Testimony of Bree Dietly on Behalf of the Beverage Association of Vermont and American Beverage on House Bill 175

House Committee on Ways and Means
March 9, 2021

Good afternoon, Chair Ancel, Vice-Chair Kornheiser, and members of the Committee. My name is Bree Dietly and I am a Principal at Northbridge Environmental in Westford, Massachusetts. I have 35 years of experience working with deposit return systems across the US and have done several research projects related to the Vermont law including providing background for the beverage container portion of ANR's Act 148 analysis in 2013. I also manage the Vermont Commingling Group, LLC, which is the entity that operates the commingling group in the state. While I am not representing the LLC today, my experience with that program provide me with unique insight into the workings of Vermont's bottle bill.

I am here today to speak on H. 175 related to beverage container redemption. I am representing the Beverage Association of Vermont, which represents the bottlers and distributors of refreshment beverages in Vermont through our local bottling partners including Coca-Cola Beverages Northeast with operations in Colchester and Rutland, Pepsi-Cola of Burlington, Leader Distribution Systems in Brattleboro, and Polar Beverages. Our industry provides jobs to 700 Vermonters; these jobs are some of the best paid, highest benefit jobs available in communities to employees with and without college degrees. We are proud of our employees and how they and the companies they work for are involved in and give back to our communities.

The beverage industry plays an important role in advancing the circular economy. Our packaging is specifically designed and optimized for recycling. In particular, our PET bottles and aluminum cans are 100% recyclable, have a high commodity value and, when collected and recycled, can become new bottles and cans. The companies have also made commitments to incorporate more recycled content into our PET bottles and to reduce the amount of new plastic in our bottles. We are working to get every bottle back to meet these ambitious goals and support a circular economy for our beverage containers.

In November 2019, The Coca-Cola Company, Keurig Dr Pepper and PepsiCo, announced the launch of the *Every Bottle Back* initiative, a breakthrough effort to reduce the industry's use of new plastic by making significant investments to improve the collection of the industry's valuable plastic bottles so they can be made into new bottles. These competitors are coming together to support the circular plastics economy by reinforcing to consumers the value of their 100 percent recyclable plastic bottles and caps and ensuring they don't end up as waste in oceans, rivers, or landfills. This program is being executed in conjunction with two of the country's most prominent environmental nonprofits and the leading investment firm focused on the development of the circular economy. The World Wildlife Fund (WWF) will provide strategic scientific advice to help measure the industry's progress in reducing its plastic footprint and The Recycling Partnership and Closed Loop Partners will assist with deploying our investments in community recycling infrastructure for the initiative.

This multi-pronged initiative includes metrics for reducing the use of new plastic in the US, improving the quality and availability of recycled plastic through leveraged grants of $400 million to The Recycling Partnership and Closed Loop Partners, a public awareness campaign to help consumers understand the value of 100 percent recyclable bottles, and new on-pack messaging about recycling bottles and caps that is being rolled out now.

Proposed Changes in H.175

We do not support the provisions of H.175 that would expand the scope of the current deposit law and double the deposit. We do support the intent behind the increase in the handling fee for non-commingled containers, but we emphasize that all of these proposals paper-over significant problems with the current bottle bill that should be addressed, not through easy sound bites, but by taking a hard look at the system and its limitations.

For the last few years, ANR has convened a group of deposit system stakeholders to address short term issues and discuss longer-term solutions. I have made several presentations to that group about possible innovations to improve the operation of the DRS to make it more efficient, more resilient to change, and better able to accommodate additional containers. I would suggest to you that now is not the time to expand because those changes have not been put in place.

We are advocating for reform to this and other deposit systems in the US to move to more centrally managed systems, governed by a non-profit product stewardship organization. These systems are the most common in other countries and at the forefront of the new systems being developed in Europe and elsewhere. These programs offer greater focus on meeting environmental goals because the stewardship group can be held accountable for performance (*i.e.,* the return rate) as well as reporting on how materials are being utilized to advance a circular economy. The programs are incentivized to provide convenient service to consumers and to do so efficiently. These programs also, without exception, have access to unclaimed deposit revenues to help offset costs. Rather than compound the problems with the current bottle bill, we encourage you to seek reforms of the system first, and then consider whether bringing additional products into the deposit system makes sense environmentally and economically.

Our industry supports a wide range of policies to expand collection and recycling of materials including extended producer responsibility systems and deposit return systems (DRS). But in order for these programs to be effective and efficient, they must be designed properly; the deposit systems in the northeast are not. Reforming those systems is a priority for our industry, and that means we must oppose proposals that simply add to the existing problems, without tackling their structural limitations.

Vermont's Version of Container Deposits

Vermont may be one of ten US states with beverage container deposits, but each of those state programs is unique, reflecting the design of the enabling legislation, local conditions, and decades of evolution. In short, a generic discussion of "bottle bills" is not particularly useful without knowing the mechanics and structures at work within each jurisdiction.

Vermont's DRS is among the costliest in the US because it has the second-highest mandated handling fee in the country. The handling fee is the payment from distributors to redemption centers for each container redeemed and is a direct, out-of-pocket cost of the distributors. The handling fee in Vermont is 3.5¢ for commingled brands and 4¢ for the remainder; only Maine imposes a higher handling fee. These costs far exceed the value of the commodities sold by distributors. With unclaimed deposits siphoned out of the system by the state, the distributors have no other revenue source to offset these high costs. And, to state the obvious, the pandemic has put unprecedented strain on our businesses and on our retail customers and redemption centers.

This high cost is not inherent in the operation of a DRS – many deposit systems operate without handling fees and at much lower costs, but that is a function of how they are organized and operated. As I will discuss later, we fully believe that a reformed DRS in Vermont could perform better and at a lower cost.

Expansion

Expanding the law to include more beverages would absolutely overwhelm the redemption and collection infrastructure in Vermont. That would make redemption slower and less convenient for consumers and require much more space and labor-intensive for redemption centers and retailers.

From a fiscal perspective, expanding the law now would set in motion a fiscal crisis for the program as system costs skyrocket and the only remedy under the current law is to continue to ratchet up the handling fee. This is not sustainable, and implementing reforms *before* expansion would be far preferable and set a stable course for the program in the years to come.

I have provided some background on the redemption system and why reform is essential. Redemption is a tale of two cities in Vermont right now: Commingling and Brand Sorting. Commingled products, which represent roughly 85 percent of all deposit containers, require 13 sorts – at most – at a redemption center. Non-commingled products require more than 150. And in those more than 150 sorts are 750 different brands.

First, some discussion about commingling.[1] Commingling allows distributors to band together and have their empty containers combined by redemption centers, rather than sorted brand by brand, Coke from Pepsi, Bud from Coors, *etc.* This is an enormous savings to the redemption centers – in fact a much greater savings than the ½¢ handling fee reduction that the commingled distributors get. Why does this work? Because the distributors in commingling all have exclusive control over the distribution of their brands in Vermont. We can therefore use sales data from the distributors to allocate empty commingled cans in a bag to each member distributor. That method won't be precise every time at every redemption center, but with over 180 million empty bottles and cans redeemed in a year across the entire state, it's precise enough for our members.

[1] Attached to my testimony is a short summary of the commingling LLC we use to describe the program to potential members.

Brand sorting is a completely different system – it is the way the system operated before the distributors came up with the idea of commingling. Every one of those 746 brands has to be sorted according to distributor so that the correct returns can be charged to the distributor with responsibility for that brand. We also shouldn't overlook the fact that the system assumes the staff at redemption centers can keep track of who the distributors are for these 746 brands, which are ever-changing. The containers then have to be sorted by material and size so they can be properly counted and credited. In the table below, we have summarized the most recent listings of brand sorting, based on the list TOMRA compiles for the redemption centers.

Vermont Brand Sorts at Redemption Centers as of November 2020

		Brands	Distributors	Size Sorts	Total Sorts
Soda	**Subtotal**	**325**	**130**	**1 to 4**	**>130**
	Cans	*132*	*52*	*1 to 4*	*>52*
	Glass	*72*	*32*	*1 or 2*	*>32*
	PET	*121*	*46*	*1 to 3*	*>46*
Beer	**Subtotal**	**421**	**21**	**1 to 8**	**>>21**
Combined	**Total**	**746**	**151**		**>151**

**Northbridge analysis of TOMRA lists*

Not every sort occurs at every redemption center, but it is apparent that the vast majority of the cost and effort of redemption is devoted to a small fraction of the returns.

With this as background, what would expansion do? It would add hundreds more sorts to the system – nearly all of which would be in the brand sort system, not commingling. The space-constrained redemption areas would have to double or triple to accommodate the additional bins and bags for these new distributors and brands. And, like some of the small brands in the system today, some of those bags could take months to fill up, so they take up space, but provide little revenue to the redemption centers. The labor to sort these containers is significantly greater because of the time to look up the brand, walk to the bin and sort it. In the redemption centers in Maine, you will find 300 to 400 sorts, with bottles kept in produce boxes and eventually stacked on pallets, shrink-wrapped, and trucked off for processing. It is an absurd, Rube Goldberg-worthy operation.

With regard to the environmental impacts of expansion, they would be modest at best. We have shown in previous research, including the Act 148 report, that many of the containers subject to expansion are already being recycled through Vermont's curbside, dropoff, and commercial recycling systems.

Doubling the Deposit to 10¢

Vermont and Maine already have the highest redemption rates in the northeast. The systems are difficult to compare because they cover different products and are organized differently, but, aside from the anomaly of 2020, redemption rates in the commingling group were 86 percent in 2018 and 2019 – the same as Oregon in 2019 with a 10¢ deposit and close to Michigan's 88 percent, also with a 10¢ deposit.

From a fiscal perspective, 10¢ deposit would jeopardize the state's new revenue from unclaimed deposits. In 2019, the redemption rate for glass in the commingling program exceeded 100 percent. Before commingling, the soft drink bottler territories on the borders (served from Coke's old Claremont, NH facility and Leader Beverages in Brattleboro) ran at or over 100 percent most of the time.

We expect that the higher deposit would all but erase unclaimed deposit revenue as the rate climbs up to and over 100 percent due to a combination of cross-border redemption, cross-border shopping, and the fact that the state would now be vulnerable to these impacts on all three state borders instead of just one today.

A 10¢ deposit would not only open the gates to empty containers from across the borders, but it would further promote the sale of products in bordering states and the transshipment of non-deposit containers into Vermont. All of these are already problems to which we devote significant effort. The Act 148 report issued by ANR in 2013 found that 20 percent of the beverage containers recycled, redeemed or disposed in Vermont were not sold here. That means one in five bottles and cans was bought outside the state and redeemed here. With a 10¢ deposit, one could almost turn a profit buying certain products in New Hampshire and redeeming them in Vermont. The savings at the time of purchase and the refund value would just about pay for the product. Vermont does not need to export any more jobs and business to its border states. And an increase in the deposit would have to at least be made in a harmonized fashion with neighboring states.

How to Fix the System

The DRS in Vermont, like those in the other states that enacted them between 1971 and 1983, was designed for a different beverage industry, a different beverage market, a different retail environment, and different consumers. Yet the deposit system remains more or less unchanged except for ever-higher costs and the innovation of commingling.

Commingling provides an illustration of how redemption systems need to evolve in order to meet consumers where they are in 2021, not the 1970s, yet it also shows the limitations of that system faced with a vastly more complex mix of beverages and beverage distributors in the market.

The centralized structure of the commingling group allows for much simpler sorting, yet it is only half a solution because the members of the LLC still subsidize the other distributors in the system. I already referenced the fact that our ½¢ handling fee discount is small compared to the cost savings we provide to redemption centers. Another example is that our members pay for virtually all the glass being redeemed in Vermont because sorting and handling the glass is so difficult and we become the default underwriter of glass returns from other brands. Most redemption centers have done a great job of keeping non-commingled containers out of commingling bags and keeping out of state containers out of the system, but until there is a statewide system, there will still be cross-subsidization. And that problem would become vastly more severe if the law were expanded.

Another chronic problem is fraud. Again, most redemption centers do a good job of screening out nondeposit containers or out of state containers from their bags, but there are problems. One redemption center has had out of state cans in virtually every bag TOMRA has audited going back years. And two years ago, it took intervention of the Attorney General to get cities and towns along the New Hampshire border to stop collecting deposit containers at their local transfer stations and bringing them into Vermont for refunds – something they had been doing for decades.

The group of deposit law stakeholders convened by ANR over the last several years has considered options for a second commingling system, which many in the group have supported. Our industry believes the centralized structure of commingling, taken to the next level as it has been in Oregon and as systems operate across Canada and Europe is a better model than we have here in the northeast.

Thank you very much for your time and attention to this matter and I am happy to answer questions or to provide additional information about commingling or reform proposals.

Vermont Commingling Summary

Prepared by Northbridge Environmental,
Manager of the Vermont Commingling Group, LLC

All distributors of deposit containers in Vermont are required to select a pickup agent to collect their returns from across the state, unless the distributors are able to do this themselves. Distributors using TOMRA as their pickup agent may consider participating in the commingling group, which means that the distributor's empty containers will be managed together with those of the other participants in the group, rather than collected separately by brand.

Why Is There A Commingling Group?

Redemption centers have struggled to keep up with the staggering number of brewers and beer brands in the Vermont market as well as all the small soda and seltzer brands. These small brands account for only a small share of redemptions, but account for much of the cost of sorting and managing returns. Commingling was implemented in 2008 to simplify sorting for redemption centers and to help manage their costs. Because commingling saves redemption centers money, distributors in commingling pay a lower handling fee of 3.5¢, while those not in commingling pay 4¢. Legislation is pending that would increase that premium.

How Do I Get Billed for My Returns if They're Mixed with Others?

TOMRA collects bags, cases, and bins of commingled returns and bills all commingling participants for their respective share of those returns. The shares are determined by confidential sales data submitted monthly by the distributor to Northbridge, the group's manager.

By reducing sorting burdens on the redemption center, the participants in commingling pay a lower handling fee (currently 3.5¢ instead of the 4¢ charged to others). Larger distributors become Members of the group, with legal and equity stakes in its operation; smaller distributors are Partners and have a reduced set of responsibilities.

Should I Join Commingling?

Joining commingling allows for more efficient handling, less burden on redemption centers, and a more sustainable system. The lower handling fee partially reflects those cost savings and, if proposed legislation is enacted, the difference in handling fees will grow.

Our experience is that new participants would see a higher redemption rate than they have been. Many smaller brands are already having some of their returns paid for by the commingling group, because the empties are mis-sorted at redemption centers. ***The net effect may be higher costs for new members.***

Commingling Details: Members of Vermont Commingling Group, LLC

- Coca-Cola Beverages Northeast
- Bottling Group, LLC (Burlington Pepsi)

- Leader Beverages (Pepsi Cola of Brattleboro)
- Baker Distributing
- Calmont Beverage
- Farrell Distributing
- Craft Beer Guild of VT

What Can Be Commingled?

- Deposit beverage containers that are distributed exclusively by participants. Brands for which outside distributors share distribution rights in Vermont cannot be included.

- Eligible brands are commingled by redemption centers, but separated by material and size including aluminum cans (four size categories), PET bottles (3 size categories), and glass (2 size categories and generally separated by color).

Pickup Responsibilities

- TOMRA is the designated pickup agent for the system, but the LLC has no contractual relationship with TOMRA. Contracts setting pickup fees, scrap credits, and terms are individually negotiated between participants and TOMRA. TOMRA services all locations in the state as it also picks up distributor-sorted empties for dozens of other companies. TOMRA is also responsible for conveying sorting instructions to the redemption centers.

LLC Operational Details

- Members and Partners submit sales data to the LLC monthly by material type and size, using a standard template; the LLC then computes sales shares by package and size, used by TOMRA to allocate commingled returns to each participant.

- TOMRA is responsible for ensuring that redemption centers put only commingled containers into commingled bags and bins, through visual inspections and periodic full bag audits. These audits also target nondeposit or foreign containers.

- TOMRA samples a minimum of 10 percent of bags of each material/size combination from each account at each pickup. Those bags are counted and the rolling average counts are used to determine the reimbursement to redemption center for refunds and handling fees and the billing to distributors.

- The LLC holds an annual membership meeting and other meetings as needed, usually by conference call. Management expenses for the LLC are apportioned to the members and partners based on sales.

Contact: Bree Dietly, Northbridge Environmental
bdietly@nbenvironmental.com 978-392-9665 X-103