



March 18, 2022

Senate Committee on Natural Resources and Energy
Vermont State Senate
115 State Street
Montpelier, VT 05602

RE: H.175, An Act Related to the Beverage Container Redemption System

Dear Chair Bray, Vice-Chair Westman, and Members of the Senate Committee on Natural Resources and Energy:

Thank you for the opportunity to testify in support of H.175, An Act Related to the Beverage Container Redemption System. This testimony is submitted on behalf of Conservation Law Foundation (“CLF”).

CLF is a non-profit member-supported, environmental advocacy organization working to conserve natural resources, protect public health, and build healthy communities here in Vermont and throughout New England. Through the Zero Waste Project, CLF aims to improve waste diversion and recycling programs and protect communities and our environment from the dangers of unsustainable waste management practices.

CLF strongly supports H. 175. Container deposit laws – more commonly known as “Bottle Bills” are highly effective at increasing recycling rates, reducing litter, creating jobs, and creating the infrastructure needed to create reusable beverage systems. H. 175 would provide several necessary updates to Vermont’s existing Bottle Bill program to divert more materials from landfills, increase redemption and recycling rates, and decrease the burden on single-stream recycling programs that are increasingly ineffective and expensive.

In addition to supporting H.175, CLF strongly recommends that the committee make the following amendments to the bill:

- (1) Remove the proposed language in 10 V.S.A. § 1521(3)(B) which would exempt “containers made of material that is not readily recyclable in the State as determined by the Secretary of Natural Resources.” CLF believes that this language may incentivize companies to switch to unrecyclable packaging in order to avoid compliance with the law.
- (2) Add a requirement in statute that would automatically raise the deposit value on all non-liquor beverages from five cents to ten cents should the redemption rate fall below 70% for two consecutive years.

This written testimony is divided into three parts: Part I discusses the benefits of bottle bills generally; Part II provides an overview of the existing container deposit law and why several minor modernizations are necessary; and Part III explains why an absolute overhaul to the container deposit program in Vermont is *not* necessary and is a well-worn tactic by the beverage industry to weaken recycling systems.

I. Understanding the Benefits of Bottle Bills

Prior to explaining the benefits that H.175 will have on Vermont’s existing Bottle Bill program, it is important to understand how the current program works and the benefits associated with a high-performing modernized Bottle Bill system. Bottle Bills have a long history of success both nationally and internationally. When fully optimized, these programs create recycling programs that are a critical tool in the shift to a more environmentally responsible, circular economy.

A. Bottle Bills Incentivize Recycling

Bottle bills establish deposit return systems which incentivize both consumers and producers to recycle their empty containers. By placing a deposit on each beverage container, consumers have a financial incentive to redeem those containers so that they can be recycled. Decades of evidence show that this financial incentive significantly increases the number of containers collected for recycling. The two U.S. states with ten-cent deposits on beverage containers – Michigan and Oregon – have redemption rates around 90%.¹ By contrast, states without Bottle Bills only collect 27% of their beverage containers for recycling.²

B. Bottle Bills Create a Steady Stream of High-Quality Recycled Material

Importantly, Bottle Bills do more than simply increase the amount of containers returned for recycling. They also create a much higher quality of recycled material which significantly increases the amount of containers that are actually recycled – as opposed to being sent to a landfill or burned in an incinerator. On average, states with Bottle Bills have double the recycling rates than those that rely solely on single-stream recycling. According to the Container Recycling Institute, states with Bottle Bills recycled aluminum, PET, and glass at a rate of 77%, 62%, and 64% respectively.³ Conversely, states without Bottle Bills recycled these materials at much lower rates, 41% for aluminum, 13% for PET, and 12% for glass.⁴

¹ See Genevieve Grippo, An Effort to Dramatically Expand Michigan’s Bottle Deposit Law is Back, Newschannel 3, Dec. 29, 2019, <https://wwmt.com/news/local/an-effort-to-dramatically-expand-michigans-bottle-deposit-law-is-back>; Cassandra Profita, Oregon Bottle Deposit System Hits 90 Percent Redemption Rate, NPR, Feb. 4, 2019, <https://www.npr.org/sections/thesalt/>

² See Jenny Gitlitz, Container Recycling Institute, Bottled Up: Beverage Container Recycling Stagnates (2000-2010), app. A (2013).

³ 2018 Beverage Market Data Analysis”, Container Recycling Institute, 2020.

⁴ *Id.*

This is unsurprising when you consider how single-stream recycling programs work. The convenience of our single-stream recycling system comes with a significant cost – contamination. Single-stream recycling depends first and foremost on educated consumers making the right choice about what can and cannot go into their recycling bins. From there, the burden is on Material Recovery Facilities (“MRFs”) to remove all unrecyclable material, while also sorting and processing thousands of tons of commingled recyclables into individual waste streams based on the different material types. These sorting systems can only do so much. According to the National Waste and Recycling Association, 25% of what is placed into the single-stream recycling system is too contaminated to go anywhere other than a landfill.⁵

Additionally, the materials that are properly sorted are unlikely to be recycled as effectively as possible. The overall quality of the recycled material is the leading factor that determines what that material is ultimately used for. This difference in quality is often the difference between recycling and downcycling. Downcycling refers to using recycled material for projects and purposes that fail to capture the full environmental and economic benefits associated with recycling a product. In the case of beverage containers, the highest and best uses often is bottle-to-bottle recycling, which is the process of capturing material streams that are of a high enough quality to be recycled directly into new containers, rather than downcycled into lesser uses. Common examples of downcycling with beverage containers include turning plastic beverage containers into carpet and textiles, as well as using crushed glass for road improvement projects.

C. Recycled Content Standards and the Circular Economy

The quality of recycled material is becoming increasingly important as more states begin to adopt recycled content standards. Currently, California, New Jersey, and Washington have adopted laws that specify the minimum amount of recycled material companies have to incorporate into their beverage containers.⁶ Several other states are considering similar legislation.

Bottle Bills are the best, and likely the only way to produce a steady stream of clean, uncontaminated recycled material that is necessary to meet the requirements of these new laws. Under a Bottle Bill program, you have a system solely designed to capture plastic, aluminum, and glass beverage containers – all of which are highly recyclable. Therefore, the materials processed through this system are guaranteed to be exceptionally clean with virtually no contamination. This is the perfect feedstock for creating clean recycled material for manufacturing new food and beverage containers.

⁵ Maggie Koerth, *The Era of Easy Recycling May be Coming to an End*, FiveThirtyEight (Jan. 10, 2019), Available at <https://fivethirtyeight.com/features/the-era-of-easy-recycling-may-be-coming-to-an-end/>

⁶ Keller and Heckman LLP, *More States Consider Minimum Recycled Content Standards*, National Law Review. (Feb. 18, 2021). Available at <https://www.natlawreview.com/article/more-states-consider-minimum-recycled-content-requirements>

The same cannot be said for single-stream recycling. The imperfection of these sorting systems results in recycled material that is contaminated and therefore of lower overall quality. In terms of plastic, there is a significant concern that the contamination levels make it unlikely that any of it may be used to create new food and beverage containers. This is because many of the commingled plastic containers put through the single-stream recycling system are not food grade quality as certified by the U.S. Food and Drug Administration. Even when the sorting systems work perfectly food grade and non-food grade plastics are commingled together. Additionally, PET plastic is used not only for beverage containers, but also for containers for many other products, such as household cleaners and chemicals. These chemicals can leach into the plastics causing concerns about the use of this material in the recycling stream. Recently, the Wall Street Journal reported that there is a shortage of recycled PET.⁷ This shortage isn't an issue of supply, but a result of the toxicity challenges associated with single-stream recycling. The solution is creating a better means of collecting and processing large volumes of food-grade PET plastics.⁸

D. Bottles Bills Create a Pathway Toward Reusable and Refillable Beverage Systems

In addition to creating high redemption and recycling rates, Bottle Bills can also evolve into refillable beverage systems. While recycling saves natural resources and limits the environmental and economic footprint of creating new products, it is not as beneficial as reuse. Large amounts of energy are needed to collect, transport, process, and reassemble recycled materials into new products. Reusing glass bottles requires 93% less energy than recycling. Moreover, these bottles can be reused anywhere from 25-50 times, if not more.⁹

Bottle Bills establish the infrastructure and consumer culture necessary toward developing reusable beverage systems. In 2018, Oregon begun utilizing its existing Bottle Bill infrastructure to launch a statewide reusable beverage system.¹⁰ The new program utilizes 245,000 refillable beer bottles which can be refilled up to 40 times each.¹¹ The bottles were made from recycled glass.¹² The reusable bottles are redeemed through the existing Bottle Bill system and are separated from the rest of the beverage containers. Once separated, the bottles are not processed for recycling, but are sent to a cleaning facility and then eventually sent back to participating

⁷ Ryan, Carol. "Empty Plastic Bottles Go from Trash to Hot Commodity." The Wall Street Journal, Dow Jones & Company, 9 Nov. 2021, <https://www.wsj.com/articles/empty-plastic-bottles-go-from-trash-to-hot-commodity-11636455644>.

⁸ *Id.*

⁹ Bill Sipper, *It's Time for Glass Again – Can We End Beverage Industry's Use of Plastic?* Waste Advantage (Aug. 13, 2019). Available at <https://wasteadvantagemag.com/its-time-for-glass-again-can-we-end-beverage-industrys-use-of-plastic/>

¹⁰ Jared Pablen, Resource Recycling, *Oregon Group to Launch Refillable Bottle Program*, (Feb. 7, 2017). Available at <https://resource-recycling.com/recycling/2017/02/07/oregon-group-launch-refillable-bottle-program/>.

¹¹ *Id.*

¹² *Id.*

breweries where they are refilled. For consumers, nothing has changed. Since launching in 2018, 617,805 bottles have been diverted from recycling for reuse.¹³

II. Vermont's Container Deposit Law – The Bottle Bill

In Vermont, the Bottle Bill has been a critical part of the state's recycling system for nearly fifty years. It has consistently produced recycling rates of 75% or greater, even when national recycling rates have plummeted. As a result, the program has helped to reduce the pressure on the state's only landfill, increased both access and participation in recycling efforts, and reduced the amount of beverage containers littering our rivers, parks, and communities.

However, while the program has been extremely successful, it is time for some long-overdue improvements. For the most part, Vermont's Bottle Bill has remained unchanged since it was first enacted in 1972. In the intervening years, a significant number of new containers have been introduced to the beverage market which are currently not regulated under the bottle bill. The handling fee has not been meaningfully changed to account for the burden non-commingled brands create on the redemption system. And the deposit value has weakened due to inflation. As a result, the system is not operating as effectively as possible. For this reason, CLF strongly supports H.175 as it will expand the scope of Vermont's Bottle Bill to cover almost all carbonated and uncarbonated beverages and increase the handling fee for non-commingled containers.

A. Expanding the Scope of Covered Containers

Currently, only 46% of beverage containers sold in Vermont are covered by the Bottle Bill program. As a result, thousands of tons of readily recyclable beverage containers are not being recycled through this proven and effective system. H.175 would expand the scope of beverages covered under the program to include all uncarbonated and carbonated beverages sold in the state – with some specific exceptions. As a result, most beverage containers sold in Vermont would be eligible for redemption under the Bottle Bill program. This will significantly increase the state's recycling rate and provide a clean stream of high-quality recycled material that can be used in the manufacturing of new beverage containers.

In 1990, Maine expanded the scope of its Bottle Bill Program. The program now covers all beverage containers sold in the state except dairy products. As a result, 95% of all beverage containers sold in Maine are covered by the Bottle Bill program. Moreover, the expansion did not negatively impact Maine's redemption or recycling rates. Since expanding the scope of the program, Maine has averaged a redemption rate of 88%.¹⁴

¹³ Oregon Redemption Center, Bottle Drop. Available at <https://www.bottledropcenters.com/buy-refillable-containers/>

¹⁴ Container Recycling Institute, Redemption Rates and Other Features of 10 U.S. State Deposit Programs. Available at https://www.bottlebill.org/images/PDF/Bottle%20Bill%2010%20states_Summary%201.11.21.pdf

While the language of H.175 would significantly expand the scope of the Bottle Bill program, CLF believes that as drafted the language may create unintended consequences. Currently, the language of H.175 excludes “beverage containers made of material that is not readily recyclable in the State as determined by the Secretary of Natural Resources.” While the intention behind this was well-meaning, CLF is concerned that as written, it may incentivize companies to switch their packaging from readily recyclable materials like glass, aluminum, and plastic bottles and cans in favor of unrecyclable materials like cartons and pouches to avoid compliance with the law. CLF strongly urges the committee to remove this language from the bill.

B. Increasing the Handling Fee

H.175 would also increase the handling fee for all non-commingled containers from 4 cents to 5 cents per container. The handling fee covers the cost associated with collecting, sorting, and packaging empty beverage containers so that they can be taken back to the distributor for recycling. The handling fees are paid by the beverage distributors to support Vermont’s networks of redemption centers and compensates them for collecting and sorting the containers they collect.

Beverage companies can choose to enter commingling agreements which allows their beverage containers to be sorted with other brands. This allows redemption centers to sort the materials by type and size, rather than by beverage brands. Because this process is quicker and more efficient, the handling fee for these containers is lower. Conversely, beverage companies that have not joined commingling agreements require that their beverage containers be sorted separately from all other brands. Given that this increases the time and effort sorting the separate containers, the fee is higher. Raising the handling fee for non-comingled containers will create a stronger financial incentive for companies to join commingling agreements. This will lessen the burden on Vermont’s redemption centers, which is important as the scope of covered containers increases.

C. Raising the Deposit Value to Ten Cents Per Container

Another area where Vermont’s Bottle Bill program has fallen behind is the value of the deposit placed on each container. Increasing the deposit for all non-liquor containers from five to ten cents is long overdue. If the deposit value were tied to inflation when the Bottle Bill was first enacted in 1972, the current deposit would be thirty cents. As the value of the deposit diminishes, so does the financial incentive for consumers to redeem their empty containers for recycling. Doubling the deposit value will have significant impacts on the redemption rate.

While H.175 no longer contains a deposit value increase, CLF believes that it is necessary. Therefore, we encourage the committee to consider adding language into the statute that would automatically raise the deposit value from 5 cents to ten cents if the redemption rate drops below 70% for two consecutive years. This would provide an in-statute fail safe that would

automatically increase the deposit if the redemption rate decreased on a consistent basis. Oregon adopted this threshold trigger model which has proven to be extremely successful. In 2011, the Oregon legislature adopted language that would require the deposit value to increase from 5 cents to ten cents if the redemption rate fell below 80% for two consecutive years.¹⁵ The redemption rate fell to 64.5% in 2014, and only rose to 68.3% in 2015.¹⁶ As a result, the deposit value increased from five cents to ten cents, and the redemption rate skyrocketed to 90% in 2018.¹⁷ Including a similar mechanism in Vermont's bottle bill will provide a necessary check that can automatically address falling redemption rates without the need for new legislation.

III. Avoiding an Unnecessary Overhaul of the Program

Finally, it is important to underscore that, in general, Vermont's Bottle Bill has been incredibly successful. Even though the program has not been meaningfully upgraded since it was first enacted fifty years ago, the Bottle Bill has still generated a respectable redemption rate of roughly 75%. The changes proposed by H.175 are designed to fine-tune the program to improve the program's effectiveness. It is important to keep this in mind because opening the door to discussions about the program invites opponents to argue that the Bottle Bill should either be dissolved or completely overhauled and replaced with a beverage industry run private program.

These arguments are not focused on improving recycling in Vermont. For decades, large beverage corporations like Coca-Cola, PepsiCo, and Nestlé – along with their interest groups, including American Beverage (a recent rebranding of the American Beverage Association) and Keep America Beautiful – have lobbied against Bottle Bills. This opposition comes despite overwhelming evidence that Bottle Bills are necessary for improving recycling. In the last year, these companies have lobbied against a proposal for a new Bottle Bill in Rhode Island. They also lobbied against efforts to expand existing Bottle Bill programs in Massachusetts and Connecticut.

In fact, the Beverage Industry's opposition to Bottle Bills is so deep that these companies have created and deployed a carefully crafted playbook designed to undermine efforts to pass new Bottle Bills and expand existing ones. Earlier this year, CLF published a report entitled, [*The Big Beverage Playbook for Avoiding Responsibility*](#). In this report CLF meticulously outlined decades of examples where these companies have lobbied against bottle bill programs. We cannot allow the beverage industry to use these tactics to derail Vermont's well-functioning bottle bill program.

While I encourage you to read the full report, it is important that I briefly touch upon two tactics which we have seen used in Vermont over the last year to undermine H.175.

¹⁵ Talia Richman, *Oregon Bottle Deposit Will Go From Nickle to Dime Next Year*, Oregon Live. (Jan 9, 2017). Available at https://www.oregonlive.com/portland/2016/08/oregon_bottle_deposit_will_go.html

¹⁶ *Id.*

¹⁷ *Id.*

A. Astroturfing – “Vermonters for Recycling”

Law year, amid growing support to modernize and expand Vermont’s Bottle Bill program, a group called “Vermonters for Recycling” appeared on Facebook.¹⁸ The group posted unsubstantiated claims about the impact H.175 would have on Vermonters. The group claimed to be a “community organization” that “advocates for smart, reasonable, and effective solutions for the reuse of waste materials in Vermont.”¹⁹ However, none of this was true. The page was created by Five Corners Strategies, a Boston-based lobbying firm hired on behalf of the waste and beverage industry.²⁰

In addition to the Facebook page, the group also engaged in a detective “patch call program.”²¹ The lobbying firm would reach out to Vermonters claiming to be a group of residents concerned about the proposal to modernize the bottle bill.²² They would then directly patch the resident through to their local elected official without any warning or notice.²³ This created significant confusion for many Vermonters as well as many elected officials.

Under both scenarios, the beverage and the waste industry engaged in a flagrant attempt to confuse the public using deceptive tactics. It is one thing to lobby directly against a proposed piece of legislation, it is entirely different to mask your messaging to hide the fact that it is originating from companies that have a direct financial stake in the issue. This campaign was clearly indented to not only confuse Vermonters, but to give their messaging the face appearance of coming from the public and not a special interest group.

B. Replacing the Bottle Bill with an Industry Run Producer Responsibility Organization

Another tactic we have seen used in many other states and one that is now being used in Vermont is to argue that Vermont should dissolve the Bottle Bill program and replace with a program run and controlled by the beverage industry. This is what happened in Connecticut.

For years, environmentalists and concerned residents have pushed lawmakers to modernize Connecticut’s Bottle Bill. Last year, a proposal very similar to H.175 was introduced into the Connecticut legislature. At first, the beverage industry opposed any changes that would improve the program, like increasing the scope of covered containers or increasing the deposit value.

¹⁸ James Finn, “Anti-Bottle Bill ‘Patch Call’ Campaign Draws Fire.” VT Digger. April 7, 2021. Available at <https://vtdigger.org/2021/04/07/antibottle-bill-patch-call-campaign-draws-fire/>

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

However, when it became clear that the legislation had too much momentum to be stopped, they pivoted. At the last minute, they instead came out in support of the Bottle Bill but argued that it needed to be significantly amended to create a program where they and their members controlled the system.

In the end, the beverage industry won. A last-minute amendment shifted the responsibility for running the program away from the Connecticut Department of Energy and Environmental Protection toward an industry lead stewardship organization. Moving forward, this stewardship organization will run the state's bottle bill program. With this new power, the industry that fought for decades to roll back the bottle bill will have complete control over the program.

While the industry argues that this model will be more efficient and reflects the model which Oregon adopted in 2009, this is misleading. The Connecticut model, unlike the Oregon model is not a true stewardship organization. If it were, it would include, at a minimum, the following core components:

- (1) A competitive bidding process for selecting the stewardship organization.
- (2) Robust oversight and accountability of both the system and the stewardship organization by the Department of Environmental Protection. This includes establishing clear metrics and standards that explain how the success of the program will be measured. These standards must be contained in statute and cannot be changed by the stewardship organization.
- (3) Clear enforcement provisions and penalties for failure to comply with the requirements of the law or meet performance requirements such as a minimum redemption rate and, access to redemption services and centers.
- (4) Meaningful opportunities for public input.

The amendment the beverage industry snuck into the Connecticut law includes none of these provisions. Instead, it simply hands over the job of running the program and making decisions about its future to the companies that worked so long to destroy it. Moving forward, all decisions related to Connecticut's bottle bill program will likely be solely based on making the program as cheap for the beverage companies as possible. As opposed to focusing on ways to increase access to redemption services or improve recycling. I encourage you as you consider H.175 to be wary of attempts that would significantly alter the Bottle Bill program.

IV. Conclusion

Modernizing Vermont's bottle bill will help ensure that the state's most successful recycling program is capturing more beverage containers which will increase recycling, reduce litter, and save the capacity of the state's only operating landfill.



Decades of evidence have proven that Bottle Bills work. History has shown that the beverage industry and the waste industry are working to oppose and dismantled these systems. do not care. Their efforts here in Vermont so far have proven that these companies do not want to see Vermont's recycling system run as effectively as possible. If they did, they would support H.175 and the targeted improvements it proposes to Vermont's bottle bill.

Thank you for your time and consideration of this testimony. I am happy to answer any questions you may have.

Respectfully submitted,

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