MAINE
BEVERAGE
ASSOCIATION

Testimony of Newell Augur
Executive Director
Maine Beverage Association

Before the Joint Standing Committee on Government Oversight

Regarding the Report by the Office of Program Evaluation and Government Accountability on Maine's Beverage Container Recycling Program

June 14, 2018

Good morning, Senator Katz, Representative Mastraccio and members of the Joint Standing Committee on Government Oversight, my name is Newell Augur. I am a lawyer from Yarmouth and I am here representing the members of the Maine Beverage Association, your local distributors of diet soda, soda, water, juices and sports drinks, among other refreshing products.

I would first like to commend Beth Ashcroft and her staff, especially Matt Kruk and Ariel Ricci. They did a thorough and incredibly balanced job presenting this issue to you. I know at first hand how hard they worked to try to explain to you, in relatable terms, the many confounding intricacies of the forced deposit program. At first glance, the bottle bill appears to be a pretty easy thing to understand, but as the presentation last month suggests, it is a complicated and counter-intuitive system for collecting and recycling a very small piece of our municipal solid waste.

History

When the beverage industry first started to develop in this country, the local distributors put a deposit on containers they sold on their own, and tried to reuse them long before there was ever any legislation that forced them to do so. In the mid 1960s, they realized that collecting, washing and reselling these containers was unsanitary and extraordinarily expensive. When local distributors transitioned away from that model, they did so at a time when this country was beginning to appreciate the importance of safeguarding clean air, clean water and a pristine environment. As beverage containers – which previously had a deposit and were being returned to the distributor - suddenly began appearing on the side of the road, the local distributors became a natural target.

The bottle bill was passed as a means to address litter. In the ten remaining states that still have one, it has morphed, unnaturally, into a recycling program. The program has been very successful cleaning up litter caused by beverage containers and recycling beverage containers. But its success is limited to beverage containers and they make up only 4% of the total waste stream. Maine has a high bottle bill recycling rate (70%-75%, discounting fraud), but that is less impressive when considering that we have a much lower recycling rate for all waste – just 38%.

Costs

Bottle bill handling fees are approximately $35 million dollars per year. This is the amount paid directly to the redemption centers by the local distributors. Distributors incur additional costs associated with transporting containers from redemption centers, crushing and bailing those containers, and selling them in the materials market. Aluminum is generally sold through a broker and ends up at various smelting plants, primarily in the east, and is recycled back into cans. Plastic is sold to any number of different buyers, including Ultrepet in Albany, Foss Manufacturing in New Hampshire, or Conform in Auburn. Approximately 10% goes back into our bottles. When the materials market is robust, the amount of money a distributor receives from the sale of those materials can cover all other processing costs. It has never been robust enough, however, to offset the handling fees.

There is a carbon footprint cost to the bottle bill that also bears acknowledgment. A study commissioned by the Vermont Agency of Natural Resources indicated that citizens there drove an estimated 7.5 million miles every year just to return beverage containers or about 3,500 tons of carbon emitted into the atmosphere – all attributable to the bottle bill. Maine has twice the population of Vermont and is three times the size, so our bottle bill, which is far broader, likely is responsible for 8,000 to 10,000 tons of carbon emissions every year. On top of that, there are three fleets of trucks on Maine roads every day – one for non-alcoholic beverages, one for beer and wine, and one for all other beverages crossing the state picking up empty containers. Each group purchases equipment and operates facilities to sort, crush, bail and sell aluminum cans and plastic bottles. Each group uses vast amounts of energy to do exactly the same thing.

Fraud

The MBA Commingling group estimates that of the 219 million containers it redeemed in 2017, 24.2 million of those are fraudulent. Factoring the 5 cent redemption, the 3.5 cent handling fee and a 2 cent pick up and processing cost on every container, fraud costs the members of our commingling group – and ultimately our customers - $2.54 million each year.

We made a similar calculation 10 years ago as directed by the Legislature and submitted those findings to the Department of Agriculture. Neither the bottle bill nor our total sales numbers have changed much, if at all, during the past decade so those calculations remain relatively accurate. There is a slight increase - from $2.48 to $2.54 million - that reflects the increase in the handling fee - from 3 cents to 3.5 cents - in 2010.

There are two primary sources of fraud: 1) containers purchased out of state (usually New Hampshire) that are brought into Maine and redeemed here; and 2) the shorting of bags by redemption centers to distributors (i.e. when a redemption center gives us a bag that ought to have 324 twelve ounce cans in it, but has given us something considerably less than that.

A conservative estimate for the total amount of fraud in Maine's bottle bill would be $7.5 million per year. The total number of containers in the bottle bill is in the neighborhood of 900 million - 1 billion a year, so $7.5 million discounts the experience of non alcoholic distributors.

Commingling

The legislation that created commingling groups was passed in 2003. At the time, redemption centers were advocating for an increase in the handling fee. They also were advocating separately for legislation that would require local distributors to allow redemption centers to commingle beverage containers– as is done in Oregon and Michigan – so as to reduce the number of sorts that redemption centers have to perform and save them space in their facility.

The Legislature essentially combined the two bills. They created a framework to allow distributors to establish commingling agreements and then created incentives to "encourage" distributors to enter into those agreements. These incentives included putting a ½ handling fee increase on all beverage containers that were not commingled and requiring distributors who could not commingle to remit their unclaimed deposits to the state. As a practical matter, the only distributors who were capable of commingling were the ones who had direct store distribution (usually the distributors located or with a significant employment presence in Maine). The Legislature then gave the distributors nine months to form qualified commingling groups and register those entities with the Department of Agriculture.

The investment that local distributors made – and continue to make today – in time and money is significant. The two major existing commingling groups have been in existence for fourteen years (a third one was formed earlier in this decade) and this has prevented a considerable amount of additional sorting for redemption centers. Our product lines continue to change, but for the most part the number of sorts the members of the Maine Beverage Association are responsible is incredible small. The MBA Commingling Group members sold approximately 250 million containers in 2017; all of those containers can be sorted into eleven boxes.

A New Way Forward

The science of recycling has changed dramatically since Maine's bottle bill was implemented forty years ago. Back then, newspaper was printed on paper with no recycled content using ink that contained trace heavy metals. There still were open burning dumps, and no one had ever heard of single-stream recycling.

Back in 1978, a one cent handling fee per container along with the additional pick up and processing costs could have been justified because there were no other options for litter collection or recycling at the time. When the bottle bill was expanded in 1989 to include juice and water, again the rationale was that those containers would have been landfilled at a significant cost to municipalities and the environment.

But today, the municipal solid waste (MSW) landscape is much different. Nearly everyone in Maine has access to recycling through programs that accept household products made of many different materials. Those materials are sorted, reprocessed and sold in the recyclable materials market. PET plastic and aluminum hold some of the highest values for recycled material and 98% of beverage containers sold by members of our association are made from PET plastic or aluminum.

Non alcoholic beverage containers can be recycled through the MSW system at a fraction of the cost to process them through the bottle bill. Moreover, because those containers – especially aluminum - are made from high value recyclable material, they generate revenue to cover their processing costs.

In 2010, Delaware repealed its bottle bill and in its place began an unprecedented effort to extend single stream recycling to all parts of the state, covering residential, commercial, and public spaces. Eight years later, Delaware's Universal Recycling Law has met its goal to provide single stream recycling to all single and multi-family residences and to bars and restaurants– something no other state can claim. All commercial businesses must also actively participate in a comprehensive recycling program. The state's MSW recycling rate is continuing to set new records each year and now stands at 45 percent. The amount of MSW recycled grew 67 percent from 2009 to 2016. Diversion of paper and packaging has now doubled over that same period of time – an extraordinary increase for any state during this period – while food and yard waste diversion is up 74 percent.

Thank you for the opportunity to provide these comments. I'd be happy to answer any questions that you may have.

Delaware's Universal Recycling Law – March 2018 Update

Under Delaware's 2010 Universal Recycling Law, the state required access to single stream recycling for all residents and businesses, making it the first and only state to do so. The state subsequently met the law's timeline to provide access to recycling, created a temporary funding mechanism to assist with the transition to universal recycling, and eliminated the beverage container deposit law. And Delaware continues its progress toward the goal of diverting 60 percent of municipal solid waste (MSW) from disposal by 2020.

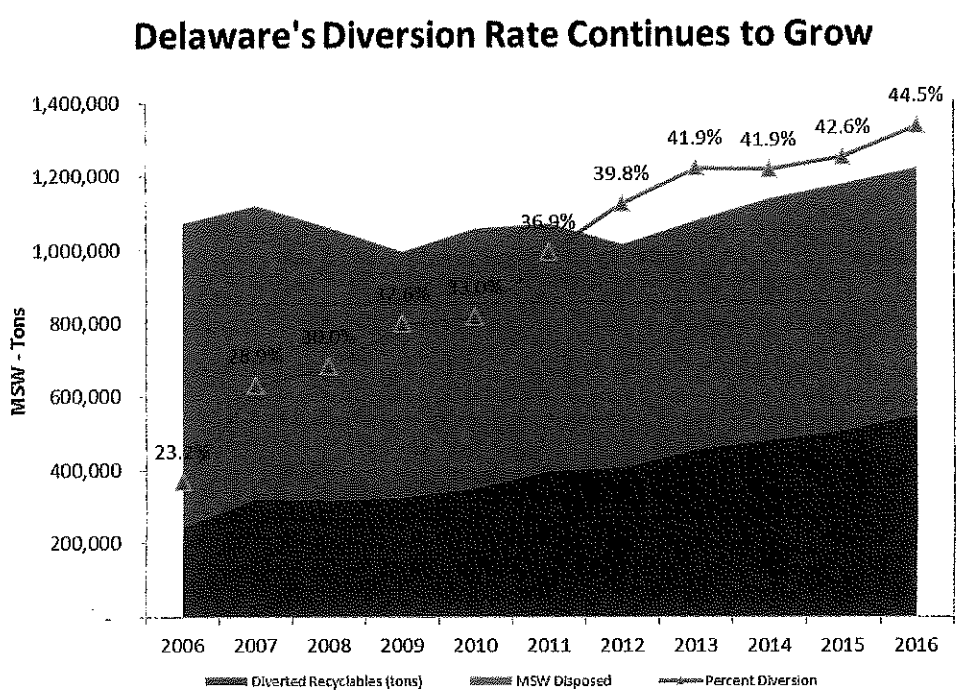
Programs and Successes So Far

Since its enactment, the Universal Recycling Law has passed four access-related milestones:

- September 15, 2011 - all single family residences provided with single-stream recycling containers and at least every other week collection by private haulers or municipalities; recycling costs are embedded in a total "waste services" charge
- September 15, 2011 – all bars and restaurants provided with single-stream recycling by their trash collection provider along with containers of sufficient size and pickup service at sufficient frequency to manage recyclables generated on site
- January 1, 2013 – multi-family residences provided with single-stream recycling containers by their waste services provider with containers centrally located, adequately sized, and located near disposal containers
- January 1, 2014 – commercial businesses required to "actively participate in a comprehensive recycling program"

In 2016 the MSW recycling rate reached yet another all-time high of 45 percent (see Exhibit 1).

Exhibit 1



Increased access to recycling has increased the amount of MSW recycled by 67 percent between 2009 (before the law was enacted) and 2016. Going back to the baseline year for data collected by the program in 2006, recycling has increased 118 percent. Increased diversion, higher tipping fees, and a ban on disposal of yard waste at state landfills have also limited the growth of disposal. In fact disposal is nearly identical to what it was in 2009. [1]

Recovery of packaging and paper showed strong growth in 2016, up 9 percent driven by increases in corrugated cardboard recovery. Diversion of paper and packaging has now doubled since 2009 – an unprecendented increase for any state during this period. Organics recovery is not achieving its potential because of limited composting facility access; facility closures and cutbacks have inhibited the growth of the diversion rate and will continue to pose a challenge to reaching the 2020 diversion goal. Despite these obstacles, food and yard waste diversion rose 21 percent in 2016 and 74 percent more organics were diverted in 2016 than in 2009 before the law was enacted.

After a couple of flat years, residential recycling tonnage rose 10 percent in 2016 to its highest level yet and now stands at a 46.6 percent rate. Commercial recycling grew more slowly in the latest year but since 2009 has grown slightly faster than residential recycling. It is only since 2014 that commercial establishments were obligated to participate in a comprehensive recycling program following guidance developed by the Recycling Public Advisory Council (RPAC). The commercial recycling rate is 42.2 percent, and that is the highest it has ever been.

The growth in recycling resulting from the Universal Recycling Act has been dramatic, but many opportunities remain for further improvements such as improved education and outreach, a new composting facility capacity for organic materials, continuing the momentum of commercial recycling that began in 2014, and implementing policies to control disposal such as pay as you throw programs.

Funding

The Delaware Recycling Fund provides financial assistance to public and private entities for the transition to universal recycling. The Fund established in the law is used for grants, low-interest loans to municipalities and private haulers for costs associated with the start of universal recycling including the purchase of carts and trucks, and rebates based on recycling volume. The Fund may also be used for recycling studies, state program support and oversight, and administration of the recycling fee.

Through its 2016 grant cycle the Fund awarded $9.2 million in grants primarily for residential single-stream recycling, but also for multi-family, commercial, schools, and public outreach.

Unfortunately, in 2016, the Legislature reallocated $5 million in the Fund to other programs. The Department of Natural Resources and Environmental Control (DNREC) and the Recycling Public Advisory Council (RPAC) view the loss as jeopardizing the attainment of the 2020 diversion goals. As noted below, RPAC's annual recommendations to the Governor and Legislature include restoring the diverted funds.

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[1] All data from the March 2018 "Annual Report of the Recycling Public Advisory Council" available at http://www.dnrec.delaware.gov/dwhs/Recycling/Documents/Sixteenth-Annual-Report.pdf and the "State of Delaware Assessment of Municipal Solid Waste Recycling For Calendar Year 2016" prepared by DSM Environmental found at http://www.dnrec.delaware.gov/dwhs/Recycling/Documents/CY%202016%20Delaware%20Recycling%20Report.pdf

The Fund was created from a fee on beverage containers that were formerly subject to deposits. Until December 2010 consumers paid a 5¢ returnable deposit on glass and plastic bottles containing carbonated beverages. Starting December 1, 2010 and continuing until December 1, 2014 retailers of these same beverages instead collected a 4¢ fee per container from consumers and turned the funds over to the state. The fee sunset as originally planned in December 2014. The state collected a total of $14.4 million. After the awarding of $9.2 million in eight rounds of grants and reallocation of $5 million by the Legislature, virtually no grant funding remains.

Economic Development

The legislative requirements to expand access to recycling and to restrict disposal of yard waste both had direct economic development benefits for Delaware. Every ton of material that is recycled instead of disposed generates significantly more economic activity and more jobs. Specifically, the passage of the law led to:

- Two new Material Recovery Facilities (MRFs) operating since 2013, creating 115 new jobs.
- The MRF in New Castle represented $15 million in new capital investment in the state and is the first MRF in Delaware that is capable of separating and marketing all of the state's recyclables.

Further investment in a new organics management facility is likely, which would create new jobs and provide much needed capacity for in-state management of these materials, which represent a significant share of the waste stream.

The most recent (2009) measure of recycling's impact on Delaware showed that recycling supported 1,900 jobs and generated nearly $350 million in economic activity in the state.[2] Given the significant increase in investment and diversion since then, recycling plays a much greater role in the state's economy today and that role will continue growing for years to come.

Why Delaware's Approach Was Successful

> "We have created an environment in Delaware that is increasingly supportive of recycling activities.... These are all major advances both driven by and reflected in our increasing diversion rates. The fact of the matter is that we are turning more of our waste into a resource and simultaneously driving valuable sustainable domestic industry as a result." *The Annual Report of the Recycling Public Advisory Council, November 2013*

Delaware's law provided ***direction and leadership*** to bring recycling programs in the state to a certain standard, raising requirements on waste service providers, and providing the tools and resources to assist in adopting those new requirements. Residents demanded better and more convenient recycling and the state's patchwork of programs including its dated beverage container deposit law complicated recycling unnecessarily.

The comprehensive approach in the Universal Recycling Law began with ***increasing access to recycling*** statewide. The law requires providers of waste services to provide or offer collection of recyclables to all customers beginning with single family residences and moving through to finally include all commercial establishments. By ***setting single stream collection as a standard***, the law facilitated the development of a new MRF to handle recyclables, minimizing transportation distances and simplifying collection.

[2] http://www.nerc.org/documents/recycling_economic_information_study_update_2009.pdf

Note that while rural residents using dropoff facilities for trash and recycling continue to use these facilities, the provision of new single stream processing capacity means that even dropoff recycling becomes simpler for residents and local governments.

The law also ***expanded incentives to recycle*** by requiring that recycling fees be embedded in waste service charges. Coupled with bans on yard waste and rising tipping fees, residents and businesses have more of an economic incentive to recycle.[3]

Third, the law ***provided for education and promotion*** of recycling. One advantage of universal access to single stream recycling is that messaging and communication about what and how to recycle is much simpler and can be done at the state level, rather than having messages differ from town to town. In addition the law ***required annual reports*** from those that collect, process, or market recyclables. Measurement and improving data quality are vital to monitor progress and provide greater accountability; Delaware's waste data is of far better quality than nearly any other state.

Critically, the law ***established funding for the transition*** to universal recycling. The transition not only covered the switch to single stream collection but also the elimination of the deposit system for certain glass and plastic bottles. The Delaware legislature long ago exempted aluminum cans from the scope of the deposit law, recognizing that market-driven recycling of aluminum allowed the value of the cans to be used to support other recyclables. The remaining redemption program proved itself costly and largely ineffective. In response to those concerns, the Legislature replaced the container deposit system with this universal program.

Next Steps

In its latest report, RPAC made five recommendations, echoing prior years' reports:

- **Lead by example** - require recycling in all state government facilities, including public schools and libraries, the courts system, and the legislature

- **Re-allocate funding to the Universal Recycling Grants and Low Interest Loan Program.** The $5 million taken by the Legislature eliminated the ability to offer additional grants and RPAC and DNREC would like the funds restored, since they were raised through the dedicated container fee.

- **Actively promote recycling** through distribution of RPAC materials and information to legislators and staff and in public meetings.

- **Strengthen organics diversion.** Adopt the recommendations of the Organics Recycling Task Force to provide long term, viable diversion options for organics.

- **Support the Recycle Right campaign** launched by DNREC to reinforce recycling rules and "dos and don'ts" for recycling in the state.

[3] The law could have gone further and required some kind of variable rate pricing for trash so that residents who are able to reduce disposal through recycling and composting see direct savings on their disposal charges.

MBA COMMINGLING GROUP, LLC

COKE Products

Coca-Cola

Sprite

Full Throttle

Canada Dry

Tab

Sunkist

Mellow Yello

Fanta

Moxie

Minute Maid Lemonade

Smart Water

Fuse

Fresca

*Honest Tea (16.9 and 59 oz PET)
All Glass belongs to Coke North America – Tomra picks up

Minute Maid Juices

Barq's

Dasani

*Gold Peak (16.9 and 18.5 oz PET)
59 oz PET belongs to Coke North America – Tomra picks up

Powerade

Tum-E Yummies

*Nawgan

*Vitamin Water

**Updated*

Canada Dry - In Farmington Territory

Updated Wednesday, June 13, 2018
* Denotes New

MBA COMMINGLING GROUP, LLC

PEPSI Products

Pepsi

Schweppes

Mt. Dew

Amp

Sierra Mist

Mug

Aquafina

Lipton

Sobe

Dole Plus Apple & Orange Juice– 10oz PET ONLY

Dr Pepper

Frappuccino

Brisk

Ocean Spray
15.2oz PET ONLY

Ocean Spray (Sparkling Cranberry, Sparkling Blue Pomegranate, Sparkling Cran Lemonade) 12oz Slim ONLY

Rockstar

Pure Leaf (Lipton)

Fruit Shoots 10.1oz PET

Hawaiian Punch Fruit Punch
12oz Alum, 20oz & 2L PET ONLY

Tropicana Orange Twister
12oz Alum, 20oz & 2L PET ONLY

**Updated*

DO NOT put these brands in the Coke/Pepsi Commingling bags

7 UP

A & W

ADIRONDACK

ALL PRIVATE LABEL

AQUARIUS
ARIZONA
BLAZE ORANGE

CAMPBELL'S
CHARLEY'S MILK
CORE POWER

COUNTRY TIME

CRUSH

DANNON WATER

EVIAN- Starting 8.1.14

FRUIT 2'O

FRUITWATER

GATORADE

GODIVA

Gold Peak 59 AND 64 Oz PET ONLY

HAWIIAN PUNCH (NOT ALREADY SPECIFIED)

HI'C

ILLY COFFE
MUSCLE MILK
MONSTER

NESTEA

OCEAN SPRAY(NOT ALREADY SPECIFIED)

ORANGINA

PEACE TEA

POLAND SPRING

POLAR
PROPELL
*PURE LEAF ICED TEA (**Lemon (59oz)*
**Raspberry(59oz) *Sweet Tea(59oz) *Unsweetened(59oz))*
RED BULL
SEAGRAMS

SNAPPLE
SPRING NATURAL WATER
*STARBUCKS (*Caramel Latte*(48oz),*
* Caramel Lightly Sweetened *(48oz))*

TAZO TEA
TEAM REAL TREE
TROPICANA (NOT ALREADY SPECIFIED)
U-MAINE WATER
V-8
VAULT

VERY FINE

WAIST WATCHERS
YOO HOO
ZICO

Updated Wednesday, June 13, 2018
* Denotes New

Environmental Protection Regulation
Chapter 10
Deposit For Beverage Containers

§ 10-101. Authority and applicability

(a) These rules are adopted under the Secretary's authority pursuant to 3 V.S.A. Chapter 25 and 10 V.S.A. Chapter 53.

(b) These rules apply to:

(1) A person manufacturing or distributing a container;

(2) A person selling a container at the retail level or operating a business for the purpose of redeeming a container; and

(3) A person returning a beverage container to collect the deposit on a container.

(c) These rules do not apply to beer or other malt beverages contained in kegs, half-kegs, quarter-kegs, or pony-kegs provided that a deposit on the keg is charged to the consumer for the use of the keg and refunded to the consumer upon return of the keg to the retailer.

§ 10-102. Definitions.

As used in this Subchapter, the following terms have the following meaning:

"Auditor" means a person authorized by a manufacturer or distributor to inspect receptacles holding beverage containers that are presented for redemption, including gaylords, shells, boxes, bags, or the contents of a reverse vending machine, to determine the number of containers and whether and how many foreign containers are within the receptacles.

"Bags" means a flexible container used for holding, storing, or containing containers.

"Beverage" means beer or other malt beverages and mineral waters, mixed wine drink, liquor, soda water, and carbonated soft drinks in liquid form and intended for human consumption.

"Certified redemption center" means a redemption center certified by the Secretary pursuant to § 10-106.

"Commingling" means the sorting of beverage containers at a redemption center by material type rather than by beverage brand in accordance with the requirements of an approved commingling agreement.

(d) If the agency believes that the manufacturers or distributors who are parties to an approved commingling agreement are not in conformance with the minimum criteria contained in this section, the secretary shall notify the agreement point of contact of the alleged non-compliance. The manufacturers or distributors shall have 30 days to correct the noncompliance or provide information demonstrating that the allegation of noncompliance was in error. Continued noncompliance shall be grounds to revoke the approval of a commingling agreement.

§ 10-110. Foreign Container Auditing.

(a) Audits shall only be conducted on containers presented by the retailers and redemption centers as ready for redemption.

(b) A request by an auditor to conduct an audit on premises shall not be unreasonably refused. If the on premises audit is unreasonably refused, the audit may be done off premises.

(c) Audits shall be conducted on at least 1000 containers at a retailer or redemption center. The contents of a reverse vending machine may be audited.

(d) It shall be a violation of this section to have more than two percent foreign containers within the bags, gaylords, shells or other receptacles used to hold empty containers, or in the contents of a reverse vending machine, which are audited.

(e) A manufacturer or distributor, or their representative, may withhold the deposit and handling fee on any foreign container discovered during an audit. In addition to this penalty, the following may be assessed against a retailer or redemption center:

(1) On the first offense, a warning to the retailer or redemption center which includes a statement of their obligations under state law and a warning of the potential future penalties that may be assessed against them for foreign containers.

(2) On the second offense, a penalty based upon the percentage of foreign containers found in the audit applied to all containers to be picked up by the manufacturer or distributor, or their representative at that pick up. For example, if 2000 containers were audited and four percent of those cans were foreign containers (80 containers) and the retailer or redemption center wished to redeem a total of 8000 containers at that pick up the penalty would be assessed on 320 containers.

(3) On the third offense, a penalty based upon the percentage of foreign containers found in the audit applied to all containers to be picked up by

the manufacturer or distributor, or their representative for the next 30 days.

(4) On the fourth offense, and each offense thereafter, a penalty based upon the percentage of foreign containers found in the audit applied to all containers to be picked up by the manufacturer or distributor, or their representative, for the next 60 days.

(f) Violations of the foreign container provisions of this procedure may be used to consider the cumulative penalties for a period of one year from the date that written notice was sent to the retailer or redemption center under subsection (g) of this section.

(g) An auditor shall provide notice in writing to a retailer or redemption center of a violation of this foreign container procedure. This notice shall be sent certified mail. This notice shall contain, at a minimum, the date of the audit, the person present representing the auditor, the person present representing the retailer or redemption center, the number of foreign containers found in the course of the audit, the penalty to be assessed under subsection (e) of this section, and the following statement:

"You have 30 days from your receipt of this notice to grieve the violation of the foreign container policy to the state of Vermont. Any grievance shall provide the copy of the written notice and briefly describe the basis for the grievance. The grievance shall be sent to the auditor who provided the written notice and to the following address:

Department of Environmental Conservation
Waste Management Division
103 S. Main Street, West Office Building
Waterbury, Vermont 05671-0404

(h) Grievances under this procedure shall be informal proceedings and shall not be considered formal evidentiary hearings.

(i) It shall be the burden of the auditor to clearly demonstrate that there was a violation of the foreign container policy.

(j) Decisions of the secretary shall be in writing and provided to both parties.

Natural Resources Council of Maine

3 Wade Street • Augusta, Maine 04330 • (207) 622-3101 • Fax: (207) 622-4343 • www.nrcm.org

Comments on the OPEGA Review of Maine's Beverage Container Redemption Program

Sarah Lakeman, NRCM Sustainable Maine Project Director, June 14th, 2018

Senator Katz, Representative Mastraccio, and members of the Joint Standing Committee on Government Oversight, my name is Sarah Lakeman and I am the Sustainable Maine Project Director for the Natural Resources Council of Maine (NRCM). I appreciate this opportunity to provide comments on the May 2018 OPEGA report on Maine's Beverage Container Redemption Program.

NRCM has been a dedicated advocate of the Bottle Bill since its passage in 1976, and we have continued to both celebrate and defend it at the Legislature since it was enacted 40 years ago. Today more than ever, the Bottle Bill plays a vital role in the recycling industry, which now relies almost exclusively on a clean, quality commodities market. The beverage container deposit program not only provides a very clean source of recyclable aluminum, plastic, and glass, but it also greatly reduces roadside litter, saves our municipalities hundreds of thousands of dollars, serves as a source of funds for hundreds of charities throughout the state, and creates jobs. It is by far our State's most successful recycling program.

In general, we are impressed with the OPEGA report. The office did an excellent job at explaining the complexities surrounding the program and all the players involved. However, the fact that such a lengthy report was needed to decipher how the program works is a red flag in-and-of-itself that the administration of this program could indeed be improved by some efficiency measures.

NRCM agrees with most of the recommendations made by OPEGA, particularly about the need for more data and mandatory reporting. Without performance data, it is difficult to make informed policy changes or to evaluate the program in general. We think that OPEGA did a good job outlining the competing interests (page 17), and this is important information for decision makers who are considering policy changes. We look forward to helping work through some of these issues with legislation next session.

However, we are concerned that OPEGA made reference to potentially reducing the deposit value on some of the containers (page 46). The report says "*it is unclear whether the higher deposit values are necessary to incent consumers to return wine and spirit containers.*" **We believe the record is clear that higher deposit values do result in higher redemption rates**:

- Iowa and Ontario are two jurisdictions that have data specifically on wine and spirits redemption rates. Iowa's deposit is five cents and the rate of return is 39 percent; Ontario has a 10- to 20-cent deposit depending on size, and their redemption rate is 78 percent.
- At 10 cents per container, Michigan has the highest redemption rates in the country at 92 percent.

- At five cents per container, Connecticut and Massachusetts have lower overall redemption rates at 48.5 and 56 percent respectively.
- In an effort to increase redemption rates, Oregon raised its deposit from 5 cents to 10 cents in 2017.
- When Alberta, Canada raised their deposit scheme by five cents across the board, their return rate increased from 75 percent to 85 percent.

Reducing the deposit on wine and spirits from 15 cents to 5 cents would cause significant problems in Maine. Doing so would:

- **Slash the redemption rate for wine and spirit bottles by up to 50 percent[1].** We know that higher deposit rates for beverage containers boost their return rate. We are not aware of any jurisdiction in the world that has reduced the deposit amount used to incentivize recycling of containers; and, in fact, the trend is to increase the redemption value over time, due to inflation.
- **Create higher waste management costs for municipalities and taxpayers.** Towns would have to handle an additional 8,000+ tons of glass waste that would no longer be managed through redemption centers, which could cost taxpayers anywhere from $800,000 to $1,650,000 per year[2].
- **Cause Maine's redemption centers to lose income**. These businesses are already stretched thin and can't afford the serious risk to their businesses and employees that a lower redemption value, and fewer containers, would bring. They need more containers, not less.
- **Result in Maine charities losing an estimated 10 percent of charitable income from bottle drives[3].** Many Maine charities—animal shelters, public health organizations, schools, scouting groups, and sports teams—rely on bottle drives to raise funds and operate on tiny budgets. They would receive one-third of what they currently do for wine and spirit container donations.

Ultimately, NRCM would like to see more containers added to the Bottle Bill and also preserve or enhance the incentive to recycle beverage containers through the redemption program. Further, we want to make sure that it is easy for consumers and all stakeholders to participate in the program so that it can continue to be successful.

Thank you for your time and your consideration of these comments, I'd be happy to answer any questions you may have.

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[1] According to Container Recycling Institute testimony on LD 1703
[2] According to the Maine Resource Recovery Association testimony on LD 1703
[3] According to Clynk testimony on LD 1703

6/14/2018

To: Chair Senator Katz
To: Chair Representative Mastraccio
Members of Committee on Government Oversight

From: Peter E. Welch
Owner/Manager Gaia, LLC
d/b/a Forest Avenue Redemption Center
897 Forest Avenue
Portland, Maine 04103

Dear Ladies & Gentlemen:

Thank you much for the opportunity to speak, today. I have been engaged in both the beverage industry and in the redemption industry since 1981. Historically, I have also served on several study groups related to the "bottle bill" as well as alcohol legislation.

I wish to applaud the DEP for its solid and in-depth compilation to ascertain the status of the bottle bill.

It is with pride as a Maine citizen, that I view this report as a bedrock endorsement to the success of our hallmark bottle bill. As everyone knows, it enjoys overwhelming statewide support. Defeating 2 statewide repeal efforts with over 85% support. Hence the success far and wide, urban and rural, north and south!! Citizens like it, they support it!! It works particularly well for small towns and rural areas, first to save on "town dump" solid waste costs and also in litter mitigation. The known return rates are 75%- 87% and the remaining likely around 80% to 85%. A Success!!!

The DEP's task, and thus this committee's pursuit, is to assess the functionality of the bottle bill. To that goal, we endeavor to identify areas that may need modification and to strengthen it for its continued success.

By way of perspective, this "bottle bill" is largely privately run, business run, consumer supported. At its core, it is **an "User Fee"**. As such, **taxpayer dollars** either at the State or Local level are **NOT required**. In fact, it appears to generate revenue for the State of Maine. Why should a retired couple on fixed income and facing every increasing property tax pay for the solid waste disposal for you or I deciding to drink a tasty Maine craft beer? They should not. That is a beautiful thing, all the way around.

I find this report comprehensive in its review. I have made note of several comments, most of which I will deliver via a written supplement to the committee, upon an additional reading and review of the report.

The underlying conclusion relating to the scarcity of data is the most factual and illuminating finding. Commingling needs review for compliance and legitimacy. The department must be able to review if these entities are meeting the statutory requirements or if they are not abiding as needed to escheat provisions. There is "potential" for significant escheat issues under the current formula's, alone. And if any existing agreements do not meet the test, then they should be under escheat and subject to MRS.

In regard to IOD's, I was stuck in my first go around of the report; as to the various numbers of IOD's. Again, I have only read the report once. So, I just may have read too fast!

On page 3, **DEP notes 260 IOD's**. On page 12, **MRS notes 187 IOD's**. And on page 16, **RSI** estimates they provide services for around **300 IOD's**. To me, that speaks volumes to the DEP reports conclusion of "we need info and data". Obviously, these variances can cause havoc in determining the return rates, and even more so, the escheat provisions of the law could possibly be under minded, even if unknowing and unintentionally.
Obviously, some of the IOD's belong to qualified commingling groups, but even if that was a reason for variance, it is less than a dozen or thereabouts.

A couple of quick comments. First, a few references are made to the .15 deposit being on "contents". While that is accurate, the overarching thought at the time when these items were added (spirits & wine) during the McKernan administration; is that they should be .15 due the "value" of the contents. If a 1.00 soda was a .05 deposit- would anyone bring back a 30.00 bottle of spirits for a .05 deposit. The proof may be in the pudding as the return rate is near 87%.

To the extent that this committee will make recommendations concerning escheat and other provisions; I ask that you consider using some portion or all of the escheat to assist in a handling fee increase for redeemers of containers. This would be all entities that redeem: stores, restaurants, campgrounds, clubs and redemption centers, etc. In respect to maintaining & improving the viability of the bottle bill, redemption centers need an increase in the handling fee.
The standard handling fee per DEP report is .04. This was established in 2004. We all know that costs and prices have gone up since 2004! The "straight face test" proves that, alone. To the extent needed, if the escheat can not cover the needed handling fee increase, than the balance needs to be done legistlatively.

In particular, labor costs have jumped and availability of employees has plummeted. Labor is a large component of redemption costs.
The State passed minimum wage changes as have communities. I have included a copy of the minimum wage law for Portland. **On this July 1st, in a couple of weeks, it moves to $ 10.80, in 2004, rates were in the 7.00-7.50 range.**

I have also included a letter **from Pepsico that they are increasing all their prices effective this July 1st, 2018.**

I find it somewhat poetic or ironic, I am unsure. I get wages increases. Pepsi can raise their prices. But, I can't. Only you can raise them. I support employees getting higher wages, they deserve it and need it. But, I am in a bind here.

I have also included **BLS CPI** data sheets from 2004 to 2018. The cost of doing business has increased from **2004 (190.3) to May 2018 (251.5). This is a 32% increase.** 2004 was the last time the legislature looked to raise the handling fee.

Adding the 2004-2018 CPI increase to the Standard Handling Fee of .04 cents per DEP on page 9; indicates that the HANDLING FEE SHOULD BE (.04 * .32) = .0525 TO .0550, NOW!

I would ask that in your deliberations you consider the need and impact on the many redemption centers in the state, over 400 small businesses, and all the other redeemers.

I would ask that as you perhaps reshuffle existing escheat, etc., and review all other provisions, please move the "Standard" handling fee to .0525 or .0550, now. Also, connect it to CPI in a manner that DEP can raise it whenever a .0025 of penny is incremented.
I would be pleased to answer any of your questions and would be glad to assist in any work sessions, etc.

Sincerely yours,

Peter Welch/Gaia, LLC
pwelchoptimusimports@myfairpoint.net
207.274.0719

Portland, Maine | Yes. Life's good here.

April 15, 2018

Dear Portland Employers:

- On July 6, 2015, the Portland City Council adopted Portland's minimum wage ordinance (Order 297-14/15). This letter is being sent to you in order to inform you of your rights and responsibilities under the City's municipal wage ordinance. Please note this letter only provides general information related to the minimum wage ordinance and should not be viewed as legal advice. I recommend you consult a lawyer to discuss the ordinance further and to obtain any required legal advice.

The following are the historical changes that have taken place:

- On January 1, 2016, the minimum wage in Portland was raised to $10.10 per hour.

- On January 1, 2017, Portland minimum age was adjusted to $10.68 per hour.

Increases in the Minimum Wage:

- **Beginning on July 1, 2018, employers who have "a place of business" within the City of Portland must pay <u>every employee</u> "who performs work" for the employer "within the municipal limits of the City" a minimum wage of $10.90 per hour.**

    - In the case of tipped workers, employers may consider tips received by an employee as a part of the minimum wage, but must still ensure that each employee is receiving: (1) a direct wage of at least $ 5.00 per hour; and (2) the total equivalent of $10.90 per hour including the aforementioned direct wage and tips received. <u>If the tipped employee can show that their total wages (including tips) fall below the minimum wage, you are required to compensate them for the difference.</u>

    - Finally, please remember that tips paid to tipped-employees are considered to be that employee's property, and may not be shared with you as the employer.

I. Overtime

Please be aware that changes to the City's minimum wage ordinance <u>do not</u> affect state laws regarding overtime.

(over)

PEPSICO

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060418 NER HJ
9647598, RED FOREST AVE REDEMPTION CENTER
897 Forest Ave
Portland ME 04103-4107

May 5, 2018

To Our Valued Foodservice Customers,

I would like to take this opportunity to thank you for featuring PepsiCo brands in your beverage portfolio. We are proud of our products and service and are constantly looking to drive what is next. Our goal is to help you build sustainable growth by innovating new ways to delight and engage consumers while continuing to provide a broad portfolio of products and platforms. As we do every year at this time, we are writing to communicate our pricing for 2018-2019.

Many different factors are considered when evaluating pricing decisions – including macro-trends, competition, commodity prices, and our strategic investments to provide superior service, marketing and advertising, and innovation to accelerate category growth. This year our business has experienced significant, unplanned increases across major commodity markets – including crude, aluminum, and PET - along with unprecedented rises in transport and logistics costs. Aluminum tariffs represent further unplanned inflation. To offset a portion of these additional pressures, support our investments, and continue to provide the highest quality products and service, we will be implementing a price increase on many products varying by brand and package. These increases will be effective on deliveries beginning July 1, 2018, unless the timing of your contract states otherwise. In addition to this annual price increase, your invoices for product deliveries in certain U.S. geographies may include amounts related to certain government-mandated beverage taxes or similar fees that are or will become effective in 2018 in various cities, counties or states.

Our long-term goal is to help grow your business by offering a winning line-up of beverages and providing unequaled service, relevant innovation, world class marketing, and great consumer value. We believe that these are the key drivers of long-term profitable growth.

While we recognize that price changes can be challenging for our customers, these changes will help support investments in your business that we believe will help drive balanced, sustainable revenue growth. Additional detail will be provided by your account manager. On behalf of all the associates at PepsiCo Foodservice, thank you again for your business.

Sincerely,

HHoytink

Heather Hoytink
Senior Vice President
PepsiCo Foodservice Field Sales

CONSUMER PRICE INDEX

ALL URBAN CONSUMERS (1982-1984=100), not seasonally adjusted

Source: U.S. Bureau of Labor Statistics

To figure the percentage increase between any two months: Subtract the index for the earlier month from that of the later month. Divide that number by the index for the earlier month. Then multiply by 100 by moving the decimal two places to the right.

Year	Jan.	Feb.	March	April	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.	Dec.-Dec. Increase
1988	115.7	116.0	116.5	117.1	117.5	118.0	118.5	119.0	119.8	120.2	120.3	120.5	4.4%
1989	121.1	121.6	122.3	123.1	123.8	124.1	124.4	124.6	125.0	125.6	125.9	126.1	4.6%
1990	127.4	128.0	128.7	128.9	129.2	129.9	130.4	131.6	132.7	133.5	133.8	133.8	6.1%
1991	134.6	134.8	135.0	135.2	135.6	136.0	136.2	136.6	137.2	137.4	137.8	137.9	3.1%
1992	138.1	138.6	139.3	139.5	139.7	140.2	140.5	140.9	141.3	141.8	142.0	141.9	2.9%
1993	142.6	143.1	143.6	144.0	144.2	144.4	144.4	144.8	145.1	145.7	145.8	145.8	2.7%
1994	146.2	146.7	147.2	147.4	147.5	148.0	148.4	149.0	149.4	149.5	149.7	149.7	2.7%
1995	150.3	150.9	151.4	151.9	152.2	152.5	152.5	152.9	153.2	153.7	153.6	153.5	2.5%
1996	154.4	154.9	155.7	156.3	156.6	156.7	157.0	157.3	157.8	158.3	158.6	158.6	3.3%
1997	159.1	159.6	160.0	160.2	160.1	160.3	160.5	160.8	161.2	161.6	161.5	161.3	1.7%
1998	161.6	161.9	162.2	162.5	162.8	163.0	163.2	163.4	163.6	164.0	164.0	163.9	1.6%
1999	164.3	164.5	165.0	166.2	166.2	166.2	166.7	167.1	167.9	168.2	168.3	168.3	2.7%
2000	168.8	169.8	171.2	171.3	171.5	172.4	172.8	172.8	173.7	174.0	174.1	174.0	3.4%
2001	175.1	175.8	176.2	176.9	177.7	178.0	177.5	177.5	178.3	177.7	177.4	176.7	1.6%
2002	177.1	177.8	178.8	179.8	179.8	179.9	180.1	180.7	181.0	181.3	181.3	180.9	2.4%
2003	181.7	183.1	184.2	183.8	183.5	183.7	183.9	184.6	185.2	185.0	184.5	184.3	1.9%
2004	185.2	186.2	187.4	188.0	189.1	189.7	189.4	189.5	189.9	190.9	191.0	190.3	3.3%
2005	190.7	191.8	193.3	194.6	194.4	194.5	195.4	196.4	198.8	199.2	197.6	196.8	3.4%
2006	198.3	198.7	199.8	201.5	202.5	202.9	203.5	203.9	202.9	201.8	201.5	201.8	2.5%
2007	202.416	203.499	205.352	206.686	207.949	208.352	208.299	207.917	208.490	208.936	210.177	210.036	4.1%
2008	211.080	211.693	213.528	214.823	216.632	218.815	219.964	219.086	218.783	216.573	212.425	210.228	0.1%
2009	211.143	212.193	212.709	213.240	213.856	215.693	215.351	215.834	215.969	216.177	216.330	215.949	2.7%
2010	216.687	216.741	217.631	218.009	218.178	217.965	218.011	218.312	218.439	218.711	218.803	219.179	1.5%
2011	220.223	221.309	223.467	224.906	225.964	225.722	225.922	226.545	226.889	226.421	226.230	225.672	3.0%
2012	226.665	227.663	229.392	230.085	229.815	229.478	229.104	230.379	231.407	231.317	230.221	229.601	1.7%
2013	230.280	232.166	232.773	232.531	232.945	233.504	233.596	233.877	234.149	233.546	233.069	233.049	1.5%
2014	233.916	234.781	236.293	237.072	237.900	238.343	238.250	237.852	238.031	237.433	236.151	234.812	0.8%
2015	233.707	234.722	236.119	236.599	237.805	238.638	238.654	238.316	237.945	237.838	237.336	236.525	0.7%
2016	236.916	237.111	238.132	239.261	240.229	241.018	240.628	240.849	241.428	241.729	241.353	241.432	2.1%
2017	242.839	243.603	243.801	244.524	244.733	244.955	244.786	245.519	246.819	246.663	246.669	246.524	2.1%
2018	247.867	248.991	249.554	250.546	251.588								

The Kiplinger Letter

The Kiplinger Washington Editors

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