

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

from the assessment instrument is forwarded to the Education Research Institute for compilation.

D. Following its compilation of the assessment data, the Education Research Institute shall provide the data collected from the assessment instrument to the task force. The task force shall conduct its own implementation analysis on the assessment data collected and shall use these data in the development of its report and recommendations.

E. On behalf of the task force, the Department of Education shall provide advance notice of the agenda, the time and the location established for each meeting of the task force, including the minutes or meeting summary of the preceding task force meeting, to the members of the Joint Standing Committee on Education and Cultural Affairs.

6. Report. The task force shall submit its report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs during the First Regular Session of the 121st Legislature no later than January 15, 2003. The task force report must include specific findings regarding the current levels of school administrative unit implementation of the system of learning results, as well as a recommended plan of action to meet any deficiencies identified in this implementation analysis. The task force is not authorized to introduce legislation. Following receipt and review of the report, the joint standing committee of the Legislature having jurisdiction over education and cultural affairs may report out a bill to the First Regular Session of the 121st Legislature.

7. Budget. The Department of Education shall provide funding for the task force from federal funds that are allocated to the Department of Education for expenditure in fiscal year 2002-03 to provide school administrative unit accountability for students meeting the state standards. Funds provided by the Department of Education to carry out this implementation analysis may not exceed \$10,000.

See title page for effective date.

CHAPTER 661

H.P. 1685 - L.D. 2184

An Act to Implement the Recommendations of the Returnable Container Handling and Collection Study

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

Sec. 1. 32 MRSA §1861, sub-§2, as amended by PL 1979, c. 731, §19, is further amended to read:

2. Intent. It is the intent of the Legislature to create incentives for the manufacturers, distributors, dealers and consumers of beverage containers to reuse or recycle beverage containers thereby removing the blight on the landscape caused by the disposal of these containers on the highways and lands of the State and reducing the increasing costs of litter collection and municipal solid waste disposal.

~~This chapter will be administered by the Department of Agriculture, Food and Rural Resources with the authority to interpret the chapter and to issue the necessary rules and regulations in order to carry it into effect.~~

Sec. 2. 32 MRSA §1862, sub-§§8-A and 8-B are enacted to read:

8-A. Initiator of deposit. "Initiator of deposit" means a manufacturer, distributor or other person who initiates a deposit on a beverage container under section 1863-A.

8-B. Local redemption center. "Local redemption center" means a place of business that deals in acceptance of empty returnable beverage containers from either consumers or from dealers, or both, and that must be licensed under section 1871-A.

Sec. 3. 32 MRSA §1865, sub-§3 is enacted to read:

3. Label registration. An initiator of deposit shall register the container label of any beverage offered for sale in the state on which it initiates a deposit. Registration must be on forms or in an electronic format provided by the department and shall include the universal product code for each combination of beverage and container manufactured. The initiator of deposit shall renew a label registration annually and whenever that label is revised by altering the universal product code or whenever the container on which it appears is changed in size, composition or glass color. The initiator of deposit shall also include as part of the registration the method of collection for that type of container, identification of a collection agent and proof of the collection agreement. The department may charge a fee for registration and registration renewals under this subsection. Rules adopted pursuant to this subsection that establish fees are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters.

Sec. 4. 32 MRSA §1866-B, as enacted by PL 1995, c. 395, Pt. P, §4, is repealed.

Sec. 5. 32 MRSA §1866-C, as enacted by PL 1995, c. 395, Pt. P, §5 and affected by §11, is repealed.

Sec. 6. 32 MRSA §1867, sub-§3, as enacted by PL 1975, c. 739, §16, is amended to read:

3. Approval. The commissioner shall approve the licensing of a local redemption center if ~~he finds that the center will provide a convenient service for the return of empty beverage containers~~ the redemption center complies with the requirements established under section 1871-A. The order approving a local redemption center ~~shall license~~ must state the dealers to be served and the kinds, sizes and brand names of empty beverage containers which that the center shall accept accepts.

Sec. 7. 32 MRSA §1867, sub-§4, as amended by PL 1991, c. 819, §12, is further amended to read:

4. Redemption center acceptance. A local redemption center 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 as long as the label for the container is registered under section 1865, subsection 3 or refuse to pay in cash the refund value of the returned beverage container as established by section 1863-A.

Sec. 8. 32 MRSA §1871, as amended by PL 1995, c. 395, Pt. P, §7 and affected by §11, is repealed.

Sec. 9. 32 MRSA §§1871-A, 1871-B and 1871-C are enacted 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 4, chapter 375, subchapter II-A. Rules adopted effective after calendar year 2003 are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and are subject to review by the joint standing committee

of the Legislature have 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.

§1871-B. Beverage Container Enforcement Fund

1. Creation. The Beverage Container Enforcement Fund, referred to in this section as the "fund," is created under the jurisdiction and control of the department.

2. Sources of money. The fund consists of the following:

A. Fees for issuance of licenses and license renewals under section 1871-A;

B. Fees for registration of beverage container labels and registration renewals under section 1865, subsection 3; and

C. All other money appropriated or allocated for inclusion in the fund.

3. Application of fund. The department may combine administration and inspection responsibilities of other programs it administers with administration and enforcement responsibilities under this chapter for efficiency purposes; however, money in the fund may be used to fund only the portion of staff time devoted to administration and enforcement activities under this chapter.

4. Revolving fund. The fund is a nonlapsing, revolving fund. All money in the fund must be continuously applied by the department to carry out the administrative and enforcement responsibilities of the department under this chapter.

§1871-C. Department administration

The department shall administer this chapter and has the authority, following public hearing, to adopt necessary rules to carry it into effect. The department may adopt rules governing local redemption centers that receive beverage containers from dealers supplied by distributors other than the distributors servicing the area in which the local redemption center is located in order to prevent the distributors servicing the area within which the redemption center is located from

being unfairly penalized. In addition to other actions required by this chapter, department responsibilities include the following.

1. Registry of labels. The department shall establish and maintain a registry of beverage container labels. The registry must contain the information for each beverage type and beverage container filed under section 1865, subsection 3 arranged and displayed in an organized and comprehensible manner. The department shall update the registry regularly and make information from the registry available upon request.

2. Provision of information. The department shall provide information about the operation of this chapter to any affected person whose premises it inspects or visits as part of its licensing and inspection responsibilities.

Sec. 10. 32 MRSA §1872, sub-§1, as enacted by PL 1989, c. 585, Pt. D, §§9 and 11, is repealed.

Sec. 11. Implementation of label registration requirements. In implementing the label registration requirements of the Maine Revised Statutes, Title 32, section 1865, subsection 3, the Department of Agriculture, Food and Rural Resources shall coordinate with the Department of Public Safety, Bureau of Liquor Enforcement and the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations so that, to the maximum extent possible, registration of beer, wine and spirits under that subsection does not duplicate registration requirements enforced by those bureaus.

Sec. 12. Implementation of licensing fees. In adopting rules establishing licensing fees under the Maine Revised Statutes, Title 32, section 1871-A, the Department of Agriculture, Food and Rural Resources shall base the amount of fees on the actual cost of implementing increased responsibilities under this Act. Initially, fees may be set at a level to cover one-time start-up costs, but after that fees must be set at a level to cover ongoing costs only, except for calendar years 2003 and 2004 when the department shall issue redemption centers a 2-year license for a fee not to exceed \$40. Under the direction of the joint standing committee of the Legislature have jurisdiction over business and economic development matters, the department shall consult with affected parties in developing the licensing fee schedule.

Sec. 13. Committee reestablished. The Committee to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers, established by Joint Order 2001, House

Paper 1389 in the First Regular Session of the 120th Legislature and referred to in this section as the "committee," is reestablished as follows.

1. All members who were members of the committee appointed by the President of the Senate and the Speaker of the House after the First Regular Session of the 120th Legislature may continue to serve on the committee. Members who choose not to continue serving as members may be replaced by the respective appointing authority, except that 2 of the legislative members must be members of the Joint Standing Committee on Business and Economic Development. In addition to the original 13 members, the committee is composed of the following members:

A. One member representing beverage manufacturers who is not a distributor, appointed by the Speaker of the House; and

B. The Commissioner of Agriculture, Food and Rural Resources, or the commissioner's designee.

All additional appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. The Senator named to the committee serves as Senate chair and the first named House member serves as House chair. The committee shall meet at the call of the cochaIRS. The committee may meet not more than 4 times to conclude its work.

2. The committee shall study issues related to the operation of bottle redemption businesses and to the handling and collection of returnable containers. In examining these issues, the committee shall:

A. Develop a process for identifying ways to improve the efficiency of the returnable container deposit law;

B. Examine potential improvements including redesigning the operation of the system;

C. Study the viability of establishing cooperative container pick-up arrangements between redemption centers, distributors and collection agents;

D. Further study possible technological improvements that will enhance the efficiency of the returnable container deposit law; and

E. Further examine the impact on rates of return of a proposal included in the report of the Committee to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers that would decrease from 15¢ to 5¢ the refund value of wine and spirit

containers of greater than 50 milliliters that are sold in the State.

3. The State Planning Office shall absorb costs to provide staffing for the committee and other costs of the study, except legislative per diem and legislative expenses.

4. Committee members who are Legislators are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses for their attendance at authorized meetings of the committee. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the committee.

5. The cochairs of the committee, with assistance from the committee staff, shall administer that portion of the committee's budget related to legislative per diem and legislative expenses. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget.

6. The committee shall submit a report that includes its findings and recommendations including suggested legislation to the joint standing committee of the Legislature having jurisdiction over business and economic development matters and the Legislative Council by November 6, 2002. Following receipt and review of the report, the joint standing committee of the Legislature having jurisdiction over business and economic development matters may report out a bill to the First Regular Session of the 121st Legislature to implement the committee's recommendations. If the committee requires a limited extension of time to conclude its study and to make its report, it may apply to the Legislative Council, which may grant the extension.

Sec. 14. Rulemaking. Rules adopted for the initial implementation of this Act, with the exception of that part that enacts Title 32, section 1871-A, are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and are subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters. Following adoption of rules for the initial implementation of this Act, unless otherwise specified in the law, rules adopted to implement this Act are routine technical rules.

Sec. 15. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Beverage Container Enforcement Fund

Initiative: Allocates funds for 2 additional Consumer Protection Inspector positions, one additional Management Analyst position, one additional 1/2-time Compliance Officer position, one additional 1/2-time Clerk Typist III position and start-up, rulemaking and operational costs necessary to administer a licensing program for bottle redemption centers.

Other Special Revenue Funds	2001-02	2002-03
Positions - Legislative Count	(0.000)	(4.000)
Personal Services	\$0	\$56,994
All Other	0	28,249
	\$0	\$85,243

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF DEPARTMENT TOTALS

OTHER SPECIAL REVENUE FUNDS	2001-02	2002-03
	\$0	\$85,243
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$85,243

See title page for effective date.

CHAPTER 662

H.P. 1288 - L.D. 1752

An Act to Update the Department of Defense, Veterans and Emergency Management Laws

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

Sec. 1. 5 MRSA §7051, sub-§4, ¶A, as amended by PL 1989, c. 443, §11, is repealed.

Sec. 2. 5 MRSA §7051, sub-§4, ¶¶B and C, as enacted by PL 1985, c. 785, Pt. B, §38, are repealed.

Sec. 3. 5 MRSA §7051, sub-§4, ¶D, as amended by PL 1989, c. 443, §11, is repealed.

Sec. 4. 5 MRSA §12004-G, sub-§13-E is enacted to read:

<u>13-E.</u>	<u>River Flow</u>	<u>Expenses</u>	<u>37-B</u>
<u>Environment/</u>	<u>Advisory</u>	<u>Only</u>	<u>MRSA</u>
<u>Natural</u>	<u>Commission</u>		<u>§1131</u>
<u>Resources</u>			

Sec. 5. 5 MRSA §17655, sub-§2, as amended by PL 1987, c. 402, Pt. A, §§70 and 71, is further amended to read: