

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

## **An Act To Improve Efficiency in the Collection of Beverage Containers**

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

**Sec. 1. 32 MRSA §1866, sub-§5**, as amended by PL 2003, c. 499, §7, is further amended to read:

**5. Obligation to pick up containers.** The obligation to pick up beverage containers subject to this chapter is determined as follows.

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.

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.

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.

D. The initiator of deposit or initiators of deposit who are members of a commingling agreement have the obligation under this subsection to pick up 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 every 15 days. The initiator of deposit or initiators of deposit who are members of a commingling agreement have the obligation to make additional pickups when a redemption center has collected 10,000 beverage containers from that initiator of deposit or from the initiators of deposit who are members of a commingling agreement.

The obligation of the initiator of the deposit under this subsection may be fulfilled by the initiator directly or through a party with which it has entered into a commingling agreement. A contracted agent hired to pick up beverage containers for one or more initiators of deposit is deemed to have made a pickup at a redemption center for those initiators of deposit when it picks up beverage containers belonging to those initiators of deposit.

**Sec. 2. 32 MRSA §1866, sub-§12** is enacted to read:

**12. Audits.** A distributor or its designated agent may conduct an audit of the beverage containers presented for acceptance by a redemption center at that redemption center after accepting those beverage containers. The plastic bags containing beverage containers to be audited must be identified by the distributor upon acceptance and must constitute a minimum of 10% of the total beverage containers designated by the redemption center for acceptance. The audit must conform to the Maine Weights and Measures Law, except that the opportunity to correct a deficiency or overage does not apply. If there is a deficiency or overage, the ratio of actual, refund-eligible containers to the reported total from the redemption center for the plastic bags audited must be used to adjust refund and handling fee payments to the redemption center for the total amount presented for acceptance. The initiator of deposit shall notify the department of the results of any audit if an adjustment to the reported total of beverage containers has been made.

**Sec. 3. 32 MRSA §1871-A, first ¶**, as enacted by PL 2001, c. 661, §9, is amended to read:

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. Notwithstanding any other provisions of this chapter to the contrary, the following provisions apply to all licensed redemption centers.

## SUMMARY

This bill:

1. Requires that collections from redemption centers be made by a distributor or commingling group of distributors every 15 days and requires additional pickups to be made when the redemption center has more than 10,000 beverage containers from that distributor or group of distributors;
2. Establishes a process that permits an audit of the plastic bags containing beverage containers submitted for acceptance to a distributor; and
3. Clarifies that all licensed redemption centers are counted when calculating the number of redemption centers in a community.