An Act To Create Consistency and Fairness in Maine's Bottle Bill

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

Sec. 1. 32 MRSA §1862, sub-§2, as amended by PL 1993, c. 591, §1 and affected by §5, is further amended to read:

2. Beverage container. "Beverage container" means a bottle, can, jar or other container made of glass, metal or plastic that has been sealed by a manufacturer and at the time of sale contains ~~4 liters~~28 ounces or less of a beverage. This term does not include a container composed, in whole or in part, of aluminum and plastic or aluminum and paper in combination as long as the aluminum content represents 10% or less of the unfilled container weight, the container materials represent 5% or less of the total weight of the container and its contents, and the container is filled with a nonalcoholic beverage.

Sec. 2. 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 5¢ 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 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 be less than 5¢.~~

~~**4. Wine and spirits containers.** For wine and spirits containers of greater than 50 milliliters, the refund value may not 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. 3. 32 MRSA §1865, sub-§1-A, as amended by PL 1991, c. 819, §4, is further amended to read:

1-A. Labels; nonrefillable containers; nonexclusive distributorships. With respect to nonrefillable beverage containers the deposits for which are initiated pursuant to section 1863-A, ~~subsection 3,~~ the refund value and the word "Maine" or the abbreviation "ME" must be clearly indicated on every refundable beverage container sold or offered for sale by a dealer in this State, by permanently embossing or permanently stamping the beverage containers, except in instances when the initiator of the deposit has specific permission from the department to use stickers or similar devices. The refund value may not be indicated on the bottom of the container. Metal beverage containers must be permanently embossed or permanently stamped on the tops of the containers.

Sec. 4. 32 MRSA §1865, sub-§1-B, as enacted by PL 1995, c. 437, §1, is amended to read:

1-B. Labels; nonrefillable containers; exclusive distributorships. Notwithstanding subsection 1 and with respect to nonrefillable beverage containers, for the deposits that are initiated pursuant to section 1863-A, ~~subsection 2,~~ the refund value and the word "Maine" or the abbreviation "ME" may be clearly indicated on refundable beverage containers sold or offered for sale by a dealer in this State by use of stickers or similar devices if those containers are not otherwise marked in accordance with subsection 1. A redemption center shall accept containers identified by stickers in accordance with this subsection or by embossing or stamping in accordance with subsection 1.

Sec. 5. 32 MRSA §1865, sub-§2, as repealed and replaced by PL 1991, c. 819, §5, is amended to read:

2. Brand name. Refillable glass beverage containers of carbonated beverages, for which the deposit is initiated under section 1863-A, ~~subsection 1,~~ that have a refund value of ~~not less than~~ 5¢ and a brand name permanently marked on the container are not required to comply with subsection 1. The exception provided by this subsection does not apply to glass beverage containers that contain spirits, wine or malt liquor as those terms are defined by Title 28-A, section 2.

Sec. 6. 32 MRSA §1865, sub-§3, as amended by PL 2003, c. 499, §4, is further amended to read:

3. Label registration. An initiator of deposit shall register the container label of any beverage offered for sale in the ~~state~~State on which it initiates a deposit. Registration must be on forms or in an electronic format provided by the department and must include the universal product code for each combination of beverage and container manufactured. The initiator of deposit shall renew a label registration annually and whenever that label is revised by altering the universal product code or whenever the container on which it appears is changed in size, composition or glass color. The initiator of deposit shall also include as part of the registration the method of collection for that type of container, identification of a collection agent, identification of all of the parties to a commingling agreement that applies to the container and proof of the collection agreement. The department may charge a fee for registration and registration renewals under this subsection. Rules adopted pursuant to this subsection that

establish fees are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A and subject to review by the joint standing committee of the Legislature having jurisdiction over ~~business and economic development~~environmental and natural resources matters.

Sec. 7. 32 MRSA §1866, sub-§4, ¶A, as amended by PL 2009, c. 405, §1, is repealed.

Sec. 8. 32 MRSA §1866, sub-§4, ¶B, as amended by PL 2009, c. 405, §2, is further amended to read:

B. In addition to the payment of the refund value, the initiator of the deposit under section 1863-A~~, subsection 3~~ shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863-A in an amount that equals at least 3¢ per returned container for containers picked up by the initiator before March 1, 2004, at least 3 1/2¢ for containers picked up on or after March 1, 2004 and before March 1, 2010 and at least 4¢ for containers picked up on or after March 1, 2010. The initiator of the deposit may reimburse the dealer or local redemption center directly or indirectly through a contracted agent or through a party with which it has entered into a commingling agreement.

Sec. 9. 32 MRSA §1866, sub-§4, ¶C, as enacted by PL 2003, c. 499, §6, is amended to read:

C. The reimbursement that the initiator of the deposit is obligated to pay the dealer or redemption center pursuant to paragraph ~~A or~~ B must be reduced by 1/2¢ for any returned container that is subject to a qualified commingling agreement that allows the dealer or redemption center to commingle beverage containers of like product group, material and size. A commingling agreement is qualified for purposes of this paragraph if the department determines that 50% or more of the beverage containers of like product group, material and size for which the deposits are being initiated in the State are covered by the commingling agreement. Once the initiator of deposit has established a qualified commingling agreement for containers of a like product group, material and size, the department shall allow additional brands to be included from a different product group if they are of like material. The State, through the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, shall make every reasonable effort to enter into a qualified commingling agreement under this ~~subparagraph~~paragraph with every other initiator of deposits for beverage containers that are of like product group, size and material as the beverage containers for which the State is the initiator of deposit.

Sec. 10. 32 MRSA §1866, sub-§4, ¶D, as amended by PL 2009, c. 405, §3, is further amended to read:

D. Paragraphs ~~A,~~ B and C of this subsection do not apply to a brewer who annually produces no more than 50,000 gallons of its product or a bottler of water who annually sells no more than 250,000 containers each containing ~~no more~~less than one gallon of its product. In addition to the payment of the refund value, an initiator of deposit under section 1863-A~~, subsections 1 to 4~~ who is also a brewer who annually produces no more than 50,000 gallons of its product or a bottler of water who annually sells no more than 250,000 containers each containing ~~no more~~less than one gallon of its product shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863-A in an amount that equals at least 3¢ per returned container.

Sec. 11. 32 MRSA §1866, sub-§5, ¶A, as amended by PL 1991, c. 819, §8, is further amended to read:

A. A distributor that initiates the deposit under section 1863-A~~, subsection 2 or 4~~ has the obligation to pick up any empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the distributor from dealers to whom that distributor has sold those beverages and from licensed redemption centers designated to serve those dealers pursuant to an order entered under section 1867. A distributor that, within this State, sells beverages under a particular label exclusively to one dealer, which dealer offers those labeled beverages for sale at retail exclusively at the dealer's establishment, shall pick up any empty, unbroken and reasonably clean beverage containers of the kind, size and brand sold by the distributor to the dealer only from those licensed redemption centers that serve the various establishments of the dealer, under an order entered under section 1867. A dealer that manufactures its own beverages for exclusive sale by that dealer at retail has the obligation of a distributor under this section. The commissioner may establish by rule, in accordance with the Maine Administrative Procedure Act, criteria prescribing the manner in which distributors shall fulfill the obligations imposed by this paragraph. The rules may establish a minimum number or value of containers below which a distributor is not required to respond to a request to pick up empty containers. Any rules promulgated under this paragraph must allocate the burdens associated with the handling, storage and transportation of empty containers to prevent unreasonable financial or other hardship.

Sec. 12. 32 MRSA §1866, sub-§5, ¶B, as amended by PL 1991, c. 819, §8, is further amended to read:

B. The initiator of the deposit under section 1863-A~~, subsection 3~~ has the obligation to pick up any empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the initiator from dealers to whom a distributor has sold those beverages and from licensed redemption centers designated to serve those dealers pursuant to an order entered under section 1867. The obligation may be fulfilled by the initiator directly or indirectly through a contracted agent.

Sec. 13. 32 MRSA §1866, sub-§5, ¶C, as enacted by PL 2003, c. 499, §7, is amended to read:

C. An initiator of the deposit under section 1863-A~~, subsection 2, 3 or 4~~ has the obligation to pick up any empty, unbroken and reasonably clean beverage containers that are commingled pursuant to a commingling agreement along with any beverage containers that the initiator is otherwise obligated to pick up pursuant to paragraphs A and B.

Sec. 14. 32 MRSA §1871-A, sub-§1, as corrected by RR 2001, c. 2, Pt. A, §41, is amended to read:

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~~environmental and natural resources matters.

Sec. 15. 32 MRSA §1874 is enacted to read:

§ 1874. Transition period

1. Initiation of deposit. Effective December 1, 2011, there is no deposit charged on any beverage container greater than 28 ounces.

2. Redeem deposit. Beginning February 1, 2012, a dealer or redemption center has no liability to any consumer that relates to the deposit on any beverage container greater than 28 ounces. Beginning March 1, 2012, a manufacturer or distributor has no liability to any dealer or redemption center that relates to the deposit or handling fee on any beverage container greater than 28 ounces.

3. Initiation of 5¢ deposit. Effective December 1, 2011, the deposit for all beverage containers 28 ounces or less is 5¢.

4. Redeem 5¢ deposit. Beginning February 1, 2012, a dealer or redemption center has no liability to any consumer greater than 5¢ on any beverage container. Beginning March 1, 2012, a manufacturer or distributor has no liability to any dealer or redemption center greater than 5¢ on any beverage container.

SUMMARY

This bill removes containers larger than 28 ounces from the bottle bill. It establishes a period for phaseout for discontinuing the issuance of deposit and redemption of deposit for these items, including the payment of deposits by redemption centers to consumers and the payment of deposits and handling fees by manufacturers and distributors to redemption centers.

The bill also establishes a uniform deposit of 5¢ for all containers and establishes a similar period for phaseout for converting the deposit on those items from 15¢ to 5¢.