



October 24, 2023

The Honorable Pete Harckham
The Honorable Deborah Glick
Senate & Assembly Committees on Environmental Conservation
Roosevelt Hearing Room C
Legislative Office, 2nd Floor
Albany, NY 12210

Testimony for the Joint Hearing on Packaging Reduction

Dear Chair Harckham, Chair Glick, and Members of the Senate and Assembly Environmental Conservation Committees,

On behalf of the Glass Packaging Institute (GPI), I am pleased to provide our perspective and testimony on packaging reduction in general and S.4246A/A.5322A in particular, legislation that would institute a new packaging reduction and recycling infrastructure program in New York State as a form of Extended Producer Responsibility (EPR). As a sidebar, GPI is supportive of expanding the state's bottle bill to capture all beverage containers in concert with establishment of an EPR program, either as a standalone bill or as an amendment to the EPR bill, as these two programs can work very effectively side by side.

We appreciate the modifications to the original bill draft that recognize the important differences between glass packaging and single-use and other plastics packaging. Yet there remain some systemic issues not specific to glass that we continue to have some concerns about, as highlighted below.

Glass Container Manufacturing & Glass Recycling in New York

GPI is the North American trade association for the glass food and beverage manufacturing companies, glass recycling processors, raw material providers, and other supply chain partners within the industry.

New York is home to two glass container manufacturing plants, O-I Glass in Auburn and Anchor Glass in Elmira. Collectively, these plants produce several million bottles every day, many destined for local and regional customer end markets. Supporting the production of these glass bottles are glass recycling facilities in Farmington, Horseheads, and Jamaica, Queens. This is in addition to hundreds of bottle redemption machines and

facilities throughout the state, where consumers redeem covered containers for eventual use in the production of new bottles and jars.

Glass Container Recycling Background

Glass is a core circular packaging material – reusable, refillable, and endlessly recyclable. The glass container manufacturing industry has a significant stake in the effectiveness of glass recycling programs. Recycled glass is a key component of the manufacturing process.

The U.S. industry purchases about 2.3 million tons of recycled glass each year and the average bottle or jar contains 1/3 recycled glass. For every 10% of recycled glass added to the batch mix, energy usage can be reduced 2-3%, with additional corresponding reductions in greenhouse gas emissions.

When you add the benefit of what is a better than 1-to-1 offset of raw materials saved by using recycled glass to make new containers, it is clear that using recycled glass has significant benefits to the environment of the region and should be prioritized.

Key Provisions of S.4246A/A.3522A that GPI Supports

GPI is supportive of the following changes that were made to the bill language:

- The use of both weight and units in terms of measuring covered product and associated requirements and fees. The use of weight alone distorts the amount of product sold into the state and has the unintended consequence of pushing brands toward packaging that weighs less rather than focusing on the volume and type of packaging used.
- In a measure aimed at reducing excess plastic packaging, packaging reduction is now reserved for plastic packaging materials only.
- The new definitions of recycling and recycled content, which recognize that different packaging materials have various production methods, supply chains, and qualities. Issues that are particular to the plastics industry, or other materials, may not be present in the glass value chain, and the previous restrictions in those definitions gave us concern.
- Landfilling and landfill cover do not count in any way, shape, or form as recycling.
- The new language focuses on the performance measure of the waste management industry and the recognition of the need to reduce contamination in material streams.

- That separate and different collection streams are to be studied and encouraged, and that yield and efficiency throughout the system are to be encouraged.
- That an option for circular material use is provided. In a regulatory system that increases the requirements of packaging and material manufacturers, there should be an opportunity to make sure the recycled glass gets back into the container manufacturing supply chain to fulfill those regulatory obligations.
- Recognition that a reuse and refill infrastructure must be supported in a program that desires strong changes and ramping up of reuse and refill packaging solutions.
- That the provision exempting packaging material subject to the beverage container deposit system in New York remains in the bill.
- The incorporation of toxics provisions as a measure of sustainability. The addition of clear language that commodity value is determined by taking into account the contamination of the stream. Glass is consistently the commodity stream that has the highest contamination levels as a result of how most single-stream and even some dual-stream curbside collection systems are designed. Glass is not “baled,” and clean streams have positive market value.

Areas of Continuing Concern or in Need of Clarity

- The lack of a private-sector producer-run PRO/PRRO adds considerable burden to NYSDEC as a backup bureaucracy and eliminates the traditional efficiencies that can be gained by the creation of a producer stewardship organization. Improving elements of the solid waste and recycling system are difficult enough; the considerable level of new reuse/refill infrastructure and toxics regulations included in the bill shift focus away from addressing the recycling collection and sorting infrastructure provisions.
- Additional clarity should be provided regarding the paper/fiber packaging that is covered, and how “printed paper” will be treated. We are not suggesting that printed paper is a package, nor that it must be a covered material, but it should also not get a free ride in the recycling system. Shredded paper is a common contaminant in the waste stream and particularly found as residual in the commingled glass commodity stream.
- The toxics language in the packaging law should comport with the existing toxics regulatory construct of New York and U.S. law. There are some chemicals/metals that may exist in nature or in trace amounts that have been deemed safe at certain acceptable levels. There should be clarity on de minimus levels that comply with existing state/federal law and consideration that for some

elements, there should be a means for distinguishing between intentionally and unintentionally added materials. As recycling rates and recycled content rates are mandated to increase, contamination in the streams may increase the presence of elements that are otherwise not intentionally added.

GPI understands that an unlimited number of PRROs (or PROs) is unwieldy; however, given the large scope of the law, we are concerned that there is only one PRRO, which will be primarily made up of producers concerned with plastics reduction, and that it is the only entity for 10 years. Consideration should be given to allowing non-plastic producers to form a PRRO and to shortening the timeframe for the single PRRO.

- There is some ambiguity as to whether the PRRO must pay for the disposal of all material or only non-recyclable material, and if the fee structure mandates that those additional fees are to be drawn only from producers of non-recyclable materials. There are many other materials in the waste stream that are not packaging.

Matters Regarding Reuse/Refill that Need More Clarity:

- Reusable/refillable packaging is exempt from fees/PCR requirements, etc., but reuse requirements remain, and significant new infrastructure must be built.
- Reuse/refill for beverage packaging is often best implemented under a refundable deposit return system to induce high return rates, or a closed loop return system. The proposed Bottle Bill expansion (S.237B) should be built into the packaging EPR bill or passed simultaneously to streamline the beverage container refill system.
- Packaging EPR and bottle bill reuse/refill programs should work in concert to ensure that the producers who move their single-use beverage packaging into a refill system are properly credited for that change and material.
- Building a large reuse/refill infrastructure is a complementary but separate system that may take a different expertise and oversight than one PRRO can achieve given the broad scope of packaging materials in the economy. An entirely separate governance/advisory system or subsystem may be needed to build out the reuse/refill system.
- Language remains in the bill allowing packaging that creates “unusual costs” for municipal systems to be assessed a separate fee. We believe this is intended for a material such as plastic film and not glass, but it is open to interpretation by the Advisory Council, and commingled single-stream facilities should not be the standard by which “difficult to recycle” or “unusual costs” is judged. This should be defined.

- The DEC can add recycled content requirements for other materials, but we question why at the outset of the program a recycled content standard for glass (and carryout bags) is included, but there is no specific recycled content requirement for competitive materials such as fiber packaging or aluminum.

Again, we appreciate the progress and consideration given to our priority concerns with the original bill. We are committed to continuing to work with the sponsors and other stakeholders to achieve progress on a program that understands the unique role glass can play in the food and beverage packaging system.

Sincerely,

A handwritten signature in black ink that reads "Scott DeFife". The signature is written in a cursive, slightly stylized font.

Scott DeFife
President