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Date: (Filing No. H- )

**ENVIRONMENT AND NATURAL RESOURCES**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
132ND LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1366, L.D. 2036, “An Act to Clarify the Approval Process for and the Operation of the Commingling Program for the Management of Beverage Containers”

Amend the bill by inserting after the title and before the enacting clause the following:

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

**Whereas,** under the laws governing manufacturers, distributors and dealers of beverage containers, the single commingling program for the management of beverage containers to be implemented by the commingling cooperative must facilitate the transition from beverage container sorting at redemption centers by brand to sorting by material type based upon a timeline specified in law; and

**Whereas,** this legislation must take effect before the expiration of the 90-day period so that certain changes to the plan requirements for and operation of the single commingling program can be implemented to timely facilitate that sorting transition; and

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

Amend the bill by striking out everything after the enacting clause and inserting the following:

**'Sec. 1. 38 MRSA §3107, sub-§3-B, ¶B,** as amended by PL 2025, c. 241, §§7 and 8, is further amended to read:

B. By January 15, 2025, the cooperative shall submit a plan for the operation of the program to the department for review and approval. The submitted plan must be signed by each member of the cooperative’s board unless the board’s bylaws authorize an agent to sign the plan on behalf of a board member. Each member of the cooperative’s board, or authorized agent of a member, that signs the plan must include a written

**COMMITTEE AMENDMENT**

1 certification stipulating that the member will comply with the plan following  
2 department approval and upon implementation. The plan must include, but is not  
3 limited to:

4 (1) The method by which the program will facilitate and, no later than October 1,  
5 2026, complete the transition from beverage container sorting at redemption  
6 centers by brand to sorting by material type and, for redemption centers that  
7 manually sort containers, by size and deposit value within each material type. The  
8 program may facilitate the negotiation of agreements with redemption centers to  
9 gather brand data through use of reverse vending machines, account-based bulk  
10 processing programs or similar technology as long as the cost of such data  
11 collection is paid by the program;

12 (2) Standards to provide for fair apportionment of costs among the commingling  
13 groups and initiators of deposit included in the program, which may be based on:

14 (a) The combined beverage container sales by the initiators of deposit that are  
15 members of each commingling group;

16 (b) The unit or brand counts generated by reverse vending machines or  
17 account-based bulk processing programs as long as the reverse vending  
18 machines or account-based bulk processing programs are subject to periodic  
19 3rd-party audits on a schedule approved by the department and with the costs  
20 of those audits paid by the program; and

21 (c) The rates of redemption, as determined pursuant to the method set forth in  
22 subparagraph (3) and in accordance with the requirements of subparagraph  
23 (5);.

24 The plan must include a description of the methods by which initiators of deposit  
25 will report to the cooperative or to the initiator of deposit's respective commingling  
26 group sales data and other information necessary for determining cost  
27 apportionment. An initiator of deposit that fails to report that information to the  
28 cooperative or to the initiator of deposit's respective commingling group in  
29 accordance with the applicable requirements of the department-approved program  
30 plan commits a violation of this chapter as described in paragraph I;

31 (3) A method for determining the rate of redemption for beverage containers,  
32 which must be verified through ~~a 3rd-party audit~~ an independent review, conducted  
33 in accordance with generally accepted accounting principles and paid for by the  
34 cooperative, expressed as a percentage of the beverage containers redeemed that  
35 are available for redemption; and the rate of redemption by beverage type and by  
36 beverage container material type; and, to the maximum extent practicable, regional  
37 ~~redemption rates in the State.~~ The method for determining the redemption rate  
38 may not include in its calculation any unredeemed beverage containers collected  
39 or processed by municipal or other recycling programs. The program must ensure  
40 that a single redemption rate, determined by the method specified in the plan, is  
41 used by all commingling groups and initiators of deposit to determine cost  
42 apportionment pursuant to subparagraph (2);

43 (4) ~~A An estimated budget for the program that includes, but is not limited to,~~  
44 ~~identification of any start-up costs for the program that will not be ongoing;~~

1 including, but not limited to, the costs of the study described in paragraph F, and a  
2 description of the method by which the cooperative will determine and collect  
3 payments from commingling groups to cover the program's start-up costs;

4 (5) The method by which the cooperative will ~~collect~~ ensure that all deposits from  
5 initiators of deposit for nonrefillable beverage containers and handling fees for  
6 redeemed containers, whether directly from the initiator of deposit or through the  
7 commingling group of which the initiator of deposit is a member are paid to  
8 redemption centers by the cooperative, the commingling groups or their pick-up  
9 agents on behalf of the initiators of deposit in a manner that fairly apportions the  
10 amount of those payments among all initiators of deposit. The program must  
11 ensure that an initiator of deposit is not required to pay any handling fees for its  
12 beverage containers that exceeds the applicable redemption rate for those  
13 containers as calculated pursuant to subparagraph (3);

14 (6) A description of how the cooperative intends to ~~segregate, maintain,~~ calculate  
15 and ~~expend~~ report expenditures of unclaimed beverage container deposits in  
16 accordance with section 3108-A;

17 (7) A description of how the cooperative will provide a consistent beverage  
18 container pick-up schedule for each redemption center in accordance with the pick-  
19 up requirements of section 3106, subsection 8-A and the rules adopted pursuant to  
20 that subsection. The program must ensure that pick-up schedules are designed to  
21 reduce transportation distances and minimize costs but must allow each  
22 commingling group to provide for beverage container pickup of the commingling  
23 group's equivalent container material;

24 (8) Information on how the cooperative will be responsible for and ensure payment  
25 to a dealer or redemption center within 10 calendar days of any beverage container  
26 pickup of all applicable deposits and handling fees for the beverage containers  
27 picked up from the dealer or redemption center, except as otherwise provided under  
28 a written agreement entered into by the cooperative or a member commingling  
29 group and the dealer or redemption center, and the applicable costs of plastic bags  
30 provided to the dealer or redemption center in accordance with section 3106,  
31 subsection 9;

32 (9) Information on how the cooperative will ensure that each commingling group  
33 and each initiator of deposit that is a member of the commingling group maintains  
34 ownership over the commingling group's and initiator of deposit's share of the  
35 beverage containers redeemed, collected and processed for recycling under the  
36 program;

37 (10) Information on how the cooperative will calculate the base rates offered for  
38 the processing of beverage containers using an account-based bulk processing  
39 program or pick-up agents;

40 (11) A certification that the cooperative will not share, except with the department  
41 as necessary, information provided by a commingling group or initiator of deposit  
42 that is proprietary information and that is identified by the commingling group or  
43 initiator of deposit as proprietary information, which must be handled by the  
44 department as proprietary information consistent with paragraph H. The

1 certification must include a description of the methods by which the cooperative  
2 intends to ensure the confidentiality of that information;

3 (12) Information on how the cooperative will maintain a publicly accessible  
4 website regarding the program that includes, at a minimum, the following:

5 (a) A searchable list of all initiators of deposit and beverage container label  
6 registrations, including for beverages sold directly to consumers in the State,  
7 in a manner that allows redemption centers, dealers and consumers to obtain  
8 up-to-date information regarding whether a particular beverage is authorized  
9 for sale and redemption in the State;

10 (b) A search function through which consumers can identify nearby dealers or  
11 redemption centers offering redemption services based on information made  
12 available to the cooperative by the department; and

13 (c) The base rates for the processing of beverage containers by container type  
14 as determined in accordance with subparagraph (10);

15 (13) A proposed timeline for implementation of the program plan, if approved,  
16 designed to ensure implementation of the plan on or before January 15, 2026 and  
17 a description of how the cooperative will notify commingling groups, initiators of  
18 deposit, dealers, distributors, pick-up agents and other affected entities regarding  
19 program implementation, which must include, but is not limited to, posting of  
20 information relating to program implementation on the website described in  
21 subparagraph (12);

22 (14) A description of how the cooperative will support the development of  
23 infrastructure throughout the State for the collection and sanitization of refillable  
24 beverage containers and for the return of those refillable beverage containers to  
25 initiators of deposit of refillable beverage containers for refilling and sale. That  
26 infrastructure development may involve redemption centers, centralized washing  
27 and sanitization facilities and other methods;

28 (15) Information regarding the advisory group formed by the board in accordance  
29 with paragraph A, including, but not limited to, its membership and the length of  
30 the terms of its members, a proposed meeting schedule and a description of the role  
31 and responsibilities of the advisory group, which may include, but are not limited  
32 to, advising the board regarding the development of the plan submitted under this  
33 paragraph;

34 (16) A description of how the cooperative will operate the program in a manner  
35 designed to achieve an overall statewide redemption rate for all beverage  
36 containers subject to the requirements of this chapter, as determined in accordance  
37 with subparagraph (3), of 75% by January 1, 2027; of 80% by January 1, 2032; and  
38 of 85% by January 1, 2037; and

39 (17) Any other information required by the department.

40 **Sec. 2. 38 MRSA §3107, sub-§3-B, ¶E**, as enacted by PL 2023, c. 482, §26, is  
41 amended by amending subparagraph (4) to read:

42 (4) A description of the education and outreach efforts implemented under the  
43 program in the previous calendar year to encourage participation in the beverage

1 container redemption program, reduce instances of fraud in redemption and  
2 educate businesses and consumers on the value and safety of refillable beverage  
3 containers. ~~The report must include the results of an assessment, completed by an~~  
4 ~~independent 3rd party, of the effectiveness of the efforts;~~

5 **Sec. 3. 38 MRSA §3107, sub-§3-B, ¶E**, as enacted by PL 2023, c. 482, §26, is  
6 amended by amending subparagraph (6) to read:

7 (6) A financial report on the program, as determined through a ~~3rd party financial~~  
8 ~~audit~~ an independent review, conducted in accordance with generally accepted  
9 accounting principles, that identifies the total cost of implementing and operating  
10 the program and the specific administration, collection, transportation, disposition  
11 and communication costs for the program, including all costs associated with  
12 payment of handling fees, and an anticipated budget for the subsequent program  
13 year; and

14 **Sec. 4. 38 MRSA §3107, sub-§3-B, ¶F**, as enacted by PL 2023, c. 482, §26, is  
15 amended to read:

16 F. Within ~~90~~ 120 days of receiving approval of a program plan from the department  
17 under paragraph C, the cooperative, in consultation with the department, shall contract  
18 with an independent 3rd party to conduct a study: examining operating costs for  
19 redemption centers of a variety of sizes, in a variety of geographical locations and using  
20 a variety of redemption technologies; analyzing the effects that eliminating brand  
21 sorting of beverage containers may have on transportation costs and redemption center  
22 operating costs, including, but not limited to, labor and utilities costs; recommending  
23 a handling fee schedule and payment schedule designed to facilitate a stable and  
24 sustainable redemption system; and recommending other recycling-related services  
25 that may be provided at redemption centers to support statewide recycling efforts and  
26 diversify the redemption center business model.

27 (1) In consultation with the department, the cooperative shall ensure that the study  
28 contract specifies the scope of the study and provides for publication of an interim  
29 progress report or reports and a final report. All costs associated with the study  
30 must be paid by the cooperative.

31 (2) The cooperative shall provide any interim progress reports and the final report  
32 under subparagraph (1) to the department and, after receipt of the final report, the  
33 department shall provide a copy of the final report, along with any additional  
34 comments or recommendations of the department, to the joint standing committee  
35 of the Legislature having jurisdiction over environment and natural resources  
36 matters. The final report and any additional comments or recommendations of the  
37 department may be included in the report required pursuant to section 3115,  
38 subsection 3. After reviewing the final report and the department's additional  
39 comments or recommendations, if any, the committee may report out legislation  
40 relating to the final report or to the department's comments or recommendations.

41 **Sec. 5. 38 MRSA §3107, sub-§3-B, ¶F-1**, as enacted by PL 2023, c. 529, §1, is  
42 amended to read:

43 F-1. After consultation with the department and interested persons, the cooperative  
44 shall contract with a 3rd-party entity to ~~complete a study by July 15, 2026 to determine~~

1 the feasibility of achieving goals of 5% refillable and reusable beverage containers sold  
2 in the State by 2030, by 2040 and by 2050 and 10% refillable and reusable beverage  
3 containers sold in the State by 2030, by 2040 and by 2050 and to determine the  
4 infrastructure and investments that would be necessary to support those goals and shall  
5 provide the results of the study, along with any related recommendations, to the  
6 department. The study required by this paragraph must be initiated by December 31,  
7 2026 and completed by July 15, 2027. After reviewing the results of the study and any  
8 recommendations of the cooperative, the department shall include the results of the  
9 study, along with any additional comments or recommendations from the department,  
10 in the report required by section 3115, subsection 3 that is due by February 15, ~~2027~~  
11 2028.

12 **Sec. 6. 38 MRSA §3107, sub-§3-B, ¶G,** as amended by PL 2025, c. 241, §10, is  
13 further amended by amending subparagraph (2) to read:

14 (2) On or before April 1, 2026, and annually thereafter, the cooperative shall pay  
15 to the department the annual fee under this paragraph to cover the department's  
16 costs for review of the cooperative's annual report under paragraph E and the  
17 department's costs in the previous calendar year for its oversight, administration  
18 and enforcement of the commingling program implemented under this subsection,  
19 including, but not limited to, enforcement activities relating to fraudulent  
20 redemption of beverage containers and relating to initiator of deposit  
21 noncompliance under paragraph I. The cooperative shall pay the fee required  
22 pursuant to this subparagraph at the time it submits the annual report required  
23 pursuant to paragraph E.

24 **Sec. 7. 38 MRSA §3108-A, sub-§2,** as amended by PL 2025, c. 241, §13, is further  
25 amended to read:

26 **2. Commingling cooperative; unclaimed deposits.** Except as provided in paragraph  
27 D, if a department-approved program plan is implemented pursuant to section 3107,  
28 subsection 3-B, paragraph C, unclaimed deposits for nonrefillable beverage containers  
29 subject to the requirements of this chapter are the property of the cooperative and, in  
30 accordance with rules adopted by the department pursuant to subsection 3, must be  
31 ~~deposited and maintained~~ accounted for by the cooperative ~~in a separate account or~~  
32 ~~accounts~~ and expended only in accordance with this subsection.

33 A. The cooperative shall expend unclaimed deposit amounts as provided in paragraphs  
34 B and C and may not expend unclaimed deposit amounts to offset legal or lobbying  
35 fees or fines incurred by the cooperative, a commingling group or an initiator of  
36 deposit.

37 B. The cooperative shall expend unclaimed deposit amounts for the following  
38 purposes:

39 (1) Payment of the annual fee to the department as provided in section 3107,  
40 subsection 3-B, paragraph G;

41 (2) Reasonable costs of administering the program under section 3107, subsection  
42 3-B, including, but not limited to, staffing costs and office operating costs;

43 (3) Costs of educational materials and signage provided to dealers and redemption  
44 centers regarding redemption instructions and other information, including

1 information regarding the fraudulent redemption of beverage containers in  
2 accordance with section 3106, subsection 10;

3 (4) Reimbursement to dealers and redemption centers of the costs of plastic bags  
4 pursuant to section 3106, subsection 9;

5 (4-A) Funding of activities and infrastructure designed to increase the use of  
6 refillable and reusable beverage containers and reusable beverage packaging in the  
7 State. The cooperative may expend funds under this subparagraph to support  
8 activities and infrastructure designed to increase the use of other types of reusable  
9 packaging in the State. The cooperative shall make available a minimum of  
10 \$500,000 per calendar year for these activities, which may include, but are not  
11 limited to:

12 (a) Activities and infrastructure relating to the development and  
13 implementation of models for refillable beverage container washing  
14 techniques, including, but not limited to, mobile washing stations, in-house  
15 washing stations and the establishment of a fixed washing facility in the State;

16 (b) Development of or other activities relating to container, adhesive and label  
17 options for refillable beverage containers; and

18 (c) Outreach to manufacturers, retailers, restaurants and consumers regarding  
19 the benefits of refillable beverage containers and the methods available for  
20 ensuring such containers may be safely reused; and

21 (5) Payment of \$500,000 annually to the department for deposit into and use in  
22 accordance with the Cost and Carbon Efficient Technology Fund established in  
23 section 3114-A.

24 The cooperative shall include in its annual report required under section 3107,  
25 subsection 3-B, paragraph E any recommendations for a reduction in or other  
26 amendment to the payment required under this subparagraph that the cooperative  
27 believes necessary due to a reduction in the amount of unclaimed deposits available  
28 for expenditure in accordance with paragraph C, a surplus of undistributed funding  
29 within the Cost and Carbon Efficient Technology Fund established in section  
30 3114-A or for other reasons specified by the cooperative.

31 C. Any deposits determined by the cooperative to be unclaimed in accordance with  
32 the rules adopted by the department pursuant to subsection 3 that are not expended by  
33 the cooperative as otherwise required by this section may be expended by the  
34 cooperative to offset other costs incurred by the program, including, but not limited to,  
35 costs of beverage container pickups and payment to dealers or redemption centers of  
36 required handling fees under section 3106, subsection 7, as long as such expenditures  
37 are designed to equitably offset those costs incurred by each member commingling  
38 group as determined pursuant to the approved program plan under section 3107,  
39 subsection 3-B, paragraph B, subparagraph (2).

40 D. Notwithstanding any provision of this section to the contrary, if the cooperative  
41 fails to implement a department-approved program plan pursuant to section 3107,  
42 subsection 3-B, paragraph C by January 15, 2026, until the cooperative implements a  
43 department-approved program plan pursuant to section 3107, subsection 3-B,  
44 paragraph C or for any period of time in which a department-approved program plan

1 is not implemented, unclaimed deposits for nonrefillable beverage containers subject  
2 to the requirements of this chapter must be deposited and maintained by the  
3 cooperative, or, in the event the cooperative has not been established, by each  
4 commingling group, in a separate account or accounts and in the manner directed by  
5 the department must be paid to the department for deposit into and use in accordance  
6 with the Beverage Container Enforcement Fund established under section 3114.

7 **Sec. 8. 38 MRSA §3108-A, sub-§3, ¶A**, as enacted by PL 2023, c. 482, §28 and  
8 affected by §43, is repealed.

9 **Sec. 9. 38 MRSA §3119, first ¶**, as enacted by PL 2019, c. 526, §14, is amended  
10 to read:

11 This section establishes annual reporting requirements for initiators of deposit and for  
12 ~~pick-up agents that are not initiators of deposit~~ designated pick-up entities.

13 **Sec. 10. 38 MRSA §3119, sub-§1**, as amended by PL 2025, c. 241, §18, is further  
14 amended by enacting a new first blocked paragraph to read:

15 An initiator of deposit that fails to report annually to the department in accordance with the  
16 requirements of this subsection commits a violation of this chapter, is subject to penalties  
17 under section 3111 and, as long as the violation exists, is prohibited from selling or  
18 distributing in the State any beverage container subject to the requirements of this chapter.  
19 A distributor or dealer may not sell or distribute in the State any such containers of the  
20 initiator of deposit, and the department may remove from sale any such containers of the  
21 initiator.

22 **Sec. 11. 38 MRSA §3119, sub-§2**, as amended by PL 2025, c. 241, §19, is further  
23 amended to read:

24 **2. Pick-up agent annual entity report.** Each ~~pick-up agent that is not an initiator of~~  
25 ~~deposit~~ designated pick-up entity that picks up beverage containers from dealers or  
26 redemption centers in accordance with section 3106, subsection 8-A shall report annually  
27 by March 1st to the department concerning the redemptions for each initiator of deposit it  
28 served in the preceding calendar year and the redemptions it picked up from each dealer or  
29 redemption center. The report must be in a form prescribed by the department and must  
30 include the number of nonrefillable containers returned by the pick-up agent to each  
31 initiator of deposit it served by redemption value, except that the pick-up agent may report  
32 by average weight and total weight of beverage containers returned by material type for  
33 containers managed pursuant to a qualified commingling agreement under section 3107.  
34 As used in this section, "designated pick-up entity" has the same meaning as in section  
35 3106, subsection 8-A.

36 **Sec. 12. Retroactivity.** That section of this Act that amends the Maine Revised  
37 Statutes, Title 38, section 3107, subsection 3-B, paragraph B applies retroactively to  
38 January 1, 2025.

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

41 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
42 number to read consecutively.

**SUMMARY**

This amendment, which is the minority report of the committee, replaces the bill, adds an emergency preamble and emergency clause and makes the following changes to the laws governing beverage container redemption.

1. It makes a number of changes to the requirements for the single commingling program plan required to be submitted by the commingling cooperative to the Department of Environmental Protection for review and approval. The amendment makes these changes to the single commingling program plan requirements retroactive to January 1, 2025.

2. It makes changes to the provisions of law regulating unclaimed beverage container deposits to remove language requiring the commingling cooperative to deposit and maintain unclaimed deposits in a separate, segregated account or accounts.

3. It amends the provision of law requiring annual reporting by initiators of deposit regarding deposit transactions to provide that an initiator that fails to submit that annual report to the department commits a violation of the beverage container redemption laws, is subject to applicable penalties under those laws and, as long as the violation exists, is prohibited from selling or distributing in the State any beverage container subject to the requirements of this chapter. A distributor or dealer may not sell or distribute in the State any such containers of the initiator, and the department may remove from sale any such containers of the initiator. The amendment provides a similar enforcement mechanism available to the department if an initiator of deposit fails to report similar information to the cooperative as required under the department-approved program plan.

4. It amends the provision of law requiring annual reporting by pick-up agents regarding the redemptions for each initiator of deposit it served in the preceding calendar year to instead require reporting of similar information by "designated pick-up entities," a defined term under the beverage container redemption laws.

**FISCAL NOTE REQUIRED**

**(See attached)**