The Business Council

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

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BILL
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SUBJECT
Expanded Bottle Bill
DATE
May 06, 2024
OPPOSE

The Business Council of New York State opposes this legislation which would expand the bottle deposit law to also include, by 2025, noncarbonated soft drinks, fruit and vegetable juices with less than 100% juice, coffee and tea beverages, and cider , and by 2029 all "drinkable liquid" except FDA regulated substances, milk and plant-based substitutes, infant formal or 100% fruit or vegetable juice. 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 5 cents per container in 2026 and 6.5 cents per container in 2031. 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.

It also requires UPC and bar codes to be printed on the labels of all regulated containers; it requires that 25 percent of all beverage containers sold by "each distributor" to be refillable and part of a return and refill system by 2030 and that refillable containers have at least an 80 percent return rate; effective April 1, 2025 all distributors of non-refillable containers must report on recycling rates of redeemed containers, and that by 2026 at least 70 percent of redeemed container materials is recycled, increasing to 80 percent by 2028 and 90 percent by 2030.

Earlier versions of this bill raised the per-container deposit to 10 cents, while the current version increases the deposit to "not less than ten cents" effective April 1, 2026, but contains no mechanism to increase the deposit.

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, ending its five-cent container deposit and replacing 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, including aluminm cans and PET bottles. In fact, the recently released study, "Current Recycling Systems in New York State," done by the Center for Sustainable Materials Management as part of its EPR needs assessment project, shows that aluminum cans are the most valuable commodity category in municipal wastes, while PET is the fifth most valuable, and these two common bottle bill materials accounting for up to 45 percent of the value found in recoverable municipal waste – but the bulk of this material is diverted from the municipal waste system to bottle redemption centers. 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, the bottle bill is, in effect, a hidden tax on New York State manufacturers, bottlers, distributors and - ultimately – consumers, generating well over $100 million in state revenues each year. 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-C (May)/A.6353-A (Glick).