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TO: Chair Bray and Members of the Senate Natural Resources & Energy Committee
FROM: Clare Buckley on behalf of the Vermont Wholesale Beverage Association
DATE: April 21, 2022
RE: Proposed Amendments to Draft 1.1 of H.175, An Act Relating to the Beverage Container Redemption System

On behalf of the Vermont Wholesale Beverage Association (VWBA), whose members include many of Vermont's beer and wine distributors, per Chair Bray's recommendation, we submit these amendments to draft 1.1 of H.175 dated 4/14 for the committee's consideration. VWBA was not a member of the bottle bill working group but listened to most of the meetings.

Wine – Amendment: Page 1, Line 17 strike “in glass containers”

Please consider excluding all wine from the bottle bill whether it is packaged in glass, cans or plastic containers and include a review of all these containers in the study in the proposed legislation. VWBA members support the working group's decision to not include wine in the bottle bill until ANR can consider and report on the best way to recycle wine bottles. However, the working group decided at their last meeting to exempt only “wine in glass containers” from the bottle bill. This means that wine and hard cider in cans and in plastic containers would be subject to the bottle bill. Glass wine bottles pose the most significant problems for the redemption system but there are still issues with regard to labeling and lack of UPC codes on certain brands of wine in cans or plastic bottles. An early estimate is that wine in cans and plastic bottles comprises a small percentage of the overall volume of wine sales in Vermont. Last year a Vermont cider maker testified in the House that it would be difficult to get lids for his cans marked with a VT five cent deposit due to supply chain issues. We don't know if that issue has been resolved. We'd ask that the study be expanded to consider these issues related to wine and hard cider in cans and plastic.

Wine Study - In addition to considering whether to include glass wine bottles in the bottle deposit law, VWBA requests that ANR analyze whether glass wine bottles should be recycled as part of an expanded producer responsibility program that covers all food and beverage glass not covered by the bottle bill. With EPR bills introduced in the Vermont Senate and House this year and other states moving in this direction, it is important for Vermont to explore all options for recycling glass wine bottles including whether bringing all food and beverage glass into one system is the best approach. We also support ANR receiving funding to hire a consultant to help with this analysis and provide more time to do it if necessary. Finally, VWBA recommends including wine and hard cider in cans and plastic containers in the study. VWBA proposes the following amendments to the implementation study:

Sec. 6. BEVERAGE CONTAINER IMPLEMENTATION STUDY

(a) On or before January 15, 2023, the Agency of Natural Resources, [in consultation with interested stakeholders](#), shall report to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy the following

(1) Recommendations on whether a minimum size limit should be included under 10 V.S.A. chapter 53 (beverage containers; deposit redemption system); and

(2) A recommendation on whether glass wine bottles should: (a) be included under 10 V.S.A. chapter 53 and recommendations on the deposit amount for glass wine bottles; or (b) be included in an extended producer responsibility program for paper and packaging that covers all food and beverage glass not subject to Vermont's bottle deposit system. ANR's analysis should consider the impact of glass wine bottles on Vermont's bottle redemption system and recycling infrastructure, efficiency, the cost effectiveness of each option for all affected parties in Vermont and environmental benefit to Vermont, and any other factors the agency wishes to consider. If the recommendation is to not include wine bottles under 10 V.S.A. chapter 53 or an EPR program for all food and beverage glass not covered by the bottle deposit system, the report shall explain the impacts of wine bottles within the municipal recycling infrastructure, the costs in handling wine bottles within the municipal recycling infrastructure, and recommendation on an assessment on wine bottles to address the impacts of wine bottles on municipal recycling infrastructure and to develop markets for the use of recycled glass. There is appropriated to the Agency of Natural Resources for fiscal year 2023 \$XXX to contract for services to perform the analysis; and

(3) recommendations on whether wine and hard cider packaged in cans and plastic should be included in the bottle deposit system, including whether there are challenges with regard to labeling, UPC codes, size, or other issues;

(b) The Secretary shall convene a stakeholder process or processes when developing recommendations required by subsection (a) of this section.

Producer Responsibility Organization (§1531) – VWBA supports the creation of a provider responsibility organization (PRO) but believes the details of this proposal needs to be fleshed out. We recommend a more flexible approach to develop the requirements for the PRO and the stewardship plan minimum requirements. Commingling started as a two year pilot project. ANR issued a “procedure” (not a rule) to implement commingling at first. We believe this type of flexibility is needed to transition from the current bottle bill system to a PRO so that if something isn't working as planned or there is some unforeseen circumstance the PRO with ANR's approval can quickly change course without the need to pass legislation.

Stewardship Plan; Minimum Requirements (§ 1532)– We agree there should be minimum requirements for the stewardship plan, but more analysis needs to be done to develop them. **We recommend that the minimum requirements be developed by ANR by procedure or rule so all interested parties can have input.** In the alternative, we request that the following amendments to this section be considered:

- Starting on Page 11, Line 8, “convenience of collection” standards in § 1532(a)(1), which requires at least three points of redemption per county, at least one point of redemption per municipality with a population of 8,000 or more and “statewide coverage of points of redemption so that consumers are not required to drive more than fifteen minutes unless a waiver is granted by the Secretary.” **At a minimum, this 15 minute drive standard should be deleted.** We have no idea how many points of redemption there will be if these standards are implemented, especially the 15 minute drive time, to understand if this is the appropriate standard. Please let ANR develop this by rule or procedure with interested parties.
- Page 12, Lines 6-8 reads: “The plan shall describe how all locations that redeem beverage containers are fairly compensated for their participation in the collection program.” Isn’t the handling fee “fair compensation”? This is too vague and should be deleted or clarified.
- Starting on Page 12, Line 19, § 1532(a)(3) it reads the “plan shall document how facilities certified under chapter 159 of this title that process beverage containers to make them usable as recycled commodities will be compensated by the producer responsibility organization.” It is unclear what these entities are being compensated for and the level of compensation.

Unclaimed deposits – We support 50 percent of the unclaimed deposits remaining with the PRO indefinitely to offset some of the costs associated with its management of the bottle deposit system.

Performance standards & trigger for 10 cent deposit (§ 1536)– We recommend that § 1534(a) (the trigger from five to 10 cents) be deleted and the redemption rates be moved into § 1532, minimum standards of the stewardship plan. We support performance standards for the PRO including minimum redemption rates although we’d like input in developing them and need clarification on the ones in the draft. We do not support linking minimum redemption rates to an increase in the bottle deposit. Similar to any statutory fee, legislators are in the best position to evaluate the need for an increase in the bottle deposit as they are able take current circumstances into account when doing so. Increasing the bottle deposit to 10 cents also has an impact on consumers and on state revenues due to unclaimed deposits going to the Clean Water Fund as the fiscal note on H.175 demonstrates, so it should require legislative approval.

Thank you for considering these amendments.