ENVIRONMENT AND NATURAL RESOURCES

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STATE OF MAINE

HOUSE OF REPRESENTATIVES

131ST LEGISLATURE

FIRST SPECIAL SESSION


Amend the bill by striking out all of section 2 and inserting the following:

'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, consolidates beverage containers subject to the requirements of this chapter through bulk sorting, collects data regarding each container sorted, provides electronic data reports specifying the number of containers sorted by universal product code along with information regarding the container brand, redemption location and container material type 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.'

Amend the bill in subsection 1-B in the 7th line (page 1, line 25 in L.D.) by striking out the following: "2 business" and inserting the following: '10 calendar'

Amend the bill in section 7 in subsection 19 in the 4th line (page 2, line 13 in L.D.) by striking out the following: "beverage containers" and inserting the following: 'beverage containers each beverage container'

Amend the bill in section 11 in subsection 4 in the first line (page 2, line 30 in L.D.) by striking out the following: "glass"

Amend the bill in section 11 in subsection 4 in the first line (page 2, line 30 in L.D.) by striking out the following: "glass" and inserting the following: 'glass'

Amend the bill by striking out all of sections 12 to 19 and inserting the following:

'Sec. 12. 38 MRSA §3105, sub-§5, as amended by PL 2019, c. 526, §6, is further amended to read:

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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 and by the cooperative beginning July 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 department may charge a fee for registration and registration renewals under this subsection.

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

B. Beginning July 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 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. 13. 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 or commingling group or its agent may not refuse to accept from any dealer or redemption center any empty, unbroken and reasonably clean beverage container, whether refillable or nonrefillable, 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 members of the commingling group or refuse to pay to the dealer or redemption center the refund value of a beverage container as established by section 3103.

Sec. 14. 38 MRSA §3106, sub-§5-A is enacted to read:

5-A. Cost apportionment; waiver process. A dealer or redemption center may apply for and the department may approve a temporary waiver during which the dealer or redemption center may apportion beverage container costs to distributors using an alternative method that does not require processing of all beverage containers through a reverse vending machine or similar technology requiring the scanning of each container.

A. Prior to approving a temporary waiver under this subsection, the department shall establish procedures regarding the administration of the temporary waiver process. In establishing those procedures, the department shall solicit and consider input from interested persons. The procedures must require that, prior to approving any submitted application from a dealer or redemption center for a temporary waiver, the department solicit input from interested persons regarding the application.
B. The department may approve a temporary waiver upon a finding that the dealer or redemption center has demonstrated to the department's satisfaction that it will implement an alternative method of apportioning beverage container costs to distributors that:

1. Uses a beverage container count method based on a statistically valid sample of beverage containers that is at least as accurate as the beverage container count method currently used by the dealer or redemption center;

2. Apportions beverage container costs to distributors using the beverage container count method described in subparagraph (1) by approximating the costs currently apportioned to distributors by the dealer or redemption center in a manner that is at least as accurate as that used under the auditing process described in section 3109, subsection 5-B; and

3. Implements a process by which the dealer or redemption center will return to a distributor an amount of beverage containers by weight that corresponds to the amount of the beverage container costs apportioned to the distributor in accordance with subparagraph (2).

C. A temporary waiver approved by the department may not exceed one year in duration. Prior to the expiration of an approved waiver, the dealer or redemption center may apply to the department for an extension of the waiver. The department may approve the waiver for a period not to exceed one additional year in duration upon a finding that the dealer or redemption center has submitted sufficient information to the department to demonstrate that the alternative apportionment method implemented during the previous waiver period satisfies the requirements of paragraph B.

D. A distributor that had beverage container costs apportioned to it by a dealer or redemption center using an alternative apportionment method under a waiver approved pursuant to this section may apply to the department for reimbursement of beverage container costs or other financial losses incurred as a direct result of the alternative apportionment method if the distributor can demonstrate to the department's satisfaction that the distributor:

1. Would have been paid additional beverage container costs if the distributor's beverage containers were processed through a reverse vending machine or similar technology that scanned each container; or

2. Otherwise suffered a financial loss as a direct result of the alternative apportionment method implemented under the waiver.

A distributor must submit a request for reimbursement under this paragraph prior to December 31, 2025. If the department determines that a distributor is eligible for reimbursement under this paragraph, the department shall reimburse the distributor using funds from the Cost and Carbon Efficient Technology Fund established under section 3114-A.

As used in this subsection, "beverage container costs" means a beverage container's refund value as established by section 3103 and the amount of the reimbursement of handling costs as established by subsection 7.

On or before February 15, 2025, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources.
matters describing its findings or recommendations regarding the implementation of the temporary waiver process under this subsection. The report may be included in the report required pursuant to section 3115, subsection 3 that is required by February 15, 2025. After reviewing the report, the committee may report out legislation relating to the report.

This subsection is repealed January 1, 2026.

Sec. 15. 38 MRSA §3106, sub-§6, as amended by PL 2019, c. 526, §7, is further amended to read:

6. Obligation to preserve recycling container value. Notwithstanding subsection 8-8-A, 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, 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 distributor commingling group and a dealer or redemption center and does not relieve a distributor commingling group of its obligation under subsection 8-8-A to accept empty, unbroken and reasonably clean beverage containers. Beginning July 15, 2025, 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. 16. 38 MRSA §3106, sub-§8, as amended by PL 2019, c. 315, §19 and c. 526, §7, is further amended to read:

8. Obligation to pick up and recycle containers. Prior to October 15, 2024, the obligation to pick up and recycle beverage containers subject to this chapter is determined as follows.

A. A distributor that initiates the deposit under section 3103, subsection 2 or 4 has the obligation to pick up and recycle any empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the distributor from dealers to whom that distributor has sold those beverages and from licensed redemption centers. A distributor that, within this State, sells beverages under a particular label exclusively to one dealer, which dealer offers those labeled beverages for sale at retail exclusively at the dealer's establishment, shall pick up any empty, unbroken and reasonably clean beverage containers of the kind, size and brand sold by the distributor to the dealer only from those licensed redemption centers that are located within 25 miles from the dealer, as measured along public roadways. A dealer that manufactures its own beverages for exclusive sale by that dealer at retail has the obligation of a distributor under this section. The department may establish by rule, in accordance with the Maine
Administrative Procedure Act, criteria prescribing the manner in which distributors shall fulfill the obligations imposed by this paragraph. The rules may establish a minimum number or value of containers below which a distributor is not required to respond to a request to pick up empty containers. Any rules adopted under this paragraph must allocate the burdens associated with the handling, storage, transportation and recycling of empty containers to prevent unreasonable financial or other hardship.

B. The initiator of the deposit under section 3103, subsection 3 has the obligation to pick up and recycle any empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the initiator from dealers to whom a distributor has sold those beverages and from licensed redemption centers. The obligation may be fulfilled by the initiator directly or indirectly through a contracted agent.

C. An initiator of the deposit under section 3103, subsection 2, 3 or 4 has the obligation to pick up and recycle any empty, unbroken and reasonably clean beverage containers that are commingled pursuant to a commingling agreement along with any beverage containers that the initiator is otherwise obligated to pick up and recycle pursuant to paragraphs A and B.

D. The initiator of deposit or initiators of deposit who are members of a commingling agreement have the obligation under this subsection to pick up and recycle empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the initiator from dealers to whom a distributor has sold those beverages and from licensed redemption centers every 15 days. The initiator of deposit or initiators of deposit who are members of a commingling agreement have the obligation to make additional pickups when a redemption center has collected 10,000 beverage containers from that initiator of deposit or from the initiators of deposit who are members of a commingling agreement.

The obligations of the initiator of the deposit under this subsection may be fulfilled by the initiator directly or through a party with which it has entered into a commingling agreement. A contracted agent hired to pick up beverage containers for one or more initiators of deposit is deemed to have made a pickup at a redemption center for those initiators of deposit when it picks up beverage containers belonging to those initiators of deposit.

This subsection is repealed October 15, 2024.

Sec. 17. 38 MRSA §3106, sub-§8-A is enacted to read:

8-A. Obligation to pick up and recycle containers. Beginning October 15, 2024, 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, a commingling group or its pick-up agent and, beginning July 15, 2025, the cooperative or its pick-up agent or agents.
A. Notwithstanding any provision of this subsection to the contrary, prior to July 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.

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. 18. 38 MRSA §3106, sub-§9, as amended by PL 2019, c. 526, §7, is further amended to read:

9. Plastic bags. A dealer or redemption center has an obligation to pick up 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 July 15, 2025, the cooperative shall provide to the dealer or redemption center, or 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.

Amend the bill in section 20 in the first indented paragraph in the 4th line (page 6, line 35 in L.D.) by striking out the following: "April" and inserting the following: 'October'

Amend the bill in section 20 in the first indented paragraph in the 6th line (page 6, line 37 in L.D.) by striking out the following: "April" and inserting the following: 'October'

Amend the bill in section 22 in the indented paragraph in the 5th line (page 7, line 14 in L.D.) by inserting after the following: "agreement" the following: 'as described in subsection 1-A'

Amend the bill by striking out all of section 23 and inserting the following:

'Sec. 23. 38 MRSA §3107, sub-§1, as enacted by PL 2015, c. 166, §14, is 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 product group, material and size. 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.'
Amend the bill in section 24 in subsection 1-A by striking out all of the first blocked paragraph (page 7, line 33 in L.D.).

Amend the bill by striking out all of section 25 and inserting the following:

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

1-B. Special commingling agreements. A 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 a special commingling agreement to the department for approval. 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 may approve up to 2 special commingling agreements pursuant to this subsection and shall adopt rules governing approval and administration of special commingling agreements, which must include, but are not limited to, rules regarding the administration of the agreement, data and reporting requirements for initiators that are parties to the agreement, beverage container sorting and auditing requirements, statewide assessment requirements for the pick-up agent to ensure geographical coverage 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.'

Amend the bill by striking out all of sections 27 to 29 and inserting the following:

'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 October 15, 2024, all commingling groups established pursuant to subsection 1-A and 1-B, including the State, through the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, 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 of not less than 9 and not more than 15 members that represents the range of beverages and beverage container material types subject to the requirements of this chapter and that includes a board member representing each commingling group. The board shall convene an advisory group that includes as members representatives of the range of beverages and beverage container material types subject to the requirements of this chapter as well as representatives of dealers, pick-up agents, recycling facilities, redemption centers that primarily sort containers manually, redemption centers that primarily sort containers using reverse
vending machines, entities operating account-based bulk processing programs and environmental advocacy organizations. The board shall invite representatives of the department to participate in and provide input regarding the activities of the advisory group.

B. By January 15, 2025, 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 and initiators of deposit 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;
   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; and
   c. The rates of redemption, as determined pursuant to the method set forth in subparagraph (3) and in accordance with the requirements of subparagraph (5);

3. A method for determining the rate of redemption for beverage containers, which must be verified through a 3rd-party audit paid for by the cooperative, expressed as a percentage of the beverage containers redeemed that are available for redemption; the rate of redemption by beverage type and by beverage container material type; and, to the maximum extent practicable, regional redemption rates in 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
committing 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 segregate, maintain, calculate
and expend unclaimed beverage container deposits in accordance with section
3108-A;

(7) A description of how the cooperative will provide a consistent beverage
container pick-up schedule for each redemption center in accordance with the pick-
up requirements of section 3106, subsection 8-A and the rules adopted pursuant to
that subsection. The program must ensure that pick-up schedules are designed to
reduce transportation distances and minimize costs but must allow each
committing group to provide for beverage container pickup of the committing
group's equivalent container material;

(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, except as otherwise provided under
a written agreement entered into by the cooperative or a member committing
group and the dealer or redemption center, and the applicable costs of plastic bags
provided to the dealer or redemption center in accordance with section 3106,
subsection 9;

(9) Information on how the cooperative will ensure that each committing group
and each initiator of deposit that is a member of the committing group maintains
ownership over the committing 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 committing group or initiator of deposit
that is proprietary information and that is identified by the committing 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 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

(c) 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 July 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);

(14) A description of how the cooperative will support the development of infrastructure throughout the State for the collection and sanitization of refillable beverage containers and for the return of those refillable beverage containers to initiators of deposit of refillable beverage containers for refilling and sale. That infrastructure development may involve redemption centers, centralized washing and sanitization facilities and other methods;

(15) Information regarding the advisory group formed by the board in accordance with paragraph A, including, but not limited to, its membership and the length of the terms of its members, a proposed meeting schedule and a description of the role and responsibilities of the advisory group, which may include, but are not limited to, advising the board regarding the development of the plan submitted under this paragraph;

(16) A description of how the cooperative will operate the program in a manner designed to achieve an overall statewide redemption rate for all beverage containers subject to the requirements of this chapter, as determined in accordance with subparagraph (3), of 75% by January 1, 2027; of 80% by January 1, 2032; and of 85% by January 1, 2037; and

(17) 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 July 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 July 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, excluding the redemption rate goals
described in paragraph B, subparagraph (16), 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 previous 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 calculated overall statewide redemption rate for
   beverage containers is less than the applicable redemption rate goal described in
   paragraph B, subparagraph (16), the report must include recommendations for
   changes to the operation of the program that are designed to achieve the required
   rate, which may include, but are not limited to, recommended increases in the
   deposit and refund value for beverage containers;

3. Detailed information on the calculation and expenditure of unclaimed deposit
   funds in the previous calendar year in accordance with section 3108-A;

4. A description of the education and outreach efforts implemented under the
   program in the previous 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

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the program, including all costs associated with payment of handling fees, and an anticipated budget for the subsequent program year; and

(7) Any other information required by the department.

For the report due April 1, 2026 only, the department may modify or waive any of the reporting requirements set forth in this paragraph upon a finding that the information required cannot feasibly be determined or provided by the cooperative due to a partial-year operation of the program.

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. The final report and any additional comments or recommendations of the department may be included in the report required pursuant to section 3115, subsection 3. After reviewing the final report and the department's additional comments or recommendations, if any, the committee may report out legislation relating to the final 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 $600,000, as provided in this paragraph.

(1) On or before July 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 previous 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 July 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 and the single commingling program implemented pursuant to this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

Amend the bill by striking out all of section 31 and inserting the following:

'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 July 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 those unclaimed deposits.

2. Commingling cooperative; unclaimed deposits. Except as provided in paragraph D, beginning July 15, 2025, 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; and

   (5) Payment of $1,000,000 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 program plan approved by the department pursuant to section
3107, subsection 3-B, paragraph C by July 15, 2025, until the cooperative implements
an approved program plan, 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.
3. **Rules.** The department shall adopt rules as necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The rules must include, but are not limited to:

A. Provisions requiring the deposit by the cooperative into and the maintenance by the cooperative of a segregated account or accounts, separate from all other revenues, of the refund value for all nonrefillable beverage containers subject to the requirements of this chapter and sold by the members of the cooperative;

B. Provisions regarding the method and process by which the cooperative shall calculate the total amount of deposits determined to be unclaimed during the previous calendar year and the total amount of those deposits expended by the cooperative in accordance with this section during the previous calendar year; and

C. Any other provisions relating to the accounting for, determination of or expenditure of unclaimed deposits by the cooperative pursuant to this section.

Amend the bill in section 33 in subsection 5-B in paragraph B in the first line (page 16, line 8 in L.D.) by inserting after the following: "department" the following: ', a commingling group or, beginning July 15, 2025, the cooperative'

Amend the bill in section 33 in subsection 5-B in paragraph B in subparagraph (1) in the first line (page 16, line 10 in L.D.) by inserting after the following: "department" the following: ', a commingling group or, beginning July 15, 2025, the cooperative'

Amend the bill in section 33 in subsection 5-B in paragraph B in subparagraph (3) in the 3rd line (page 16, line 19 in L.D.) by inserting after the following: "department" the following: ', a commingling group or, beginning July 15, 2025, the cooperative'

Amend the bill by striking out all of section 34 and inserting the following:

'Sec. 34. 38 MRSA §3111, sub-§3, as enacted by PL 2015, c. 166, §14, is repealed and the following enacted in its place:

3. **Container pickup.** Notwithstanding subsection 1, a person who knowingly violates a provision of section 3106, subsection 8-A or the rules adopted pursuant to section 3106, subsection 8-A:

A. As a first offense, must receive a written warning from the department but does not commit a civil violation; and

B. As a second offense and any subsequent offenses, commits a civil violation for which a fine of $1,000 may be adjudged.

Notwithstanding any provision of this subsection to the contrary, the department may exercise enforcement discretion in the event of unforeseen circumstances causing a violation of a provision of section 3106, subsection 8-A or the rules adopted pursuant to section 3106, subsection 8-A, including, but not limited to, extreme weather conditions and inability to provide for pickup due to a significant number of illness-related employee absences.

'Sec. 35. 38 MRSA §3113, first ¶, as enacted by PL 2015, c. 166, §14, is amended to read:

A license issued annually by the department is required before any person may initiate deposits under section 3103, operate a redemption center under section 3109 or act as a
contracted agent for the collection of beverage containers under section 3106, subsection 8, paragraph B or 8-A.

Sec. 36. 38 MRSA §3113, sub-§2, as amended by PL 2019, c. 526, §10, is further amended to read:

2. Redemption center licensing criteria. In licensing redemption centers, the department shall consider at least the following:

   A. The health and safety of the public and of redemption center employees, including sanitation protection when food is also sold on the premises;
   B. The convenience for the public, including the distribution of centers by population or by distance, or both;
   C. The proximity of the proposed redemption center to existing redemption centers and the potential impact that the location of the proposed redemption center may have on an existing redemption center;
   D. The proposed owner's record of compliance with this chapter and rules adopted by the department pursuant to this chapter of a proposed owner of a redemption center; and
   E. The hours of operation of the proposed redemption center and existing redemption centers in the proximity of the proposed redemption center;
   F. The size of a proposed redemption center, including the specific areas for customer drop-off and beverage container storage; and
   G. Access to a proposed redemption center for customers and pick-up agents, including vehicle and pedestrian access and loading and unloading zones.

Rules adopted by the department pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 37. 38 MRSA §3113, sub-§5 is enacted to read:

5. Convenience standard. On or after July 15, 2025, 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.'

Amend the bill in section 35 in subsection 2 in paragraph B in the last line (page 17, line 3 in L.D.) by striking out the following: "January" and inserting the following: 'July'

Amend the bill by striking out all of sections 36 to 38 and inserting the following:

'Sec. 36.  38 MRSA §3114, sub-§3, as enacted by PL 2015, c. 166, §14, is amended to read:

3. Application of fund. The department may combine administration and inspection responsibilities of other programs it administers with administration and enforcement responsibilities under this chapter for efficiency purposes, however, except that money in the fund may be used to fund only the portion of staff time devoted to administration and enforcement activities under this chapter as well as for any other activities or purposes related to the administration and enforcement of this chapter or otherwise consistent with the intent of section 3101.

Sec. 37.  38 MRSA §3114-A is enacted to read:

§3114-A.  Cost and Carbon Efficient Technology Fund

1. Creation. The Cost and Carbon Efficient Technology Fund, referred to in this section as "the fund," is created under the jurisdiction and control of the department.

2. Sources of money. The fund consists of the following:
   A. The annual payment from the cooperative required by section 3108-A, subsection 2, paragraph B, subparagraph (5); and
   B. All other money appropriated or allocated for inclusion in the fund, including money from any other public or private sources.

3. Application of fund. Money in the fund must be used by the department to provide grants to persons to lease or purchase technology designed to improve operational efficiency and reduce greenhouse gas emissions from trucking or to support activities designed to increase the use of reusable and refillable beverage containers and other reusable and refillable packaging in the State.
   A. The lease or purchase of technology designed to improve operational efficiency and reduce greenhouse gas emissions from trucking using a grant from the fund is limited to automated beverage container counting, compacting and sorting systems capable of validating the count of beverage containers processed and compacting and sorting processed containers in preparation for pickup, including, but not limited to, reverse vending machines as well as activities associated with the installation of that technology, including, but not limited to, electrical system upgrades, building or infrastructure modifications and Internet connection to a central system administrator as necessary.
   B. Activities designed to increase the use of reusable and refillable beverage containers and other reusable and refillable packaging in the State using a grant from the fund are limited to:
(1) Activities relating to the 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;

(2) Development of or other activities relating to container, adhesive and label options for refillable beverage containers capable of being used by manufacturers of different types of beverages; and

(3) Outreach and education activities for 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. Notwithstanding any provision of this section to the contrary, using money from the fund, the department shall contract with a 3rd-party entity to complete a study by July 15, 2026 regarding the feasibility of achieving goals of 5% reusable, refillable beverage containers marketed in the State and 10% reusable, refillable beverage containers marketed in the State and to determine the infrastructure and investments that would be necessary to support those goals. The department shall include the results of the feasibility study, along with any additional comments or recommendations from the department, in the report required by section 3115, subsection 3 that is due February 15, 2027.

D. Notwithstanding any provision of this section to the contrary, using money from the fund, the department shall provide reimbursement of beverage container costs or other financial losses to eligible distributors in accordance with section 3106, subsection 5-A, paragraph D.

This paragraph is repealed January 1, 2026.

E. A grant issued by the department from the fund must cover at least 25% of the anticipated cost of the technology leased or purchased or activities supported as identified in the grant application.

F. The department shall administer the fund and, after consultation with the cooperative and its advisory group established pursuant to section 3107, subsection 3-B, paragraph A, shall establish the application process and procedures for issuance of grants from the fund. The department shall consult with the cooperative and its advisory group in reviewing and approving grant applications submitted under this section.

Sec. 38. 38 MRSA §3115, sub-§1, as enacted by PL 2015, c. 166, §14, is amended by enacting at the end a new first blocked paragraph to read:

This subsection is repealed July 15, 2025.

Sec. 39. 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.

A. 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, including, but not limited to,
identification of additional department staffing or resource needs to support the
administration of this chapter.

B. For the report required by this subsection that is due February 15, 2026, and for
each subsequent report, the department shall, at a minimum, include:

   (1) Any recommendations for necessary adjustments to the amount of the handling
fee under section 3106, subsection 7; and

   (2) Information regarding the status of the Cost and Carbon Efficient Technology
Fund under section 3114-A, including, but not limited to, information regarding
the number and amount of grants issued under that fund, information on the
recipients of those grants and the technology or activities that those grants were
used to support.

C. In addition to the requirements of paragraph B, for the report required by this
subsection that is due February 15, 2027, and for each subsequent report, the
department shall, at a minimum, include information annually reported by the
cooperative pursuant to section 3107, subsection 3-B, paragraph E, including, but not
limited to, information regarding the rates of redemption for beverage containers and
the calculated overall statewide redemption rate.

D. 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. 40. 38 MRSA §3119, as enacted by PL 2019, c. 526, §14, is amended to read:

§3119. Reporting requirements

This section establishes annual reporting requirements for initiators of deposit and for
pick-up agents that are not initiators of deposit.

1. Initiator of deposit annual report. Each initiator of deposit shall report annually
by March 1st to the department concerning its deposit transactions in the preceding
calendar year. The report must be in a form prescribed by the department and must include
the number of nonrefillable beverage containers sold by the initiator of deposit in the State
by container size, by beverage type and by redemption value, delineated at a minimum into
wine, spirits and all other beverage types, and must include the number of nonrefillable
beverage containers returned to the initiator of deposit by beverage type and by redemption
value.

This subsection is repealed July 15, 2025.

2. Pick-up agent annual report. Each pick-up agent that is not an initiator of deposit
shall report annually by March 1st to the department concerning the redemptions for each
initiator of deposit it served in the preceding calendar year. The report must be in a form
prescribed by the department and must include the number of nonrefillable containers
returned by the pick-up agent to each initiator of deposit it served by redemption value,
except that the pick-up agent may report by average weight and total weight of beverage containers returned by material type for containers managed pursuant to a qualified commingling agreement under section 3107.

This subsection is repealed July 15, 2025.

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 submittor 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.'

Amend the bill in section 39 in the 6th and 7th lines (page 17, lines 24 and 25 in L.D.) by striking out the following: "the special commingling agreement" and inserting the following: 'any special commingling agreements'

Amend the bill by inserting after section 39 the following:

'Sec. 40. Appropriations and allocations. The following appropriations and allocations are made.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF Administration - Environmental Protection 0251 Initiative: Provides funding for technology management costs associated with 3 Environmental Specialist III positions.

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Maine Environmental Protection Fund 0421 Initiative: Provides one-time funding for 3 Environmental Specialist III positions and associated All Other costs.

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ENVIRONMENTAL PROTECTION, DEPARTMENT OF DEPARTMENT TOTALS

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'
Amend the bill in section 40 in the 6th line (page 17, line 35 in L.D.) by striking out the following: "3106, subsection 8 take effect April" and inserting the following: '3111, subsection 3 take effect October'

Amend the bill in section 40 in the last 2 lines (page 17, lines 35 and 36 in L.D.) by striking out the following: "Those sections of this Act that repeal Title 38, section 3115, subsection 1 and Title 38, section 3119 take effect January 15, 2025."

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment makes a number of changes to the bill, including the following.

1. It extends by 6 months the dates in the bill by which all initiators of deposit must enter into a commingling agreement, by which the commingling cooperative must be established, by which the commingling cooperative must submit a plan to the Department of Environmental Protection for the establishment of a single commingling program for management of beverage containers and by which the cooperative must implement an approved program plan.

2. It amends provisions in the bill regarding the accounting for, maintenance of and expenditure of unclaimed deposits by the commingling cooperative, including by requiring the cooperative to provide to the department $1,000,000 annually to support the Cost and Carbon Efficient Technology Fund, established in the amendment. Money in that fund is to be used to support grants relating to technology upgrades and activities designed to support the development of an infrastructure for the use of refillable beverage containers. The amendment also directs the department to adopt rules regarding the accounting for, determination of and expenditure of unclaimed deposits by the cooperative.

3. It implements a process by which a dealer or redemption center may apply for and the department may approve a temporary waiver during which the dealer or redemption center may apportion beverage container costs to distributors using an alternative method that does not require processing of all beverage containers through a reverse vending machine or similar technology requiring the scanning of each container. The implementation of this process must be assessed in a February 15, 2025 report from the department to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters and the statutory process is repealed December 31, 2025.

4. It removes from the bill provisions relating to the amendment of the statutorily established reimbursement of beverage container handling costs paid by an initiator of deposit to a dealer or redemption center.

5. It clarifies that the department may approve up to 2 special commingling agreements as provided for in the bill.

6. It requires the commingling cooperative to operate the single commingling program in a manner designed to achieve an overall statewide beverage container redemption rate of 75% by January 1, 2027, of 80% by January 1, 2032 and of 85% by January 1, 2037.

7. It increases the annual fee to be paid by the cooperative to the department from a maximum of $400,000 to a maximum of $600,000.
COMMITTEE AMENDMENT “ ” to H.P. 1225, L.D. 1909

8. It requires the department to 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.

9. It amends annual reporting requirements for the department as established under the bill and makes other technical changes, corrections and clarifications to the bill.

FISCAL NOTE REQUIRED

(See attached)