



**New York State Executive Budget
Waste Reduction and Recycling Infrastructure Act
TITLE 34**

WRITTEN TESTIMONY

The New York Wine Policy Institute is pleased to provide this written testimony to the 2023 Joint Legislative Hearing on behalf of the New York wine industry, which presently comprises over 490 licensed wineries and some 35,000 acres of vineyards.

The New York Wine Policy Institute (NYWPI) agrees with the positions and recommendations proposed in the testimony of the Coalition of Impacted Stakeholders. However, given that our members are primarily small agricultural businesses we would like to offer some additional comments on the Governor's proposal.

Last year, the NYWPI expressed its members' concerns about previous EPR bills proposed in the Governor's 2022 Executive Budget and during the last legislative session. Although we note some improvements in Title 34, we remain concerned about Governor's EPR proposal as well as a similar bill issues by Senator Harkham for this session. Our general concerns include:

Process:

We continue to believe that a policy reform of this magnitude and complexity, with its considerable cost implications for businesses and consumers, and its significant impact on the state's economy, should be subject to expert review and input, stakeholder feedback, and a careful cost-benefit analysis of its provisions *before the law is developed*. We are pleased that the Governor recognized the importance of this analysis by calling for a comprehensive needs assessment first in her proposal. ***However, her proposal for 2023 should stop there rather than outlining a rigid timeline for the establishment and implementation of EPR programs.***

Rather than rushing a confusing and impractical proposal into law, spending the extra time to develop an effective and workable approach the first time will not only mitigate the effort and resources needed for subsequent amendments, but will elicit greater acceptance and compliance from the start by the sectors involved. Although it accounts for a relatively small percentage of the "covered material" packaging by itself (estimated at only 1/3 of one percent of the waste stream), the NY wine industry stands ready to engage with colleagues from other industries a cooperative effort to develop an EPR law that will achieve the state's recycling and ecological goals without creating unnecessary burdens for small businesses.

Cost:

Among the most important questions to resolve during an extended EPR law development period are the costs involved for the businesses concerned, especially for small wineries and agricultural businesses that are operating at tight margins. It is essential to determine some fee pricing parameters as part of the legislation. We note that the new law introduces some new registration fees with levels based on sales. It is also interesting to see that the proposed law provides a list of items that should be covered by the PRO fees, including the cost of collection and processing of packaging materials, education and outreach, administration, market development and infrastructure improvements. Although no attempt was made to elaborate what the PRO fees might be, the proposed law was very clear about the amounts that could be assessed as penalties for noncompliance.

A Better Approach:

At the end of the last session, Assemblyman Englebright released a new version of his EPR bill (A10185) which was a marked improvement over previous versions and Senate proposal (S1185C). Senator May used that bill to introduce her proposal for 2023 (S1064).

The text of these bills emphasizes the importance of a needs assessment as a basis for further development of the law, proposes a timetable for producers to use the findings to prepare their product responsibility plans, and recognizes producers as stakeholders who should work with the Department of Environmental Conservation on regulations and fees to support the new program.

NYWPI supports this approach, and we urge that the following points be reflected in any eventual law:

- **Inclusion of the manufacturers of packing materials in the definition of producers**, because of the view that manufacturers are much better placed to innovate and improve packaging for reuse and recycling than small winery businesses that buy from them.
- **Support for an early needs assessment** to help determine the parameters of the eventual law, with two additional components of the report: i) an analysis of the current situation (quantities, source, etc.) with each type of packaging material to be covered under the bill, which will further help determine program targets and costs; and ii) an evaluation of the experience with existing EPR programs in other jurisdictions and how it might help New York benefit from successes and avoid pitfalls. In contrast to Title 34, we are pleased that S1064 provides a detailed list of what the needs assessment should include.
- **Although we are pleased to see the revenue threshold for exemption raised to \$2 million in A1064, we suggest that New York's program adopt a phased-in approach similar to Maine**, where the exemption is set at \$5 million for the first three years, and then lowered to \$2 million thereafter because a temporarily higher threshold will give wineries and other small businesses more time to adapt to the new program.
- Regarding S1064's proposed eco-modulating incentives and the suggestion of shifting to re-use and refill systems, we note that such systems are not yet economically feasible for small businesses as re-used bottles cost more per unit than new ones. **We recommend that any new law acknowledge this situation and wait to encourage adoption of reuse/refill systems until suitable technology and supporting infrastructure is available.** We called for a public-private partnership with the state to support development and implementation of bottle washing/sterilization/re-use operations.

Members of the New York Wine Policy Institute understand the need for policy measures to address the growing challenges posed by packaging waste around the world. We believe that any new measures must be supported by a thorough assessment of needs and a rigorous cost-benefit analysis. And despite our industry's small size, we certainly agree that we can and should play a role in developing solutions. To do that, the state must recognize the importance of involving all stakeholders on this issue and, in particular, accept private sector input so that the final legislation will be practical, effective and supported by those charged with its implementation.

We appreciate this opportunity to provide our testimony to the 2023 Joint Legislative Budget Hearing and would welcome any request to elaborate our views on specific provisions of Title 34.

Respectfully submitted by:
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