S.237 (May)/A.6353 (Glick)

STAFF CONTACT : Ken Pokalsky | Vice President | 518.694.4460

BILL

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SUBJECT

Expanded Bottle Bill

DATE

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OPPOSE

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The Business Council of New York State opposes this legislation which would expand the bottle deposit law to also include, by 2025, wine, liquor, distilled spirit coolers and cider and by 2026, noncarbonated soft drinks, fruit and vegetable juices with less than 100% juice, coffee and tea beverages, and carbonated fruit beverages. This legislation would also increase the bottle deposit amount to ten cents per container and increase the per container handling fee paid by a deposit initiator to a deposit redeemer from 3.5 to 6 cents per container. The bill also imposes additional criteria on entities picking up containers from redemption centers. It contains some improvements to the process for addressing disputes regarding container counts but does little to address concerns raised by and costs incurred by deposit initiators. While it offers a temporary increase in the share of unclaimed deposits paid to deposit initiators, from 20 percent to 25 percent, this is tied to the deposit initiator implementing New York-specific universal product codes – an approach with significant logistical challenges.

In addition, this bill would require, by January 1, 2026, every glass beverage container have 35 percent post-consumer glass, and every aluminum beverage container have a minimum 35 percent post-consumer aluminum; by January 1, 2029 every PET beverage container contain a minimum 25 percent post-consumer PET; and by January 1, 2031 every plastic beverage container have a minimum 30 percent post-consumer plastic. The bill would allow the Department of Environmental Conservation to reduce or waive these requirements if it determines their achievement is technically infeasible.

Duplication – New York adopted its “bottle bill” in 1982. At the time, New York was the eighth state to mandate deposits on certain beverage containers. However, only two other states have passed deposit since New York’s adoption, and none since 1986. These laws were adopted at a time when few people had access to recycling. Importantly, statewide curbside recycling has been mandated in New York since 1992, with all municipalities required to adopt local laws requiring the source separation of all categories solid waste left for collection for which economic markets for alternative uses exist. Now, an estimated 94 percent of the U.S. population has access to recycling. In 2010, Delaware actually replaced its bottle bill with a curbside collection program. Delaware ended the five-cent container deposit and replaced it with a temporary four-cent tax to fund the implementation of a curbside collection recycling program. By 2016, the overall recycling rate in Delaware had risen 10 percent.

In short, bottle deposit programs duplicate what curbside collection programs achieve and can cost significantly more to do so. A 2013 study published by the Massachusetts Food Association suggested that that state’s proposed bottle bill expansion would cost $6,600 per ton, while municipal curbside collections could lose valuable recyclables. Having duplicate systems to address the same concern – collecting and reusing post-consumer materials – results in increased consumer costs and diminished efficiency of competing systems.

Costs - Even with an effective redemption process, the deposit program is not without cost. There is a transaction every time a beverage container or deposit changes hands, and each of these transactions comes with its own cost. Regardless of how the program is structured, there are not only upfront costs associated with expanding bottle-deposit programs, but also the long-term expense.

The packaging and brands included in the additional product categories affected by this bill are much more varied that those currently subject to the current bottle deposit Law. Because of the different production and distribution systems expansion will impact more businesses adding to the complexity and higher cost.

Upfront costs to expand the bottle bill to cover new beverages include the capital costs to calibrate redemption centers, to purchase and install new reverse vending machines, and to acquire all necessary equipment. There are also upfront

administrative costs, primarily associated with establishing the necessary capacity to run the program.

Removes Valuable Post-Consumer Materials - While purporting to provide financial support to municipal recycling efforts, this bill will in fact take valuable post-consumer materials out of municipal recycling programs and divert those materials to store-based recycling. Many of the beverage bottles that will be affected by an expanded bottle bill are made from PET, which has a current average market value of approximately $320 per ton. Aluminum cans, which are used for some non-carbonated beverages that would also be captured by this expanded bottle bill, have a current market value of $800 per ton. In contrast, newsprint - a major component of municipal recycling programs has a current average market value of just $71`per ton a fraction of the value of material that the bottle bill is siphoning off from the municipal recycling program. As a result, this bill will reduce the average per-ton recovery value of the municipal recycling stream, while necessitating expanded state-taxpayer financial support for those very same programs.

Burdensome - By increasing the volume of redemptions, this bill will significantly increase the compliance burden placed on supermarkets, convenience stores and other beverage outlets. The existing bottle bill imposes additional costs on retailers, consumes limited store space and staff resources, and raises sanitation and "housekeeping" problems in stores. This bill would exacerbate each of these adverse impacts on the retail sector. Touted as an environmental measure, this is in reality a hidden tax on New York State manufacturers, bottlers, distributors and - ultimately - consumers. These added costs will eventually lead to higher prices and perhaps sales disruptions as below scale operators from adjoining states bootleg cheaper products into New York - especially New York City. Because of both expansion and this higher price to sell legally, an already continuing network of determined operators will benefit to the detriment to law abiding, and taxed, in-state producers and franchises. As such, these increased costs are of great concern both to New York's beverage industry and its workforce.

Post-Consumer Minimums - These requirements will be difficult and expensive for the supply chain to comply with. Additionally, for many plastics there is currently a limited amount of times that a plastic can be recycled, especially for uses comparable to their initial use. Many plastics can only be recycled two or three times before the quality of the product degrades. Moreover, it is unclear how these state-specific rates can be achieved and documented, with raw and recycled materials and end products moving through interstate and even international markets.

Conclusion - New York State already operates two separate state-wide recycling programs - mandated municipal recycling for those post-consumer wastes for which there is an "economic market," and mandated store-based recycling for certain beverage containers. Moreover, both houses of the legislature have expressed support for a new statewide program, under the banner of “expanded producer responsibility,” that would shift the responsibility and cost of recovering post-secondary packaging material and bring that material back to market. Those legislative proposals would include all the categories of packaging that this bill would bring into the bottle deposit law, again resulting in multiple programs addressing similar materials, addition to cost and complexity of compliance.

For these reasons, The Business Council opposes adoption of S.237 (May)/A.6353 (Glick).

Business Council Headquarters
111 Washington Avenue, Suite 400
Albany, New York 12210
518.465.7511 or 800.358.1202

Business Council Insurance Fund
12 Corporate Woods Blvd., Suite 17
Albany, New York 12211-2390
518.465.1571 or 800.692.5483

Council Finance & Membership
12 Corporate Woods Blvd., Suite 17
Albany, New York 12211-2390
518.465.7511 or 800.358.1202