131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document No. 1909

H.P. 1225

House of Representatives, May 9, 2023

An Act to Modernize Maine's Beverage Container Redemption Law

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

Presented by Representative HEPLER of Woolwich.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §112, sub-§8, as amended by PL 2021, c. 1, Pt. M, §§9 and 10, is further amended to read:

8. Additional duties. In addition to the duties specified in this Title, the assessor has the following duties:

A. Collection of the tax on fire insurance companies imposed by Title 25, section 2399;

and

E. Administration of reports and payments required under Title 38, section 3108.

Sec. 2. 38 MRSA §3102, sub-§1-A is enacted to read:

1-A. Account-based bulk processing program. "Account-based bulk processing program" means a beverage container recycling program implemented by a redemption center or pick-up agent that meets the requirements of rules adopted by the department, is approved by the department and consolidates beverage containers subject to the requirements of this chapter through bulk sorting, collects data regarding the containers to support an accounting of deposits, fees and material weight and prepares the sorted containers for sale to recyclers. An account-based bulk processing program may include a bag-drop program as a program component.

Sec. 3. 38 MRSA §3102, sub-§1-B is enacted to read:

1-B. Bag-drop program. "Bag-drop program" means a beverage container recycling program implemented by a redemption center that meets the requirements of rules adopted by the department and that allows a person to drop off beverage containers subject to the requirements of this chapter in a bag or other receptacle at one or more identified locations and to have the corresponding refund placed into an account to be held for the benefit of the person in a manner that allows the person to obtain the refund or a refund receipt within 2 business days following the drop-off. A bag-drop program may be implemented as part of or in conjunction with an account-based bulk processing program.

Sec. 4. 38 MRSA §3102, sub-§3-A is enacted to read:

3-A. Commingling cooperative or cooperative. "Commingling cooperative" or "cooperative" means the entity established pursuant to section 3107, subsection 3-B to manage the collection of all beverage containers subject to the requirements of this chapter under a single commingling program.

Sec. 5. 38 MRSA §3102, sub-§3-B is enacted to read:

3-B. Commingling group. "Commingling group" means a group of initiators of deposit that have entered into a commingling agreement approved by the department in accordance with section 3107, subsection 1-A or 1-B. "Commingling group" includes the State, through the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, which, pursuant to section 3107, is deemed to be managing returned containers for which the State has initiated deposits in a commingling program pursuant to a qualified commingling agreement, but does not include the commingling cooperative.
Sec. 6. 38 MRSA §3102, sub-§16-A, as enacted by PL 2019, c. 526, §5, is amended to read:

16-A. Pick-up agent. "Pick-up agent" means an initiator of deposit, a distributor or a contracted agent of an initiator of deposit, a distributor, a commingling group or the commingling cooperative that receives redeemed beverage containers from a redemption center, except for beverage containers redeemed through an account-based bulk processing program, and transports those containers for recycling.

Sec. 7. 38 MRSA §3102, sub-§19, as enacted by PL 2015, c. 166, §14, is amended to read:

19. Reverse vending machine. "Reverse vending machine" means an automated device that meets the requirements of rules adopted by the department and that uses a laser scanner or optical sensor and microprocessor to accurately recognize the universal product code on beverage containers and to accumulate information regarding containers redeemed, enabling the reverse vending machine to accept containers from redeemers and to issue script for the containers' refund value. "Reverse vending machine" does not include a hand scanner or similar device.

Sec. 8. 38 MRSA §3105, sub-§1, as amended by PL 2019, c. 11, §1, is further amended to read:

1. Labels. Except as provided under subsections 2 and subsection 4, the refund value, or the words "refund value" or the abbreviation "RV," and the word "Maine" or the abbreviation "ME" must be clearly indicated on every refundable beverage container sold or offered for sale by a dealer in this State, by embossing, stamping, labeling or other method of secure attachment to the beverage container, except in instances when the initiator of deposit has specific permission from the department to use stickers or similar devices. The refund value may not be indicated on the bottom of the container.

Sec. 9. 38 MRSA §3105, sub-§2, as amended by PL 2019, c. 11, §2, is repealed.

Sec. 10. 38 MRSA §3105, sub-§3, as enacted by PL 2015, c. 166, §14, is repealed.

Sec. 11. 38 MRSA §3105, sub-§4, as enacted by PL 2015, c. 166, §14, is amended to read:

4. Brand name Refillable glass beverage containers. Refillable glass beverage containers of carbonated beverages, for which the deposit is initiated under section 3103, subsection 1, that have a refund value of not less than 5¢ and a brand name permanently marked on the container are not required to comply with subsection 1. The exception provided by this subsection does not apply to glass beverage containers that contain spirits, wine or malt liquor as those terms are defined by Title 28-A, section 2.

Sec. 12. 38 MRSA §3105, sub-§5, as amended by PL 2019, c. 526, §6, 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 January 15, 2025 and by the cooperative beginning January 15, 2025 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 the method of collection for that type of container, 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. The Except as provided in paragraph A, the department may charge a fee for registration and registration renewals under this subsection.

A. Beginning January 15, 2025, the department may not charge a fee for registration and registration renewals under this subsection.

B. Beginning January 15, 2025, 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 any updates to label registrations. 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. 13. 38 MRSA §3105, sub-§5-A is enacted to read:

5-A. Unregistered labels; payment. Beginning January 15, 2025, if a person notifies the cooperative that a beverage container is sold or offered for sale in the State with a label that has not been registered in accordance with this section, the cooperative shall provide the person with a payment of not less than $100 per label upon a determination by the cooperative that:

A. The beverage container is sold or offered for sale in the State with an unregistered label; and

B. The cooperative has not already made a payment under this subsection to another person with respect to the same unregistered label.

Sec. 14. 38 MRSA §3106, sub-§1, as amended by PL 2019, c. 526, §7, is further amended to read:

1. Dealer acceptance. Except as otherwise provided in this section, a dealer operating a retail space of 5,000 square feet or more may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container or refuse to pay in cash the refund value of the returned beverage container as established by section 3103 unless the dealer has a written agreement with a redemption center to provide redemption services on behalf of the dealer and that redemption center; is located within 10 miles from the dealer, as measured along public roadways.

A. Is located within 10 miles from the dealer, as measured along public roadways; or

B. If there is no redemption center located within 10 miles from the dealer under paragraph A, is the redemption center in closest proximity to the dealer, as measured along public roadways.

If there is no redemption center located within 10 miles from a dealer operating a retail space of 5,000 square feet or more, the dealer shall notify the department and, pursuant to section 3113, the department may issue a license to a redemption center that is proposed to
be located within 10 miles from that dealer and that satisfies all other applicable
requirements for licensure.

This subsection does not require an operator of a vending machine to maintain a person to
accept returned beverage containers on the premises where the vending machine is located.

Sec. 15. 38 MRSA §3106, sub-§5, as amended by PL 2019, c. 526, §7, is further
amended to read:

5. Distributor acceptance Acceptance by commingling group. A distributor
commingling group or its agent may not refuse to accept from any dealer or redemption
center any empty, unbroken and reasonably clean beverage container or any beverage
container that has been processed through an approved reverse vending machine or
account-based bulk processing program that meets the requirements of rules adopted by
the department pursuant to this chapter of the kind, size and brand sold by the distributor
or refuse to pay to the dealer or redemption center the refund value of a beverage container
as established by section 3103.

Sec. 16. 38 MRSA §3106, sub-§6, as amended by PL 2019, c. 526, §7, is further
amended to read:

6. Obligation to preserve recycling value. Notwithstanding subsection 8, a
distributor 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 reduced the recycling value of the container below current market
value. This subsection may not be interpreted to prohibit a written processing agreement
between a distributor commingling group and a dealer or redemption center and does not
relieve a distributor commingling group of its obligation under subsection 8 to accept
empty, unbroken and reasonably clean beverage containers. 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 has reduced the recycling value below current market value. The rules
must outline the method of allocating among the parties involved the payment for 3rd-party
vendor costs.

Sec. 17. 38 MRSA §3106, sub-§7, as amended by PL 2019, c. 526, §7, is further
amended to read:

7. Reimbursement of handling costs. Reimbursement of handling costs is governed
by this subsection.

A. In addition to the payment of the refund value, the initiator of the deposit under
section 3103, subsections 1, 2 and 4 shall reimburse the dealer or redemption center
for the cost of handling beverage containers subject to section 3103, in an amount that
equals at least 3¢ per returned container for containers picked up by the initiator before
March 1, 2004, at least 3 1/2¢ for containers picked up on or after March 1, 2004 and
before March 1, 2010, at least 4¢ for containers picked up on or after March 1, 2010
and before January 1, 2020 and, at least 4 1/2¢ for containers picked up on or after
January 1, 2020 and before September 1, 2023, at least 6¢ for containers picked up on
or after September 1, 2023 and before January 15, 2025 and at least the amount set by
rule in accordance with paragraph B-1 for containers picked up on or after January 15, 2025. The initiator of the deposit may reimburse the dealer or redemption center directly or indirectly through a party with which it has entered into a commingling agreement.

B. In addition to the payment of the refund value, the initiator of the deposit under section 3103, subsection 3 shall reimburse the dealer or redemption center for the cost of handling beverage containers subject to section 3103 in an amount that equals at least 3¢ per returned container for containers picked up by the initiator before March 1, 2004, at least 3 1/2¢ for containers picked up on or after March 1, 2004 and before March 1, 2010, at least 4¢ for containers picked up on or after March 1, 2010 and before January 1, 2020 and, at least 4 1/2¢ for containers picked up on or after January 1, 2020 and before September 1, 2023, at least 6¢ for containers picked up on or after September 1, 2023 and before January 15, 2025 and at least the amount set by rule in accordance with paragraph B-1 for containers picked up on or after January 15, 2025. The initiator of the deposit may reimburse the dealer or redemption center directly or indirectly through a contracted agent or through a party with which it has entered into a commingling agreement.

B-1. On or before January 15, 2025 and biennially thereafter, the department shall adopt rules adjusting the applicable amount of the reimbursement of handling costs under paragraphs A and B by any percentage change in the United States Consumer Price Index, established by the federal Department of Labor, Bureau of Labor Statistics, from January 1st to December 31st of the previous year. In determining the amount of any adjustment of the reimbursement under this paragraph, the department may also consider other cost-related factors. Any change in the amount of the reimbursement of handling costs adopted by the department by rule in accordance with this paragraph may not take effect until 60 days following the date of final adoption of the rule. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 18. 38 MRSA §3106, sub-§8, as amended by PL 2019, c. 315, §19 and c. 526, §7, is repealed and the following enacted in its place:

8. **Obligation to pick up and recycle containers.** Beginning April 15, 2024, a designated pick-up entity has the obligation to ensure the 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, at least once every 7 calendar days or in a manner that, except as provided in paragraph E, ensures a dealer or redemption center is not required to store more than 20,000 of such containers at any one time at a single location. As used in this subsection, "designated pick-up entity" means, prior to January 15, 2025, a commingling group and, beginning January 15, 2025, the cooperative. Notwithstanding any provision of the subsection to the contrary, prior to January 15, 2025, 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.

E. A dealer or redemption center may be required to store more than 20,000 beverage containers at any one time at a single location if the dealer or redemption center
receives payment from the designated pick-up entity for the deposits and handling fees
due on those containers as well as a reasonable storage fee or if the dealer or redemption
center enters into a written agreement with that entity or a pick-up agent of that entity,
approved by the department, regarding bulk container storage.

F. If the designated pick-up entity fails to pick up beverage containers from a dealer
or redemption center in accordance with the requirements of this subsection, then the
dealer or redemption center may sell those containers to any person for fair market
value and that designated pick-up entity shall pay to the dealer or redemption center
the amount of the deposits and handling fees that would have been due on those
containers and any other costs incurred by the dealer or redemption center in
conducting the sale, subtracting from that total the amount realized by the dealer or
redemption center in the sale of the containers.

G. At least 2 business days prior to initiating a sale of beverage containers under
paragraph F, the dealer or redemption center shall notify the designated pick-up entity
and the department of its intent to conduct such a sale and provide documentation
verifying the number of containers to be sold. After conducting such a sale, the dealer
or redemption center shall provide the designated pick-up entity and the department
with documentation verifying the amount realized in the sale of the beverage containers
and any other costs associated with the sale.

Sec. 19. 38 MRSA §3106, sub-§9, as amended by PL 2019, c. 526, §7, is further
amended to read:

9. Plastic bags; receptacles. A dealer or redemption center has an obligation to pick
up receptacles for glass beverage containers, dumpsters or plastic bags that are used by that
dealer or redemption center to contain beverage containers. 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 January 15, 2025, the cooperative
shall provide to the dealer or redemption center, or reimburse the dealer or redemption
center for the cost of, the receptacles, dumpsters or plastic bags used by the dealer or
redemption center to contain redeemed beverage containers.

Sec. 20. 38 MRSA §3107, first ¶, as enacted by PL 2015, c. 166, §14, is amended
to read:

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. No later than April
15, 2024, each initiator of deposit shall enter into a commingling agreement pursuant to
subsection 1-A or 1-B. If, by April 15, 2024, an initiator of deposit has not entered into a
commingling agreement pursuant to subsection 1-A or 1-B, the initiator commits a
violation of this chapter, is subject to penalties under section 3111 and, as long as the
violation exists, is prohibited from selling or distributing in the State any beverage
container subject to the requirements of this chapter, and a distributor or dealer may not
sell or distribute in the State any such containers of the initiator and the department may
remove from sale any such containers of the initiator.

Sec. 21. 38 MRSA §3107, 2nd ¶, as amended by PL 2019, c. 526, §8, is further
amended to read:
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.

Sec. 22. 38 MRSA §3107, 3rd ¶, as enacted by PL 2019, c. 526, §8, is amended to read:

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, including, but not limited to, through use of an account-based bulk processing program.

Sec. 23. 38 MRSA §3107, sub-§1, as enacted by PL 2015, c.168, §14, is amended by enacting at the end a new first blocked paragraph to read:

This subsection does not apply to the commingling program described in subsection 3-B.

Sec. 24. 38 MRSA §3107, sub-§1-A, as enacted by PL 2019, c. 526, §8, is amended to read:

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; or

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

C. The commingling agreement has been approved by the department pursuant to subsection 1-A.

This subsection does not apply to the commingling program described in subsection 3-B.

Sec. 25. 38 MRSA §3107, sub-§1-B is enacted to read:

1-B. Special commingling agreement. The designated pick-up agent for initiators of deposit that are not members of a commingling group and that cannot in the aggregate satisfy the requirements for a qualified commingling agreement under subsection 1-A, paragraph A shall execute and submit to the department for approval and, notwithstanding any provision of this section to the contrary, the department may approve a special commingling agreement that, in accordance with applicable requirements of this section, provides for the commingling by dealers and redemption centers of the beverage containers for which those initiators have initiated deposits.
A. Once approved, the designated pick-up agent shall permit any initiator of deposit that is not a member of a commingling group to become a party to the special commingling agreement.

B. The department shall adopt rules governing approval and administration of the special commingling agreement, which must include, but are not limited to, rules regarding the administration of the agreement, data and reporting requirements for initiators that are party to the agreement, beverage container sorting and auditing requirements and the process for addressing container count discrepancies and return of containers not covered by the agreement. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

This subsection does not apply to the commingling program described in subsection 3-B.

Sec. 26. 38 MRSA §3107, sub-§3-A, as amended by PL 2019, c. 526, §8, is repealed.

Sec. 27. 38 MRSA §3107, sub-§3-B is enacted to read:

3-B. Commingling program operated by commingling cooperative. Subject to the requirements of this subsection and notwithstanding any provision of this chapter to the contrary, by April 15, 2024, all commingling groups established under this section shall collectively establish a commingling cooperative to provide for the management of all beverage containers subject to the requirements of this chapter under a single commingling program, referred to in this subsection as "the program."

A. The cooperative must be established as a nonprofit organization exempt from taxation under the United States Internal Revenue Code of 1986, Section 501(c)(3). The cooperative must be governed by a board that represents the range of beverages and beverage container material types subject to the requirements of this chapter and that includes representatives of dealers, pick-up agents, recycling facilities, redemption centers that primarily sort containers manually and redemption centers that primarily sort containers using reverse vending machines or an account-based bulk processing program.

B. By July 15, 2024, the cooperative shall submit a plan for the operation of the program to the department for review and approval. The plan must include, but is not limited to:

(1) The method by which the program will facilitate 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 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;

(2) Standards to provide for fair apportionment of costs among the commingling groups included in the program, which may be based on:

(a) The combined beverage container sales by the initiators of deposit that are members of each commingling group; or
(b) The unit or brand counts generated by reverse vending machines or
account-based bulk processing programs as long as the reverse vending
machines or account-based bulk processing programs are subject to periodic
3rd-party audits on a schedule approved by the department and with the costs
of those audits paid by the program;

(3) A method for determining the rate of redemption for beverage containers,
expressed as a percentage of the beverage containers redeemed that are available
for redemption; the variation in the rate of redemption between beverage type or
beverage container type; and the difference in the rate of redemption by county or
other geographic division of the State. The method for determining the redemption
rate may not include in its calculation any unredeemed beverage containers
collected or processed by municipal or other recycling programs. The program
must ensure that a single redemption rate, determined by the method specified in
the plan, is used by all commingling groups and initiators of deposit to determine
cost apportionment pursuant to subparagraph (2);

(4) A budget for the program that includes, but is not limited to, identification of
any start-up costs for the program that will not be ongoing, including, but not
limited to, the costs of the study described in paragraph F, and a description of the
method by which the cooperative will determine and collect payments from
commingling groups to cover the program's start-up costs;

(5) The method by which the cooperative will collect deposits from initiators of
deposit for nonrefillable beverage containers and handling fees for redeemed
containers, whether directly from the initiator of deposit or through the
commingling group of which the initiator of deposit is a member. The program
must ensure that an initiator of deposit is not required to pay any handling fees for
its beverage containers that exceeds the applicable redemption rate for those
containers as calculated pursuant to subparagraph (3);

(6) A description of how the cooperative intends to maintain and expend
unclaimed beverage container deposits in accordance with section 3108-A;

(7) A description of how the cooperative will provide the department with a
proposed beverage container pick-up schedule for each redemption center that is
designed to ensure that the pick-up requirements of section 3106, subsection 8 are
met and will notify the department of any contractual agreements regarding
container pickup between the cooperative and a redemption center as provided in
section 3106, subsection 8.

(a) The program must ensure that pick-up schedules are designed to reduce
transportation distances and minimize costs but must allow each commingling
group to contract with a pick-up agent to provide for beverage container pickup
of the commingling group's equivalent container material.

(b) The program must ensure that, if the cooperative is informed by a
commingling group that a pick-up schedule for a redemption center cannot be
met, which would result in a violation of section 3106, subsection 8, the
cooperative notifies the department in writing prior to the occurrence of such
a violation;
(8) Information on how the cooperative will be responsible for and ensure payment
to a dealer or redemption center within 10 calendar days of any beverage container
pickup of all applicable deposits and handling fees for the beverage containers
picked up from the dealer or redemption center; an additional processing fee of 1¢
for each container processed using a reverse vending machine; the applicable costs
of receptacles, dumpsters and plastic bags provided to the dealer or redemption
center in accordance with section 3106, subsection 9; and any contractually agreed-
upon payments to the dealer or redemption center for data collection in accordance
with subparagraph (1);

(9) Information on how the cooperative will ensure that each commingling group
and each initiator of deposit that is a member of the commingling group maintains
ownership over the commingling group's and initiator of deposit's share of the
beverage containers redeemed, collected and processed for recycling under the
program;

(10) Information on how the cooperative will calculate the base rates offered for
the processing of beverage containers using an account-based bulk processing
program or pick-up agents;

(11) A certification that the cooperative will not share, except with the department
as necessary, information provided by a commingling group or initiator of deposit
that is proprietary information and that is identified by the commingling group or
initiator of deposit as proprietary information. The certification must include a
description of the methods by which the cooperative intends to ensure the
confidentiality of that information;

(12) Information on how the cooperative will maintain a publicly accessible
website regarding the program that includes, at a minimum, the following:

(a) A searchable list of all initiators of deposit and beverage container label
registrations, including for beverages sold directly to consumers in the State,
in a manner that allows redemption centers, dealers and consumers to obtain
up-to-date information regarding whether a particular beverage is authorized
for sale and redemption in the State;

(b) A form that may be submitted electronically through which a person may
notify the cooperative of unregistered beverage container labels in accordance
with section 3105, subsection 5-A;

(c) A search function through which consumers can identify nearby dealers or
redemption centers offering redemption services based on information made
available to the cooperative by the department; and

(d) The base rates for the processing of beverage containers by container type
as determined in accordance with subparagraph (10);

(13) A proposed timeline for implementation of the program plan if approved
designed to ensure implementation of the plan on or before January 15, 2025 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); and

(14) Any other information required by the department.

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 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 January 15, 2025 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 January 15, 2025, 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.

D. If the department determines that the program implemented by the cooperative
pursuant to a plan approved under paragraph C has failed to make adequate progress
toward fulfilling the requirements of the plan, the department shall notify the
cooperative in writing of its determination and may direct the cooperative to implement
specific changes to the program within 30 days of the date of the notification.

E. On or before April 1, 2026, and annually thereafter, the cooperative shall submit to
the department and make available on its publicly accessible website a report that
includes, but is not limited to:

(1) Contact information for the cooperative and a list of all initiators of deposit
and beverage container label registrations, including for beverages sold directly to
consumers in the State;

(2) Information on the rates of redemption for beverage containers calculated in
accordance with plan requirements under paragraph B, subparagraph (3). The
report must include information regarding the total number of beverage containers
subject to the requirements of this chapter sold or distributed in the State during
the prior calendar year by the members of each commingling group, aggregated
within each commingling group to provide only a total, aggregated number for
each commingling group. If the cooperative determines that the overall statewide
redemption rate for beverage containers is less than 85%, the report must include
recommendations for increases in the deposit and refund value for beverage
containers;
(3) Detailed information on the expenditure of unclaimed deposit funds in the prior calendar year, including a description of any activities funded through such expenditures in accordance with section 3108-A and the progress made through such expenditures to increase the use of redemption technologies, increase the rate of beverage container redemption, support container recycling and support the use of refillable and reusable containers;

(4) A description of the education and outreach efforts implemented under the program in the prior calendar year to encourage participation in the beverage container redemption program, reduce instances of fraud in redemption and educate businesses and consumers on the value and safety of refillable beverage containers. The report must include the results of an assessment, completed by an independent 3rd party, of the effectiveness of the efforts;

(5) Any recommendations for changes to the program to improve the convenience of the collection system under the program, consumer education or program evaluation and any goals for supporting the use of refillable and reusable containers;

(6) A financial report on the program, as determined through a 3rd-party financial audit, that identifies the total cost of implementing the program and the specific administration, collection, transportation, disposition and communication costs for the program and an anticipated budget for the subsequent program year; and

(7) Any other information required by the department.

F. Within 90 days of receiving approval of a program plan from the department under paragraph C, the cooperative, in consultation with the department, shall contract with an independent 3rd party to conduct a study: examining operating costs for redemption centers of a variety of sizes, in a variety of geographical locations and using a variety of redemption technologies; analyzing the effects that eliminating brand sorting of beverage containers may have on transportation costs and redemption center operating costs, including, but not limited to, labor and utilities costs; recommending a handling fee schedule and payment schedule designed to facilitate a stable and sustainable redemption system; and recommending other recycling-related services that may be provided at redemption centers to support statewide recycling efforts and diversify the redemption center business model.

(1) In consultation with the department, the cooperative shall ensure that the study contract specifies the scope of the study and provides for publication of an interim progress report or reports and a final report. All costs associated with the study must be paid by the cooperative.

(2) The cooperative shall provide any interim progress reports and the final report under subparagraph (1) to the department and, after receipt of the final report, the department shall provide a copy of the final report, along with any additional comments or recommendations of the department, to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters. After reviewing the report and the department's additional comments or recommendations, if any, the committee may report out legislation relating to the report or to the department's comments or recommendations.
G. The cooperative shall pay to the department a reasonable annual fee established by
the department, not to exceed $400,000, as provided in this paragraph.

(1) On or before January 15, 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.

(2) On or before April 1, 2026, and annually thereafter, the cooperative shall pay
to the department the annual fee under this paragraph to cover the department's
costs for review of the cooperative's annual report under paragraph E and the
department's costs in the prior calendar year for its oversight, administration and
enforcement of the commingling program implemented under this subsection. The
cooperative shall pay the fee required pursuant to this subparagraph at the time it
submits the annual report required pursuant to paragraph E.

H. Reports submitted to the department under this subsection must be made available
to the public on the department's publicly accessible website, except that proprietary
information submitted to the department in a plan, in an amendment to a plan or
pursuant to reporting requirements of this subsection 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.

I. Beginning January 15, 2025, an initiator of deposit that is not in compliance with all
applicable requirements of the single commingling program 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.

The department may adopt rules as necessary for the implementation of this subsection and
the oversight of the cooperative. Rules adopted pursuant to this subsection are routine
technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 28. 38 MRSA §3107, sub-§4, as enacted by PL 2015, c. 166, §4, is amended
by enacting at the end a new first blocked paragraph to read:

This subsection does not apply to the commingling program described in subsection 3-B.

Sec. 29. 38 MRSA §3107, sub-§5, as enacted by PL 2019, c. 526, §8 is amended
by enacting at the end a new first blocked paragraph to read:

This subsection does not apply to the commingling program described in subsection 3-B.
Sec. 30. 38 MRSA §3108, as enacted by PL 2015, c. 166, §14, is repealed.

Sec. 31. 38 MRSA §3108-A is enacted to read:

§3108-A. Unclaimed deposits

This section governs unclaimed beverage container deposits.

1. **Commingling group: unclaimed deposits.** Prior to January 15, 2025, 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 such unclaimed deposits.

2. **Commingling cooperative: unclaimed deposits.** Beginning January 15, 2025, unclaimed deposits for nonrefillable beverage containers subject to the requirements of this chapter are the property of the cooperative and must be deposited and maintained by the cooperative in a separate account and expended only in accordance with this subsection.

   A. Except as provided in paragraph B, the cooperative may not expend unclaimed deposit amounts to offset costs incurred by the program, including, but not limited to, the costs of beverage container pickups; payment to dealers or redemption centers of required handling fees under section 3106, subsection 7 of up to 6¢ per beverage container; and any legal fees or any fines incurred by the cooperative, a commingling group or an initiator of deposit.

   B. The cooperative may 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 receptacles, dumpsters and plastic bags pursuant to section 3106, subsection 9;

      5. Payments to persons notifying the cooperative of unregistered labels in accordance with section 3105, subsection 5-A;

      6. Contractually obligated payments to redemption centers for the collection of brand data in accordance with section 3107, subsection 3-B, paragraph B, subparagraph (1);

      7. Payments to dealers or redemption centers of required handling fees under section 3106, subsection 7 in excess of 6¢ per beverage container and payment to dealers or redemption centers of the required 1¢ per container processing fee for containers processed using a reverse vending machine as provided in section 3107, subsection 3-B, paragraph B, subparagraph (8); and
(8) Payments to support activities of the cooperative or others designed to increase the use of reusable and refillable beverage containers in the State, including, but not limited to:

(a) Completion of a market analysis for a refillable beverage container program in the State to determine feasible goals for reuse;

(b) Development and implementation of, including the purchase of necessary materials and supplies for, pilot projects to determine options for financially viable models for refillable beverage container washing techniques, including, but not limited to, mobile washing stations, shipment of containers to washing facilities outside the State, in-house washing stations and establishment of a fixed washing facility in the State;

(c) Identification of container, adhesive and label options for refillable beverage containers capable of being used by manufacturers of different types of beverages; and

(d) Outreach and education to manufacturers, retailers, restaurants and consumers regarding the financial and environmental benefits of refillable beverage containers and regarding the processes and methods available for ensuring such containers may be safely reused.

C. On or before April 1, 2026, and annually thereafter, the cooperative shall:

(1) Calculate the total amount of deposits determined to be unclaimed during the prior calendar year and the total amount of such deposits expended by the cooperative in accordance with paragraph B during the prior calendar year; and

(2) If the total amount of unclaimed deposits in the prior calendar year exceeds the total amount of such deposits expended by the cooperative in the prior calendar year, as determined under subparagraph (1), the cooperative shall turn over to the State Tax Assessor by April 1st that excess amount, which must be deposited in the General Fund.

The department shall adopt rules as necessary to implement this section.

Sec. 32. 38 MRSA §3109, sub-§5-A, as enacted by PL 2019, c. 526, §9, is amended to read:

5-A. Beverage container handling. A redemption center shall tender to pick-up agents only beverage containers sold in the State that are placed in shells, shipping cartons, bags or other receptacles in a manner that facilitates accurate eligible beverage container unit counts or, in the case of containers processing through a reverse vending machine or account-based bulk processing program, accurate data regarding the brand, material type and the count or the weight of the eligible beverage containers.

Sec. 33. 38 MRSA §3109, sub-§5-B, as amended by PL 2019, c. 526, §9, is further amended to read:

5-B. Beverage container auditing. A redemption center shall prepare beverage containers for pickup by pick-up agents, which are subject to audit pursuant to rules adopted by the department in accordance with this subsection.
A. A redemption center shall label each shell, shipping carton, bag or other receptacle with the business name, initials, redemption center license number or other unique identifying mark and with the number of beverage containers contained in each shell, shipping carton, bag or other receptacle or, in the case of containers processed through a reverse vending machine or account-based bulk processing program, information regarding the material type and the count or weight of the beverage containers contained in the shell, shipping carton, bag or other receptacle.

B. The department may audit shells, shipping cartons, bags or other receptacles that have been prepared for pickup by a redemption center.

(1) An audit may be conducted by the department on site at the redemption center or off site at a different location. Off-site audits may involve the use of bulk redemption technology.

(2) An audit must be conducted on a minimum of 1,000 beverage containers or, in the case of containers processing through a reverse vending machine or account-based bulk processing program, on an equivalent amount by weight of the same material type.

(3) If the results of an audit vary from the beverage container count labeled in accordance with information included on the label of the shell, shipping carton, bag or other receptacle required by paragraph A, the department shall, in the case of an on-site audit, require the redemption center to add or remove containers or an equivalent weight of the same material type to address the variation in the results of the audit, or, in the case of an off-site audit, require the redemption center to accept payment from the initiator of deposit or pick-up agent adjusted in accordance with the variation in the results of the audit.

(4) The department may deny an application for approval of a redemption center under subsection 2 if the redemption center, pursuant to audits conducted by the department in accordance with this subsection, has repeatedly prepared for pickup shells, shipping cartons, bags or other receptacles containing less than 97% of the beverage containers or equivalent weight of the same material type that such shells, shipping cartons, bags or other receptacles are labeled as containing.

Sec. 34. 38 MRSA §3113, sub-§3, as amended by PL 2019, c. 526, §10, is further amended by amending the first blocked paragraph to read:

For a municipality with a population of no more than 5,000, the department may license redemption centers in accordance with rules adopted by the department. Notwithstanding the population requirements of this subsection, the department may grant a license to a redemption center if the redemption center is proposed to be located within 10 miles of a dealer, as measured along public roadways, and there are no other redemption centers located within 10 miles of that dealer.

Sec. 35. 38 MRSA §3114, sub-§2, as enacted by PL 2015, c. 166, §14, is amended to read:

2. Sources of money. The fund consists of the following:

A. Fees for issuance of licenses and license renewals under section 3113;
B. Fees for registration of beverage container labels and registration renewals under section 3105, subsection 5- and.

This paragraph is repealed January 15, 2025;

B-1. The annual fee paid by the commingling cooperative pursuant to section 3107, subsection 3-B, paragraph G; and

C. All other money appropriated or allocated for inclusion in the fund.

Sec. 36. 38 MRSA §3115, sub-§1, as enacted by PL 2015, c. 166, §14, is repealed.

Sec. 37. 38 MRSA §3115, sub-§3 is enacted to read:

3. Report. On or before February 15, 2024, and annually thereafter, the department shall report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters on the status of the beverage container redemption program implemented under this chapter. The report must include any recommendations, including draft legislation as necessary, for amendments to this chapter necessary for its administration or to better fulfill the purpose described under section 3101. After reviewing the report, the committee may report out legislation relating to the report. The report under this subsection may be included in the report required pursuant to section 1772, subsection 1.

Sec. 38. 38 MRSA §3119, as enacted by PL 2019, c. 526, §14, is repealed.

Sec. 39. Department of Environmental Protection; beverage container redemption program report. The Department of Environmental Protection, in the report required by the Maine Revised Statutes, Title 38, section 3115, subsection 3 that is due February 15, 2024, shall include additional recommendations, including proposed legislation, for any necessary changes to the laws governing the beverage container redemption program to ensure the timely and successful implementation of the special commingling agreement pursuant to Title 38, section 3107, subsection 1-B and the single commingling program operated by a commingling cooperative pursuant to Title 38, section 3107, subsection 3-B. The report may include additional recommendations for changes to the laws governing the beverage container redemption program determined necessary by the department.

Sec. 40. Effective dates. That section of this Act that enacts the Maine Revised Statutes, Title 38, section 3108-A and those sections of this Act that amend Title 36, section 112, subsection 8; Title 38, section 3102, subsection 16-A; Title 38, section 3106, subsection 5; and Title 38, section 3106, subsection 6 and that section of this Act that repeals Title 38, section 3108 and that section of this Act that repeals and replaces Title 38, section 3106, subsection 8 take effect April 15, 2024. Those sections of this Act that repeal Title 38, section 3115, subsection 1 and Title 38, section 3119 take effect January 15, 2025.

SUMMARY

This bill makes multiple changes to the beverage container redemption laws, including the following.

1. It increases the amount of the reimbursement of beverage container handling costs paid by an initiator of deposit to a dealer or redemption center from 4 1/2¢ per container to 6¢ per container beginning September 1, 2023.
2. It requires the Department of Environmental Protection, on or before January 15, 2025, and biennially thereafter, to adopt rules adjusting the applicable amount of the reimbursement of beverage container handling costs by any percentage change in the Consumer Price Index from January 1st to December 31st of the previous year.

3. It requires all initiators of deposit to enter into a commingling agreement no later than April 15, 2024 and authorizes the approval of a special commingling agreement for initiators of deposit that are not members of a commingling group and that cannot in the aggregate satisfy the requirements for a qualified commingling agreement under current law.

4. It requires all established commingling groups by April 15, 2024 to establish a nonprofit commingling cooperative to provide for the management of beverage containers under a single commingling program. By July 15, 2024, the cooperative must submit a plan for the operation of the commingling program to the department for review and approval, which the department must complete within 120 days of receipt. The plan must be designed to provide for implementation of the commingling program on or before January 15, 2025. Among other duties, this commingling program is required to use unclaimed container deposits to make a variety of expenditures to support the functions of the program and the beverage container redemption system.

5. It specifies that, on or before February 15, 2024, and annually thereafter, the department must report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters on the status of the beverage container redemption program, including any recommendations for necessary amendments to the beverage container redemption laws. For the report due February 15, 2024, it requires the department to include recommendations for amendments to the laws necessary to ensure the timely and successful implementation of the special commingling agreement and the single commingling program operated by a commingling cooperative.