

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION

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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

pair costs or repairs needed to bring a motor vehicle into compliance with the rules of the department.

6. Penalty. In addition to any penalties under section 349, subsection 2, any person who violates this section is guilty of a Class D crime.

§2407. Inspection fee

1. Amount. The board shall establish by rule an inspection fee to cover the cost of the inspection of a motor vehicle at a public emission inspection station, the cost of services rendered as part of the contract entered under section 2404, subsection 2 and the administrative costs of the department. The inspection fee may not exceed \$30 per vehicle.

2. Payment. The fee must be paid for each motor vehicle inspected at a public emission inspection station at the time of inspection and is payable whether the vehicle passes inspection or not. Each vehicle that fails its initial inspection is entitled to one free inspection.

3. Delinquency charge. Motor vehicles inspected pursuant to this chapter after the expiration of the motor vehicle safety inspection date are subject to a delinquency charge of \$10 for each month after the expiration, which must be collected by the inspection contractor and remitted to the commissioner. Revenue generated from the collection of delinquency charges must be deposited in the General Fund.

4. Inspection fee waived. The board shall establish, by rule, an exemption from the inspection fee under this section for those persons for whom, in its judgment, the fee poses an unreasonable economic burden. In establishing the rule, the board shall consult with the Maine Community Action Association and other representatives of low-income people. The Motor Vehicle Emission Fund must absorb all costs associated with this waiver.

§2408. Motor Vehicle Emission Inspection Fund

1. Establishment. The Motor Vehicle Emission Inspection Fund, referred to in this section as the "fund," is established as a nonlapsing fund. The commissioner may use this fund only to pay the costs of and to administer the Motor Vehicle Emission Inspection Program and mobile source emission-related activities of the department.

2. Revenue sources. The revenue from the following sources must be deposited in the fund:

A. Money received by the commissioner in the form of gifts, grants, reimbursement or appropriations from any source intended to be used for the purpose of the fund;

B. Fleet emission inspection station license fees;

C. Interest attributable to investment of money deposited in the fund; and

D. Proceeds of inspection fees.

Sec. 3. Costs not funded. Notwithstanding the Maine Revised Statutes, Title 30-A, section 5684, any requirements of this Act that result in additional costs to local or county government are not state mandates subject to that section and the State is not required to fund those costs.

Sec. 4. Low-mileage waiver proposal. On or before January 15, 1993, the Commissioner of Environmental Protection shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a proposal to establish a waiver from the provisions of the Maine Revised Statutes, Title 38, section 2402 for vehicles that are driven less than 10,000 miles during the biennial inspection period. The proposal must include feasible administrative mechanisms for verification and enforcement.

See title page for effective date.

CHAPTER 819

H.P. 1519 - L.D. 2131

An Act Relating to Unredeemed Deposits

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

Sec. 1. 28-A MRSA §1651, sub-§1, ¶C, as affected by PL 1989, c. 869, Pt. C, §12, is amended to read:

C. The commission shall add any cost to the State, related to handling containers returned for refund pursuant to Title 32, section ~~1863~~ 1863-A, to the established price without markup.

Sec. 2. 32 MRSA §1863, as amended by PL 1991, c. 591, Pt. R, §1, is repealed.

Sec. 3. 32 MRSA §§1863-A and 1863-B are enacted 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 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 be less than 5¢.

4. Wine and spirits containers. For wine and spirits containers of greater than 50 milliliters, the refund value may not be less than 15¢. On January 1, 1993, the department shall issue a finding on the percentages of wine containers and spirits containers returned for deposit. If the department finds the return rate of wine containers was less than 60% during the year ending September 1992, then, on July 1, 1993, the refund value on wine containers may not be less than 25¢. If the department finds the return rate of spirits containers was less than 60% during the year ending September 1992, then, on July 1, 1993, the refund value of spirits containers may not be less than 25¢.

§1863-B. Ownership of deposits

The minimum deposit established by section 1863-A is the property of the consumer who purchases a beverage container and is held in trust by the deposit initiator for the consumer or for the State for distribution as provided by section 1866-A if the deposit is abandoned by the consumer. Any such deposit amount established in excess of the minimum deposit is held in trust by the deposit initiator for the consumer and is the property of the deposit initiator if abandoned by the consumer.

Sec. 4. 32 MRSA §1865, sub-§1-A, as enacted by PL 1991, c. 491, §2, is amended to read:

1-A. Labels; nonrefillable containers; nonexclusive distributorships. With respect to nonrefillable beverage containers the deposits for which are initiated pursuant to section 1863 1863-A, subsection 2-B 3, the refund value and the word "Maine" or the abbreviation "ME" must be clearly indicated on every refundable beverage container sold or offered for sale by a dealer in this State, by permanently embossing or permanently stamping the beverage containers, except in instances when the initiator of the deposit has specific permission from the depart-

ment to use stickers or similar devices. The refund value may not be indicated on the bottom of the container. Metal beverage containers must be permanently embossed or permanently stamped on the tops of the containers.

Sec. 5. 32 MRSA §1865, sub-§2, as amended by PL 1989, c. 817, §3 and c. 869, Pt. C, §§3 and 15, is repealed and the following enacted in its place:

2. Brand name. Refillable glass beverage containers of carbonated beverages, for which the deposit is initiated under section 1863-A, subsection 1, that have a refund value of not less than 5¢ and a brand name permanently marked on the container are not required to comply with subsection 1. The exception provided by this subsection does not apply to glass beverage containers that contain spirits, wine or malt liquor as those terms are defined by Title 28-A, section 2.

Sec. 6. 32 MRSA §1866, sub-§§1 and 3, as enacted by PL 1975, c. 739, §16, are amended to read:

1. Dealer acceptance. Except as provided in this section, a dealer shall 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 1863 1863-A. This section shall 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.

3. Distributor acceptance. A distributor shall may not refuse to accept from any dealer or local redemption center any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by the distributor or refuse to pay to the dealer or local redemption center the refund value of a beverage container as established by section 1863 1863-A.

Sec. 7. 32 MRSA §1866, sub-§4, ¶¶A and B, as enacted by PL 1989, c. 869, Pt. C, §4 and affected by §15, are amended to read:

A. In addition to the payment of the refund value, the initiator of the deposit under section 1863 1863-A, subsections 1, 2-A 2 and 3 4 shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863 1863-A, in an amount that equals at least 3¢ per returned container.

B. In addition to the payment of the refund value, the initiator of the deposit under section 1863 1863-A, subsection 2-B 3 shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863 1863-A

in an amount that equals at least 3¢ per returned container. The initiator of the deposit may reimburse the dealer or local redemption center directly or indirectly through a contracted agent.

Sec. 8. 32 MRSA §1866, sub-§5, ¶¶A and B, as enacted by PL 1989, c. 869, Pt. C, §5 and affected by §15, are amended to read:

A. A distributor that initiates the deposit under section ~~1863~~ 1863-A, subsection ~~2-A~~ 2 or 3 4 has the obligation to pick up any empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the distributor from dealers to whom that distributor has sold those beverages and from licensed redemption centers designated to serve those dealers pursuant to an order entered under section 1867. A distributor that, within this State, sells beverages under a particular label exclusively to one dealer, which dealer offers those labeled beverages for sale at retail exclusively at the dealer's establishment, shall pick up any empty, unbroken and reasonably clean beverage containers of the kind, size and brand sold by the distributor to the dealer only from those licensed redemption centers that serve the various establishments of the dealer, under an order entered under section 1867. A dealer that manufactures its own beverages for exclusive sale by that dealer at retail has the obligation of a distributor under this section. The commissioner may establish by rule, in accordance with the Maine Administrative Procedure Act, criteria prescribing the manner in which distributors shall fulfill the obligations imposed by this paragraph. The rules may establish a minimum number or value of containers below which a distributor is not required to respond to a request to pick up empty containers. Any rules promulgated under this paragraph must allocate the burdens associated with the handling, storage and transportation of empty containers to prevent unreasonable financial or other hardship.

B. The initiator of the deposit under section ~~1863~~ 1863-A, subsection ~~2-B~~ 3 has the obligation to pick up any empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the initiator from dealers to whom a distributor has sold those beverages and from licensed redemption centers designated to serve those dealers pursuant to an order entered under section 1867. The obligation may be fulfilled by the initiator directly or indirectly through a contracted agent.

Sec. 9. 32 MRSA §1866, sub-§7, as enacted by PL 1991, c. 591, Pt. R, §3 and affected by §18, is amended to read:

7. Deposit transaction account. Each distributor and manufacturer shall maintain an escrow account,

known as the deposit transaction account, for the collection of deposit and refund values pursuant to section ~~1863~~ 1863-A and the distribution of refund values and unclaimed deposits pursuant to subsection 3 and section 1866-A, except that a distributor and manufacturer are not required to maintain a deposit transaction account, for any purpose, for deposit and refund values with respect to containers governed by section 1863-A, subsection 1. Funds deposited in the deposit transaction account may not be used for the reimbursement of handling costs pursuant to subsection 4 or for any other purpose not expressly authorized in this subsection.

Sec. 10. 32 MRSA §1866-A, first ¶, as enacted by PL 1991, c. 591, Pt. R, §4 and affected by §18, is amended to read:

Deposits are presumed abandoned and are unclaimed deposits when retained by a manufacturer or distributor 60 days after being collected during any 3-month period ending the last day of March, June, September or December. Deposit initiators pursuant to section ~~1863~~ 1863-A must report deposit-related activity and disburse unclaimed deposits in accordance with the provisions of this section.

Sec. 11. 32 MRSA §1866-A, sub-§2, as enacted by PL 1991, c. 591, Pt. R, §4 and affected by §18, is amended to read:

2. Unclaimed deposits. Each Except for initiators of deposit under section 1863-A, subsection 1, each deposit initiator shall pay to the Treasurer of State on or before the 20th day of March, June, September and December an amount equal to 50% of the unclaimed minimum deposits held by the deposit initiator. The remaining unclaimed minimum deposits, any other unclaimed deposits and any income earned on deposits become the property of the distributor on the day payment is made to the Treasurer of State. Deposit initiators under section 1863-A, subsection 1 shall retain all unclaimed deposits. Funds received by the Treasurer of State under this subsection become the property of the State and must be deposited in the Maine Solid Waste Management Fund established in Title 38, section 2201.

Sec. 12. 32 MRSA §1867, sub-§4, as enacted by PL 1975, c. 739, §16, is amended to read:

4. Redemption center acceptance. A local redemption center ~~shall~~ 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 a dealer served by the center or refuse to pay in cash the refund value of the returned beverage container as established by section ~~1863~~ 1863-A.

Sec. 13. Allocation. The following funds are allocated from the Maine Solid Waste Management Fund to carry out the purposes of this Act.

1992-93

EXECUTIVE DEPARTMENT**Office of Siting and Disposal
Operations**

All Other (\$44,608)

Provides for the deallocation of funds from changes in the site screening and selection process due to a reduction in available revenues.

**EXECUTIVE DEPARTMENT
TOTAL**

(\$44,608)

FINANCE AUTHORITY OF MAINE**Waste Reduction and Recycling
Loan Fund**

All Other (\$5,248)

Provides for the deallocation of funds from a low-interest loan program for recycling due to a reduction in available revenues.

**FINANCE AUTHORITY OF MAINE
TOTAL**

(\$5,248)

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF****Solid Waste Management**

All Other (\$15,744)

Provides for the deallocation of funds from operational support funds due to a reduction in available revenues.

**DEPARTMENT OF ENVIRONMENTAL
PROTECTION
TOTAL**

(\$15,744)

TOTAL ALLOCATIONS

(\$65,600)

See title page for effective date.

CHAPTER 820**H.P. 1497 - L.D. 2109****An Act to Clarify the Administrative Practices of
the State Tax Assessor Pertaining to State-issued
Licenses**

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

Sec. 1. 36 MRSA §175, sub-§1, as repealed and replaced by PL 1987, c. 402, Pt. A, §178, is amended to read:

1. Information provided to State Tax Assessor.

Every department, board, commission, division, authority, district or other agency of the State issuing or renewing a license or other certificate of authority to conduct a profession, trade or business shall annually, ~~beginning in 1988~~ on or before April 1st, ~~furnish provide~~ to the State Tax Assessor, in such form as the ~~State Tax Assessor assessor~~ may prescribe, a list of all licenses or certificates of authority issued or renewed by that agency during the preceding calendar year. The list provided to the State Tax Assessor ~~shall~~ **must** contain the name, address, Social Security or federal identification number of the licensees and such other identifying information as the State Tax Assessor may ~~adopt~~ by rule **require**. Notwithstanding other provisions of law, all persons seeking a license or certificate of authority or a renewal ~~beginning on or after January 1, 1987~~, shall provide and the responsible agency shall collect the information required by the State Tax Assessor under this section. Failure by persons to provide a licensing or certifying agency that information ~~shall result~~ **results** in an automatic denial of any request for a license or certificate of authority or a renewal.

Sec. 2. 36 MRSA §175, sub-§2, as amended by PL 1989, c. 880, Pt. C, §2, is further amended to read:

2. Failure to file or pay taxes; determination to prevent renewal, reissuance or other extension of license or certificate. If the State Tax Assessor determines, ~~from the information formulated under subsection 1 or otherwise~~, that any person who holds a state-issued license or certificate of authority **to conduct a profession, trade or business** has neglected or refused ~~either~~ to file any returns at the time required under this Title or to pay any tax liability due under this Title ~~which that~~ has been demanded, **and the person continues to fail to file or pay after at least 2 specific written requests to do so**, the ~~State Tax Assessor assessor~~ shall notify the person in writing that refusal to file the required tax return or to pay the overdue tax liability may result in loss of license or certificate of authority. ~~The revocation notice is also conditioned upon the continuing failure to file or pay after at least 2 specific requests to file required returns or to pay a demanded liability.~~ If the person continues for a period in excess of 30 days from notice of possible denial of renewal or reissuance of a license or certificate of authority to fail to file or show reason why the person is not required to file or if the person continues not to pay, the State Tax Assessor shall notify the person in writing of the determination to prevent renewal ~~or~~, reissuance ~~or extension~~ of the license or certificate of authority by the issuing agency. A review of this determination is available by requesting a petition for reconsideration under section 151, subject to appeal to the Superior Court in accordance with the Maine Administrative Procedure Act, ~~Title 5, chapter 375~~. Either by failure to proceed to the next step of appeal or by ex-