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Date: (Filing No. H-)

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 970, L.D. 1324, Bill, “An Act To Create Consistency and Fairness in Maine's Bottle Bill”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 32 MRSA §1865, sub-§3, as amended by PL 2003, c. 499, §4, is further amended to read:

3. Label registration. An initiator of deposit shall register the container label of any beverage offered for sale in the ~~state~~ State on which it initiates a deposit. Registration must be on forms or in an electronic format provided by the department and must include the universal product code for each combination of beverage and container manufactured. The initiator of deposit shall renew a label registration annually and whenever that label is revised by altering the universal product code or whenever the container on which it appears is changed in size, composition or glass color. The initiator of deposit shall also include as part of the registration the method of collection for that type of container, identification of a collection agent, identification of all of the parties to a commingling agreement that applies to the container and proof of the collection agreement. The department may charge a fee for registration and registration renewals under this subsection. Rules adopted pursuant to this subsection that establish fees are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A and subject to review by the joint standing committee of the Legislature having jurisdiction over ~~business and economic development~~ environmental and natural resources matters.

Sec. 2. 32 MRSA §1866, sub-§4, ¶C, as enacted by PL 2003, c. 499, §6, is amended to read:

C. The reimbursement that the initiator of the deposit is obligated to pay the dealer or redemption center pursuant to paragraph A or B must be reduced by 1/2¢ for any returned container that is subject to a qualified commingling agreement that allows the dealer or redemption center to commingle beverage containers of like product group, material and size. A commingling agreement is qualified for purposes of this paragraph if the department determines that ~~50% or more of the~~ beverage containers

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1 of like product group, material and size for which the deposits are being initiated in
2 the State are covered by the commingling agreement. Once the initiator of deposit
3 has established a qualified commingling agreement for containers of a like product
4 group, material and size, the department shall allow additional brands to be included
5 from a different product group if they are of like material. The State, through the
6 Department of Administrative and Financial Services, Bureau of Alcoholic
7 Beverages and Lottery Operations, shall make every reasonable effort to enter into a
8 qualified commingling agreement under this ~~subparagraph~~ paragraph with every
9 other initiator of ~~deposits~~ deposit for beverage containers that are of like product
10 group, size and material as the beverage containers for which the State is the initiator
11 of deposit.

12 **Sec. 3. 32 MRSA §1866, sub-§11** is enacted to read:

13 **11. Private right of action; containers not originally sold in the State.** An
14 initiator of deposit may maintain a civil action in Superior Court against a person, other
15 than a local redemption center licensed in accordance with section 1871-A, that tenders to
16 a redemption center or retailer more than 48 empty beverage containers that the person
17 knows or has reason to know were not originally sold in this State as filled beverage
18 containers. If the initiator of deposit prevails in any action, the initiator of deposit is
19 entitled to an award of reasonable attorney's fees and court costs, including expert witness
20 fees.

21 **Sec. 4. 32 MRSA §1871-A, sub-§1**, as corrected by RR 2001, c. 2, Pt. A, §41, is
22 amended to read:

23 **1. Procedures; licensing fees.** The department shall adopt rules establishing the
24 requirements and procedures for issuance of licenses and annual renewals under this
25 section, including a fee structure. Initial rules adopted pursuant to this subsection are
26 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted
27 effective after calendar year 2003 are major substantive rules as defined in Title 5,
28 chapter 375, subchapter 2-A and are subject to review by the joint standing committee of
29 the Legislature having jurisdiction over ~~business and economic development~~
30 environmental and natural resources matters.

31 **Sec. 5. 32 MRSA §1872, sub-§2**, as enacted by PL 1989, c. 585, Pt. D, §§9 and
32 11, is amended to read:

33 **2. Penalty.** ~~Following the 1st year warning period, a~~ A violation of this section is a
34 civil violation for which a forfeiture of ~~\$20~~ \$100 per container in excess of 48 beverage
35 containers may be adjudged.

36 **Sec. 6. 32 MRSA §1872, sub-§3-A** is enacted to read:

37 **3-A. Private right of action; containers not originally sold in the State.** An
38 initiator of deposit may maintain a civil action in Superior Court against a person, other
39 than a local redemption center licensed in accordance with section 1871-A, in possession
40 of more than 48 beverage containers that the person knows or has reason to know were
41 not originally sold in this State as filled beverage containers. If the initiator of deposit
42 prevails in any action, the initiator of deposit is entitled to an award of reasonable
43 attorney's fees and court costs, including expert witness fees.

1 the penalty for tendering such containers and removes reference to a first-year warning
2 period from the penalty provision;

3 3. Clarify that unclaimed deposits received under the bottle bill are not deposited in
4 the Maine Solid Waste Management Fund; and

5 4. Direct the Department of Agriculture, Food and Rural Resources to undertake
6 rulemaking regarding commingling agreements, plastic bags and redemption center
7 locations.