

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-First Legislature**  
**State of Maine**

**Volume III**

**Second Special Session**

April 8, 2004 - April 30, 2004

**Appendix**  
**House Legislative Sentiments**  
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Pages 1563-2203

The following items were taken up out of order by unanimous consent:

#### UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "C" (H-809)** - Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine Related to the Taxation of Personal Property

(H.P. 167) (L.D. 208)

TABLED - March 29, 2004 (Till Later Today) by Representative LEMOINE of Old Orchard Beach.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-855)** - Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Increase Returnable Beverage Container Redemption Rates"

(H.P. 931) (L.D. 1257)

TABLED - April 7, 2004 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT.**

Subsequently, the Committee Report was **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-855)** was **READ** by the Clerk.

Representative SULLIVAN of Biddeford **PRESENTED House Amendment "A" (H-956)** to **Committee Amendment "A" (H-855)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Austin.

Representative **AUSTIN**: Mr. Speaker, Ladies and Gentlemen of the House. This a unanimous committee report. It was amended to address several pieces to a law that was passed last year. One of the elements is the Department of Agriculture's need to establish the parameters for the commingling agreements. Due to the budget situation the time frame was changed to 3/1/04 for this requirement to be met. The Department of Agriculture issued the memorandum in draft form at the end of January. This left the industry who thought that the rulemaking was underway with little time to respond. There is an agreement filed with the Department of Agriculture after that memorandum. It is still pending. These small businesses have every intention of commingling and complying with the law and have asked for the time to enable the regulatory state agency to work with them. To my knowledge, right up to this amendment it has just now been put forth. The agreement has been reached and was working forward on being facilitated with the Department of Agriculture. For that reason, I believe this amendment is unreasonable and it is an expectation to these parties that are involved. Please join me in saying goodbye to this amendment.

I would ask for a roll call.

Representative AUSTIN of Gray **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-956)** to **Committee Amendment "A" (H-855)**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. There are many things that I would like to say about this bill. This bill undoes the bill that we passed last year. LD 985 was a bill that we passed bipartisan to move the intention of the bottle bill forward and to also help the small businesses in your area to receive one-half penny for redemption. You have returned your bottles to your redemption centers. You see the workers in there. They are all manual workers having to throw bottles into about 300 different socks. It was decided that this was not what we wanted to do. We changed some things last year in LD 985. It was passed. It said that we were going to go to a commingling agreement. A commingling agreement means that companies can mix their products. Pepsi cans of 12 oz size and Coke cans and all other cans are put in, Sprite and Mountain Dew. All of those will go together. It is the only way that a redemption center can receive any increase for doing the business. This is what the State of Maine did in order to clean up the environment. When we passed minimum wage increases, they have to pay them. When CMP or Bangor Hydro or any of the other electrical companies increase fees, they have to pay them. When we pass sewer fees and everything else, redemption centers have to pay them.

Those little redemption centers, people said that there are too many. We put an agreement on that they would now have to be licensed. You can't start one just because you think you would like to go and collect bottles.

I would disagree with the good Representative lead from Gray, Representative Austin. It is not about little companies. This is about their companies. They are not small business. They have a very powerful lobbyist group. They said that they didn't understand commingling. Let me tell you what Jeff Payne said when he came before us April 10, 2003, this is when we were looking at LD 985 on commingling. "My name is Jeff Payne. I am president of National Distributors. I would like the committee to consider the impractical nature of what these so-called arrangements are asking us to do as a business. Basically this legislation mandates that we get in bed with our competitor and arrange for us to pick up their empties and for them to pick up our empties. From there things get really murky." They understood perfectly well what needed to happen by March 1. In fact, I find it hard to believe that the beer company couldn't understand when Coke and Pepsi, two business enemies understood so well, that they were ready to go March 1. If you were ready to go March 1, you didn't need to pay that half penny, because you were helping the redemption centers by cutting down their costs.

First of all, what you are doing is you are saying as a body that if this amendment does not pass with Coke and Pepsi, that you were foolish to do what the Maine State Legislature told you to do. More importantly, you have to go home to the people in your communities and your districts and say that we know it has been 11 years since you have had a raise and we know we passed a bill that gave you one. Look, let's be honest, the lobbyists have been talking and the beer companies can't afford to pay you that. They need to have another seven months. I am willing to give them the seven months which is part of the bill. I am willing to give them the fact that the State of Maine in the sheet is simply an escape thing. It is \$170,000 a month for seven months each month. That is a lot of money that the State of Maine could use right now. I am willing to give that up, because after all the beer companies need more help than the State of

Maine. I am willing to forego and waive all penalties that LD 985 put into place if they weren't ready by March 1 of this year.

What I, in good conscience, cannot waive is a half penny to small businesses, redemption centers who decided to make this bottle bill work for 20 years. Without the redemption centers, it doesn't work. Do the beer companies care if the bottle bill doesn't work? Go back and look in the archives, they never supported the bottle bill to begin with. The redemption centers are the workhorses. They are the ones that make it work. You voted last year and stood up there and had it called a great compromise. The Representative from Scarborough stood up last year. He talked about how this was a good move forward. It was. LD 985 actually started out with a 3 cent increase and ended up at a half penny. Redemption people were happy to take the half penny. In good conscience all my amendment does is move the half penny retroactive to March 1, exactly what we voted as a law last year.

I can go back and say to my redemption centers that we heard your voice. I have people who have written me from Old Town, Knox, Dixfield, Mexico, York, Biddeford and Saco asking me to please support the redemption people. No, you don't see them out here. They are busy taking the returnables from your communities. They don't pay high-priced lobbyists. They don't have a lot of money to give PACs. They make our Maine bottle bill work. We promised them that in legislation. Talk about promises.

We passed this bill last year. One group took us at our word. Another group laughed in our face and wrote letters to the redemption centers saying we are going to delay this. We are not going to do it. I can prove those letters. I can show you the letters. They knew. They weren't confused. I ask you to support this amendment. All it does is say that we will give you to October 1, beer companies, except for the half penny.

There is one other thing I want to say. This came out of committee originally in a much different note. I did a foolish thing first time in three years. I took a vacation with my husband. I went back to committee and the other chamber rewrote it. I agreed to everything in it except the redemption piece. This is not as it appears. It really does move the bottle bill backward. It takes two studies that we have done here, both in the 119th and the 120th. It also takes us back. I ask you to support this amendment for a half penny and give the beer companies everything else they want. Maine, the redemption centers and the very integrity of this institution of us passing a law last year and never even giving it a chance to work before we turned it down for the little guy. I ask you to support my amendment.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. As most of you know, I served on that study commission for the bottling bill for two years and worked hand in hand with representatives of the industry and the redemption centers and the people from the beer and wine industry. They were at the table throughout and supported the effort that we put forward. I think we are very important in coming up with something that was workable.

Earlier in this session we voted on this, LD 1257, as it was presented and passed it. I think that was a good move and the best move right now is to vote against this amendment and move forward with what in good faith was presented to us earlier. Thank you.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I would like to ask this question to the chair of the committee. Isn't it true that the State of Maine was also supposed to reimburse a half a cent on March 1? Have they done that?

The SPEAKER: The Representative from Raymond, Representative Bruno has posed a question through the Chair to the Representative from Biddeford, Representative Sullivan. The Chair recognizes that Representative.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. In answer to that, unless it was done while I was gone and I have missed that one too, then no. The bottle bill is one that is done between the initiators of the deposit and with the redemption centers. The only thing that the State of Maine would get into is the sheet, which is that escape sheet of redemption. It is a very confused matter. All of the bottles that are not returned, you go in and buy a six-pack of Pepsi. I know we are all Pepsi or Coke drinkers here. If you choose to throw those cans away or you take them out of state or you do something awful like throw them overboard or whatever, you paid the 5 cents to your local grocery store or your mom-and-pop convenience store and that money is collected and given back to the companies. In this case, I think I used Pepsi as an example. Pepsi becomes the keeper of that 5 cents. That is the sheet that would have gone back to the State of Maine and that is the \$170,000 figured on just the beer per month that will be kept.

Under the original bill and even under the amendment under the original LD 985 and under the bill that you are looking at now LD 1257, if you entered into a commingling agreement, you were allowed to keep that sheet money. It went back to the coffers of the companies. In this case, for seven months the beer companies will be keeping the half penny that they would have paid the redemption centers and they will be keeping all sheet money. That is basically figured on an average, figured by RSVP, the largest redemption center out of the Portland and South Portland area. It was \$170,460 per month. You multiply that by seven months that we are extending this money and the beer companies have quite a bit in their pockets that would have gone to state coffers. That is the only money that would have gone to state coffers.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I think there is a lot of confusion on this redemption bill as there has been over the last three sessions of the Legislature. There were two study committees that have dealt with this issue and we finally have bill that came out unanimously out of committee. I don't think now, at the end of the session, is the time to try to add an amendment on the bill that changes the entire bill. We have an agreement. I think it is time to move on. I think it is time to reject this amendment. Let's move on. It is not just the beer wholesalers. It is not just the soda wholesalers. There are a lot of people that come into play here. We need to reject this amendment and move on and then live with October 1 as the deadline and let's just get this out of the way. It has taken six years to get to this point where we finally have agreement. Why are we trying to muck around with it and get it going backwards again? I hope you vote against this amendment so that we can pass the bill and move on.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Beaudette.

Representative **BEAUNETTE**: Mr. Speaker, Ladies and Gentlemen of the House. It has been stated that it was a unanimous report and indeed it was. However, there is a story behind the unanimous report. There was a change toward the end of the discussion in the work session on this bill that was initiated by members of the other body. At the time, in order to not lose the entire bill because of all the work that was done on it, we opted to compromise on the position that the members of the other body were taking as opposed to the House members of the committee.

In retrospect, given that two members of the committee were absent at the time, it clearly would not have been a unanimous report. After further discussion, certainly if it is our intent to support small businesses in this state, then this amendment is just the vehicle with which to do so. It restores what was intended by the original bill to provide a half cent to all the redemption centers in order for them to be able to deal with the additional labor involved with not having a commingling agreement, specifically in this case with the malt beverage distributors. I would ask you to please support this amendment.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Jackson.

Representative **JACKSON**: Mr. Speaker, Ladies and Gentlemen of the House. I couldn't agree more with the former speaker, Representative Beaudette. I have two small redemption areas in Fort Kent and a couple others in surrounding towns. I heard from both the ones in Fort Kent last year asking me to support the original bill. What I remember from the original bill was the two-cent increase. They asked me to support that. We had a lot of contact back and forth with them. When the final bill came down a half cent, I was kind of reluctant to tell them it was a half cent, but when they did hear that, they were both actually happy about it. I believed that it was going to be 90 days after we got out of session. Later on that fall one of the redemption centers called me about what I knew of it because they hadn't seen anything. I checked on it again and January 1st was when the bill actually stated it would happen. Within that time the guy that ran one of the redemption centers in Fort Kent actually started working with me in the woods, running the grapple skidder. We talked about it a lot for a couple months. We didn't talk about it much in the morning because it was quite early and both of us were half asleep. Coming home at night we would talk about it and kept asking me, where is it? I kept saying it was coming. We get down here this year and find out that it isn't coming. Somewhere along the line it got taken away. I think that is awful. I think it is unfair. I actually think it is a joke. I think you should support this amendment to give it back. That is what we passed last year. That is what a lot of these people are expecting or did expect. It is incredible that it got pulled out from under them. Please support this amendment.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I was on the Business Committee when this thing first showed up several years ago. It showed up to help the small business. The biggest selling point is they hadn't had a raise for over 10 years. The cost of everything had gone up, the bags that they have to put these cans and bottles into, rent, heat, the cost of labor, you name it. There was a commission set up to study it. The commission, I have always thought was kind of stacked against that little guy to start with. Some of the ways to raise their income was to eliminate some of these sorts. If you are wondering what that is, it is containers from different companies

all going into the same big bag that goes back. By doing that, the big guy who is taking in millions and millions of cans could save money simply by eliminating one of the help. Lay someone off, you are going to make more money. What about mom-and-pop who can't do this. You have two people who probably live in the back of the store or up over the store working full time to keep body and soul together. Who are they going to lay off to save money? I think over the period of years now this whole thing has been hijacked by the big guy to get it down to a half a cent. I was pretty disappointed this year when that half a cent came along and the guy in my hometown who has his whole family working for him because he can't really afford to go out and hire employees. I didn't want to go and tell him what he was going to get with that half cent. Now it seems like the big guy has really hijacked this whole thing, not thinking that this man doesn't deserve a half a cent after going on for 12 years now. I hope that you people have a little compassion. This is an anti-small business bill, anti-family. I hope we are better than that. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-956) to Committee Amendment "A" (H-855). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 490

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Bierman, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Carr, Clark, Collins, Cowger, Cummings, Dudley, Dugay, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hotham, Hutton, Jackson, Jennings, Jodrey, Kane, Ketterer, Koffman, Landry, Lemoine, Lerman, Lessard, Lundeen, Makas, Marraché, McGowan, McLaughlin, Mills J, Mills S, Moody, O'Brien L, O'Neil, Paradis, Peavey-Haskell, Percy, Perry A, Pineau, Pingree, Richardson J, Rines, Saviello, Simpson, Smith N, Smith W, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Thompson, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Campbell, Churchill E, Churchill J, Clough, Cressey, Crosthwaite, Curley, Daigle, Davis, Fischer, Glynn, Greeley, Heidrich, Honey, Joy, Kaelin, Ledwin, Lewin, Maietta, Mailhot, McCormick, McNeil, Millett, Moore, Muse, Nutting, O'Brien J, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Tobin D, Tobin J, Treadwell, Vaughan, Young.

ABSENT - Brown R, Courtney, Craven, Dunlap, Duprey B, Fletcher, Jacobsen, Marley, McGlocklin, McKee, McKenney, Murphy, Norbert, Norton, Patrick, Pellon, Perry J, Piotti, Sampson, Sykes.

Yes, 80; No, 51; Absent, 20; Excused, 0.

80 having voted in the affirmative and 51 voted in the negative, with 20 being absent, and accordingly **House Amendment "A" (H-956) to Committee Amendment "A" (H-855) was ADOPTED.**

**Committee Amendment "A" (H-855) as Amended by House Amendment "A" (H-956) thereto was ADOPTED.**

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading.**

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-855) as Amended by House Amendment "A" (H-956) thereto and sent for concurrence.**