

# **Joint Environmental Conservation Committee Testimony on the Bottle Bill**

*Bree Dietly for the American Beverage Association and its NY Bottler Members  
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Good morning Chairs Harckham and Glick and Members of the Senate and Assembly Environmental Conservation Committees. My name is Bree Dietly and I am a Principal at Breezeway Consulting in Somerville, Massachusetts. I am here today representing the American Beverage Association (ABA) and its members who produce and distribute most of the nonalcoholic refreshment beverages sold in New York.

My comments reflect the more than 50 years of experience of the beverage industry operating deposit systems around the world. My own expertise derives from 40 years of working on deposit return system (DRS) policy around the country and, on the operations side, I manage two distributor cooperatives that handle empty deposit containers in Maine and in Vermont.

## **Our Employees and Our Commitments**

ABA members produce and distribute a wide array of refreshment beverages through a network of local bottlers who live and work in New York. Our industry provides jobs to 15,000 New Yorkers; these jobs are some of the best paid, highest benefit jobs available in communities to employees with and without college degrees, and many of them are union jobs. We are proud of our employees and how they and the companies they work for are involved in and give back to our communities.

The beverage industry plays an important role in advancing the circular economy. Our packaging is specifically designed and optimized for recycling. In particular, we produce PET bottles and aluminum cans that are recyclable, have a high commodity value, and, when collected and recycled, can become new bottles and cans. The industry also has invested in local and regional recycling infrastructure for more than 40 years.

The companies have also made commitments to incorporate more recycled content into our PET bottles and to reduce the amount of new plastic in our bottles. We are working to get every bottle back to meet these ambitious goals and support a circular economy for our beverage containers. More information can be found at <https://www.innovationnaturally.org/plastic/>.

## **Northeast Deposits at A Turning Point**

We are at a critical stage in setting the course for beverage container deposits in the Northeast. We have spent the last two years developing and advocating for a more progressive approach to bring deposit programs into the current century – to make these programs more sustainable, accountable, successful, and efficient.

Our underlying model for this approach is neither radical nor unprecedented: product stewardship underlies hundreds of programs around the world to manage materials to avoid disposal and mismanagement and to optimize reuse and recovery. New York and nearly every

US state have product stewardship programs for products from batteries to mattresses. Many beverage container deposit programs around the world, including those in several Canadian provinces, follow these principles, some more closely than others. In the US, however, we can point only to the Oregon system as a model for many of these principles. It is noteworthy, then, that Oregon's system is the highest performing in the country.

The redemption system in New York today looks remarkably similar to the system that was in place shortly after the law was adopted almost 40 years ago. Consumers pay refunds at the time of purchase and in order to get refunds they use reverse vending machines in the front of supermarkets and grocery stores, where they sometimes stand in long lines. Others use redemption centers where larger numbers of containers can be redeemed at once. Some leave bottles and cans out for "canners" who redeem containers for income.

The system is neither modern nor convenient, yet proposals before the Legislature would pile onto this same system adding more costs and opening up the state's borders to fraud -- including from redemption of out of state containers as well as bootlegging in beverages for sale on which no deposit was paid.

NY has a 69 percent redemption rate (for the 12 months ending 2/28/23), but we could do better than this if reforms were made. The NY rate is inflated by the extensive fraud that occurs as consumers and others bring containers into the state for redemption throughout the Tri-State region and across the Southern Tier.

The NY redemption system simply does not comport with best practices in system design agreed upon by many in the environmental and business community. Some of the discrepancies between best practices and the NY system are that the program is de-centralized, managed by individual distributors requiring extensive sorting and driving up costs; much of the technology in use is severely outdated, given the dissatisfaction of many consumers with the slow, single-feed reverse vending machines; and most of the unclaimed deposit revenue that should be re-circulated into the system to help finance its operation and upgrade is instead going to the state's General Fund.

The system as it stands today is badly in need of reform. Trans-shipment of filled containers across state lines is common, with truckloads of beverage containers coming into the Metro NY area for sale in stores and food trucks where no deposit was ever collected on the containers. At the same time, redemption rates in border areas are extremely high as empty containers flow in from nondeposit neighbors.

In short, the system needs to be reformed and modernized to improve the consumer experience, increase redemption rates, and align with best practices recognized around the globe. Only then should other changes such as further expansion be considered.

## **Why Now**

On behalf of my clients, I have opposed various amendments to New York's bottle bill. I have argued in detail, using original research and analysis from other programs, how proposed changes to the law would come at tremendous cost to New York businesses and consumers,

while doing nothing to improve the redemption experience for consumers and offering comparatively little environmental benefit.

With the 2009 expansion of the law to water, driven by budgetary needs for unclaimed deposit revenue, the New York DRS took a turn from an environmental program to a revenue-generating program. The beneficiary of a poorly performing DRS in New York is, unfortunately, the Department of Taxation and Finance, which booked \$112 million in unclaimed deposits in the most recent 12 months.

The system into which New York consumers and businesses pour well over \$400 million per year costs more than it should and delivers less in terms of environmental benefit and consumer satisfaction. We cannot support proposals, however well intentioned, that build on that model.

Looking back to our industry and corporate commitments, our member companies and others have a strong interest in making sure the redemption system actually works, can deliver on its promises, and returns a benefit for all the expense. We want to see beverage containers returned at a higher rate and we need the system to yield more recycled PET and aluminum, but we currently have very limited ability to make this happen. This means that we support restructuring the program, designing it to work better, and holding it accountable for its performance. Without making those changes, other proposals to add more beverage containers and more mandates and more costs will not succeed.

We want our containers back. We have made ambitious commitments to use more recycled content in our bottles. Our brand owners are also making similar commitments while striving to lower their carbon footprints. We need public policy that can help get us there and we are willing to do our part to fund these systems. But one of our key principles is that with funding must come accountability and the ability to design systems to accomplish their environmental goals – not to generate revenue for state budgets. It is in none of our interests to double-down on a failing program.

## **Our Alternative**

The product stewardship model we would propose as the structure for New York's beverage container deposit system offers something no proposal before the Legislature does: improved performance for the system and accountability for it. This approach can provide environmental benefits through a responsible party that can actually achieve them. Keys to this approach are:

- A nonprofit entity charged with the financial and operational responsibility for the DRS and which is the designated producer responsibility organization for beverage containers
  - The entity is governed by distributors/producers as defined in the law
  - Producers fund the system through material-specific fees to cover costs to redeem, collect, and process containers. The fees also support outreach and promotion of the program to encourage greater consumer participation.
  - All deposits and refunds are cleared through the entity; over time there is a transition to retaining all unclaimed deposits to help fund operations.

- The organization develops a plan in consultation with stakeholders to achieve target redemption levels; establish/use existing redemption sites to diversify redemption options and find a better balance between retail, dropoff, and independent redemption; develop fees to support the operation of the program; coordinate all pickup and processing of materials; and offer producers right of first refusal for recovered material (similar to how systems work today)
- DEC reviews the plan as with other product stewardship models, requests changes, and approves a final plan; annual reporting and transparency allows for much more system integrity and accountability.
- This approach provides:
  - A more consumer-oriented infrastructure to promote participation and drive up rates
  - Coordinated efforts to fight fraud, using the resources and data compiled by the producer group
  - A self-funding system, eliminating the need for handling fees set in statute, that utilizes existing redemption, collection, and processing infrastructure to improve efficiency while having the resources to make required new investments

This approach is a turning point and an opportunity. This change could lay the groundwork for a very different relationship between producers, government, and consumers not just in New York, but in the entire region and it mirrors the structure of governance envisioned for an extended producer responsibility program for packaging and paper products, which we also support.

## **Conclusion**

Rather than compound the problems with the current bottle bill, we encourage the Committees to seek reforms of the system first, and then consider whether bringing additional products into the deposit system makes sense environmentally and economically. This is especially true as the Committees concurrently consider EPR legislation. Thank you for the opportunity to present our views on the deposit program.