

Testimony on Recycling Policy for the Senate and Assembly Standing Committees on Environmental Conservation

Bree Dietly on behalf of the American Beverage Association

Good morning, Chairs Kaminsky and Englebright. I am Bree Dietly, a Principal at Northbridge Environmental in Westford, Massachusetts, here today representing the American Beverage Association (ABA).

ABA members produce and distribute a wide array of refreshment beverages through a network of local bottlers who live and work in communities across the Empire State. The 14,000 New Yorkers who work directly for our industry live, work, and play right here with their families. We offer some of the best paid, highest benefit jobs available in communities to employees with and without college degrees, and many of them are union jobs. 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 has a long-standing, deep involvement in recycling: the policy *and* the practice. We practice what we preach, routinely reaching waste diversion rates of more than 90 percent in our plants and having achieved zero waste in many of them. We have supported local recycling programs for as long as they have been in existence. We have helped launch recycling programs, funded system upgrades and improvements, supported the establishment of PET bottle recycling when they were introduced to the marketplace, and carry on today with involvement in recycling projects directly by our members and by supporting major national organizations driving change in the recycling industry on the ground: namely The Recycling Partnership and Closed Loop Partners. Our involvement with these groups is expanding and we are actively exploring more ways to support recycling around the country.

Our companies have their own roles to play in making recycling work and they start with what we put out in the market. Our cans and bottles are overwhelmingly made of either aluminum or PET plastic, the two most valuable commodities in the recycling stream. We have gone further, though, by designing our PET bottles to be 100 percent recyclable, including the caps, so that those bottles, unlike many plastics in the waste stream, are an asset to recycling programs and readily made into new products and packages. Not all of our packaging materials are at 100 percent recyclable, but we are getting very close and have committed to getting there.

The companies have also made commitments to incorporate more recycled content into our PET bottles and to reduce the presence of new plastic in our bottles. We need more of our bottles back to meet these commitments and our goal of every bottle back will help us achieve that. We are also using bioplastics where plant materials, rather than petrochemicals, are used as the feed stock for our bottles. These bioplastics perform exactly like petroleum-based PET and are equally valuable in the recycling system.

Because our companies operate all over the world, we do business in many countries and regions with very different waste management systems in place and very different ways in which recycling operates and is paid for. This experience, along with our experience in the US, gives

us perspective on recycling policy that complements the actions we are already undertaking as an industry. As just one industry, we are not in a position to control how recycling operates, and, with our containers representing not much over two percent of the municipal waste stream in the US, it is clear that others need to be involved in these discussions as well.

We do, however, appreciate the opportunity to share some thoughts on our shared responsibility to reduce waste and increase recycling, and the policy options we feel give us the best opportunity to efficiently recycle our packages into new bottles and cans. I would like to turn to these options now, as the Joint Committees consider how to advance materials recovery, enhance New York's circular economy, and make the State more sustainable and resilient, both environmentally and economically. In sum:

- **We have and will continue to oppose the expansion of New York's deposit return system for beverage containers unless it is coupled with significant reform of that system.** The infrastructure and governance that exist today have evolved over 36 years haphazardly and to the benefit of those operating the system – not to consumers or the environment. The cost in time and money to recover empty bottles and cans is excessive and the collateral damage being done to other recycling programs and to beverage and retail businesses in New York is unacceptable. Expanding the law and adding more products to this system would compound those problems disproportionately to any benefit that might be claimed from doing so.
- **Extended producer responsibility (EPR) programs for packaging dominate the recycling policy landscape in developed economies around the world.** Producer funding of multi-material recycling (municipal recycling) is in place across Canada and throughout Europe and extending into Asia and South America. EPR is not, by itself, a panacea for better recycling. The underlying infrastructure needs to perform at a high level and the governance and funding of the system need to be structured properly to ensure efficiency, accountability, and equity. EPR should be part of any discussion of moving recycling forward because it holds the potential for meaningful and coordinated improvements in recycling infrastructure and operation that has held down the performance of recycling programs in the US. Establishing EPR alongside an existing deposit return system has significant implications for the cost, efficiency, and convenience of both systems.
- **Partial producer responsibility (PPR) systems offer an approach to address scarce capital resources and inconsistencies in recycling opportunities across the state.** Producer funding dedicated to investments in recycling equipment, facilities, educational campaigns, and other one-time costs maintain the shared responsibility model between producers and municipal service providers, but provide grants to governments and businesses in the municipal recycling space to bring programs up to best practices levels. As with any of these approaches, funding must be dedicated to recycling programs and directed by experts and stakeholders who can evaluate how best to invest resources to enhance recovery and quality of recyclables. We are supporting proposed legislation in Massachusetts to implement this kind of funding program.

The balance of my written testimony provides additional background on these policy alternatives that we encourage the Joint Committees to explore as they consider the right approach for New Yorkers across the diverse communities where they live and work.

Additional Discussion about Extended Producer Responsibility (EPR)

EPR systems are characterized by a statutorily mandated role for producers (of packaging and printed paper for the purposes of this discussion) to fund fully or partially the cost of managing materials. New York has EPR systems in place already for special waste products that pose unique handling issues or toxicity issues including electronics, rechargeable batteries, thermostats, and pharmaceuticals. No US state mandates producer funding for packaging and paper in the municipal waste stream, however.

It is important to understand that EPR is a financing method; it is not a form of recycling. EPR funding is used to cover some or all of the operating costs of managing materials. For hazardous materials or special wastes like those covered by EPR already, producer funding supports the cost of managing the material to the end of its life. In contrast, EPR for packaging typically supports the cost of the recycling system; disposal costs remain the responsibility of local governments and taxpayers. This creates an incentive to increase recovery of materials to drive down disposal costs.

EPR programs obtain their funding by levying charges on eligible producers of designated products in the jurisdiction. Typically it is the producer or first importer of a package into a state that would be responsible for funding the EPR program.

There are many arguments in favor of producer funding of recovery systems including:

- Transfers recycling costs from taxpayers to producers
- Incentivizes more recyclable/more valuable/more environmentally desirable packages (through lower or discounted producer fees for those materials)
- Creates opportunities for enhancing and standardizing recycling statewide by providing both capital and operating support and compensating for stranded assets
- Establishing recovery goals, metrics, and accountability that do not exist today

We believe strongly that EPR systems for packaging need to adhere to certain principles in order to deliver on all of these benefits and truly result in better environmental outcomes with much greater transparency and accountability. These include:

- **Program scope and goals:** Include all types of consumer goods packaging and printed paper. Consistent material types and instructions would be implemented statewide with clear on-pack labelling to help consumers understand which materials to recycle. Recovery goals set in statute with regular reporting and accountability.
- **Program management** by a Producer Responsibility Organization (PRO) operating on a not-for-profit basis and covering the entire jurisdiction; professional staff of the PRO

answer to a producer-run board of directors. Producers must have sufficient control over the recovery system to achieve performance targets, evaluate and report on performance, control costs, and offer obligated producers access to recovered material (at market terms) to loop back into their products.

- **Costs covered by producers should be spelled out in legislation and include the net cost of post-consumer collection and sorting for the residential sector, including multi-family units. Each material type should “pay its own way,” since costs of recycling and scrap values vary dramatically. Costs do include education and awareness programs and may include sustainability incentives (eco-modulation) where recyclability, recycled content, or low carbon footprint could be rewarded with producer credits and negative attributes could trigger disruptor fees. Producer costs do not include recycling of industrial, commercial, or institutional material or management of residuals (*i.e.*, disposal).**

We appreciate that this represents a very different approach to funding recovery systems than exists in the US today. Other producers, recyclers, and municipal officials have concerns about changing the system and some of their concerns are valid. Given the inability of states to reach recycling goals they have set and the increasing need to look to better materials management as a way to reduce greenhouse gases and discourage use of unrecyclable “one and done” packages, a new paradigm is necessary. It doesn’t have to be EPR, but it should be on the menu.

Additional Discussion about Partial Producer Responsibility (PPR)

The idea behind PPR is that producers should participate in funding recycling programs for the products they put on the market, but the operating costs of those systems should remain the responsibility of local governments and their ratepayers who use the service. The producers’ role is to provide capital for improvements that are often beyond the capacity of local government or of recycling businesses who may not have access to capital or may have other places where they direct it for higher returns (like disposal facilities).

The beverage industry has supported laws like this, most recently enacted in Delaware in 2010, where funds on selected products were segregated in a fund and disbursed to communities and recycling companies for new equipment and to build out an underdeveloped, single-stream recycling infrastructure. The new funding and recycling programs coincided with phasing out the state’s bottle bill. The state’s recycling rate has grown significantly since, and, though it started at a relatively low rate, now stands among the best recycling states in the country.¹

The arguments for a PPR approach include:

- Eliminating financial barriers to upgrading recycling infrastructure to state of the art levels – from household carts to trucks and processing facilities (MRFs)
- Providing expertise by independent experts about how and where to invest funds, reviewing applications and directing funds to achieve the goals of the underlying legislation

¹ The Delaware law imposed a fee on consumers, where we are suggesting that the fee be paid by producers.

- Shifting some of the financial responsibility for recycling from taxpayers to producers
- Incentivizing use of more recyclable/more valuable/more environmentally desirable packages through variable fees

Like EPR, PPR programs must be designed properly so that funds are protected and properly spent and the organization administering the funds is independent of political pressure, but accountable to statutorily-set goals and criteria. Parallel to EPR, the key principles include:

- **Scope and criteria:** Law specifies products to be included and responsible party (producer or first importer), sets criteria for the types of investments to be made, requires transparency in reporting how funds are used and the resulting impact
- **Fund and program management** by a public-private partnership of funders and stakeholders. Funds would not be subject to re-appropriation, but set aside in a separate entity.
- **Fees** set by material/size would reflect the relative cost to collect and recycle material and its end-market value

As noted earlier, the beverage industry has proposed a statewide fee on beverage containers of all types in Massachusetts, as an example of PPR, with the fee replacing deposits for those containers currently subject to them. Limiting funding to only one producer industry – the beverage industry in this case – is inequitable, but it is a start. Additional legislation could be used to enhance the effect of the program (*e.g.*, mandatory recycling for single and multi-family homes, parallel access to recycling, embedded rates for recycling and disposal, disposal bans, and pay as you throw).

Conclusions

Expanding the bottle bill would have a very limited environmental benefit, while significantly reducing municipal recycling revenue. This stands in stark contrast to the more progressive and environmentally beneficial approaches of EPR and PPR that we've outlined for consideration today. New York's deposit return system predates curbside recycling by several years. It was originally conceived to eliminate litter and is in need of reform and modernization if it is to play a role in effectively meeting today's recovery and recycling goals and challenges.

We believe it is past the time to re-examine what we expect from our materials recovery systems and how we can set legal frameworks in place that will achieve environmental goals effectively and efficiently. And we should not enshrine systems that aren't getting us there. Thank you for the opportunity to present our views on these important issues.

