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Legislative Document

No. 1204

S.P. 432

In Senate, April 2, 2015

**An Act To Increase Recycling and Composting by Creating the
Maine Recycling Fund**

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

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator CUSHING of Penobscot.
Cosponsored by Representative BECK of Waterville and
Senators: BREEN of Cumberland, HAMPER of Oxford, HASKELL of Cumberland,
Representatives: HARLOW of Portland, HOBBS of Saco, PARRY of Arundel, POULIOT
of Augusta, TIMBERLAKE of Turner.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§24-G** is enacted to read:

3 **24-G.**

4 Environment/ Recycling Public Mileage 38 MRSA §2128
5 Natural Resources Advisory Council

6 **Sec. 2. 32 MRSA §1862, sub-§2**, as amended by PL 1993, c. 591, §1 and
7 affected by §5, is further amended to read:

8 **2. Beverage container.** "Beverage container" means a bottle, can, jar or other
9 container made of glass, metal or plastic that has been sealed by a manufacturer and at the
10 time of sale contains ~~4 liters or~~ less than 32 ounces of a beverage. This term does not
11 include a container composed, in whole or in part, of aluminum and plastic or aluminum
12 and paper in combination as long as the aluminum content represents 10% or less of the
13 unfilled container weight, the container materials represent 5% or less of the total weight
14 of the container and its contents, and the container is filled with a nonalcoholic beverage.

15 **Sec. 3. 32 MRSA §1874** is enacted to read:

16 **§1874. Beverage containers of 32 ounces or greater**

17 **1. No deposit to be charged.** On and after December 1, 2016, a deposit may not be
18 initiated on a beverage container containing 32 ounces or more of a beverage.

19 **2. End date to redeem deposit.** On and after January 1, 2017, a dealer or
20 redemption center has no liability to any consumer for a deposit on a beverage container
21 32 ounces or greater in capacity. On and after February 1, 2018, a manufacturer or a
22 distributor has no liability to any dealer or redemption center for a deposit or a handling
23 fee on a beverage container 32 ounces or greater in capacity.

24 **Sec. 4. 38 MRSA §1303-C, sub-§27-B** is enacted to read:

25 **27-B. Single-sort.** "Single-sort" means prepared for recycling by mixing at the point
26 of generation.

27 **Sec. 5. 38 MRSA §1303-C, sub-§33-A** is enacted to read:

28 **33-A. Source-separated.** "Source-separated" means prepared for recycling by
29 separation at the point of generation.

30 **Sec. 6. 38 MRSA §2124-A**, as amended by PL 2013, c. 300, §§19 and 20, is
31 further amended by adding after the 3rd paragraph a new paragraph to read:

32 The report submitted under this section must include an assessment of the effect of
33 the funds distributed through the Recycling Grants and Low-interest Loan Program under
34 section 2127, including but not limited to an assessment of the progress in the rate of the
35 recycling of organic material and progress in the rate of the recycling of discarded

1 residential and commercial recyclable materials, including beverage containers under
2 section 2129. The report submitted under this section must also include an assessment as
3 to the ongoing viability of the Recycling Grants and Low-interest Loan Program, with a
4 comparison of the potential benefits of initiatives funded through that program with the
5 benefits of including beverage containers 32 ounces or greater in capacity in the bottle
6 redemption laws under Title 32, chapter 28.

7 **Sec. 7. 38 MRSA §§2126 to 2129** are enacted to read:

8 **§2126. Maine Recycling Fund**

9 **1. Fund established.** The Maine Recycling Fund, referred to in this section as "the
10 fund," is established as a dedicated fund to be administered by the department to fund
11 activities designed to enhance the State's recycling rate and the diversion of recyclable
12 materials that would otherwise be disposed of in a landfill or processed at a waste-to-
13 energy facility. The fund may be expended only:

14 A. To fund the Recycling Grants and Low-interest Loan Program under section
15 2127; and

16 B. To provide assistance to municipalities pursuant to section 2133, subsections 2-A
17 and 2-C.

18 **2. Fund revenues.** The following revenue must be deposited into the fund:

19 A. The recycling fee on the sale of beverage containers 32 ounces or greater in
20 capacity under section 2129;

21 B. Any revenue appropriated, allocated or transferred to the fund by the Legislature;

22 C. Repayment of low-interest loans under section 2127; and

23 D. Interest on the balance in the fund.

24 **§2127. Recycling Grants and Low-interest Loan Program**

25 **1. Establishment.** The Recycling Grants and Low-interest Loan Program, referred
26 to in this section as "the program," is established to assist municipalities and persons
27 engaged in the business of collecting, transporting, processing or marketing recyclable
28 materials pursuant to this section.

29 **2. Administration.** The department shall administer the program and dispense
30 money from the Maine Recycling Fund established under section 2126 for the purposes
31 of the program based on approved grant and loan requests from municipalities and
32 persons engaged in the business of collecting, transporting, processing or marketing
33 recyclable materials. The department may disburse grants and low-interest loans for the
34 documented costs of implementing the collecting, transporting, processing or marketing
35 of recyclable materials, including:

36 A. Parallel collection of source-separated recyclable materials by which residents are
37 able to recycle materials in the same location and with the same ease as they are able
38 to dispose of materials. Program elements to achieve parallel collection include

1 recycling collection on the same day as trash collection, use of large-capacity covered
2 carts for recyclable materials collection, collection of a comprehensive list of
3 materials that may be developed by the board and single-sort collection of recyclable
4 materials including at drop-off locations;

5 B. Transfer and processing capacity to facilitate cost-effective transportation of
6 recyclable materials and use of state-of-the-art processing facilities that operate at an
7 efficient scale;

8 C. Use of broad-based economic incentives to promote recycling, including the use
9 of unit-based pricing for disposal in which residents pay a higher per unit price for
10 disposing of greater quantities of material; and

11 D. Initiatives that result in the recycling of solid waste materials that would
12 otherwise be disposed of, with an emphasis on organic waste.

13 The department shall solicit the recommendation of the Recycling Public Advisory
14 Council under section 2128 before making a final decision on the disbursement of funds.

15 **3. Audit.** The revenue from the Maine Recycling Fund established in section 2126
16 and its disbursement by the program is subject to audit, and the recipient of any such
17 funding must agree to the audit and cooperate with the auditor as a condition of receiving
18 funding.

19 **4. Organic waste.** The department shall disburse a majority of the funds of the
20 program to projects that enable municipalities to improve the removal and recycling of
21 organic waste from municipal waste streams.

22 **5. Priorities.** The department shall give priority in the awarding of program funds
23 after awards pursuant to subsection 4 to projects that enable municipalities to improve
24 recycling of discarded residential and commercial recyclable materials, including product
25 packaging, cardboard, newsprint, printed paper and plastic food and beverage containers,
26 including beverage containers under section 2129. The awarding of additional grants
27 under this subsection must be consistent with the solid waste management hierarchy
28 under section 2101. The department shall solicit the recommendations of the Recycling
29 Public Advisory Council under section 2128 and grant-eligible stakeholders during
30 development of grant guidelines and procedures.

31 **6. Grant requests.** The department shall solicit applications by grant-eligible and
32 loan-eligible stakeholders, including but not limited to municipalities, nonprofit recyclers
33 and for-profit recyclers. The Recycling Public Advisory Council under section 2128
34 shall provide recommendations regarding the categories and priorities for grants and
35 loans that reflect the council's informed and representative view of the most urgent and
36 important areas where grant funding will provide the most benefit to the State, balancing
37 current needs with those of future generations.

38 **§2128. Recycling Public Advisory Council**

39 **1. Composition.** The Recycling Public Advisory Council, referred to in this section
40 as "the council," established pursuant to Title 5, section 12004-I, subsection 24-G,
41 consists of the following 11 members appointed by the Governor:

- 1 A. One member from the department;
- 2 B. One member representing county governments from a list of nominees provided
3 by a statewide county commissioners association;
- 4 C. One member representing municipal governments from a list of nominees
5 provided by a statewide association representing the interests of municipalities;
- 6 D. One member representing a for-profit recycler;
- 7 E. One member representing a public waste organization or association;
- 8 F. One member representing the nonalcoholic beverage industry from a list of
9 nominees provided by a statewide association representing the interests of bottled
10 beverage distributors;
- 11 G. One member representing a statewide chamber of commerce;
- 12 H. One member representing a statewide grocery and food wholesalers association;
- 13 I. One member representing the interests of conservation groups from a list of
14 nominees provided by a statewide group representing conservationists;
- 15 J. One member representing natural resources advocacy groups from a list of
16 nominees provided by a statewide natural resources council; and
- 17 K. One member representing a for-profit organic composter.

18 **2. Terms; mileage; chair; voting; quorum.** The member of the council appointed
19 pursuant to subsection 1, paragraph A serves until replaced by the Governor. Members of
20 the council appointed pursuant to subsection 1, paragraphs B to K serve for terms of 3
21 years and may not serve for more than 2 consecutive terms, but may serve after one year
22 off the council. Members may be reimbursed for mileage to and from meetings pursuant
23 to Title 5, section 8. The Governor shall appoint a chair from among the members.
24 Actions of the council must be approved by a majority vote. Seven members constitute a
25 quorum of the council.

26 **3. Duties.** The council shall:

- 27 A. Perform the following duties with respect to the Recycling Grants and Low-
28 interest Loan Program under section 2127:
- 29 (1) Advise the department in developing criteria for the program;
- 30 (2) Review all applications to the program;
- 31 (3) Make recommendations to the department on the selection of applicants to
32 the program;
- 33 (4) Provide an annual assessment of the revenue needed to satisfy the grant
34 requirements of the program;
- 35 (5) Make recommendations annually to the Legislature regarding the priorities
36 for awarding program funds; and
- 37 (6) Assist the department in evaluating the effect of the program on municipal
38 recycling; and

1 B. In cooperation and consultation with the department, initiate and conduct public
2 outreach and education programs on the purposes and value of source-separated
3 recycling and sustainable materials management. The intent of these programs is to
4 maximize the recovery of all recyclable materials and yard waste generated by
5 commercial and residential sectors. The council may conduct these programs in
6 conjunction with similar efforts of private industry, municipalities, public interest
7 groups and the department. The programs may include the use of public advertising.
8 The council shall engage in educational outreach regarding the end of consumers'
9 ability to redeem deposits on beverage containers 32 ounces or greater in capacity
10 pursuant to Title 32, section 1874 and the recycling of those containers pursuant to
11 this chapter.

12 **4. Administrative support.** The department shall provide administrative support to
13 the council.

14 **§2129. Recycling fee on certain beverage container sales**

15 **1. Recycling fee.** Beginning December 1, 2016 and ending December 1, 2022, a
16 manufacturer of refillable beverage containers 32 ounces or greater in capacity, including
17 wine and spirits containers, and a distributor of nonrefillable beverage containers 32
18 ounces or greater in capacity, including wine and spirits containers, shall pay a recycling
19 fee at the rate of \$0.005 per beverage container delivered for sale or distribution during
20 any month. The fee is due on the 20th day of the following month. The monthly returns
21 must be accompanied by a certified statement on such forms as the Department of
22 Administrative and Financial Services may require in computing the fee due. A
23 manufacturer and a distributor may list, as a separate line item on an invoice, the amount
24 of the fees due under this subsection.

25 **2. Remittance.** The fees under this section must be remitted to the Department of
26 Administrative and Financial Services for deposit into the Maine Recycling Fund under
27 section 2126. The Department of Administrative and Financial Services shall enter into
28 an agreement with the department authorizing the Department of Administrative and
29 Financial Services to charge an amount reasonably determined to be the cost of
30 administering the fees under this section.

31 **3. Repeal.** This section is repealed December 1, 2022.

32 **Sec. 8. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 38,
33 section 2128, subsection 2, initial appointments to the Recycling Public Advisory Council
34 of members other than the member who is an employee of the Department of
35 Environmental Protection must be made as follows: 4 members must be appointed to
36 terms of 3 years, 3 members must be appointed to terms of 2 years and 3 members must
37 be appointed to terms of one year.

38 **Sec. 9. Effective date.** That section of this Act that amends the Maine Revised
39 Statutes, Title 32, section 1862, subsection 2 takes effect December 1, 2016.

1

SUMMARY

2 This bill establishes the Recycling Grants and Low-interest Loan Program and the
3 Maine Recycling Fund under the Department of Environmental Protection to assist
4 municipalities and persons engaged in the business of collecting, transporting, processing
5 or marketing recyclable materials and to fund activities designed to enhance the State's
6 recycling rate and the diversion of recyclable materials that would otherwise be disposed
7 of in a landfill or processed at a waste-to-energy facility. The bill requires the fund to be
8 used only to fund the program and to provide assistance to municipal recycling efforts.

9 The bill establishes the Recycling Public Advisory Council to assist the department in
10 the administration of the program. The bill directs the council, in cooperation and
11 consultation with the department, to initiate and conduct public outreach and education
12 programs on the purposes and value of source-separated recycling, or recycling by
13 separation at the point of generation, and sustainable materials management in order to
14 maximize the recovery of all recyclable materials and yard waste generated by
15 commercial and residential sectors.

16 This bill phases out beverage containers 32 ounces and greater in capacity from the
17 bottle redemption laws beginning December 1, 2016 and ends the liability of redemption
18 centers and dealers to consumers for deposits on January 1, 2017 and the liability of
19 manufacturers and distributors to redemption centers for deposits and handling fees on
20 February 1, 2018. The bill requires manufacturers and distributors of bottles 32 ounces or
21 greater in capacity to pay a fee, beginning December 1, 2016 and ending December 1,
22 2022, at the rate of \$0.005 per beverage container delivered for sale or distribution during
23 any month in order to provide revenue to the fund.