



# MAINE BEVERAGE --- ASSOCIATION

Testimony of Newell Augur  
Director  
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**Before the Joint Standing Committee on Environmental and Natural Resources**

**In Opposition to LD 1721, An Act to Amend the Laws Governing Commingling of  
Beverage Containers**

**April 22, 2025**

Good afternoon, Senator Tepler, Representative Doudera and members of the Joint Standing Committee on Environmental and Natural Resources, my name is Newell Augur. I am a resident of Yarmouth and a lawyer with Pierce Atwood. I represent the members of the Maine Beverage Association, your local distributors of a variety of refreshing products including diet soda, soda, juices, sports drinks and, increasingly, water. I am here to testify in opposition to Section 1 of LD 1721, An Act to Amend the Laws Governing Commingling of Beverage Containers.

This section attempts to change 38 MRSA § 3106, which was originally introduced in 2007 as LD 1759, An Act to Preserve the Recycling Value of Beverage Containers and adopted by the Legislature as P.L Chapter 299 (2007). At the time, a returnable beverage collection operation in Maine was implementing a processing system that involved the shredding of empty plastic bottles. This would have dramatically reduced their value. Recognizing this, the Legislature provided distributors with the ability to refuse to accept containers if their recycling value was reduced. And the law has worked. Processing operators in Maine, mindful of those consequences, have ensured that the material they present to distributors for acceptance is done so in a way that achieves maximum value.

At the time the law was passed, most of the plastic material - polyethylene terephthalate or "PET" - was bailed and then sold to secondary markets to make a variety of items, such as carpet, clothing, shoe soles or packaging. Today, we send most of that material to reclaimers who turn the PET into pellets that are then sold to companies that use the post-consumer recycled PET (RPET) to make new bottles. The importance of preserving the value of our

beverage containers, which are 100% recyclable and made to be remade, is far more essential to the process today than it was 18 years ago. If the plastic is degraded or devalued, that challenges our ability to turn these old bottles into new ones.

As written, this bill would prohibit the ability of initiators of deposit and commingling groups to refuse to pay for beverage containers that have been processed in a manner that reduces the value of the container. We believe that this will upset the careful balance between distributors and processors that has existed for nearly two decades. The law specifically encourages those parties to resolve any potential disputes by negotiating written agreements related to processing of containers. This has served to limit the amount of administrative time that the Department has had to dedicate to refereeing these issues.

If the Committee is determined to move forward with this or another bill related to the beverage container reform law, we would strongly encourage that the following three issues be addressed in that legislation:

1. There should be language that clearly identifies commingling agreements submitted to the department for approval as privileged and confidential. The Legislature should have the ability to review them, but they should not subject to Freedom of Access Act requests.
2. The co-op does not have the ability to financially protect itself against distributors that refused to comply with the law. Specifically, it does not have legal authority to require an entity to submit appropriate sales data or pay the appropriate costs connected with those sales to the co-op. The co-op must rely on the department to remove those beverages from store shelves. Although the department has not invoked this authority many times, they have regularly threatened distributors that have otherwise refused to follow the law, and with great effect.

Accordingly, we would propose statutory language creating a line of authority that directs the co-op to refer beverage products to the department that are not in compliance with the law or the operating terms of the co-op. The language should direct the department to remove from sale products not in compliance with the law or the operating terms of the co-op.

3. As the responsibility for operating the bottle bill transitions from the department to the co-op, it is appropriate to examine the appropriate number of staff at the department necessary to oversee the program and/or the job descriptions of those staff members. We would propose unallocated language along the following lines:

"The department shall, in conjunction with the cooperative and the Advisory Group established in Sec 3107-A, evaluate its staffing needs with respect to the returnable beverage container program as the management of the program shifts from the department to the cooperative. The department shall report back to the Joint Standing Committee of Environment and Natural Resources by March 1, 2026 with recommendations regarding the number and specific responsibilities of staff."

Thank you for the opportunity to testify. I'd be happy to answer any question and will be present for your work session.