

Vermont Brewers Association  
Testimony of Avery Schwenk on H.63

**An act relating to the time frame for return of unclaimed beverage container deposits**

Thank you for the opportunity to talk with you today about H. 63.

As you know, last year, the legislature passed S.285, an act relating to universal recycling requirements.

- The act established a system by which unclaimed bottle deposits will be returned to the state.
- Under that system, each **deposit initiator**, which is generally a manufacturer or a distributor, is required to **establish a deposit transaction account** and deposit all container deposits from consumers or retailers into their deposit transaction account.
- Deposits must be made **not more than three business days** after the date on which the beverage container is sold.
- Deposit initiators must then report to the state and remit proceeds in the account to the state **on a quarterly basis**.

This new system to collect unclaimed bottle deposits creates significant burdens for small beer manufacturers.

**H.63 proposes to expand the time frame for deposits from 3 days to 30 days. The VBA supports this proposal for the following reasons:**

- For small brewers that operate a tap room, this provision could require that they deposit amounts as small as \$1.50 - \$3.00 every three business days.
- The state collects proceeds in the transaction accounts on a quarterly basis. Requiring deposits within three business days seems unnecessarily burdensome.
- Of the states that have a bottle deposit law (aka "bottle bill"), no state requires deposits to be made within 3 business days and most states establish **no time frame for deposits**. Only CT establishes a timeframe and it is one month.
- **Vermont should follow all other states and eliminate the requirement that deposits are made within 3 business days.**
- H. 63, expands the timeframe for deposits from 3 days to 30 days. This is an improvement and we appreciate consideration of an expansion of the timeframe. We would also like you to consider **no time frame or deposits on a quarterly basis, consistent with required reporting.**

Although H.63 addresses only the time frame for deposits, we would like to you to consider an additional amendment that would remove the requirement to **establishing a separate account**. **The VBA believes that the separate bank account is an unnecessary burden for the following reasons:**

- Most small business accounting systems (e.g. QuickBooks) are sophisticated enough to keep track of deposit information without the need for a costly separate account.
- Reports can be created without the need for a separate account.
- Opening and maintaining a commercial bank account is expensive, includes fees and usually requires a minimum deposit amount.
- Michigan does not require deposit initiators to establish a separate account.
- **Vermont should eliminate the requirement that deposit initiators establish a separate bank account.**

For your information, we have reviewed and summarized relevant provisions of bottle bill laws in other states.

Thank-you again for the opportunity to discuss H.63 with you.  
Questions?

### **Summary of Unclaimed Bottle Deposit Laws in Other Bottle Bill States**

9 states have a bottle bill

- 2 states, Oregon and Iowa, allow manufactures and distributors to retain unclaimed bottle deposits
- 2 states, California and Hawaii, have state run programs in which manufacturers pay a per bottle fee to maintain the bottle bill program.

Of the remaining 5 states: Vermont, Massachusetts, Michigan, New York and Maine

- All or most of the unclaimed bottle deposits are returned to the state
- 4 of 5 require deposit initiators to establish a separate account. Michigan does not.
- 3 of 5 have no timeframe within which deposits must be made.
  - In CT, deposits must be made within 1 month of selling the container
  - In VT, deposits must be made within 3 days of selling the container
- One state, Maine, exempts small brewers (50,000 gallons or less/year) from the unclaimed bottle deposit law.

#### **Massachusetts**

**Law:** <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter94/Section323B>

**Where do unclaimed deposits go:** Property of state general fund

**Separate account?** Deposit initiators must establish a Deposit Transaction Fund. Report and pay monthly to state.

**Time from for deposits?** No time frame for deposits

Other:

#### **Michigan**

**Law:** [http://www.legislature.mi.gov/\(S\(4yd3lfdppkv0kw4hrvl205bv\)\)/mileg.aspx?page=GetObject&objectname=mcl-Initiated-Law-1-of-1976](http://www.legislature.mi.gov/(S(4yd3lfdppkv0kw4hrvl205bv))/mileg.aspx?page=GetObject&objectname=mcl-Initiated-Law-1-of-1976)

**Where do unclaimed deposits go:** Unclaimed bottle deposits reported and sent to state annually. 25% of unredeemed deposits in Michigan retained by deposit initiators, the other 75% goes to the state in a Cleanup and Redevelopment Trust Fund (Trust Fund)

**Separate account?** No separate fund mandated.

**Time from for deposits?** No time frame for deposits

**Other:**

## Maine

**Law:** <http://legislature.maine.gov/legis/statutes/38/title38sec3108.html>

**Where do unclaimed deposits go:** Most containers are under a commingling agreement, those unclaimed deposits are property of distributor. If not under a commingling agreement, then unclaimed deposits are property of State.

**Separate account?** Must establish a separate account and turn over proceeds monthly to the state.

**Time from for deposits?** No time frame for deposits

**Other:** Brewers who produce 50,000 gallons or less/year are exempt from the unclaimed deposits law.

<https://wgme.com/news/i-team/i-team-investigates-whos-cashing-in-on-unclaimed-bottle-deposits>

## New York

**Law:** <https://codes.findlaw.com/ny/environmental-conservation-law/env-sect-27-1001.html>

**Where do unclaimed deposits go:** 80% to the state General Fund; 20% retained by deposit initiator. Quarterly reports and quarterly payments

**Separate account?** Separate account "refund value account"

**Time from for deposits?** No time frame for deposits

**Other:**

<https://www.democratandchronicle.com/story/news/politics/albany/2017/12/20/billions-bottle-and-can-deposits-go-unclaimed-new-york/967141001/>

If you're a deposit initiator you must:

- Register online as a deposit initiator before you make any sales
- Establish a refund value account
- Keep track of all deposits that you collect
- File quarterly reports and remit 80% of unclaimed deposits to the Tax Department online

## Connecticut

**Law:** [https://www.cga.ct.gov/current/pub/chap\\_446d.htm](https://www.cga.ct.gov/current/pub/chap_446d.htm)

**Where do unclaimed deposits go:** Returned to State. Collected quarterly from each deposit initiator.

**Separate account?** Yes.

**Time from for deposits?** Within one month after bottle is sold.

**Other:** A deposit initiator may petition the Commissioner of Revenue Services for an alternate method of accounting by filing with such deposit initiator's return a statement of objections and other proposed alternate method of accounting, as such deposit initiator believes proper and equitable under the circumstances, that is accompanied by supporting details and proof. The Commissioner of Revenue Services shall promptly notify such deposit initiator whether the proposed alternate method is accepted as reasonable and equitable and, if so accepted, shall adjust such deposit initiator's return and payment of reimbursement accordingly.

## California

**Law:** <https://www2.calrecycle.ca.gov/Publications/Details/1478>

**Where do unclaimed deposits go:** Property of program: used for program administration program payments and grants.

**Separate account?** No accounts. Manufacturers pay a per bottle fee into the program.

**Time from for deposits?** No deposits.

**Other:** Beverage manufacturer requirements include:

- Monthly submission of Beverage Manufacturer Reports and corresponding payments for processing fees to the Division of Recycling. The current Processing Fee can be found on the [Official Notices page](#).
- Maintain proper record keeping and record retention.
- Proper filing and payment of annual report if designated as having Annual Reporter status.
- Notification to the Division in writing if closing business, change in ownership or change of address.
- **Beverage Manufacturer Reports** and associated processing fees must be submitted by the 10th day of the second month following the month of sales (PRC, Section 1475(g)(1)) (e.g., January 2015 reports and payments are due by March 10, 2015).
- **Who is a beverage manufacturer?**  
The Act defines a beverage manufacturer as any person who bottles, cans, or otherwise fills beverage containers, or imports filled beverage containers into California, for sale to distributors or dealers. (PRC14506). Notwithstanding Section 14506, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. (PRC 14575 2(A))
- **How much are the processing fees for beverage manufacturers?**  
Processing fees (PF) vary depending upon the beverage container material type and the year in which you are reporting. For the most current rates, refer to the [Historical Reporting Rates](#).
- **My company is a beverage manufacturer. Why do I have to pay processing fees on some containers but not aluminum?**  
When the scrap value received by recyclers for a material type is lower than the actual cost to recycle, the recycler receives a processing payment. CalRecycle pays certified recycling programs the processing payment, which is the difference between the

material's costs of recycling and the scrap value. In the case of aluminum, the scrap value received by recyclers is greater than the actual cost to recycle.

- <https://www.calrecycle.ca.gov/BevContainer/BevDistMan/>

## Hawaii

**Law:** [https://www.capitol.hawaii.gov/hrscurrent/Vol06\\_Ch0321-0344/HRS0342G/HRS\\_0342G-0101.htm](https://www.capitol.hawaii.gov/hrscurrent/Vol06_Ch0321-0344/HRS0342G/HRS_0342G-0101.htm)

**Where do unclaimed deposits go:** Property of state: used for program administration. Manufacturers pay a per bottle fee into the program

**Separate account?** No accounts.

**Time from for deposits?** No deposits.

**Other:** A non-refundable "container fee" (added to price of beverage) of 1¢ - 1.5¢ per container is paid by beverage manufacturers into the Deposit Beverage Container fund to help pay redemption centers handling fees. The container fee fluctuates based on the redemption rate of the prior fiscal year; if the redemption rate is under 70%, it is set to 1¢; if it is 70% or more, it is set to 1.5¢. [c]

## Iowa

**Law:** <https://www.legis.iowa.gov/DOCS/ACO/IC/LINC/Chapter.455c.pdf>

**Where do unclaimed deposits go:** Retained by distributor/bottlers

**Separate account?** N/A

**Time from for deposits?** N/A

**Other:**

## Oregon

**Law:** [https://www.oregonlegislature.gov/bills\\_laws/ors/ors459A.html](https://www.oregonlegislature.gov/bills_laws/ors/ors459A.html)

**Where do unclaimed deposits go:** Retained by distributor/ bottlers

**Separate account?** N/A

**Time from for deposits?** N/A

**Other:**