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*Testimony of Rep. Allison Hepler  
presenting*

**LD 1909, An Act to Modernize Maine's Beverage Container Redemption Law  
before the Joint Standing Committee on Environment and Natural Resources**

Good morning, Senator Brenner, Representative Gramlich and members of the Environment and Natural Resources Committee. I am Allison Hepler and I represent the towns of Arrowsic, Georgetown, Phippsburg, West Bath and Woolwich. I am pleased to present **LD 1909, An Act to Modernize Maine's Beverage Container Redemption Law.**

We all got a real education back in March when we heard testimony on the handling fee increase for redemption centers. I know that as I began to learn about this – beginning last July – from constituents, redemption centers, beverage distributors, Natural Resources Council of Maine, DEP, Tomra and Clynk, I began to appreciate the history of this program, its complexity, as well as its popularity. Most consumers see the surface of the program – you buy beverages, pay the deposit and redeem the container. This committee knows that there is so much more behind the scenes, and that's what today is all about. I submitted this bill because I believe that we can modernize and strengthen the current system in a way that sets us up for the future – in technology, in environmental stewardship, in human resources.

You already know of my interest and why I got involved in the bottle redemption program, so I thought I could most usefully spend my time this morning walking you through the various elements of LD 1909 and the reasons behind all these moving parts. I also have some suggestions based on what I've heard since the bill was printed.

I don't think I need to say this to you at this stage in the session, but we all know that printed bills are hopefully a compilation of lots of talking and thinking and collaboration – I know that LD 1909 is – but it's often not the final product that comes out of committee. We will hear lots of good ideas during this Public Hearing and I'd like to go on record as committing myself to work on what you think are good ideas, combining these, and presenting something to you in time for your Work Session.

First, in the spirit of reaching compromise, I propose that commingling groups, or the beverage manufacturers themselves, may keep 50% of the unclaimed deposits to help offset their costs of

the program, instead of the cooperative, keeping 100% as proposed in this bill. The other half will be used as proposed in LD 1909 to help offset costs of redemption centers, encourage the use of technology, increase recycling and reduce waste. To be clear, as written, LD 1909 would not allow any of the unclaimed to be used for handling fees or pick-up of containers, but since beverage people have been relying on these funds for so long, I feel like half is a fair compromise.

#### Page 1 Sec 2

On page 1, there is a difference between 1A and 1B – “Account-based bulk processing program” is the type of processing operation performed by Clynk. It is not a reverse vending machine like we see at some redemption centers and at Shaw’s “Bag drop program” also defines what happens at Hannaford with Clynk but a “drop and go” program can also be utilized by any redemption center. Both definitions need to be included.

Clynk was a life saver in my community last summer. They are a valuable resource in our state, but it’s not for everyone. We all know people who survive off the bottles they collect from the sides of the streets and want the money immediately, rather than use Clynk’s account-based system. And there is a small population – I know because I live with one – that uses the bottle money because he believes it funds his soft drink habit.

Also on page 1, and at the heart of the bill is the “Commingling cooperative” and the “Commingling group.” Reducing sorts, as you’ve heard from redemption centers and from Scott Wilson at DEP is the major goal of everyone, and a major commonality with LD 1910.

And this is done by establishing that every business that sells beverages in containers with a deposit – these are also called Initiators of Deposit” or IoDs – must be part of either an existing commingling group, or form a new one. Existing ones can still work together to share data and costs for their members. Then, all the commingling groups will work together as the cooperative. The cooperative will function as a single commingling group so that there can be sorting only by material type and size, and it can facilitate other functions like coordinating pick-up, payment, label registration, reporting and facilitating more reuse. This is at the heart of both proposals, and key to the success of any modernization program in Maine.

#### Page 3 Sec 13 “5-A Unregistered labels, payment”

One of the tasks of the commingling cooperative will be to oversee the label registration process with IoDs. This is currently done by DEP. Taking over this task will allow DEP to focus on enforcement and other tasks best left to them. 5-A establishes a “bounty.” When the first person finds an unregistered label – the bottle that gets kicked out of an RVM or rejected by an alert worker at a redemption center – it gets turned in for a \$100 reward. Every redemption center confronts unregistered containers on a daily basis. It is also common among retailers.

#### Page 3 Sec 14 “Dealer Acceptance” (and also considered on page 16 Sec 34)

This is currently in statute, requiring retail establishments to redeem bottles and cans if they sell these products, unless they’ve made an arrangement with a redemption center within 10 miles. Here is the challenge – a major element in the success of bottle bills across the nation is consumer convenience. I struggled to come up with an alternative in terms of determining

“convenience,” making sure that there are enough places for consumers to redeem containers across the state. Because this is critical, we looked at municipal “service centers” as an organizing scheme, and also looked at population by city or by county. I’ve spoken with the retail association about alternatives, because while I think that retail stores could redeem containers if they choose to do so, I don’t think it should be required. It’s more important to develop an equitable distribution of redemption centers instead, and if we can, we could remove this section in this bill. Perhaps this is something we could task the commingling cooperative with.

Page 4 and 5 Sec 17 “Reimbursement of handling costs”

As you learned in March, redemption centers experience the same rising costs – of labor, of rent and utilities – as all of us do. Unlike private businesses, redemption centers cannot pass these increased costs along to their customers. They are funded by fees paid by the IoDs, and those fees are set in statute. Redemption centers, as you saw, have had to come to the legislature to request an increase. What this bill does is tie future handling fee increases to the CPI and also require the consideration of other cost-related factors.

In March, we also learned that redemption centers play an important part in our communities and are vital to the success of our bottle redemption law. Not only do they redeem our bottles but they also support a large number of non-profit organizations that rely on donations that come from redeemed containers. Many redemption centers also tell me that they’d like to keep the workers they have, and that means wage increases and other benefits.

I wrote an op-ed last summer about the bottle redemption crisis happening in my community, and I knew then what I still believe now. Handling fee increases alone were never the solution, but only part of it. What LD 1909 does is that second part.

Page 5 Sec 18 “Obligation to pick up and recycle containers”

This guarantees more frequent pickups at redemption centers and includes incentives to do this. Many redemption centers have told me that even with regular pickups, they still have products that must be left behind. It’s a common frustration. With the end of brand sorting, the cooperative can better and more efficiently organize these pick-ups, reducing trucking mileage and fees.

Page 6 Sec 19 “Plastic bags, receptacles”

Redemption centers used to receive those large plastic bags and containers for free and at some point, this changed. This bill restores that practice and would be funded by the unclaimed deposits.

Page 7 Sec 25 “Special commingling agreement”

This section ensures that there will not be a pick-up agent monopoly doing pick-ups from all redemption centers.

Pages 8-13 Sec 27 “3-B Commingling program operated by commingling cooperative”

This section establishes the process of setting up the commingling program operated by the cooperative that I defined earlier.

It is in this section that you see the types of administrative work that the cooperative would undertake form a non-profit with a board comprised of all stakeholders, develop a suitable method of transition from brand to material type, determine a fair apportionment of costs, collections and pick up schedules, create a searchable database of registered containers, provide reports, recommendations, and conduct education and outreach. One key responsibility is to develop a standardized method for establishing a rate of redemption. Under this program, the program could also continue to collect brand level data obtained by the account-based processors or RVMs as long as they pay for the cost of that data. This program also acknowledges that each commingler and IoD maintains ownership of the processed and recycled material and benefits from the sale of the material.

Specifically, on page 9, number 5, one of the cooperative's responsibilities is to develop a plan that protects small beverage companies from incurring costs of handling fees for containers that are not redeemed. One of the big issues I've learned is that how the distributors charge smaller beverage companies for bottle bill related costs is varied and currently unregulated. LD 1909 would provide for more transparency and ensures that smaller companies aren't charged for costs of handling containers that were never redeemed. Furthermore, under the provisions of LD 1909, the cooperative will need to get approval from DEP regarding this and other procedures.

Section 27, in other words, is what the cooperative would do. There is lots of overlap with Section 31, which is also what the cooperative will do but also how it is paid for.

#### Pages 14-15 Sec 31 "Unclaimed deposits"

This is where LD 1910 and this bill fundamentally diverge. I spent a lot of time over the last several months with the distributors to finesse the issue of "unclaimed deposits." Currently, distributors in commingling groups keep the unclaimed deposits – the nickel that a consumer does not get back when they don't turn in their bottle. The amount of commingled unclaimed is at least \$7.3 million. The exact total isn't clear to me and is a great question for DEP. For non-comminglers, those nickels get sent to the General Fund on a monthly basis, and that amount is about \$3.5 million. The ownership of unredeemed nickels was last established in 2004. It was a "reward" of sorts in exchange for agreeing to commingle.

LD 1909 states that the ownership of the unclaimed would lie with the cooperative. As mentioned at the beginning of my testimony, I am proposing to return half to the distributors and manufacturers. This is a large amount of money that these established businesses are accustomed to keeping.

I was not remotely concerned with this issue in 2004 when distributors started to keep the unclaimed deposits. Twenty years later, I have thought about this a lot and I fundamentally believe that this is money that belongs to the public. That said, I am not happy with consumers who choose not to redeem their containers, but the vast majority of us pay our nickels because we care about our environment, regardless of whether we get that nickel back.

I talked with many people last year who were frustrated with the widespread closure of redemption centers and simply popped their redeemable bottles and cans into their other

recycling. But they still cared a lot about this program, and many were surprised to learn where the unclaimed currently goes. In truth, most believed that it went to the State to fund this program.

Under LD 1909, as you can see in this Section, unclaimed deposits would pay for the costs of the cooperative's administration of the program, including any necessary staffing for the cooperative. A specific correction to page 14, Part B (line 20) is that "may" should be "shall."

That "bounty" I mentioned earlier? The cooperative's funds would take care of that payment while also going after the business that is selling the unregistered label. The unclaimed would also be used to pay an annual fee to DEP. Remember, with the cooperative taking over the registration and labeling, DEP has no income, other than the annual fees paid by the redemption center.

Unclaimed funds under LD 1909 would also be used to pay redemption centers an additional 1 cent to incentivize investments in technology such as reverse vending machines. (This is also spelled out on page 10, number 8, under Sec 27.) I am concerned that once there is no more required brand sorting, redemption centers might be disincentivized to use RVMs. But RVMs help gather important data, reduce storage space and crush the containers so that there are fewer trucks on the road "trucking air."

Unclaimed funds would also be used to pay any handling fees in excess of the current 6 cent handling fee, should it increase in the future. This would provide stability.

Also, in light of increased public interest in "reduce, reuse and recycle," this money should be used to conduct a market analysis of a refillable beverage container program in Maine. This and other activities would be aimed at achieving and maintaining an 85% redemption rate, among the highest in the nation.

After making these investments in ensuring a high redemption rate, maintaining convenience and educational materials for consumers and tourists alike, providing equity and sustainability and predictability for redemption centers, helping small beverage companies successfully utilize this program, and promoting continued innovation in our environment, the remainder of the unclaimed will go back to the General Fund. We all benefit from a successful bottle redemption program.

As I said at the outset, I've been committed to successfully overhauling this program that I care deeply about, and I know that many others share my optimism.

Thanks for your time, and I'm happy to answer any questions you have.