

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

—
H.P. 1022 - L.D. 1564

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

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

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

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

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.

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

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

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

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

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

8-A. Obligation to pick up and recycle containers. ~~Beginning October 15, 2024, in~~ In accordance with the requirements of this subsection and the rules adopted pursuant to this subsection, a designated pick-up entity has the obligation to ensure the timely pickup and recycling of all empty, unbroken and reasonably clean beverage containers subject to the requirements of this chapter from dealers and redemption centers, including from any locations where an account-based bulk processing program is in operation. As used in this subsection, "designated pick-up entity" means, ~~prior to July 15, 2025 until the cooperative implements 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, a commingling group or its pick-up agent and, beginning July 15, 2025 or, for any period of time in which a department-approved program plan is implemented, the cooperative or its pick-up agent or agents.~~

A. Notwithstanding any provision of this subsection to the contrary, ~~prior to July 15, 2025~~ until the cooperative implements 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, in the case of a designated pick-up entity that is a commingling group, the commingling group's responsibilities under this subsection apply only to those beverage containers from the initiators of deposit that are members of that commingling group.

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

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

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

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

1. Commingling requirement. If initiators of deposit enter into a commingling agreement pursuant to this section, commingling of beverage containers must be by all containers of like deposit value, product group, material and size. Initiators of deposit may not require dealers or redemption centers to further sort containers that belong to the commingling group. This subsection does not prevent further commingling of containers if requested by the responsible commingling group or the cooperative. An initiator of deposit required pursuant to section 3106, subsection 8 or 8-A to pick up beverage containers subject to a commingling agreement also shall pick up all other beverage containers subject to the same agreement. ~~The initiator of deposit may not require beverage containers that are subject to a commingling agreement to be sorted separately by a dealer or redemption center.~~ A dealer or redemption center that processes beverage containers using a reverse vending machine or account-based bulk processing program is not required to sort material by color, in accordance with subsection 2, paragraphs E to H, deposit value or size but must comply with the requirements of section 3106, subsection 6.

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

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

- ~~A. Plastic;~~
- B. Aluminum;
- C. Metal other than aluminum; ~~and~~
- ~~D. Glass;~~
- E. Clear, transparent green or transparent light blue polyethylene terephthalate;
- F. Other polyethylene terephthalate that is not clear, transparent green or transparent light blue;
- G. Clear high-density polyethylene;
- H. Colored high-density polyethylene; or
- I. Other materials, including refillable beverage containers, that in the department's discretion are necessary to carry out the purposes of this chapter.

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

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

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

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

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

C. Within 120 days of receipt of a plan submitted by the cooperative under paragraph B, the department shall review the plan and approve the plan, approve the plan with conditions or reject the plan. Prior to determining whether to approve or reject a plan, the department shall hold a public ~~hearing~~ meeting on the plan. The department shall notify the cooperative in writing of its determination and, if the plan is approved with

conditions or rejected, shall include in the notification a description of the basis for the conditions or rejection.

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

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

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

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

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

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

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

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

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

1. Commingling group; unclaimed deposits. Prior to ~~July 15, 2025~~ January 15, 2026, unclaimed deposits for nonrefillable beverage containers that are subject to a commingling agreement pursuant to section 3107, subsection 1-A or 1-B are the property

of the members of the commingling group administering the agreement. The commingling group shall determine the disposition and use of those unclaimed deposits.

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

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

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

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

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

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

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

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

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

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

(b) Development of or other activities relating to container, adhesive and label 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.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.