



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

**Senate Committee on Natural Resources and Energy**

**March 18, 2022**

Good morning, Chair Bray, Vice-Chair Westman, and members of the Committee. My name is Bree Dietly, and I am a Principal at Breezeway Consulting in Somerville, Massachusetts. I have 36 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 program, accounting for 87 percent of the redeemed containers in Vermont. 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.

We do not support the expansion of the bottle bill as proposed in the legislation. The redemption system is not capable of handling the additional number and variety of containers, and the bill would exacerbate the sorting overload that redemption centers are already facing. We believe that reforms to the redemption system, along the lines of those already developed by distributors in establishing the commingling program 14 years ago, would lay the groundwork for a more robust and efficient system. Once those reforms are in place, we would support expansion of the law if that made sense from an environmental and policy perspective.

### **Our Members and Commitments**

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 designed to be 100% recyclable, have a high commodity value and, when collected and recycled, can become new bottles and cans. The industry also has invested in local and regional recycling infrastructure for more than 40 years.

The companies have also made commitments to collect and recycle packaging waste, to incorporate more recycled content into our PET bottles and to reduce the amount of new plastic in our bottles.

At a national and local level, we are working to get every bottle back to meet these ambitious goals and support a circular economy for our beverage containers. In 2019, the beverage industry launched Every Bottle Back, a commitment with leading environmental and recycling groups to invest \$100 million in improvements to collection systems. This investment will reduce new plastic use by increasing collection of the industry's valuable bottles so they can be remade into new ones.

America's leading beverage companies -- The Coca-Cola Company, Keurig Dr Pepper, and PepsiCo -- are investing in the modernization of recycling systems in strategic areas of the country to ensure bottles are remade as intended and don't end up in oceans, rivers, or wasted in landfills. Two of the country's most prominent environmental nonprofits and a leading sustainability investment firm have joined with the industry to further the development of the circular economy through Every Bottle Back. More information can be found at <https://everybottleback.org>.

### **Proposed Changes in H.175**

We do not support the expansion of the current deposit law as proposed in H.175. We do support the intent behind the increase in the handling fee for non-commingled containers, but we emphasize that the proposed legislation papers-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.

Over the last several 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.

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.

Before discussing our alternative, let me first address the limitations of the current system.

### **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, followed closely by current inflationary pressures, have 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 while requiring much more space and becoming much more 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 would be to continue to ratchet up the handling fee. This is not sustainable; implementing reforms *before* expansion would be far preferable and set a stable course for the program in the years to come.

Reform is essential because redemption is a tale of two cities in Vermont right now: Commingling and Brand Sorting. Commingled products, which represent roughly 87 percent of redeemed containers, require 13 sorts – at most – at a redemption center. Non-commingled products require more than 150. And those more than 150 sorts represent 750 brands.

More than half of the containers added by expansion would fall into the brand sorted category, meaning hundreds of new sorts and brands for redemption centers to manage. Without structural reforms, the system would collapse.

Some background on commingling helps explain why.<sup>1</sup> 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

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<sup>1</sup> Attached to my testimony is a summary of the commingling LLC we use to describe the program to potential members.

180 million empty bottles and cans redeemed in a year across the entire state, it's precise enough for our members.

Brand sorting is a completely different system – it is the way the system operated before the distributors developed the commingling program. Every one of those 750 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 750 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 2020 brand sorting details, based on the list TOMRA compiled for the redemption centers.

### Vermont Brand Sorts at Redemption Centers as of November 2020

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

*\*Breezeway 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 only 13 percent of the returns.

With this as background, what would expansion do? It would add hundreds more sorts to the system – most 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.

We also recommend that any change to the law strike paper materials and cartons from the list of containers subject to deposits. These materials are not readily recyclable, pose significant handling issues for redemption centers, and would add significantly to system costs and consumer burdens.

## **Needed Reforms**

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.

The group of deposit law stakeholders convened by ANR over the last several years has considered options for a second-generation 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.

The key elements of this reform are to move beyond commingling to a comprehensive product stewardship model established through legislation and operated by distributors.

- Establish a Beverage Container Stewardship Organization (BCSO)
  - Non-profit, approved by ANR, comprised of and governed by Vermont beverage distributors
  - Mandatory participation by beverage distributors including those selling at retail that did not purchase from another distributor.
  
- BCSO Responsibilities
  - Develop plan to maintain minimum 80% redemption rate goal
  - Timeline for expanding deposits to all nondairy, nonalcoholic beverage containers in aluminum, PET, or glass container
  - Reduce manual sorting of non-commingled containers at the point of redemption comparable to that required under the commingling program today
  - Adopt policies and make investments to ensure that recovered materials are returned to their highest and best use.
  - Promotion and education efforts
  - Transparent annual reporting of redemption data and program finances
  - Consultation with stakeholders
  
- Other Issues
  - Unclaimed deposits: permit the BCSO to retain at least 50% of all unclaimed deposits to defray operating and capital expenses associated with the program
  - Handling fees: revisit handling fees as sorting requirements are reduced

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 2022, 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. And we have evidence they have begun doing it again.

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.