

CHAPTER 33

MANUFACTURERS, DISTRIBUTORS AND DEALERS OF BEVERAGE CONTAINERS

§3101. Purpose

1. Legislative findings. The Legislature finds that beverage containers are a major source of nondegradable litter and solid waste in this State and that the collection and disposal of this litter and solid waste constitute a great financial burden for the citizens of this State.

[PL 2015, c. 166, §14 (NEW).]

2. Intent. It is the intent of the Legislature to create incentives for the manufacturers, distributors, dealers and consumers of beverage containers to reuse or recycle beverage containers thereby removing the blight on the landscape caused by the disposal of these containers on the highways and lands of the State and reducing the increasing costs of litter collection and municipal solid waste disposal.

[PL 2015, c. 166, §14 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW).

§3102. Definitions

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2015, c. 166, §14 (NEW).]

1. Beverage. "Beverage" means beer, ale or other drink produced by fermenting malt, spirits, wine, hard cider, wine coolers, soda or noncarbonated water and all nonalcoholic carbonated or noncarbonated drinks in liquid form and intended for internal human consumption, except for unflavored rice milk, unflavored soymilk, milk and dairy-derived products.

[PL 2015, c. 166, §14 (NEW).]

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.

[PL 2023, c. 482, §2 (NEW).]

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 10 calendar 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.

[PL 2023, c. 482, §3 (NEW).]

2. Beverage container. "Beverage container" means a bottle, can, jar or other container made of glass, metal or plastic that has been sealed by a manufacturer and at the time of sale contains 4 liters or

less of a beverage. "Beverage container" does not include a container composed, in whole or in part, of aluminum and plastic or aluminum and paper in combination as long as the aluminum content represents 10% or less of the unfilled container weight, the container materials represent 5% or less of the total weight of the container and its contents and the container is filled with a nonalcoholic beverage. "Beverage container" does not include a container composed of cardboard in combination with a plastic liner.

[PL 2017, c. 10, §1 (AMD).]

3. Commingling agreement. "Commingling agreement" means an agreement between 2 or more initiators of deposit allowing the beverage containers for which they have initiated deposits to be commingled by dealers and redemption centers, as described in section 3107.

[PL 2015, c. 166, §14 (NEW).]

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.

[PL 2023, c. 482, §4 (NEW).]

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.

[PL 2023, c. 482, §5 (NEW).]

4. Commissioner. "Commissioner" means the Commissioner of Environmental Protection.

[PL 2015, c. 166, §14 (NEW).]

5. Consumer. "Consumer" means an individual who purchases a beverage in a beverage container for use or consumption.

[PL 2015, c. 166, §14 (NEW).]

6. Dealer. "Dealer" means a person who sells, offers to sell or engages in the sale of beverages in beverage containers to a consumer, including, but not limited to, an operator of a vending machine containing beverages in beverage containers.

[PL 2015, c. 166, §14 (NEW).]

7. Department. "Department" means the Department of Environmental Protection.

[PL 2015, c. 166, §14 (NEW).]

8. Distributor. "Distributor" means a person who engages in the sale of beverages in beverage containers to a dealer in this State and includes a manufacturer who engages in such sales.

[PL 2015, c. 166, §14 (NEW).]

9. Hard cider. "Hard cider" means a beverage produced by fermentation of the juice of fruit, including, but not limited to, flavored, sparkling or carbonated cider that contains not less than 1/2 of 1% alcohol by volume and not more than 8.5% alcohol by volume.

[PL 2017, c. 137, Pt. A, §14 (AMD).]

10. In this State. "In this State" or "in the State" means within the exterior limits of the State and includes all territory within these limits owned by or ceded to the United States of America.

[PL 2015, c. 166, §14 (NEW).]

11. Initiator of deposit or initiator. "Initiator of deposit" or "initiator" means a manufacturer, distributor or other person who initiates a deposit on a beverage container under section 3103.

[PL 2015, c. 166, §14 (NEW).]

12. Local redemption center.

[PL 2019, c. 526, §3 (RP).]

13. Manufacturer. "Manufacturer" means a person that:

A. Sells or offers for sale a beverage in the State under the manufacturer's brand or label; [PL 2019, c. 526, §4 (NEW).]

B. Licenses another person to sell or offer for sale a beverage in the State under the manufacturer's brand or label; [PL 2019, c. 526, §4 (NEW).]

C. Imports into the United States for sale or offering for sale in the State a beverage that is manufactured outside of the United States by another person without a presence in the United States; or [PL 2019, c. 526, §4 (NEW).]

D. Is an out-of-state wholesaler of liquor that holds a certificate of approval issued pursuant to Title 28-A. [PL 2019, c. 526, §4 (NEW).]

[PL 2019, c. 526, §4 (AMD).]

14. Nonrefillable. "Nonrefillable" means a beverage container that, after being used by a consumer, is not to be reused as a beverage container by a manufacturer.

[PL 2015, c. 166, §14 (NEW).]

15. Operator of a vending machine. "Operator of a vending machine" means an owner of a vending machine, the person who refills it or the owner or lessee of the property upon which it is located.

[PL 2015, c. 166, §14 (NEW).]

16. Person. "Person" means an individual, partnership, corporation or other legal entity.

[PL 2015, c. 166, §14 (NEW).]

16-A. (TEXT EFFECTIVE UNTIL 10/15/24) Pick-up agent. "Pick-up agent" means an initiator of deposit, a distributor or a contracted agent of an initiator of deposit or a distributor that receives redeemed beverage containers from a redemption center and transports those containers for recycling.

[PL 2019, c. 526, §5 (NEW).]

16-A. (TEXT EFFECTIVE 10/15/24) Pick-up agent. "Pick-up agent" means 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.

[PL 2023, c. 482, §6 (AMD); PL 2023, c. 482, §43 (AFF).]

17. Premises. "Premises" means the property of the dealer or the dealer's lessor on which a sale is made.

[PL 2015, c. 166, §14 (NEW).]

17-A. Proprietary information. "Proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available.

[PL 2019, c. 526, §5 (NEW).]

17-B. Recycling. "Recycling" or "recycle" means a series of activities by which material that has reached the end of its current use is processed into material for use in the production of new products.

[PL 2019, c. 526, §5 (NEW).]

17-C. Redemption center. "Redemption center" means a place of business that deals in acceptance of empty returnable beverage containers from either consumers or from dealers, or both, and that is licensed under section 3113.

[PL 2019, c. 526, §5 (NEW).]

18. Refillable. "Refillable" means a beverage container that, after being used by a consumer, is to be reused as a beverage container at least 5 times by a manufacturer.

[PL 2015, c. 166, §14 (NEW).]

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 each beverage container 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 other similar device.

[PL 2023, c. 482, §7 (AMD).]

20. Rice milk. "Rice milk" means any liquid intended for internal human consumption of which the primary protein source is rice protein derived from partially milled brown rice.

[PL 2015, c. 166, §14 (NEW).]

21. Spirits. "Spirits" has the same meaning as in Title 28-A, section 2, subsection 31.

[PL 2015, c. 166, §14 (NEW).]

22. Unflavored soymilk. "Unflavored soymilk" means any liquid containing no additional flavoring ingredients and intended for internal human consumption, the primary protein source of which is soy protein derived from whole soybeans, isolated soy protein, soy protein concentrate, soy flour, spray-dried tofu or spray-dried soymilk.

[PL 2015, c. 166, §14 (NEW).]

23. Use or consumption. "Use or consumption" means the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale, storage or retention for the purpose of sale of a beverage.

[PL 2015, c. 166, §14 (NEW).]

24. Wine. "Wine" has the same meaning as in Title 28-A, section 2, subsection 36, except that, for the purposes of this chapter, "wine" does not include wine coolers.

[PL 2015, c. 166, §14 (NEW).]

25. Wine cooler. "Wine cooler" means a beverage of less than 8% alcohol content by volume consisting of wine and:

A. Plain, sparkling or carbonated water; and [PL 2015, c. 166, §14 (NEW).]

B. Any one or more of the following:

- (1) Fruit juices;
- (2) Fruit adjuncts;
- (3) Artificial or natural flavors or flavorings;
- (4) Preservatives;
- (5) Coloring; or

(6) Any other natural or artificial blending material. [PL 2015, c. 166, §14 (NEW).]

[PL 2015, c. 166, §14 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2017, c. 10, §1 (AMD). PL 2017, c. 137, Pt. A, §14 (AMD). PL 2019, c. 526, §§3-5 (AMD). PL 2023, c. 482, §§2-7 (AMD). PL 2023, c. 482, §43 (AFF).

§3103. Refund value

To encourage container reuse and recycling, every beverage container sold or offered for sale to a consumer in this State must have a deposit and refund value. The deposit and refund value are determined according to the provisions of this section. [PL 2015, c. 166, §14 (NEW).]

1. Refillable containers. For refillable beverage containers, except wine and spirits containers, the manufacturer shall determine the deposit and refund value according to the type, kind and size of the beverage container. The deposit and refund value may not be less than 5¢. [PL 2015, c. 166, §14 (NEW).]

2. Nonrefillable containers; exclusive distributorships. For nonrefillable beverage containers, except wine and spirits containers, sold through geographically exclusive distributorships, the distributor shall determine and initiate the deposit and refund value according to the type, kind and size of the beverage container. The deposit and refund value may not be less than 5¢. [PL 2015, c. 166, §14 (NEW).]

3. Nonrefillable containers; nonexclusive distributorships. For nonrefillable beverage containers, except wine and spirits containers, not sold through geographically exclusive distributorships, the deposit and refund value may not be less than 5¢. [PL 2015, c. 166, §14 (NEW).]

4. Wine and spirits containers. For wine and spirits containers of 50 milliliters or less, the refund value may not be more than 5¢. For wine and spirits containers of greater than 50 milliliters, the refund value may not be less than 15¢. [PL 2017, c. 140, §1 (AMD); PL 2017, c. 140, §3 (AFF).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2017, c. 140, §1 (AMD). PL 2017, c. 140, §3 (AFF).

§3104. Dealer as distributor

Whenever a dealer or group of dealers receives a shipment or consignment of, or in any other manner acquires, beverage containers outside the State for sale to consumers in the State, the dealer or dealers shall comply with this chapter as if they were distributors, as well as dealers. [PL 2015, c. 166, §14 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW).

§3105. Labels; stamps; brand names

1. Labels. Except as provided under 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. [PL 2023, c. 482, §8 (AMD).]

2. Labels; nonrefillable containers; nonexclusive distributorships. [PL 2023, c. 482, §9 (RP).]

3. Labels; nonrefillable containers; exclusive distributorships. [PL 2023, c. 482, §10 (RP).]

4. Refillable beverage containers. Refillable beverage containers for which the deposit is initiated under section 3103 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.
[PL 2023, c. 482, §11 (AMD).]

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 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.

A. Prior to July 15, 2025, the department may charge a fee for registration and registration renewals under this subsection. [PL 2023, c. 482, §12 (NEW).]

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. [PL 2023, c. 482, §12 (NEW).]

[PL 2023, c. 482, §12 (AMD).]

6. Removal of product. A product that is sold or distributed in the State that is not in compliance with the initiator of deposit or the labeling registration requirements established in this section may be removed from sale by the department.
[PL 2015, c. 166, §14 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2019, c. 11, §§1, 2 (AMD). PL 2019, c. 526, §6 (AMD). PL 2023, c. 482, §§8-12 (AMD).

§3106. Application

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

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:

A. Is located within 10 miles from the dealer, as measured along public roadways; or [PL 2019, c. 526, §7 (NEW).]

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. [PL 2019, c. 526, §7 (NEW).]

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.

[PL 2019, c. 526, §7 (AMD).]

2. Permissive refusal by dealer.

[PL 2019, c. 526, §7 (RP).]

3. Limitation or number of returnables accepted. A dealer may limit the total number of beverage containers that the dealer will accept from any one consumer or other person in any one business day to 240 containers, or any other number greater than 240.

[PL 2015, c. 166, §14 (NEW).]

4. Limitation on hours for returning containers. A dealer may refuse to accept beverage containers during no more than 3 hours in any one business day. If a dealer refuses to accept containers under this subsection, the hours during which the dealer will not accept containers must be conspicuously posted.

[PL 2015, c. 166, §14 (NEW).]

5. (TEXT EFFECTIVE UNTIL 10/15/24) Distributor acceptance. A distributor 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 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.

[PL 2019, c. 526, §7 (AMD).]

5. (TEXT EFFECTIVE 10/15/24) Acceptance by commingling group. A 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 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.

[PL 2023, c. 482, §13 (AMD); PL 2023, c. 482, §43 (AFF).]

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. [PL 2023, c. 482, §14 (NEW).]

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). [PL 2023, c. 482, §14 (NEW).]

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. [PL 2023, c. 482, §14 (NEW).]

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. [PL 2023, c. 482, §14 (NEW).]

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.
[PL 2023, c. 482, §14 (NEW).]

6. (TEXT EFFECTIVE UNTIL 10/15/24) Obligation to preserve recycling value. Notwithstanding subsection 8, a distributor 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 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 and a dealer or redemption center and does not relieve a distributor 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 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.

[PL 2019, c. 526, §7 (AMD).]

6. (TEXT EFFECTIVE 10/15/24) Obligation to preserve container value. Notwithstanding subsection 8-A, a 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 commingling group and a dealer or redemption center and does not relieve a commingling group of its obligation under subsection 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.

[PL 2023, c. 482, §15 (AMD); PL 2023, c. 482, §43 (AFF).]

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, at least 4 1/2¢ for containers picked up on or after January 1, 2020 and before May 1, 2023, at least 5 1/2¢ for containers picked up on or after May 1, 2023 and before September 1, 2023 and at least 6¢ for containers picked up on or after September 1, 2023. 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. [PL 2023, c. 48, §1 (AMD).]

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, at least 4 1/2¢ for containers picked up on or after January 1, 2020 and before May 1, 2023, at least 5 1/2¢ for containers picked up on or after May 1, 2023 and before September 1, 2023 and at least 6¢ for containers picked up on or after September 1, 2023. 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. [PL 2023, c. 48, §1 (AMD).]

C. [PL 2019, c. 133, §1 (RP).]

D. [PL 2019, c. 526, §7 (RP).]
[PL 2023, c. 48, §1 (AMD).]

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. [PL 2019, c. 315, §19 (AMD); PL 2019, c. 526, §7 (AMD).]

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. [PL 2019, c. 526, §7 (AMD).]

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. [PL 2019, c. 526, §7 (AMD).]

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. [PL 2019, c. 526, §7 (AMD).]

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.
[PL 2023, c. 482, §16 (AMD).]

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. [PL 2023, c. 482, §17 (NEW).]

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. [PL 2023, c. 482, §17 (NEW).]

[PL 2023, c. 482, §17 (NEW).]

9. Plastic bags. 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.

[PL 2023, c. 482, §18 (AMD).]

10. Application to containers originally sold in the State. The obligations to accept or take empty beverage containers and to pay the refund value and handling fees for such containers as described in subsections 1, 5, 7 and 8 apply only to containers originally sold in this State as filled beverage containers. A person who tenders to a dealer, distributor, redemption center or bottler more than 48 empty beverage containers that the person knows or has reason to know were not originally sold in this State as filled beverage containers is subject to the enforcement action and civil penalties set forth in this subsection. At each location where consumers tender containers for redemption, dealers and redemption centers must conspicuously display a sign in letters that are at least one inch in height with the following information: "WARNING: Persons tendering containers for redemption that were not originally purchased in this State may be subject to a fine of the greater of \$100 per container or \$25,000 for each tender. (38 MRS Section 3106)." A person who violates the provisions of this subsection is subject to a civil penalty of the greater of \$100 for each container or \$25,000 for each tender of containers.

[PL 2019, c. 526, §7 (AMD).]

11. License revocation. The department may revoke the license of a dealer or redemption center that has been adjudged to have committed a violation of this section.

[PL 2015, c. 166, §14 (NEW).]

12. Bulk redemption. In order to prevent fraud from the redemption of beverage containers not originally sold in this State, this subsection governs the redemption of more than 2,500 beverage containers.

A. A person tendering for redemption more than 2,500 beverage containers at one time to a dealer or redemption center must provide to the dealer or redemption center that person's name and

address and the license plate number of the vehicle used to transport the beverage containers. The dealer or redemption center redeeming these beverage containers shall forward that information to the department within 10 days, and the information must be kept on file for a minimum of 12 months. [PL 2015, c. 166, §14 (NEW).]

B. After complying at least once with the requirements of paragraph A, a person need not comply with paragraph A each subsequent time that person tenders to a dealer or redemption center for redemption more than 2,500 beverage containers if:

- (1) All of the containers were collected at one location in this State;
- (2) All proceeds of the refund value benefit a nonprofit organization that has been determined by the United States Internal Revenue Service to be exempt from taxation under the United States Internal Revenue Code of 1986, Section 501(c)(3); and
- (3) The person tendering the containers for redemption signs a declaration indicating the person's name, the address of the collection point and the name of the organization or organizations that will receive the refund value. [PL 2015, c. 166, §14 (NEW).]

[PL 2015, c. 166, §14 (NEW).]

13. Private right of action; containers not originally sold in the State. An initiator of deposit may maintain a civil action in Superior Court against a person, other than a redemption center licensed in accordance with section 3113, that tenders to a redemption center or retailer more than 48 empty beverage containers that the person knows or has reason to know were not originally sold in this State as filled beverage containers. If the initiator of deposit prevails in any action, the initiator of deposit is entitled to an award of reasonable attorney's fees and court costs, including expert witness fees.

[PL 2019, c. 526, §7 (AMD).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2019, c. 133, §1 (AMD). PL 2019, c. 315, §19 (AMD). PL 2019, c. 526, §7 (AMD). PL 2023, c. 48, §1 (AMD). PL 2023, c. 482, §§13-18 (AMD). PL 2023, c. 482, §43 (AFF).

§3107. Commingling of beverage containers

Notwithstanding any 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 October 15, 2024, each initiator of deposit shall enter into a commingling agreement pursuant to subsection 1-A or 1-B. If, by October 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. [PL 2023, c. 482, §19 (AMD).]

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. [PL 2023, c. 482, §20 (AMD).]

For the purposes of this chapter and notwithstanding any provision of this chapter to the contrary, the State, through the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, is deemed to be managing returned containers for which the State has initiated deposits in a commingling program pursuant to a qualified commingling agreement as described in subsection 1-A 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. [PL 2023, c. 482, §21 (AMD).]

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. [PL 2023, c. 482, §22 (AMD).]

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 [PL 2023, c. 482, §23 (AMD).]

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. [PL 2023, c. 482, §23 (AMD).]

C. [PL 2023, c. 482, §23 (RP).]
[PL 2023, c. 482, §23 (AMD).]

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. [PL 2023, c. 482, §24 (NEW).]

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. [PL 2023, c. 482, §24 (NEW).]

[PL 2023, c. 482, §24 (NEW).]

2. Commingling of like materials. For purposes of this section, containers are considered to be of like materials if made up of one of the following:

A. Plastic; [PL 2015, c. 166, §14 (NEW).]

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

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

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

[PL 2015, c. 166, §14 (NEW).]

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

A. Beer, ale or other beverage produced by fermenting malt, wine and wine coolers; [PL 2015, c. 166, §14 (NEW).]

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

C. Soda; [PL 2015, c. 166, §14 (NEW).]

D. Noncarbonated water; and [PL 2015, c. 166, §14 (NEW).]

E. All other beverages. [PL 2015, c. 166, §14 (NEW).]

[PL 2015, c. 166, §14 (NEW).]

3-A. Commingling by 3rd party or stewardship organization.

[PL 2023, c. 482, §25 (RP).]

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. [PL 2023, c. 482, §26 (NEW).]

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 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 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 commingling group to provide for beverage container pickup of the commingling 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 commingling 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 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 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. [PL 2023, c. 482, §26 (NEW).]

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. [PL 2023, c. 482, §26 (NEW).]

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. [PL 2023, c. 482, §26 (NEW).]

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 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. [PL 2023, c. 482, §26 (NEW).]

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. [PL 2023, c. 482, §26 (NEW).]

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. [PL 2023, c. 482, §26 (NEW).]

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. [PL 2023, c. 482, §26 (NEW).]

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. [PL 2023, c. 482, §26 (NEW).]

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.

[PL 2023, c. 482, §26 (NEW).]

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

[PL 2015, c. 166, §14 (NEW).]

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

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

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

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

[PL 2019, c. 526, §8 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2019, c. 526, §8 (AMD). PL 2023, c. 482, §§19-26 (AMD).

§3108. Unclaimed deposits

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 10/15/24)

The provisions of this section apply only to those beverage containers that are not subject to a commingling agreement pursuant to section 3107. [PL 2015, c. 166, §14 (NEW).]

1. Deposit transaction fund. An initiator of deposit shall maintain a separate account to be known as the initiator's deposit transaction fund. The initiator shall keep that fund separate from all other revenues and accounts. The initiator shall place in that fund the refund value for all nonrefillable

beverage containers it sells subject to the provisions of this chapter. Except as specified in subsections 3 and 4, amounts in the initiator's deposit transaction fund may only be expended to pay refund values for returned nonrefillable beverage containers. Amounts in the fund may not be used to pay the handling fees required by this chapter. The fund must be maintained by the initiator on behalf of consumers who have purchased products in refundable nonrefillable beverage containers and on behalf of the State; except as specified in subsections 3 and 4, amounts in the fund may not be regarded as income of the initiator.

[PL 2015, c. 166, §14 (NEW).]

2. Reports. An initiator of deposit shall report to the State Tax Assessor by the 20th day of each month concerning transactions affecting its deposit transaction fund in the preceding month. The report must be in a form prescribed by the assessor and must include: the number of nonrefillable beverage containers sold and the number of nonrefillable beverage containers returned in the applicable month; the amount of deposits received in and payments made from the fund in the applicable month and the most recent 3-month period; any income earned on amounts in the fund during the applicable month; the balance in the fund at the close of the applicable month; and such other information as the assessor may require. The report required by this subsection must be treated by the assessor as a return, as the term is defined by Title 36, section 111, subsection 4.

[PL 2015, c. 166, §14 (NEW).]

3. Determination of abandoned deposit amounts. The initiator's abandoned deposit amount, at the end of each month, is the amount equal to the amount of deposits that are or should be in the fund, less the sum of:

A. Income earned on amounts in the fund during that month; and [PL 2015, c. 166, §14 (NEW).]

B. The total amount of refund values received by the initiator for nonrefillable beverage containers during that month and the 2 preceding months. [PL 2015, c. 166, §14 (NEW).]

Income on the fund may be transferred from the fund for use as funds of the initiator.

[PL 2015, c. 166, §14 (NEW).]

4. Transfer of abandoned deposit amounts. By the 20th day of each month, an initiator shall turn over to the State Tax Assessor the initiator's abandoned deposit amounts determined pursuant to subsection 3. Those amounts may be paid from the deposit transaction fund. Amounts collected by the assessor pursuant to this subsection must be treated by the assessor as a tax, as that term is defined by Title 36, section 111, subsection 5, and must be deposited in the General Fund.

[PL 2015, c. 166, §14 (NEW).]

5. Reimbursement of initiators of deposit. If in any month the authorized payments from the deposit transaction fund by an initiator pursuant to this section exceed the funds that are or should be in the initiator's deposit transaction fund, the State Tax Assessor shall reimburse the initiator, from amounts received pursuant to subsection 4, for those refunds paid by the initiator for nonrefillable beverage containers for which the funds that are or should be in the initiator's deposit transaction fund are insufficient; except that reimbursements paid by the assessor to an initiator may not exceed amounts paid by the initiator pursuant to subsection 4 in the preceding 24 months less amounts paid to the initiator pursuant to this subsection during that same 24-month period.

[PL 2015, c. 166, §14 (NEW).]

6. Administration by State Tax Assessor. The uniform tax administration provisions of Title 36, chapter 7 apply to the State Tax Assessor's administration of the reports and payments required by this section.

[PL 2015, c. 166, §14 (NEW).]

7. Small manufacturers, bottlers and brewers exempt. Except as otherwise provided in this subsection, a manufacturer who produces no more than 50,000 gallons of its product in a calendar year

is exempt from the requirements of this section for that year. A brewer who produces no more than 50,000 gallons of its product or a bottler of water who sells no more than 250,000 containers each containing no more than one gallon of its product in a calendar year is exempt from the requirements of this section for that year.

[PL 2015, c. 166, §14 (NEW).]

8. Removal of beverage. The department may remove from sale a beverage that is sold or distributed in the State by an initiator of deposit who is not in compliance with the reporting and payment requirements established in this section if the department is notified by the State Tax Assessor of that noncompliance. The department shall allow the sale of the beverage to resume upon notification by the State Tax Assessor that all delinquent reports have been submitted and all payments are current. [PL 2015, c. 166, §14 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW).

§3108. Unclaimed deposits

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT REPEALED 10/15/24)

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2023, c. 482, §27 (RP). PL 2023, c. 482, §43 (AFF).

§3108-A. Unclaimed deposits

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE 10/15/24)

This section governs unclaimed beverage container deposits. [PL 2023, c. 482, §28 (NEW); PL 2023, c. 482, §43 (AFF).]

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.

[PL 2023, c. 482, §28 (NEW); PL 2023, c. 482, §43 (AFF).]

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. [PL 2023, c. 482, §28 (NEW); PL 2023, c. 482, §43 (AFF).]

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. [PL 2023, c. 482, §28 (NEW); PL 2023, c. 482, §43 (AFF).]

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). [PL 2023, c. 482, §28 (NEW); PL 2023, c. 482, §43 (AFF).]

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. [PL 2023, c. 482, §28 (NEW); PL 2023, c. 482, §43 (AFF).]

[PL 2023, c. 482, §28 (NEW); PL 2023, c. 482, §43 (AFF).]

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; [PL 2023, c. 482, §28 (NEW); PL 2023, c. 482, §43 (AFF).]

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 [PL 2023, c. 482, §28 (NEW); PL 2023, c. 482, §43 (AFF).]

C. Any other provisions relating to the accounting for, determination of or expenditure of unclaimed deposits by the cooperative pursuant to this section. [PL 2023, c. 482, §28 (NEW); PL 2023, c. 482, §43 (AFF).]

[PL 2023, c. 482, §28 (NEW); PL 2023, c. 482, §43 (AFF).]

SECTION HISTORY

PL 2023, c. 482, §28 (NEW). PL 2023, c. 482, §43 (AFF).

§3109. Redemption centers

1. Establishment. Redemption centers may be established and operated by any person or municipality, agency or regional association as defined in section 1303-C, subsection 24, subject to the approval of the commissioner, to serve local dealers and consumers, at which consumers may return empty beverage containers as provided under section 3106.

[PL 2019, c. 526, §9 (AMD).]

2. Application for approval. Application for approval of a redemption center must be filed with the department. The application must state the name and address of the person responsible for the establishment and operation of the center and the names and addresses of each dealer with whom the redemption center has entered into a written agreement to provide redemption services in accordance with section 3106, subsection 1 and their distances from the redemption center, as measured along public roadways, and must include a statement that the redemption center will accept and manage all beverage containers the labels for which are registered in accordance with section 3105.

[PL 2019, c. 526, §9 (AMD).]

3. Approval. The commissioner may by order approve the licensing of a redemption center if the redemption center complies with the requirements established under section 3113 and the applicable rules adopted pursuant to this chapter.

[PL 2019, c. 526, §9 (AMD).]

4. Redemption center acceptance refund account. A licensed redemption center may not refuse to accept from any consumer or dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold in the State as long as the label for the container is registered under section 3105, subsection 5 or refuse to pay in cash the refund value of the returned beverage container as established by section 3103. A redemption center or reverse vending machine is not obligated to count containers or to pay a cash refund at the time the beverage container is returned as long as the amount of the refund value due is placed into an account to be held for the benefit of the consumer and funded in a manner that allows the consumer to obtain deposits due within 2 business days of the time of the return.

[PL 2019, c. 526, §9 (AMD).]

5. Posted lists.

[PL 2019, c. 526, §9 (RP).]

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.

[PL 2023, c. 482, §29 (AMD).]

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. [PL 2023, c. 482, §30 (AMD).]

B. The department, a commingling group or, beginning July 15, 2025, the cooperative 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, a commingling group or, beginning July 15, 2025, the cooperative 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 information included on the label of the shell, shipping carton, bag or other receptacle required by paragraph A, the department, a commingling group or, beginning July 15, 2025, the cooperative 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. [PL 2023, c. 482, §30 (AMD).]

[PL 2023, c. 482, §30 (AMD).]

6. License revocation. The department may, in a manner consistent with the Maine Administrative Procedure Act, revoke the license of a redemption center if the redemption center has not complied with the commissioner's approval order issued under subsection 3 or if the redemption center no longer provides a convenient service to the public.

[PL 2019, c. 526, §9 (AMD).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2019, c. 526, §9 (AMD). PL 2023, c. 482, §§29, 30 (AMD).

§3110. Prohibition on certain types of containers and holders

A beverage may not be sold or offered for sale to consumers in this State: [PL 2015, c. 166, §14 (NEW).]

1. Flip tops. In a metal container designed or constructed so that part of the container is detachable for the purpose of opening the container without the aid of a separate can opener, except that nothing in this subsection prohibits the sale of a container, the only detachable part of which is a piece of adhesive-backed tape; and

[PL 2015, c. 166, §14 (NEW).]

2. Plastic cans. In a container composed of one or more plastics if the basic structure of the container, exclusive of the closure device, also includes aluminum or steel.

[PL 2015, c. 166, §14 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW).

§3111. Penalties

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Civil violation. A violation of this chapter by any person is a civil violation for which a fine of not more than \$100 may be adjudged.

[PL 2015, c. 166, §14 (NEW).]

2. Separate violations. Each day that a violation under subsection 1 continues or exists constitutes a separate offense.

[PL 2015, c. 166, §14 (NEW).]

3. (TEXT EFFECTIVE UNTIL 10/15/24) Container pickup. Notwithstanding subsection 1, a person who knowingly violates a provision of section 3106, subsection 8 commits a civil violation for which a fine of \$1,000 may be adjudged.

[PL 2015, c. 166, §14 (NEW).]

3. (TEXT EFFECTIVE 10/15/24) 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 [PL 2023, c. 482, §31 (NEW); PL 2023, c. 482, §43 (AFF).]

B. As a second offense and any subsequent offenses, commits a civil violation for which a fine of \$1,000 may be adjudged. [PL 2023, c. 482, §31 (NEW); PL 2023, c. 482, §43 (AFF).]

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.

[PL 2023, c. 482, §31 (RPR); PL 2023, c. 482, §43 (AFF).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2023, c. 482, §31 (AMD). PL 2023, c. 482, §43 (AFF).

§3112. Exception for beverage containers used on international flights

This chapter does not apply to any beverage container sold to an airline and containing a beverage intended for consumption on an aircraft flight in interstate or foreign commerce. [PL 2015, c. 166, §14 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW).

§3113. Licensing requirements

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 or 8-A. [PL 2023, c. 482, §32 (AMD).]

1. Procedures; licensing fees. The department shall adopt rules establishing the requirements and procedures for issuance of licenses and annual renewals under this section, including a fee structure.

[PL 2019, c. 526, §10 (AMD).]

1-A. Licensing fees. An applicant under this section shall include the following fees with a license application and an annual license renewal application.

A. An applicant for approval of a redemption center shall submit a \$100 license fee with an initial application and subsequent annual applications. [PL 2021, c. 186, §19 (NEW).]

B. An applicant for approval as an initiator of deposit:

(1) Of a small brewery as defined in Title 28-A, section 2, subsection 29 or a small winery as defined in Title 28-A, section 2, subsection 29-B that produces no more than 50,000 gallons of its product or a bottler of water that annually sells no more than 250,000 containers, each containing no more than one gallon of its product, shall submit an annual license fee of \$50;

(2) Of a small beverage producer whose total production of all beverages from all combined manufacturing locations is less than 50,000 gallons annually shall submit an annual license fee of \$50; and

(3) Other than under subparagraphs (1) or (2) shall submit an annual license fee of \$500. [PL 2021, c. 186, §19 (NEW).]

C. An applicant for approval as a contracted agent for the collection of beverage containers shall submit a \$500 annual license fee with each application. [PL 2021, c. 186, §19 (NEW).]
[PL 2021, c. 186, §19 (NEW).]

2. Redemption center licensing criteria. The department shall adopt rules establishing the minimum licensing criteria for approval of redemption center licenses. The rules must include, but are not limited to, provisions regarding:

A. The health and safety of the public and of redemption center employees, including sanitation protection when food is also sold on the premises; [PL 2023, c. 482, §33 (AMD).]

B. The convenience for the public, including the distribution of centers by population or by distance, or both; [PL 2019, c. 526, §10 (AMD).]

C. The proximity of a proposed redemption center to existing redemption centers and the potential impact that the location of a proposed redemption center may have on an existing redemption center; [PL 2023, c. 482, §33 (AMD).]

D. The record of compliance with this chapter and rules adopted by the department pursuant to this chapter of a proposed owner of a redemption center; [PL 2023, c. 482, §33 (AMD).]

E. The hours of operation of a proposed redemption center and existing redemption centers in the proximity of a proposed redemption center; [PL 2023, c. 482, §33 (AMD).]

F. The size of a proposed redemption center, including the specific areas for customer drop-off and beverage container storage; and [PL 2023, c. 482, §33 (NEW).]

G. Access to a proposed redemption center for customers and pick-up agents, including vehicle and pedestrian access and loading and unloading zones. [PL 2023, c. 482, §33 (NEW).]

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

[PL 2023, c. 482, §33 (AMD).]

3. Location of redemption centers; population requirements. The department may grant a license to a redemption center if the following requirements are met:

A. The department may license up to 5 redemption centers in a municipality with a population over 30,000; [PL 2015, c. 166, §14 (NEW).]

B. The department may license up to 3 redemption centers in a municipality with a population over 20,000 but no more than 30,000; and [PL 2015, c. 166, §14 (NEW).]

C. The department may license up to 2 redemption centers in a municipality with a population over 5,000 but no more than 20,000. [PL 2015, c. 166, §14 (NEW).]

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. [PL 2019, c. 526, §10 (AMD).]

4. Exceptions. Notwithstanding subsection 3:

A. An owner of a redemption center who is renewing the license of a redemption center licensed by the department as of April 1, 2009 need not comply with subsection 3; [PL 2015, c. 166, §14 (NEW).]

B. An entity that is a distributor licensed by or registered with the department need not comply with subsection 3; [PL 2019, c. 526, §10 (AMD).]

C. A reverse vending machine is not considered a redemption center for purposes of subsection 3 when it is located in a licensed redemption center; and [PL 2015, c. 166, §14 (NEW).]

D. The department may grant a license that is inconsistent with the requirements set out in subsection 3 only if the applicant has demonstrated a compelling public need for an additional redemption center in the municipality. [PL 2015, c. 166, §14 (NEW).]

[PL 2019, c. 526, §10 (AMD).]

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. [PL 2023, c. 482, §34 (NEW).]

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. [PL 2023, c. 482, §34 (NEW).]

[PL 2023, c. 482, §34 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2019, c. 526, §10 (AMD). PL 2021, c. 186, §19 (AMD). PL 2023, c. 482, §§32-34 (AMD).

§3114. Beverage Container Enforcement Fund

1. Creation. The Beverage Container Enforcement Fund, referred to in this section as "the fund," is created under the jurisdiction and control of the department.

[PL 2015, c. 166, §14 (NEW).]

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

A. Fees for issuance of licenses and license renewals under section 3113; [PL 2015, c. 166, §14 (NEW).]

B. Fees for registration of beverage container labels and registration renewals under section 3105, subsection 5.

This paragraph is repealed July 15, 2025; [PL 2023, c. 482, §35 (AMD).]

B-1. The annual fee paid by the commingling cooperative pursuant to section 3107, subsection 3-B, paragraph G; and [PL 2023, c. 482, §35 (NEW).]

C. All other money appropriated or allocated for inclusion in the fund. [PL 2015, c. 166, §14 (NEW).]

[PL 2023, c. 482, §35 (AMD).]

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, 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.

[PL 2023, c. 482, §36 (AMD).]

4. Revolving fund. The fund is a nonlapsing, revolving fund. All money in the fund must be continuously applied by the department to carry out the administrative and enforcement responsibilities of the department under this chapter.

[PL 2015, c. 166, §14 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2023, c. 482, §§35, 36 (AMD).

§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.

[PL 2023, c. 482, §37 (NEW).]

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 [PL 2023, c. 482, §37 (NEW).]

B. All other money appropriated or allocated for inclusion in the fund, including money from any other public or private sources. [PL 2023, c. 482, §37 (NEW).]

[PL 2023, c. 482, §37 (NEW).]

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. [PL 2023, c. 482, §37 (NEW).]

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. [PL 2023, c. 482, §37 (NEW).]

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. [PL 2023, c. 482, §37 (NEW).]

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. [PL 2023, c. 482, §37 (NEW).]

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. [PL 2023, c. 482, §37 (NEW).]

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. [PL 2023, c. 482, §37 (NEW).]

[PL 2023, c. 482, §37 (NEW).]

SECTION HISTORY

PL 2023, c. 482, §37 (NEW).

§3115. Department administration

The department shall administer this chapter and has the authority, following public hearing, to adopt necessary rules to carry it into effect. The department may adopt rules governing redemption centers that receive beverage containers from dealers supplied by distributors other than the distributors servicing the area in which the redemption center is located in order to prevent the distributors servicing the area within which the redemption center is located from being unfairly penalized. Rules adopted by the department pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted by the department pursuant to this chapter that establish or modify fees are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. In addition to other actions required by this chapter, department responsibilities include the following. [PL 2019, c. 526, §11 (AMD).]

1. Registry of labels. The department shall establish and maintain a registry of beverage container labels. The registry must contain the information for each beverage type and beverage container filed under section 3105, subsection 5 arranged and displayed in an organized and comprehensible manner. The department shall update the registry regularly and make information from the registry available upon request.

This subsection is repealed July 15, 2025.
[PL 2023, c. 482, §38 (AMD).]

2. Provision of information. The department shall provide information about the operation of this chapter to any affected person whose premises it inspects or visits as part of its licensing and inspection responsibilities.

[PL 2015, c. 166, §14 (NEW).]

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. [PL 2023, c. 482, §39 (NEW).]

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. [PL 2023, c. 482, §39 (NEW).]

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. [PL 2023, c. 482, §39 (NEW).]

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. [PL 2023, c. 482, §39 (NEW).]

[PL 2023, c. 482, §39 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2019, c. 526, §11 (AMD). PL 2023, c. 482, §§38, 39 (AMD).

§3116. Denial of redemption center license

1. Denial of application. The department shall notify an applicant denied a license for a redemption center of the reasons for the denial. Written notification must be sent to the mailing address given by the applicant in the application for a redemption center license.

[PL 2015, c. 166, §14 (NEW).]

2. Aggrieved applicants. An applicant aggrieved by a decision made by the department may appeal the decision to the board in accordance with section 344, subsection 2-A or by filing an appeal with the Superior Court and serving a copy of the appeal upon the department in accordance with the Maine Rules of Civil Procedure, Rule 80C. The appeal to the board or to the Superior Court must be filed and served within 30 days of the mailing of the department's decision.

[PL 2019, c. 526, §12 (AMD).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2019, c. 526, §12 (AMD).

§3117. Unlawful possession of beverage containers

A person is guilty of a violation of this section if that person possesses more than 48 beverage containers that are not labeled under section 3105. This section does not apply to licensed waste facilities as defined in section 1303-C, subsection 40. [PL 2015, c. 166, §14 (NEW).]

1. Penalty. A violation of this section is a civil violation for which a fine of \$100 per container in excess of 48 beverage containers may be adjudged.

[PL 2015, c. 166, §14 (NEW).]

2. Enforcement. The Maine State Police shall enforce this section and prosecute any persons found in violation.

[PL 2015, c. 166, §14 (NEW).]

3. Private right of action; containers not originally sold in the State. An initiator of deposit may maintain a civil action in Superior Court against a person, other than a redemption center licensed in accordance with section 3113, in possession of more than 48 beverage containers that the person knows or has reason to know were not originally sold in this State as filled beverage containers. If the initiator of deposit prevails in any action, the initiator of deposit is entitled to an award of reasonable attorney's fees and court costs, including expert witness fees.

[PL 2019, c. 526, §13 (AMD).]

4. Exempt facilities. The department may, by rule, adopt procedures for designating certain transportation activities and storage or production facilities or portions of facilities as exempt from this section. Any exemption granted under this subsection must be based on a showing by the person owning or operating the facility or undertaking the activity that:

A. The beverage containers stored or transported are intended solely for retail sale outside of the State; [PL 2015, c. 166, §14 (NEW).]

B. The beverage containers are being transported to and stored in a facility licensed under Title 28-A, section 1371, subsection 1 prior to labeling and subsequent retail sale within the State; or [PL 2015, c. 166, §14 (NEW).]

C. The person is licensed under Title 28-A, section 1401 to import malt liquor and wine into the State, the beverage containers contain malt liquor or wine and these containers are being transported or stored prior to labeling and subsequent retail sale within the State. [PL 2015, c. 166, §14 (NEW).]

The department may require reporting of the numbers of beverage containers imported into and exported from the State under the terms of this subsection.

[PL 2015, c. 166, §14 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW). PL 2019, c. 526, §13 (AMD).

§3118. Glass-breaking games

A person, firm, corporation, association or organization may not hold, conduct or operate games of skill, as defined in Title 17, section 1831, subsection 6, that involve the breaking of glass. A violation of this section is a Class E crime. [PL 2015, c. 166, §14 (NEW).]

SECTION HISTORY

PL 2015, c. 166, §14 (NEW).

§3119. Reporting requirements

This section establishes annual reporting requirements for initiators of deposit and for pick-up agents that are not initiators of deposit. [PL 2019, c. 526, §14 (NEW).]

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.

[PL 2023, c. 482, §40 (AMD).]

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.

[PL 2023, c. 482, §40 (AMD).]

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 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.

[PL 2023, c. 482, §40 (AMD).]

SECTION HISTORY

PL 2019, c. 526, §14 (NEW). PL 2023, c. 482, §40 (AMD).

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