

# MAINE STATE LEGISLATURE

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STATE OF MAINE

ONE HUNDRED AND SEVENTH LEGISLATURE

COMMITTEE ON NATURAL RESOURCES

March 18, 1976

Legislative Council  
107th Legislature  
State House  
Augusta, Maine 04330

Gentlemen:

In accordance with H.P. 1669 directing the Natural Resources Committee to study the solid waste problem in particular as it relates to the scarcity of energy, recycling and reuse of consumer and industrial goods, decreasing the amount of litter and to study the economic, social and environmental feasibility of instituting a state-wide, comprehensive system of recycling consumer and industrial goods and materials; the committee hereby submits its report.

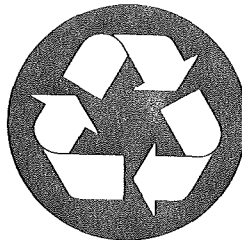
Respectfully,

A handwritten signature in cursive script, appearing to read 'Howard M. Trotzky'.

Howard M. Trotzky,  
Senate Chairman

A handwritten signature in cursive script, appearing to read 'Thomas J. Peterson'.

Thomas J. Peterson,  
House Chairman



REPORT  
STUDY ON SOLID WASTE, RECYCLING  
LITTER REDUCTION AND REUSE OF  
CONSUMER AND INDUSTRIAL GOODS

COMMITTEE ON NATURAL RESOURCES

SENATE

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James McBreairty

# State of Maine

In the Year of our Lord, Nineteen Hundred seventy-six.

## An Act to Improve Solid Waste Management in this State

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

Sec. 1. 5 MRSA §1812, first ¶ is amended by adding  
2 new sentences at the end to read:

Whenever supplies and materials are available for purchase which are composed in whole or in part of recycled materials and are shown by the seller, supplier or manufacturer to be equal in quality and are competitively priced, the State Purchasing Agent shall purchase such recycled supplies and materials. For the purposes of this section, recycled materials means materials that are composed in whole or in part of elements that are reused or reclaimed.

Sec. 2. 17 MRSA §2253, 3rd ¶, as enacted by PL 1969,  
c. 570, is amended to read:

Nothing in this section shall be construed to prohibit the transportation of waste matter into the State for use as a raw material for the production of new commodities which are not waste matter as defined, or for use to produce energy for use or sale.

Sec. 3. 17 MRSA §2263, sub-§§ 1-A and 1-B are enacted to  
read:

1-A. Committee. "Committee" means the Keep Maine Scenic Committee of the Department of Conservation.

1-B. Department. "Department" means the Department of Conservation.

Sec. 4. 17 MRSA §2263, sub-§3, as repealed and  
replaced by PL 1973, c. 235, §1, is amended to read:

3. "Litter receptacle" means a covered container of suitable size which is clearly identified with a sign, symbol or other device as a place where the public may dispose of litter.

Sec. 5. 17 MRSA §2263, sub-§4, as enacted by PL 1971, c. 405, §1, is repealed and the following enacted in place thereof:

4. Vehicle. "Vehicle" means every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons, except motorcycles, farm implements and snowmobiles.

Sec. 6. 17 MRSA §2264, first and last ¶¶, as enacted by PL 1971, c. 405, §1, are repealed and the following enacted in place thereof:

No person shall throw, drop, deposit, discard or otherwise dispose of litter upon any public property or private property not owned by him in this State or in the waters of this State or on the ice over such waters, which property shall include, but not be limited to, any public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley, except:

Any person violating this section shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than \$10 nor more than \$100 for the first offense, and by a fine of not less than \$100 nor more than \$500 for a 2nd or subsequent conviction. In addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any public place or any private property, with prior permission of the legal owner, any or all litter deposited thereon prior to the date of execution of sentence.

Sec. 7. 17 MRSA §2265, first ¶, as enacted by PL 1971, c. 405, §1, is amended by adding after the first sentence a new sentence to read:

The operator of a vehicle shall not allow any person within the vehicle to throw, drop, deposit, discard or otherwise dispose of litter in violation of this section.

Sec. 8. 17 MRSA §2265, 3rd ¶, as enacted by PL 1971,  
c. 405, §1, is amended to read:

The fine for violation of this section shall not be less than \$10 nor more than \$100 for each the first offense and in not less than \$100 nor more than \$500 for a 2nd or subsequent conviction. In addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any place any or all litter deposited thereon by anyone prior to the date of execution of sentence.

Sec. 9. 17 MRSA §2266, last ¶, as last repealed and replaced by PL 1973, c. 235, §3, is repealed and the following enacted in place thereof:

The fine for violation of this section shall not be less than \$10 nor more than \$100 for the first offense and not less than \$100 nor more than \$500 for a 2nd or subsequent conviction. In addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any place any or all litter deposited thereon by anyone prior to the date of execution of sentence.

Sec. 10. 17 MRSA §2267, first and 2nd ¶¶, as enacted by PL 1971, c. 405, §1, are amended to read:

No person shall throw, drop, deposit, discard or otherwise dispose of litter from any watercraft upon public or private property or along the right-of-way of any public highway, or in any public park, campground or upon any public beach or into any waters within the jurisdiction of this State, ~~or in or upon any other public place,~~ except into a litter receptacle in such a manner that the litter will be prevented from being carried or deposited by the elements. The operator of a watercraft shall not allow any person within the watercraft to throw, drop, deposit, discard or otherwise dispose of litter in violation of this section. The operator of the watercraft, unless it is a watercraft being used for the carriage of passengers for hire, as well as the person actually throwing, dropping, discarding or otherwise disposing of the litter will be in violation of this section.

Any person violating this section shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than \$10 nor more than \$100 for each violation the first conviction, and by a fine of not less than \$100 nor more than \$500 for a second or subsequent conviction.

Sec. 11. 17 MRSA §2268, as enacted by PL 1971, c. 405, §1, and as amended, is repealed and the following enacted in place thereof:

§ 2268. Enforcement

Every law enforcement officer in the State, including but not limited to State Police, county sheriffs and their deputies, municipal police, wardens of the Department of Inland Fisheries and Wildlife, wardens of the Department of Marine Resources, rangers of the Bureau of Forestry and liquor inspectors of the State Liquor Commission shall have authority to enforce this chapter.

Political subdivisions of the State may offer rewards for information which leads to the conviction of violators of this chapter.

Sec. 12. 17 MRSA §2269, as enacted by PL 1971, c. 405, §1, and as amended, is repealed and the following enacted in place thereof:

§ 2269. Litter receptacles; selection and placement

Litter receptacles as defined in section 2263 shall be placed at all public places or establishments which serve the public, including, but not limited to, campgrounds, trailer parks, drive-in restaurants, gasoline service stations, parking lots, shopping centers, grocery store parking lots, parking lots of major industrial firms, marinas, boat launching areas, boat moorage and fueling stations, beaches and bathing areas, the school grounds and business district sidewalks. The number of such receptacles required shall be as follows:

1. Campgrounds; trailer parks for transient habitation - one receptacle at each public rest room facility;

2. Drive-in restaurants, parking lots, shopping centers, grocery store parking lots and parking lots of major industrial firms - one receptacle, plus one additional receptacle for each 200 parking spaces in excess of 50 spaces;

3. Gasoline service stations - one receptacle per gasoline pump island;

4. Marinas, boat launching areas and boat moorage and fueling stations - one receptacle at each such location;

5. Beaches and bathing areas - one receptacle at each public rest room facility;

6. School grounds - one receptacle at each playground area and one at each school bus loading zone; and

7. Business district sidewalks - one receptacle per 1,000 feet of sidewalk curbing.

It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by this chapter to procure, place and maintain receptacles at their own expense in accordance with this chapter.

Any person or business organization, operating a business of the types described in this section, who fails to place such litter receptacles on the premises in the numbers required, or who fails to comply within 10 days of being notified by registered letter by the committee that he is in violation, shall be subject to a fine of \$10 for each violation. Each day a violation continues shall be a separate offense.

Sec. 13. 17 MRSA §§ 2272 to 2276 are enacted to read:

§ 2272. Promiscuous dumping prohibited

No person shall deposit household garbage, leaves, clippings, prunings or gardening refuse in any litter receptacle.

Persons violating the provisions of this section shall be liable for the same penalties as provided for violation of section 2264.

§ 2273. Penalty warning signs

The Department of Transportation shall erect one sign within each 100 miles of state highway mileage in each county, warning motorists of the penalties for littering or asking for their cooperation in keeping the highways clean. One such sign shall be located within a reasonable distance of all state highway entry points into this State from other states or countries. If the state highway leads to or from an international border crossing point, the sign shall be bilingual.



§2274. Fines, distribution

All fines levied and collected for violations of this chapter shall be distributed as follows:

If the fine resulted from an arrest by a law officer of a state agency which receives a major share of its financial support from dedicated revenue, the fine, less court costs, shall be reimbursed to that agency; or

If the fine resulted from an arrest of a law officer of a state agency supported primarily by a General Fund appropriation, the fine, less court costs, shall be reimbursed to the Committee to be used in an anti-litter educational program and shall be in addition to other General Fund monies appropriated for that purpose.

§2275. Driver license and registration procedures

With the assistance of the committee, the Division of Motor Vehicles shall include a summary of this chapter with each re-registration and new vehicle operator license issued.

The Division of Motor Vehicles shall include a summary of this chapter in the next revision and printing of the driver license information materials and shall include at least one question concerning the contents of section 2265 in the driver's license examination.

§2276. Local regulations

Municipalities of this state may adopt more stringent ordinances, laws or regulations dealing with the subject matter of this chapter. Any less restrictive ordinances, laws or regulations now in effect dealing with the subject matter of this chapter and the minimum standards which it establishes are declared invalid and of no force and superseded by this chapter on its effective date.

Sec. 14. 32 MRS c. 28 is enacted to read:

CHAPTER 28

MANUFACTURERS, DISTRIBUTORS AND DEALERS OF  
BEVERAGE CONTAINERS

§ 1861. Purpose

A. Legislative findings. The Legislature finds that beverage containers are a major source of nondegradable litter and solid waste in this State and that the collection and disposal of this litter and solid waste constitutes a great financial burden for the citizens of this State.

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.

§ 1862. Definitions

As used in this chapter, unless the context otherwise indicates, the following words and phrases shall have the following meanings:

1. Beverage. "Beverage" means beer, ale or other drink produced by fermenting malt, wine, liquor or alcohol as defined by Title 28, section 2, subsections 1, 13 and 25, soda water or other nonalcoholic carbonated drink in liquid form and intended for human consumption.

2. Beverage container. "Beverage container" means a glass, metal or plastic bottle, can, jar or other container which has been sealed by a manufacturer and which, at the time of sale, contains one gallon or less of a beverage.

3. Commissioner. "Commissioner" means the Commissioner of Agriculture.

4. Consumer. "Consumer" means an individual who purchases a beverage in a beverage container for use or consumption.

5. Dealer. "Dealer" means a person who sells, offers to sell or engages in the sale of beverages in beverage containers to a consumer, including, but not limited to, an operator of a vending machine containing beverages in beverage containers.

6. Department. "Department" means the Department of Agriculture.

7. Distributor. "Distributor" means a person who engages in the sale of beverages in beverage containers to a dealer in this State and includes a manufacturer who engages in such sales.

8. In this State. "In this State" means within the exterior limits of the State of Maine and includes all territory within these limits owned by or ceded to the United States of America.

9. Manufacturer. "Manufacturer" means a person who bottles, cans or otherwise places beverages in beverage containers for sale to distributors or dealers.

10. Operator of a vending machine. "Operator of a vending machine" means an owner of a vending machine, the person who refills it, or the owner or lessee of the property upon which it is located.

11. Person. "Person" means an individual, partnership, corporation or other legal entity.

12. Premises. "Premises" means the property of the dealer or his lessor on which the sale is made, provided that consumption can reasonably be expected to take place within 100 yards of the place of actual sale and the dealer provides suitable means for the disposal of beverage containers once consumed.

13. Refillable. "Refillable" means a beverage container which can be refilled at least 5 times.

14. Refundable container. "Refundable container" means a beverage container that has a refund value under section 1863, and is labeled under section 1866, subsections 1 and 3.

15. Use or consumption. "Use or consumption" means the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale, storage or retention for the purpose of sale of a beverage.

§ 1863. Refund value

Every beverage container sold or offered for sale to a consumer in this State shall have a refund value, unless a disposal charge has been paid on the container as provided in section 1864. The refund value shall be determined by the manufacturer according to the type, kind and size of the beverage container, but shall not be less than 5¢ unless the container is certified under section 1868, when it shall not be less than 3¢.

§ 1864. Disposal charge

Prior to January 1, 1980, every manufacturer or distributor may pay to the State a disposal charge in lieu of setting a refund value as provided in section 1863. After January 1, 1980, only beverage containers containing liquor or alcohol, as defined in Title 28, section 2, subsections 1 and 13, and wine, except table wine, as defined in Title 28, section 2, subsections 25 and 25-A, may pay a disposal charge in lieu of setting a refund value. The disposal charge paid to the State on each beverage container shall be as follows.

1. Wine, liquor or alcohol. For beverage containers containing wine, liquor or alcohol, the charge shall be 5¢ on each container.

2. All other. For all other beverage containers, the charge shall be 2¢ on each container.

§ 1865. Dealer as distributor. Whenever a dealer or group of dealers receives a shipment or consignment of, or in any other manner acquires, beverage containers outside the State for sale to consumers in the State, such dealer or dealers shall comply with this chapter as if they were distributors, as well as dealers.

§ 1866. Labels; stamps; brand names

1. Labels. Except as provided under subsections 2 and 3, the refund value shall be clearly indicated on every refundable beverage container sold or offered for sale by a dealer in this State, by embossing, stamping, labeling or other method of secure attachment to the beverage container. The refund value shall not be indicated on the bottom of the container. Metal beverage containers shall be embossed or stamped on the top of the container.

2. Nonreturnable containers. Every nonreturnable container on which the disposal charge has been paid, as required under section 1864, and which clearly indicates that the disposal charge has been paid and that the container is nonreturnable, shall not be required to indicate the refund value under subsection 1.

3. Brand name. Glass beverage containers having a refund value of not less than 5¢ prior to the effective date of this

be required to indicate the refund value under subsection 1.

§ 1867. Application

1. Dealer acceptance. Except as provided in this section, a dealer shall not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean refundable container of the kind, size and brand, or if a certified container under section 1868, of the kind and size, sold by the dealer, or refuse to pay in cash the refund value of the returned beverage container as established by section 1863.

2. Permissive refusal by dealer. A dealer may refuse to accept from a consumer or other person and to pay the refund value on any beverage container, if the place of business of the dealer and the kind, size and brand of beverage container are included in an order of the department approving a redemption center under section 1869.

3. On premise consumption. A dealer may refuse to pay to the consumer the refund value of the returned refundable container, if the beverage container was sold to the consumer from a vending machine, or for consumption on the premises of the dealer, and the consumer made no deposit of the refund value on the beverage container.

4. Distributor acceptance. A distributor shall not refuse to accept from any dealer or local redemption center any empty, unbroken and 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.

5. Reimbursement by distributor. In addition to the payment of the refund value, the distributor shall reimburse the dealer or local redemption center for the cost of handling refundable beverage containers, in an amount which equals at least 1¢ per returned container.

§ 1868. Certification of containers

1. Purpose. To promote the use in this State of refillable beverage containers of uniform design and to facilitate the return of containers to manufacturers for reuse as beverage containers, the commissioner shall certify beverage containers which satisfy the requirements of this section.

2. Requirements. A beverage container shall be certified if:

A. It is refillable as a beverage container by more than one manufacturer in the ordinary course of business; and

B. More than one manufacturer will in the ordinary course of business accept the beverage container for reuse as a beverage container and pay the refund value of the container.

3. Prohibition. A beverage container shall not be certified under this section, if by reason of its shape or design, or by reason of words or symbols permanently inscribed thereon, whether by engraving, embossing, painting or other permanent method, it is re-useable as a beverage container in the ordinary course of business only by a manufacturer of a beverage sold under a specific brand name.

4. Withdrawal of certification. The commissioner may review at any time certification of a beverage container. After written notice and hearing afforded to the person who filed the application for certification, the commissioner shall withdraw certification of any beverage container if he finds that the requirements of subsections 1, 2 or 3 are not satisfied.

5. Notice of withdrawal. Withdrawal of certification shall not be effective until 30 days after written notice to the person who filed the application for certification and to the manufacturers referred to in subsection 2.

§ 1869. Redemption centers

1. Establishment. Local redemption centers may be established and operated by any person, subject to the approval of the commissioner, to serve local dealers and consumers, at which consumers may return empty refundable containers as provided under section 1867.

2. Application for approval. Application for approval of a local redemption center shall be filed with the department. The application shall state the name and address of the person responsible for the establishment and operation of the center, the kinds, sizes and brand names, or if certified containers under section 1868, the kinds and sizes, of refundable containers which will be accepted and the names and addresses of dealers to be served and their distances from the local redemption center.

3. Approval. The commissioner shall approve a local redemption center if he finds that the center will provide a convenient service for the return of empty refundable containers. The order approving a local redemption center shall state the dealers to be served and the kinds, sizes and brand names, or if certified containers under section 1868, the kinds and sizes, of empty refundable containers which the center shall accept.

4. Redemption center acceptance. A local redemption center shall not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean refundable container of the kind, size and brand, or if a certified container under section 1868, of the kind and size, 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.

5. Posted lists. A list of the dealers served and the kinds, sizes and brand names of empty refundable containers accepted shall be prominently displayed at each local redemption center .

6. Withdrawal of approval. The commissioner may review at any time approval of a local redemption center. After written notice to the person responsible for the establishment and operation of the local redemption center and to the dealers served by the center, the commissioner may, after hearing, withdraw approval of a local redemption center if he finds there has not been compliance with the approval order or if the local redemption center no longer provides a convenient service to the public.

§ 1870. Prohibition on certain types of containers and holders

After January 1, 1977, no beverage container shall be sold or offered for sale to consumers in this State:

1. Flip tops. In a metal container designed or constructed so that part of the container is detachable for the purpose of opening the container without the aid of a separate can opener; and

2. Connectors. With containers connected to each other by a separate holding device constructed of plastic rings or other device or material which cannot be broken down by bacteria into basic elements.

§1871. Grants-in-aid for solid waste management.

Any municipality, county or regional refuse disposal district may apply for grants-in-aid to plan, provide, maintain and operate facilities for the recovery of energy from solid waste, or for recycling or collection, preparation, transportation or sale for reuse of solid waste. The Commissioner of Environmental Protection shall receive and review applications, and shall approve those applications that effectively and efficiently meet the solid waste disposal problem of the area by encouraging well-planned and economically viable recycling, reuse or recovery programs.

The Commissioner of Environmental Protection shall enter into an agreement for implementation of an approved application and for reimbursement for the cost of the approved activities, such reimbursement not to exceed 90% of the actual cost of such activities or not to exceed the proportional share on a per



capita basis of the money available in any one year under section 1872, subsection 2, whichever is less. No municipality, county or regional refuse disposal district shall receive more than one grant in any one year. All applications for such grants shall be received by the Department of Environmental Protection by October 31st of the year prior to the date of implementation of the program and applications shall be disapproved or approved and the agreements entered into by December 31st of the year prior to the date of implementation of the program.

§1872. Disposition of fees

All charges collected pursuant to this chapter shall be allocated to the Disposal Fund. The Disposal Fund does not lapse and charges collected or allocated in any one year may be used in the same or any succeeding year.

The Treasurer of State shall make only the following disbursements from the Disposal Fund:

1. Administration.

Department of Agriculture For enforcement of this chapter	\$ 10,000
Department of Transportation For increased litter collecting activities	5,000
Bureau of Taxation For administration and collection of the disposal charge	250,000
Department of Environmental Protection For providing additional solid waste management services under Title 38, chapter 13.	50,000
Keep Maine Scenic Committee For increased anti-litter education and providing litter bags.	25,000

2. Grants-in-aid. Seventy-five percent of the annual receipts remaining after the disbursements provided for in subsection 1 shall be disbursed at the direction of the Commissioner of Environmental Protection to those municipalities, counties or regional refuse disposal districts qualifying for grants-in-aid under section 1871, and in amounts to each as specified in the agreements between the Department of Environmental Protection and the municipality, county or regional refuse disposal district.

3. Solid waste grants. Twenty-five percent of the annual receipts remaining after the disbursements provided for in subsection 1 shall be disbursed annually to all municipalities, on a per capita proportional basis, to financially assist them in their solid waste disposal programs.

Sec. 15. 38 MRSA §1304, sub-§6 is enacted to read:

6. Solid waste coordination. The department shall provide personnel who will coordinate solid waste management, resources recovery and recycling in this State to:

- A. Gather complete data on all solid waste industries, proposals and operations in the State;
- B. Establish a directory of all markets for secondary materials within Maine and New England including materials purchased, types, qualities and specifications, purchase prices, transportation costs and volume capacities;
- C. Provide technical assistance to local or regional units of government, including market data, methods and costs of resource recovery and types and sources of equipment; and
- D. Provide economic data to show the advantage of disadvantage of shipping materials to the market at any one time from a particular location.

The coordinators shall develop an educational program to inform government officials and citizens of the various alternatives of resource recovery available and the methods of implementing them. To the extent possible, the coordinators shall publish in existing department or state publications information acquired on all aspects of solid waste management. The coordinators shall consult with the Office of Energy Resources, which shall provide available information and data on resource recovery and recycling that will result in energy conservation or be a source of energy production.

#### Fiscal Note

The revenue generated by this bill, if no containers are returnable and all containers pay the tax, is approximately 8 to 9 million dollars annually, based on 400 million beer and soft drink containers, 9 million liquor containers and 1 million to 4 million wine containers sold annually in the State. If all containers that can, become returnable, then the revenue will be approximately \$500,000 to \$800,000 annually.

All revenue raised under this bill is allocated to a dedicated fund.

Thus, there will be no increase in General Fund revenues; nor will there be a decrease, as all expenses of this bill will come from the dedicated fund.

#### Statement of Fact

This bill results from the study of the Natural Resources Committee pursuant to H.P.1669. This proposal is intended to provide for reduction of the volume of solid waste, encourage the reuse of materials and the conservation of resources. It provides funds, to communities, many of whom must change their present solid waste programs because of air and water pollution laws to explore alternate possible methods of disposing of solid waste. Several communities are interested in the possibility of energy recovery to generate steam from solid waste incineration. Funds will be available to assist small communities to transport recyclable materials to centers, where sufficient volume encourages private enterprise to pick up the materials for resale and reuse. Strengthened litter laws along with refund value on containers will result in decreased accumulations of litter on our streets and roads. Receptacles and increased awareness of the problem through education has resulted in marked decreases in litter in other states. The sections of the bill pertaining to beverage containers encourages their return to the distributors by providing a refund value. In addition, it encourages the use of standard size and types of containers that are refillable by many manufacturers saving resources, energy and costs.

B.

# State of Maine

In the Year of our Lord, Nineteen Hundred seventy-six.

## An Act to Improve Solid Waste Management

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

Sec. 1. 5 MRSA §1812, 1st ¶ is amended by adding at the end the following new sentences:

Whenever supplies and materials are available for purchase which are composed in whole or in part of recycled materials and are shown by the seller, supplier or manufacturer to be equal in quality and are competitively priced, the State Purchasing Agent shall purchase such recycled supplies and materials. For the purposes of this section, recycled materials means materials that are composed in whole or in part of elements that are reused or reclaimed.

Sec. 2. 17 MRSA §2253, 3rd ¶, as enacted by PL 1969, c. 570, is amended to read:

Nothing in this section shall be construed to prohibit the transportation of waste matter into the State for use as a raw material for the production of new commodities which are not waste matter as defined, or for use to produce energy for use or sale.

Sec. 3. 17 MRSA §2263, as enacted by PL 1971, c. 405, §1 and as amended, is further amended by inserting before subsection 1 the following new paragraph:

As used in this section, unless the context otherwise indicates, the following words shall have the following meanings:

Sec. 4. 17 MRSA §2263, sub-§§ 1-A and 1-B are enacted to read:

1-A. Committee. "Committee" means the Keep Maine Scenic Committee of the Department of Conservation.

1-B. Department. "Department" means the Department of Conservation.

Sec. 5. 17 MRSA §2263, sub-§3, as enacted by PL 1971, c. 405, §1 and as repealed and replaced by PL 1973, c. 235, §1, is amended to read:

3. "Litter receptacle" means a covered container of suitable size which is clearly identified with a sign, symbol or other device as a place where the public may dispose of litter.

Sec. 6. 17 MRSA §2263, sub-§4, as enacted by PL 1971, c. 405, §1, is amended to read:

4. Vehicle. "Motor-vehicle Vehicle" means every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons, except motorcycles, farm implements and snowmobiles.

Sec. 7. 17 MRSA §2264, 1st ¶, as enacted by PL 1971, c. 405, §1, is amended to read:

No person shall throw, drop, deposit, discard or otherwise dispose of litter upon any public or private property or private property not owned by him in this State or in the waters of this State or on the ice over such waters, which property shall include, but not be limited to, any state public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley, except:

Sec. 8. 17 MRSA §2264, last ¶, 1st sentence, as enacted by PL 1971, c. 405, §1, is amended to read:

Any person violating this section shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than \$10 nor more than \$100 for each violation the first offense, and by a fine of not less than \$100 nor more than \$500 for a 2nd or subsequent conviction.

Sec. 9. 17 MRSA §2265, 1st ¶, as enacted by PL 1971, c. 405, §1, is amended by adding after the first sentence a new sentence to read:

The operator of a vehicle shall not allow any person within the vehicle to throw, drop, deposit, discard or otherwise dispose of litter in violation of this section.

Sec. 10. 17 MRSA §2265, 3rd ¶, as enacted by PL 1971, c. 405, §1, is repealed and the following enacted in place thereof:

The fine for violation of this section shall not be less than \$10 nor more than \$100 for the first offense and not less than \$100 nor more than \$500 for a 2nd or subsequent conviction. In addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any place any or all litter deposited thereon by anyone prior to the date of execution of sentence.

Sec. 11. 17 MRSA §2266, last ¶, as enacted by PL 1971, c. 405, §1 and as repealed and replaced by PL 1973, c. 235, §3, is repealed and the following enacted in place thereof:

The fine for violation of this section shall not be less than \$10 nor more than \$100 for the first offense and not less than \$100 nor more than \$500 for a 2nd or subsequent conviction. In addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any place any or all litter deposited thereon by anyone prior to the date of execution of sentence.

Sec. 12. 17 MRSA §2267, 1st 2 paragraphs, as enacted by PL 1971, c. 405, §1, are amended to read:

No person shall throw, drop, deposit, discard or otherwise dispose of litter from any watercraft upon public or private property or along the right-of-way of any public highway, or in any public park, campground or upon any public beach or into any waters within the jurisdiction of this State, or in or upon any other public place, except into a litter receptacle in such a manner that the litter will be prevented from being carried or deposited by the elements. The operator of a watercraft shall not allow any person within the watercraft to throw, drop, deposit, discard or otherwise dispose of litter in violation of this section. The operator of the watercraft, unless it is a watercraft being used for the carriage of passengers for hire, as well as the person actually throwing, dropping, discarding or otherwise disposing of the litter will be in violation of this section.

Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$10 nor more than \$100 for each violation the first conviction, and by a fine of not less than \$100 nor more than \$500 for a 2nd subsequent conviction.

Sec. 13. 17 MRSA §2268, as enacted by PL 1971, c. 405, §1 and as amended, is repealed and the following enacted in place thereof:

§2268. Enforcement

Every law enforcement officer in the State, including but not limited to State Police, county sheriffs and their deputies, municipal police, wardens of the Department of Inland Fisheries and Wildlife, wardens of the Department of Marine Resources, rangers of the Bureau of Forestry and liquor inspectors of the State Liquor Commission shall have authority to enforce this

rewards for information which leads to the conviction of violators of this chapter.

Sec. 14. 17 MRSa §2269, as enacted by PL 1971, c. 405, §1 and as amended, is repealed and the following enacted in place thereof:

§2269. Litter receptacles; selection and placement

Litter receptacles as defined in section 2263 shall be placed at all public places or establishments which serve the public, including, but not limited to campgrounds, trailer parks, drive-in restaurants, gasoline service stations, parking lots, shopping centers, grocery store parking lots, parking lots of major industrial firms, marinas, boat launching areas, boat moorage and fueling stations, beaches and bathin areas, the school grounds and business district sidewalks. The number of such receptacles required shall be as follows:

1. Campgrounds, trailer parks for transient habitation - one receptacle at each public rest room facility;
2. Drive-in restaurants, parking lots, shopping centers, grocery store parking lots and parking lots of major industrial firms - one receptacle, plus one additional receptacle for each 200 parking spaces in excess of 50 spaces;
3. Gasoline service stations - one receptacle per gasoline pump island;
4. Marinas, boat launching areas and boat moorage and fueling stations - one receptacle at each such location;
5. Beaches and bathing areas - one receptacle at each public rest room facility;
6. School grounds - one receptacle at each playground area and one at each school bus loading zone; and
7. Business district sidewalks - one receptacle per 1,000 feet of sidewalk curbing.

It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by this chapter to procure, place and maintain receptacles at their own expenses in accordance with this chapter.

Any person or business organization, operating a business of the types described in this section, who fails to place such litter receptacles on the premises in the numbers required, or who fails to comply within 10 days of being notified by registered letter by the committee that he is in violation, shall be subject to a fine of \$10 for each violation. Each day a violation continues shall be a separate offense.

Sec. 15. 17 MRSA §§2272 to 2276 are enacted to read:

§2272. Promiscuous dumping prohibited

No person shall deposit household garbage, leaves, clipping, prunings or gardening refuse in any litter receptacle.

Persons violating the provisions of this section shall be liable for the same penalties as provided for violation of section 2264.

§2273. Penalty warning signs

The Department of Transportation shall erect one sign within each 100 miles of state highway mileage in each county, warning motorists of the penalties for littering or asking for their cooperation in keeping the highways clean. One such sign shall be located within a reasonable distance of all state highway entry points into this State from other states or countries. If the state highway leads to or from an international border crossing point, the sign shall be bilingual.

§2274. Fines, distribution

All fines levied and collected for violations of this chapter shall be distributed as follows:

If the fine resulted from an arrest by a law officer of a state agency which receives a major share of its financial support from dedicated revenue, the fine, less court costs, shall be reimbursed to that agency.

If the fine resulted from an arrest of a law officer of a state agency supported primarily by a General Fund appropriation, the fine, less court costs, shall be reimbursed to the committee to be used in an anti-litter educational program and shall be in addition to other General Fund moneys appropriated for that purpose.

§2275. Driver license and registration procedures

With the assistance of the committee, the Division of Motor Vehicles shall include a summary of this chapter with each re-registration and new vehicle operator license issued.

The Division of Motor Vehicles shall include a summary of this chapter in the next revision and printing of the driver license information materials and shall include at least one question concerning the contents of section 2265 in the driver's license examination.



§2276. Local regulations

Municipalities of this State may adopt more stringent ordinances, laws or regulations dealing with the subject matter of this chapter. Any less restrictive ordinances, laws or regulations now in effect dealing with the subject matter of this chapter and the minimum standards which it establishes are declared invalid and of no force and superseded by this chapter on its effective date.

Sec. 16. 32 MRS c.28 is enacted to read:

CHAPTER 28

MANUFACTURERS, DISTRIBUTORS AND DEALERS OF  
BEVERAGE CONTAINERS

§ 1861. Purpose

1. Legislative findings. The Legislature finds that beverage containers are a major source of nondegradable litter and solid waste in this State and that the collection and disposal of this litter and solid waste constitutes a great financial burden for the citizens of this State.

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.

§ 1862. Definitions

As used in this chapter, unless the context otherwise indicates, the following words and phrases shall have the following meanings.

1. Beverage. "Beverage" means beer, ale or other drink produced by fermenting malt, wine, liquor or alcohol as defined by Title 28, section 2, subsections 1, 13 and 25, soda water or other nonalcoholic carbonated drink in liquid form and intended for human consumption.

2. Beverage container. "Beverage container" means a glass, metal or plastic bottle, can, jar or other container which has been sealed by a manufacturer and which, at the time of sale, contains one gallon or less of a beverage.

3. Commissioner. "Commissioner" means the Commissioner of Agriculture.

4. Consumer. "Consumer" means an individual who purchases a beverage in a beverage container for use or consumption.

5. Dealer. "Dealer" means a person who sells, offers to sell or engages in the sale of beverages in beverage containers to a consumer, including, but not limited to, an operator of a vending machine containing beverages in beverage containers.

6. Department. "Department" means the Department of Agriculture.

7. Distributor. "Distributor" means a person who engages in the sale of beverages in beverage containers to a dealer in this State and includes a manufacturer who engages in such sales.

8. In this State. "In this State" means within the exterior limits of the State of Maine and includes all territory within these limits owned by or ceded to the United States of America.

9. Manufacturer. "Manufacturer" means a person who bottles, cans or otherwise places beverages in beverage containers for sale to distributors or dealers.

10. Operator of a vending machine. "Operator of a vending machine" means an owner of a vending machine, the person who refills it, or the owner or lessee of the property upon which it is located.

11. Person. "Person" means an individual, partnership, cor-

poration or other legal entity.

12. Premises. "Premises" means the property of the dealer or his lessor on which the sale is made, provided that consumption can reasonably be expected to take place within 100 yards of the place of actual sale and the dealer provides suitable means for the disposal of beverage containers once consumed.

13. Refillable. "Refillable" means a beverage container which can be refilled at least 5 times.

14. Refundable container. "Refundable container" means a beverage container that has a refund value under section 1863, and is labeled under section 1866, subsections 1 and 3.

15. Use or consumption. "Use or consumption" means the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale, storage or retention for the purpose of sale of a beverage.

#### § 1863. Refund value

Every beverage container sold or offered for sale to a consumer in this State shall have a refund value, unless a disposal charge has been paid on the container as provided in section 1864. The refund value shall be determined by the manufacturer according to the type, kind and size of the beverage container, but shall not be less than 5¢, unless the container is certified under section 1868, when it shall not be less than 3¢.

#### § 1864. Disposal charge

Prior to January 1, 1980, every manufacturer or distributor may pay to the State a disposal charge in lieu of setting a refund value as provided in section 1863. After January 1, 1980, only beverage containers containing liquor or alcohol, as defined in Title 28, section 2, subsections 1 and 13 and wine, except table wine, as defined in Title 28, section 2, subsections 25 and 25-A, may pay a disposal charge in lieu of setting a refund value. The disposal charge paid to the State on each beverage container shall be as follows:

1. Wine, liquor or alcohol. For beverage containers containing wine, liquor or alcohol, the charge shall be 5¢ on each container.

2. All other. For all other beverage containers, the charge shall be 1¢ on each container.

§ 1865. Dealer as distributor. Whenever a dealer or group of dealers receives a shipment or consignment of, or in any other manner acquires, beverage containers outside the State for sale to consumers in the State, such dealer or dealers shall comply with this chapter as if they were distributors, as well as dealers.

§ 1866. Labels; stamps; brand names

1. Labels. Except as provided under subsections 2 and 3, the refund value shall be clearly indicated on every refundable beverage container sold or offered for sale by a dealer in this State, by embossing, stamping, labeling or other method of secure attachment to the beverage container. The refund value shall not be indicated on the bottom of the container. Metal beverage containers shall be embossed or stamped on the top of the container.

2. Nonreturnable containers. Every nonreturnable container on which the disposal charge has been paid, as required under section 1864, and which clearly indicates that the disposal charge has been paid and that the container is nonreturnable, shall not be required to indicate the refund value under subsection 1.

3. Brand name. Glass beverage containers having a refund value of not less than 5¢ prior to the effective date of this chapter and having a brand name permanently marked thereon, shall not

be required to indicate the refund value under subsection 1.

§ 1867. Application

1. Dealer acceptance. Except as provided in this section, a dealer shall not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean refundable container of the kind, size and brand, or if a certified container under section 1868, of the kind and size, sold by the dealer, or refuse to pay in cash the refund value of the returned beverage container as established by section 1863.

2. Permissive refusal by dealer. A dealer may refuse to accept from a consumer or other person and to pay the refund value on any beverage container, if the place of business of the dealer and the kind, size and brand of beverage container are included in an order of the department approving a redemption center under section 1869.

3. On premise consumption. A dealer may refuse to pay to the consumer the refund value of the returned refundable container, if the beverage container was sold to the consumer from a vending machine, or for consumption on the premises of the dealer, and the consumer made no deposit of the refund value on the beverage container.

4. Distributor acceptance. A distributor shall not refuse to accept from any dealer or local redemption center any empty, unbroken and 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.

5. Reimbursement by distributor. In addition to the payment of the refund value, the distributor shall reimburse the dealer or local redemption center for the cost of handling refundable beverage containers, in an amount which equals at least 1¢ per returned container.

§ 1868. Certification of containers

1. Purpose. To promote the use in this State of refillable beverage containers of uniform design and to facilitate the return of containers to manufacturers for reuse as beverage containers, the commissioner shall certify beverage containers which satisfy the requirements of this section.

2. Requirements. A beverage container shall be certified if:

- A. It is refillable as a beverage container by more than one manufacturer in the ordinary course of business; and
- B. More than one manufacturer will in the ordinary course of business accept the beverage container for reuse as a beverage container and pay the refund value of the container.

3. Prohibition. A beverage container shall not be certified under this section, if by reason of its shape or design or by reason of words or symbols permanently inscribed thereon, whether by engraving, embossing, painting or other permanent method, it is re-useable as a beverage container in the ordinary course of business only by a manufacturer of a beverage sold under a specific brand name.

4. Withdrawal of certification. The commissioner may review at any time certification of a beverage container. After written notice and hearing afforded to the person who filed the application for certification, the commissioner shall withdraw certification of any beverage container if he finds that the requirements of subsections 1, 2 or 3 are not satisfied.

5. Notice of withdrawal. Withdrawal of certification shall not be effective until 30 days after written notice to the person who filed the application for certification and to the manufacturers referred to in subsection 2.

§ 1869. Redemption centers

1. Establishment. Local redemption centers may be established and operated by any person, subject to the approval of the commissioner, to serve local dealers and consumers, at which consumers may return empty refundable containers as provided under section 1867.

2. Application for approval. Application for approval of a local redemption center shall be filed with the department. The application shall state the name and address of the person responsible for the establishment and operation of the center, the kinds, sizes and brand names, or if certified containers under section 1868, the kinds and sizes, of refundable containers which will be accepted and the names and addresses of dealers to be served and their distances from the local redemption center.

3. Approval. The commissioner shall approve a local redemption center if he finds that the center will provide a convenient service for the return of empty refundable containers. The order approving a local redemption center shall state the dealers to be served and the kinds, sizes and brand names, or if certified con-

tainers under section 1868, the kinds and sizes, of empty refundable containers which the center shall accept.

4. Redemption center acceptance. A local redemption center shall not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean refundable container of the kind, size and brand, or if a certified container under section 1868, of the kind and size, 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.

5. Posted lists. A list of the dealers served and the kinds, sizes and brand names of empty refundable containers accepted shall be prominently displayed at each local redemption center.

6. Withdrawal of approval. The commissioner may review at any time approval of a local redemption center. After written notice to the person responsible for the establishment and operation of the local redemption center and to the dealers served by the center, the commissioner may, after hearing, withdraw approval of a local redemption center if he finds there has not been compliance with the approval order or if the local redemption center no longer provides a convenient service to the public.

§ 1870. Prohibition on certain types of containers and holders.

After January 1, 1977, no beverage container shall be sold or offered for sale to consumers in this State:

1. Flip tops. In a metal container designed or constructed so that part of the container is detachable for the purpose of opening the container without the aid of a separate can opener; and
2. Connectors. With containers connected to each other by



a separate holding device constructed of plastic rings or other device or material which cannot be broken down by bacteria into basic elements.

**§1871. Grants-in-aid for solid waste management.**

Any municipality, county or regional refuse disposal district may apply for grants-in-aid to plan, provide, maintain and operate facilities for the recovery of energy from solid waste, or for recycling or collection, preparation, transportation or sale for reuse of solid waste. The Commissioner of Environmental Protection shall receive and review applications, and shall approve those applications that effectively and efficiently meet the solid waste disposal problem of the area by encouraging well-planned and economically viable recycling, reuse or recovery programs.

The Commissioner of Environmental Protection shall enter into an agreement for implementation of an approved application and for reimbursement for the cost of the approved activities, such reimbursement not to exceed 90% of the actual cost of such activities or not to exceed the proportional share on a per capita basis of the money available in any one year under section 1872, subsection 2, whichever is less. No municipality, county or regional refuse disposal district shall receive more than one grant in any one year. All applications for such grants shall be received by the Department of Environmental Protection by October 31st of the year prior to the date of implementation of the program and applications shall be disapproved or approved and the agreements entered into by December 31st of the year prior to the date of implementation of the program.

§1872. Disposition of fees

All charges collected pursuant to this chapter shall be allocated to the Disposal Fund. The Disposal Fund does not lapse and charges collected or allocated in any one year may be used in the same or any succeeding year.

The Treasurer of State shall make only the following disbursements from the Disposal Fund:

1. Administration.

Department of Agriculture For enforcement of this chapter	\$ 10,000
Department of Transportation For increased litter collecting activities	5,000
Department of Taxation For administration and collection of the disposal charge	250,000 <del>7</del>
Department of Environmental Protection For providing additional solid waste management services under Title 38, chapter 13.	50,000
Keep Maine Scenic Committee For increased anti-litter education and providing litter bags.	5,000

2. Grants-in-aid. Seventy-five percent of the annual receipts remaining after the disbursements provided for in subsection 1, shall be disbursed at the direction of the Commissioner of Environmental Protection to those municipalities, counties or regional refuse disposal districts qualifying for grants-in-aid under section 1871, and in amounts to each as specified in the agreements between the Department of Environmental Protection and the municipality, county or regional refuse disposal district.

3. Solid waste grants. Twenty-five percent of the annual receipts remaining after the disbursements provided for in subsection 1 shall be disbursed annually to all municipalities, on a per capital proportional basis, to financially assist them in their solid waste disposal programs.

**Sec. 17. 38 MRSa §1304, sub-§6 is enacted to read:**

6. Solid waste coordination. The department shall provide personnel who will coordinate solid waste management, resource recovery and recycling in this State;

A. Gather complete data on all solid waste industries, proposals and operations in the State;

B. Establish a directory of all markets for secondary materials within Maine and New England including materials purchased, types, qualities and specifications, purchase prices, transportation costs and volume capacities;

C. Provide technical assistance to local or regional units of government, including market data, methods and costs for resource recovery and types and sources of equipment; and

D. Provide economic data to show the advantage or disadvantage of shipping materials to the market at any one time from a particular location.

The coordinators shall develop an educational program to inform government officials and citizens of the various alternatives of resource recovery available and the methods of implementing them. To the extent possible, the coordinators shall publish in existing department or state publications information acquired on all aspects of solid waste management. The coordinators shall consult with the Office of Energy Resources, which shall provide available information and data on resource recovery and recycling that will result in energy conservation or be a source of energy production.

**Referendum; effective date.** This Act shall take effect 90 days after the adjournment of the Legislature only for the purpose of presenting it to the legal voters of the State of Maine at the general state-wide election to be held on Tuesday following the first Monday of November following the passage of this Act.

The aldermen of the cities, the selectmen of the towns and the assessors of the several plantations of this State are empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators and Representatives at the general state-wide election on the Tuesday following the first Monday of November following the passage of this Act, to give in their votes upon the acceptance or rejection of the foregoing Act, and the question shall be:

"Shall 'AN ACT to Improve Solid Waste Management,' passed by the First Special Session of the 107th Legislature, become law?

The inhabitants of said cities, towns and plantations shall indicate by a cross or check mark placed within a square upon their ballots their opinion of the same, those in favor of acceptance voting "Yes" and those opposed to acceptance voting "No" and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and return made to the office of the Secretary of State in the same manner as votes for Governor and Members of the Legislature, and the Governor and Council shall review the same and if it shall appear that a majority of the inhabitants voting on the question are in favor of said Act, the Governor shall forthwith make known the fact by his proclamation and the Act shall thereupon become effective.

Secretary of State shall prepare ballots. The Secretary of State shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing Act, accompanied by a copy thereof.

#### Fiscal Note

The revenue generated by this bill, if no containers are returnable and all containers pay the tax, is approximately 4.5 million dollars annually, based on ~~400,000,000~~ beer and soft drink containers, 9,000,000 liquor containers and 1,000,000 to 4,000,000 wine containers sold annually in the State. If all containers that can, become returnable, then the revenue will be approximately \$500,000 to \$180,000 annually.

All revenue raised under this bill is allocated to a dedicated fund. Thus there will be no increase in General Fund revenues; nor will there be a decrease, as all expenses of this bill will come from the dedicated fund.

### Statement of Fact

This bill results from the study of the Natural Resources Committee pursuant to H.P.1669. This proposal is intended to provide for reduction of the volume of solid waste, encourage the re-use of materials and the conservation of resources. It provides funds, to communities, many of whom must change their present solid waste programs because of air and water pollution laws to explore alternate possible methods of disposing of solid waste. Several communities are interested in the possibility of energy recovery to generate steam from solid waste inceneration. Funds will be available to assist small communities to transport recycled materials to centers, where sufficient volume encourages private enterprise to pick up the materials for resale and reuse. Strengthened litter laws along with refund value on containers will result in decreased accumulations of litter on our streets and roads. Receptacles and increased awareness of the problem through education has resulted in marked decreases in litter in other states. The sections of the bill pertaining to beverage containers encourages their return to the distributors by providing a refund value. In addition, it encourages the use of standard size and types of containers that are refillable by many manufacturers saving resources, energy and costs.

AN ACT to Provide Funding for Action on Solid Waste and Litter.

Sec. 1. 17 MRSA §2253, 3rd ¶, as enacted by P.L. 1969, c. 570, is amended to read:

Nothing in this section shall be construed to prohibit the transportation of waste matter into the State for use as a raw material for the production of new commodities which are not waste matter as defined or for use to produce energy for use or sale.

Sec. 2. 17 MRSA §2263, sub-§§ 1-A and 1-B are enacted to read:

1-A. Committee. "Committee" means the Keep Maine Scenic Committee of the Department of Conservation.

1-B. Department. "Department" means the Department of Conservation.

Sec. 3. 17 MRSA §2263, sub-§3, as repealed and replaced by PL 1973, c.235, §1, is amended to read:

3. "Litter receptacle" means a covered container of suitable size which is clearly identified with a sign, symbol or other device as a place where the public may dispose of litter.

Sec. 4. 17 MRSA §2263, sub-§4, as enacted by PL 1971, c.405, §1, is amended to read:

4. Vehicle. "Motor Vehicle" means every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons.

Sec. 5. 17 M RSA §2264, as enacted by P.L. 1971, c.405,  
§1, is amended to read:

§2264, Littering prohibited; penalties

No person shall throw, drop, deposit, discard or otherwise dispose of litter upon any public ~~or private~~ property or private property not owned by him in this State or in the waters of this State or on the ice over such waters, which property shall include, but not be limited to, any state public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley, except:

1. Designation. When such property is designated by the State or by any of its agencies or political subdivisions for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose;

2. Receptacle. Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of said private or public property or waters.

Any person violating this section shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than \$10 nor more than \$100 for each violation the first offense, and by a fine of not less than \$100 nor more than \$500 for a 2nd or subsequent conviction. In addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any public place or any private property, with prior permission of the legal owner, any or all litter deposited thereon prior to the date of execution of sentence.

Sec. 6. 17 MRSA §2265, first ¶, as enacted by P.L. 1971, c.405, §1, is amended to read:

No person shall throw, drop, deposit, discard or otherwise dispose of litter from any vehicle upon private property or along the right-of-way of any public highway, or in any public park, campground, or upon any public beach or into waters or in or upon any other public place, except into a litter receptacle in such a manner that the litter will be prevented from being carried or deposited by the elements. The operator of a vehicle shall not allow any person within the vehicle to throw, drop, deposit, discard or otherwise dispose of litter in violation of this section. The operator of the vehicle, unless it is a vehicle being used for the carriage of passengers for hire, as well as the person actually throwing, dropping, depositing, discarding or otherwise disposing of the litter, shall be in violation of this section and such violation shall be enforced in accordance with Title 29, chapter 19.

Sec. 7. 17 MRSA §2265, 3rd ¶, as enacted by P.L. 1971, c.405, §1, is amended to read:

The fine for violation of this section shall not be less than \$10 nor more than \$100 for each the first offense and in not less than \$100 nor more than \$500 for a 2nd or subsequent conviction. In addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any place any or all litter deposited thereon by anyone prior to the date of execution of sentence.

Sec. 8. 17 MRSA §2266, as amended by P.L. 1973, c.235, §2, 3, is further amended to read:

§2276. Spillage from vehicle or trailer prohibited

No vehicle or trailer shall be driven or towed on any public highway, unless such vehicle or trailer is so constructed,



loaded or covered as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom. This section shall only apply to vehicles or trailers carrying trash, rubbish or other materials which may be construed as litter.

~~Any person found guilty of violating this section shall be punished by the same penalties which apply to section 2265.~~

The fine for violation of this section shall not be less than \$10 nor more than \$100 for the first offense and not less than \$100 nor more than \$500 for a 2nd or subsequent conviction. In addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any place any or all litter deposited thereon by anyone prior to the date of execution of sentence.

Sec. 9. 17 MRSA §2267, as enacted by P.L. 1971, c.405, §1, is amended to read:

§2267. Littering from watercraft prohibited; penalties

No person shall throw, drop, deposit, discard or otherwise dispose of litter from any watercraft upon public or private property or along the right-of-way of any public highway, or in any public park, campground or upon any public beach or into any waters within the jurisdiction of this State, ~~or in or upon any other public place,~~ except into a litter receptacle in such a manner that the litter will be prevented from being carried or deposited by the elements. The operator of a watercraft shall not allow any person within the watercraft to throw, drop, deposit, discard or otherwise dispose of litter in violation of this section. The operator of the watercraft, unless it is a watercraft being used for the carriage of passengers for hire, as well as the person actually throwing, dropping, discarding or otherwise disposing of the litter will be in violation of this section.

Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$10 nor more than \$100 for each violation the first conviction, and by a fine of not less than \$100 nor more than \$500 for a 2nd or subsequent conviction.

This section shall not be construed to prohibit fishermen, lobstermen and other harvesters of the waters from returning to those waters materials which naturally originated therein.

Sec. 10. 17 MRSA §2268, as last amended by PL 1973, c.537, §20, is further amended to read:

§2268. Enforcement

Every law enforcement officer in the State, including but not limited to State Police, county sheriffs and their deputies, municipal police, wardens of the Department of Inland Fisheries and Game Wildlife, wardens of the Department of Marine Resources, ~~foresters-and-wardens~~ rangers of the Bureau of Forestry and liquor inspectors of the ~~Department of Public Safety~~ State Liquor Commission shall have authority to enforce this chapter and Title 17, section 3961.

Political sub-divisions of the State may offer rewards for information which leads to the conviction of violators of this chapter.

Sec. 11. 17 MRSA §2269, enacted by P.L. 1971, c. 405, §1, and as amended, is further amended to read:

§2269. Litter receptacles; selection and placement

Litter receptacles, as defined in section 2263, shall be placed ~~by the proprietors at all privately owned establishments~~ at all public places or establishments which serve the public, including, but not limited to campgrounds, trailer parks, drive-in restaurants, gasoline service stations, parking lots, shopping

centers, grocery store parking lots, parking lots of major industrial firms, marinas, boat launching areas, boat moorage and fueling stations, beaches and bathing areas, the school grounds and business district sidewalks. The number of such receptacles required ~~to be placed as specified shall be related to the need for such receptacles~~ as follows:

1. Campgrounds, trailer parks for transient habitation - one receptacle at each public rest room facility;

2. Drive-in restaurants, parking lots, shopping centers, grocery store parking lots and parking lots of major industrial firms - one receptacle, plus one additional receptacle for each 200 parking spaces in excess of 50 spaces;

3. Gasoline service stations - one receptacle per gasoline pump island;

4. Marinas, boat launching areas and boat moorage and fueling stations - one receptacle at each such location;

5. Beaches and bathing areas - one receptacle at each public rest room facility;

6. Schoolgrounds - one receptacle at each playground area and one at each school bus loading zone;

7. Business district sidewalks - one receptacle per 1000 feet of sidewalk curbing.

It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by this chapter to procure, place and maintain receptacles at their own expense in accordance with this chapter.

Any person or business organization, operating a business of the types described in this section who fails to place such litter receptacles on the premises in the numbers required, or who fails to comply within 10 days of being notified by registered letter by the committee that he is in violation, shall be

subject to a fine of ~~not-less-than~~ \$10 for each violation. Each day a violation continues shall be a separate offense.

Sec. 12. 17 MRSA §§2272-2278 are enacted to read:

§2272. Promiscuous dumping prohibited

No person shall deposit household garbage, leaves, clippings, prunings or gardening refuse in any litter receptacle.

Persons violating the provisions of this section shall be liable for the same penalties as provided for violation of section 2264.

§2273. Penalty warning signs

The Department of Transportation may erect one sign within each 100 miles of state highway mileage in each county, warning motorists of the penalties for littering or asking for their cooperation in keeping the highways clean. One such sign may be located within a reasonable distance of all state highway entry points into this State from other states or countries. If the state highway leads to or from an international border crossing point, the sign shall be bilingual.

§2274. Littering while hunting or fishing.

In addition to any other penalties provided for violations of section 2264, the Commissioner of Inland Fisheries and Wildlife may suspend a convicted person's hunting or fishing license for a period of not more than 30 days if the violation occurred while the convicted person was hunting or fishing.

§2275. Driver license and registration procedures

With the assistance of the committee, the Division of Motor Vehicles shall include a summary of this chapter with each re-registration and new vehicle operator license issued.

The division of Motor Vehicles shall include a summary of this chapter in the next revision and printing of the driver license information materials and shall include at least one question concerning the contents of section 2265 in the driver's license examination.

§2276. Local regulations

Municipalities of this State may adopt more stringent ordinances, laws or regulations dealing with the subject matter of this chapter. Any less restrictive ordinances, laws or regulations now in effect dealing with the subject matter of this chapter and the minimum standards which it establishes are declared invalid and of no force and supergeded by this chapter on its effective date.

§2277. Prohibition on certain types of containers or holders

No beverage container shall be sold or offered for sale in this State after June 30, 1977:

1. Flip tops. In a metal container designed or constructed so that part of the container is detachable for the purpose of opening the container without the aid of a separate can opener, and

2. Connectors. With containers connected to each other by a separate holding device constructed of plastic rings or other device or material which cannot be broken down by bacteria into basic elements.

§2278. Report to the Legislature

The Keep Maine Scenic Committee shall report in 1978, and annually thereafter, to the Legislature on the litter problem in the State, the programs implemented to meet this problem, the expenditures made by the committee, the results obtained for the expenditures and plans and programs planned for the coming year.

Sec. 13. 36 MRSA c.719 is enacted to read:

CHAPTER 719

BOTTLED BEVERAGE TAX

§4901. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Bottled beverage. "Bottled beverage" shall mean canned or bottled wines, malt beverages, liquors and carbonated beverages, including carbonated water.

2. Bottled beverage distributor. "Bottled beverage distributor" shall mean any person, association of persons, firms or corporations importing bottled beverages into this State for resale or manufacturing bottled beverages in this State or making sales to the Maine State Liquor Commission of bottled beverages.

3. Sale price. "Sale price" means the total amount of the sale, including any services that are part of such sale, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of any kind or nature, and any amount for which credit is allowed by the seller to the purchaser, without deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses whatsoever. Discounts allowed and taken on sales shall not be included. "Sale price" shall not include allowances in cash or by credit made upon the return of merchandise pursuant to warranty, or the price of property returned by customers when the full price thereof is refunded either in cash or by credit.

§4902. Tax imposed.

For the privilege of engaging in the business of a bottled beverage distributor, there is levied a tax on all bottled beverages. The tax shall be based upon bottled beverages sold by bottled beverage distributors at the rate of 1% of the sale price.

§4903. Nontaxable distribution

Delivery by a bottled beverage distributor to a point outside this State or sale to a registered bottled beverage distributor, or sales made by the Maine State Liquor Commission, shall be exempt from the tax imposed by this chapter.

§4904. Reporting and payment of tax

Every bottled beverage distributor shall file with the State Tax Assessor on or before the 15th day of each month a report made, under the pains and penalties of perjury, disclosing the total sale price of all sales of bottled beverages sold during the preceding calendar month. This report shall be in the form, and shall contain such other information, as prescribed by the State Tax Assessor. At the time of filing the report, the bottled beverage distributor shall pay to the State Tax Assessor the tax levied in this chapter and the State Tax Assessor shall pay over all receipts from the tax to the State Treasurer of State daily. These receipts shall be credited to the General Fund.

§4905. Registration of bottled beverage distributors

Every bottled beverage distributor shall register with the State Tax Assessor.

Forms for application for registration certificates and registration certificates shall be prescribed and furnished by the Tax Assessor. For each place of business the Tax Assessor, shall issue a registration certificate which shall be conspicu-

ously displayed at each place. No certificate shall be assign-  
able, but it may be used by the legal representative of a regis-  
trant deceased, incompetent, bankrupt or insolvent.

§4906. Maintenance and examination of records

Every bottled beverage distributor shall keep records, the  
kind and form of which shall be adequate to enable the Tax  
Assessor to determine tax liability under this chapter. All such  
records shall be preserved for 3 years, and shall be available  
for inspection by the Tax Assessor or by any of his employees  
engaged in the administration of this chapter.

§4907. Deficiency assessments

If any bottled beverage distributor fails to make a report  
as required, the Tax Assessor may make an estimate of the tax-  
able liability of the bottled beverage distributor from any in-  
formation he may obtain, and according to the estimate so made  
by him, assess the taxes, interest and penalties due the State  
from the bottled beverage distributor, give notice of the assess-  
ment to the bottled beverage distributor and make demand upon him  
for payment, but no assessment can be made after 6 years from the  
date the transactions upon which liability is based were required  
to be reported. After a report is filed under this chapter, the  
Tax Assessor shall cause the same to be examined, and may make  
further audits or investigations as he may deem necessary and if  
therefrom he shall determine that there is a deficiency with  
respect to the payment of any tax due under this chapter, he  
shall assess the taxes and interest due the State, give notice  
of such assessment to the person liable, and make demand upon  
him for payment, but no assessment can be made after 2 years from  
the date the transactions upon which liability is based were re-  
quired to be reported.



§4908. Reconsideration of assessment

Any bottled beverage distributor against whom an assessment shall be made by the Tax Assessor under this chapter may petition for a reconsideration of assessment within 15 days after notice shall have been given the bottled beverage distributor as provided in section 4910. If a petition for a reconsideration of assessment is not filed within the 15-day period, the amount of the assessment becomes final at the expiration thereof as to law and fact. If a petition for a reconsideration of assessment is filed within the 15-day period, the Tax Assessor shall reconsider the assessment and if the petitioner has so requested in his petition, shall grant the petitioner an oral hearing and shall give the petitioner 10 days' notice of the time and place thereof. For cause shown, the Tax Assessor may extend the time for filing the petition. If appeal is not taken as provided in section 4909, the amount of the assessment upon reconsideration becomes final as to law and fact at the expiration of the 30-day period therein allowed for the taking of appeals.

§4909. Appeals

Any taxpayer aggrieved by the decision upon a petition, may, within 30 days after notice thereof from the Tax Assessor, appeal therefrom to the Superior Court in any county where he has a regular place of business, or, if he has no place of business within the State, to the Superior Court in Kennebec County. The appellant shall, when an appeal is taken, file an affidavit stating his reasons of appeal and serve a copy thereof on the Tax Assessor, and in the hearing of the appeal shall be confined to the reasons of appeal set forth in the affidavit. Jurisdiction is granted to the Superior Court to hear and determine appeals and to enter the order and decrees as the nature of the case may require. The decision upon all questions of fact shall be final. An appeal may be taken to the law court as in other actions. Decisions shall be certified

forthwith by the clerk of courts to the Tax Assessor.

§4910. Notices

Any notice required to be given by the Tax Assessor pursuant to this chapter may be served personally, or by sending the same by registered or certified mail to the person for whom it is intended, addressed to the person at the address given in the last report filed by him pursuant to this chapter or if no report has been filed, then to the address of his last known abode; or in the case of other than an individual to the last known business address.

§4911. Overpayment; refunds

Upon written application by the taxpayer, if the Tax Assessor determines that any tax, interest or penalty has been paid more than once, or has been erroneously or illegally collected or computed, the Tax Assessor shall certify to the State Controller the amount collected in excess of what was legally due, from whom it was collected or by whom paid, and the same shall be credited by the Tax Assessor on any taxes then due from the retailer under this Title, and the balance shall be refunded to the taxpayer, or his successors, administrators, executors or assigns, but no credit or refund shall be allowed after 2 years from the date of overpayment unless a written petition therefor, setting forth the grounds upon which refund is claimed, shall have been filed with the Tax Assessor within that period. The Tax Assessor shall have the right to cancel or abate any tax which has been illegally levied. Nothing shall authorize the taxpayer, or anyone in his behalf, to apply for a refund of any amount assessed when the assessment has become final as provided in section 4908.

Any taxpayer dissatisfied with the decision of the Tax Assessor, upon a written request for refund filed under this

section, may request reconsideration and appeal therefrom to the Superior Court in the same manner and under the same conditions as in the case of assessments made under this chapter. The decision of the Tax Assessor upon written request for refund shall become final as to law and fact in the same manner and under the same conditions as in the case of assessments made under this chapter.

§4912. Penalties and interest

Whenever the Tax Assessor shall determine that any tax assessed under section 4907 was unpaid due to negligence or intentional disregard of this chapter or of any ruling, rule or regulation of the Tax Assessor issued pursuant to this chapter but without intent to defraud, a penalty of 10% of the amount of the tax as determined by the Tax Assessor shall be added to the assessment. Whenever any tax assessed under section 4907 was unpaid due to fraud with intent to evade the tax imposed by this chapter, a penalty of 25% of the amount of the tax as determined by the Tax Assessor shall be added to the assessment. Penalties shall be in addition to any interest and other penalties provided by law but interest shall not accrue on penalties. For cause, the Tax Assessor may waive or abate all or any part of the penalties. Any person who shall fail to pay any tax imposed by this chapter on or before the day when the same shall be required to be paid shall pay interest on the tax at the rate of 1% each month or fraction thereof that the same remains unpaid, to be calculated from the date the tax was required to be paid. All interest shall be payable to, and recoverable by, the Tax Assessor in the same manner as if it were a tax imposed by this chapter. If the failure to pay the tax when required to be paid is explained to the satisfaction of the Tax Assessor, he may abate or waive the payment of the whole or

any part of the interest, and, for cause, may abate the whole or any part of the tax.

§ The Tax Assessor shall pay over all penalties and interest to the Treasurer of State daily and the receipts shall be credited to the General Fund.

§4913. Tax a debt; recovery; preference

The taxes, interest and penalties imposed by this chapter, from the time the same shall be due, shall be a personal debt of the bottled beverage distributor to the State of Maine, recoverable in any court of competent jurisdiction in a civil action in the name of the State of Maine, and shall have preference in any distribution of the assets of the taxpayer, whether in bankruptcy, insolvency or otherwise.

§4914. Criminal penalties

Any violation of any provision of this chapter, for which a penalty is not otherwise provided, shall be punished by a fine of not less than \$20 nor more than \$500, or by imprisonment for not more than 11 months, or by both. For the purpose of this section, every person required to register under this chapter who shall engage in the business of a bottled beverage distributor without being the holder of a currently valid registration certificate shall commit a separate offense for each calendar week or part thereof during which he shall be so engaged.

§4915. Powers of Tax Assessor

The Tax Assessor is authorized and empowered to carry into effect this chapter and, in pursuance thereof, to make and enforce such reasonable rules and regulations consistent therewith as he may deem necessary.

Sec. 14. 38 MRSA §1309 is enacted to read:

§1309. Report to the Legislature

The department shall report in 1978, and annually thereafter, to the Legislature on the solid waste problem in the State, the programs implemented by the department to meet this problem, the expenditures made by the department under this chapter, the results obtained for such expenditures and the plans and programs planned for the coming year.

Sec. 15. Appropriation. There is appropriated from the General Fund the sum of \$1,039,000 for 1976-1977, to the following departments for the purposes:

	<u>Page #</u>	<u>1976-77</u>
FINANCE AND ADMINISTRATION, DEPARTMENT OF		
Bureau of Taxation:		
Administration	2-088	
Positions		(4)
Personal Services		\$ 40,000
All Other		45,000
Capital Expenditures		<u>4,000</u>
		\$ 89,000

Provides for the increased cost of  
administering and collecting the  
beverage container tax.

CONSERVATION,  
DEPARTMENT OF

Parks - Operation and Maintenance of

State Parks	3-308	
Positions		(4)
Personal Services		\$ 40,000
All Other		195,000
Capital Expenditures		<u>15,000</u>
		\$250,000

Provides for additional programs by the  
Keep Maine Scenic Committee to fund and  
encourage litter clean-up and recycling,

enforcement of the litter laws, distributing litter bags, and anti-litter education.

ENVIRONMENTAL PROTECTION,  
DEPARTMENT OF

Bureau of Land Quality

Control	3-374	
Positions		(4)
Personal Services		\$ 40,000
All Other		300,000
Capital Expenditures		<u>10,000</u>
		<u>\$ 350,000</u>

Provides for expansion of present programs in Solid Waste Management and additional programs in data gathering, identification of secondary materials, markets, technical assistance and transportation for resource recovery and recycling programs in the State.

TRANSPORTATION,  
DEPARTMENT OF

Highway-litter clean-up

Positions		(20)
Personal Services		\$ 200,000
All Other		50,000
Capital Expenditures		<u>100,000</u>
		<u>\$ 350,000</u>

Provides for increased litter clean-up along highways, experimental recycling or recovery programs, distribution and maintenance of litter receptacles and posting of highways.

#### Fiscal Note

The tax imposed under this Act will generate approximately \$1,170,000 in 1976-77 for the General Fund. The appropriations provide for disbursement of \$1,039,000 during the same period. Thus, additional revenue for the General Fund would equal \$131,000.

This Act would continue to generate revenue in the future, which would go to the General Fund. Appropriations from the General Fund would have to be made in each biennium to continue the programs funded under this Act.

#### Statement of Fact

The purpose of this bill is to strengthen the litter laws and to place a tax on beverage containers sold in this State. The tax will generate sufficient revenue to allow a concerted effort on the state and local levels to solve the litter and solid waste problems, without mandating either state-wide programs or municipal compliance with unnecessary and complicated programs.

# STATE OF MAINE

## In House

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~~Ordered,~~

WHEREAS, this is an age of increasing scarcity of energy and of natural resources; and

WHEREAS, the recycling and reuse of consumer and industrial goods is one of the chief methods of conserving the limited supply of energy and natural resources; and

WHEREAS, the Legislature recognizes that a comprehensive system of recycling and reuse of consumer and industrial goods is only economically feasible on a state-wide scale; and

WHEREAS, such recycling and reuse would also have the advantage of significantly decreasing the amount of litter which presently despoils Maine's natural beauty; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council is authorized, through the Joint Standing Committee on Natural Resources, to study the economic, social and environmental feasibility of instituting a state-wide, comprehensive system of recycling consumer and industrial goods and materials; and be it further

ORDERED, that the experience of other states, especially Massachusetts, in attempting to establish a state-wide system of reuse and recycling be studied in an effort to learn from the efforts of others; and be it further

ORDERED, that the Council report the results of its findings, together with any proposed recommendations and final drafts of necessary implementing legislation, to the next special or regular session of the Legislature; and be it further

Name:

Town:



ORDERED, upon passage in concurrence, that suitable copies of this Order be transmitted forthwith to said agencies as notice of this directive.

HP1669

(Carter)

NAME:

*Jonathan Carter*

TOWN: Winslow

HOUSE OF REPRESENTATIVES

READ AND PASSED

JUN 5 1975

Rules Suspended  
IN SENATE CHAMBER *Read*  
TABLED BY *Sen. Speers*  
OF KENNEBEC

JUN 5 1975

PENDING

*Passage*

HARRY N. STARBANCH, Secretary

IN SENATE  
TAKEN FROM TABLE ON MOTION  
BY SEN. SPEERS AND ON FURTHER  
OF KENNEBEC  
JUN 28 1975

MOTION BY SEN. SPEERS  
OF KENNEBEC  
*Passed*

IN CONCURRENCE

*Harry N. Starbanch*

SECRETARY