

§3107. Commingling of beverage containers

Notwithstanding any other provision of this chapter to the contrary, 2 or more initiators of deposit may enter into a commingling agreement through which some or all of the beverage containers for which the initiators have initiated deposits may be commingled by dealers and operators of redemption centers as provided in this section. [PL 2015, c. 166, §14 (NEW).]

An initiator of deposit that enters into a commingling agreement pursuant to this section shall permit any other initiator of deposit to become a party to that agreement on the same terms and conditions as the original agreement. Once the initiator of deposit has established a qualified commingling agreement pursuant to the requirements of subsection 1-A, the department shall allow additional brands of beverage containers from a different product group to be included in the commingling agreement if those additional brands are of like material to those containers already managed under the commingling agreement. [PL 2019, c. 526, §8 (AMD).]

For the purposes of this chapter and notwithstanding any provision of this chapter to the contrary, the State, through the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, is deemed to be managing returned containers for which the State has initiated deposits in a commingling program pursuant to a qualified commingling agreement as long as the State allows a dealer or redemption center to commingle returned containers of like material. [PL 2019, c. 526, §8 (NEW).]

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 product group, material and size. An initiator of deposit required pursuant to section 3106, subsection 8 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. [PL 2015, c. 166, §14 (NEW).]

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

A. Fifty percent or more of beverage containers of like product group, material and size for which the deposits are being initiated in the State are included in the commingling agreement; [PL 2019, c. 526, §8 (NEW).]

B. The initiators of deposit included in the commingling agreement are initiators of deposit for beverage containers containing wine and each initiator of deposit sells no more than 100,000 gallons of wine or 500,000 beverage containers containing wine in a calendar year; or [PL 2019, c. 526, §8 (NEW).]

C. The commingling agreement has been approved by the department pursuant to subsection 3-A. [PL 2019, c. 526, §8 (NEW).]

[PL 2019, c. 526, §8 (NEW).]

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; [PL 2015, c. 166, §14 (NEW).]

B. Aluminum; [PL 2015, c. 166, §14 (NEW).]

C. Metal other than aluminum; and [PL 2015, c. 166, §14 (NEW).]

D. Glass. [PL 2015, c. 166, §14 (NEW).]

[PL 2015, c. 166, §14 (NEW).]

3. Commingling of like products. For purposes of this section, like products are those that are made up of one of the following:

- A. Beer, ale or other beverage produced by fermenting malt, wine and wine coolers; [PL 2015, c. 166, §14 (NEW).]
 - B. Spirits; [PL 2015, c. 166, §14 (NEW).]
 - C. Soda; [PL 2015, c. 166, §14 (NEW).]
 - D. Noncarbonated water; and [PL 2015, c. 166, §14 (NEW).]
 - E. All other beverages. [PL 2015, c. 166, §14 (NEW).]
- [PL 2015, c. 166, §14 (NEW).]

3-A. Commingling by 3rd party or stewardship organization. Subject to the requirements of this subsection, an initiator of deposit may enter into a commingling agreement for its beverage containers to be managed in a commingling program operated by a 3rd party or by a stewardship organization as defined in section 1771, subsection 8-A. The 3rd party or stewardship organization shall submit a plan for the operation of the commingling program to the department for review and approval as a qualified commingling agreement. A commingling program under this subsection must:

- A. Require redemption centers to commingle all beverage containers of initiators of deposit included in the program by like material; [PL 2019, c. 526, §8 (NEW).]
- B. Establish standards to provide for fair apportionment of costs among initiators of deposit included in the program either on the basis of the count of containers redeemed or on the total weight of containers marketed in the State. These standards may provide for determination of the amount to be paid to a redemption center as based on the unit counts generated by a reverse vending machine, as long as the reverse vending machine is subject to periodic audits by the 3rd party or stewardship organization on a schedule approved by the department; and [PL 2019, c. 526, §8 (NEW).]
- C. Require that, no later than the 20th day of the month following the end of March, June, September and December, each initiator of deposit included in the program report to the 3rd party or stewardship organization operating the program regarding its sales of beverages into the State for the previous 3-month period by brand and by number of nonrefillable beverage containers sold by product size and material type as well as the average beverage container weight by material type and size. The 3rd party or stewardship organization shall assign financial responsibility for the costs of operating the program to the initiators of deposit included in the program based on each initiator of deposit's proportion of the total weight of beverage containers marketed in the State by material type or by actual count of containers redeemed; [PL 2019, c. 526, §8 (NEW).]

The 3rd party or stewardship organization operating the program may require an initiator of deposit included in the program to provide financial assurance in the form of a deposit no greater than the initiator of deposit's anticipated costs for beverage container deposits, redemption center handling costs and any contractual fees for up to 4 months of anticipated sales in the State. The 3rd party or stewardship organization shall retain any financial assurance required pursuant to this subsection in a separate account. In the event that an initiator of deposit that has provided financial assurance in accordance with this subsection fails to reimburse the 3rd party or stewardship organization for its incurred costs within 90 days of receipt of an invoice for such costs, the 3rd party or stewardship organization may cover those invoiced costs using the financial assurance provided by the initiator of deposit in accordance with this subsection.

The department may approve no more than 2 commingling agreements as qualified commingling agreements under this subsection and may not approve a qualified commingling agreement under this subsection for a period exceeding 10 years.

[PL 2019, c. 526, §8 (AMD).]

4. Registration of commingling agreements. Not later than 48 hours following the execution or amendment of a commingling agreement, including an amendment that adds an additional party to an existing agreement, the parties shall file a copy of the commingling agreement or amendment with the department.

[PL 2015, c. 166, §14 (NEW).]

5. Reapproval of qualified commingling agreements. This subsection provides for the reapproval of qualified commingling agreements that have been approved or reapproved by the department pursuant to this section.

A. The initiators of deposit participating in a qualified commingling agreement under this section that was approved as a qualified commingling agreement prior to November 9, 2016 shall, no later than July 1, 2021, submit to the department an application for reapproval of that commingling agreement in a form prescribed by the department. [PL 2019, c. 526, §8 (NEW).]

B. The initiators of deposit participating in a qualified commingling agreement under this section that was approved or reapproved on or after November 9, 2016 must submit to the department an application for reapproval of that commingling agreement in a form prescribed by the department at least 6 months prior to the date of expiration of the department's prior approval or reapproval. [PL 2019, c. 526, §8 (NEW).]

C. After review of an application submitted under this subsection, the department may reapprove the commingling agreement for an additional period not to exceed 10 years. [PL 2019, c. 526, §8 (NEW).]

[PL 2019, c. 526, §8 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2019, c. 526, §8 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 130th Maine Legislature and is current through October 1, 2022. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.