

**Testimony of
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**Joint Legislative Hearing on:
New York State Returnable Container Act**

Assembly & Senate Standing Committees on Environmental Conservation

October 23, 2023

SUBJECT: Bottle Bill

Chair Glick, Chair Harckham, and members of the Assembly and Senate Standing Committees on Environmental Conservation, good morning. My name is David Vitale, I am the Acting Deputy Commissioner for the Office of Remediation and Materials Management at the New York State Department of Environmental Conservation (DEC). I have worked at DEC for 44 years managing policies and programs covering all aspects of solid waste management, including recycling, in NYS. On behalf of Commissioner Seggos, who could not be here today, I thank you for the opportunity to provide the following testimony on the New York State Returnable Container Act, also known as the “Bottle Bill”, and the role of DEC in implementing, advancing, and enforcing this important waste reduction and recycling measure.

Since the passage in 1982 and implementation in 1983, it is estimated that the Bottle Bill has reduced roadside beverage container litter by 70%. Requiring the deposit on beverages in New York State for 40 years has been an important element of New York State’s overall waste reduction and recycling programs and achievements. The redemption rate for deposit beverage containers has averaged 65%—far beyond the reported 24% recycling rate in states that do not require a deposit and where beverage containers are only collected through municipal recycling programs.

In 2022, an estimated nine billion beverage containers requiring a deposit were sold in NY and 6.4 billion deposit containers were redeemed, allowing for a 70% redemption rate. There was \$117.7 million in unclaimed deposit fees remitted to the NYS Department of Taxation and Finance. Of that, \$23 million was dedicated to the State’s Environmental Protection Fund (EPF).

While addressing a small portion of the overall Municipal Solid Waste (MSW) waste stream, New York State’s Bottle Bill continues to be an anchor of the state’s overall waste reduction and recycling program. This landmark policy created and continues to foster a recycling ethic in New York State, while reducing the costs for management to municipalities, residents, and commercial establishments, and removing more than 10 million tons of plastic, glass, and aluminum from the waste stream over the past 40 years.

While the Bottle Bill continues to be a success story, the landscape of waste and recycling has changed over the last 40 years. The 2018 impacts of China’s National Sword Policy affected recycling markets across the globe, leading to initial negative consequences for recycling programs in New York State. This has caused revenue for recycled materials to fall, putting greater strain on our localities and making it more difficult for our localities to make necessary investments. These market disruptions have also

made it clear that New York State needs to help reduce contamination in the recycling stream, find new outlets and uses for recyclable materials, and help find solutions to support recycling efforts on a local and regional scale in order for recycling to remain resilient in the face of global market disruptions. DEC has invested over \$20 million in recycling and market research with several SUNY universities to help navigate the next steps for New York State.

These partnerships with SUNY include:

- SUNY College of Environmental Studies and Forestry (ESF) – Through the Center for Sustainable Materials Management, SUNY ESF is advancing waste reduction and markets for recyclable materials through research on:
 - new methods to utilize non-marketable paper as compost feedstock;
 - processes for the production of biodegradable materials from waste fibers and fines;
 - outreach and education focused on recycling right;
 - procurement to advance closed loop responsible products; and
 - needs associated with greater recycling of packaging and paper.
- SUNY Buffalo – Through the Initiative for Plastic Recycling Research and Innovation, SUNY Buffalo is advancing plastic recycling in New York State through:
 - building an understanding of the collection and disposal of plastics;
 - researching ways to improve the efficiency of plastic collection and processing;
 - researching plastics in natural environments; and
 - advancing our understanding of contemporary attitudes and behaviors around recycling.
- SUNY Stony Brook – Through the Waste Data and Analysis Center, SUNY Stony Brook is supporting improved materials management through:
 - waste characterization studies;
 - assessments of collection schemes for recyclable materials; and
 - assessment of technology at material recovery facilities.
- SUNY Alfred- Through the Center for Glass Innovation, the New York State College of Ceramics at Alfred University is advancing waste reduction and markets for glass recycling through:
 - advancing our understanding of material flows and economic drivers for glass recycling in New York State;
 - assessing the feasibility of wine bottle reuse;
 - researching the viability of utilizing glass in various concrete structures; and
 - supporting improved quality of glass cullet via sorting and separation.

With these changes, DEC recognizes the need to modernize the Bottle Bill and remains committed to its success. In 2018-2019, DEC also held numerous stakeholder meetings focusing on the challenges of glass recycling in NY. There have been discussions of expanding the bottle bill to include wine and liquor containers, which are typically glass, as a way to remove extra glass from curbside recycling. In 2019, Executive put forth a proposal to amend the Bottle Bill to expand the types of beverages covered to include non-alcoholic beverages, such as sports drinks, energy drinks, fruit and vegetable beverages and ready-to-drink teas and coffee. As part of that proposal, DEC was directed to conduct a study to evaluate an expansion of the Botte Bill to include wine and liquor containers.

While the 2019 expansion proposal was not included in the final budget, DEC performed the study to evaluate including wine and liquor to the Bottle Bill, using the services of the Pollution Prevention Institute (P2I). P2I's 2019 report, *Impact Study of a NYS Bottle Bill Expansion*, showed the following:

- Expanding the Bottle Bill to include wine and liquor would have a significant financial impact on approximately 4,500 NY businesses. Including all NY wine and liquor stores as well as new deposit initiators that would be required to comply with an expanded Bottle Bill;
- An expansion to include wine and liquor would add an estimated 488 million containers not currently in the container redemption system;
- Wine and liquor retailers would incur approximately \$40 million in direct costs to comply with Bottle Bill expansion plus additional upfront costs;
- NYS would gain approximately \$7 million in revenue by adding wine and liquor;
- Local recycling programs would benefit financially from the removal of wine and liquor bottles from curbside recycling by not having to collect and process this material;
- The recycling rate for deposit glass containers would remain 60% higher than non-deposit glass containers; and
- Deposit glass is less contaminated than glass collected as part of curbside, single-stream recycling programs, thus increasing recyclability and marketability of secondary use.

It is important to note this study was conducted in 2019, and as such, the estimated financial impacts on NY businesses could very much be higher due to inflation, changes in policies, and other economic impacts.

DEC remains supportive of modernizing the Bottle Bill and efforts that will enhance the recovery of additional high-quality materials for recycling; however, believes it needs to be done by bringing all the stakeholders to the table. As part of this effort, DEC is updating the current 6 NYCRR Part 367 regulations to facilitate the redemption and recycling of beverage containers and reduce fraudulent activity. DEC conducted virtual and in-person stakeholder meetings as well as an in-person roundtable to gain input from those involved in the redemption process. Participants included redemption centers, counting equipment manufacturers, beverage distributors, stores, and third-party pickup agents. DEC expects to have draft Bottle Bill regulations available for public comment in early 2024. DEC will also continue working with our partners at the New York State Department of Taxation and Finance (DTF), the State Liquor Authority (SLA), and the Department of Agriculture and Markets (AGM) to ensure the integrity of the program. As recommended in the draft Solid Waste Management Plan, DEC will be establishing and leading a multi-agency anti-fraud effort to investigate bottle bill fraud, which will:

- include support from our agency partners, DTF, SLA and AGM, to collaboratively address:
 - transshipping of filled beverage containers from non-deposit states;
 - the fraudulent redemption of empty beverage containers from out-of-state and double-redemption schemes;
 - reverse vending machine tampering; and
 - deposit initiators not registering with DTF and not reporting, or under-reporting, their sales.

While we are submitting separate testimony for tomorrow's hearing on Extended Producer Responsibility (EPR), it is also important to note that DEC's Bottle Bill efforts have continued in the

context of EPR. While expanding the Bottle Bill has many long-term environmental benefits, advancing EPR type programs is critical to improving solid waste management in the state. The Governor's 2022 EPR proposal would capture even more materials for reduction, reuse and recycling by including all types of packaging and not just beverage containers. A broad packaging and paper product EPR law covering all residentially and commercially generated material would work in collaboration with the current Bottle Bill and encourage producers to reduce packaging waste and any toxic chemicals in the packaging. As these hearings reflect, we believe it is necessary to consider both policies in conjunction.

In addition to Bottle Bill amendments, it is important to acknowledge the concerns from redemption centers. DEC worked collaboratively with redemption centers as they navigated the challenges of the 2020 COVID pandemic, the stagnant handling fee, and most recently, the cyberattack that impacted TOMRA's computer systems worldwide. TOMRA is the largest reverse vending machine and container collection system in New York State, and this cyberattack had a significant impact on redemption centers across the state. This cyberattack led to TOMRA's need to temporarily make estimated payments to NY redemption centers and caused inefficiencies in the collection of redeemed beverage containers. During this cyberattack period, DEC engaged directly with 45 redemption centers to assist with pick-up schedules and payments for deposits and handling fees, and remains in regular communication with TOMRA to resolve these issues.

Thank you again for the opportunity to discuss the Bottle Bill, the potential options to build upon its success and continue to increase the annual redemption rate, and improve recycling overall in New York State. I look forward to answering any questions you may have.