



# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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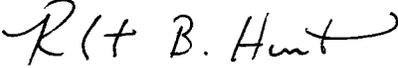
H.P. 1225

House of Representatives, May 9, 2023

### An Act to Modernize Maine's Beverage Container Redemption Law

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

  
ROBERT B. HUNT  
Clerk

Presented by Representative HEPLER of Woolwich.  
Cosponsored by Senator POULIOT of Kennebec and  
Representatives: LANDRY of Farmington, WHITE of Waterville, Senators: BENNETT of  
Oxford, BLACK of Franklin, CARNEY of Cumberland, HICKMAN of Kennebec, LIBBY of  
Cumberland, TIMBERLAKE of Androscoggin.

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

2 **Sec. 1. 36 MRSA §112, sub-§8**, as amended by PL 2021, c. 1, Pt. M, §§9 and 10,  
3 is further amended to read:

4 **8. Additional duties.** In addition to the duties specified in this Title, the assessor has  
5 the following duties:

6 A. Collection of the tax on fire insurance companies imposed by Title 25, section 2399;  
7 and

8 ~~E. Administration of reports and payments required under Title 38, section 3108.~~

9 **Sec. 2. 38 MRSA §3102, sub-§1-A** is enacted to read:

10 **1-A. Account-based bulk processing program.** "Account-based bulk processing  
11 program" means a beverage container recycling program implemented by a redemption  
12 center or pick-up agent that meets the requirements of rules adopted by the department, is  
13 approved by the department and consolidates beverage containers subject to the  
14 requirements of this chapter through bulk sorting, collects data regarding the containers to  
15 support an accounting of deposits, fees and material weight and prepares the sorted  
16 containers for sale to recyclers. An account-based bulk processing program may include a  
17 bag-drop program as a program component.

18 **Sec. 3. 38 MRSA §3102, sub-§1-B** is enacted to read:

19 **1-B. Bag-drop program.** "Bag-drop program" means a beverage container recycling  
20 program implemented by a redemption center that meets the requirements of rules adopted  
21 by the department and that allows a person to drop off beverage containers subject to the  
22 requirements of this chapter in a bag or other receptacle at one or more identified locations  
23 and to have the corresponding refund placed into an account to be held for the benefit of  
24 the person in a manner that allows the person to obtain the refund or a refund receipt within  
25 2 business days following the drop-off. A bag-drop program may be implemented as part  
26 of or in conjunction with an account-based bulk processing program.

27 **Sec. 4. 38 MRSA §3102, sub-§3-A** is enacted to read:

28 **3-A. Commingling cooperative or cooperative.** "Commingling cooperative" or  
29 "cooperative" means the entity established pursuant to section 3107, subsection 3-B to  
30 manage the collection of all beverage containers subject to the requirements of this chapter  
31 under a single commingling program.

32 **Sec. 5. 38 MRSA §3102, sub-§3-B** is enacted to read:

33 **3-B. Commingling group.** "Commingling group" means a group of initiators of  
34 deposit that have entered into a commingling agreement approved by the department in  
35 accordance with section 3107, subsection 1-A or 1-B. "Commingling group" includes the  
36 State, through the Department of Administrative and Financial Services, Bureau of  
37 Alcoholic Beverages and Lottery Operations, which, pursuant to section 3107, is deemed  
38 to be managing returned containers for which the State has initiated deposits in a  
39 commingling program pursuant to a qualified commingling agreement, but does not  
40 include the commingling cooperative.

1           **Sec. 6. 38 MRSA §3102, sub-§16-A**, as enacted by PL 2019, c. 526, §5, is amended  
2 to read:

3           **16-A. Pick-up agent.** "Pick-up agent" means ~~an initiator of deposit, a distributor or a~~  
4 contracted agent of an initiator of deposit or a distributor, a commingling group or the  
5 commingling cooperative that receives redeemed beverage containers from a redemption  
6 center, except for beverage containers redeemed through an account-based bulk processing  
7 program, and transports those containers for recycling.

8           **Sec. 7. 38 MRSA §3102, sub-§19**, as enacted by PL 2015, c. 166, §14, is amended  
9 to read:

10           **19. Reverse vending machine.** "Reverse vending machine" means an automated  
11 device that meets the requirements of rules adopted by the department and that uses a laser  
12 scanner or optical sensor and microprocessor to accurately recognize the universal product  
13 code on beverage containers and to accumulate information regarding containers redeemed,  
14 enabling the reverse vending machine to accept containers from redeemers and to issue  
15 script for the containers' refund value. "Reverse vending machine" does not include a hand  
16 scanner or other similar device.

17           **Sec. 8. 38 MRSA §3105, sub-§1**, as amended by PL 2019, c. 11, §1, is further  
18 amended to read:

19           **1. Labels.** Except as provided under ~~subsections 2 and subsection~~ 4, the refund value,  
20 or the words "refund value" or the abbreviation "RV," and the word "Maine" or the  
21 abbreviation "ME" must be clearly indicated on every refundable beverage container sold  
22 or offered for sale by a dealer in this State, by embossing, stamping, labeling or other  
23 method of secure attachment to the beverage container, except in instances when the  
24 initiator of deposit has specific permission from the department to use stickers or similar  
25 devices. The refund value may not be indicated on the bottom of the container.

26           **Sec. 9. 38 MRSA §3105, sub-§2**, as amended by PL 2019, c. 11, §2, is repealed.

27           **Sec. 10. 38 MRSA §3105, sub-§3**, as enacted by PL 2015, c. 166, §14, is repealed.

28           **Sec. 11. 38 MRSA §3105, sub-§4**, as enacted by PL 2015, c. 166, §14, is amended  
29 to read:

30           **4. Brand name Refillable glass beverage containers.** Refillable glass beverage  
31 containers ~~of carbonated beverages, for which the deposit is initiated under section 3103,~~  
32 ~~subsection 1,~~ that have a refund value of not less than 5¢ and a brand name permanently  
33 marked on the container are not required to comply with subsection 1. ~~The exception~~  
34 ~~provided by this subsection does not apply to glass beverage containers that contain spirits,~~  
35 ~~wine or malt liquor as those terms are defined by Title 28-A, section 2.~~

36           **Sec. 12. 38 MRSA §3105, sub-§5**, as amended by PL 2019, c. 526, §6, is further  
37 amended to read:

38           **5. Label registration.** An initiator of deposit shall register the container label of any  
39 beverage offered for sale in the State on which it initiates a deposit. Registration must be  
40 on forms or in an electronic format provided by the department prior to January 15, 2025  
41 and by the cooperative beginning January 15, 2025 and must include the universal product  
42 code for each combination of beverage and container manufactured. The initiator of  
43 deposit shall renew a label registration annually and whenever that label is revised by

1 altering the universal product code or whenever the container on which it appears is  
2 changed in size, composition or glass color. The initiator of deposit shall also include as  
3 part of the registration ~~the method of collection for that type of container~~, identification of  
4 a collection agent, identification of all of the parties to a commingling agreement that  
5 applies to the container and proof of the collection agreement. ~~The Except as provided in~~  
6 ~~paragraph A, the~~ department may charge a fee for registration and registration renewals  
7 under this subsection.

8 A. Beginning January 15, 2025, the department may not charge a fee for registration  
9 and registration renewals under this subsection.

10 B. Beginning January 15, 2025, a commingling group shall ensure that all initiators of  
11 deposit participating in the commingling group provide to the cooperative accurate and  
12 up-to-date label registration information required by this subsection and any updates to  
13 label registrations. The cooperative shall ensure that accurate and up-to-date  
14 information regarding all label registrations is shared with entities using or  
15 administering reverse vending machine and account-based bulk processing programs  
16 and is made available on its publicly accessible website.

17 **Sec. 13. 38 MRSA §3105, sub-§5-A** is enacted to read:

18 **5-A. Unregistered labels; payment.** Beginning January 15, 2025, if a person notifies  
19 the cooperative that a beverage container is sold or offered for sale in the State with a label  
20 that has not been registered in accordance with this section, the cooperative shall provide  
21 the person with a payment of not less than \$100 per label upon a determination by the  
22 cooperative that:

23 A. The beverage container is sold or offered for sale in the State with an unregistered  
24 label; and

25 B. The cooperative has not already made a payment under this subsection to another  
26 person with respect to the same unregistered label.

27 **Sec. 14. 38 MRSA §3106, sub-§1**, as amended by PL 2019, c. 526, §7, is further  
28 amended to read:

29 **1. Dealer acceptance.** Except as otherwise provided in this section, a dealer operating  
30 a retail space of 5,000 square feet or more may not refuse to accept from any consumer or  
31 other person not a dealer any empty, unbroken and reasonably clean beverage container or  
32 refuse to pay in cash the refund value of the returned beverage container as established by  
33 section 3103 unless the dealer has a written agreement with a redemption center to provide  
34 redemption services on behalf of the dealer and that redemption center: is located within  
35 10 miles from the dealer, as measured along public roadways.

36 ~~A. Is located within 10 miles from the dealer, as measured along public roadways; or~~

37 ~~B. If there is no redemption center located within 10 miles from the dealer under~~  
38 ~~paragraph A, is the redemption center in closest proximity to the dealer, as measured~~  
39 ~~along public roadways.~~

40 If there is no redemption center located within 10 miles from a dealer operating a retail  
41 space of 5,000 square feet or more, the dealer shall notify the department and, pursuant to  
42 section 3113, the department may issue a license to a redemption center that is proposed to

1 be located within 10 miles from that dealer and that satisfies all other applicable  
2 requirements for licensure.

3 This subsection does not require an operator of a vending machine to maintain a person to  
4 accept returned beverage containers on the premises where the vending machine is located.

5 **Sec. 15. 38 MRSA §3106, sub-§5**, as amended by PL 2019, c. 526, §7, is further  
6 amended to read:

7 **5. ~~Distributor acceptance~~ Acceptance by commingling group.** A ~~distributor~~  
8 ~~commingling group or its agent~~ may not refuse to accept from any dealer or redemption  
9 center any empty, unbroken and reasonably clean beverage container or any beverage  
10 container that has been processed through an approved reverse vending machine or  
11 account-based bulk processing program that meets the requirements of rules adopted by  
12 the department pursuant to this chapter of the kind, size and brand sold by the distributor  
13 or refuse to pay to the dealer or redemption center the refund value of a beverage container  
14 as established by section 3103.

15 **Sec. 16. 38 MRSA §3106, sub-§6**, as amended by PL 2019, c. 526, §7, is further  
16 amended to read:

17 **6. Obligation to preserve recycling value.** Notwithstanding subsection 8, a  
18 ~~distributor~~ commingling group or its agent may refuse to accept, or pay the refund value  
19 and handling costs to a dealer, redemption center or other person for, a beverage container  
20 that has been processed by a reverse vending machine or account-based bulk processing  
21 program in a way that has reduced the recycling value of the container below current market  
22 value. This subsection may not be interpreted to prohibit a written processing agreement  
23 between a ~~distributor~~ commingling group and a dealer or redemption center and does not  
24 relieve a ~~distributor~~ commingling group of its obligation under subsection 8 to accept  
25 empty, unbroken and reasonably clean beverage containers. The department shall adopt  
26 rules to establish the recycling value of beverage containers under this subsection and the  
27 rules may authorize the use of a 3rd-party vendor to determine if a beverage container has  
28 been processed by a reverse vending machine or account-based bulk processing program  
29 in a manner that has reduced the recycling value below current market value. The rules  
30 must outline the method of allocating among the parties involved the payment for 3rd-party  
31 vendor costs.

32 **Sec. 17. 38 MRSA §3106, sub-§7**, as amended by PL 2019, c. 526, §7, is further  
33 amended to read:

34 **7. Reimbursement of handling costs.** Reimbursement of handling costs is governed  
35 by this subsection.

36 A. In addition to the payment of the refund value, the initiator of the deposit under  
37 section 3103, subsections 1, 2 and 4 shall reimburse the dealer or redemption center  
38 for the cost of handling beverage containers subject to section 3103, in an amount that  
39 equals at least 3¢ per returned container for containers picked up by the initiator before  
40 March 1, 2004, at least 3 1/2¢ for containers picked up on or after March 1, 2004 and  
41 before March 1, 2010, at least 4¢ for containers picked up on or after March 1, 2010  
42 and before January 1, 2020 ~~and~~, at least 4 1/2¢ for containers picked up on or after  
43 January 1, 2020 ~~and before September 1, 2023~~, at least 6¢ for containers picked up on  
44 or after September 1, 2023 and before January 15, 2025 and at least the amount set by

1 rule in accordance with paragraph B-1 for containers picked up on or after January 15,  
2 2025. The initiator of the deposit may reimburse the dealer or redemption center  
3 directly or indirectly through a party with which it has entered into a commingling  
4 agreement.

5 B. In addition to the payment of the refund value, the initiator of the deposit under  
6 section 3103, subsection 3 shall reimburse the dealer or redemption center for the cost  
7 of handling beverage containers subject to section 3103 in an amount that equals at  
8 least 3¢ per returned container for containers picked up by the initiator before March  
9 1, 2004, at least 3 1/2¢ for containers picked up on or after March 1, 2004 and before  
10 March 1, 2010, at least 4¢ for containers picked up on or after March 1, 2010 and before  
11 January 1, 2020 ~~and~~, at least 4 1/2¢ for containers picked up on or after January 1, 2020  
12 and before September 1, 2023, at least 6¢ for containers picked up on or after  
13 September 1, 2023 and before January 15, 2025 and at least the amount set by rule in  
14 accordance with paragraph B-1 for containers picked up on or after January 15, 2025.  
15 The initiator of the deposit may reimburse the dealer or redemption center directly or  
16 indirectly through a contracted agent or through a party with which it has entered into  
17 a commingling agreement.

18 B-1. On or before January 15, 2025 and biennially thereafter, the department shall  
19 adopt rules adjusting the applicable amount of the reimbursement of handling costs  
20 under paragraphs A and B by any percentage change in the United States Consumer  
21 Price Index, established by the federal Department of Labor, Bureau of Labor  
22 Statistics, from January 1st to December 31st of the previous year. In determining the  
23 amount of any adjustment of the reimbursement under this paragraph, the department  
24 may also consider other cost-related factors. Any change in the amount of the  
25 reimbursement of handling costs adopted by the department by rule in accordance with  
26 this paragraph may not take effect until 60 days following the date of final adoption of  
27 the rule. Rules adopted pursuant to this paragraph are routine technical rules as defined  
28 in Title 5, chapter 375, subchapter 2-A.

29 **Sec. 18. 38 MRSA §3106, sub-§8,** as amended by PL 2019, c. 315, §19 and c. 526,  
30 §7, is repealed and the following enacted in its place:

31 **8. Obligation to pick up and recycle containers.** Beginning April 15, 2024, a  
32 designated pick-up entity has the obligation to ensure the pickup and recycling of all empty,  
33 unbroken and reasonably clean beverage containers subject to the requirements of this  
34 chapter from dealers and redemption centers, including from any locations where an  
35 account-based bulk processing program is in operation, at least once every 7 calendar days  
36 or in a manner that, except as provided in paragraph E, ensures a dealer or redemption  
37 center is not required to store more than 20,000 of such containers at any one time at a  
38 single location. As used in this subsection, "designated pick-up entity" means, prior to  
39 January 15, 2025, a commingling group and, beginning January 15, 2025, the cooperative.  
40 Notwithstanding any provision of the subsection to the contrary, prior to January 15, 2025,  
41 in the case of a designated pick-up entity that is a commingling group, the commingling  
42 group's responsibilities under this subsection apply only to those beverage containers from  
43 the initiators of deposit that are members of that commingling group.

44 E. A dealer or redemption center may be required to store more than 20,000 beverage  
45 containers at any one time at a single location if the dealer or redemption center

1 receives payment from the designated pick-up entity for the deposits and handling fees  
2 due on those containers as well as a reasonable storage fee or if the dealer or redemption  
3 center enters into a written agreement with that entity or a pick-up agent of that entity,  
4 approved by the department, regarding bulk container storage.

5 F. If the designated pick-up entity fails to pick up beverage containers from a dealer  
6 or redemption center in accordance with the requirements of this subsection, then the  
7 dealer or redemption center may sell those containers to any person for fair market  
8 value and that designated pick-up entity shall pay to the dealer or redemption center  
9 the amount of the deposits and handling fees that would have been due on those  
10 containers and any other costs incurred by the dealer or redemption center in  
11 conducting the sale, subtracting from that total the amount realized by the dealer or  
12 redemption center in the sale of the containers.

13 G. At least 2 business days prior to initiating a sale of beverage containers under  
14 paragraph F, the dealer or redemption center shall notify the designated pick-up entity  
15 and the department of its intent to conduct such a sale and provide documentation  
16 verifying the number of containers to be sold. After conducting such a sale, the dealer  
17 or redemption center shall provide the designated pick-up entity and the department  
18 with documentation verifying the amount realized in the sale of the beverage containers  
19 and any other costs associated with the sale.

20 **Sec. 19. 38 MRSA §3106, sub-§9**, as amended by PL 2019, c. 526, §7, is further  
21 amended to read:

22 **9. Plastic bags; receptacles.** A dealer or redemption center has an obligation to pick  
23 up receptacles for glass beverage containers, dumpsters or plastic bags that are used by that  
24 dealer or redemption center to contain beverage containers. Plastic bags used by a dealer  
25 or redemption center and the cost allocation of these bags must conform to rules adopted  
26 by the department concerning size and gauge. Beginning January 15, 2025, the cooperative  
27 shall provide to the dealer or redemption center, or reimburse the dealer or redemption  
28 center for the cost of, the receptacles, dumpsters or plastic bags used by the dealer or  
29 redemption center to contain redeemed beverage containers.

30 **Sec. 20. 38 MRSA §3107, first ¶**, as enacted by PL 2015, c. 166, §14, is amended  
31 to read:

32 Notwithstanding any other provision of this chapter to the contrary, 2 or more initiators  
33 of deposit may enter into a commingling agreement through which some or all of the  
34 beverage containers for which the initiators have initiated deposits may be commingled by  
35 dealers and operators of redemption centers as provided in this section. No later than April  
36 15, 2024, each initiator of deposit shall enter into a commingling agreement pursuant to  
37 subsection 1-A or 1-B. If, by April 15, 2024, an initiator of deposit has not entered into a  
38 commingling agreement pursuant to subsection 1-A or 1-B, the initiator commits a  
39 violation of this chapter, is subject to penalties under section 3111 and, as long as the  
40 violation exists, is prohibited from selling or distributing in the State any beverage  
41 container subject to the requirements of this chapter, and a distributor or dealer may not  
42 sell or distribute in the State any such containers of the initiator and the department may  
43 remove from sale any such containers of the initiator.

44 **Sec. 21. 38 MRSA §3107, 2nd ¶**, as amended by PL 2019, c. 526, §8, is further  
45 amended to read:

1 An initiator of deposit that enters into a commingling agreement pursuant to this section  
2 shall permit any other initiator of deposit to become a party to that agreement on the same  
3 terms and conditions as the original agreement. ~~Once the initiator of deposit has established~~  
4 ~~a qualified commingling agreement pursuant to the requirements of subsection 1-A, the~~  
5 ~~department shall allow additional brands of beverage containers from a different product~~  
6 ~~group to be included in the commingling agreement if those additional brands are of like~~  
7 ~~material to those containers already managed under the commingling agreement.~~

8 **Sec. 22. 38 MRSA §3107, 3rd ¶**, as enacted by PL 2019, c. 526, §8, is amended to  
9 read:

10 For the purposes of this chapter and notwithstanding any provision of this chapter to  
11 the contrary, the State, through the Department of Administrative and Financial Services,  
12 Bureau of Alcoholic Beverages and Lottery Operations, is deemed to be managing returned  
13 containers for which the State has initiated deposits in a commingling program pursuant to  
14 a qualified commingling agreement as long as the State allows a dealer or redemption  
15 center to commingle returned containers of like material, including, but not limited to,  
16 through use of an account-based bulk processing program.

17 **Sec. 23. 38 MRSA §3107, sub-§1**, as enacted by PL 2015, c.168, §14, is amended  
18 by enacting at the end a new first blocked paragraph to read:

19 This subsection does not apply to the commingling program described in subsection 3-B.

20 **Sec. 24. 38 MRSA §3107, sub-§1-A**, as enacted by PL 2019, c. 526, §8, is amended  
21 to read:

22 **1-A. Qualified commingling agreements.** The department shall determine that a  
23 commingling agreement is qualified for the purposes of this chapter if:

24 A. Fifty percent or more of beverage containers of like product group, material and  
25 size for which the deposits are being initiated in the State are included in the  
26 commingling agreement; or

27 B. The initiators of deposit included in the commingling agreement are initiators of  
28 deposit for beverage containers containing wine and each initiator of deposit sells no  
29 more than 100,000 gallons of wine or 500,000 beverage containers containing wine in  
30 a calendar year; ~~or.~~

31 ~~C. The commingling agreement has been approved by the department pursuant to~~  
32 ~~subsection 3-A.~~

33 This subsection does not apply to the commingling program described in subsection 3-B.

34 **Sec. 25. 38 MRSA §3107, sub-§1-B** is enacted to read:

35 **1-B. Special commingling agreement.** The designated pick-up agent for initiators of  
36 deposit that are not members of a commingling group and that cannot in the aggregate  
37 satisfy the requirements for a qualified commingling agreement under subsection 1-A,  
38 paragraph A shall execute and submit to the department for approval and, notwithstanding  
39 any provision of this section to the contrary, the department may approve a special  
40 commingling agreement that, in accordance with applicable requirements of this section,  
41 provides for the commingling by dealers and redemption centers of the beverage containers  
42 for which those initiators have initiated deposits.

1           A. Once approved, the designated pick-up agent shall permit any initiator of deposit  
2           that is not a member of a commingling group to become a party to the special  
3           commingling agreement.

4           B. The department shall adopt rules governing approval and administration of the  
5           special commingling agreement, which must include, but are not limited to, rules  
6           regarding the administration of the agreement, data and reporting requirements for  
7           initiators that are party to the agreement, beverage container sorting and auditing  
8           requirements and the process for addressing container count discrepancies and return  
9           of containers not covered by the agreement. Rules adopted pursuant to this paragraph  
10           are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

11           This subsection does not apply to the commingling program described in subsection 3-B.

12           **Sec. 26. 38 MRSA §3107, sub-§3-A**, as amended by PL 2019, c. 526, §8, is  
13           repealed.

14           **Sec. 27. 38 MRSA §3107, sub-§3-B** is enacted to read:

15           **3-B. Commingling program operated by commingling cooperative.** Subject to the  
16           requirements of this subsection and notwithstanding any provision of this chapter to the  
17           contrary, by April 15, 2024, all commingling groups established under this section shall  
18           collectively establish a commingling cooperative to provide for the management of all  
19           beverage containers subject to the requirements of this chapter under a single commingling  
20           program, referred to in this subsection as "the program."

21           A. The cooperative must be established as a nonprofit organization exempt from  
22           taxation under the United States Internal Revenue Code of 1986, Section 501(c)(3).  
23           The cooperative must be governed by a board that represents the range of beverages  
24           and beverage container material types subject to the requirements of this chapter and  
25           that includes representatives of dealers, pick-up agents, recycling facilities, redemption  
26           centers that primarily sort containers manually and redemption centers that primarily  
27           sort containers using reverse vending machines or an account-based bulk processing  
28           program.

29           B. By July 15, 2024, the cooperative shall submit a plan for the operation of the  
30           program to the department for review and approval. The plan must include, but is not  
31           limited to:

32                   (1) The method by which the program will facilitate the transition from beverage  
33                   container sorting at redemption centers by brand to sorting by material type and,  
34                   for redemption centers that manually sort containers, by size within each material  
35                   type. The program may facilitate the negotiation of agreements with redemption  
36                   centers to gather brand data through use of reverse vending machines, account-  
37                   based bulk processing programs or similar technology as long as the cost of such  
38                   data collection is paid by the program;

39                   (2) Standards to provide for fair apportionment of costs among the commingling  
40                   groups included in the program, which may be based on:

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

1                   (b) The unit or brand counts generated by reverse vending machines or  
2                   account-based bulk processing programs as long as the reverse vending  
3                   machines or account-based bulk processing programs are subject to periodic  
4                   3rd-party audits on a schedule approved by the department and with the costs  
5                   of those audits paid by the program;

6                   (3) A method for determining the rate of redemption for beverage containers,  
7                   expressed as a percentage of the beverage containers redeemed that are available  
8                   for redemption; the variation in the rate of redemption between beverage type or  
9                   beverage container type; and the difference in the rate of redemption by county or  
10                  other geographic division of the State. The method for determining the redemption  
11                  rate may not include in its calculation any unredeemed beverage containers  
12                  collected or processed by municipal or other recycling programs. The program  
13                  must ensure that a single redemption rate, determined by the method specified in  
14                  the plan, is used by all commingling groups and initiators of deposit to determine  
15                  cost apportionment pursuant to subparagraph (2);

16                  (4) A budget for the program that includes, but is not limited to, identification of  
17                  any start-up costs for the program that will not be ongoing, including, but not  
18                  limited to, the costs of the study described in paragraph F, and a description of the  
19                  method by which the cooperative will determine and collect payments from  
20                  commingling groups to cover the program's start-up costs;

21                  (5) The method by which the cooperative will collect deposits from initiators of  
22                  deposit for nonrefillable beverage containers and handling fees for redeemed  
23                  containers, whether directly from the initiator of deposit or through the  
24                  commingling group of which the initiator of deposit is a member. The program  
25                  must ensure that an initiator of deposit is not required to pay any handling fees for  
26                  its beverage containers that exceeds the applicable redemption rate for those  
27                  containers as calculated pursuant to subparagraph (3);

28                  (6) A description of how the cooperative intends to maintain and expend  
29                  unclaimed beverage container deposits in accordance with section 3108-A;

30                  (7) A description of how the cooperative will provide the department with a  
31                  proposed beverage container pick-up schedule for each redemption center that is  
32                  designed to ensure that the pick-up requirements of section 3106, subsection 8 are  
33                  met and will notify the department of any contractual agreements regarding  
34                  container pickup between the cooperative and a redemption center as provided in  
35                  section 3106, subsection 8.

36                  (a) The program must ensure that pick-up schedules are designed to reduce  
37                  transportation distances and minimize costs but must allow each commingling  
38                  group to contract with a pick-up agent to provide for beverage container pickup  
39                  of the commingling group's equivalent container material.

40                  (b) The program must ensure that, if the cooperative is informed by a  
41                  commingling group that a pick-up schedule for a redemption center cannot be  
42                  met, which would result in a violation of section 3106, subsection 8, the  
43                  cooperative notifies the department in writing prior to the occurrence of such  
44                  a violation;

- 1                   (8) Information on how the cooperative will be responsible for and ensure payment  
2                   to a dealer or redemption center within 10 calendar days of any beverage container  
3                   pickup of all applicable deposits and handling fees for the beverage containers  
4                   picked up from the dealer or redemption center; an additional processing fee of 1¢  
5                   for each container processed using a reverse vending machine; the applicable costs  
6                   of receptacles, dumpsters and plastic bags provided to the dealer or redemption  
7                   center in accordance with section 3106, subsection 9; and any contractually agreed-  
8                   upon payments to the dealer or redemption center for data collection in accordance  
9                   with subparagraph (1);
- 10                   (9) Information on how the cooperative will ensure that each commingling group  
11                   and each initiator of deposit that is a member of the commingling group maintains  
12                   ownership over the commingling group's and initiator of deposit's share of the  
13                   beverage containers redeemed, collected and processed for recycling under the  
14                   program;
- 15                   (10) Information on how the cooperative will calculate the base rates offered for  
16                   the processing of beverage containers using an account-based bulk processing  
17                   program or pick-up agents;
- 18                   (11) A certification that the cooperative will not share, except with the department  
19                   as necessary, information provided by a commingling group or initiator of deposit  
20                   that is proprietary information and that is identified by the commingling group or  
21                   initiator of deposit as proprietary information. The certification must include a  
22                   description of the methods by which the cooperative intends to ensure the  
23                   confidentiality of that information;
- 24                   (12) Information on how the cooperative will maintain a publicly accessible  
25                   website regarding the program that includes, at a minimum, the following:
- 26                           (a) A searchable list of all initiators of deposit and beverage container label  
27                           registrations, including for beverages sold directly to consumers in the State,  
28                           in a manner that allows redemption centers, dealers and consumers to obtain  
29                           up-to-date information regarding whether a particular beverage is authorized  
30                           for sale and redemption in the State;
- 31                           (b) A form that may be submitted electronically through which a person may  
32                           notify the cooperative of unregistered beverage container labels in accordance  
33                           with section 3105, subsection 5-A;
- 34                           (c) A search function through which consumers can identify nearby dealers or  
35                           redemption centers offering redemption services based on information made  
36                           available to the cooperative by the department; and
- 37                           (d) The base rates for the processing of beverage containers by container type  
38                           as determined in accordance with subparagraph (10);
- 39                   (13) A proposed timeline for implementation of the program plan if approved  
40                   designed to ensure implementation of the plan on or before January 15, 2025 and  
41                   a description of how the cooperative will notify commingling groups, initiators of  
42                   deposit, dealers, distributors, pick-up agents and other affected entities regarding  
43                   program implementation, which must include, but is not limited to, posting of

1 information relating to program implementation on the website described in  
2 subparagraph (12); and

3 (14) Any other information required by the department.

4 C. Within 120 days of receipt of a plan submitted by the cooperative under paragraph  
5 B, the department shall review the plan and approve the plan, approve the plan with  
6 conditions or reject the plan. Prior to determining whether to approve or reject a plan,  
7 the department shall hold a public hearing on the plan. The department shall notify the  
8 cooperative in writing of its determination and, if the plan is approved with conditions  
9 or rejected, shall include in the notification a description of the basis for the conditions  
10 or rejection.

11 (1) If the cooperative's plan is rejected, it may submit a revised plan to the  
12 department within 60 days of receiving the notice of rejection. The department  
13 may approve the revised plan as submitted or approve the revised plan subject to  
14 the implementation of specific changes required by the department.

15 (2) If the cooperative's plan is approved in accordance with this paragraph, the  
16 cooperative shall implement the plan on or before January 15, 2025 in accordance  
17 with the timeline for implementation described in paragraph B, subparagraph (13),  
18 subject to any changes or conditions imposed by the department. If the cooperative  
19 fails to implement an approved plan on or before January 15, 2025, the initiators  
20 of deposit that are members of each of the commingling groups included in the  
21 cooperative are deemed to be in violation of this chapter and are subject to penalties  
22 pursuant to section 3111.

23 D. If the department determines that the program implemented by the cooperative  
24 pursuant to a plan approved under paragraph C has failed to make adequate progress  
25 toward fulfilling the requirements of the plan, the department shall notify the  
26 cooperative in writing of its determination and may direct the cooperative to implement  
27 specific changes to the program within 30 days of the date of the notification.

28 E. On or before April 1, 2026, and annually thereafter, the cooperative shall submit to  
29 the department and make available on its publicly accessible website a report that  
30 includes, but is not limited to:

31 (1) Contact information for the cooperative and a list of all initiators of deposit  
32 and beverage container label registrations, including for beverages sold directly to  
33 consumers in the State;

34 (2) Information on the rates of redemption for beverage containers calculated in  
35 accordance with plan requirements under paragraph B, subparagraph (3). The  
36 report must include information regarding the total number of beverage containers  
37 subject to the requirements of this chapter sold or distributed in the State during  
38 the prior calendar year by the members of each commingling group, aggregated  
39 within each commingling group to provide only a total, aggregated number for  
40 each commingling group. If the cooperative determines that the overall statewide  
41 redemption rate for beverage containers is less than 85%, the report must include  
42 recommendations for increases in the deposit and refund value for beverage  
43 containers;

1 (3) Detailed information on the expenditure of unclaimed deposit funds in the prior  
2 calendar year, including a description of any activities funded through such  
3 expenditures in accordance with section 3108-A and the progress made through  
4 such expenditures to increase the use of redemption technologies, increase the rate  
5 of beverage container redemption, support container recycling and support the use  
6 of refillable and reusable containers;

7 (4) A description of the education and outreach efforts implemented under the  
8 program in the prior calendar year to encourage participation in the beverage  
9 container redemption program, reduce instances of fraud in redemption and  
10 educate businesses and consumers on the value and safety of refillable beverage  
11 containers. The report must include the results of an assessment, completed by an  
12 independent 3rd party, of the effectiveness of the efforts;

13 (5) Any recommendations for changes to the program to improve the convenience  
14 of the collection system under the program, consumer education or program  
15 evaluation and any goals for supporting the use of refillable and reusable  
16 containers;

17 (6) A financial report on the program, as determined through a 3rd-party financial  
18 audit, that identifies the total cost of implementing the program and the specific  
19 administration, collection, transportation, disposition and communication costs for  
20 the program and an anticipated budget for the subsequent program year; and

21 (7) Any other information required by the department.

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

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

37 (2) The cooperative shall provide any interim progress reports and the final report  
38 under subparagraph (1) to the department and, after receipt of the final report, the  
39 department shall provide a copy of the final report, along with any additional  
40 comments or recommendations of the department, to the joint standing committee  
41 of the Legislature having jurisdiction over environment and natural resources  
42 matters. After reviewing the report and the department's additional comments or  
43 recommendations, if any, the committee may report out legislation relating to the  
44 report or to the department's comments or recommendations.

1 G. The cooperative shall pay to the department a reasonable annual fee established by  
2 the department, not to exceed \$400,000, as provided in this paragraph.

3 (1) On or before January 15, 2025, the cooperative shall pay to the department the  
4 annual fee under this paragraph to cover the department's costs for review of the  
5 program plan submitted by the cooperative pursuant to paragraph B and the  
6 department's costs prior to program plan implementation in its oversight of the  
7 development and implementation of the commingling program under this  
8 subsection. The department may require the cooperative to pay a portion of the fee  
9 required under this subparagraph at the time the cooperative submits a program  
10 plan for review and approval pursuant to paragraph B to cover the department's  
11 cost for review of the program plan.

12 (2) On or before April 1, 2026, and annually thereafter, the cooperative shall pay  
13 to the department the annual fee under this paragraph to cover the department's  
14 costs for review of the cooperative's annual report under paragraph E and the  
15 department's costs in the prior calendar year for its oversight, administration and  
16 enforcement of the commingling program implemented under this subsection. The  
17 cooperative shall pay the fee required pursuant to this subparagraph at the time it  
18 submits the annual report required pursuant to paragraph E.

19 H. Reports submitted to the department under this subsection must be made available  
20 to the public on the department's publicly accessible website, except that proprietary  
21 information submitted to the department in a plan, in an amendment to a plan or  
22 pursuant to reporting requirements of this subsection that is identified by the submitter  
23 as proprietary information is confidential and must be handled by the department in the  
24 same manner as confidential information is handled under section 1310-B.

25 I. Beginning January 15, 2025, an initiator of deposit that is not in compliance with all  
26 applicable requirements of the single commingling program implemented pursuant to  
27 this subsection:

28 (1) Commits a violation of this chapter and is subject to penalties pursuant to  
29 section 3111; and

30 (2) Is prohibited from selling or distributing in the State any beverage container  
31 subject to the requirements of this chapter as long as the violation exists. A  
32 distributor or dealer may not sell or distribute in the State any such containers of  
33 the initiator of deposit, and the department may remove from sale any such  
34 containers of the initiator of deposit.

35 The department may adopt rules as necessary for the implementation of this subsection and  
36 the oversight of the cooperative. Rules adopted pursuant to this subsection are routine  
37 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

38 **Sec. 28. 38 MRSA §3107, sub-§4**, as enacted by PL 2015, c. 166, §4, is amended  
39 by enacting at the end a new first blocked paragraph to read:

40 This subsection does not apply to the commingling program described in subsection 3-B.

41 **Sec. 29. 38 MRSA §3107, sub-§5**, as enacted by PL 2019, c. 526, §8 is amended  
42 by enacting at the end a new first blocked paragraph to read:

43 This subsection does not apply to the commingling program described in subsection 3-B.

1           **Sec. 30. 38 MRSA §3108**, as enacted by PL 2015, c. 166, §14, is repealed.

2           **Sec. 31. 38 MRSA §3108-A** is enacted to read:

3           **§3108-A. Unclaimed deposits**

4           This section governs unclaimed beverage container deposits.

5           **1. Commingling group; unclaimed deposits.** Prior to January 15, 2025, unclaimed  
6 deposits for nonrefillable beverage containers that are subject to a commingling agreement  
7 pursuant to section 3107, subsection 1-A or 1-B are the property of the members of the  
8 commingling group administering the agreement. The commingling group shall determine  
9 the disposition and use of such unclaimed deposits.

10           **2. Commingling cooperative; unclaimed deposits.** Beginning January 15, 2025,  
11 unclaimed deposits for nonrefillable beverage containers subject to the requirements of this  
12 chapter are the property of the cooperative and must be deposited and maintained by the  
13 cooperative in a separate account and expended only in accordance with this subsection.

14           A. Except as provided in paragraph B, the cooperative may not expend unclaimed  
15 deposit amounts to offset costs incurred by the program, including, but not limited to,  
16 the costs of beverage container pickups; payment to dealers or redemption centers of  
17 required handling fees under section 3106, subsection 7 of up to 6¢ per beverage  
18 container; and any legal fees or any fines incurred by the cooperative, a commingling  
19 group or an initiator of deposit.

20           B. The cooperative may expend unclaimed deposit amounts for the following  
21 purposes:

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

24           (2) Reasonable costs of administering the program under section 3107, subsection  
25 3-B, including, but not limited to, staffing costs and office operating costs;

26           (3) Costs of educational materials and signage provided to dealers and redemption  
27 centers regarding redemption instructions and other information, including  
28 information regarding the fraudulent redemption of beverage containers in  
29 accordance with section 3106, subsection 10;

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

32           (5) Payments to persons notifying the cooperative of unregistered labels in  
33 accordance with section 3105, subsection 5-A;

34           (6) Contractually obligated payments to redemption centers for the collection of  
35 brand data in accordance with section 3107, subsection 3-B, paragraph B,  
36 subparagraph (1);

37           (7) Payments to dealers or redemption centers of required handling fees under  
38 section 3106, subsection 7 in excess of 6¢ per beverage container and payment to  
39 dealers or redemption centers of the required 1¢ per container processing fee for  
40 containers processed using a reverse vending machine as provided in section 3107,  
41 subsection 3-B, paragraph B, subparagraph (8); and

1                   (8) Payments to support activities of the cooperative or others designed to increase  
2                   the use of reusable and refillable beverage containers in the State, including, but  
3                   not limited to:

4                   (a) Completion of a market analysis for a refillable beverage container  
5                   program in the State to determine feasible goals for reuse;

6                   (b) Development and implementation of, including the purchase of necessary  
7                   materials and supplies for, pilot projects to determine options for financially  
8                   viable models for refillable beverage container washing techniques, including,  
9                   but not limited to, mobile washing stations, shipment of containers to washing  
10                  facilities outside the State, in-house washing stations and establishment of a  
11                  fixed washing facility in the State;

12                  (c) Identification of container, adhesive and label options for refillable  
13                  beverage containers capable of being used by manufacturers of different types  
14                  of beverages; and

15                  (d) Outreach and education to manufacturers, retailers, restaurants and  
16                  consumers regarding the financial and environmental benefits of refillable  
17                  beverage containers and regarding the processes and methods available for  
18                  ensuring such containers may be safely reused.

19                  C. On or before April 1, 2026, and annually thereafter, the cooperative shall:

20                  (1) Calculate the total amount of deposits determined to be unclaimed during the  
21                  prior calendar year and the total amount of such deposits expended by the  
22                  cooperative in accordance with paragraph B during the prior calendar year; and

23                  (2) If the total amount of unclaimed deposits in the prior calendar year exceeds the  
24                  total amount of such deposits expended by the cooperative in the prior calendar  
25                  year, as determined under subparagraph (1), the cooperative shall turn over to the  
26                  State Tax Assessor by April 1st that excess amount, which must be deposited in  
27                  the General Fund.

28                  The department shall adopt rules as necessary to implement this section.

29                  **Sec. 32. 38 MRSA §3109, sub-§5-A**, as enacted by PL 2019, c. 526, §9, is amended  
30                  to read:

31                  **5-A. Beverage container handling.** A redemption center shall tender to pick-up  
32                  agents only beverage containers sold in the State that are placed in shells, shipping cartons,  
33                  bags or other receptacles in a manner that facilitates accurate eligible beverage container  
34                  unit counts or, in the case of containers processing through a reverse vending machine or  
35                  account-based bulk processing program, accurate data regarding the brand, material type  
36                  and the count or the weight of the eligible beverage containers.

37                  **Sec. 33. 38 MRSA §3109, sub-§5-B**, as amended by PL 2019, c. 526, §9, is further  
38                  amended to read:

39                  **5-B. Beverage container auditing.** A redemption center shall prepare beverage  
40                  containers for pickup by pick-up agents, which are subject to audit pursuant to rules  
41                  adopted by the department in accordance with this subsection.

1 A. A redemption center shall label each shell, shipping carton, bag or other receptacle  
2 with the business name, initials, redemption center license number or other unique  
3 identifying mark and with the number of beverage containers contained in each shell,  
4 shipping carton, bag or other receptacle or, in the case of containers processed through  
5 a reverse vending machine or account-based bulk processing program, information  
6 regarding the material type and the count or weight of the beverage containers  
7 contained in the shell, shipping carton, bag or other receptacle.

8 B. The department may audit shells, shipping cartons, bags or other receptacles that  
9 have been prepared for pickup by a redemption center.

10 (1) An audit may be conducted by the department on site at the redemption center  
11 or off site at a different location. Off-site audits may involve the use of bulk  
12 redemption technology.

13 (2) An audit must be conducted on a minimum of 1,000 beverage containers or, in  
14 the case of containers processing through a reverse vending machine or account-  
15 based bulk processing program, on an equivalent amount by weight of the same  
16 material type.

17 (3) If the results of an audit vary from the ~~beverage container count labeled in~~  
18 ~~accordance with~~ information included on the label of the shell, shipping carton,  
19 bag or other receptacle required by paragraph A, the department shall, in the case  
20 of an on-site audit, require the redemption center to add or remove containers or  
21 an equivalent weight of the same material type to address the variation in the results  
22 of the audit or, in the case of an off-site audit, require the redemption center to  
23 accept payment from the initiator of deposit or pick-up agent adjusted in  
24 accordance with the variation in the results of the audit.

25 (4) The department may deny an application for approval of a redemption center  
26 under subsection 2 if the redemption center, pursuant to audits conducted by the  
27 department in accordance with this subsection, has repeatedly prepared for pickup  
28 shells, shipping cartons, bags or other receptacles containing less than 97% of the  
29 beverage containers or equivalent weight of the same material type that such shells,  
30 shipping cartons, bags or other receptacles are labeled as containing.

31 **Sec. 34. 38 MRSA §3113, sub-§3,** as amended by PL 2019, c. 526, §10, is further  
32 amended by amending the first blocked paragraph to read:

33 For a municipality with a population of no more than 5,000, the department may license  
34 redemption centers in accordance with rules adopted by the department. Notwithstanding  
35 the population requirements of this subsection, the department may grant a license to a  
36 redemption center if the redemption center is proposed to be located within 10 miles of a  
37 dealer, as measured along public roadways, and there are no other redemption centers  
38 located within 10 miles of that dealer.

39 **Sec. 35. 38 MRSA §3114, sub-§2,** as enacted by PL 2015, c. 166, §14, is amended  
40 to read:

41 **2. Sources of money.** The fund consists of the following:

42 A. Fees for issuance of licenses and license renewals under section 3113;

1 B. Fees for registration of beverage container labels and registration renewals under  
2 section 3105, subsection 5; ~~and~~.

3 This paragraph is repealed January 15, 2025;

4 B-1. The annual fee paid by the commingling cooperative pursuant to section 3107,  
5 subsection 3-B, paragraph G; and

6 C. All other money appropriated or allocated for inclusion in the fund.

7 **Sec. 36. 38 MRSA §3115, sub-§1**, as enacted by PL 2015, c. 166, §14, is repealed.

8 **Sec. 37. 38 MRSA §3115, sub-§3** is enacted to read:

9 **3. Report.** On or before February 15, 2024, and annually thereafter, the department  
10 shall report to the joint standing committee of the Legislature having jurisdiction over  
11 environment and natural resources matters on the status of the beverage container  
12 redemption program implemented under this chapter. The report must include any  
13 recommendations, including draft legislation as necessary, for amendments to this chapter  
14 necessary for its administration or to better fulfill the purpose described under section 3101.  
15 After reviewing the report, the committee may report out legislation relating to the report.  
16 The report under this subsection may be included in the report required pursuant to section  
17 1772, subsection 1.

18 **Sec. 38. 38 MRSA §3119**, as enacted by PL 2019, c. 526, §14, is repealed.

19 **Sec. 39. Department of Environmental Protection; beverage container**  
20 **redemption program report.** The Department of Environmental Protection, in the  
21 report required by the Maine Revised Statutes, Title 38, section 3115, subsection 3 that is  
22 due February 15, 2024, shall include additional recommendations, including proposed  
23 legislation, for any necessary changes to the laws governing the beverage container  
24 redemption program to ensure the timely and successful implementation of the special  
25 commingling agreement pursuant to Title 38, section 3107, subsection 1-B and the single  
26 commingling program operated by a commingling cooperative pursuant to Title 38, section  
27 3107, subsection 3-B. The report may include additional recommendations for changes to  
28 the laws governing the beverage container redemption program determined necessary by  
29 the department.

30 **Sec. 40. Effective dates.** That section of this Act that enacts the Maine Revised  
31 Statutes, Title 38, section 3108-A and those sections of this Act that amend Title 36, section  
32 112, subsection 8; Title 38, section 3102, subsection 16-A; Title 38, section 3106,  
33 subsection 5; and Title 38, section 3106, subsection 6 and that section of this Act that  
34 repeals Title 38, section 3108 and that section of this Act that repeals and replaces Title 38,  
35 section 3106, subsection 8 take effect April 15, 2024. Those sections of this Act that repeal  
36 Title 38, section 3115, subsection 1 and Title 38, section 3119 take effect January 15, 2025.

## 37 SUMMARY

38 This bill makes multiple changes to the beverage container redemption laws, including  
39 the following.

40 1. It increases the amount of the reimbursement of beverage container handling costs  
41 paid by an initiator of deposit to a dealer or redemption center from 4 1/2¢ per container to  
42 6¢ per container beginning September 1, 2023.

1           2. It requires the Department of Environmental Protection, on or before January 15,  
2 2025, and biennially thereafter, to adopt rules adjusting the applicable amount of the  
3 reimbursement of beverage container handling costs by any percentage change in the  
4 Consumer Price Index from January 1st to December 31st of the previous year.

5           3. It requires all initiators of deposit to enter into a commingling agreement no later  
6 than April 15, 2024 and authorizes the approval of a special commingling agreement for  
7 initiators of deposit that are not members of a commingling group and that cannot in the  
8 aggregate satisfy the requirements for a qualified commingling agreement under current  
9 law.

10          4. It requires all established commingling groups by April 15, 2024 to establish a  
11 nonprofit commingling cooperative to provide for the management of beverage containers  
12 under a single commingling program. By July 15, 2024, the cooperative must submit a  
13 plan for the operation of the commingling program to the department for review and  
14 approval, which the department must complete within 120 days of receipt. The plan must  
15 be designed to provide for implementation of the commingling program on or before  
16 January 15, 2025. Among other duties, this commingling program is required to use  
17 unclaimed container deposits to make a variety of expenditures to support the functions of  
18 the program and the beverage container redemption system.

19          5. It specifies that, on or before February 15, 2024, and annually thereafter, the  
20 department must report to the joint standing committee of the Legislature having  
21 jurisdiction over environment and natural resources matters on the status of the beverage  
22 container redemption program, including any recommendations for necessary amendments  
23 to the beverage container redemption laws. For the report due February 15, 2024, it  
24 requires the department to include recommendations for amendments to the laws necessary  
25 to ensure the timely and successful implementation of the special commingling agreement  
26 and the single commingling program operated by a commingling cooperative.