

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the amendment by striking out everything after the substitute title and before the summary and inserting the following:

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

**Sec. 1. 32 MRSA §1863-A**, as enacted by PL 1991, c. 819, §3, is amended to read:

### **§ 1863-A. Refund value**

To encourage container reuse and recycling, every beverage container sold or offered for sale to a consumer in this State must have a deposit and refund value. The deposit and refund value are determined according to the provisions of this section.

**1. Refillable containers.** For refillable beverage containers, except wine and spirits containers, ~~the manufacturer shall determine the deposit and refund value according to the type, kind and size of the beverage container. The deposit and refund value may not be less than~~ must be 5¢.

**2. Nonrefillable containers; exclusive distributorships.** For nonrefillable beverage containers, except wine and spirits containers, sold through geographically exclusive distributorships, ~~the distributor shall determine and initiate the deposit and refund value according to the type, kind and size of the beverage container. The deposit and refund value must not be less than~~ 5¢.

**3. Nonrefillable containers; nonexclusive distributorships.** For nonrefillable beverage containers, except wine and spirits containers, not sold through geographically exclusive distributorships, ~~the deposit and refund value may not~~ must be less than 5¢.

**4. Wine and spirits containers.** For wine and spirits containers of greater than 50 milliliters, ~~the refund value may not~~ must be less than 15¢. On January 1, 1993, the department shall issue a finding on the percentages of wine containers and spirits containers returned for deposit. If the department finds the return rate of wine containers was less than 60% during the year ending September 1992, then, on July 1, 1993, the refund value on wine containers may not be less than 25¢. If the department finds the return rate of spirits containers was less than 60% during the year ending September 1992, then, on July 1, 1993, the refund value of spirits containers may not be less than 25¢.

**Sec. 2. 32 MRSA §1866, sub-§5-A** is enacted to read:

**5-A. Plastic bags.** A dealer or redemption center has an obligation to pick up plastic bags that are used by that dealer or redemption center to contain beverage containers. Plastic bags used by a dealer or redemption center must conform to rules adopted by the department concerning size and gauge. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 3. 32 MRSA §1866, sub-§10** is enacted to read:

**10. Bulk redemption.** In order to prevent fraud from the redemption of beverage containers not originally sold in this State, this subsection governs the redemption of more than 3,000 beverage containers.

A. When a person tenders for redemption more than 3,000 beverage containers at one time to a dealer or redemption center, the dealer or redemption center shall, before processing the beverage containers, contact the department or the Department of Public Safety. The department or the Department of Public Safety shall investigate the transaction to verify that the containers are legitimate containers for redemption in this State.

B. Paragraph A does not apply to a person who tenders to a dealer or redemption center for redemption more than 3,000 beverage containers if:

(1) All of the containers were collected at one location in this State;

(2) All proceeds of the refund value benefit a nonprofit organization that has been determined by the United States Internal Revenue Service to be exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3); and

(3) The person tendering the containers for redemption signs a declaration indicating the person's name, the address of the collection point and the name of the organization or organizations that will receive the refund value.

**Sec. 4. 32 MRSA §1871-A**, as enacted by PL 2001, c. 661, §9 and corrected by RR 2001, c. 2, Pt. A, §41, is amended to read:

### **§ 1871-A.Licensing requirements**

A license issued annually by the department is required before any person may initiate deposits under section 1863-A, operate a redemption center under section 1867 or act as a contracted agent for the collection of beverage containers under section 1866, subsection 5, paragraph B.

**1. Procedures; licensing fees.** The department shall adopt rules establishing the requirements and procedures for issuance of licenses and annual renewals under this section, including a fee structure. Initial rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted effective after calendar year 2003 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A and are subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters.

**2. Criteria for licensing rules.** In developing rules under subsection 1 for licensing redemption centers, the department shall consider at least the following:

- A. The health and safety of the public, including sanitation protection when food is also sold on the premises; and
- B. The convenience for the public, including standards governing the distribution of centers by population or by distance, or both;
- C. The proximity of the proposed redemption center to existing redemption centers and the potential impact that the location of the proposed redemption center may have on an existing redemption center;
- D. The proposed owner's record of compliance with this chapter and rules adopted by the department pursuant to this chapter; and
- E. The hours of operation of the proposed redemption center and existing redemption centers in the proximity of the proposed redemption center.

**3. Location of redemption centers; population requirements; rules.** The department may grant a license to a redemption center that meets the population requirements established by the department by rule. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**4. Exceptions.** Notwithstanding subsection 3:

- A. An owner of a redemption center who is renewing or selling the license of a redemption center licensed by the department as of April 1, 2009 need not comply with subsection 3;
- B. An entity that is a food establishment or distributor licensed by or registered with the department need not comply with subsection 3;
- C. A reverse vending machine is not considered a redemption center for purposes of subsection 3 when it is located in a licensed redemption center; and
- D. The department may grant a license that is inconsistent with the requirements set out in subsection 3 only if the applicant has demonstrated a compelling public need for an additional redemption center in the municipality.

**Sec. 5. Moratorium.** The Department of Agriculture, Food and Rural Resources may not issue a new license for a redemption center from September 30, 2009 to December 31, 2009.

## SUMMARY

This amendment makes the following changes to the beverage container laws.

1. It requires the Department of Agriculture, Food and Rural Resources to establish rules that limit the number of redemption centers that may be licensed in a municipality based on the population of the municipality. The population limits do not apply to existing redemption centers, certain other licensed entities or certain reverse vending machines and may be waived if the applicant shows a compelling need.

2. It prohibits a manufacturer from increasing or decreasing the refund value of any beverage container.

3. It requires a dealer or redemption center to contact the Department of Agriculture, Food and Rural Resources or the Department of Public Safety when a person tenders more than 3,000 beverage containers at one time for redemption.

4. It clarifies that the redemption center is responsible for the plastic bags used for the return of beverage containers and that the bags must be of a specific size and thickness, to be determined by rule by the department.

5. It requires that, in adopting rules for licensing redemption centers, the department consider the proximity of the proposed redemption center to existing redemption centers, the potential impact that the location of the proposed redemption center may have on an existing redemption center, the owner's record of compliance and the hours of operation of the proposed redemption center and existing redemption centers in the proximity of the proposed redemption center.

6. The amendment puts a moratorium on the Department of Agriculture, Food and Rural Resources from issuing new licenses for redemption centers from September 30, 2009 to December 31, 2009.

**FISCAL NOTE REQUIRED**  
**(See attached)**