

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**June 19, 2018 to September 13, 2018**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**DECEMBER 13, 2018**

**ONE HUNDRED AND TWENTY-NINTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 5, 2018 to June 20, 2019**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 2019**

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

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**Augusta, Maine**  
**2019**

in compliance with the requirements of chapter 508 and be implemented by the superintendent.

**Sec. 2. 20-A MRSA §13201**, as amended by PL 2017, c. 235, §36 and affected by §41, is repealed and the following enacted in its place:

**§13201. Nomination and election of teachers; teacher contracts**

**1. Nomination; forfeiture.** The superintendent shall nominate all teachers, subject to such regulations governing salaries and the qualifications of teachers as the school board makes. Upon the approval of nominations by the school board, the superintendent may employ teachers so nominated and approved for such terms as the superintendent determines proper, subject to the approval of the school board. Prior to May 15th before the expiration of a first, 2nd or 3rd year probationary teacher's contract, the superintendent shall notify the teacher in writing of the superintendent's decision to nominate or not nominate that teacher for another teaching contract. If, after receiving a complaint from a teacher, the commissioner finds that the superintendent has failed to notify a teacher of a decision not to nominate that teacher, the school administrative unit shall pay a forfeiture to the teacher. The amount of that forfeiture must be equal to the teacher's per diem salary rate times the number of days between the notification deadline and the date on which notification is made or on which the complaint is filed, whichever occurs first. In case the superintendent and the school board fail to legally elect a teacher, the commissioner has the authority to appoint a substitute teacher who serves until such election is made.

**2. Contracts.** This subsection applies to teacher contracts.

A. After a probationary period, subsequent contracts of duly certified teachers must be for not less than 2 years. Unless a duly certified teacher receives written notice to the contrary at least 6 months before the terminal date of the contract, the contract must be extended automatically for one year and similarly in subsequent years, except for duly certified teachers who received a summative effectiveness rating indicating ineffectiveness pursuant to chapter 508 for the preceding school year. The right to an extension for a longer period of time through a new contract is specifically reserved to the contracting parties. Unless a duly certified teacher who received a summative effectiveness rating indicating ineffectiveness pursuant to chapter 508 for the preceding school year receives written notice to the contrary from the superintendent not later than May 15th, the contract must be extended automatically for one year.

B. Just cause for dismissal or nonrenewal is a negotiable item in accordance with the procedure set

forth in Title 26, chapter 9-A for teachers who have served beyond the probationary period.

C. After a probationary period, any teacher who receives notice in accordance with this section that the teacher's contract is not going to be renewed may, during the 15 days following such notification, request a hearing with the school board. The teacher may request reasons. The hearing must be private except by mutual consent and except that either or both parties may be represented by counsel. That hearing must be granted within 30 days of the receipt of the teacher's request.

For purposes of this subsection, "probationary period" means a period of 3 years, except that for any teacher hired for the 2020-2021 school year or any subsequent year, "probationary period" means a period not to exceed 2 years.

**3. Termination upon elimination of a teaching position.** The right to terminate a contract, after due notice of 90 days, is reserved to the school board when changes in local conditions warrant the elimination of the teaching position for which the contract was made. The order of layoff and recall is a negotiable item in accordance with the procedures set forth in Title 26, chapter 9-A. In any negotiated agreement, the criteria negotiated by the school board and the bargaining agent to establish the order of layoff and recall must include the teacher's effectiveness rating pursuant to chapter 508 as a factor and may also include, but may not be limited to, seniority.

See title page for effective date.

**CHAPTER 133**

**S.P. 60 - L.D. 248**

**An Act To Increase the Handling Fee for Beverage Containers Reimbursed to Redemption Centers**

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

**Whereas**, this legislation prohibits the issuance of new beverage container redemption center licenses to beverage redemption centers that were not previously issued a license prior to May 1, 2019; 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. 38 MRSA §3106, sub-§7**, as enacted by PL 2015, c. 166, §14, is amended to read:

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

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

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

~~C. The reimbursement that the initiator of the deposit is obligated to pay the dealer or redemption center pursuant to paragraph A or B must be reduced by 1/2¢ for any returned container that is subject to a qualified commingling agreement that allows the dealer or redemption center to commingle beverage containers of like product group, material and size. A commingling agreement is qualified for purposes of this paragraph if the department determines that 50% or more of the beverage containers of like product group, material and size for which the deposits are being initiated in the State are covered by the commingling agreement or that the initiators of deposit covered by the commingling agreement are initiators of~~

~~deposit for wine containers who each sell no more than 100,000 gallons of wine or 500,000 beverage containers that contain wine in a calendar year. Once the initiator of deposit has established a qualified commingling agreement for containers of a like product group, material and size, the department shall allow additional brands to be included from a different product group if they are of like material. The State, through the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, shall make every reasonable effort to enter into a qualified commingling agreement under this paragraph with every other initiator of deposit for beverage containers that are of like product group, size and material as the beverage containers for which the State is the initiator of deposit.~~

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

**Sec. 2. Moratorium on new redemption center licenses.** Notwithstanding any provision of the Maine Revised Statutes, Title 38, chapter 33 to the contrary, beginning May 1, 2019 and ending January 15, 2020, the Department of Environmental Protection may not issue a license to a redemption center that was not licensed as a redemption center pursuant to Title 38, chapter 33 as of April 30, 2019 unless the department determines that a new redemption center is needed to serve an area in which a redemption center licensed as a redemption center pursuant to Title 38, chapter 33 as of April 30, 2019 ceases to operate. This section does not prevent the department from renewing the license of a redemption center previously issued a license pursuant to Title 38, chapter 33 prior to May 1, 2019.

**Sec. 3. Container redemption efficiencies; report.** The Commissioner of Environmental Protection shall require each initiator of deposit that has entered into a commingling agreement pursuant to the Maine Revised Statutes, Title 38, section 3107, and the contracted agent of the initiator of deposit, if any,

to no later than July 1, 2019 report to the Department of Environmental Protection the number of beverage containers picked up from each redemption center on each pick-up date in calendar year 2018. The initiators of deposit that have entered into a commingling agreement may elect to aggregate the data required under this section for the entire commingling group for the purpose of reporting to the department. Upon receipt of the data under this section, the department shall assess the efficiency and convenience of the beverage container redemption system and develop recommendations to improve efficiencies in the handling and transportation of beverage containers and to ensure convenient collection of beverage containers for consumers. On or before January 15, 2020, the commissioner shall submit a report to the Joint Standing Committee on Environment and Natural Resources detailing the department's findings and recommendations, including any proposed legislation. After reviewing the report, the committee may report out legislation to the Second Regular Session of the 129th Legislature to implement recommendations contained in the report.

**Sec. 4. Appropriations and allocations.**

The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Alcoholic Beverages - General Operation 0015**

Initiative: Provides allocation for the State's cost as an initiator of deposit for spirits for removal of the 1/2¢ commingling agreement discount in the reimbursement rate paid to a dealer or local redemption center beginning May 1, 2019.

STATE ALCOHOLIC BEVERAGE FUND	2018-19	2019-20	2020-21
All Other	\$17,562	\$114,264	\$124,282
STATE ALCOHOLIC BEVERAGE FUND TOTAL	\$17,562	\$114,264	\$124,282

**Alcoholic Beverages - General Operation 0015**

Initiative: Provides allocation for the State's cost as an initiator of deposit for spirits for an increase in the reimbursement rate paid to a dealer or local redemption center by 1/2¢ per returned beverage container beginning January 1, 2020.

STATE ALCOHOLIC BEVERAGE FUND	2018-19	2019-20	2020-21
All Other	\$0	\$57,132	\$124,282

STATE ALCOHOLIC BEVERAGE FUND TOTAL	\$0	\$57,132	\$124,282
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF			
DEPARTMENT TOTALS	2018-19	2019-20	2020-21
STATE ALCOHOLIC BEVERAGE FUND	\$17,562	\$171,396	\$248,564
DEPARTMENT TOTAL - ALL FUNDS	\$17,562	\$171,396	\$248,564

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

Effective May 21, 2019.

**CHAPTER 134**

**S.P. 150 - L.D. 485**

**An Act Regarding Actions of the Owner or Keeper of a Dog That Assaults a Person and Causes an Injury That Requires Medical Attention**

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

**Sec. 1. 7 MRSA §3955** is enacted to read:

**§3955. Leaving the scene of an assault by a dog that causes an injury that requires medical attention for a person**

**1. Required actions by owner or keeper. The owner or keeper of a dog that assaults a person and causes an injury that requires medical attention shall comply with the requirements of this section before leaving the scene of the assault:**

**A. The owner or keeper shall secure aid for the injured person, including, as appropriate, securing medical assistance and reporting the assault to the local law enforcement agency;**

**B. After securing aid for the injured person, the owner or keeper may leave the scene on a temporary basis in order to contain the dog that assaulted the person; and**