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Legislative Document

No. 1324

H.P. 970

House of Representatives, March 28, 2011

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

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative PRESCOTT of Topsham.
Cosponsored by Senator MARTIN of Kennebec and
Representatives: CUSHING of Hampden, DOW of Waldoboro, FITTS of Pittsfield, HAYES of
Buckfield, PILON of Saco, TILTON of Harrington, WEAVER of York, WINTLE of Garland.

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

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

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

11 **Sec. 2. 32 MRSA §1863-A**, as enacted by PL 1991, c. 819, §3, is amended to
12 read:

13 **§1863-A. Refund value**

14 To encourage container reuse and recycling, every beverage container sold or offered
15 for sale to a consumer in this State must have a 5¢ deposit and refund value. ~~The deposit~~
16 ~~and refund value are determined according to the provisions of this section.~~

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

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

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

29 ~~**4. Wine and spirits containers.** For wine and spirits containers of greater than 50~~
30 ~~milliliters, the refund value may not be less than 15¢. On January 1, 1993, the~~
31 ~~department shall issue a finding on the percentages of wine containers and spirits~~
32 ~~containers returned for deposit. If the department finds the return rate of wine containers~~
33 ~~was less than 60% during the year ending September 1992, then, on July 1, 1993, the~~
34 ~~refund value on wine containers may not be less than 25¢. If the department finds the~~
35 ~~return rate of spirits containers was less than 60% during the year ending September~~
36 ~~1992, then, on July 1, 1993, the refund value of spirits containers may not be less than~~
37 ~~25¢.~~

38 **Sec. 3. 32 MRSA §1865, sub-§1-A**, as amended by PL 1991, c. 819, §4, is
39 further amended to read:

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

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

12 **1-B. Labels; nonrefillable containers; exclusive distributorships.**
13 Notwithstanding subsection 1 and with respect to nonrefillable beverage containers, for
14 the deposits that are initiated pursuant to section 1863-A, ~~subsection 2~~, the refund value
15 and the word "Maine" or the abbreviation "ME" may be clearly indicated on refundable
16 beverage containers sold or offered for sale by a dealer in this State by use of stickers or
17 similar devices if those containers are not otherwise marked in accordance with
18 subsection 1. A redemption center shall accept containers identified by stickers in
19 accordance with this subsection or by embossing or stamping in accordance with
20 subsection 1.

21 **Sec. 5. 32 MRSA §1865, sub-§2**, as repealed and replaced by PL 1991, c. 819,
22 §5, is amended to read:

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

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

31 **3. Label registration.** An initiator of deposit shall register the container label of any
32 beverage offered for sale in the ~~state~~ State on which it initiates a deposit. Registration
33 must be on forms or in an electronic format provided by the department and must include
34 the universal product code for each combination of beverage and container manufactured.
35 The initiator of deposit shall renew a label registration annually and whenever that label
36 is revised by altering the universal product code or whenever the container on which it
37 appears is changed in size, composition or glass color. The initiator of deposit shall also
38 include as part of the registration the method of collection for that type of container,
39 identification of a collection agent, identification of all of the parties to a commingling
40 agreement that applies to the container and proof of the collection agreement. The
41 department may charge a fee for registration and registration renewals under this
42 subsection. Rules adopted pursuant to this subsection that establish fees are major
43 substantive rules as defined in Title 5, chapter 375, subchapter 2-A and subject to review

1 by the joint standing committee of the Legislature having jurisdiction over ~~business and~~
2 ~~economic development~~ environmental and natural resources matters.

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

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

7 B. In addition to the payment of the refund value, the initiator of the deposit under
8 section 1863-A, ~~subsection 3~~ shall reimburse the dealer or local redemption center for
9 the cost of handling beverage containers subject to section 1863-A in an amount that
10 equals at least 3¢ per returned container for containers picked up by the initiator
11 before March 1, 2004, at least 3 1/2¢ for containers picked up on or after March 1,
12 2004 and before March 1, 2010 and at least 4¢ for containers picked up on or after
13 March 1, 2010. The initiator of the deposit may reimburse the dealer or local
14 redemption center directly or indirectly through a contracted agent or through a party
15 with which it has entered into a commingling agreement.

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

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

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

36 D. Paragraphs ~~A, B~~ and C of this subsection do not apply to a brewer who annually
37 produces no more than 50,000 gallons of its product or a bottler of water who
38 annually sells no more than 250,000 containers each containing ~~no more~~ less than one
39 gallon of its product. In addition to the payment of the refund value, an initiator of
40 deposit under section 1863-A, ~~subsections 1 to 4~~ who is also a brewer who annually
41 produces no more than 50,000 gallons of its product or a bottler of water who
42 annually sells no more than 250,000 containers each containing ~~no more~~ less than one

1 gallon of its product shall reimburse the dealer or local redemption center for the cost
2 of handling beverage containers subject to section 1863-A in an amount that equals at
3 least 3¢ per returned container.

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

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

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

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

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

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

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

