1, 2020 and at~~

1 least 5¢ for containers picked up on or after January 1, 2024. The initiator of the deposit  
2 may reimburse the dealer or redemption center directly or indirectly through a party  
3 with which it has entered into a commingling agreement.

4 ~~B. In addition to the payment of the refund value, the initiator of the deposit under~~  
5 ~~section 3103, subsection 3 shall reimburse the dealer or redemption center for the cost~~  
6 ~~of handling beverage containers subject to section 3103 in an amount that equals at~~  
7 ~~least 3¢ per returned container for containers picked up by the initiator before March~~  
8 ~~1, 2004, at least 3 1/2¢ for containers picked up on or after March 1, 2004 and before~~  
9 ~~March 1, 2010, at least 4¢ for containers picked up on or after March 1, 2010 and before~~  
10 ~~January 1, 2020 and at least 4 1/2¢ for containers picked up on or after January 1, 2020.~~  
11 ~~The initiator of the deposit may reimburse the dealer or redemption center directly or~~  
12 ~~indirectly through a contracted agent or through a party with which it has entered into~~  
13 ~~a commingling agreement.~~

14 **Sec. 13. 38 MRSA §3106, sub-§8**, as amended by PL 2019, c. 315, §19 and c. 526,  
15 §7, is further amended to read:

16 **8. Obligation to pick up and recycle containers.** The obligation to pick up and  
17 recycle beverage containers subject to this chapter is determined as follows.

18 A. ~~A distributor that initiates the deposit under section 3103, subsection 2 or 4~~ The  
19 Maine Commingling Cooperative ~~has the obligation to pick up and recycle any empty,~~  
20 ~~unbroken and reasonably clean beverage containers of the particular kind, size and~~  
21 ~~brand sold by the distributor from dealers to whom that distributor has sold those~~  
22 ~~beverages and from licensed redemption centers every 15 days. A distributor that,~~  
23 ~~within this State, sells beverages under a particular label exclusively to one dealer,~~  
24 ~~which dealer offers those labeled beverages for sale at retail exclusively at the dealer's~~  
25 ~~establishment, shall pick up any empty, unbroken and reasonably clean beverage~~  
26 ~~containers of the kind, size and brand sold by the distributor to the dealer only from~~  
27 ~~those licensed redemption centers that are located within 25 miles from the dealer, as~~  
28 ~~measured along public roadways. A dealer that manufactures its own beverages for~~  
29 ~~exclusive sale by that dealer at retail has the obligation of a distributor under this~~  
30 ~~section. The department may establish by rule, in accordance with the Maine~~  
31 ~~Administrative Procedure Act, criteria prescribing the manner in which distributors~~  
32 ~~shall fulfill the obligations imposed by this paragraph. The rules may establish a~~  
33 ~~minimum number or value of containers below which a distributor is not required to~~  
34 ~~respond to a request to pick up empty containers. Any rules adopted under this~~  
35 ~~paragraph must allocate the burdens associated with the handling, storage,~~  
36 ~~transportation and recycling of empty containers to prevent unreasonable financial or~~  
37 ~~other hardship.~~ The Maine Commingling Cooperative has the obligation to make an  
38 additional pickup when a dealer or a redemption center has collected 50,000 beverage  
39 containers. The obligation of the Maine Commingling Cooperative or commingling  
40 group to which an initiator of deposit belongs under this subsection may be fulfilled  
41 through a pick-up agent or by the cooperative or the commingling group.

42 ~~B. The initiator of the deposit under section 3103, subsection 3 has the obligation to~~  
43 ~~pick up and recycle any empty, unbroken and reasonably clean beverage containers of~~  
44 ~~the particular kind, size and brand sold by the initiator from dealers to whom a~~  
45 ~~distributor has sold those beverages and from licensed redemption centers. The~~

1 obligation may be fulfilled by the initiator directly or indirectly through a contracted  
2 agent.

3 C. An initiator of the deposit under section 3103, subsection 2, 3 or 4 has the obligation  
4 to pick up and recycle any empty, unbroken and reasonably clean beverage containers  
5 that are commingled pursuant to a commingling agreement along with any beverage  
6 containers that the initiator is otherwise obligated to pick up and recycle pursuant to  
7 paragraphs A and B.

8 D. The initiator of deposit or initiators of deposit who are members of a commingling  
9 agreement have the obligation under this subsection to pick up and recycle empty,  
10 unbroken and reasonably clean beverage containers of the particular kind, size and  
11 brand sold by the initiator from dealers to whom a distributor has sold those beverages  
12 and from licensed redemption centers every 15 days. The initiator of deposit or  
13 initiators of deposit who are members of a commingling agreement have the obligation  
14 to make additional pickups when a redemption center has collected 10,000 beverage  
15 containers from that initiator of deposit or from the initiators of deposit who are  
16 members of a commingling agreement.

17 The obligations of the initiator of the deposit under this subsection may be fulfilled by the  
18 initiator directly or through a party with which it has entered into a commingling  
19 agreement. A contracted agent hired to pick up beverage containers for one or more  
20 initiators of deposit is deemed to have made a pickup at a redemption center for those  
21 initiators of deposit when it picks up beverage containers belonging to those initiators of  
22 deposit.

23 **Sec. 14. 38 MRSA §3107**, as amended by PL 2019, c. 526, §8, is further amended  
24 to read:

25 **§3107. Commingling of beverage containers**

26 Notwithstanding any other provision of this chapter to the contrary, 2 or more initiators  
27 An initiator of deposit may shall enter into a commingling agreement through which some  
28 or all of the beverage containers for which the initiators have initiator has initiated deposits  
29 may be commingled by dealers and operators of redemption centers as provided in this  
30 section.

31 An initiator of deposit that enters into a commingling agreement pursuant to this section  
32 shall permit any other initiator of deposit to become a party to that agreement on the same  
33 terms and conditions as the original agreement. ~~Once the initiator of deposit has established~~  
34 ~~a qualified commingling agreement pursuant to the requirements of subsection 1-A, the~~  
35 ~~department shall allow additional brands of beverage containers from a different product~~  
36 ~~group to be included in the commingling agreement if those additional brands are of like~~  
37 ~~material to those containers already managed under the commingling agreement.~~

38 For the purposes of this chapter and notwithstanding any provision of this chapter to  
39 the contrary, the State, through the Department of Administrative and Financial Services,  
40 Bureau of Alcoholic Beverages and Lottery Operations, is deemed to be managing returned  
41 containers for which the State has initiated deposits in a commingling ~~program~~ group  
42 pursuant to a qualified commingling agreement as long as the State allows a dealer or  
43 redemption center to commingle returned containers of like material.

1           **1. Commingling requirement.** If initiators of deposit enter into a commingling  
2 agreement pursuant to this section, commingling Commingling of beverage containers  
3 must be by all containers of like ~~product group~~, material and size. An initiator of deposit A  
4 commingling group required pursuant to section 3106, subsection 8 to pick up beverage  
5 containers subject to a commingling agreement also shall pick up all other beverage  
6 containers subject to the same agreement. The ~~initiator of deposit~~ commingling group may  
7 not require beverage containers ~~that are subject to a commingling agreement~~ to be sorted  
8 separately by brand by a dealer or redemption center.

9           **1-A. Qualified commingling agreements.** The department shall determine that a  
10 commingling agreement is qualified for the purposes of this chapter if:

11           A. Fifty percent or more of beverage containers of like ~~product group~~, material and  
12 size for which the deposits are being initiated in the State are included in the  
13 commingling agreement;

14           B. ~~The initiators of deposit included in the commingling agreement are initiators of~~  
15 ~~deposit for beverage containers containing wine and each initiator of deposit sells no~~  
16 ~~more than 100,000 gallons of wine or 500,000 beverage containers containing wine in~~  
17 ~~a calendar year; or~~

18           C. ~~The commingling agreement has been approved by the department pursuant to~~  
19 ~~subsection 3-A.~~

20           **2. Commingling of like materials.** For purposes of this section, containers are  
21 considered to be of like materials if made up of one of the following:

22           A. Plastic;

23           B. Aluminum;

24           C. Metal other than aluminum; and

25           D. Glass.

26           **3. Commingling of like products.** For purposes of this section, like products are  
27 those that are made up of one of the following:

28           A. Beer, ale or other beverage produced by fermenting malt, wine and wine coolers;

29           B. Spirits;

30           C. Soda;

31           D. Noncarbonated water; and

32           E. All other beverages.

33           **3-A. Commingling by 3rd party or stewardship organization agreements**  
34 **required.** Subject to the requirements of this subsection, an initiator of deposit ~~may that~~  
35 ~~is not in a commingling group shall~~ enter into a commingling agreement for its beverage  
36 containers to be managed in a commingling program agreement operated by a ~~3rd party or~~  
37 ~~by a stewardship organization as defined in section 1771, subsection 8-A~~ the Maine  
38 Commingling Cooperative. The ~~3rd party or stewardship organization~~ Maine  
39 Commingling Cooperative shall submit a plan for the operation of ~~the up to 2~~ up to 2 commingling  
40 program agreements to the department for review and approval as a ~~qualified commingling~~



1 agreement. The cooperative may designate agents to fulfill its obligation under this section.  
2 A commingling program agreement under this subsection must:

3 A. Require Allow redemption centers to commingle all beverage containers of  
4 initiators of deposit included in the program by like material and size;

5 B. Establish standards to provide for fair apportionment of costs among initiators of  
6 deposit included in the program group either on the basis of sales data or the count of  
7 containers redeemed or on the total weight of containers marketed in the State that is  
8 provided to the Maine Commingling Cooperative or the commingling group to which  
9 the initiator of deposit belongs. These standards may provide for determination of the  
10 amount to be paid to a redemption center as based on the unit counts generated by a  
11 reverse vending machine or bag drop program, as long as the reverse vending machine  
12 or bag drop program is subject to periodic audits by the 3rd party or stewardship  
13 organization on a schedule approved by the department Maine Commingling  
14 Cooperative; and

15 C. Require that, no later than the 20th day of the each month following the end of  
16 March, June, September and December, each initiator of deposit included in the  
17 program report to the 3rd party or stewardship organization operating the program  
18 commingling group to which it belongs regarding its sales of beverages into the State  
19 for the previous 3-month period by brand and by number of nonrefillable beverage  
20 containers sold by product size and material type as well as the average beverage  
21 container weight by material type and size month according to terms set forth by the  
22 Maine Commingling Cooperative . The 3rd party or stewardship organization Maine  
23 Commingling Cooperative and the commingling group to which the initiator of deposit  
24 belongs shall assign financial responsibility for the costs of operating the program  
25 agreement to the initiators of deposit included in the program agreement based on each  
26 initiator of deposit's sales data, proportion of the total weight of beverage containers  
27 marketed in the State by material type or by actual count of containers redeemed;

28 The 3rd party or stewardship organization operating the program Maine Commingling  
29 Cooperative or the commingling group to which the initiator of deposit belongs may require  
30 an initiator of deposit included in the program a commingling agreement to provide  
31 financial assurance in the form of a deposit no greater than the initiator of deposit's  
32 anticipated costs for beverage container deposits, redemption center handling costs and any  
33 contractual fees for up to 4 months of anticipated sales in the State. The 3rd party or  
34 stewardship organization shall Maine Commingling Cooperative may direct the  
35 commingling group to which the initiator of deposit belongs to retain any financial  
36 assurance required pursuant to this subsection in a separate account. In the event that an  
37 initiator of deposit that has provided financial assurance in accordance with this subsection  
38 fails to reimburse the 3rd party or stewardship organization Maine Commingling  
39 Cooperative or the commingling group to which the initiator of deposit belongs for its  
40 incurred costs within 90 days of receipt of an invoice for such costs, the 3rd party or  
41 stewardship organization Maine Commingling Cooperative or the commingling group to  
42 which the initiator of deposit belongs may cover those invoiced costs using the financial  
43 assurance provided by the initiator of deposit in accordance with this subsection.

44 The department may approve no more than 2 commingling agreements as qualified  
45 commingling agreements under this subsection and may not approve a qualified  
46 commingling agreement under this subsection for a period exceeding 10 years.

1           **4. Registration of commingling agreements.** Not later than 48 hours following the  
2 execution or amendment of a commingling agreement, including an amendment that adds  
3 an additional party to an existing agreement, the parties shall file a copy of the commingling  
4 agreement or amendment with the Maine Commingling Cooperative and the department.

5           **5. Reapproval of qualified commingling agreements.** ~~This subsection provides for~~  
6 ~~the reapproval of qualified commingling agreements that have been approved or~~  
7 ~~reapproved by the department pursuant to this section.~~

8           ~~A. The initiators of deposit participating in a qualified commingling agreement under~~  
9 ~~this section that was approved as a qualified commingling agreement prior to~~  
10 ~~November 9, 2016 shall, no later than July 1, 2021, submit to the department an~~  
11 ~~application for reapproval of that commingling agreement in a form prescribed by the~~  
12 ~~department.~~

13           ~~B. The initiators of deposit participating in a qualified commingling agreement under~~  
14 ~~this section that was approved or reapproved on or after November 9, 2016 must submit~~  
15 ~~to the department an application for reapproval of that commingling agreement in a~~  
16 ~~form prescribed by the department at least 6 months prior to the date of expiration of~~  
17 ~~the department's prior approval or reapproval.~~

18           ~~C. After review of an application submitted under this subsection, the department may~~  
19 ~~reapprove the commingling agreement for an additional period not to exceed 10 years.~~

20           **6. Removal of beverage; civil penalty.** The department shall remove from sale a  
21 beverage that is sold or distributed in the State by an initiator of deposit that is not in  
22 compliance with the reporting and payment requirements established under this chapter.  
23 An initiator of deposit that does not comply with the reporting and payment requirements  
24 established under this chapter is subject to a civil penalty of at least \$1,000, payable to the  
25 department. This penalty is recoverable in a civil action.

26           **7. Proprietary information.** Proprietary information submitted to the department in  
27 a report required under this section that is identified by the person submitting the  
28 information as proprietary information is confidential and must be handled by the  
29 department in the same manner as confidential information under section 1310-B.

30           **8. Refillable containers exempt.** Refillable containers are exempt from the  
31 requirements of this section.

32           **Sec. 15. 38 MRSA §3107-A** is enacted to read:

33           **§3107-A. Maine Commingling Cooperative**

34           The Maine Commingling Cooperative consists of commingling groups that filed a  
35 commingling agreement with the department pursuant to section 3107, subsection 4. The  
36 governing board of the cooperative must represent the range of beverages and beverage  
37 container materials in accordance with this section.

38           **1. Operating agreement.** The cooperative shall submit its operating agreement to the  
39 department. The cooperative shall submit a new operating agreement one year prior to the  
40 expiration of an operating agreement. The department shall approve the operating  
41 agreement for a period of up to 5 years if the agreement meets the requirements of this  
42 subsection. An operating agreement must include a plan for the cooperative to:

- 1           A. Allow dealers and redemption centers to sort all beverage containers by material
- 2           type and size;
- 3           B. Operate the redemption system to maintain a 75% redemption rate annually for
- 4           deposit containers in accordance with section 3108-A;
- 5           C. Reduce traffic and associated environmental impacts by optimizing collection
- 6           routes so that only one commingling group or its pick-up agent serves each redemption
- 7           site;
- 8           D. Adopt policies and make investments to ensure that recovered materials are
- 9           returned to their highest and best use with a priority of returning material to its members
- 10           for use in new beverage containers;
- 11           E. Engage with retailers to ensure a balance between retail redemption and
- 12           alternatives;
- 13           F. Support investment in the possible establishment of sites for the collection of
- 14           beverage containers, other than as provided in section 3109, consistent with the
- 15           redemption rate established in paragraph B;
- 16           G. Provide an improved customer experience and streamline inefficient practices;
- 17           H. Develop an education and outreach campaign to provide information about the
- 18           redemption system and its rules and operations;
- 19           I. Evaluate consumer awareness and satisfaction with the redemption system;
- 20           J. Develop criteria to reduce or eliminate dealer responsibility for accepting empty
- 21           beverage containers, including financial participation by the dealer in establishing
- 22           redemption centers or other redemption options; and
- 23           K. Prepare a plan for mitigating fraud in the system, including, but not limited to,
- 24           reducing the incidence of selling beverage containers in the State without initiating
- 25           deposits and redemption of out-of-state, ineligible or already redeemed containers.
- 26           **2. Compliance.** An initiator of deposit may not sell, offer for sale or distribute for
- 27           sale in or into the State a beverage covered under this chapter unless the initiator of deposit
- 28           has complied with all reporting requirements and financial obligations of this chapter and
- 29           is a member in good standing of a commingling group that has submitted a commingling
- 30           agreement to the department pursuant to section 3107, subsection 4.
- 31           **3. Report.** By June 1, 2025 and annually thereafter, the cooperative shall submit an
- 32           annual report to the department, which must be posted on the publicly accessible websites
- 33           of each member entity. The annual report must include:
- 34           A. Current lists of participating initiators of deposit and brands;
- 35           B. Current redemption sites in operation;
- 36           C. Progress made toward achieving the goals of the plan under subsection 1, including,
- 37           but not limited to, the total number of beverage containers sold and redeemed by
- 38           material type in the prior year; the amount of material collected and sold to end
- 39           markets; and the disposition of material by market, to the extent that such information
- 40           does not disclose proprietary information;
- 41           D. Recommendations for changes to the cooperative; and

1 E. Financial status of the cooperative, including, but not limited to, total refund values  
2 collected and refunded and total unclaimed deposits.

3 **Sec. 16. 38 MRSA §3108, first ¶**, as enacted by PL 2015, c. 166, §14, is amended  
4 to read:

5 The provisions of this section apply only to those beverage containers that are not  
6 subject to a commingling agreement pursuant to section 3107, subsection 1-A.

7 **Sec. 17. 38 MRSA §3108, sub-§9** is enacted to read:

8 **9. Phase out.** A commingling group established under section 3107, subsection 3-A  
9 may keep 25% of the funds otherwise due under this section beginning in 2025, 50% of the  
10 funds otherwise due under this section beginning in 2026 and 75% of the funds otherwise  
11 due under this section beginning in 2027.

12 **Sec. 18. 38 MRSA §3108, sub-§10** is enacted to read:

13 **10. Repeal.** This section is repealed January 1, 2028.

14 **Sec. 19. 38 MRSA §3108-A** is enacted to read:

15 **§3108-A. Unclaimed deposits of the Maine Commingling Cooperative**

16 **1. Standard.** The cooperative shall achieve a 75% redemption rate annually for  
17 deposit containers pursuant to 3107-A, subsection 1, paragraph B.

18 **2. Penalty.** If the cooperative does not achieve the 75% redemption rate shall pay the  
19 applicable container deposit value times the number of containers representing the  
20 difference between the actual redemption rate and 75%. This penalty must be apportioned  
21 according to total sales data among all commingling groups within the cooperative.

22 **3. Waiver.** If the requirements in this section result in the Maine Commingling  
23 Cooperative paying a penalty, the department may waive the penalty due to circumstances  
24 beyond the control of the cooperative, such as anomalous market conditions or disruptions  
25 in access to redemption resulting from public health crises, natural disasters or similar  
26 events.

27 **4. Use of funds.** The department must deposit the penalty amount received under this  
28 section into the Beverage Container Enforcement Fund established in section 3114.

29 **Sec. 20. 38 MRSA §3109, sub-§5-A**, as enacted by PL 2019, c. 526, §9, is amended  
30 to read:

31 **5-A. Beverage container handling.** A redemption center shall tender to commingling  
32 groups and pick-up agents only beverage containers sold in the State that are placed in  
33 shells, shipping cartons, bags or other receptacles in a manner that facilitates accurate  
34 eligible beverage container unit counts.

35 **Sec. 21. 38 MRSA §3109, sub-§5-B**, as amended by PL 2019, c. 526, §9, is further  
36 amended to read:

37 **5-B. Beverage container auditing.** A redemption center shall prepare beverage  
38 containers for pickup by commingling groups and pick-up agents, which are subject to  
39 audit pursuant to rules adopted by the department in accordance with this subsection.

1 A. A redemption center shall label each shell, shipping carton, bag or other receptacle  
2 with the business name, initials, redemption center license number or other unique  
3 identifying mark and with the number of beverage containers contained in each shell,  
4 shipping carton, bag or other receptacle.

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

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

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

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

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

23 **Sec. 22. 38 MRSA §3109-A** is enacted to read:

24 **§3109-A. Bag drop program**

25 A bag drop program must meet the requirements of this section. A bag drop program  
26 must:

27 **1. Customer accounts.** Use a system of customer accounts and establish a mechanism  
28 to associate the returned beverage containers with a particular customer account;

29 **2. Automated technology.** If using automated technology, use a scanning device and  
30 microprocessor that accurately recognizes each universal product code, determines which  
31 products are distributed by which distributor and accumulates the information regarding  
32 containers redeemed by product name, commodity type and package size; and

33 **3. Department approval.** Receive approval by the department to ensure the program  
34 meets the requirements for payout accuracy, data connections and capture and reporting.  
35 Approved bag drop programs may take up to 10 days to deposit funds in the customer  
36 account, allowing for the flexibility of weekly pickup and approximately 3 days for the  
37 processing of the containers.

38 **Sec. 23. 38 MRSA §3113, sub-§4, ¶B,** as amended by PL 2019, c. 526, §10, is  
39 further amended to read:

40 B. An entity that is a distributor licensed by or registered with the department or the  
41 cooperative need not comply with subsection 3; and



- 1           2. It establishes a bag drop program with requirements for tracking containers recycled  
2 through that program.
- 3           3. It sets the deposit and refund value on nonrefillable beverage containers, except  
4 wine and spirits containers, at 5¢.
- 5           4. It sets the refund value of wine and spirits containers of greater than 500 milliliters  
6 at 15¢ and provides that the refund value of wine and spirits containers of 500 milliliters or  
7 less is no more than 5¢.
- 8           5. It authorizes the abbreviation "RV" to satisfy the requirement that the refund value  
9 be clearly indicated on every refundable beverage container.
- 10          6. It eliminates the labeling requirements for nonrefillable containers by nonexclusive  
11 and exclusive distributorships.
- 12          7. It provides an exception for labeling, embossing or stamping if the Department of  
13 Environmental Protection authorizes the use of stickers or similar devices.
- 14          8. It amends the provisions of law related to the registration of labels, including  
15 requiring the Department of Environmental Protection to collect and report data on  
16 registrations to the Maine Commingling Cooperative.
- 17          9. It provides that, instead of a distributor, a commingling group or its pick-up agent  
18 may not refuse to accept from any dealer or redemption center any empty, unbroken and  
19 reasonably clean beverage container through a reverse vending machine or bag drop  
20 program.
- 21          10. It provides that, instead of a distributor, a commingling group or its pick-up agent  
22 has an obligation to preserve the recycling value of the container.
- 23          11. It requires initiators of deposit to belong to commingling groups.
- 24          12. It provides that, instead of an initiator of deposit, the commingling group to which  
25 an initiator of deposit belongs must reimburse the dealer or redemption center for the cost  
26 of handling beverage containers and provides that the amount is equal to at least 5¢ for  
27 containers picked up on or after January 1, 2024.
- 28          13. It provides that, instead of a distributor or an initiator of deposit, the Maine  
29 Commingling Cooperative has an obligation to pick up and recycle any empty, unbroken  
30 and reasonably clean beverage containers from dealers and redemption centers every 15  
31 days and to make an additional pickup when the redemption center has collected 50,000  
32 beverage containers.
- 33          14. It requires the commingling of beverage containers by like material and size and  
34 prohibits a commingling group from requiring that beverage containers be sorted by brand.
- 35          15. It requires an initiator of deposit that is not in a commingling group to enter into  
36 an agreement with the Maine Commingling Cooperative.
- 37          16. It requires the registration of a commingling agreement with the Maine  
38 Commingling Cooperative.
- 39          17. It removes the provisions of law requiring reapproval of commingling agreements.
- 40          18. It authorizes enforcement by the Department of Environmental Protection for an  
41 initiator of deposit that is not in compliance with the applicable laws.

1            19. It establishes a protection for proprietary information associated with commingling  
2 agreements.

3            20. It exempts refillable containers from the requirements relating to commingling  
4 agreements.

5            21. It requires the Maine Commingling Cooperative to submit an annual report to the  
6 Department of Environmental Protection with information about participants, redemption  
7 sites, amount of material recycled, recommended changes and the financial status of the  
8 program.

9            22. It phases out provisions relating to unclaimed deposits and eliminates the  
10 provisions of law related to unclaimed deposits January 1, 2028.

11           23. It requires that the Maine Commingling Cooperative achieve a 75% redemption  
12 rate annually for deposit containers and assesses a penalty for noncompliance to be  
13 deposited in the Beverage Container Enforcement Fund under the Maine Revised Statutes,  
14 Title 38, section 3114, unless the cooperative is provided a waiver by the Department of  
15 Environmental Protection.

16           24. It requires the Department of Environmental Protection and the Maine  
17 Commingling Cooperative to jointly conduct a study to examine operating costs of  
18 redemption centers and to recommend a handling fee schedule.