

**§3117. Unlawful possession of beverage containers**

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

**1. Penalty.** A violation of this section is a civil violation for which a fine of \$100 per container in excess of 48 beverage containers may be adjudged. [PL 2015, c. 166, §14 (NEW).]

**2. Enforcement.** The Maine State Police shall enforce this section and prosecute any persons found in violation. [PL 2015, c. 166, §14 (NEW).]

**3. Private right of action; containers not originally sold in the State.** An initiator of deposit may maintain a civil action in Superior Court against a person, other than a redemption center licensed in accordance with section 3113, in possession of more than 48 beverage containers that the person knows or has reason to know were not originally sold in this State as filled beverage containers. If the initiator of deposit prevails in any action, the initiator of deposit is entitled to an award of reasonable attorney's fees and court costs, including expert witness fees. [PL 2019, c. 526, §13 (AMD).]

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

- A. The beverage containers stored or transported are intended solely for retail sale outside of the State; [PL 2015, c. 166, §14 (NEW).]
- B. The beverage containers are being transported to and stored in a facility licensed under Title 28-A, section 1371, subsection 1 prior to labeling and subsequent retail sale within the State; or [PL 2015, c. 166, §14 (NEW).]
- C. The person is licensed under Title 28-A, section 1401 to import malt liquor and wine into the State, the beverage containers contain malt liquor or wine and these containers are being transported or stored prior to labeling and subsequent retail sale within the State. [PL 2015, c. 166, §14 (NEW).]

The department may require reporting of the numbers of beverage containers imported into and exported from the State under the terms of this subsection. [PL 2015, c. 166, §14 (NEW).]

**SECTION HISTORY**

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

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