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ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1022, L.D. 1564, “An Act to Delay Implementation of Recent Changes to Maine's Beverage Container Redemption Law”

Amend the bill by striking out the title and substituting the following:

'An Act to Delay Implementation of Certain Recent Changes to the Beverage Container Redemption Law and to Make Other Necessary Changes to That Law'

Amend the bill in the emergency preamble by striking out all of the 2nd paragraph (page 1, lines 3 to 5 in L.D.) and inserting the following:

'Whereas, this legislation must take effect before the expiration of the 90-day period so that certain changes to the laws governing manufacturers, distributors and dealers of beverage containers enacted by Public Law 2023, chapter 482 are clarified prior to the implementation date of those changes; and'

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

'Sec. 1. 38 MRSA §3105, sub-§5, as amended by PL 2023, c. 482, §12, is further amended to read:

5. Label registration. An initiator of deposit shall register the container label of any beverage offered for sale in the State on which it initiates a deposit. Registration must be on forms or in an electronic format provided by the department prior to July 15, ~~2025~~ 2026 and by the cooperative beginning July 15, ~~2025~~ 2026 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 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.

1 A. Prior to July 15, ~~2025~~ 2026, the department may charge a fee for registration and
2 registration renewals under this subsection.

3 B. Beginning July 15, ~~2025~~ 2026, a commingling group shall ensure that all initiators
4 of deposit participating in the commingling group provide to the cooperative accurate
5 and up-to-date label registration information required by this subsection and that any
6 updates to label registrations are provided to the cooperative at least 30 days prior to
7 introduction for sale in the State. The cooperative shall ensure that accurate and up-to-
8 date information regarding all label registrations is shared with entities using or
9 administering reverse vending machine and account-based bulk processing programs
10 and is made available on its publicly accessible website.

11 **Sec. 2. 38 MRSA §3106, sub-§6**, as amended by PL 2023, c. 482, §15 and affected
12 by §43, is further amended to read:

13 **6. Obligation to preserve container value.** Notwithstanding subsection 8-A, a
14 commingling group or its agent may refuse to accept, or pay the refund value and handling
15 costs to a dealer, redemption center or other person for, a beverage container that has been
16 processed by a reverse vending machine or account-based bulk processing program in a
17 way that has, for a nonrefillable beverage container, reduced the recycling value of the
18 container below current market value or, for a refillable beverage container, has damaged
19 the container in a manner that prevents its reuse. This subsection may not be interpreted to
20 prohibit a written processing agreement between a commingling group and a dealer or
21 redemption center and does not relieve a commingling group of its obligation under
22 subsection 8-A to accept empty, unbroken and reasonably clean beverage containers.
23 Beginning July 15, ~~2025~~ 2026, the cooperative, on behalf of its member commingling
24 groups, shall negotiate agreements with dealers and redemption centers regarding
25 processing payments for each beverage container material type. The department shall
26 adopt rules to establish the recycling value of beverage containers under this subsection
27 and the rules may authorize the use of a 3rd-party vendor to determine if a beverage
28 container has been processed by a reverse vending machine or account-based bulk
29 processing program in a manner that, for a nonrefillable beverage container, has reduced
30 the recycling value below current market value or, for a refillable beverage container, has
31 damaged the container in a manner that prevents its reuse. The rules must outline the
32 method of allocating among the parties involved the payment for 3rd-party vendor costs.

33 **Sec. 3. 38 MRSA §3106, sub-§8-A**, as enacted by PL 2023, c. 482, §17, is amended
34 to read:

35 **8-A. Obligation to pick up and recycle containers.** ~~Beginning October 15, 2024, in~~
36 In accordance with the requirements of this subsection and the rules adopted pursuant to
37 this subsection, a designated pick-up entity has the obligation to ensure the timely pickup
38 and recycling of all empty, unbroken and reasonably clean beverage containers subject to
39 the requirements of this chapter from dealers and redemption centers, including from any
40 locations where an account-based bulk processing program is in operation. As used in this
41 subsection, "designated pick-up entity" means, ~~prior to July 15, 2025 until the cooperative~~
42 implements a department-approved program plan pursuant to section 3107, subsection 3-B,
43 paragraph C or for any period of time in which a department-approved program plan is not
44 implemented, a commingling group or its pick-up agent and, ~~beginning July 15, 2025 or,~~

1 for any period of time in which a department-approved program plan is implemented, the
2 cooperative or its pick-up agent or agents.

3 A. Notwithstanding any provision of this subsection to the contrary, ~~prior to July 15,~~
4 ~~2025 until the cooperative implements a department-approved program plan pursuant~~
5 ~~to section 3107, subsection 3-B, paragraph C or for any period of time in which a~~
6 ~~department-approved program plan is not implemented,~~ in the case of a designated
7 pick-up entity that is a commingling group, the commingling group's responsibilities
8 under this subsection apply only to those beverage containers from the initiators of
9 deposit that are members of that commingling group.

10 B. The department shall adopt rules to implement this subsection. The rules must, at
11 a minimum, establish pickup frequency standards based on the volume of beverage
12 containers collected by each dealer or redemption center, accounting for any
13 irregularities in volume, in a manner that promotes communication between designated
14 pick-up entities and dealers and redemption centers and that increases transportation
15 efficiency while maintaining the level of service provided to dealers and redemption
16 centers such that dealers and redemption centers are not required to store collected
17 beverage containers for extended periods of time without contact from and
18 compensation provided by the designated pick-up entity. Rules adopted pursuant to
19 this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter
20 2-A.

21 **Sec. 4. 38 MRSA §3106, sub-§9**, as amended by PL 2023, c. 482, §18, is further
22 amended to read:

23 **9. Plastic bags.** Plastic bags used by a dealer or redemption center and the cost
24 allocation of these bags must conform to rules adopted by the department concerning size
25 and gauge. Beginning July 15, 2025, the cooperative shall provide to the dealer or
26 redemption center, ~~or the plastic bags to be used by the dealer or redemption center to~~
27 ~~contain redeemed beverage containers or, within 6 weeks of receipt of a request for~~
28 ~~reimbursement from the dealer or redemption center for the cost of such plastic bags used~~
29 ~~by the dealer or redemption center, reimburse the dealer or redemption center for the cost~~
30 ~~of, the plastic bags used by the dealer or redemption center to contain redeemed beverage~~
31 ~~containers those requested costs.~~

32 **Sec. 5. 38 MRSA §3107, sub-§1**, as amended by PL 2023, c. 482, §22, is further
33 amended to read:

34 **1. Commingling requirement.** If initiators of deposit enter into a commingling
35 agreement pursuant to this section, commingling of beverage containers must be by all
36 containers of like deposit value, product group, material and size. Initiators of deposit may
37 not require dealers or redemption centers to further sort containers that belong to the
38 commingling group. This subsection does not prevent further commingling of containers
39 if requested by the responsible commingling group or the cooperative. An initiator of
40 deposit required pursuant to section 3106, subsection 8 or 8-A to pick up beverage
41 containers subject to a commingling agreement also shall pick up all other beverage
42 containers subject to the same agreement. ~~The initiator of deposit may not require beverage~~
43 ~~containers that are subject to a commingling agreement to be sorted separately by a dealer~~
44 ~~or redemption center.~~ A dealer or redemption center that processes beverage containers
45 using a reverse vending machine or account-based bulk processing program is not required

1 to sort material by color, in accordance with subsection 2, paragraphs E to H, deposit value
2 or size but must comply with the requirements of section 3106, subsection 6.

3 **Sec. 6. 38 MRSA §3107, sub-§2**, as enacted by PL 2015, c. 166, §14, is amended
4 to read:

5 **2. Commingling of like materials.** For purposes of this section, containers are
6 considered to be of like materials if made up of one of the following:

7 ~~A. Plastic;~~

8 B. Aluminum;

9 C. Metal other than aluminum; ~~and~~

10 D. Glass;

11 E. Clear, transparent green or transparent light blue polyethylene terephthalate;

12 F. Other polyethylene terephthalate that is not clear, transparent green or transparent
13 light blue;

14 G. Clear high-density polyethylene;

15 H. Colored high-density polyethylene; or

16 I. Other materials, including refillable beverage containers, that in the department's
17 discretion are necessary to carry out the purposes of this chapter.

18 **Sec. 7. 38 MRSA §3107, sub-§3-B, ¶B**, as enacted by PL 2023, c. 482, §26, is
19 amended by amending subparagraph (1) to read:

20 (1) The method by which the program will facilitate and, no later than October 1,
21 2026, complete the transition from beverage container sorting at redemption
22 centers by brand to sorting by material type and, for redemption centers that
23 manually sort containers, by size and deposit value within each material type. The
24 program may facilitate the negotiation of agreements with redemption centers to
25 gather brand data through use of reverse vending machines, account-based bulk
26 processing programs or similar technology as long as the cost of such data
27 collection is paid by the program;

28 **Sec. 8. 38 MRSA §3107, sub-§3-B, ¶B**, as enacted by PL 2023, c. 482, §26, is
29 amended by amending subparagraph (13) to read:

30 (13) A proposed timeline for implementation of the program plan, if approved,
31 designed to ensure implementation of the plan on or before July 15, 2025 January
32 15, 2026 and a description of how the cooperative will notify commingling groups,
33 initiators of deposit, dealers, distributors, pick-up agents and other affected entities
34 regarding program implementation, which must include, but is not limited to,
35 posting of information relating to program implementation on the website
36 described in subparagraph (12);

37 **Sec. 9. 38 MRSA §3107, sub-§3-B, ¶C**, as enacted by PL 2023, c. 482, §26, is
38 amended to read:

39 C. Within 120 days of receipt of a plan submitted by the cooperative under paragraph
40 B, the department shall review the plan and approve the plan, approve the plan with

1 conditions or reject the plan. Prior to determining whether to approve or reject a plan,
2 the department shall hold a public ~~hearing~~ meeting on the plan. The department shall
3 notify the cooperative in writing of its determination and, if the plan is approved with
4 conditions or rejected, shall include in the notification a description of the basis for the
5 conditions or rejection.

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

10 (2) If the cooperative's plan is approved in accordance with this paragraph, the
11 cooperative shall implement the plan on or before ~~July 15, 2025~~ January 15, 2026
12 in accordance with the timeline for implementation described in paragraph B,
13 subparagraph (13), subject to any changes or conditions imposed by the
14 department. If the cooperative fails to implement an approved plan on or before
15 ~~July 15, 2025~~ January 15, 2026, the initiators of deposit that are members of each
16 of the commingling groups included in the cooperative are deemed to be in
17 violation of this chapter and are subject to penalties pursuant to section 3111.

18 **Sec. 10. 38 MRSA §3107, sub-§3-B, ¶G,** as enacted by PL 2023, c. 482, §26, is
19 amended by amending subparagraph (1) to read:

20 (1) On or before ~~July 15~~ October 31, 2025, the cooperative shall pay to the
21 department the annual fee under this paragraph to cover the department's costs for
22 review of the program plan submitted by the cooperative pursuant to paragraph B
23 and the department's costs prior to program plan implementation in its oversight of
24 the development and implementation of the commingling program under this
25 subsection. The department may require the cooperative to pay a portion of the fee
26 required under this subparagraph at the time the cooperative submits a program
27 plan for review and approval pursuant to paragraph B to cover the department's
28 cost for review of the program plan.

29 **Sec. 11. 38 MRSA §3107, sub-§3-B, ¶I,** as enacted by PL 2023, c. 482, §26, is
30 amended to read:

31 I. ~~Beginning July 15, 2025, an~~ An initiator of deposit that is not in compliance with all
32 applicable requirements of ~~the single commingling a department-approved~~ a department-approved program
33 plan implemented pursuant to this subsection:

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

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

41 **Sec. 12. 38 MRSA §3108-A, sub-§1,** as enacted by PL 2023, c. 482, §28 and
42 affected by §43, is amended to read:

1 **1. Commingling group; unclaimed deposits.** Prior to ~~July 15, 2025~~ January 15,
2 2026, unclaimed deposits for nonrefillable beverage containers that are subject to a
3 commingling agreement pursuant to section 3107, subsection 1-A or 1-B are the property
4 of the members of the commingling group administering the agreement. The commingling
5 group shall determine the disposition and use of those unclaimed deposits.

6 **Sec. 13. 38 MRSA §3108-A, sub-§2**, as amended by PL 2023, c. 529, §§2 to 4 and
7 affected by §7, is further amended to read:

8 **2. Commingling cooperative; unclaimed deposits.** Except as provided in paragraph
9 D, ~~beginning July 15, 2025 if a department-approved program plan is implemented~~
10 pursuant to section 3107, subsection 3-B, paragraph C, unclaimed deposits for nonrefillable
11 beverage containers subject to the requirements of this chapter are the property of the
12 cooperative and, in accordance with rules adopted by the department pursuant to subsection
13 3, must be deposited and maintained by the cooperative in a separate account or accounts
14 and expended only in accordance with this subsection.

15 A. The cooperative shall expend unclaimed deposit amounts as provided in paragraphs
16 B and C and may not expend unclaimed deposit amounts to offset legal or lobbying
17 fees or fines incurred by the cooperative, a commingling group or an initiator of
18 deposit.

19 B. The cooperative shall expend unclaimed deposit amounts for the following
20 purposes:

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

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

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

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

31 (4-A) Funding of activities and infrastructure designed to increase the use of
32 refillable and reusable beverage containers and reusable beverage packaging in the
33 State. The cooperative may expend funds under this subparagraph to support
34 activities and infrastructure designed to increase the use of other types of reusable
35 packaging in the State. The cooperative shall make available a minimum of
36 \$500,000 per calendar year for these activities, which may include, but are not
37 limited to:

38 (a) Activities and infrastructure relating to the development and
39 implementation of models for refillable beverage container washing
40 techniques, including, but not limited to, mobile washing stations, in-house
41 washing stations and the establishment of a fixed washing facility in the State;

42 (b) Development of or other activities relating to container, adhesive and label
43 options for refillable beverage containers; and

(c) Outreach to manufacturers, retailers, restaurants and consumers regarding the benefits of refillable beverage containers and the methods available for ensuring such containers may be safely reused; and

(5) Payment of \$500,000 annually to the department for deposit into and use in accordance with the Cost and Carbon Efficient Technology Fund established in section 3114-A.

The cooperative shall include in its annual report required under section 3107, subsection 3-B, paragraph E any recommendations for a reduction in or other amendment to the payment required under this subparagraph that the cooperative believes necessary due to a reduction in the amount of unclaimed deposits available for expenditure in accordance with paragraph C, a surplus of undistributed funding within the Cost and Carbon Efficient Technology Fund established in section 3114-A or for other reasons specified by the cooperative.

C. Any deposits determined by the cooperative to be unclaimed in accordance with the rules adopted by the department pursuant to subsection 3 that are not expended by the cooperative as otherwise required by this section may be expended by the cooperative to offset other costs incurred by the program, including, but not limited to, costs of beverage container pickups and payment to dealers or redemption centers of required handling fees under section 3106, subsection 7, as long as such expenditures are designed to equitably offset those costs incurred by each member commingling group as determined pursuant to the approved program plan under section 3107, subsection 3-B, paragraph B, subparagraph (2).

D. Notwithstanding any provision of this section to the contrary, if the cooperative fails to implement a department-approved program plan approved by the department pursuant to section 3107, subsection 3-B, paragraph C by July 15, 2025 January 15, 2026, until the cooperative implements an approved a department-approved program plan pursuant to section 3107, subsection 3-B, paragraph C or for any period of time in which a department-approved program plan is not implemented, unclaimed deposits for nonrefillable beverage containers subject to the requirements of this chapter must be deposited and maintained by the cooperative, or, in the event the cooperative has not been established, by each commingling group, in a separate account or accounts and in the manner directed by the department must be paid to the department for deposit into and use in accordance with the Beverage Container Enforcement Fund established under section 3114.

Sec. 14. 38 MRSA §3113, sub-§4, ¶A, as enacted by PL 2015, c. 166, §14, is amended to read:

A. An owner of a redemption center who is renewing the license of a redemption center licensed by the department ~~as of April 1, 2009~~ need not comply with subsection 3;

Sec. 15. 38 MRSA §3113, sub-§5, as enacted by PL 2023, c. 482, §34, is amended to read:

5. Convenience standard. On or after ~~July 15, 2025~~ January 15, 2026, the department shall adopt rules establishing requirements for the implementation by the cooperative of an efficient beverage container collection system of redemption centers that is adequate to serve the needs of consumers in both rural and urban areas throughout the State. Rules

adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

A. The beverage container collection system to be implemented must be designed to provide a geographical distribution of redemption locations and of redemption options for consumers, including, but not limited to, manual sorting, reverse vending machines, bag drop programs and account-based bulk processing programs, including those options that provide for immediate payment of the refund value to a consumer as well as those that provide payment of the refund value within a specified period of time following beverage container drop-off.

B. In establishing requirements for the beverage container collection system to be implemented, the department shall consider geographical limitations, population densities and reasonable days and hours of operation for redemption centers and may consider options for expanding redemption opportunities for consumers at locations other than redemption centers, including, but not limited to, at dealers and transfer stations.

Sec. 16. 38 MRSA §3114, sub-§2, ¶B, as amended by PL 2023, c. 482, §35, is further amended by amending the first blocked paragraph to read:

This paragraph is repealed July 15, ~~2025~~ 2026;

Sec. 17. 38 MRSA §3115, sub-§1, as amended by PL 2023, c. 482, §38, is further amended by amending the first blocked paragraph to read:

This subsection is repealed July 15, ~~2025~~ 2026.

Sec. 18. 38 MRSA §3119, sub-§1, as amended by PL 2023, c. 482, §40, is further amended by repealing the first blocked paragraph.

Sec. 19. 38 MRSA §3119, sub-§2, as amended by PL 2023, c. 482, §40, is further amended by repealing the first blocked paragraph.

Sec. 20. 38 MRSA §3119, sub-§3, as amended by PL 2023, c. 482, §40, is further amended to read:

3. Proprietary information. Proprietary information submitted to the department ~~prior to July 15, 2025~~ in a report required under this section that is identified by the submitter as proprietary information is confidential and must be handled by the department in the same manner as confidential information is handled under section 1310-B.

Sec. 21. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 38, section 3107, subsection 3-B, paragraph C applies retroactively to January 1, 2025.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill and changes the title. Like the bill, it amends the law governing manufacturers, distributors and dealers of beverage containers in a number of provisions recently amended by Public Law 2023, chapter 482, to amend certain time frames for implementation of the law, including requiring the commingling cooperative to

1 implement a plan for a single commingling program approved by the Department of
2 Environmental Protection. It also makes a number of additional changes to that law,
3 including the following.

4 1. It clarifies the obligation for a commingling group and for the commingling
5 cooperative to pick up and recycle beverage containers processed by dealers and
6 redemption centers.

7 2. It clarifies the commingling requirement under the law to provide that beverage
8 containers must be sorted by like deposit value, product group, material and size and that
9 initiators of deposit may not require dealers or redemption centers to further sort containers
10 that belong to a commingling group. It further provides that dealers or redemption centers
11 that process beverage containers using a reverse vending machine or account-based bulk
12 processing program are not required to sort material by color, deposit value or size but must
13 comply with the requirements to preserve container value.

14 3. It provides that commingling of beverage containers by like materials includes
15 sorting by color for certain plastic beverage containers composed of polyethylene
16 terephthalate and high-density polyethylene.

17 4. It provides that the plan for the single commingling program to be submitted by the
18 commingling cooperative must include the method by which the program will facilitate and
19 by October 1, 2026 complete the transition from beverage container sorting at redemption
20 centers by brand to sorting by material type further by size and deposit value for manually
21 sorted containers.

22 5. It clarifies that, beginning July 15, 2025, when the cooperative is required to provide
23 to a dealer or redemption center the plastic bags to be used by the dealer or redemption
24 center to contain redeemed beverage containers, or to reimburse the dealer or redemption
25 center for the cost of those bags, if the dealer or redemption center submits a request to the
26 cooperative for reimbursement of those costs, the cooperative must provide that
27 reimbursement within 6 weeks of receipt of the request.

28 6. It clarifies that portion of the law regulating unclaimed deposits for nonrefillable
29 beverage containers in the event that a department-approved program plan for the single
30 commingling program is not implemented by the cooperative.

31 7. It removes the provisions of law that repeal on July 15, 2025 the requirement for
32 initiators of deposit and pick-up agents to report annually to the department certain
33 information regarding deposit transactions and redemptions.

34 8. It amends that portion of the law regarding the relicensing of redemption centers to
35 provide that any such relicensing is not subject to the population requirements for licensing.

36 9. It clarifies that, prior to determining whether to approve or reject a plan submitted
37 by the cooperative for the establishment of the single commingling program, the
38 department must hold a public meeting on the plan. Current law describes that activity as
39 the holding of a public hearing. This change to the law is made retroactive to January 1,
40 2025.

41 **FISCAL NOTE REQUIRED**

42 **(See attached)**