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Final Report of the Joint Study Commission to Study Reimbursement Rates for Maine's Bottle Redemption Business and Returnable Containers

Maine State Legislature

Office of Policy and Legal Analysis

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**STATE OF MAINE
120TH LEGISLATURE
FIRST REGULAR SESSION**

**Final Report
of the**

**JOINT STUDY COMMISSION TO STUDY
REIMBURSEMENT RATES FOR MAINE'S
BOTTLE REDEMPTION BUSINESSES
AND OTHER ISSUES RELATED
TO THE HANDLING AND COLLECTION
OF RETURNABLE CONTAINERS**

December 2001

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EXECUTIVE SUMMARY

The Joint Study Commission to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers was established by Joint Order (HP 1389) during the First Regular Session of the 120th Maine Legislature. The 13-member Commission was charged with analyzing the reimbursement rates for Maine's bottle redemption businesses to determine if an increase in the 3-cent per container reimbursement rate for handling returnable bottles and cans is necessary. Should the analysis determine that an increase is necessary, the Joint Order required the Commission to recommend the amount of the increase.

In its efforts to determine whether or not the reimbursement rate should be increased, the Commission was required to: Examine whether or not the State should continue to set the reimbursement rate for redemptions centers for handling costs; identify the interrelationships among beverage producers, distributors and redemption centers concerning the collection of returnable containers; identify and investigate changes in technology that might assist the redemption centers in making their businesses operate more efficiently; consult with representatives of DECD and FAME to identify programs and funding sources to assist redemption centers in upgrading their operations; and investigate the nature and extent of fraudulent redemptions and examine ways to reduce or eliminate this practice.

Pursuant to the Joint Study Order, the Commission was required to report its findings and recommendations to the Joint Standing Committee on Business and Economic Development by December 5, 2001. Pursuant to the Joint Study Order, that Committee is authorized to report out a bill in the Second Regular Session of the 120th Legislature.

The Commission held four meetings – 3 in Augusta in legislative committee rooms at the Cross State Office Building and one that consisted of a tour of bottling companies, redemption centers, grocery warehouses, stores, and recycling facilities in the Portland area. The first meeting was an organizational meeting that focused on issues and activities that the Commission wished to pursue in completing its charge. The second meeting, held on October 16, 2001, was a daylong tour of businesses in the Portland area that are involved in the bottling and returnable redemption system. The third meeting, held October 22, 2001, focused on presentations from a variety of State and local officials and business representatives as the Commission members attempted to obtain answers to questions to which their investigation of the bottle bill process had given rise. The Commission also began to formulate preliminary findings and recommendations at the third meeting. At its final meeting on November 6, 2001, the Commission focused mainly on finalizing its findings and recommendations.

The findings and recommendations of the Commission are as follows:

1. Container Handling Fee

A majority of the Commission makes the following recommendation:

Majority Recommendation: Eleven members of the Commission recommend that the current handling fee not be increased because:

- A handling fee increase would increase costs to Maine consumers
- An increase in the handling fee would not address underlying inefficiencies of the system.
- A handling fee increase would encourage more redemption centers to enter an already over-crowded market.
- Other less expensive changes can be made to improve the efficiency of the system. Those changes should be studied further. (*See majority recommendations under section 7 below.*)

A minority of the Commission makes the following recommendation:

Minority Recommendation: Two members of the Commission recommend that the handling fee be increased by 1/4¢ per year for 4 years beginning in 2003 bringing the handling fee to 4¢ per container in 2006 and subsequent years.

2. Registration of Container Labels

Recommendations: The Commission makes the following recommendations in this area.

- First, the label of every container subject to the Bottle Bill must be registered with the Department of Agriculture by the manufacturer prior to selling that product in Maine. Failure to register constitutes a violation subject to a \$100 forfeiture per violation (sale of each container). Registration of a label includes the UPC code for that product and identification of each initiator of deposit and each Maine distributor of containers bearing that label. The registration must also identify the method of collection for that product, including identification of the pickup agent and proof of the collection agreement if one exists.
- Second, the Department of Agriculture is required to establish a registry of currently in use returnable beverage container labels, which also identifies each initiator of deposit and each distributor for that label. The department must update registry information regularly and on request distribute the information in user-friendly form to redemption centers and other requestors. The department will have adequate enforcement authority to ensure compliance and rule-making authority to implement this recommendation.

- Third, redemption centers are authorized to refuse to accept containers whose labels are not registered.
- Fourth, the Department of Agriculture is directed to coordinate with the Bureau of Liquor Enforcement and the Bureau of Alcoholic Beverages so that, to the maximum extent possible, registration for beer, wine and liquor under the Bottle Bill will not duplicate current registration requirements with those bureaus.
- Fifth, the Department of Agriculture is authorized to charge a reasonable fee for registration and annual renewals. *(See recommendations under section 5 for further discussion of department fees and funding issues.)*

3. Licensing of Key Bottle Bill Participants

Recommendations: The Commission recommends the following:

- First, a licensee under the Bottle Bill is required to do any of the following: initiate container redemption deposits, operate a redemption center or act as a third party collection agent.
- Second, a distributor or third party collection agent is not required to pick up containers from a redemption center that is not licensed.
- Third, the Department of Agriculture is directed to adopt rules governing annual licensure of the parties under the Bottle Bill as follows:
 - The Department of Agriculture is directed to adopt by rule a procedure for issuance of initial and renewal licenses for deposit initiators, redemption centers, and third party collection agents, including a licensing fee structure. In determining appropriate license fees, the department shall base the amount of fees on the actual cost of implementing increase responsibilities imposed by the recommendations contained in this report. Initially, fees may be set at a level to cover one-time start up costs, but after initiation of the department's responsibilities under this report, fees must be set at a level to cover on-going costs only.
 - With respect to licensing rules for redemption centers, among the criteria the department must consider are:
 - general public health and safety
 - sanitation protection when food is also sold on premise
 - convenience of the public, including distribution of centers by population
 - Licensing rules are designated major-substantive under the Maine Administrative Procedure Act, which requires the department to submit the rules to the

Legislature for approval before they may be enforced. The Legislature may approve, amend or veto the rules.

4. Department of Agriculture Assistance

Recommendation: The Department of Agriculture is directed to incorporate a coordinated education program for Bottle Bill participants as part of its licensing and inspection responsibilities.

5. Funding of Commission Recommendations

Recommendations:

- First, the Department of Agriculture is directed to work with affected parties under the direction of the Joint Standing Committee on Business and Economic Development to develop by rule a fee schedule for the licensing and registration activities recommended by the Committee. The level of fees must be adequate to support the increased level of costs resulting from implementation of the recommendations.
- Second, the fees collected for licensing and registration must be deposited in a fund dedicated for the administration and enforcement of the Bottle Bill. In apportioning work among its staff, the department may commingle inspection responsibilities of other programs it administers for efficiency purposes. However, funds generated by Bottle Bill licensing fees must be strictly accounted for and must be used only to fund the portion of staff time devoted to Bottle Bill enforcement activities.
- Third, any unredeemed deposits on liquor bottles must also be deposited in the dedicated Bottle Bill fund.

6. Deposits on Wine and Liquor Bottles

Recommendation: The Commission recommends that the minimum deposit for wine and spirits be decreased to 5¢ per container beginning January 1, 2003.

7. Review of the Bottle Bill to Identify Long-term Efficiencies

A majority of the Commission recommends the following:

Majority Recommendations: Eleven members recommend that the Joint Standing Committee on Business and Economic Development develop a process (possibly by continuing this study Commission, creating a new study group or conducting a study itself) to develop recommendations on improving efficiencies in the operation of the bottle bill. Those improvements may include redesign of the operation of the system, cooperative arrangement between redemption centers and distributors and collection agents regarding container pick up, changes in the law and technological improvements and other possibilities.

A minority of the Commission makes the following recommendation:

Minority Recommendation: The minority recommends that redemption centers need a handling fee increase for the reasons outlined by the minority in number 1 of the Findings and Recommendations notwithstanding any potential gains of efficiency from future studies.

I. Introduction

A. Charge to the Commission

This study was established by Joint Order (HP 1389) during the First Regular Session of the 120th Maine Legislature. The content of HP 1389 (*See Appendix A*) is virtually identical to LD 455 as amended, which proposed to establish the study Commission (*See Appendix B*). LD 455, however, died on the Special Appropriations Table upon adjournment of the First Regular Session. The 13-member Commission was charged with analyzing the reimbursement rates for Maine's bottle redemption businesses to determine if an increase in the 3-cent per container reimbursement rate for handling returnable bottles and cans is necessary. Should the analysis determine that an increase is necessary, the Joint Order required the Commission to recommend the amount of the increase.

In its efforts to determine whether or not the reimbursement rate should be increased, the Commission was required to:

1. Examine whether or not the State should continue to set the reimbursement rate for redemptions centers for handling costs;
2. Identify the interrelationships among beverage producers, distributors and redemption centers concerning the collection of returnable containers;
3. Identify and investigate changes in technology that might assist the redemption centers in making their businesses operate more efficiently;
4. Consult with representatives of DECD and FAME to identify programs and funding sources to assist redemption centers in upgrading their operations; and
5. Investigate the nature and extent of fraudulent redemptions and examine ways to reduce or eliminate this practice.

Pursuant to the Joint Order, the Commission also was required to report its findings and recommendations to the Joint Standing Committee on Business and Economic Development. That Committee is authorized to report out a bill in the Second Session of the 120th Legislature.

B. Commission Membership

The Commission was comprised of 13 members, three of whom were legislators. Senator Norman Ferguson served as Senate Chair; Representative Gary Wheeler served as House Chair. Representative Harold Clough, a member of the Joint Standing Committee on Business and Economic Development, also served on the Commission. Other members represented various interests within the bottling, bottle redemption, grocery and recycling industries. (*See Appendix C.*)

C. Study Timetable and Deadlines

The Commission first convened on September 19, 2001 in Augusta. It held its last of four meetings on November 6, 2001 in Augusta. The Commission was required by the Joint Study Order to submit its final written report, along with any recommended legislation, to the Joint Standing Committee on Business and Economic Development by December 5, 2001.

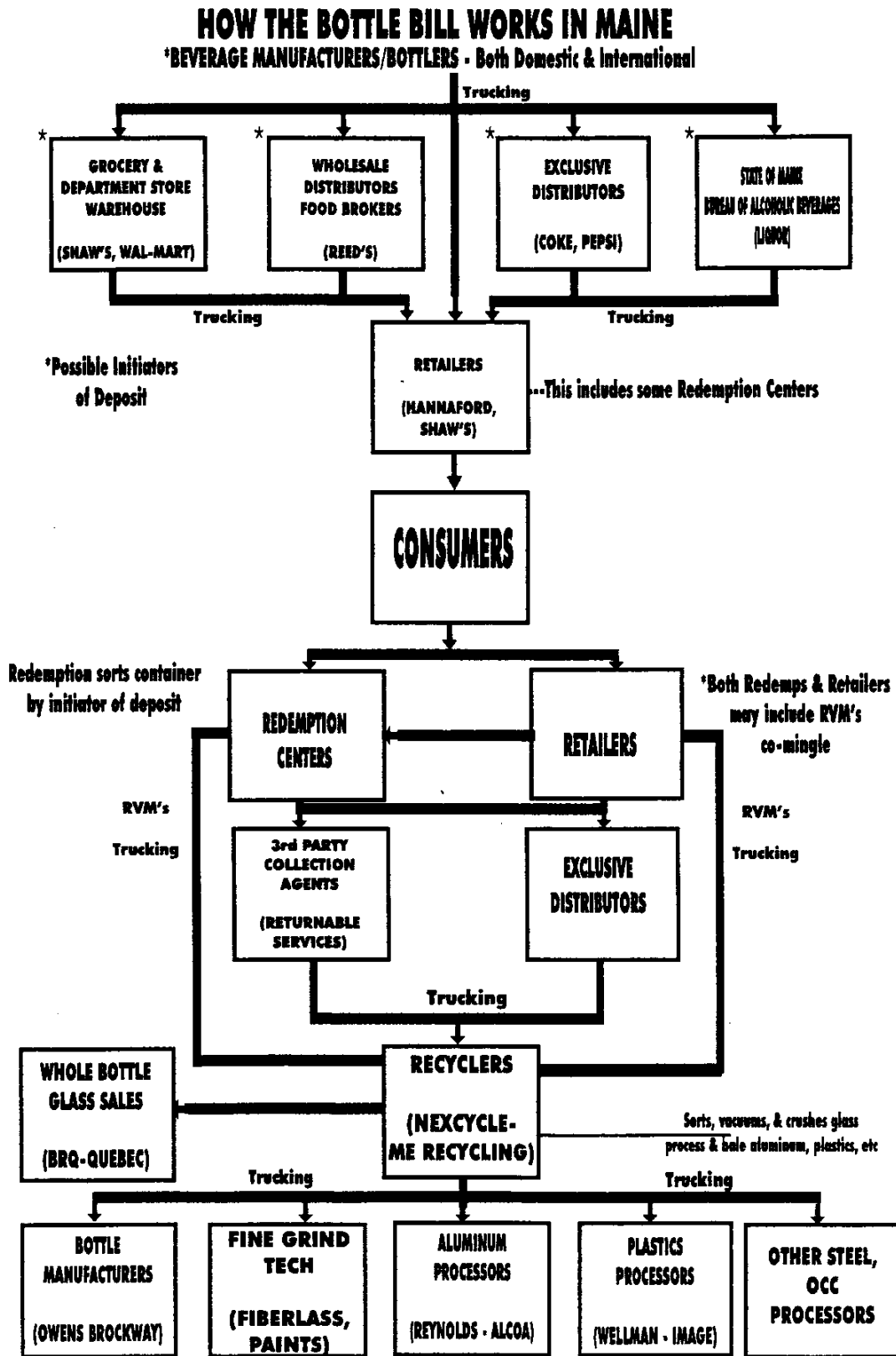
D. Scope and Focus of Commission Meetings

The Commission held four meetings – 3 in Augusta in legislative committee rooms at the Cross State Office Building and one that consisted of a tour of bottling companies, redemption centers, grocery warehouses and stores, and recycling facilities in the Portland area. The first meeting was an organizational meeting that focused on issues and activities that the Commission wished to pursue in completing its charge. The second meeting, held on October 16, 2001, was a daylong tour of businesses in the Portland area that are involved in the bottling and returnable redemption system. (*See Appendix D for an itinerary of the tour.*) The third meeting, held October 22, 2001, focused on presentations from a variety of State and local officials and business representatives as the Commission members attempted to obtain answers to questions to which their investigation of the bottle bill process had given rise. The Commission also began to formulate preliminary findings and recommendations at the third meeting. At its final meeting on November 6, 2001, the Commission focused mainly on finalizing its findings and recommendations.

E. How the Bottle Bill Works in Maine

Maine's bottle bill is characterized by the multiple roles that participants in the container redemption system may play at any given stage of the container redemption process. It is also characterized by the handling and storing of large volumes and types of returnable containers that are included in the expanded bottle bill. An illustration of the former is a retail grocery store chain that may initiate deposits, collect deposits from the consumer and pay them to the manufacturer or distributor, and redeem returnable containers from the consumer. (*See Table 1 for a diagram of Maine's bottle redemption process.*) An illustration of the latter is the small redemption center that must mix multiple-sized juice containers in its sorting facilities because the returns come in too slowly to dedicate a single sorting bin to each size container. This may necessitate an additional sort of those mixed-sized returnables before these are picked up from the redemption center by the manufacturer, distributor or third-party collection agent. However, members of the Commission who support the minority report note that a redemption center that presorts in this manner could re-sort, or provide a unit count to a collection agent, or provide an agreed blended count to a distributor. Minority members also note that the current Bottle

Table 1



Bill envisioned and manages a system in which large, multi-state supermarkets such as Shaw's, Hannaford and Wal-Mart are sometimes initiators or distributors and sometimes retailers.

At its most basic level, following the 5-cent deposit may be shown as an essentially circular process beginning with the manufacturer/distributor as the initiator of the deposit, flowing through the retailer and the consumer, and then from the redemption center back to the initiator. (*See Table 2.*) However, when the deposit is not redeemed or when a deposit that has not been initiated is redeemed, the circular flow of the nickel is disrupted and one party or another to the initiation/redemption process gains a nickel or loses a nickel. This holds true of the 3-cent handling fee as well. (*See Table 3 for a description of various scenarios when less than or more than 100% of returnable containers are redeemed.*)

II. Issues and Concerns Identified and Discussed by the Commission

The Commission identified and discussed a variety of issues and concerns with the Bottle Bill during its deliberations. The following is a summary of those issues and concerns: (*See Appendix E for summaries of Commission meetings at which these issues were discussed.*)

A. Redemption Centers

Maine currently has 294 redemption centers licensed with the Maine Department of Agriculture. Under chapter 360 of the rules of the Department of Agriculture, Food and Rural Resources (*See Appendix F for a copy of the current rules*), redemption center is defined as “a place of business which deals with acceptance of empty returnable beverage containers from either consumers or from dealers, or both, and which is licensed” by the Department of Regulations as a redemption center. Current regulation requires redemption centers to pay an annual \$20 license fee to the State. Regulations also require the Commissioner to approve an application for a redemption center if the Commissioner “finds that the center will provide a convenient service for the return empty beverage

The Commission heard considerable testimony about the challenges faced by redemption centers in complying with the requirements of the bottle bill (*see letters from Big Red Redemption, Riverside Redemption and New Harbor Bottle Redemption included in Appendix K*). Among those were:

- A handling fee that is too low to provide revenues to redemption centers to allow them to improve pay and benefits for employees and to invest in more efficient operations
- The number of individual sorts required as the result of the range of returnable containers covered under the expanded bottle bill
- The number of times bottles/cans are handled throughout the redemption system

Table 2

The “Ideal” Scenario

**FOLLOWING THE 5-CENT DEPOSIT ON *ONE* REDEEMED
RETURNABLE CONTAINER**

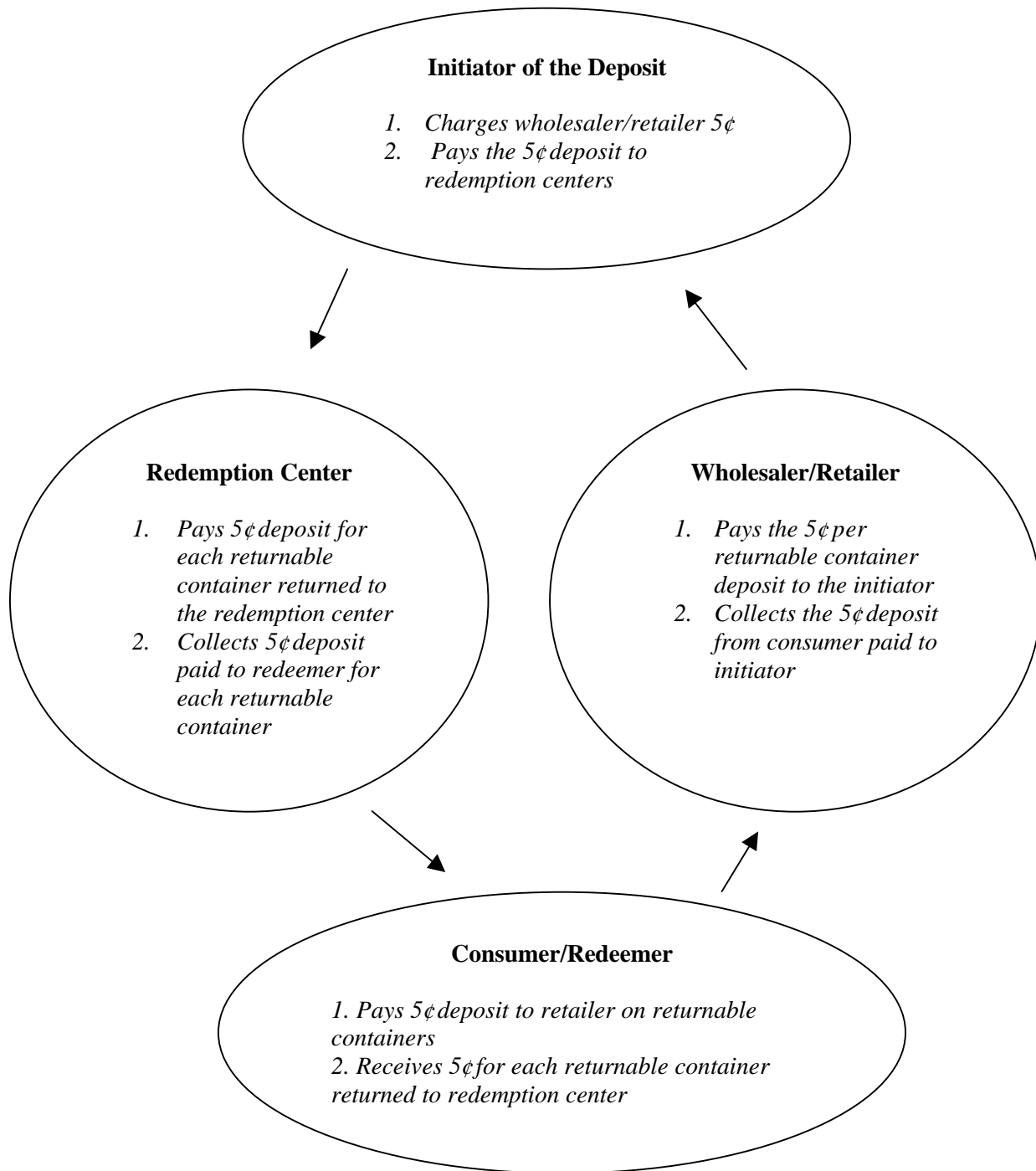


Table 3
Handling Fee and Deposit Scenarios
 Occurring when less than or more than 100% of returnable containers are redeemed

Handling fee
1. For each returnable container not redeemed for which the initiator of the deposit has incorporated the handling fee into the cost of the product to the consumer, the initiator retains 3-cent per container handling fee
2. For each returnable container redeemed by the consumer at a redemption center that the redemption center is unable to return to the initiator, the redemption center loses 3-cents in potential income from the handling fee
3. For each returnable container redeemed fraudulently by the consumer at a redemption center that the initiator of the deposit rejects, the redemption center loses 3-cents in potential income from the handling fee
4. For each returnable container redeemed fraudulently by the consumer at a redemption center and which the initiator of the deposits accepts, the initiator of the deposit loses 3-cents by paying a handling fee that was not collected from the consumer in the cost of the product

:

5-cent deposit
1. For each returnable container not redeemed, the initiator of the deposit retains the 5-cent deposit paid by consumer.
2. For each returnable container redeemed by the consumer at a redemption center that the redemption center is unable to return to the initiator, the redemption center loses the 5-cent deposit paid to the redeemer.
3. For each returnable container redeemed fraudulently by the consumer at a redemption center that the initiator of the deposit rejects as fraudulent, the redemption center loses the 5-cent deposit paid to the redeemer
4. For each returnable container redeemed fraudulently by the consumer at a redemption center that the initiator of the deposit accepts, the initiator of the deposit loses 5-cents by paying for a deposit that was not collected on that container.

- The storage space requirement for returnables that are awaiting pick up by the manufacturer, distributor or third-party collection agent
- The high cost of workers' compensation premiums because of the risk ratings for redemption centers
- The lack of best management practices (BMPs) for the operation of redemption centers, as well as for distributors and third-party collection agents
- Identifying who should pick up certain returned containers because the label is not registered with any State agency and thus there is no centralized database to check the product against
- The inability to distinguish containers purchased in another state from containers purchased in Maine because the "Maine 5¢ Refund" designation is stamped on most, if not all, of the containers sold by the manufacturer
- The lack of knowledge among small grocery store owners/managers of the requirements of and options under the bottle bill
- The cash-flow problem created when redemption centers pay out the 15¢ deposit on wine and liquor bottles and the storage problems created while awaiting pick up of those returnables and receiving reimbursement of the refunded deposit and the handling fee
- The limited financial resources available to small redemption centers to expand into retail beverage sales
- The problem with reverse vending machines meeting the current requirements of the statute re: their use in redemption centers
- Dissatisfaction among redemption centers with enforcement efforts by the Department of Agriculture, Food and Rural Resources and a preference for either the Maine Department of Environmental Protection or the State Planning Office to take over enforcement duties for the Bottle Bill
- Proposals to reduce beverage costs to the consumer by promoting distributor/manufacturer competition and by removing distributor/manufacturer slotting fees to stores on all beverages covered by the Bottle Bill
- The department also reported that the number of licensed redemption centers dropped from 368 in 1992 to 274 in the year 2000, or decline of nearly 25% (*See Appendix G.*)

B. Enforcement Issues

The Maine Department of Agriculture, Food and Rural Resources does not have any staff positions dedicated solely to dealing with enforcement of the bottle bill. The department adds bottle enforcement duties onto the other workloads of its inspectors and analysts. The Commission learned that the department's ability to enforce current laws governing redemption centers has been hampered by a lack of clarity in the department's authority to license stand-alone redemption centers and a lack of criteria concerning cleanliness, location and other aspects of the operation of a stand-alone redemption center. The department has requested guidance from the Attorney General's Office on its licensing authority but had not been provided such guidance as of the conclusion of the Commission's deliberations.

Another enforcement issue considered by the Commission involved fraudulent redemption of containers. Although current law allows a civil penalty of up to \$100 to be adjudged for each violation of the provisions of the bottle redemption law, including fraudulent redemption, redemption center owners complain that they do not know with whom to file a complaint when they suspect or know that someone is attempting to make a fraudulent redemption.

C. Over-redemption

Over-redemption occurs when a container for which no deposit has been collected is redeemed in Maine. This may occur when a distributor brings containers into Maine without initiating the deposit, or when a person knowingly collects containers outside the State and brings those containers to Maine to collect the refund of deposits that were neither initiated nor collected.

The Commission heard testimony concerning over-redemption, particularly along the borders with New Hampshire and Massachusetts. The marking of all product with the “ME 5¢ Refund” stamp or similar designation, whether or not the product is sold in Maine, adds to the potential for fraudulent returns. Additionally, the single UPC code used for each beverage product, whether or not it is returnable, also adds to the potential for over-redemption because reverse vending machines identify containers by UPC code. Variation in the bar codes for products sold in states bordering a bottle bill state was identified as one possible solution to the problem.

Representatives from Poland Springs Water Co. told the Commission that over-redemption of their containers in Maine is costing the company an estimated \$500,000 annually. Unlike many manufacturers of beverages, Poland Springs does not have a distributor network and thus has limited ability to control the product once it leaves their bottling facilities. A significant percentage of the Poland Springs’ products sold in New Hampshire as non-returnables are coming back to Maine redemption centers who are refunding the 5¢ deposit even though no deposit was initiated on that container. The company has estimated its redemption rate at 130% annually. Poland Springs estimated the per-container cost of redemption of their product in Maine as averaging between 11¢

Minority members note that not all producers mark their products with the 5¢ deposit designation. For example, Anheuser Busch does not put the Maine deposit mark on its containers for sale in New Hampshire. Minority members suggest that this is a best practice for producers. The minority also notes that absent hard data, all representations of over-redemption are at best anecdotal.

D. Reverse Vending Machines

The Commission discussed extensively the costs and benefits of reverse vending machines (RVMs). RVMs usually are located in high-volume supermarkets or recycling centers. When consumers insert their returnable container into the machine, the machine identifies the container and its owner by the barcode marking. The RVM sorts the container by material type and then shreds or compacts that material. Currently, RVMs accept glass, aluminum, steel and PET (i.e., plastic soft drink bottles).

Most Commission members had the opportunity to view the prototype of Tomra Maine's new T-600 machine during its tour of Portland area facilities on October 16th. That machine may help with the issue of contaminated glass resulting from crushing machines where the consumer may disregard glass-sorting requirements of the RVM. The T-600 will separate inserted bottles by color field using the product's bar code, dropping the different colored crushed glass into separate barrels underneath the machine. If the bottle's bar code is not in the T-600 memory, the machine will reject the bottle.

The range of prices for the RVMs currently offered by Tomra vary from \$4,000 to \$23,000, depending on whether or not the machine is leased or purchased and the nature of the contract with the client concerning maintenance. The Commission learned that Maine has the lowest RVM rate of all of the bottle bill states, as well as fewer RVM installs. Some Commission members expressed their concern about the potential for fraud with the use of scanners and wands that read the bar codes. Other members expressed concern about the quality of the crushed glass that comes out of RVMs and the inability of the recycler to control that quality. (*See Appendix H for testimony submitted by Tomra Maine.*)

Commission member Welch noted that Tomra had quoted him a price of \$18,000 for a T-600 RVM without maintenance contracts and without per container monthly billing fees. Mr. Welch also told the Commission that a redemption center the size of RSVP would require 12 to 18 RVMs to handle its volume. This, he contends, would reduce personnel costs by 10 % to 25%.

E. Financial and Technical Assistance for Redemption Centers

The Commission was apprised of 3 programs at the Finance Authority of Maine that could be used to provide loans to redemption centers in need of financial assistance to either purchase equipment or to make improvements to their facilities. These are: the Waste Reduction and Recycling Loan Fund, the Economic Recovery Loan Program, and the Small Business and Veterans Small Business Loan Guaranties. (*See Appendix I for additional details.*) The Commission also learned that the Maine Department of Economic and Community Development has greater ability to help redemption center businesses with technical assistance rather than with capital equipment purchases. The department has 11 field staff located throughout the state in regional economic development agencies in which field staffers serve as resource brokers for small businesses

in their respective regions, providing them with a link to various assistance resources. Additionally, DECD's Energy Division provides assistance to small businesses by conducting walk-through energy audits of their businesses. *(Also see Appendix K for Commission member Welch's estimate of funding available through abandoned container values in his September 19th memo to the Commission.)*

F. Bottle Bill Requirements

During its tour of Bottle Bill facilities and through testimony at its meetings, the Commission has heard evidence that there is some lack of clarity and misunderstanding about how the current law works. *(See Appendix J for provisions of Chapter 28 of Title 32.)* The Commission heard testimony about dealers who do not know that they may designate a licensed redemption center to receive returnables on their behalf, manufacturers who do not know that they may initiate the deposit on their product and members of the public who are not clear which containers are returnable and which are recyclable. Some Commission members suggested that the Maine Department of Agriculture should add an educational component about the bottle bill law to its current process of licensing new food and beverage businesses. It was also suggested that mandatory registration of labels by the manufacturer of beverages that are required to be bottled in returnable containers would help both in enforcement of deposit initiations and in establishing a database that would provide information to the department, redemption centers and others as to the identity of the owner of the container that has been redeemed. Although current law requires the department to review labels submitted by beverage manufacturers, the department does not interpret that law and the rule adopted under the law to authorize it to require registration of container labels as a condition of selling a product in Maine.

G. Lack of Data on Operation of Bottle Bill

The major constituent groups affected by the Bottle Bill were represented on the Commission. The consensus of those representatives was that there are a number of concerns with the current operation of the bottle bill. Those concerns include lack of consistent oversight and enforcement and absence of useful information and advice concerning compliance with the law. To provide a higher level of compliance with the law and to provide a source of funds to support the improved services at the state level, the Commission was presented proposals to expand the licensing requirements under the bottle bills to cover the key participants—initiators of deposits (manufacturers, distributors or dealers, as applicable), redemption centers and third party collection agents).

Another operational concern has been a lack of data necessary to determine the effectiveness of the bottle redemption laws. State law does not require any of the parties to the bottle redemption process to report the number of returnable containers sold or redeemed on an annual basis. Prior to 1995, the Maine Waste Management Agency (MWMA), which was established to assist municipalities in their solid waste efforts,

received 50% of the unredeemed deposits collected by beverage distributors to assist communities in establishing or expanding recycling efforts. That process required the State to receive data on the number of containers handled, as well as related information that allowed the state to estimate the volume and weight of those containers. When half of the unredeemed deposits were no longer paid to the State beginning in 1996, the reporting requirements also were discontinued. The Commission did receive data on the Bottle Bill's effectiveness from one source: The Bureau of Alcoholic Beverages and Lottery Operations. A BABLO representative told the Commission that the agency calculated the rate of redemption on its sales of 6.7 million wine and hard liquor containers in Fiscal Year 2001 at 98.8%; for Fiscal Year 2000, the rate of redemption was calculated at 96.9%. It should be noted that members of the Commission generally accept as accurate the estimate that 90%-95% of all returnable containers sold are returned for refund.

H. Recycling Issues

The Commission heard testimony about several issues of concern to those involved in the recycling sector of the returnable container industry. (*See Appendix K for Commission member Fortin's memo to Commission members.*) Chief among these was the critical importance of maintaining a high quality for all recycled materials, particularly glass. Accurate color sorting of glass (into flint, amber or green colors) is necessary to produce a clean, high-quality crushed product, recyclers told the Commission. Crushed glass products that are overly contaminated by different colored glasses cannot be marketed by the recycler. The recycler's profitability depends on the recycler's ability to provide good quality scrap to the various recycled product markets. Of particular concern to recyclers was the quality of the crushed glass attributed to reverse vending machines. Recyclers also noted that once the glass bottle is crushed in an RVM there is no way to identify it as either a legitimate returnable or one that is fraudulently or unwittingly redeemed.

In addition to the issues of the recycling sector, the Commission also heard testimony about the role that returnable containers play in municipal recycling efforts (*See Appendix L*). The State Planning Office (SPO) reported that municipalities currently receive a 5% credit towards their overall recycling rate. The 5% is the percentage by weight of Maine's overall solid waste tonnage that is managed through the bottle bill. This percentage was determined by the former MWMA and the 5% credit has been continued by the SPO, which assumed the duties of the MWMA in 1995. However, the SPO suggested to the Commission that it may be time to recalculate the contribution the bottle bill makes to municipal recycling in light of the greater use of plastic containers by beverage manufacturers. Additionally, light-weighting of both plastic and aluminum containers has also likely reduced the total volume of waste represented by the bottle redemption effort. Finally, the SPO reported that with 70% of the non-recycled solid waste in Maine going into incinerators keeping the recycled glass out of incinerators improves the burning of the trash and reduces the volume of waste going to landfills.

The Commission also heard testimony from one regional municipal waste facility (RWS) seeking legislation that would allow quasi-municipal waste entities to be licensed as

redemption centers. This would allow these facilities not only to redeem the 5-cent deposit on tens of thousands of returnable containers that are discarded by residents at the municipal waste facilities, but also to collect the 3-cent per container handling fee from the manufacturer/distributor of the beverage product. The funds would be used to offset the cost to member municipalities of operating the waste facilities. The proposal to license municipal waste facilities as redemption centers would not require these facilities to operate as full-service redemption centers redeeming deposits to the general public. An RWS representative informed the Commission that 18% of household waste in his service area was recycled through programs in place at curbside, drop-off sites, and transfer stations.

(Although not detailed in this report, the Bureau of Alcoholic Beverages and Lottery Operations also provided the Commission with estimates of its bottle redemption expenses over the last 8 years, as well as information on its current contract with Returnable Services Inc. for pickup and recycling services. See Appendix M for related documents.)

III. Findings and Recommendations

As indicated above, the Commission began discussion of its findings and recommendations at its third meeting, continuing and finalizing its positions at its fourth meeting. Commission votes were taken on various proposed recommendations offered by members. The Commission is offering a package of recommendations that it believes will improve the day-to-day implementation of the Bottle Redemption Law and may provide the opportunity for analysis of longer-term improvements as well. Throughout the study process, Commission members and interested individuals were afforded the opportunity to offer suggested courses of action to the Commission. Following the final meeting, Commission staff drafted the final report incorporating adopted recommendations that was circulated to members for approval. This section contains a description of Commission findings and recommendations. Unless otherwise indicated, the recommendations described are unanimously supported by the Commission. *(A copy of draft implementing legislation is attached in Appendix N.)*

A. Container Handling Fee

Background: The primary charge to the Commission was to determine whether an increase is warranted in the handling fee for returnable beverage containers under the Bottle Bill. The handling fee is a minimum amount set in law that the initiator of the deposit is required to pay a redemption center or dealer for every bottle returned. It is added to the price of the product when the deposit is initiated. As its name indicates it is designed to help pay the cost of redemption centers incurred while receiving, sorting and storing returnable containers. The current minimum 3¢ fee per container became effective January 1, 1990 around the same time that the original Bottle Bill was expanded to include liquor, wine and most other juices and waters. The original Bottle Bill was enacted effective January 1, 1978 and provided at least a 1¢ handling fee per container.

In 1980, the law was amended to increase the fee to at least 2¢ per container. Although the amount of the fee established in law is a minimum, it has always been treated as the maximum amount because manufacturers and distributors who initiate the fee are reluctant to offer more because it would drive up the cost of their product. The Commission reviewed different ways and amounts to increase the handling fee. In the end, this was an area on which the Commission was unable to agree. Majority and Minority findings and recommendations follow.

Majority Findings: Maine's 3¢ handling fee is the highest in the nation. The industry projects that a 1¢ fee increase would add approximately \$6,000,000 to the overall cost of compliance with the Bottle Bill. Those costs would be passed along to consumers. Although the minimum handling fee has not increased since 1990, handling fee revenue has increased approximately 40% in that time period due to expansion of the bottle bill and volume increases (*see Appendix O showing growth of Maine Redemption Center revenues*). Maine has the highest number of redemption centers per capita in the nation and many of those redemption centers are not licensed (*see Appendix P showing the number of redemption centers per capita in bottle bill states*). There are no minimum or accepted standards of operational efficiency for redemption centers in Maine. Sorting requirements at redemption centers add to the inefficiency. A high volume of certain products (most beer and soda) requires relatively few sorts while a low volume of other products (juices and waters) requires a very high number of sorts. One possible means of reducing sorting inefficiencies would be to change the law so that distributors would no longer be required to pick up their brands from redemption centers. This and other possible solutions would require a substantial change to Maine's present law and need to be studied further.

Majority Recommendation: Eleven members of the Commission recommend that the current handling fee not be increased because (*see "findings of fact" in Appendix Q*):

- A handling fee increase would increase costs to Maine consumers
- An increase in the handling fee would not address underlying inefficiencies of the system.
- A handling fee increase would encourage more redemption centers to enter an already over-crowded market.
- Other less expensive changes can be made to improve the efficiency of the system. Those changes should be studied further. (*See majority recommendations under section G below.*)

Minority Findings: The handling fee has not been increased for over a decade. In that time, all the costs of operating redemption centers have increased substantially, i.e., the costs of labor, equipment, storage, sanitation activities and overhead. In addition, redemption centers may be subject to fees for the shipping cartons or plastic bags that some containers must be placed in prior to pick up. As result, even efficiently run redemption centers have difficulty attracting and keeping qualified workers, offering basic benefits like health insurance and investing in capital improvements.

Additionally, the minority contends that Maine has greater geography than Vermont and would likely need more redemption centers per capita. Further, redemption centers serve schools, hospitals, towns, stores, restaurants and non-profits. Redemption centers collect 70%-80% of the total 700 million containers redeemed in Maine annually. Reverse vending machines are helpful, but not a panacea. An increase of a quarter-cent in the handling fee will have no impact on the retail price of Maine microbrews, according to the minority.

Minority Recommendations: Two members of the Commission recommend that the handling fee be increased by 1/4¢ per year for 4 years beginning in 2003 bringing the handling fee to 4¢ per container in 2006 and subsequent years.

B. Registration of Container Labels

Findings: Current Department of Agriculture rule (360.10.B) adopted under authority granted in the Bottle Bill (32 MRSA §1871) requires manufacturers and distributors to submit the label and any printed material on a beverage container to the department for approval prior to selling the product in the State. The department does not interpret the law and the rule adopted under the law to authorize it to require registration of container labels as a condition of selling a product in Maine. The result is that there is no central up-to-date listing of all approved labels. That lack hinders efficient implementation of the law in several ways, but, particularly, it makes tracing the identity of deposit initiators difficult, especially for lesser-known brands of beverages. Even if it had the authority, at this time, the department lacks the resources and technical capacity to manage a central registry of container labels.

Recommendations: The Commission makes the following recommendations in this area.

- First, the label of every container subject to the Bottle Bill must be registered with the Department of Agriculture by the manufacturer prior to selling that product in Maine. Failure to register constitutes a violation subject to a \$100 forfeiture per violation (sale of each container). Registration of a label includes the UPC code for that product and identification of each initiator of deposit and each Maine distributor of containers bearing that label. The registration must also identify the method of collection for that product, including identification of the pickup agent and proof of the collection agreement if one exists.
- Second, the Department of Agriculture is required to establish a registry of currently in use returnable beverage container labels, which also identifies each initiator of deposit and each distributor for that label. The department must update registry information regularly and on request distribute the information in user-friendly form to redemption centers and other requestors. The department will

have adequate enforcement authority to ensure compliance and rule-making authority to implement this recommendation.

- Third, redemption centers are authorized to refuse to accept containers whose labels are not registered.
- Fourth, the Department of Agriculture is directed to coordinate with the Bureau of Liquor Enforcement and the Bureau of Alcoholic Beverages so that, to the maximum extent possible, registration for beer, wine and liquor under the Bottle Bill will not duplicate current registration requirements with those bureaus.
- Fifth, the Department of Agriculture is authorized to charge a reasonable fee for registration and annual renewals. *(See recommendations under section E for further discussion of department fees and funding issues.)*

C. Licensing of All Bottle Bill Participants

Findings: The major constituent groups affected by the Bottle Bill are represented on the Commission. The consensus of those representatives is that there are a number of concerns with the current operation of the law. Those concerns include lack of consistent oversight and enforcement and absence of useful information and advice concerning compliance with the law. In order to provide for a higher level of compliance with the law and to provide a source of funds to support the improved services at the state level, the Commission finds that an expansion of the licensing requirements under the bottle bills is necessary to cover the key participants—initiators of deposits (manufacturers, distributors or dealers, as applicable), redemption centers and third party collection agents.

Recommendations: The Commission recommends the following:

- First, a licensee under the Bottle Bill is required to do any of the following: initiate container redemption deposits, operate a redemption center or act as a third party collection agent.
- Second, a distributor or third party collection agent is not required to pick up containers from a redemption center that is not licensed.
- Third, the Department of Agriculture is directed to adopt rules governing annual licensure of the parties under the Bottle Bill as follows:
 - The Department of Agriculture is directed to adopt by rule a procedure for issuance of initial and renewal licenses for deposit initiators, redemption centers, and third party collection agents, including a licensing fee structure. In determining appropriate license fees, the department shall base the amount of fees on the actual cost of implementing increase responsibilities imposed by the

recommendations contained in this report. Initially, fees may be set at a level to cover one-time start up costs, but after initiation of the department's responsibilities under this report, fees must be set at a level to cover on-going costs only.

- With respect to licensing rules for redemption centers, among the criteria the department must consider are:
 - general public health and safety
 - sanitation protection when food is also sold on premise
 - convenience of the public, including distribution of centers by population
- Licensing rules are designated major-substantive under the Maine Administrative Procedure Act, which requires the department to submit the rules to the Legislature for approval before they may be enforced. The Legislature may approve, amend or veto the rules.

D. Department of Agriculture Assistance

Findings: The Department of Agriculture, Food and Rural Resources is charged by law with the responsibility of enforcing the Bottle Bill and other health and safety and weights and measures requirements for stores. In addition, the Commission is recommending additional licensing responsibilities for the department under the Bottle Bill. For those reasons, the department is also in an advantageous position to serve as an information source for dealers as well as the general public with regard to the requirements and operation of the Bottle Bill.

During its tour of Bottle Bill facilities and through testimony at its meetings, the Commission has heard evidence that there is some lack of clarity and misunderstanding about how the current law works. For example, dealers who do not know that they may designate a licensed redemption center to receive returnables on their behalf, manufacturers who do not know that they may initiate the deposit on their product and members of the public who are not clear which containers are returnable and which recyclable.

Recommendation: The Department of Agriculture is directed to incorporate a coordinated education program for Bottle Bill participants as part of its licensing and inspection responsibilities.

E. Funding of Commission Recommendations

Findings: The Department of Agriculture is not adequately funded to provide the increased level of regulation and support recommended by the Commission. Given current revenue projections, General Fund revenues will not be available to fund the recommendations. However, there appears to be recognition by affected parties of the

need for an increased enforcement role by the department and support by the parties for a fair, annual licensing and registration fee schedule as described above.

Recommendations:

- First, the Department of Agriculture is directed to work with affected parties under the direction of the Joint Standing Committee on Business and Economic Development to develop by rule a fee schedule for the licensing and registration activities recommended by the Commission. The level of fees must be adequate to support the increased level of costs resulting from implementation of the recommendations.
- Second, the fees collected for licensing and registration must be deposited in a fund dedicated for the administration and enforcement of the Bottle Bill. In apportioning work among its staff, the department may commingle inspection responsibilities of other programs it administers for efficiency purposes. However, funds generated by Bottle Bill licensing fees must be strictly accounted for and must be used only to fund the portion of staff time devoted to Bottle Bill enforcement activities.
- Third, any unredeemed deposits on liquor bottles must also be deposited in the dedicated Bottle Bill fund.

F. Deposit on Wine and Liquor Bottles

Findings: Currently, the deposit on wine and liquor containers more than 50 milliliters in size is 15¢ per container. Those are the only type of containers with a deposit greater than 5¢. Like all other containers, the handling fee is 3¢ per container. According to the Commission's understanding of the history of the bottle bill, the reason for the higher deposit for wine and liquor was concern that a greater incentive might be needed to encourage redemption of those products. Current experience shows that the higher deposit is not needed for that reason. For example, state liquor officials indicate that the return rate on liquor bottles is very high—in the 98% range statewide. The Commission heard testimony from redemption center representatives that higher payout on wine and liquor bottles causes cash flow problems for them. They have to pay out more up front but get only the same amount on pick as they get for nickel containers.

Recommendation: The Commission recommends that the minimum deposit for wine and spirits be decreased to 5¢ per container beginning January 1, 2003.

G. Review of Bottle Bill to Identify Long-Term Efficiencies

Majority Findings: As discussed above, the Commission believes there are a number of inefficiencies in the operation of the current Bottle Bill law. Some of those inefficiencies are the result of individual limitations of participants and current technology in the system

and some are imposed by the requirements of the law itself. While the Commission discussed several proposals for improving the system to improve technology, streamline procedures, eliminate steps in the handling process and reduce expenses, it was unable to complete those discussions and develop recommendations for specific changes in the current system during the time available to it

The majority of the Commission determined that the inefficiency in the bottle bill system is attributable primarily to the requirement that initiators/distributors collect their own containers from redemption centers before those containers go to recycling facilities. This requirement has two results: (1) it creates an additional (potentially unnecessary) step in the returnable container process, and (2) it necessitates the sorting of all containers by brand so that initiators/distributors do not collect and pay for another company's product.

The requirement that redemption centers sort containers by brand has become far more burdensome on redemption centers due to the expansion of Maine's Bottle Bill into non-carbonated beverages (i.e. juices and water) and the growth in the market of these products. Although these products make up only a small percentage of the overall volume of containers in the state they require a very high number of sorts by redemption centers. By contrast, soft drinks and beer, which make up the majority of the market, require relatively few sorts. The best way to improve the efficiency of the system would be to eliminate the requirement that initiators/distributors collect containers from redemption centers. By eliminating this requirement, redemption centers will no longer need to sort containers by brand, and the returned containers can go directly from redemption centers to recycling facilities. *(See Appendix R showing alternative process for handling returnable containers.)*

A majority of the Commission recommends the following:

Majority Recommendations: Eleven members recommend that the Joint Standing Committee on Business and Economic Development develop a process (possibly by continuing this study Commission, creating a new study group or conducting a study itself) to develop recommendations on improving efficiencies in the operation of the bottle bill. Those improvements may include redesign of the operation of the system, cooperative arrangement between redemption centers and distributors and collection agents regarding container pick up, changes in the law and technological improvements and other possibilities.

Minority Findings: The minority believes that while efficiencies are a goal that all parties to the Bottle Bill should continue to pursue, current law already allows for co-mingling and other efficiencies discussed by the Commission. Furthermore, the current law seems to work efficiently in that it recycles approximately 90-95% of returned materials and, therefore, does not need to be amended.

The minority strongly disagrees that the current bottle bill system requires initiators/distributors to collect their own containers from redemption centers before those containers go to recycling facilities. This is not accurate as evidenced by the current practices at supermarkets and some redemption centers and is not an accurate characterization of the current law, generally. Furthermore, the minority disagrees strongly that the current bottle bill system requires the sorting of all containers by brand. Sorting in current practices is by size, type and kind of those containers placed for sale in Maine by a distributor.

Minority Recommendations: The minority recommends that redemption centers need a handling fee increase for the reasons outlined by the minority in section A of the Findings and Recommendations notwithstanding any potential gains of efficiency from future studies. The minority contends that a study to find ways to extract future efficiencies already available under current law is unnecessary. The minority recommends that what is needed now is a modest increase in the handling fee that it advocates, as well as a resolve by the distributor industry to further the efficiencies available to it, including utilizing best practices currently available or by foregoing the unclaimed deposits.

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APPENDIX A
Enabling Legislation

H.P. 1389

**JOINT STUDY ORDER ESTABLISHING THE COMMITTEE TO
STUDY REIMBURSEMENT RATES FOR MAINE'S BOTTLE
REDEMPTION BUSINESSES AND OTHER ISSUES RELATED TO
THE HANDLING AND COLLECTION OF RETURNABLE
CONTAINERS**

WHEREAS, the reimbursement rate for the cost of the handling of beverage containers by local redemption centers has not been increased since 1990; and

WHEREAS, this reimbursement rate is established in law by the Legislature; and

WHEREAS, the number and complexity of issues surrounding the handling and collection of returnable containers require the collection of additional data before an informed decision on a change in the rate for reimbursement of handling costs can be made; and

WHEREAS, the Legislature would benefit from a comprehensive study of reimbursement rates for container redemption businesses and other related issues; now, therefore, be it

ORDERED, the House concurring, that the Committee to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers is established as follows.

1. Committee established. The Committee to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers, referred to in this order as the "committee," is established.

2. Membership. The committee consists of 13 members appointed as follows:

- A. One member of the Senate, appointed by the President of the Senate;
- B. Two members of the House of Representatives, appointed by the Speaker of the House;
- C. Three members representing owners or operators of bottle redemption centers currently operating in the State, appointed by the President of the Senate;
- D. Two members representing bottling companies, one of whom represents microbreweries, appointed by the Speaker of the House;
- E. Two members representing beverage distributorships operating in the State, appointed by the President of the Senate;
- F. One member representing recycling firms operating in the State, appointed by the Speaker of the House;
- G. One member representing 3rd-party collection agents, appointed by the President of the Senate; and
- H. One member representing an association of grocery stores with membership in the State, appointed by the Speaker of the House.

3. Appointments; cochairs. All appointments must be made no later than 30 days following passage of this joint study order. The appointing authorities shall notify the

Executive Director of the Legislative Council upon making their appointments. The Senator named to the committee serves as Senate chair and the first named House member serves as House chair. When the appointment of all members is completed, the chairs of the committee shall call and convene the first meeting of the committee no later than 15 days after the last member is appointed.

4. Duties. The committee shall study reimbursement rates for Maine's bottle redemption businesses and other issues related to the handling and collection of returnable containers. In examining these issues, the committee shall:

- A. Study the current operational costs of redemption centers to determine whether or not an increase in the reimbursement rate for handling costs is necessary and, if an increase is necessary, recommend the amount of the increase;
- B. Identify the interrelationships between beverage producers, distributors and redemption centers concerning the collection of returnable containers, review the current laws governing redemption centers and recommend any changes that will improve the efficiency and effectiveness of current bottle redemption and collection processes;
- C. Identify and investigate changes in technology relating to handling and recycling returnable containers that might assist bottle redemption centers in making their operations more efficient;
- D. Consult with representatives of the Department of Economic and Community Development and the Finance Authority of Maine to identify programs and funding sources to assist redemption centers in upgrading their operations;
- E. Investigate the nature and extent of fraudulent redemptions, review current state laws governing the illegal redemption of beverage containers not purchased in this State and make recommendations on ways to reduce or eliminate this activity; and
- F. Consider whether or not the State should continue to set the reimbursement rate for redemption centers for handling costs.

5. Technical and staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the committee. The Department of Agriculture, Food and Rural Resources, the Department of Economic and Community Development, the Finance Authority of Maine and the State Planning Office shall provide technical assistance to the committee upon request by the chairs.

6. Reimbursement. Members of the committee who are Legislators are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses for their attendance at authorized meetings of the committee. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the committee.

7. Committee budget. The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative

Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget.

8. Report. The committee shall submit a report that includes its findings and recommendations including suggested legislation to the Joint Standing Committee on Business and Economic Development and the Legislative Council by December 5, 2001. Following receipt and review of the report, the Joint Standing Committee on Business and Economic Development may report out a bill to the Second Regular Session of the 120th Legislature to implement the committee's recommendations. If the committee requires a limited extension of time to conclude its study and to make its report, it may apply to the Legislative Council, which may grant the extension.

**Passed by the House of Representatives June 21, 2001 and the Senate
June 21, 2001.**

APPENDIX B

Summary of LD 455

LD 455 An Act to Increase Reimbursement Rates for Maine's Bottle Redemption Businesses

SUMMARY

The primary purpose of this bill, sponsored by Sen. Longley, was to increase the handling reimbursement rate for redemption centers from 3-cents per container to 5-cents per container. After 4 hours of testimony at a public hearing and a work session, the Business and Economic Development Committee voted to amend LD 455 by striking and replacing the original text of the bill. Committee amendment "A" proposed to establish a 13-member study commission to study the handling fee reimbursement rate and other matters related to returnable containers. LD 455 was not removed from the Special Appropriations Table by the Senate and died on adjournment of the First Regular Session. However, prior to adjournment, both Houses passed a joint study order (HP 1389), which is virtually identical to the amended LD 455.

A summary of some of the relevant testimony from the public hearing is listed below:

TESTIMONY

PROPONENTS

- ◇ Redemption centers haven't had a raise in a long time
- ◇ Cost of recycled products has risen since 1990 when handling fee last increased (from 2-cents to 3-cents), but redemption centers not shared in those increased cost of products
- ◇ Only way redemption centers increase revenue, other than by increased volume, is through increase in handling fee
- ◇ In the face of rising operational costs, it is difficult for redemption centers to stay in business without additional handling fee income
- ◇ If cannot grant fee increase, than Legislature should put a limit on the number of licenses issued for redemption centers
- ◇ Returnable bottle program existed since 1978 and has withstood a number of efforts to weaken or repeal it
- ◇ One of reasons the program has been so successful is the ability of consumers to redeem their returnables almost anywhere in the state; strength of the system is the network of redemption centers
- ◇ The additional 2-cents for the handling fee may only represent inflation over the last 11 years since the last increase
- ◇ Based on CPI increase of 37.44% since 1990, the handling fee should be at 4.1-cents now to keep relative value of 3-cent handling fee stable
- ◇ As an alternative to 2-cent increase now, would propose a one-cent increase now and CPI indexing of fee in future
- ◇ One large redemption company reported that last time redemption department was in black was in 1996 and that it currently costs the company about 3.6-cents to handle a container
- ◇ Employee turnover also has been problem for centers; increased fee will allow them to pay more competitive wages
- ◇ The Legislature has complete control over what redemption centers make as income

OPPONENTS

- ◇ Do not see justification for a 40% increase in the returnable container handling fee; Maine's 3-cent fee is among the highest of all states that have bottle bill
- ◇ Increased fee penalizes the manufacturer, the originator of the deposit, and the retailer who must pass on higher costs to customers
- ◇ Higher handling fee will likely increase the number of redemption centers, spreading the potential higher revenue among even more players
- ◇ Maine has more redemption centers per capita than any other state due in part to the already high returnable-handling fee
- ◇ We should be looking for ways to remove unnecessary costs from system and adding efficiencies by replacing outdated beverage returnable systems
- ◇ One distributor reported that a 2-cent increase in handling fee would add \$2.3 million annually to the \$3.4 million the company already expends for handling fees
- ◇ Problem with redemptions along the NH border where rates are well over 100%
- ◇ Increase in fees will not increase rate of redemption, which already is estimated to be around 95%
- ◇ This is a regressive bill and will hurt consumers
- ◇ Will benefit only a small number of people
- ◇ For vending machines, will mean an additional nickel added onto the price of the product
- ◇ Number of distributors have declined while number of redemption centers has risen
- ◇ Other states operate with lower handling fees; perhaps have too many redemption centers and need to look at a cap on licenses
- ◇ Oregon has no handling fee and rate of bottle return is as high as Maine
- ◇ With a 2-cent wholesale cost increase, Maine consumers will pay at least \$12 million annually in higher prices; will add 40% to 50% to the net cost of distributors and manufacturers
- ◇ Centers with higher volumes have lower costs
- ◇ Fraud is major problem and increase in handling fee provides even greater incentive for fraud
- ◇ Formation of redemption centers was not a goal of the bottle bill; it was a means to an end

A number of issues/questions were raised during the public hearing. Among those were:

- Do we have an accurate figure for percent of bottles returned?
- What was the impact on product prices the last time fee increased?)
- What is the cost to industry of returnable bottle process?
- Do records exist among redemption centers that can demonstrate the need for a handling fee increase?
- Can the redemption centers demonstrate increases in operating costs that have resulted from changes in laws and regulations?

APPENDIX C

Commission Membership

**COMMISSION TO STUDY REIMBURSEMENT RATES FOR MAINE'S BOTTLE
REDEMPTION BUSINESSES**

STUDY COMMISSION MEMBERSHIP

Legislative Members:

Sen. Norman Ferguson Jr.
P.O. Box 36
Hanover, ME 04237

Rep. Gary Wheeler
46 Rollingwood Road
Elliot, ME 03903

Rep. Harold Clough
5 Ottawa Woods Road
Scarborough, ME 04074

Other Members:

Oakley Jones
Coca Cola Bottling Co. of N.E., Inc.
316 Western Avenue
S. Portland, ME 04106
Representing Beverage Distributorships

Dan Fortin
Capitol Container
152 Mt. Vernon Avenue
Augusta, ME 04330
Representing 3rd Party Collection Agents

Marcel Blanchette
715 Webster St.
Lewiston, ME 04240
*Representing Owners of Bottle Redemption
Centers*

Gregory R. Read
302 Redemption Center
28 Bridgton Road
Westbrook, ME 04902
*Representing Owners of Bottle Redemption
Centers*

Scott Solman
Maine Distributors
5 Coffey Street
Bangor, ME 04401
Representing Beverage Distributorships

Peter Welch
RSVP Distributors
168 Two Lights Road
Cape Elizabeth, ME 04107
Representing Owners of Bottle Redemption Centers

Laurence Pullen
Executive Vice-President
Seltzer & Rydholm
P.O. Box 1090
Auburn, ME 04210
Representing Bottling Companies

Leo Madden
Maine Recycling
61 Capitol St.
Lisbon Falls, ME 04252
Representing Recycling Firms

Ted Brown
Environmental Affairs Mgr.
Hannaford Bros. Co.
P.O. Box 1000
Portland, ME 04104
Representing an Association of Grocery Stores

Richard Pfeffer
Gritty McDuff's Brewing Co.
396 Fore Street
Portland, ME 04101
Phone: 772-2739
Representing Microbreweries

APPENDIX D

Follow-the-Bottle Tour Itinerary

Itinerary for Redemption Center Study Commission Tour

Tuesday, October 16, 2001
Portland/Westbrook, Maine

8:50 a.m. Meet State van of Exit 7-A: Coca Cola Co. Parking Lot

9:15 a.m. Tour of Allagash Brewing Co. at Riverside Industrial Park

10:00 a.m. Tour of Hannaford's warehouse in South Portland

11:00 a.m. Tour of Hannaford's Shop & Save at Maine Mall (+ View pickup by NexCycle)

11:45 a.m. Tour of One Stop on Western Avenue in So. Portland

12:15 p.m. Lunch at Riccetta's Pizza

1:15 p.m. Tour of NexCycle Inc. facilities on Brighton Avenue (Exit 8)

2:15 p.m. Tour of RSVP on Forest Avenue in Portland

3:00 p.m. Tour of 302 Redemption Center in Westbrook

3:45 p.m. Tour of Coca-Cola Bottling in South Portland (Exit 7-A)

4:30 p.m. End of tour

APPENDIX E

Staff Summaries of Commission Meetings

Joint Study Commission to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers

SUMMARY OF FIRST MEETING OF THE BOTTLE REDEMPTION BUSINESS STUDY COMMISSION

Commission members attending: Scott Solman, Richard Pfeffer, Peter Welch, Oakley Jones, Larry Pullen, Rep. Harold Clough, Sen. Norman Ferguson, co-chair, Rep. Gary Wheeler, co-chair, Marcel Blanchette, Leo Madden, Dan Fortin, Ted Brown, and Greg Read.

Staff attending: David Elliott and Chris Spruce, OPLA

1. **Staff presentations:** Staff presented commission members background materials on the Maine bottle bill law, the legislation that led to the creation of the study commission, bottle legislation and returnable container processes in other states and a review of prior studies of the bottle bill law in Maine.
2. **Topics/Focus of Commission Meetings:** The commission members conducted a wide-ranging discussion on topics that they would like to focus on during their three remaining meetings. Among those were:
 - The Canadian returnable bottle system with emphasis on New Brunswick
 - An explanation of the entire bottle distribution and redemption process
 - A first-hand look at each level of the system, from the bottler to the recycler
 - What State Government body should enforce the bottle redemption laws and regulations?
 - Examine ways to reduce the number of times bottles/cans are handled throughout the system, as well as the storage space requirement for returnables
 - Materials handling and recycling should be looked at
 - Get information/presentations from companies that provide technology for the bottle redemption-recycling system and find out what's working
 - Hear from State agencies that might provide financial/technical help to redemption centers: DECD, FAME, etc.

- Try to develop models that could be inserted into existing redemption centers to make them more efficient; find ideal “best practices” for taking back returnable containers
 - Look at the container sorting requirements and try to find innovative ways to reduce the number of sorts
 - Be prepared to propose changes to current State law to facilitate the adoption of some new technologies by the redemption centers
3. **How the Bottle Bill Works:** Commission member Dan Fortin guided other members of the commission through a chart that detailed how the bottle bill works in Maine. (*See attachment.*) Among Mr. Fortin’s observations were the following:
- ✓ The “initiator of the deposit” is not necessarily the distributor. State law needs to be updated to refer consistently to the “initiator of the deposit.”
 - ✓ Many redemption centers also pick up returnables from retailers.
 - ✓ Third party collection agents pick up returnables from both retailers and redemption centers per contractual arrangements.
 - ✓ The current system involves a lot of handling of containers and a lot of trucking of returnables
4. **Follow the Can Tour:** It was the consensus of commission members to view all facets of the returnable container process first-hand by touring various facilities in the Portland area on Tuesday, October 16, 2001. The tour would include visits to a brewing company, bottling company, returnable container warehouse, small and large redemption centers, a recycling company and small and large grocery stores. Staff was instructed to work out the logistics of the tour with members of the commission.
5. **Future meetings:** In addition to the October 16th tour in Portland, the commission also scheduled a business meeting following the tour for presentations on technology issues. (That meeting will be held beginning at approximately 4:30 p.m. on the 16th in Room B of the Woodbury Center at the University of Southern Maine.) The commission also set the dates and time of its final two meetings. Those meetings will be held beginning at 9 a.m. on both Monday, October 22, 2001 and Tuesday, November 6, 2001. (Both meetings will be held in Room 209 of the Cross Office Building.)
6. **Public comments:** At the completion of the commission’s business, Sen. Ferguson opened the meeting to comments from the audience. Among those were:
- ✓ Concern that the commission may place too much emphasis on technology that may be too costly for small centers
 - ✓ Technology does not have to be costly. Some machines are available that are not expensive and can help a center save money
 - ✓ The commission should consider municipal recycling in its deliberations. The chart discussed earlier in the meeting did not include municipal recyclers as part of the process although they handle a lot of materials

- ✓ The Department of Agriculture's enforcement efforts are under funded.
- ✓ Streamline the chart discussed earlier by giving Ag department a larger role in process
- ✓ Handling is a mess and it makes redemption center process labor intensive
- ✓ Workers' comp rating for centers is high risk
- ✓ Lots of problems with enforcement. \$100 fine on books for a fraudulent return but there is no one to call to complain to when you've caught someone trying to do it

7. **Requests to staff:** Various commission members made requests to staff for additional information to be presented at future meetings.

Joint Study Commission to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers

SUMMARY OF SECOND MEETING OF THE BOTTLE REDEMPTION BUSINESS STUDY COMMISSION

Commission members attending: Scott Solman, Richard Pfeffer, Peter Welch, Oakley Jones, Larry Pullen, Rep. Harold Clough, Sen. Norman Ferguson, co-chair, Rep. Gary Wheeler, co-chair, Marcel Blanchette, Leo Madden, Dan Fortin, Ted Brown, and Greg Read.

Staff attending: David Elliott and Chris Spruce, OPLA

1. **Presentations/Q & A:** The commission heard from a number of speakers, who were invited to provide additional testimony on their concerns about the handling and collection of returnable containers under the Bottle Bill, as well as to answer the questions of commission members related to the speaker's area of expertise.

a) **Hal Prince, Quality Assurance and Regulation Division, Department of Agriculture**, noted that the department has no resources dedicated solely to the enforcement of the bottle bill. Rather, the enforcement duties under the bottle bill are undertaken within the existing resources of the department and are integrated into the duties of consumer protection inspectors and analysts in his division. In response to questions from the commission, Mr. Prince noted that the department's inspectors are cross-trained to handle all of the department's inspection duties. Additionally, analysts train the field staff and handle call and complaints related to the department's regulatory duties. Mr. Prince said a lack of information among storeowners about their options under the bottle bill has not been identified as a problem. Although it is not emphasized, he said, storeowners are provided information about the bottle bill when field staff inspect their facility prior to opening for business.

Mr. Prince also said that while current law indicates that the Commissioner of Agriculture has authority over the licensing of bottle redemption facilities, the nature of that authority is somewhat vague. For example, he said, when the department receives an application to establish a redemption center and then checks its current database and

finds that the proposed center is in close proximity to an existing center, it is not clear that the department has authority to refuse to approve the application because the proposed center is too close to the existing center. Existing statute, he suggested, needs to be clarified to provide criteria to the department in determining whether a center should be licensed or not. Mr. Prince said it has not been the department's policy in recent years to require that every redemption center be licensed. He said the department has asked the Attorney General for a clarification of its authority under the statute, but has yet to receive such a clarification from the AG's office.

In response to a question from a commission member, Mr. Prince said a distributor is not required to pick up returnables from an unlicensed redemption center because if the center is not licensed, the department doesn't have any jurisdiction over it and thus cannot enforce existing law with respect to the center's operation or the relationship of distributors to that center. Once again, Mr. Prince noted that the department's ability to enforce current redemption center law has been hampered by a lack of clarity in the department's authority and a lack of criteria concerning cleanliness, location and other aspects of the operation of a stand-alone redemption center.

Asked to characterize the top 2 or 3 complaints logged at the department regarding redemption centers, Mr. Prince replied that the majority of requests from redemption centers concern who is responsible for picking up certain brands of returned cans and bottles. Other complaints concern operation of apparently unlicensed centers and from consumers looking for locations to take their returnables. The department, he said, does the best it can to keep track of the various brands and labels of products, but has not been able to create a database of distributor products that allows it to effectively respond to those inquiries. Mr. Prince noted that the department does review labels when a company offers a new product, but it does not require that that label be registered. A registration requirement might be helpful, he concluded, adding that he was not aware that the Bureau of Liquor Enforcement within the Department of Public Safety requires brewers to register their labels annually. Mr. Prince said the department's regulatory division oversees 6000 licensed food establishments, about half of which are considered "high risk." Those high-risk establishments are the main focus of the department's inspection program, he said. Asked if providing the department discretion with respect to limiting the number of centers per population served would be appropriate, Mr. Prince replied that limiting the number of centers might be helpful to enforcement efforts. One member noted that a study on redemption centers and population served showed that Maine has 2.5 redemption centers per 10,000 population compared to Vermont that has 1 center per 10,000 population and Massachusetts with .5 centers per 10,000 population.

In response to questions about taking action against manufacturers who do not comply with provisions of the state's returnable deposit law, Mr. Prince said that during his tenure, the department has not taken enforcement action against manufacturers in such cases. "We try to get voluntary compliance," he said. When the department alerts

manufacturers of their duties under the law, they are usually anxious to comply, Mr. Prince said.

b) **Bob Newhouse, Bureau of Alcoholic Beverages and Lottery Operations**, outlined the bureau's process for obtaining pickup of liquor and wine returnables for which the State is the initiator of the deposit. Typically, he said, the bureau receives 2 to 3 bids for the 3-year contract with a third-party collection agent. The current agent is Returnable Services Inc. of Augusta, he noted. In response to member questions, Mr. Newhouse noted that the \$520,000 transferred to the General Fund for unredeemed bottle deposits, was not from FY 1999 alone, but represented accumulated unredeemed deposits from a few years. Mr. Newhouse said he had been unable to determine prior to the meeting whether any transfers to the General Fund from unredeemed deposits had been made since 1999 and that he would follow-up with bureau staff on that issue. He noted that of the 6.7 million alcohol and wine bottles sold in the State in FY 2001, 98.8% were redeemed. In FY 2000, the return rate was 96%.

Asked about the criteria the Bureau uses for establishing new agency stores, Mr. Newhouse noted that the law requires 3.5 miles distance between stores. With replacement agency stores for the soon-to-be-closed state liquor stores, however, the distance is not a factor, he said. Current law states that in communities with populations of 20,000+, up to 6 replacement agents may be designated. In municipalities with populations under 20,000, only 3 replacement agents may be designated.

Mr. Newhouse said that in FY 2001, 11% of the state bottles redeemed were crushed in reverse vending machines (RVMs), representing about 71,000 cases of product. Only about 4,000 cases, or .6 of 1% of sold containers, were redeemed at state liquor stores, he added.

c) **Trish Boutot, Tomra Maine**, provided the commission with prepared materials concerning RVMs and container recycling. She noted that most commission member had the opportunity to view the prototype of Tomra's new T-600 machine during its tour of Portland area facilities on October 16th. That machine, she said, will help with the issue of contaminated glass resulting from crushing machines where the consumer may disregard glass-sorting requirements of the RVM. The T-600, Ms. Boutot noted, will separate inserted bottles by color field using the products bar code, dropping the different colored crushed glass into separate barrels underneath the machine. If the bottle's bar code is not in the T-600 memory, the machine will reject the bottle. "The machine is only as good as its bar code file," Ms. Boutot observed, adding that mandatory product registration by the Department of Agriculture would help Tomra maintain a current bar code database and make the machine more efficient. Conversely, one member observed, Tomra sharing its database of UPC codes might assist the State in tracking labels.

In response to a question from a commission member, Ms. Boutot said Tomra evaluates the volume in a location before it installs one of its RVMs to make sure that it will be profitable. She also indicated that the range of prices for the RVMs vary from \$4,000 to

\$23,000, depending on whether or not the machine is leased or purchased and the nature of the contract with the client concerning maintenance. Ms. Boutot also said in response to a question that Maine has the lowest RVM rate of all of the bottle bill states, as well as fewer RVM installs. She attributed this to sales slowdowns related to the transfer in ownership of the RVM company in Maine. Tomra is now making more sales efforts in Maine. Asked why the RVM is a “hard sell” for “mom-and-pop” redemption centers, Ms. Boutot replied that the small centers working on a small margin want the RVM to do everything for them. There currently is no machine available that will do everything the redemption center operators want it to do, she said.

In response to commission member Oakley Jones’ concern about the potential for fraud with the use of scanners and wands that read the bar codes, Ms. Boutot said the T-600, which will accept 96% of available product as returnables, will reduce the need to use scanners and wands. As for fraudulent returns because of uniformity in bar codes for products regardless of where they are purchased, she said that bar code problem was not the fault of the RVM. She suggested that variations in the bar codes for products sold in states bordering a bottle bill state might be one solution to the problem.

Commission member Dan Fortin said crushing the glass containers, as is done with RVMs, makes it difficult to prove that a bottle has been fraudulently redeemed. The only way a determination on fraud can be made, he noted, was to actually look at the bottle. Once the bottle is crushed, that option is removed. The commission member said another concern with RVMs was the quality of the recycled material. The RVM takes control of the quality of materials out of the recycler’s hands, he said. Ms. Boutot replied that the bottles going in are hand-fed and that the machine cannot control how that is done. She added that the T-600 was made for Maine to help with that problem and that Tomra also is working on a system that will feature a hand-scan on one side and a crusher on the other. The crushed product would then go on a conveyer and then to color sorting. That “monster machine” will handle five commodities, she said. The new machine should be available in a month or two, she said.

d) George MacDonald, Program Manager for the Waste Management & Recycling Program at the State Planning Office, was unable to attend the meeting but submitted written comments to the commission. (*See attached.*)

e) Eric Root, Regional Waste Systems, asked the commission to consider recommending legislation that will allow RWS (or similar quasi-municipal entities) to become redemption centers, thus allowing RWS to redeem the 5-cent deposit on the tens of thousands of returnable containers that are discarded by residents at the RWS collection sites, as well as to collect the 3-cent per container handling fee from the distributor. These funds, said Mr. Root, would be added to RWS’s revenue stream and would likely reduce the cost of operating the system for member municipalities. He said RWS has tried to contract with area redemption centers to redeem these containers, but has been unsuccessful in sustaining those efforts.

One local redemption center owner told the commission that the “vast majority” of the returnables collected by RWS is “odd stuff.” The sheer volume of that material and the labor required to sort it does not make it a profitable enterprise for most redemption centers, he said. Mr. Root agreed that it probably wasn’t profitable for redemption centers to collect the returnables at RWS, but, at the same time, the unredeemed containers represent “a lot of value and a lot of volume.” He also said that RWS did not want to become a redemption center where the public would redeem their containers for the 5-cent deposit, but would like the opportunity to redeem the containers for the 5-cent deposit and handling fee.

f) **Deborah Cole, Commercial Loan Officer, Finance Authority of Maine, and John Butera, Director, Office of Business Development, Department of Economic and Community Development**, briefly described programs at their respective agencies that could be used to assist redemption center businesses. Ms. Cole described 3 programs at FAME that could be used to provide loans to redemption centers in need of financial assistance to either purchase equipment or to make improvements to their facilities. These were: the Waste Reduction and Recycling Loan Fund, the Economic Recovery Loan Program, and the Small Business and Veterans Small Business Loan Guaranties. *(See attached written testimony for additional information.)* Mr. Butera said that his agency would probably be better able to help redemption center business with technical assistance rather than capital equipment purchases. He listed a number of programs offered by DECD, including its 11 field staff located throughout the state in regional economic development agencies. Field staffers are essentially “resource brokers” for small businesses in their respective regions, providing them with a link to various assistance resources. DECD’s Energy Division also provides assistance to small businesses by conducting walk-through energy audits of their businesses, Mr. Butera said.

2. **Commission discussion:** Following the various presentations, the commission held a wide-ranging discussion that resulted in preliminary recommendations in the following areas:

- Label registration
- More specific information on bottle bill to new storeowners
- Clarify redemption center licensing process

At the next meeting, staff will present draft preliminary recommendations based on the commission’s discussions at the October 22nd meeting.

3. **Unfinished business:** Discussion on a number of issues that could become recommendations of the commission was continued to the next meeting. Among these issues were:
 - Urging the revival of the redemption center association for the purpose of establishing a self-insuring for worker’s compensation (D. Fortin)

- Formulating an alternative process for handling returnable containers that reduces the number of times a container is handled. This could be put forward as a starting point for a successor study committee (Rep. Clough)
 - Considering a proposal to increase the handling fee paid by distributors to the redemption centers. (P. Welch)
 - Establishing best management practices (BMPs) for the operation of redemption centers (O. Jones/T. Brown)
4. **Requests to staff:** Staff was asked to develop a chart that “follows the money” through the returnable container system. Staff also was asked to follow-up with the AG’s office on clarification of the Department of Agriculture’s authority with respect to licensing of redemption centers. Staff also was asked to obtain additional information on the Bureau of Liquor Enforcement’s label registration process and to outline a process for establishing best management practices for redemption centers.
5. **Final meeting:** 9 a.m. Tuesday, November 6, 2001 in Room 209 of the Cross Office Building.

APPENDIX F

Department Rules for Bottle Bill

01-001 DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES

DIVISION OF REGULATION

Chapter 360: RESPONSIBILITIES OF MANUFACTURERS, DISTRIBUTORS, DEALERS
AND REDEMPTION CENTERS UNDER THE RETURNABLE
BEVERAGE CONTAINER LAW.

SUMMARY: The purpose of these Chapters is to clarify responsibilities of manufacturers, dealers, distributors and redemption centers for the pickup and sorting of empty beverage containers and establish a time for payment of deposits, refunds and handling charges under the Returnable Beverage Container Law.

These regulations also govern items affected by expansion of the Maine Beverage Container Law (32 M.R.S.A., Chapter 28, Sections 1861-1872), namely wine containers, which by statute will be affected September 1, 1990, and other beverage containers which by statute will be affected on December 31, 1990, (Sec. C, P.L. 1990, c. 869) ; and clarify Section 1866 (6) which requires all beverage distributors (including distributors of alcoholic beverages and soft drink beverages) to annually report totals.

1. Definitions

- A. Unless the context otherwise indicates, the definitions contained in 32 M.R.S.A. Sec. 1862 also apply to the defined words and phrases as used in this chapter.
- B. As used in this chapter and unless the context otherwise indicates, the following words and phrases shall have the following meanings:
 - (1) "Beverage" means beer, ale or other drink produced by fermenting malt, spirits, wine, wine coolers, soda or noncarbonated water, and all nonalcoholic carbonated or noncarbonated drinks in liquid form and intended for internal human consumption, except for milk and dairy derived products.

The term "beverage" excludes the following:

- (a) A liquid which is (i) a syrup, (ii) in a concentrated form or (iii) typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces or condiments;

- (b) a liquid which is ingested in very small quantities and which is consumed for medicinal purposes only;
 - (c) a liquid which is designed and consumed only as a nutrition supplement and not as a beverage;
 - (d) products frozen at the time of sale to the consumer, or, in the case of institutional users such as hospitals and nursing homes, at the time of sale to such users;
 - (e) products designed to be consumed in a frozen state;
 - (f) instant drink powders.
 - (g) seafood, meat or vegetable broths, or soups, but not juices;
 - (h) farm produced apple cider, which has not been heated, pasteurized or otherwise processed.
- (2) "Brand" means the designation of product as determined by a separate trademark.
 - (3) "Kind" means the general composition of a beverage container, such as plastic, glass or metal.
 - (4) "Member Dealer" means any dealer who is included in the order approving a local redemption center as issued by the Commissioner.
 - (5) "Milk and dairy-derived products means whole milk, skim milk, cream, low-fat milk, or any combination and includes other products of which the single largest ingredient is whole milk or milk fat or milk with varying percentages of milk fat.
 - (6) "Redemption Center" means a place of business which deals in acceptance of empty returnable beverage containers from either consumers or from dealers, or both, and which is licensed by the Maine Department of Agriculture, Food & Rural Resources, Division of Regulations as a redemption center.
 - (7) "Paper or cardboard container" means a container which is composed of at least 80 percent by volume of paper material, by statute such containers do not require a deposit.

- (8) "Shell" means the standard trade package made of fiberboard, wood or plastic designed for packaging, carrying or transporting glass or plastic beverage containers.
- (9) "Shipping carton: means the standard trade package made of cardboard or other material designed for packaging, carrying or transporting all types of nonrefillable beverage containers, and includes plastic bags used for the return of such nonrefillable containers.
- (10) "Size" means the liquid content of a beverage container, such as 500 ml., 2 liter.
- (11) "Type" means the unique physical design or construction of a beverage container, such as a flip top container.

2. Licensing of Redemption Centers

- A. Applications for approval of redemption centers shall be filed annually with the Department. A \$20. 00 application and license fee shall accompany each application.
- B. Applications shall be made on a Department form entitled "Application for Redemption Center License" and shall supply the information requested thereon.
- C. The Commissioner shall approve an application for a redemption center if he finds that the center will provide a convenient service for the return of empty beverage containers. In making this determination with respect to an existing center, the Commissioner may consider its compliance with the requirements of this chapter and the quality of the service provided.
- D. Redemption centers shall apply to the Commissioner for approval of any additional members obtained after the then-current annual license has been issued. The Commissioner's decision shall be made according to the criteria set forth in subsection C above.

3. Operation of Redemption Centers

- A. All empty beverage containers shall be separated from food products sold on the premises by a solid partition.

- B. Redemption centers shall be operated in such a manner as not to be a nuisance to the surrounding area. They shall also comply with the inspection standards contained on the Department form entitled "Redemption Center Inspection" which standards are incorporated herein by reference.
 - C. Redemption centers shall be open for business (i.e., acceptance of empty beverage containers) a reasonable number of hours, the volume of returns and area population considered. Redemption centers shall post their hours of operation in a conspicuous place.
 - D. The location of proposed and existing redemption centers shall be convenient to the customers to be served thereby.
 - E. Redemption centers may charge a fee to members.
 - F. A redemption center may pick up beverage containers from non-members.
4. Acceptance of Beverage containers by Distributors from Dealers and Redemption Centers
- A. A dealer or redemption center shall tender to a distributor only empty, unbroken and reasonably clean beverage containers of the kind, size and brand sold by the distributor.
 - B. Except as provided in paragraph C, a dealer or redemption center shall be required to sort beverage containers subject to the Bottle Law of January 1, 1978, for which a refund value is statutorily required, namely, those containing beer, ale or other drink produced by fermenting malt, wine coolers, soda, and all non-alcoholic carbonated drinks in liquid form and intended for internal human consumption. These containers shall be sorted and tendered to a distributor as specified below:
 - (1) Glass containers shall be sorted by size. Refillable glass containers shall be tendered in shells provided by the distributor.
 - (2) Metal containers shall be sorted by size and may be tendered in shipping cartons.
 - C. A dealer or redemption center shall be required to sort beverage containers subject to the expansion of the Bottle Law, January 1, 1990 and later, namely those containing wine, non-carbonated water and all noncarbonated drinks in liquid form and intended for internal human consumption,

excepting those liquids noted in definition (1) a - h in this regulation. These containers shall be sorted and tendered to the distributor as specified below.

- (1) Empty containers shall be tendered to the distributor in shells or shipping cartons provided by the distributor or other containers mutually agreed upon by the distributor and retailer.
- D. Pick-up of such beverage containers from a dealer or local redemption center shall be the responsibility and expense of the distributor, unless the distributor has made other arrangements satisfactory to the dealer or redemption center for recycling or disposal of beverage containers.
- E. Containers may be sorted in other manners consistent with 7 herein.

5. Frequency of Pick-up by Distributors from Redemption Centers

Each time the distributor makes a regularly scheduled delivery of beverages, he shall pick up beverage containers from licensed redemption centers designated to serve those dealers to whom that distributor has sold those beverages, unless the local redemption center agrees otherwise; provided, however, that where a distributor can affirmatively demonstrate to the Commissioner that the following conditions exist, a waiver may be granted:

- A. The redemption center shall not request pickup of containers where the amount on hand is less than a combined total of 1,000 containers for which that distributor is responsible.

In order to be eligible for a waiver, the distributor must demonstrate that:

- (1) the stops required under these rules yield, on the average, less than 1,000 containers for which the distributor is responsible; and
 - (2) Less frequent stops would alleviate an unreasonable financial or other hardship.
- B. After a waiver is granted, a distributor shall continue to have the obligation to pick up containers from a licensed redemption center designated to serve those dealers to whom that distributor has sold those beverages, but only in accordance with the following:
 - (1) The distributor shall initiate pick up within one week of the request.

- (2) Pick up by the distributor shall be during the regular business hours of the redemption center, provided the redemption center is in operation at least 40 hours per week. Those redemption centers who conduct business less than 40 hours per week shall cooperate with a prearranged pickup time at the convenience of the distributor and shall allow for transportation delays.

6. Time for Payment by Distributors to Dealers and Redemption Centers

- A. The distributor shall pay the dealer or local redemption center all applicable refunds, deposits and handling charges no later than ten (10) business days after acceptance.
 - (1) If payment is made by mail, payment shall be deemed to take place upon mailing.

7. Private Contracts and Business Transactions

These rules shall not be interpreted to prohibit any other arrangements for sorting, delivery, acceptance of payment or other matter related to beverage containers, which arrangement is consistent with Title 32 M.R.S.A. Sec. 1861 et seq and is mutually agreed upon in writing between the distributor and the dealer or redemption center.

8. Refusing Payment When a Distributor Discontinues A Specific Beverage Product

Distributors, dealers and redemption centers shall not refuse to pay the refund value of the returned beverage container as established by 32 M.R.S.A. Sec. 1863, as amended, except that distributors, dealers and redemption centers may refuse to pay such refund value in the following situations:

- A. A distributor may refuse to pay the refund value if the distributor has given notice, in writing, to dealers to whom the distributor sold similar beverage containers and the licensed redemption centers serving those dealers that the particular kind, size and brand offered for refund has been discontinued and at least 4 months have elapsed since the mailing of such notice;
- B. A dealer or redemption center may refuse to pay the refund value of beverages discontinued by distributor in accordance with subsection a) ,

above, no sooner than 3 months after the distributor has mailed the notice required by subsection a.; and

- C. In no event shall a dealer or redemption center refuse to pay the refund value of discontinued beverages unless such dealer or redemption center shall have posted for at least 30 days a conspicuous notice advising consumers of the final date of acceptance.

9. Refund Value Initiation

Initiation of the deposit for non-refillable containers, sold through distributorships which have no exclusive geographic area may take place at the manufacturer level at the manufacturer's discretion; otherwise initiation of the deposit shall take place at the distributor level.

10. Clearly Defined Labeling Requirements

- A. Placement of label; method of labeling. The refund value and the word "Maine" or the abbreviation "ME" shall be clearly and conspicuously indicated on every beverage container, with the exception of brand name glass beverage containers, sold or offered for sale by a dealer in this State, which are subject to 32 M.R.S.A. Section 1865 subsection 2, by embossing, stamping, labeling or other method of secure attachment to the beverage container. The refund value shall not be indicated on the bottom of the container. Metal beverage containers shall the word "Maine" or abbreviation "ME" on the top of the container.

- B. Approval of container labels. Prior to sale within the State, manufacturers or distributors must submit the entire label (including any printed material on the container) to the Department of Agriculture, Food and Rural Resources, Division of Regulations for approval.

Additionally, if a manufacturer directly prints or embosses the Maine redemption value directly on the beverage container, the manufacturer or distributor must submit such labeled container to the Department of Agriculture, Food and Rural Resources Division of Regulations for approval. Placement suitability and security of the mark will be examined.

- C. Use of refund/deposit stickers; approval of redemption stickers. Stickers with the redemption value and state will be allowed only on products subject to the expansion of the bottle law, with the exception that stickers on cans

for which a refund value is for the first time statutorily required effective December 31, 1990 will be allowed only until March 31, 1991. Thereafter, these containers must have the more permanent refund value message affixed under paragraph A of this section. Prior to sale within the State of a container to which a separate sticker stating the refund value is to be affixed, the manufacturer or distributor must submit the sticker to the Department of Agriculture, Food and Rural Resources, Division of Regulations for approval. Placement, suitability and security of the mark will be examined.

EFF

11. Reporting Requirements

Distributors' reports required by 32 M.R.S.A. Sec. 1866.6 shall be made on forms available from the Department of Agriculture, Food and Rural Resources, Division of Regulations. A distributor is not required to report for calendar year 1990 with respect to containers for which a refund value is statutorily required for the first time effective December 31, 1990.

Figures to be reported include those for containers for which a deposit/refund value was charged prior to the date required by statute as well as those for which such refund value was required.

12. Exempt Facilities

Based on a determination of the Department pursuant to P.L. 1989 c. 585 Part D s 10, containers of farm produced apple cider will be exempt from the required refund and deposit. Distributors and cider producers shall receive empty containers of farm beverage from consumers who voluntarily return them without deposit. The opportunity for consumers to return empty containers shall be conspicuously posted at processor's place of business and will encourage the return of containers to the processor for recycling.

STATUTORY AUTHORITY: 32 M.R.S.A. Sec. 1866.5 and 1871

EFFECTIVE DATE: April 22, 1980

AMENDED: November 5, 1980

March 11, 1981 - Sec. 1(B) & Sec. 4 (A, C)

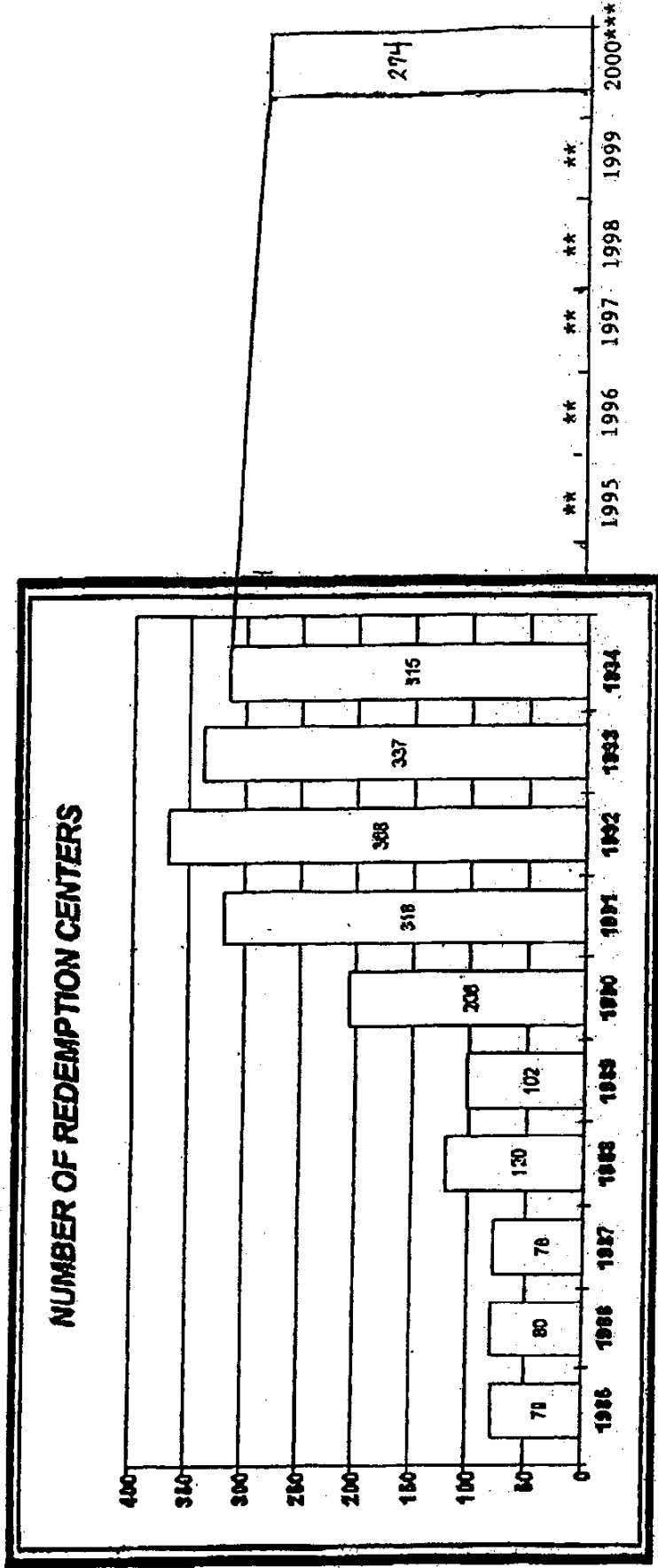
April 6, 1988 - Sec. 1 (B) (3 & 4) & Sec. 8 & 9

February 28, 1989 - Sec. 5

September 2, 1990

APPENDIX G

Maine Department of Agriculture Chart on Redemption Centers



* Figures from Maine Dept. of Agriculture
 ** Years 1995 - 1999 unavailable from the Dept. of Agriculture
 *** Year 2000 inserted (figure provided by Dept. of Agriculture)

APPENDIX H

Testimony Submitted by Trish Boutot, Tomra Maine



The following is an overview of BEAR and the MSRP analysis.

The Report titled "Understanding Beverage Container Recycling" from the BEAR Alliance's Multi-Stakeholder Recovery Project, is expected to be finalized in November 2001. Information about BEAR and the MSRP is available at the following Web Site <http://www.globalgreen.org/BEAR/>. When completed, I can make copies of the report available to the Committee and any interested party. Further, should the Committee want more information about the BEAR Report, I can arrange for our company's representative on BEAR to meet with the Committee or its staff.

Contact: Trish Boutot
Tomra Maine
80 Pine Tree Industrial Parkway
Portland, ME 04102
tboutot@tomrana.com
207-774-7447

Thank you.

UNDERSTANDING BEVERAGE CONTAINER RECYCLING

Businesses and Environmentalists Allied for Recycling (BEAR), a project of Global Green USA, is a unique alliance of businesses, recyclers, environmentalists and other stakeholders dedicated to increasing the national recycling rate for used beverage containers from 40 to 80%. Its members are united by agreement on principles including: minimizing environmental impacts while improving all packaging, creating sustainable jobs and businesses, and working with clarity and honesty to understand costs and evaluate the widest range of policies and practices to achieve its goal.

The Multi-Stakeholder Recovery Project (MSRP) is one of BEAR's central efforts to move towards its 80% recycling goal. In this project, stakeholders from throughout the beverage and recycling value chain are working together on a Task Force to identify innovative strategies to increase beverage container recycling consistent with a set of eleven guiding principles. **The foundation for the effort is a Value Chain Analysis documenting the costs and benefits of alternative recovery programs.** The project is being planned in three stages. Stage One, expected to be complete in Fall 2001, is aimed at reaching agreement on broadly-defined recovery programs and strategies. Stage Two will likely involve refining the adopted recovery programs, preparing a detailed implementation plan and securing needed support and other commitments. Stage Three will involve implementation.

The Multi-Stakeholder Recovery Project (MSRP) is the first known effort to comprehensively evaluate recycling opportunities throughout the beverage container value chain, based on the principles of systems thinking. Conceptually, _



the MSRP strategy is based on the belief that understanding the whole system is the best way to address any dysfunction within a system, a model well known, whether in biology or engineering. To provide an objective, quantitative analysis of costs, BEAR has retained a research consulting team comprising R.W. Beck, Inc., Franklin Associates, Ltd., the Tellus Institute and Sound Resource Management Group.

RVMs (Reverse Vending Machines)

Typical of manual redemption systems is the high percentage of labor costs. Any reduction in labor costs will reduce total system costs. The use of reverse vending machines (RVM) in some bottle redemption states has reduced labor costs associated with redeeming containers – and this is our experience here in Maine.

RVMs are typically located in supermarkets or recycling centers, and reduce the labor expense in the redemption area, sorting and storage areas and accounting departments. The machine identifies the container and owner by the barcode marking. It sorts containers by material type, then compacts or shreds the containers in order to destroy the barcode, increase storage capacity and reduce transportation costs. RVMs will accept aluminum, glass, PET or steel. (Testing currently being conducted in MI and CA, accepting HDPE.)

Retailers, Redemption Centers and Distributors can take advantage of a range of opportunities provided by the technology of the RVM. The RVM facilitates the “Reverse Logistics” of moving the containers from their point of collection through the recycling chain. On-line reporting and maintenance services provide more cost-effective management of the collection and transportation process. Further they give more reliable inventory and cash control, by taking care of the deposit accounting and billing. This relieves the retailers, redemption centers and bottlers from the labor and administrative challenges associated with container recovery.

There is additional information on Tomra’s Role in Recycling in the various company literature I have available.

Please feel free to contact me, with any inquiries/questions.

Contact: Trish Boutot
Tomra Maine
80 Pine Tree Industrial Parkway
Portland, ME 04102
tboutot@tomrana.com
207-774-7447

Thank you.



Distributor:

Most Frequently Asked Questions:

Question: What does RVM do for me?

Answer: RVM gives an accurate detailed report of what was accepted (via UPC code) and what is due to the retailer/redemp. The container is crushed, whereas the UPC code is destroyed, eliminating over-redemption.

Question: How can I be sure I am billed for my product only?

Answer: All data processed is based on the UPC code of the product. Then, the deposit initiator is determined (usually based on territory or state county). **Communication from all parties involved is crucial in this process. (As products can change deposit initiator) Including an up to date contact person and phone number from all deposit initiators; and communicating these updates.** All RVM's are equipped with "Cheat Detection Devices", and any location using a Hand-Scanner can be modified to your specifications. IE: Require any product which can go RVM, to go RVM, therefore the percent hand scanned would be minimal. Also, there is the option to not crush items accepted via hand scan, (being able to visual see products scanned), install video cameras to hand scan locations.

Question: What about Fraud?

Answer: Tomra makes every effort to research and develop systems to reduce fraud. These fraud issues, however, are no fault of the RVM. The RVM is programmed to accept containers sold within the state, with deposit initiator responsibility assigned. **Any container not accepted within the state is rejected to the customer, with no refund. This is a flag sent out from the RVM to anyone in the expertise to assist. IE: Enforcing out of state returns , mandatory state product registration.**

Question: How do I pick-up my product?

Answer: A Pick-Up Agent is assigned to pick up all products co-mingled at a location. There is typically a fee to the Pick-Up Agent, however, typically the fees are less than traveling all over the state picking up your product at every location it was redeemed.



Redemption/Retailer

Most Frequently Asked Questions:

Question: What can RVM do for me?

Answer: RVMs can save labor costs,(IE: not having to do extensive sort training to personnel, less employees, means less salaries to pay and to less Workman's Comp Insurance to pay), RVM's save space. Statistics are available. Accountability of scrap recorded. (IE: Pick-Up Day is not a long process, watching and counting what is leaving your building, it becomes basic pick-up day to you). Basically a win- win situation whether you choose to back room feed, or customer feed. Though it most effective for customer feed.

Question: How much does it cost?

Answer: There are options for every situation, based on volume, need, and/or budget. There are new, used and refurbished machines available for sale or lease. Tomra has an impressive service plan to eliminate downtime. Other plans available, are to start out with handling (1) commodity through automation, than move to the next. Administrative fees are based upon volume, per container or a set price can be set. A full analysis of your facility can be conducted and suggestions made for effective systems available. There is a system available for every need and budget.

Question: Who picks up the scrap?

Answer: A Pick-Up Agent working within your territory of the state picks up the scrap. There is no fee to you for scrap pick-up. This also eliminates several different pick-ups, at several different times of the day and week. There is one agent, one truck picking up at a set time.



NTEP

A weight and measures certification

In speaking with the IT Systems Dept at Tomra of North America, at this time we have not fallen under these standards to our knowledge, However are more than willing to comply.

Tomra of North America does hire independent auditors for various certifications and approvals.

¹ Tomra Maine October 22,2001

APPENDIX I

Testimony Submitted by Deborah Cole, FAME

Commission to Study Reimbursement Rates for Maine's Bottle Redemption Businesses
and Other Issues Related to the Handling and Collection of Returnable Containers
Address Rm 209

Good Afternoon. I'm happy to address the members of the Commission to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers. My name is Deborah Cole and I am a Commercial Loan Officer at the Finance Authority of Maine. I am here to provide some brief summary information to the Committee on programs at FAME that could be used to assist redemption center businesses.

The Finance Authority of Maine has three (3) separate programs that could be used to provide loans to businesses in need of financial assistance to either purchase equipment, or make improvements to their facility so that they can handle bottle redemptions.

First,

Waste Reduction and Recycling Loan Fund: Probably the most tailored one to their needs, is the Waste Reduction and Recycling Program. The program was created in 1985 and provides loans to businesses seeking funds for a project that conforms to the goals of the Waste Management and Recycling Plan. The Waste Management and Recycling Plan is now administered through the State Planning Office and FAME works cooperatively with SPO, who determine eligibility under the Plan.

The program provides loans of up to \$100,000. Interest rates for the program are 4% and 8%. The 4% interest rate is available to those businesses having gotten 50% or more of the total cost for the Waste Reduction and Recycling project from another source. The 8% interest rate is available to those who have not procured 50% or more of the cost from another source. Terms are up to seven (7) years, but typically around 5 based upon use of funds and security for the loans.

The loan applications are available at FAME and are reviewed on an ongoing basis. Currently there is \$439,500 available for loans.

Second,

Economic Recovery Loan Program: Although not necessarily targeted towards businesses providing recycling services, the Authority also administers the Economic Recovery Loan Program. The Economic Recovery Loan Program is a direct loan program created in 1992 with \$8,000,000 in funds provided from a bond to provide loans to businesses facing complications in receiving traditional loans, or in need of gap financing to complete their projects.

The program provides loans of up to \$200,000. The interest rate under the program is WSJ Prime +2% (or approximately 7.5% at this time), and terms are generally for up to five (5) years.

As with the Waste Reduction and Recycling Loan Fund, the application for the Economic Recovery Loan Program is available at FAME and reviewed on an ongoing basis. Currently there is approximately \$888,645 available for loans.

Lastly,

Small Business and Veterans Small Business Loan Guaranties: In some instances, a business owner may wish to continue to work with their bank lender to pursue financing for a bottle redemption center related use. A lender may be interested in providing the loan, but a bit nervous about the deal and in need of loan insurance to reduce their risk. In those instances FAME can provide up to a 90% loan guaranty (or insurance) against a loan to the company. The Small Business and Veterans Small Business Loan Guaranties provide loan insurance for loans of up to \$1MM, with rates and terms determined by the bank the business is working with.

All of these programs are loan programs, with review by FAME and the lending institution (in the case of a loan guaranty) in accordance with usual commercial lending procedures. Review of business cash flow, credit history and collateral are primary review criteria for all of the above, with a focus on the ability of the business to generate sufficient cash flow to service their existing and the proposed debt. In all instances, FAME reviews the deal with an emphasis on trying to make the deal work for the company, however, sometimes the cash flow is and has been just too weak to service the proposed debt and we are not able to assist them.

These three programs are available for all bottle redemption business owners to pursue; and FAME is willing to provide information in more detail on each program to assist in your review of this issue. If there are other capital access needs that are identified in the course of your study of this industry, please feel free to contact me and I will be glad to discuss our programs with you.

Deborah A. Cole, Commercial Loan Officer
Finance Authority of Maine
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e-mail: debbie@famemaine.com

APPENDIX J

Chapter 28, Title 32 MRSA

TITLE 32 MAINE REVISED STATUTES
CHAPTER 28
MANUFACTURERS, DISTRIBUTORS AND DEALERS
OF BEVERAGE CONTAINERS
(The Bottle Bill)

§ 1861. 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 constitutes a great financial burden for the citizens of this State.

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.

This chapter will be administered by the Department of Agriculture, Food and Rural Resources with the authority to interpret the chapter and to issue the necessary rules and regulations in order to carry it into effect.

§ 1862. Definitions

As used in this chapter, unless the context otherwise indicates, the following words and phrases shall have the following meanings.

1. Beverage. "Beverage" means beer, ale or other drink produced by fermenting malt, spirits, wine, 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.

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. This term 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.

3. Commissioner. "Commissioner" means the Commissioner of Agriculture, Food and Rural Resources.

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

5. 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.

6. Department. "Department" means the Department of Agriculture, Food and Rural Resources.

7. 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.

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

9. Manufacturer. "Manufacturer" means a person who bottles, cans or otherwise places beverages in beverage containers for sale to distributors or dealers.

9-A. Nonrefillable. "Nonrefillable" means a beverage container which, after being used by a consumer, is not to be reused as a beverage container by a manufacturer.

10. 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.

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

12. Premises. "Premises" means the property of the dealer or his lessor on which the sale is made.

12-A. Refillable. "Refillable" means a beverage container which, after being used by a consumer, is to be reused as a beverage container at least 5 times by a manufacturer.

12-B. Spirits. "Spirits" has the same meaning as in Title 28-A, section 2.

12-C. 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.

12-D. 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.

13. 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.

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

15. 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

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.

**§ 1863. Refund value
(REPEALED)**

§ 1863-A. 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.

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¢.

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 must not be less than 5¢.

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¢.

4. Wine and spirits containers. For wine and spirits containers of greater than 50 milliliters, the refund value may not be less than 15¢. On January 1, 1993, the department shall issue a finding on the percentages of wine containers and spirits containers returned for deposit. If the department finds the return rate of wine containers was less than 60% during the year ending September 1992, then, on July 1, 1993, the refund value on wine containers may not be less than 25¢. If the department finds the return rate of spirits containers was less than 60% during the year ending September 1992, then, on July 1, 1993, the refund value of spirits containers may not be less than 25¢.

**§ 1863-B. Ownership of deposits
(REPEALED)**

§ 1864. 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, such dealer or dealers shall comply with this chapter as if they were distributors, as well as dealers.

§ 1865. Labels; stamps; brand names

1. Labels. Except as provided under subsections 1-A and 2, the refund value 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. The refund value may not be indicated on the bottom of the container. Metal beverage containers must be embossed or stamped on the top of the container.

1-A. Labels; nonrefillable containers; nonexclusive distributorships. With respect to nonrefillable beverage containers the deposits for which are initiated pursuant to section 1863-A, subsection 3, the refund value 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 permanently embossing or permanently stamping the beverage containers, except in instances when the initiator of the 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. Metal beverage containers must be permanently embossed or permanently stamped on the tops of the containers.

1-B. Labels; nonrefillable containers; exclusive distributorships. Notwithstanding subsection 1 and with respect to nonrefillable beverage containers, for the deposits that are initiated pursuant to section 1863-A, subsection 2, the refund value and the word "Maine" or the abbreviation "ME" may be clearly indicated on refundable beverage containers sold or offered for sale by a dealer in this State by use of stickers or similar devices if those containers are not otherwise marked in accordance with subsection 1. A redemption center shall accept containers identified by stickers in accordance with this subsection or by embossing or stamping in accordance with subsection 1.

2. Brand name. Refillable glass beverage containers of carbonated beverages, for which the deposit is initiated under section 1863-A, subsection 1, that have a refund value of not less than 5¢ and a brand name permanently marked on the container are not required to comply with subsection 1. The exception provided by this subsection does not apply to glass beverage containers that contain spirits, wine or malt liquor as those terms are defined by Title 28-A, section 2.

§ 1866. Application

1. Dealer acceptance. Except as provided in this section, a dealer may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by the dealer, or refuse to pay in cash the refund value of the returned beverage container as established by section 1863-A. This section 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.

2. Permissive refusal by dealer. A dealer may refuse to accept from a consumer or other person and to pay the refund value on any beverage container, if the place of business of the dealer and the kind, size and brand of beverage container are included in an order of the department approving a redemption center under section 1867.

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

2-B. 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 he will not accept containers shall be conspicuously posted.

3. Distributor acceptance. A distributor may not refuse to accept from any dealer or local redemption center any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by the distributor or refuse to pay to the dealer or local redemption center the refund value of a beverage container as established by section 1863-A.

4. 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 1863-A, subsections 1, 2 and 4 shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863-A, in an amount that equals at least 3¢ per returned container.

B. In addition to the payment of the refund value, the initiator of the deposit under section 1863-A, subsection 3 shall reimburse the dealer or local redemption center for the cost of handling

beverage containers subject to section 1863-A in an amount that equals at least 3¢ per returned container. The initiator of the deposit may reimburse the dealer or local redemption center directly or indirectly through a contracted agent.

5. Obligation to pick up containers. The obligation to pick up beverage containers subject to this chapter is determined as follows.

A. A distributor that initiates the deposit under section 1863-A, subsection 2 or 4 has the obligation to pick up 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 designated to serve those dealers pursuant to an order entered under section 1867. 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 serve the various establishments of the dealer, under an order entered under section 1867. 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 commissioner 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 promulgated under this paragraph must allocate the burdens associated with the handling, storage and transportation of empty containers to prevent unreasonable financial or other hardship.

B. The initiator of the deposit under section 1863-A, subsection 3 has the obligation to pick up 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 designated to serve those dealers pursuant to an order entered under section 1867. The obligation may be fulfilled by the initiator directly or indirectly through a contracted agent.

6. Distributors reports and payments.
(REPEALED)

7. Deposit transaction account.
(REPEALED)

8. 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, 2, 3, 4 and 5 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 customers 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. (MRSA Section 1866)." 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.

§ 1866-B. State payments to deposit initiators

1. Overpayments. If a deposit initiator has paid the Treasurer of State more than 50% of its unclaimed minimum deposits during calendar year 1995, the deposit initiator may apply for a refund of the overpayment. Applications for refunds must be filed with the Treasurer of State between March 1, 1996 and April 20, 1996. The Treasurer of State shall refund to the initiator documented claims of overpayment.

2. Over-redemptions. If a deposit initiator retained a carry-over credit of 50% of over-redeemed minimum deposits from prior years at the end of calendar year 1994, the deposit initiator may apply for a cash payment of any amount of the carry-over credit that remains as of December 31, 1995. Applications for payment of carry-over credits must be filed with the Treasurer of State between March 1, 1996 and April 20, 1996. After the payments have been made, and to the extent that sufficient revenues from deposits collected during calendar year 1995 remain, the Treasurer of State may equitably pay deposit initiators for a maximum of 50% of documented over-redeemed minimum deposits in calendar year 1995. Deposit initiators seeking payment for 50% of over-redeemed deposits from 1995 must file application for payment with the Treasurer of State between March 1, 1996 and April 20, 1996.

§ 1866-C. Reporting and payment obligations

Any distributor or manufacturer who was subject to the reporting and payment obligations under former section 1866-A and who failed to comply with the requirements of that section shall file reports and immediately make payments to the Treasurer of State in accordance with that former section. Deposit initiators who fail to comply with this section are subject to the penalties in section 1869, subsections 1 and 2. If reports were not filed in accordance with former section 1866-A, reimbursements or credits for over-redeemed minimum deposits may not be allowed. The Treasurer of State may conduct audits of any distributor or manufacturer subject to the former section 1866-A to determine whether that distributor or manufacturer has come into compliance.

§ 1867. Redemption centers

1. Establishment. Local redemption centers may be established and operated by any person or municipality, agency or regional association as defined in Title 38, section 1310-C, 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 1866.

2. Application for approval. Application for approval of a local redemption center shall be filed with the department. The application shall state the name and address of the person responsible for the establishment and operation of the center, the kinds, sizes and brand names of beverage containers which will be accepted and the names and addresses of dealers to be served and their distances from the local redemption center.

3. Approval. The commissioner shall approve a local redemption center if he finds that the center will provide a convenient service for the return of empty beverage containers. The order approving a local redemption center shall state the dealers to be served and the kinds, sizes and brand names of empty beverage containers which the center shall accept.

4. Redemption center acceptance. A local redemption center may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by a dealer served by the center or refuse to pay in cash the refund value of the returned beverage container as established by section 1863-A.

5. Posted lists. A list of the dealers served and the kinds, sizes and brand names of empty beverage containers accepted shall be prominently displayed at each local redemption center.

6. (TEXT EFFECTIVE UNTIL 3/15/01) Withdrawal of approval. The Administrative Court may, in a manner consistent with the Maine Administrative Procedure Act, withdraw approval of a local redemption center if there has not been compliance with the approval order or if the local redemption center no longer provides a convenient service to the public.

6. (TEXT EFFECTIVE 3/15/01) Withdrawal of approval. The District Court may, in a manner consistent with the Maine Administrative Procedure Act, withdraw approval of a local redemption center if there has not been compliance with the approval order or if the local redemption center no longer provides a convenient service to the public.

§ 1868. Prohibition on certain types of containers and holders

A beverage may not be sold or offered for sale to consumers in this State:

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

2. Connectors.
(REPEALED)

3. 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.

**4. Aseptic and composite material beverage containers.
(REPEALED)**

§ 1869. Penalties

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

2. Separate violations. Each day that such violation continues or exists shall constitute a separate offense.

**3. False reports.
(REPEALED)**

4. Container pickup. Notwithstanding subsection 1, a person who knowingly violates a provision of section 1866, subsection 5 commits a civil violation for which a forfeiture of \$1,000 may be adjudged.

**§ 1870. Exception for beverage containers used on
international flights**

This chapter shall 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.

§ 1871. Rules and regulations

The commissioner shall, in accordance with the Administrative Code and after a public hearing, adopt, amend and repeal such reasonable rules and regulations as it deems necessary to carry out and interpret the provisions, purposes and intent of this chapter. The department shall have the authority to establish regulations governing local redemption centers which receive beverage containers from dealers supplied by distributors other than the distributors servicing the area in which the local redemption center is located in order to prevent the distributors servicing the area within which the redemption center is located from being unfairly penalized.

The Treasurer of State has continuing authority to enforce rules, previously adopted in implementation of former section 1866, subsection 7 and former section 1866-A, to conduct audits, to pursue payments owed or to seek penalties against any deposit initiator in accordance with section 1869, subsections 1 and 2, who failed to meet that initiator's responsibilities under former sections 1866, subsection 7 and 1866-A.

§ 1872. 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 1865. This section shall not apply to licensed waste facilities as defined in Title 38, section 1303-C.

1. Warning. Any person committing a violation of this section during the 1st year this section is in effect shall be issued a warning that a violation of this section has occurred.

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

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

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;

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

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.

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

§ 1873. 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 330, subsection 2-A, that involve the breaking of glass. A violation of this section is a Class E crime.

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APPENDIX K

Various Memos from Commission Members to the Commission and Other Letters

interest revolving loans administered by FAME in concert with the State Planning Office. The Maine State Treasurer is to collect data and unredeemed deposits.

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CONTAINERS SOLD IN MAINE
ABANDONED VALUE ANNUALLY

	500 mil	600 mil	700 mil
60%	\$10,000,000	\$12,000,000	\$14,000,000
65%	8,750,000	10,500,000	12,250,000
70%	7,500,000	9,000,000	10,500,000
75%	6,250,000	7,500,000	8,750,000
80%	5,000,000	6,000,000	7,000,000
85%	3,750,000	4,500,000	5,250,000
90%	2,500,000	3,000,000	3,500,000
95%	1,250,000	1,500,000	1,750,000
100%	0	0	0

Abandoned property estimate

Estimate low \$1,250,000 and high \$7,000,000 annually. These funds would be available as loans to the above licensed entities based on criteria to be determined.

50% of funds to be utilized as loan seed money. 50% of funds to be used for the handling fee increase.

If balances in the above accounts achieve a threshold value of 3 years on average, the excess balances will be returned to either the distributor/manufacturers or the general fund or both.

- 3. Require all new products sold in Maine to be registered to have label registration by manufacturer or distributors. Fee \$50.00 per SKU. All products discontinued or with a new manufacturer/ distributor require a \$50.00 fee. The State Planning Office will notify all licensed entities. Estimate 1000 SKU's per year new, discontinued or changed. \$50,000 / year
- 4. Reduce beverage costs to the consumer by promoting distributor/manufacturer competition and removing distributor/manufacturer slotting fees to stores. Eliminates slotting fees charged to distributor/manufacturers on all beverages covered by the bottle bill. Request that OPLA confer with the Office of the Attorney General for drafting.

This will provide the needed information and data to manage the bottle bill while providing the funding and staffing to properly implement the bottle bill while reducing prices to consumers.

Please see attached original legislative findings and intent regarding the bottle bill.

(see §1861 of Appendix I.)



September 21, 2001

To: All Members

Commission to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other
Issues Related to the Handling and Collection of Returnable Containers

From: Peter Welch

RE: Topic concerning handling costs of redemption centers. Enclosed please our analysis from 1996 -
1997.

Please note that of our personnel services expense, the percentage savings available from further co-
mingling of the remaining sorts that we do not presently co-mingle, would by my estimate result in annual
savings of 10% - 25% of personnel services. This currently would be a range of \$20,000 - \$50,000
annually. There would be some space savings of some value.

The above savings would be offset by the costs for equipment, maintenance, administration and building
rehabilitation.

Please note that our costs in 2000 were greater than .03¢ per container.

September 21, 2001

To: All Members

Commission to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues
Related to the Handling and Collection of Returnable Containers

From: Peter Welch

Attached for your review, please see the legislative PURPOSE set forth by the Maine Legislature regarding the bottle bill. Specifically, I draw your attention to the INTENT "to create incentives". (Exhibit 1)

To follow please see information I've gathered on our redemption center operation from 1996 through 2000. Per the request of members of the committee, please note that the gross profit margins per container are:

Gross profit is the amount expressed in percentage or dollars of the selling price that constitutes profit before expenses. For example: A redemption center buys an empty can for 5¢ from a consumer. In turn, the redemption center returns the can to a distributor who initiated the deposit. The distributor pays the redemption center the 5¢ deposit plus 3¢ fee for a total of 8¢. The 3¢ fee is the gross profit in amount. As a percentage, it is expressed as: $\text{gross profit} / \text{selling price} = \text{gross profit percentage}$

Deposit 5¢	Fee 3¢	Selling Price 8¢	Gross Profit % (3¢ / 8¢) = 37.5%
Deposit 15¢	Fee 3¢	Selling Price 18¢	Gross Profit % (3¢ / 18¢) = 16.6%

Further note that redemption centers do centralize material and provide efficiencies now statewide. Distributors pick up containers at one redemption center versus 100's of stores. Also, as we suggested in our testimony, the bottle bill is a user fee that reduces property taxes and saves landfill space. Furthermore the system is highly effective but under stress - as it removes, by some estimates, 95% of the material.

R.S.V.P. is currently using scanning and crushing systems to provide efficiencies for glass containers. R.S.V.P. currently has a trailer for beer cans, picked up once a week. R.S.V.P. is conveniently located for the public on a major artery in Portland on Forest Avenue- Route 302. Portland's market may have different labor and other costs compared to more rural areas. R.S.V.P. believes it has accomplished many economies of scale and other efficiencies and certainly is always in search of improvement.

We hope you view this information and that of all interested parties objectively and with an eye to sustaining and maintaining with improvement this highly effective and regarded valuable public policy known as the bottle bill. We would urge a reasoned increase now to solve the immediate deficiency now.

Total
Conta

Sales
Depos

COGS

Gross
Profit

Gross
Profi

Persc
Servi

Oper
Adm
Serv

Retu
Sale
Corr
befo

Proi
per
Con

CPI

(1)

(2)
ref

	1996	1997	1998	1999	2000	5yr Trend
Total Containers	11,196,233	11,108,733	11,270,833	11,408,533	11,666,566	+ 4.2%
Sales \$ Deposit & Fee	931,067	915,466	954,131	953,788	999,998	+ 9.3%
COGS	595,180	582,204	616,006	611,532	651,001	+ 9.3%
Gross Profit Percentage	36.1%	36.4%	35.4%	35.8%	34.9%	- (3.3%)
Gross Profit Dollars	335,887	333,262	338,125	342,256	349,997	+ 4.2%
Personnel Services (1)	168,098	175,849	176,027	183,600	208,370	+ 23.9%
Operation & Administrative Services (2)	128,713	128,574	144,905	146,877	158,056	+ 22.7%
Return on Sales / Owners Compensation before taxes	39,076	29,109	17,193	11,779	(16,429)	- (142%)
Profit per Container	.0034	.0026	.0015	.0010	(.0014)	- (141%)
CPI	Jan 96 154.4				Jan 01 175.1	+ 13.4%

(1) Personnel Services - represent labor costs and directly related expenses like worker's compensation and payroll taxes etc.

(2) Operation and Administration - represents all other expenses like utilities, repairs, supplies, interest, general insurance, repairs and property costs etc.

Conclusions:

1. As currently operated with the current efficiencies, the 3¢ fee is an insufficient incentive or return, as it does not even cover expenses.
2. Increased volume equals increased loss
3. The 5-year trend of expenses is increasing faster than CPI primarily due to personnel services. With the advent of additional minimum wage increases, our labor costs will be further impacted. In general, our labor comes from the unskilled labor pool which is most effected by minimum wage increases.

Options:

- A. Increase the fee
- B. Provide for periodic CPI adjustment
- C. Increase the fee with a periodic CPI

We would urge a reasoned increase now to solve the immediate deficiency now.



September 25, 2001

To: Senator Norman K. Ferguson, Jr Chairperson
Representative Gary J. Wheeler Chairperson
Members of the Committee to Study Reimbursement

From: Peter Welch - R.S.V.P. Discount & Beverage Center Inc.
A Member of the Committee to Study Reimbursement

RE: 1. Reverse Vending Equipment Available
2. Canadian Bottle Bills

Currently, TOMRA is widely used at Shop N Save and Shaws. It is not widely used at redemption centers except for glass processing at R.S.V.P. At Shop N Save and Shaws, there are no sorting requirements for empties that are redeemed through reverse vending systems. There is one central pick up thus eliminating significant expense for deposit initiators.

If deposit initiators, in concert with FAME, supplied these systems to retailers and redemption centers the empty pick up expense for Coke, Pepsi and the beer companies would be centralized and largely eliminated.

In response to Representative Clough's inquiry, I agree that a system of reducing sorts by co-mingling material is a positive idea. This would allow redemption centers to eliminate 15% - 25% of labor costs (or approximately 10% of total costs) while largely eliminating the initiators costs of pick ups.

See attached TOMRA brochure. There are other suppliers of reverse vending equipment.

Please note: "Canadian Solutions" - Beverage Container Reuse & Recycling in Canada
attached pages A1 and A2

As you can see, reusable and refillable was a basic tenet of Canadian legislation. Many of its qualities and structure were built out of this objective. Furthermore, producer responsibility has been extended.

Specifically, only 3 out of 10 Canadian provinces have selected the "half back deposit return system".

Please review the information attached. Halfback programs are the least successful in Canada in resource recovery and the most complicated in flow charts.

◆ New Brunswick - *attached B1- B5*

It is a "Complex System" as quoted from text. Please review the system flow chart and diagrams. Please note that Maine is streamlined in comparison to New Brunswick. Also, note that the return rate in New Brunswick is 77% versus 95% in Maine. The only other provinces with lower return rates in Canada are Nova Scotia with a 75% rate (*attached B6*) and Newfoundland with a 50% rate. These are the other two half back provinces.

◆ Prince Edward Island - The return rate is 97%. Please note that PEI also includes wine and spirits. Please note that PEI has a range of handling fees that increase upon the deposit value. Note that PEI is highly successful in resource recovery. *attached C1-C3*

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♦ Prince Edward Island - The return rate is 97%. Please note that PEI also includes wine and spirits. Please note that PEI has a range of handling fees that increase upon the deposit value. Note that PEI is highly successful in resource recovery. *attached C1-C3*

To view information referenced as
attachments, go to
<http://www.bottlebill.org/canada/>

OR

to the Container Recycling Institute
web site:
www.container-recycling.org/

NEXCYCLE

October 9, 2001

To: Senator Norman K. Ferguson, Jr., Chairperson
Representative Gary J. Wheeler, Chairperson
Members of the Committee to Study Reimbursement Rate

From: Daniel J. Fortin, Returnable Services, Inc. Third-Party Collection Agent

Re: Drawbacks to Reverse Vending Technology:

Even though there are advantages to the use of Reverse Vending Technology, this technology brings with it some inherent problems.

Material Sorting:

For the recycling of glass, aluminum and plastics it is critical that cleanliness and quality issues are addressed. For much of the time, many of these issues are addressed at the recycling facility through the use of pickers stationed at various positions through the recycling process. The redemption centers also help in sorting bags correctly, etc.

The problem comes with the pre-crushing of glass in the Reverse Vending scenario. In this scenario, the ability of the recycling center (who knows the process best) to pick out what doesn't belong in the glass is eliminated. So you have untrained people, some who do not care, crushing the glass. Once the glass is crushed it is impossible to correct it and it becomes landfill material. Both Shaws and Shop n Save Supermarkets statewide are having difficulty crushing their glass to meet ever-tightening glass specs being imposed to recyclers by the industry.

Some Reverse Vending machines sort the containers by color according to the UPC codes. This system is only as good as the information that is put into the machines in the first place. We have had RVMs in Maine for ten years now and we haven't been able to identify all the containers correctly yet. I am not so sure that all of a sudden we are going to get it right. If the codes are not right, then the glass will not be sorted right and recyclers will not have the ability to make it right.

The recyclers in Maine have been able to make a less than perfect system in Maine work so far. This is because in the over-all glass volumes recycled, RVM glass hasn't amounted to a large proportion. Currently, Nexcycle is disposing of RVM glass to an aggregate company at \$20/ton. But their capability of taking large volumes of glass does not exist. If NexCycle had to absorb more contaminated glass, it would have to be land-filled at \$76/ton.

Fraudulent Redemption:

Unless UPC codes are different for all items sold outside of Maine, then fraudulent redemption will occur. For the majority of beverage containers sold in Maine the UPC codes are the same in Maine as in the rest of the country.

Again, while reverse vending technology is a possible solution to some of the problems being faced by redemption centers, let us not solve problems at one spectrum of the process, while causing insurmountable problems at another spectrum.

MEMO

October 21, 2001

To: All Members of the "Joint Study Commission to Study Reimbursement Rates for Maine's Bottle Redemption Business and Other Issues Related to the Handling and Collection of Returnable Containers".

From: Oakley Jones

Subject: General Comments on "Meetings to Date"

I am writing this summary of our activities to date as a means of re-capping my own thoughts. Despite 25 years of involvement in the Maine Bottle Bill the issues can be still be confusing. Fact and misnomers are hard to separate. The first part of these notes deal with facts versus common misperceptions. The second part makes suggestions on change that we should consider as a group (both long and short term).

I do feel the "Commission" has been very informative, looked at real problems, and should be able to reach common ground for all members in it's recommendations. I hope the attached comments are helpful.

Handling Charge. Originally set at .01¢ this charge to distributors was established to help defray sorting costs. The initial bottle bill system was predominately cans and glass. Handling was moved to .02¢ in 1980. Actual sorting requirements dropped with packaging changes (more cans/plastics). Upon expansion passing in 1989 handling was moved to .03¢. Facts about handling charges and handling expense!

- Maine has the highest handling charge in the country at .03¢. (See attached)
- Each .01¢ equals about 6 million \$. ("we only want a .01¢").
- Handling charges are passed on to Maine consumers.
- There is less sorting of soft drink and beer containers today than 20 years ago (less work, more \$?) but more sorting due to expansion.
- Handling charges have gone up 40% over the past 10 years due to population growth, beverage sales growth and expansion (no raise?) attach.
- Increased handling charges have resulted in a major increase in the number of redemption centers. (See attached), This is critical as volume and income are lower per location.
- Today Maine leads nation in # of redemption centers per 10,000 people by 3-1. The greater the number of redemp the smaller the income per redemption center. (See attached).

- There is no "best practices" or standards of operation. Redemption centers with no operational standards can be very inefficient. Increasing handling rewards them.
- Costs for health care and labor have gone up for all the players in the bottle bill. Redemption centers are 1 group of 9 that make the bottle bill work. (see attached)

Escheat.... is the deposit money paid out by consumers but not redeemed. Originally argued by legislators that these \$'s would help offset handling costs. These unredeemed "nickels" are often called "float". Part of LD 1810 in 1989 took 50% of Escheat money from distributors to help state in recycling. Five years later Escheat legislation was reversed due to inability of state to audit out of state companies. Cost of managing bill exceeds money collected from in-state distributors.

Expansion... primary expansion occurs in 1989 with LD 1810. Added water, isotonics, teas, liquor, wine, juice and other non-carbonated items. Expansion added significant volume to the bottle bill (with handling charges). Expanded items tend to be:

- Warehouse items delivered to Maine grocery chain/wholesaler warehouses by our state food companies.
- Have deposits initiated by out of state companies.
- Use local "pick up" companies to retrieve mt's from stores, Halton equipment and redemption centers. This is done at an additional charge to the food company.
- National chain private label items.... Wal-Mart, CVS, Target, Rite Aid, Shaws, etc.
- Lower volume especially by item.
- Have higher sorting requirements....total number of sorts add expenses to the system... especially redemption centers.

"Initiator"... could be a local distributor (Coke, Bud etc.), or private label of chain (Wal-Mart, Rite Aid), or large out of state food company who sells items to local grocery stores.

- Greatest problem is identifying and regulating who sells what with Me. .05¢ deposit.
- Many new accounts are opening...do they know of the bill? How do new outlets know their responsibilities to the state? Training?
- State needs to keep updated list of whose pick up responsibility the mt belongs to.
- Involves new parties to bottle bill (i.e. Health food stores.. education/control?).

Comingle...is a phrase used to describe the picking up of mt's without sorting. Sorting is then done for reimbursement at a central location. " Halton equipment or "reverse vendors" process mt's direct from the consumer by crushing plastic and aluminum containers. Issues around Comingle are:

- Fraud is the number one concern. Current law states that distributors receive cans/bottles back in a format that's clean and accountable. If equipment is used the individual wand or scan system would have to be controlled.
- Quality of recycling can be effected by recycling processors ability to bale and sell (out of state) previously crushed cans and bottles.
- Cost of equipment versus volume thru put limit the application of these machines. (saving labor versus cost of lease).

In conclusion it is clear that the Maine Bill is operationally strained. The average redemption center is handling a mix of soft drink, beer and expanded containers. The soft drinks are the most profitable part of that business. This is because there are very few sorts and volume is high. Expanded items tend to have low volume and high sort counts. Short term we need to address that problem. Long term Representative Clough has the right idea ... sort by material. Take the initiator out of the loop.

Thanks for your time and consideration.

Sincerely,

Oakley Jones

Beverage Container Deposit Systems in the U.S.*

State/ City	Containers Covered	Deposit Amount	Redemption	Rate	Unredeemed Deposits	Handling Fee
CA	beer/malt/soft drink wine coolers/ mineral & soda water	2.5 cents <24oz 5 cents >24oz.	Aluminum Glass Plastic Overall	80% 67% 58% 76%	used for administration of program and grants to non-profits	none
Columbus, MO	beer/malt/soft drinks/carbonated mineral water	5 cents	Overall	83%	retained by distributor/ bottler	none
CT	beer/malt/soft drink mineral water	minimum 5 cents	Cans Glass Plastic	88% ??? 70-90%	retained by distributor/ bottler	beer 1.5 cents soft drinks 2 cents
DE	non-aluminum/beer malt/soft drink mineral water <2 qt.	5 cents	n/a		retained by distributor/ bottler	20% of deposit
IA	beer/soft drinks/ soda water/mineral water/wine coolers/ wine/liquor	5 cents	Cans (soda) Pet (soda) Glass (soda- ref.) Beer Wine/liquor	74% 80% 100% 85-95% 56%	retained by distributor/ bottler	1 cent
ME	all beverages except dairy products and unprocessed cider	beer/soft drinks juice/water/tea/ wine coolers 5 cents wine/liquor 15 cents	Beer/soft drinks non-carbonated spirits wine Overall	96% 97% 87% 83% 96%	retained by distributor/ bottler	3 cents (originally 2 cents)
MA	beer/soft drink carbonated water	5 cents	Overall	81%	all unredeemed deposits are property of the Clean Environment Fund as of 1995	2.25 cents (originally 1 cent)
MI	beer/soft drink/wine coolers/canned cocktails/ carbonated/mineral water	refill 5 cents non-refill 10 cents	Overall	98%	75% retained by state for environmental programs, 25% for handling fees	25% of unclaimed deposits
NY	beer/malt/soft drink wine coolers/ carbonated mineral water/soda water	5 cents	Overall	76%	retained by distributor/ bottler	1.5 cents (2 cents as of 12/98)
OR	beer/malt/soft drink/ carbonated mineral water/ mixed wine drinks	5 cents standard refill 2 cents	Overall	98%	retained by distributor/ bottler	none
VT	beer/malt/soft drink mineral water/ mixed wine drinks/ liquor	beer/malt/soft drinks/ mineral water 5 cents. liquor 15 cents	Beer Soft drinks Liquor	97% 90% 72%	retained by distributor/ bottler	3 cents (originally 1 cent)

* As of June 1998

Massachusetts Redemption Cost Study

- Prepared in 1999 for Massachusetts Department of Environmental Protection
- Analyzed redemption center costs to handle containers:
 - Weighted average cost was 2.06¢ per container
 - Transportation costs were computed separately because some Massachusetts redemption centers must transport empty containers to distributor warehouses. These costs are not included in the 2.06¢ figure.
 - The use of a weighted average shows the cost for the average container redeemed.
- Summary data from the study (Table 4) attached

September 27, 2001



October 22, 2001

To: Senator Norman K. Ferguson, Jr. Chairperson
Representative Gary J. Wheeler Chairperson
Members of the Committee to Study Reimbursement Rates for
Maine's Bottle Redemption Businesses

From: Peter Welch - R.S.V.P. Discount & Beverage Center Inc.
A Member of the Committee to Study Reimbursement Rates for
Maine's Bottle Redemption Businesses

Dear Chairman Ferguson:

I received a copy of the letter from Mr. Workman of Riverside Redemption in Howland, ME to you dated October 14, 2001. I have enclosed a copy. It is clear to me that Maine redemption centers deserve a handling fee increase.

I have personally come to know and respect these many independent Maine people. Yes, they are small business. Yes, they are local. Yes, they are Maine owned business serving their communities in so many valuable and honorable ways. We saw and heard testimony of ongoing service to schools, hospitals, town recycling programs, civic organizations, churches and of course small and medium stores as well as restaurants and pubs. They are true entrepreneurs and are most enterprising and hard working.

A random survey, responded by seventeen redemption centers (excluding R.S.V.P.), indicated 41 million containers redeemed for an average of 2.35 million per center.

It is clear to me that the present redemption center system of 274 licenses is handling 500 million to 600 million units of the total approximately 700 million units. We know reverse vending supermarkets are only 75 million units.

The 700 million or so containers are sold through over 2000 stores and restaurants in Maine and who knows how many vending machines. Everywhere you look there are vending machines. How many? 500 statewide, 1000 statewide or more. The redemption center industry collects and centralizes 70% - 80% of all the containers sold through and by distributors in these 2000 - 3000 outlets. **What a savings. What a value. What a contribution.**

While we are disappointed and disheartened that it is and has been the Maine Soft Drink Association policy to allow reverse vending only by publicly held corporations; we are proud of our effort. We know that reverse vending would be a helpful tool, but by no means a panacea.

Redemption center owners are good hardworking Maine people. These businesses are owned and operated in Maine. They employ many Maine citizens and taxpayers. They serve a public interest adopted by the legislature and endorsed by the Maine citizenry. Are these people any more likely than a Hannaford employee to be accurate and responsible - are they any less likely? I suspect not!

Our recommendation seeks 1/4¢ increase annually over a 4 year period. Upon the time of full implementation in 2006 the period between handling fee increases will have been over 16 years. The increase we are seeking is extremely modest and will have a nonexistent impact on the small Maine breweries.

I respectfully offer, as a motion, the following language regarding the handling fee. Notwithstanding the possibility of some other improvements coming from this commission, I urge the support of this commission with this balanced and appropriate recommendation. I would appreciate and welcome the support of all members in this regard. Please see our motion for a recommendation to be included in our final report.

DEPOSIT LAW HANDLING FEE REIMBURSEMENT AMENDMENT

[1/4 CENT PER YEAR]

Peter Welch, RSVP Beverages

32 MRSA § 1866, sub-§ 4, as amended by PL 1991, Chapter 819, § 7 is further amended to read as follows:

4. Reimbursement of handling costs. Reimbursement of handling costs is governed by this section.

- A. Beginning on January 1, 2003, in addition to the payment of the refund value, the initiator of the deposit under section 1863-A, subsections 1, 2 and 4 shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863-A, in an amount that equals at least ~~3¢~~ 3-1/4¢ per returned container. The initiator of the deposit shall increase the handling cost reimbursement by an additional 1/4¢ effective on January 1" of each of the following calendar years: 2004, 2005 and 2006. The minimum per returned container handling cost reimbursement paid by the initiator of the deposit must equal 4¢ on or after January 1, 2006.
- B. Beginning on January 1, 2003, in addition to the payment of the refund value, the initiator of the deposit under section 1863-A, subsection 3 shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863-A, in an amount that equals at least ~~3¢~~ 3-1/4¢ per returned container. The initiator of the deposit shall increase the handling cost reimbursement by an additional 1/4¢ effective on January 1" of each of the following calendar years: 2004, 2005 and 2006. The minimum per returned container handling cost reimbursement paid by the initiator of the deposit must equal 4¢ on or after January 1, 2006. The initiator of the deposit may reimburse the dealer or local redemption center directly or indirectly through a contracted agent.

Big Red Redemption Center
P.O. Box 425
Bangor, ME 04402
(207) 990 - 2267
October 31, 2001

Dear Mr. Welch,

I first want to thank you for your efforts on the part of the proposal to increase the handling fee and in keeping other redemption centers aware of what is going on. For obvious reasons we all need to become involved. All of the issues raised during the October 22nd hearing are vital to the continuing success of the bottle bill, which, as you pointed out, is a major success already.

Based on the testimony from the October 22nd hearing and difficulties Big Red faces I am summarizing the major impediments to the bottle bill which need to be rectified. I will finish with the handling fee, the primary issue, which is in definite need of increase.

First, the Department of Agriculture's Division of Regulations must be given the necessary power to enforce the bottle bill. If the inspectors in the department cannot ensure drink manufacturers follow the intent of the law, what is the point? As stated during the hearing, deposit money is leaving the state everyday. A central registry of products, distributors, manufacturers, and even redemption outlets is an obvious need. This would remedy the problem of unreturnable deposit items entering the market. I am very surprised the major distributors are so compliant with the bottle bill when so many companies skirt or completely ignore it. Also needed, definitive rules concerning who must redeem deposit items, I am sure there are many business / store owners who would rather pass the responsibility on to redemption centers.

Second, low volume items are a problem for all redemption centers. There is a specific need for compromise to allow for reduced sorts and quicker turnover. Beyond the strain it puts on redemption centers it allows the manufacturers to put off payment, much like extending a loan without interest penalties. Sorting requirements from one third party pick up agent recently became more confusing and labor intensive due to changes that were instituted.

The third issue is a combination: The licensing (or non-licensing) issue and distributors (specifically the major companies). Redemption centers should be required to be licensed with the state, no exceptions. Your plan for increased licensing fees is entirely appropriate. Presently, redemption centers are not required to be licensed with the state. How are they held responsible for business taxation purposes? How are they monitored for compliance with employment laws? These are only a handful of the questions I can think of. Distributors should already be doing their part and refuse to pick up non - licensed redemption centers. This would likely reduce what is an ongoing problem, fly by night businesses (redemption centers) taking advantage of what they see as easy money (yes, I am skeptical of some of our fellow redemption centers). The distributors also need to demand a quality product. Big Red goes to great measures to insure exacting quantities. I question how well it is done at some other locations

Obviously if distributors were taking back more than they sold they would be much stricter. They ought to be regardless. They are in a position to enforce the bottle bill and keep the playing field level. Using that power is not inappropriate.

Finally, the point of all the discussion, the handling fee. You have offered the obvious reasons why it is justified: rising overhead costs, increased labor costs, etc.. I would like to add one as a response to the arguments of Oakley Jones on October 22nd. While I can appreciate his reasoning, notably having a product which is hi volume - low cost and the observation about inefficient redemption centers, it comes down to money. The distributors do not want to increase expenses. While redemption centers have been locked in at the handling fee (or selling price) for 11 years, other business is not restricted in pricing. I am pretty sure that a bottle of soda / beer is more expensive in 2001 than it was in 1990. It is really that simple. In response to Mr. Jones' complaint that redemption centers are hindering themselves with inefficient practices I say "you are probably right." But many of us are efficient and still struggle. An increase is justified and overdue.

In closing, I again want to thank you for your efforts in creating positive change and keeping the rest of us abreast of the proceedings. Thank you for taking the time to speak with Doug Townsend and myself on October 22nd. Listening for several hours without being able to ask questions or make statements was difficult to say the least. I hope my input will help in some way and improvements will arise from the hearings. I look forward to seeing you on November 6.

Sincerely,



Erik Mushlit

November 1, 2001

To: Senator Norman K. Ferguson, Jr. Chairperson
Representative Gary J. Wheeler Chairperson
Members of the Committee to Study Reimbursement Rates for
Maine's Bottle Redemption Businesses

From: Mr. & Mrs. Stephen Lord, owners
New Harbor Bottle Redemption Center
P.O. Box 458, Corner of Route 130 & Huddle Rd.
New Harbor, Maine 04554
(207) 677-2525

Dear Chairman Ferguson,

We are unable to attend the meetings of the committee to study the proposed Bill LD 455 as we have to work, but would like to offer some information for you to consider.

Since owning our bottle redemption center we have seen our costs to operate continually rise, as well as the amount of time required to comply with the distributors' and third party pick-ups' demands. This is a very labor intensive business whereby we handle the returned products a minimum of three (3) times:

- (1) counting the products and paying the customer
- (2) sorting, separating and distributing the products
- (3) stacking, re-counting and bagging the products
- (4) storing and sometimes removing the bagged, boxed products when picked up

Our small business serves many other small businesses on our peninsula including customer pick-ups, and also alleviates the local grocery store from having to take back returns. We also participate in the community fundraising with the local Lion's Club and the Schools.

With all of the above, we counted and paid for about 800,000 containers for the year 2000, which means at 3 cents per unit we have about \$24,000 to cover all of our expenses; i.e. mortgage, taxes, utilities, supplies, vehicle etc., which totalled \$19,000, leaving a very small amount at the end. The cost of bags has almost doubled in the past few years, and the mandatory cost of boxes from one company has gone up 1,000%. All other costs; i.e. electricity, taxes, phone, heat, gas, supplies have continued to rise. How many businesses do you imagine could continue to operate without increasing their income to keep pace with the increased costs?

When other industries, such as the power companies, appeal to the State Public Utilities Commission to receive a cost increase, they always seem to get one.

We are a very small business, like many others in the State of Maine just trying to make ends meet. We work very hard at serving the needs of our community and we need a handling fee increase in order to continue.

Thank you for considering this information in your committee.

Sincerely,

Stephen Lord & Beverley Lord

Stephen Lord
Beverley Lord



November 5, 2001

Mr. Christopher Spruce, Legislative Analyst
Mr. David Elliott, Principal Analyst
Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333-0013
Fax # 287-1275

Dear David & Chris:

Per my phone message to you on Thursday 11/01/01 and today 11/4/01, please let me indicate to you the following items that I, as a member, previously discussed and wished to be on this upcoming agenda.

1. License dialogue - see my attached submission of licensing to which the 1000's of vending machines should be added.
2. Best practices dialogue - please note that I indicated that this extends to the producer/initiator side as well as redeemers: Labeling/Registration, regular and scheduled pick ups per law, providing shells, product notification, RVM acceptance, Maine marked deposit containers sold in New Hampshire and Massachusetts, and wholesale monopoly practices of beverages in Maine.
3. A letter from Eric Mushlit of Big Red Redemption Center which is affiliated with the Department of Maine Mental Health attesting to the need of a handling fee increase from a Maine state government affiliate.

Sincerely,

Peter Welch

887 Forest Avenue • Portland, Maine 04103 • Telephone: (207) 773-8808 • Fax: (207) 773-5188

APPENDIX L

Testimony Submitted by George MacDonald, SPO

Municipal Recycling and Maine's Container Deposit Law

Comments by George MacDonald, Program Manager
Waste Management & Recycling Program, State Planning Office
October 19, 2001

Background

In the late 1970's, when municipal recycling programs began expanding beyond newsprint and other paper products, the programs relied heavily upon the infrastructure developed by the beverage container distributors as a market outlet for the glass containers collected by municipal efforts. This relationship continues to today and now may include plastics and occasionally aluminum containers.

Recycling and Record Keeping

In 1989, comprehensive solid waste management legislation was passed that created the Maine Waste Management Agency to assist with municipal solid waste efforts. When the Agency was dismantled in 1995, those duties were transferred to the State Planning Office.

Beginning with the calendar year 1991, municipalities are to report annually to the state on the status and efforts of their solid waste programs, including solid waste disposed, recycled, composted, and may include commercial entities efforts as well. Based upon this data, a recycling rate is determined for each community. In order to give recognition and credit for the value of the 'bottle bill', the Agency did a weight determination and found that approximately 5% by weight of Maine's overall solid waste tonnage was managed through the 'bottle bill'. Based upon that weight comparison, the Agency gave each community a 'credit' of 5% towards their overall recycling rate; i.e., if a community had recycled and composted 31% of the solid waste they managed, the Agency added 5% to that number, giving the community an adjusted recycling rate of 36%.

The State Planning Office continues to provide that 5% additional credit to communities when calculating their recycling rate.

The Agency used to receive 50% of the unreturned deposits collected by beverage distributors and these funds were used to assist communities in establishing and/or expanding recycling efforts. The providing of these unreturned deposits to the state ended in 1995. Part of that process included the state to receive data on the number of containers handled and related information that allowed the state to estimate the volume and weight of these containers. This data is no longer provided to the state.

Perspective

The 5% recycling credit given for the 'bottle bill' efforts has been a constant in calculating municipal recycling rates since 1991. Given that plastic containers have begun replacing heavier glass containers, and that light weighting of both plastic and aluminum containers has occurred, it would be helpful to determine the current value of the bottle bill in terms of statewide recycling efforts.

Future issues

Until recently, the used glass container markets have been fairly stable, with flint being the more valuable of the three colors - green and amber have often been marketed by the distributors with little or no payment to municipal programs. However, the value has been, and continues, to be in that with nearly 70% of the non-recycled solid waste in Maine going to incinerators, keeping the glass out improves the burning of the trash and reduces the volume of waste going to landfills in Maine.

The State Planning is presenting staffing a plastics study group, established when the proposed "Commission to Develop a Comprehensive Plan to Reduce Toxic Emissions and Expand Plastics Recycling," was not funded. The tasks before this group are:

1. Undertake an analysis of plastics generation by type and current method of disposal;
2. Study the feasibility of expanding the State's bottle deposit laws to include containers made of high density polyethylene, polyethylene-terephthalate or polyvinyl chloride;
3. Study the feasibility of reducing the toxicity of waste, including the diversion of polyvinyl chloride from incineration;
4. Recommend market-based recycling opportunities for plastics; and
5. Recommend incentives for expanded in-state end uses for plastics.

We have had one meeting and will be working on task # 1 for the next meeting or two. The study group is to develop a report by the end of 2002 with recommendations that will be made available to the legislature through the legislative members of this group.

APPENDIX M

BABLO Redemption Expenses and Excerpt from Current 3rd Party Pickup/Recycling Services Contract

BUREAU OF ALCOHOLIC BEVERAGES**Bottle Redemption Expenses**

2000	\$352,000
1999	436,000
1998	561,000
1997	598,000
1996	650,000
1995	684,000
1994	793,000
1993	717,000

RIDER B
METHOD OF PAYMENT AND OTHER PROVISIONS

AGREEMENT AMOUNT -\$572,160.00

2. INVOICES AND PAYMENTS The Department will pay the provider as follows:

	<u>Year 01 -02</u>	<u>Year 02 - 03</u>	<u>Year 03-04</u>
(A) Liquor and fortified wine containers at	\$.305	\$.315	\$.325 per case
(B) On-site crushing accounts at	\$.145	\$.145	\$.145 per case
	(per case average 10.3 bottles)		

Payments are subject to the Provider's compliance with all items set forth in this Agreement and subject to the availability of funds. The Department will process approved payments within 30 days.

3. BENEFITS AND DEDUCTIONS If the Provider is an individual, the Provider understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for his/her Income Tax records.

4. INDEPENDENT CAPACITY In the performance of this Agreement, the parties hereto agree that the Provider, and any agents and employees of the Provider shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.

5. DEPARTMENT'S REPRESENTATIVE The Agreement Administrator shall be the Department's representative during the period of this Agreement. He/she has authority to curtail services if necessary to ensure proper execution. He/she shall certify to the Department when payments under the Agreement are due and the amounts to be paid. He/she shall make decisions on all claims of the Provider, subject to the approval of the Commissioner of the Department.

6. AGREEMENT ADMINISTRATOR All progress reports, correspondence and related submissions from the Provider shall be submitted to:

Name: J. Robert Newhouse
 Title: Store Operations Officer - BABLO
 Address: 8 State House Station, Augusta, ME 04333-0008

who is designated as the Agreement Administrator on behalf of the Department for this Agreement, except where specified otherwise in this Agreement.

APPENDIX N
Draft Legislation

LR #3337
Sponsor: Study Bill—Majority
Drafted by: DCE
Date: 12/02/01
Doc. Name:

Title: An Act to Implement the Majority Recommendations of the Returnable Container Handling and Collection Study

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 32 MRSA §1861 is amended by repealing the last paragraph.

Sec.2. 32 MRSA §1862, sub-§8-A is enacted to read:

8-A. Initiator of deposit. “Initiator of deposit” means a manufacturer, distributor or other person who initiates a deposit on a beverage container under section 1863-A.

Sec. 3. 32 MRSA §1863-A, sub-§4 is amended as follows:

4. Wine and spirits containers. ~~For Beginning January 1, 2003, for wine and spirits containers of greater than 50 milliliters, the refund value may not be less than 15¢ 5¢. On January 1, 1993, the department shall issue a finding on the percentages of wine containers and spirits containers returned for deposit. If the department finds the return rate of wine containers was less than 60% during the year ending September 1992, then, on July 1, 1993, the refund value on wine containers may not be less than 25¢. If the department finds the return rate of spirits containers was less than 60% during the year ending September 1992, then, on July 1, 1993, the refund value of spirits containers may not be less than 25¢.~~

Sec. 4. 32 MRSA §1865, sub-§3 is enacted to read:

3. Label registration. A manufacturer must register the container label of any beverage it manufacturers before any beverage container of that type may be offered for sale in the State. 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 manufacturer must renew a label registration annually and whenever that label is revised, including altering the universal product code, or whenever the container on which it appears is changed in size, composition or glass color. The manufacturer must also include as part of the registration an indication of the method of collection for that type of container and identification of a collection agent and proof of the collection agreement if one exists. The department may charge a fee for registration and registration renewals under this subsection.

Sec. 5. 32 MRSA §1866B and 1866-C are repealed.

Sec. 6. 32 MRSA §1867, sub-§3 and 4 are amended as follows:

3. Approval. The commissioner shall approve the licensing of a local redemption center if ~~he finds that the center will provide a convenient service for the return of empty beverage containers~~ the redemption center complies with the requirements established under section 1871-A. The order approving a local redemption center license shall state the dealers to be served and the kinds, sizes and brand names of empty beverage containers which the center shall accept.

4. Redemption center acceptance. A local redemption center may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by a dealer served by the center provided the label for the container is registered under section 1865, subsection 3 or refuse to pay in cash the refund value of the returned beverage container as established by section 1863-A.

Sec. 7. **32 MRSA §1871** is repealed and the following enacted in its place:

§ 1871-A. Licensing requirements

An annual license issued by the department is required before any person may initiate deposits under section 1863-A, operate a redemption center under section 1867 or act as a contracted agent for the collection of beverage containers under section 1866, subsection 5, paragraph B.

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. Rules adopted under this subsection are major substantive rules under the Maine Administrative Procedure Act.

2. Criteria for licensing rules. In developing rules for licensing redemption centers, the department shall consider at least the following:

A. The health and safety of the public, including sanitation protection when food is also sold on the premises; and

B. The convenience of the public, including standards governing the distribution of centers by population, but not by distance.

§ 1871-B. 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.

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

A. Fees for issuance of licenses and license renewals under section 1871-B;

B. Fees for registration of beverage container labels and registration renewals under section 1865, subsection 3;

- C. Unredeemed deposits on spirits containers; and
- D. All money appropriated or allocated for inclusion in the fund.

3. Application of fund. The department may combine administration and inspection responsibilities of other programs it administers with administration and enforcement responsibilities under this chapter for efficiency purposes. However, money in the fund must be used only to fund the portion of staff time devoted to administration and enforcement activities under this chapter.

4. Revolving fund. The fund shall be 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 his chapter.

§ 1871-C. 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 local redemption centers which receive beverage containers from dealers supplied by distributors other than the distributors servicing the area in which the local redemption center is located in order to prevent the distributors servicing the area within which the redemption center is located from being unfairly penalized. Unless otherwise specified in this chapter, rules of the department are routine technical rules under the Maine Administrative Procedure Act. In addition to other actions required by this chapter, department responsibilities include the following:

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 1865, subsection 3 arranged and displayed in a organized and comprehensible manner. The department shall update the registry regularly and make information from the registry available upon request.

2. Education program. 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.

Sec. 8. **32 MRSA §1872, sub-§1** is repealed.

Sec. 9. Implementation of label registration requirements. In implementing the label registration requirements of Title 32, section 1865, subsection 3 Maine Revised Statutes, the Department of Agriculture shall coordinate with the Bureau of Liquor Enforcement and the Bureau of Alcoholic Beverages so that, to the maximum extent possible, registration of beer, wine and spirits under this subsection does not duplicate registration requirements enforced by those bureaus.

Sec. 10. Implementation of licensing fees. In adopting rules establishing licensing fees under Title 32, section 1871-B, the Department of Agriculture shall base the amount of fees on the

actual cost of implementing increased responsibilities under this Act. Initially, fees may be set at a level to cover one-time start up costs, but after that, fees must be set at a level to cover on-going costs only. Under the direction of the Joint Standing Committee on Business and Economic Development, the department shall consult with affected parties in developing the licensing fee schedule.

Sec. 11. Improvements in the returnable container deposit law. The Joint Standing Committee on Business and Economic Development shall develop a process for identifying ways to improve the efficiency of the returnable container deposit law. Possible improvements may include redesigning the operation of the system, establishment of cooperative container pick up arrangements between redemption centers, distributors and collection agents, and introduction of technological improvements.

SUMMARY

This bill implements the majority recommendations of the Joint Study Commission to Study Reimbursement Rates for Maine's Bottle Redemption Business and Other Issues Related to the handling and Collection of Returnable Containers created pursuant to Joint Order (HP 1389) approved by the First Regular Session of the 120th Legislature.

The bill does the following:

1. Requires the label of each type of beverage subject to the Returnable Container Deposit Law to be registered with the Department of Agriculture; requires the department to maintain a register of current beverage container labels and to make that information available to redemption centers; and authorizes redemption centers to refuse to accept empty containers whose labels are not registered.
2. Requires a license from the department to initiate deposits, operate a redemption center or act as a third party collection agent under the law.
3. Authorizes the department to establish by rule fees for licensing and registration; requires the fees be based on the department's costs in implementing the law; and directs the department to work with affected parties in developing the fees. Departmental rules governing fees are major substantive rules.
4. Requires the department to incorporate a coordinated education program on the requirements of the law as part of its licensing and inspection program.
5. Establishes a dedicated fund to pay from which the costs of administration and enforcement of the law by the department are to be paid. The fund consists of licensing and registration fees charged by the department and unclaimed deposits on liquor bottles.
6. Effective January 1, 2003, decreases the deposit on wine and liquor to 5¢ per container.

7. Directs the Joint Standing Committee on Business and Economic Development to establish a process to consider ways to improve the efficiency of the law from redesign of the bottle redemption system, establishment of cooperative agreements, introduction of technological improvements or other methods.

LR #3338
Sponsor: Study Bill--Minority
Drafted by: DCE
Date: 12/05/01
Doc. Name:

Title: An Act to Implement the Minority Recommendations of the Returnable Container Handling and Collection Study

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 32 MRSA §1861 is amended by repealing the last paragraph.

Sec.2. 32 MRSA §1862, sub-~~§~~8-A is enacted to read:

8-A. Initiator of deposit. "Initiator of deposit" means a manufacturer, distributor or other person who initiates a deposit on a beverage container under section 1863-A.

Sec. 3. 32 MRSA §1863-A, sub-~~§~~4 is amended as follows:

4. Wine and spirits containers. ~~For Beginning January 1, 2003, for wine and spirits containers of greater than 50 milliliters, the refund value may not be less than 15¢ 5¢. On January 1, 1993, the department shall issue a finding on the percentages of wine containers and spirits containers returned for deposit. If the department finds the return rate of wine containers was less than 60% during the year ending September 1992, then, on July 1, 1993, the refund value on wine containers may not be less than 25¢. If the department finds the return rate of spirits containers was less than 60% during the year ending September 1992, then, on July 1, 1993, the refund value of spirits containers may not be less than 25¢.~~

Sec. 4. 32 MRSA §1865, sub-~~§~~3 is enacted to read:

3. Label registration. A manufacturer must register the container label of any beverage it manufacturers before any beverage container of that type may be offered for sale in the State. 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 manufacturer must renew a label registration annually and whenever that label is revised, including altering the universal product code, or whenever the container on which it appears is changed in size, composition or glass color. The manufacturer must also include as part of the registration an indication of the method of collection for that type of container and identification of a collection agent and proof of the collection agreement if one exists. The department may charge a fee for registration and registration renewals under this subsection.

Sec. 5. 32 MRSA §1866, sub-~~§~~4 is amended as follows:

An annual license issued by the department is required before any person may initiate deposits under section 1863-A, operate a redemption center under section 1867 or act as a contracted agent for the collection of beverage containers under section 1866, subsection 5, paragraph B.

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. Rules adopted under this subsection are major substantive rules under the Maine Administrative Procedure Act.

2. **Criteria for licensing rules.** In developing rules for licensing redemption centers, the department shall consider at least the following:

- A. The health and safety of the public, including sanitation protection when food is also sold on the premises; and
- B. The convenience of the public, including standards governing the distribution of centers by population, but not by distance.

§ 1871-B. 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.

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

- A. Fees for issuance of licenses and license renewals under section 1871-B;
- B. Fees for registration of beverage container labels and registration renewals under section 1865, subsection 3;
- C. Unredeemed deposits on spirits containers; and
- D. All money appropriated or allocated for inclusion in the fund.

3. **Application of fund.** The department may combine administration and inspection responsibilities of other programs it administers with administration and enforcement responsibilities under this chapter for efficiency purposes. However, money in the fund must be used only to fund the portion of staff time devoted to administration and enforcement activities under this chapter.

4. **Revolving fund.** The fund shall be 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.

§ 1871-C. 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 local redemption centers which receive beverage containers from dealers supplied by

distributors other than the distributors servicing the area in which the local redemption center is located in order to prevent the distributors servicing the area within which the redemption center is located from being unfairly penalized. Unless otherwise specified in this chapter, rules of the department are routine technical rules under the Maine Administrative Procedure Act. In addition to other actions required by this chapter, department responsibilities include the following:

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 1865, subsection 3 arranged and displayed in a organized and comprehensible manner. The department shall update the registry regularly and make information from the registry available upon request.

2. Education program. 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.

Sec. 9. 32 MRSA §1872, sub-§1 is repealed.

Sec. 10. Implementation of label registration requirements. In implementing the label registration requirements of Title 32, section 1865, subsection 3 Maine Revised Statutes, the Department of Agriculture shall coordinate with the Bureau of Liquor Enforcement and the Bureau of Alcoholic Beverages so that, to the maximum extent possible, registration of beer, wine and spirits under this subsection does not duplicate registration requirements enforced by those bureaus.

Sec. 11. Implementation of licensing fees. In adopting rules establishing licensing fees under Title 32, section 1871-B, the Department of Agriculture shall base the amount of fees on the actual cost of implementing increased responsibilities under this Act. Initially, fees may be set at a level to cover one-time start up costs, but after that, fees must be set at a level to cover on-going costs only. Under the direction of the Joint Standing Committee on Business and Economic Development, the department shall consult with affected parties in developing the licensing fee schedule.

SUMMARY

This bill implements the minority recommendations of the Joint Study Commission to Study Reimbursement Rates for Maine's Bottle Redemption Business and Other Issues Related to the handling and Collection of Returnable Containers created pursuant to Joint Order (HP 1389) approved by the First Regular Session of the 120th Legislature.

The bill does the following:

1. Increases the per container handling fee under the Returnable Container Deposit Law by 1/4¢ per year beginning on January 1, 2002 and continuing through 2006 so that beginning January 1, 2006 the fee is at least 4¢ per container.

2. Requires the label of each type of beverage subject to the law to be registered with the Department of Agriculture; requires the department to maintain a register of current beverage container labels and to make that information available to redemption centers; and authorizes redemption centers to refuse to accept empty containers whose labels are not registered.

3. Requires a license from the department to initiate deposits, operate a redemption center or act as a third party collection agent under the law.

4. Authorizes the department to establish by rule fees for licensing and registration; requires the fees be based on the department's costs in implementing the law; and directs the department to work with affected parties in developing the fees. Departmental rules governing fees are major substantive rules.

5. Requires the department to incorporate a coordinated education program on the requirements of the law as part of its licensing and inspection program.

6. Establishes a dedicated fund to pay from which the costs of administration and enforcement of the law by the department are to be paid. The fund consists of licensing and registration fees charged by the department and unclaimed deposits on liquor bottles.

7. Effective January 1, 2003, decreases the deposit on wine and liquor to 5¢ per container.

APPENDIX O

Chart Showing Growth of Maine Redemption Center Revenues

Notes on "Growth of Maine Redemption Center Revenues"

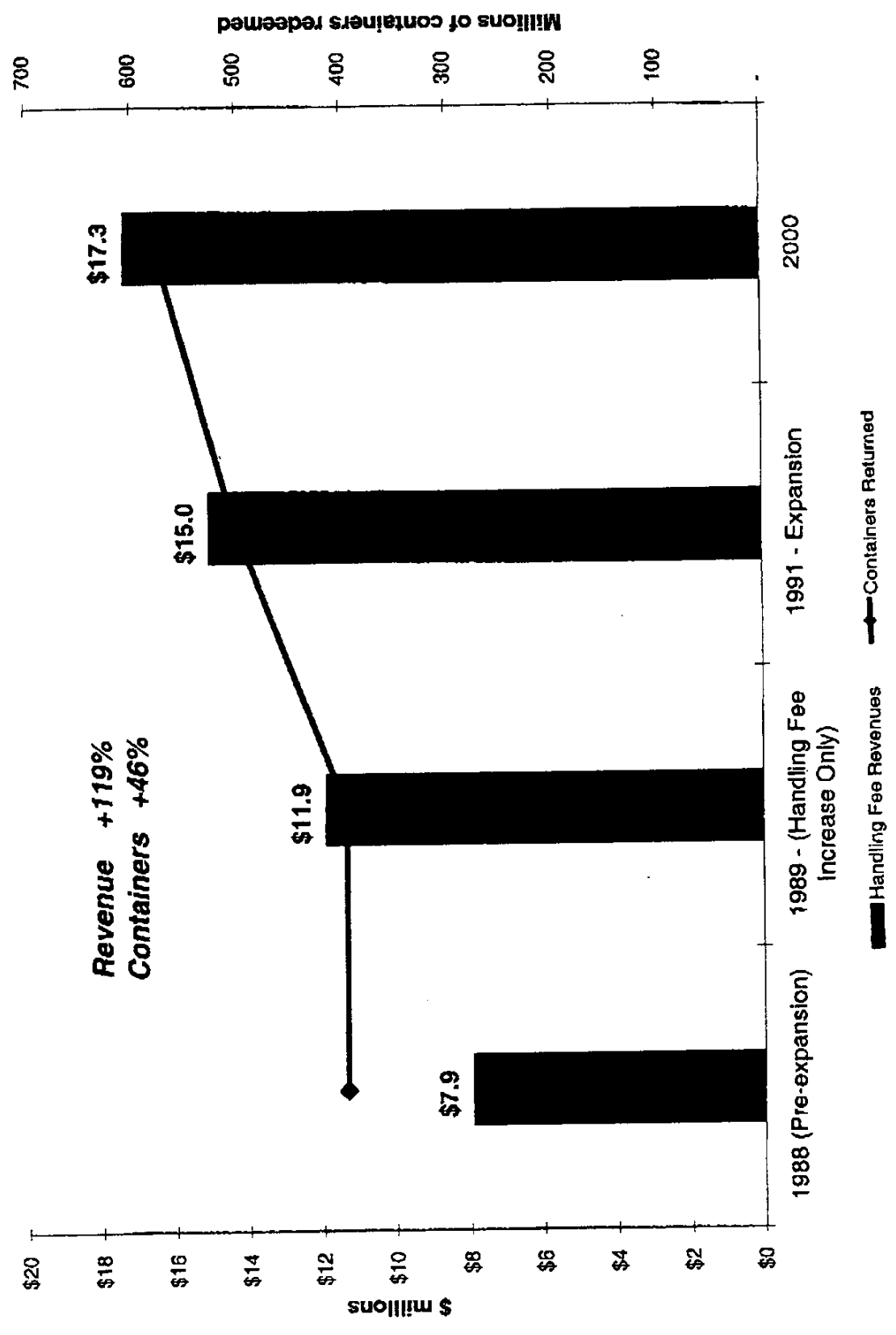
- Since 1988 (the year before the deposit law was expanded):
 - The handling fee increased 50%.
 - The number of containers redeemed grew 46%, because of both expansion and the increase in fraudulent redemption that accompanied expansion.
 - Revenue available to redemption centers in the form of handling fees grew 119%.

Details

- In 1988, before the deposit law was expanded, approximately 400 million containers were returned for refunds; available handling fee revenue for redeemers was \$7.9 million.
- In January 1989 the handling fee increased, providing a 50% increase in revenue available to redeemers.
- By 1991, the expanded deposit law included wine, spirits, and noncarbonated beverages, increasing the universe of containers subject to deposits by between 15% and 20%. Handling fees jumped to \$15 million.
- Through the 1990s, beverage sales increased, providing more returns for redemption centers. Redemption rates also increased as a result of fraudulent redemptions. In 2000 handling fees reached an estimated \$17.3 million.

September 27, 2001

Growth of Maine Redemption Center Revenues



APPENDIX P

**Chart Showing Number of Redemption Centers
Per Capita in Bottle Bill States**

Notes on Maine's Redemption Center Population

- Maine has the highest handling fee in the country at 3¢, the same as Vermont.
- Maine also has, by far, the greatest density of redemption centers per capita: 2.5 centers for every 10,000 residents. This oversupply plays a major role in increasing the costs of redemption; cost control, not more revenue, is the answer.
 - Vermont has only one-third as many redemption centers per capita, even though it has the same handling fee.
 - California, which has a unique container refund system, relies entirely on redemption centers for returned containers, and it has about 0.67 centers per 10,000 residents.

Handling Fees and Redemption Centers/Capita

Deposit States*	Handling Fee	Redemption Centers/ 10,000 Residents
Oregon	0	0
Michigan	0	0
Massachusetts	2¼¢	0.19
Vermont	3¢	0.83
Maine	3¢	2.5

*List only includes deposit states with reliable estimates of redemption centers

- Based on past experience, a 50% increase in the handling fee would triple the number of redemption centers.
 - In 1989, Maine's Department of Agriculture had 104 approved redemption centers and the handling fee was still 2¢.
 - In 1991, after the fee increased to 3¢, the number of approved centers was 318.

August 14, 2001

APPENDIX Q
Findings of Fact

Maine Soft Drink HSS'n

1. Motion that we make the following findings of fact for inclusion in our report:

1. Maine's .03¢ handling fee is the highest in the nation.
2. Each .01¢ fee adds approximately \$6,000,000 to the cost to the system.
3. Handling fees are passed along in a hidden cost to consumers.
4. Although handling fees have not increase since 1989, handling fee revenue has increased approximately 40% in that time period due to expansion of the bottle bill and volume increases.
5. Maine has the highest number of redemption centers per capita in the nation.
6. Many redemption centers are not licensed, and no standards of operation are in place.
7. Sorting requirements at redemption centers add to the inefficiency of the system. A high volume of product requires relatively few sorts while a low volume of product requires a very high number of sorts.
8. A possible means of eliminating the sorting requirement would be to change the law so that distributors would no longer be required to pick-up their brands from redemption centers. This possible solution would require a substantial change to Maine's present system.

2. Having considered the operational costs of redemption centers, as well as inefficiencies in the returnable container system in general, we conclude that no handling fee increase is warranted.

Basis:

- An increase in the handling fee does not address underlying inefficiencies of the system.
- A handling fee increase would increase costs to Maine consumers. Add money to an inefficient system, and create an incentive for more redemption centers to enter an already over-crowded market.
- Maine's system is presently the most expensive in the nation.
- Maine has the highest number of redemption centers per capita in the nation.

3. Motion to recommend the imposition of an annual fee to help fund better monitoring and enforcement of the bottle bill by the Department of Agriculture. We recommend the following fees:

Initiators of deposits: \$500.00

Redemption centers: \$100.00

Basis: The Department of Agriculture does not enforce licensing of redemption centers, issues of fraudulent redemptions, or other bottle bill related issues

The recommended licensing requirement would assist the Department of Agriculture in tracking all initiators and redemption centers in the state.

The money generated from the fees would be approximate \$75,000 to \$100,000.

3. Motion to limit the number of redemption centers to be licensed in an area based upon population. Determination to be made by the Department of Agriculture.

Basis: Maine has the highest number of redemption centers per capita. This results in a system when there are more redemption centers than the volume of containers can sustain.

Existing licensed redemption centers should be grandfathered.

4. Motion to recommend that redemption centers form an association to benefit from lower group insurance rates and other efficiencies.

5. Motion to adopt language in our report that recognizes the following:

1. A long term method of improving the efficiency of the bottle bill may be to remove distributors from the system so that redemption center sorting is greatly reduced.
2. Such a system would require a major overhaul of the existing system.
3. Although it may be a viable solution to the problem of inefficiency in the current system, such a change would require far more study and would take years to implement.

APPENDIX R

Alternative Process for Handling Returnable Containers Submitted by Rep. Clough

Alternative Process for Handling Returnable Containers

		IN	OUT
Deposit Initiator <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> Deposit initiator. May be a production facility or distributor. </div>	Collects deposit on sales Pays deposit to central bank	5¢ or 15¢	8¢ or 18¢
Distributor <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> A distributor that is not an initiator. </div>	Collects deposit on sales Redeems returnable containers Returns to redemption center	5¢ or 15¢ 5¢ or 15¢	5¢ or 15¢
Retailer/Restaurant <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> A retailer that is not a redemption center or bar or restaurant. </div>	Collects deposit on sales Redeems returnable containers Returns to redemption center	5¢ or 15¢ 5¢ or 15¢	5¢ or 15¢
Redemption Center <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> A redemption center licensed by the State. </div>	Collects deposit on sales Redeems returnable containers Returns to recycler via. Ind. Collector	5¢ or 15¢ 8¢ or 18¢	5¢ or 15¢
Independent Collector <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> An individual licensed by the state to collect returnable containers from licensed redemption centers. </div>	Collects returnable containers from redemption centers and delivers to the recycler. Receives returnable containers from redemption centers via. independent collectors.		

Central Bank	Receives deposit from initiator	8¢ or 18¢	
	Pays out to redemption center for product picked up by independent collector		8¢ or 18¢

Q. How does independent collector get paid?

How much?

By whom?

Recycler?

Q. How many sorts are absolutely necessary?

- 1 Aluminum cans
- 3 Glass
 - White
 - Brown
 - Blue/Green
- 5 Plastic
 - PET
 - HDPE
 - Natural
 - Colored
 - LDPE
 - Other
- 1 ACL (Corona)
- 1 Steel cans

11 sorts required?

This process would accomplish the following:

- 1 Eliminate unnecessary sorts.
- 2 Reduce labor and handling costs.
- 3 Allow for return of all product via. one collector.
- 4 Provide for return any product for which a Maine deposit is paid.

Example:

Product sold in health food stores

Product sold in small quantities

Product for which there is currently no designated pick-up provider.