



NYPIRG

NEW YORK PUBLIC INTEREST RESEARCH GROUP

**TESTIMONY
OF THE
NEW YORK PUBLIC INTEREST RESEARCH GROUP
BEFORE THE JOINT HEARING OF THE
SENATE ENVIRONMENTAL CONSERVATION & ASSEMBLY ENVIRONMENTAL
CONSERVATION COMMITTEES
REGARDING THE EXAMINATION OF LEGISLATIVE SOLUTIONS TO INCREASE
THE EFFECTIVENESS OF THE BOTTLE BILL**

October 23, 2023

Albany, N.Y.

Good afternoon. My name is Blair Horner, and I am executive director of the New York Public Interest Research Group (NYPIRG). NYPIRG is a non-partisan, not-for-profit research and advocacy organization. Consumer protection, environmental preservation, public health, healthcare quality, higher education affordability, and governmental reforms are our principal areas of concern. We appreciate the opportunity to submit testimony regarding your legislative review of New York State's 40-year-old Bottle Deposit Law and the need to increase the program's effectiveness.

There can be no doubt that a modernized Bottle Deposit System is needed. New York is facing an increasingly serious solid waste disposal problem and programs designed to reduce the amount of solid waste generated as well as stimulate recycling are important components of a proper response.

New York has known for years that those approaches should be central to its strategies.

In 1988, the Solid Waste Management Act¹ established in law the *preferred hierarchy of solid waste management*. The hierarchy established the following priorities to guide the programs and decisions of the New York State Department of Environmental Conservation (DEC) and other state and local agencies:

- First, to reduce the amount of solid waste generated.
- Second, to reuse material for the purpose for which it was originally intended or to recycle the material that cannot be reused.
- Third, to recover, in an environmentally acceptable manner, energy from solid waste that cannot be economically and technically reused or recycled.
- Fourth, to dispose of solid waste that is not being reused or recycled, or from which energy is not being recovered, by land burial or other methods approved by DEC.

As seen in the graphic² below, source reduction and reuse are the first step in a solid waste strategy:

¹ New York State Environmental Conservation Law §27-0106.

² U.S. EPA, <https://www.epa.gov/smm/sustainable-materials-management-non-hazardous-materials-and-waste-management-hierarchy>.



Recent developments in global waste policy heighten the need for the state (and the nation) to bolster solid waste reduction measures. China, which had been accepting massive amounts of the nation’s waste, stopped accepting such imports in 2018, increasing the pressure on state and local governments to reinvigorate their solid waste programs.³ Municipal recycling systems have not been equipped to deal with the high amounts of waste that have flooded their systems. The state had been made aware by their own agencies that New York needed further waste diversion tactics.

Moreover, even as the state has developed its response to the rising existential threat posed by a rapidly heating planet, it has understood that its approach to solid waste needed to be reimagined.

The Climate Action Council’s (CAC) report recommended comprehensive action to reduce the state’s generation of solid waste citing its role in the generation of greenhouse gases. The Plan states, “GHG emissions from the waste sector represent about 12% of statewide emissions, including landfills (78%), waste combustion (7%), and wastewater treatment (15%).

Waste accounts for 12% of statewide emissions, most of which comes from landfills that will continue to release significant amounts of methane, a greenhouse gas on steroids, for the next three decades.⁴ Methane is 25 times more potent than carbon dioxide when it comes to global warming.⁵ Methane levels in the atmosphere have doubled over the last 200 years as a result of industrialization.⁶ Reducing this pollutant rapidly would have a tremendous and immediate impact on mitigating the worst effects of climate change. It’s more potent than carbon dioxide, but its lifespan is shorter – only about 12 years compared to centuries.⁷ To reduce methane, the Plan requires robust composting. For other waste streams, effective recycling programs are recommended along with placing the responsibility on the producers for electronic waste and

³ Quinn, Megan, “National Sword kicked off a wave of MRF investments. 5 years later, tech and funding continue to advance.” *Waste Dive*, Sept. 14, 2022. <https://www.wastedive.com/news/national-sword-five-years-mrf-robotics-recycling-investment/630731/>

⁴ New York Climate Action Council, “Draft Scoping Plan,” December 2022. <https://climate.ny.gov/-/media/project/climate/files/NYS-Climate-Action-Council-Final-Scoping-Plan-2022.pdf>.

⁵ U.S. EPA, “Importance of Methane,” <https://www.epa.gov/gmi/importance-methane#:~:text=Methane%20is%20more%20than%2025,dueto%20human%2Drelated%20activities>.

⁶ NASA, “Methane,” [https://climate.nasa.gov/vital-signs/methane/#:~:text=The%20concentration%20of%20methane%20in,\(which%20began%20in%201750\)](https://climate.nasa.gov/vital-signs/methane/#:~:text=The%20concentration%20of%20methane%20in,(which%20began%20in%201750)).

⁷ Ibid.

packaging. The Plan recommended the following set of ambitious – but necessary – solid waste goals based on its long-standing statute.

- *“Vision for 2030.* For solid waste management and WRRFs [water resource recovery facility], the major contributors to emissions are associated with landfill emissions, though sources are also found at WRRFs and other facilities. To reduce emissions to achieve the required 2030 GHG emission reductions, significant increased diversion from landfills as well as emissions monitoring and leak reduction will be needed. A circular economy approach to materials management is understood and employed.
- *Vision for 2050.* The Climate Act requires a more dramatic decrease in GHG emissions by 2050, achieving at least an 85% reduction (compared with 1990 levels). For solid waste and WRRFs, this necessitates a dramatic shift in the way waste is managed, to the point that landfills and combustors are only used sparingly for specific waste streams, and *reduction and recycling are robust and ubiquitous.* In addition, methods to monitor leaks and emissions are well developed and implemented, and those emissions are significantly reduced. The circular economy approach for materials management is fully implemented and embraced...”⁸

Specifically, the final CAC report recommends that “The State should enact legislation to implement expanded deposit container programs where feasible and needed.”⁹

While the state is working to develop a product stewardship program (and we applaud your decision to conduct a public hearing on that issue as well), the notion that producers of packaging bear a significant responsibility in managing the waste they generate is a hallmark of the Bottle Deposit System.

2023 is the 40th anniversary of initial implementation of the state’s Returnable Container Act, affectionately called the *“Bottle Bill.”* Enacted in 1982, the ‘Bottle Bill’ requires a 5-cent refundable deposit on eligible beverage containers to encourage their return to avoid litter and waste and reduce the costs for local solid waste collection systems.

New York’s Bottle Bill has been the state’s most effective recycling and litter prevention program. According to the Department of Environmental Conservation (DEC), the Bottle Bill reduces roadside container litter by 70%, and in 2020, 5.5 billion containers were recycled.¹⁰

Like any other program, a review is appropriate. There are improvements that can be made. Furthermore, given the scale of the solid waste and climate change issues facing the state, a comprehensive package of improvements should be the legislative goal. While some of the following recommendations can be made on an *à la carte* basis, the greatest impact would be to do so within the context of a *comprehensive* plan.

⁸ New York State Climate Action Council Final Scoping Plan, p.319.

⁹ New York State Climate Action Council Final Scoping Plan, p.326.

¹⁰ New York State Department of Environmental Conservation, “New York’s Bottle Bill,” <http://www.dec.ny.gov/chemical/8500.html>.

After its four-decades of success, we believe that the Bottle Bill should be modernized by expanding the law to include popular non-carbonated beverages, wine, spirits, and hard cider and increasing the redeemable deposit value to 10-cents to increase the rate of recovery.

Expand the containers covered by the law

Municipal recycling programs are particularly struggling with glass contaminating their recycling streams. When glass breaks in curbside containers it contaminates the rest of the materials and renders much of it unrecyclable for the municipality. The expansion of the Bottle Bill to include wine, spirits, and non-carbonated beverages, with a deposit increase from a nickel to a dime, will take a significant number of containers out of municipal recycling programs. The costs of recycling many of the containers that are not covered under the state's Bottle Law are too high for many municipalities. For example, the costs associated with collecting and processing PET plastic bottles and glass per ton are higher than revenues per ton for scrap material.¹¹ Expanding the Bottle Bill would eliminate these costs for municipal programs by creating a financial incentive (the deposit) for consumers to return and an obligation (the law) for retailers to accept these containers, relieving the burden on local government recycling programs.

Increase the handling fee

Redemption centers play an important role in helping to redeem containers covered by the Bottle Bill. *The handling fee has not been increased since 2009.* As costs have risen, the expenses connected to handling returnables have as well. A straight CPI adjustment would raise the handling fee to more than five cents.¹²

Increase the deposit to a dime, use additional revenues to modernize the program's administration and enforcement

Modernization of the 40-year-old Bottle Bill will further enhance litter control (most notably in underserved lower income communities), help stimulate recycling efforts, encourage the use of refillable containers, and is a matter of economic justice that will provide badly needed funding for communities that face low redemption rates due to inadequate access to retailers and redemption centers. States with bottle deposit laws have a beverage container recycling rate of around 60%, while non-deposit states only reach about 24%.¹³ *The national group stated in a 2022 report that the bottle bill's expansion and deposit increase to a dime would likely result in a 90% recycling redemption rate.*¹⁴

If the law is modernized, an expansion of the Bottle Bill would result in increased economic opportunities for New Yorkers. New Yorkers can expect 4,145 new jobs to be created.¹⁵ Many low-income New Yorkers, often within immigrant, elderly, or homeless communities, rely upon the practice of "canning" to supplement income. According to *Sure We Can*, an estimated 10,000 New Yorkers are part of New York City's canning community.¹⁶ Increasing New York State's

¹¹ Container Recycling Institute, "Cost of Curbside Recycling for Beverage Containers," May 31, 2018, <http://www.container-recycling.org/index.php/publication>.

¹² Bureau of Labor Statistics, CPI calculator, <https://data.bls.gov/cgi-bin/cpicalc.pl>.

¹³ Container Recycling Institute, Bottle Bills, <https://www.container-recycling.org/index.php/issues/bottle-bills>.

¹⁴ Reloop, "Reimagining the Bottle Bill," <https://bottlebillreimagined.org/>.

¹⁵ Eunomia, "Employment and Economic Impact of Container Deposits- New York," March 6th, 2019.

¹⁶ "Hard-working Cannery Workers Talk About Their Haul and What Keeps Them Going," *The Independent*, Issue 281, <https://independent.org/2023/08/hard-working-cannery-workers-talk-about-their-long-haul-and-what-keeps-them-going/>.

deposit will bring new money into canning communities across the state. The canning community should be recognized as an important, informal part of the state's solid waste collection system.

Expanding the Bottle Bill would be a major financial benefit both for New York's municipalities and the state as a whole. While recycling an additional 5.5 billion containers, *Reloop* estimates that expanding the law would save New York municipalities \$70.9 million dollars annually through waste diversion.¹⁷ Not only would municipalities save financially, but diversion on this scale would save an estimated 331,900 metric tons of CO₂, the equivalent of removing 32,000 cars every year.¹⁸ The unclaimed bottle deposits are a revenue generator to the state's General Fund that brings in millions of dollars to support environmental programs statewide. According to an estimate by *Reloop*, New York State's revenues from an expanded bottle deposit law coupled with an increase in the deposit to a dime would result in an increase in of \$40 million to \$200 million to the state's budget.¹⁹ In 2022, the state received \$129 million from unclaimed bottle deposits.²⁰

Ensure redemption compliance

There have been media reports over time that have identified serious instances in which the Bottle Deposit Law has been ignored.²¹ In addition, an audit of the Department of Taxation and Finance's oversight of the collections generated from the Bottle Deposit System, the state Comptroller in 2017²² identified weaknesses. The report made a series of recommendations on how to strengthen the DEC's compliance program. We have not yet seen a more recent audit but believe that a program that is vigorously enforced is one that is most likely to meet its objective. Given that roughly one-third of covered containers are not redeemed, this is an area in which the Legislature should, as part of its oversight responsibilities, hold ongoing public hearings on whether the program is being adequately monitored and regulated.

Bolster the DEC's grant program

As you know, the beverage container assistance program was created in 2009. At that time, it was intended to enhance the public's availability of redemption options as well as increase the use of new technologies. However, it has been reported that the program lacks sufficient resources, or worse does not use its existing resources, necessary to meet its mandate.

¹⁷ Reloop, "Reimagining the Bottle Bill," June, 2022, <https://bottlebillreimagined.org/wp-content/uploads/2022/06/Reimagining-the-Bottle-Bill-FINAL-JUNE-2022.pdf>.

¹⁸ Ibid.

¹⁹ Reloop, "Reimagining the Bottle Bill," <https://bottlebillreimagined.org/wp-content/uploads/2022/06/Reimagining-the-Bottle-Bill-FINAL-JUNE-2022.pdf>. Reloop estimates that an enhanced program would generate \$171m – \$349m available for state investment, p. 33. In order to be conservative, we subtracted the \$129m currently generated from the program. Thus, our estimate of \$40m to \$200m.

²⁰ New York State Department of Taxation & Finance, "Fiscal year tax collections: 2021-2022 Annual statistical report of New York State tax collections statistical summaries and historical tables fiscal year 2021-2022," https://www.tax.ny.gov/research/collections/fy_collections_stat_report/2021-2022-annual-statistical-reports.htm.

²¹ For example, "NY Bottle Bill violator receives \$500,000 penalty," *Recycling Today*, <https://www.recyclingtoday.com/news/new-york-can-bottle-bill-recycling-penalty/>

²² New York Office of the State Comptroller, "Controls Over Unclaimed Bottle Deposits Department of Taxation and Finance," 2017.

The state must do all it can to tackle the twin crises posed by growing solid waste pressures and the threat of a climate catastrophe. We urge you to ensure that the DEC is doing all it can to make this program work and if additional resources are needed, that you provide them.

A *comprehensive* approach is what is needed: an approach that modernizes the program, enhances its efficiency, and improves the oversight by the DEC.

A *comprehensive* approach has broad public support as demonstrated in a recent Siena College Research Institute poll, looking at the popularity of modernizing New York's Bottle Bill. *The poll found that 71 percent of respondents favor expanding the recycling program to include bottles and cans for beverages including teas, sports drinks, juices, wine and liquor.*²³ The poll amplified the call from community, civic, and environmental organizations to Governor Hochul to modernize the state's Bottle Bill as part of her Executive Budget. The poll found that a strong majority of New Yorkers are supportive of the program, believe it reduced litter in the state, and support raising the deposit on beverage containers from a nickel to a dime.

Thank you for the opportunity to testify. NYPIRG looks forward to working with you to ensure that New York continues its march toward its goal of a circular economy.

²³ Barnes, Steve, *Poll: New Yorkers favor expanded recycling, 10¢ deposit*, *Albany Times-Union*, January 29, 2023, <https://www.timesunion.com/environment/article/poll-new-yorkers-favor-expanded-recycling-10-17748223.php>.