

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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

Penmor Lithographers
Lewiston, Maine
2004

was received, the purpose of the donation and any limitation on use of the funds. The executive director administers any funds received.

11. Evaluation. By December 31, 2009, the commission shall conduct an evaluation of its activities and recommend to the Legislature whether to continue, alter or cease the commission's activities.

Sec. 3. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 10, section 11, subsection 5, the appointing authorities for the original appointments of public members of the Citizen Trade Policy Commission shall designate their first appointment for a one-year term, their 2nd appointment for a 2-year term and any other appointments for a 3-year term. An initial term of one or 2 years may not be considered a full term for purposes of limiting the number of terms for which a member may serve.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Legislature

Initiative: Provides funds for the per diem and expenses for members of the Citizen Trade Policy Commission as well as public hearing and general operation expenses. A base allocation in the amount of \$500 is included below in the event outside sources of funding are received for this purpose.

General Fund	2003-04	2004-05
Personal Services	\$0	\$1,320
All Other	0	11,050
General Fund Total	\$0	\$12,370
Other Special Revenue Funds	2003-04	2004-05
All Other	\$0	\$500
Other Special Revenue Funds Total	\$0	\$500

See title page for effective date.

CHAPTER 700

H.P. 931 - L.D. 1257

An Act To Amend the Laws Concerning Returnable Beverage Containers

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the ability of initiators of deposit to enter into commingling agreements is of great benefit

to those initiators, to redemption centers, to the environment and to the citizens of this State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 32 MRSA §1866, sub-§4, ¶E is enacted to read:

E. Notwithstanding provisions of this subsection to the contrary, if a commingling agreement for a product group was filed with the department by March 1, 2004, an initiator of deposit, whether or not a party to that agreement, is not required to pay the 1/2¢ handling fee increase required by this subsection until July 1, 2004 for beverage containers in that product group picked up by the initiator between March 1, 2004 and July 1, 2004. Beginning July 1, 2004, an initiator of deposit shall pay the 1/2¢ handling fee increase for beverage containers in that product group picked up by the initiator between March 1, 2004 and July 1, 2004 that are not covered by a qualified commingling agreement as of July 1, 2004.

Sec. 2. 32 MRSA §1866-E, sub-§§2, 4 and 5, as enacted by PL 2003, c. 499, §8, are amended to read:

2. Reports. An initiator of deposit shall report to the ~~executive director of Maine Revenue Services within the Department of Administrative and Financial Services State Tax Assessor~~ by the 20th day of each month concerning transactions affecting its deposit transaction fund in the preceding month. The report must be in a form prescribed by the ~~executive director assessor~~ and must include: the number of nonrefillable beverage containers sold and the number of nonrefillable beverage containers returned in the applicable month; the amount of deposits received in and payments made from the fund in the applicable month and the most recent 3-month period; any income earned on amounts in the fund during the applicable month; the balance in the fund at the close of the applicable month; and such other information as the ~~executive director assessor~~ may require to perform the ~~duties of this section.~~ The report required by this subsection must be treated by the assessor as a return, as the term is defined by Title 36, section 111, subsection 4.

4. Transfer of abandoned deposit amounts. By the 20th day of each month, an initiator shall turn over to the ~~executive director of Maine Revenue~~

~~Services within the Department of Administrative and Financial Services~~ State Tax Assessor the initiator's abandoned deposit amounts determined pursuant to subsection 3. Those amounts may be paid from the deposit transaction fund. Amounts collected by the ~~executive director~~ assessor pursuant to this subsection must be treated by the assessor as a tax, as that term is defined by Title 36, section 111, subsection 5, and must be deposited in the General Fund.

5. Reimbursement of initiators of deposit. If in any month the authorized payments from the deposit transaction fund by an initiator pursuant to this section exceed the funds that are or should be in the initiator's deposit transaction fund, the State Tax Assessor shall reimburse the initiator, from amounts received pursuant to subsection 4, for those refunds paid by the initiator for nonrefillable beverage containers for which the funds that are or should be in the initiator's deposit transaction fund are insufficient; except that reimbursements paid by the State assessor to an initiator may not exceed amounts paid by the initiator ~~to the State~~ pursuant to subsection 4 in the preceding 24 months less amounts paid ~~by the State~~ to the initiator pursuant to this subsection during that same 24-month period.

Sec. 3. 32 MRSA §1866-E, sub-§5-A is enacted to read:

5-A. Administration by State Tax Assessor. The uniform tax administration provisions of Title 36, chapter 7 apply to the State Tax Assessor's administration of the reports and payments required by this section.

Sec. 4. 32 MRSA §1866-E, sub-§7 is enacted to read:

7. Phase in. Notwithstanding provisions of this section and section 1866 to the contrary, if a commingling agreement for a product group was filed with the department by March 1, 2004, an initiator of deposit, whether or not a party to that agreement, is not required to turn over to the State Tax Assessor the initiator of deposit's abandoned deposit amounts for that product group as required by subsection 4 until July 1, 2004. On July 1, 2004, an initiator of deposit shall turn over to the State Tax Assessor the abandoned deposit amounts that have accrued since March 1, 2004 for all beverage containers that are not covered by a qualified commingling agreement, as described in section 1866, as of July 1, 2004.

Sec. 5. Routine technical rule. Any rule change necessary to implement the inclusion of vintners within the exemption for small brewers described in the Maine Revised Statutes, Title 32, section 1866, subsection 4, paragraph D is a routine

technical rule as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. Retroactivity. This Act applies retroactively to March 1, 2004.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 11, 2004.

CHAPTER 701

H.P. 464 - L.D. 634

An Act To Provide Funding for the Maine-Canada Trade Ombudsman

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

Sec. 1. 5 MRSA §262, as enacted by PL 2001, c. 643, §1 and affected by §3, is amended to read:

§262. Appointment; term; compensation

The Governor shall appoint an ombudsman to head the Office of the Maine-Canada Trade Ombudsman, who is referred to in this chapter as the "ombudsman," subject to review by the joint standing committee of the Legislature having jurisdiction over state and local government matters and confirmation by the Senate. The ombudsman must be chosen without reference to party affiliation and solely on the ground of professional competence to perform the duties of that office. The ombudsman ~~appointed in 2003 holds office until January 1, 2005. Thereafter, the ombudsman~~ holds office for a term of 4 years. An ombudsman may be reappointed. The compensation of the ombudsman is fixed by the Governor.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

EXECUTIVE DEPARTMENT

Administration - Executive - Governor's Office

Initiative: Provides funds for the Maine-Canada Trade Ombudsman as established in the Maine Revised Statutes, Title 5, chapter 12-A.

General Fund	2003-04	2004-05
Personal Services	\$0	\$45,000
General Fund Total	\$0	\$45,000

See title page for effective date.
