

Testimony before the Connecticut State Assembly Committee on Environmental Conservation

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Hartford, Connecticut



by Jennifer Gitlitz
Research Director, Container Recycling Institute

Good morning. My name is Jenny Gitlitz, I am the Research Director for the Container Recycling Institute (CRI). We are a non-profit, 501(c)3 organization headquartered in Arlington, Virginia. For over a decade, we have served as the only national clearinghouse for information on beverage container sales, recycling and wasting in the United States.

I am here to voice CRI's opposition to Proposed Assembly Bill 6258, which would repeal Connecticut's bottle bill and replace it with an Advanced Disposal Fee, and to register our enthusiastic support for AB 6033, which would modernize the bottle bill in three important ways.

I. ASSEMBLY BILL 6033: REFURBISHING AN OLD TREASURE

During the course of these hearings, you may hear from beverage industry lobbyists that the Bottle Bill is "a 1980's solution to a 1980's problem." (And if we were in Oregon you'd hear that it is "a 1970's solution to a 1970's problem.") We see it differently. First, many of the public policy issues addressed by the bottle bills of the 70's and 80's are still with us: especially litter, and a desire to save energy and reduce manufacturing-related air and water pollution.

Second, the bottle bills enacted in Connecticut and nine other states during the 1970's and 1980's were ahead of their time. They were visionary, early examples of Extended Producer Responsibility (EPR) or Product Stewardship initiatives—which are really just fancy names for the concept of **manufacturers taking financial responsibility** for the end-of-life environmental consequences of the products they sell. These EPR policy initiatives have spread throughout Europe and are increasingly catching on in the United States. The Bottle Bill in Connecticut is not an outdated concept that needs to be thrown out and replaced; rather it is like an old treasure that needs to be refurbished to increase its value and utility.

Simply put: Connecticut's bottle bill works. Since 1980, this pioneering piece of legislation has kept over 20 billion beverage containers out of local landfills and incinerators—saving over 1.5 million tons of marketable aluminum, glass and plastics. The deposit system has also prevented untold millions of bottles and cans from being littered on the state's roads and highways, farms, parks and other public spaces. The expansion bill is a wonderful opportunity for Connecticut to build on this success. AB 6033 would both increase recycling and increase revenue to the State during a difficult budgetary time.

A. Why Expand the Bottle Bill to Non-Carbonated Containers?

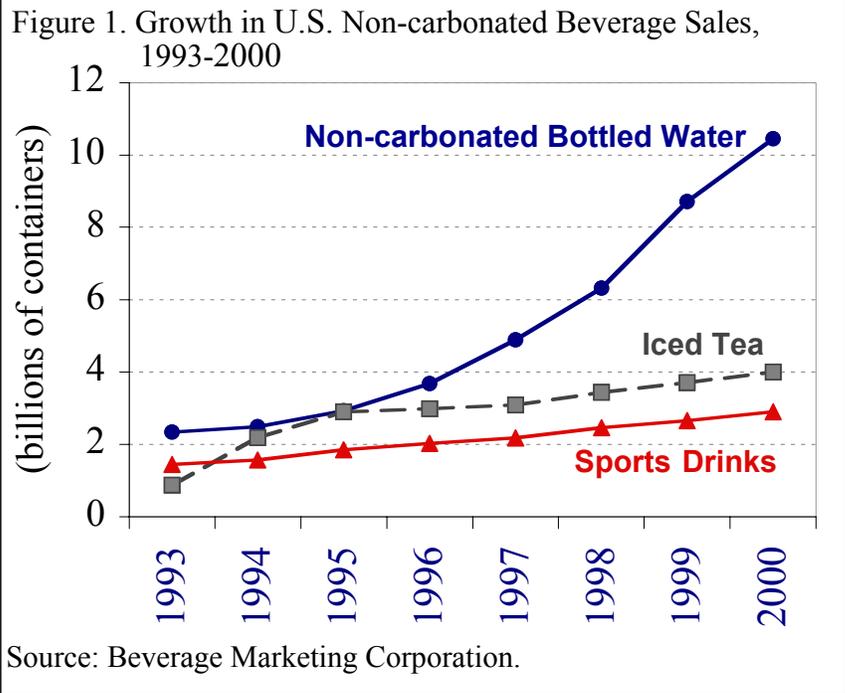
1) Why target beverage containers in general?

Lobbyists from the retail and beverage industries will argue that because beverage containers comprise a small part of the municipal solid waste stream—or less than 3% of by weight—they do not merit being “singled out” for management through a deposit system. This logic is erroneous for many reasons.

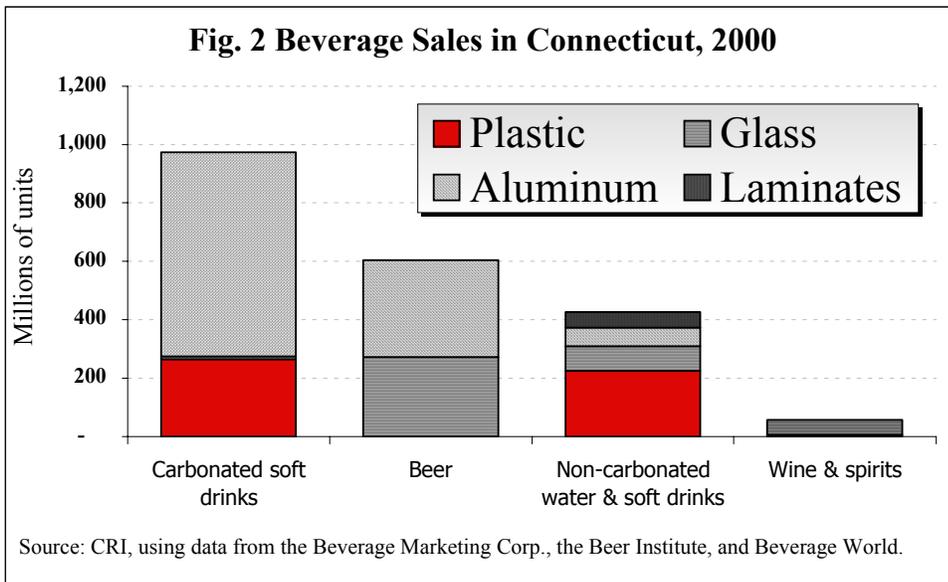
- a) First of all, the industry understates the amount of beverage containers in the waste stream. While soda bottles and cans are only 2.7% of the waste stream, all beverage containers (excluding milk containers) are approximately 4.4% of the waste stream.¹
- b) More importantly, the “upstream” environmental effects of beverage container wasting are disproportionately high. This means that it takes more energy to replace a ton of landfilled aluminum cans or PET plastic bottles with new bottles and cans made from virgin materials than it does to replace a ton of landfilled paper or yard debris. It also creates more pollution in the process. For example, though beverage containers as a whole account for only about 4.4% by weight of municipal garbage, they account for **20%** of the greenhouse gas emissions resulting from landfilling a ton of municipal garbage and replacing the wasted products with new products made from virgin materials.² CRI has estimated that if 70% of the expansion containers in Connecticut are redeemed, the equivalent of 60,000 barrels of crude oil will be saved each year, and about 11,000 tons of greenhouse gas emissions will be avoided.
- c) Third, bottles and cans have several characteristics that distinguish them from other goods in the waste stream:
 - i) Unlike glass mayonnaise jars or plastic ketchup bottles, single-serve beverage containers contain products that are consumed in minutes, not days or weeks;
 - ii) These containers are easily identified by the consumer;
 - iii) They are easily separated from other household and commercial trash;
 - iv) They constitute a disproportionate percentage of litter; and
 - v) Contrary to what lobbyists from the bottled water industry say, these beverages do not primarily serve as “staple foods” or emergency supplies during a disaster... 99% of the time they are simple luxuries: beers; sodas laden with sugar or Nutrasweet, caffeine, and artificial colors and flavors; and single-serve waters, upscale herbal teas, and sports drinks. So the idea of the deposit being a “regressive tax” or even an “up-front cost hardship” just does not hold water, if you’ll pardon the pun.
- d) Finally, beverage containers are not uniquely targeted for manufacturer take-back. A host of other consumer products are being examined as candidates for product stewardship (or extended producer responsibility), including CRTs, computers, electronics, medical and mercury-containing products, batteries, fluorescent tubes, etc.

2) Why expand the bottle bill?

When the Connecticut, Massachusetts, and New York bottle bills were enacted two decades ago, single-serve, non-carbonated beverages were virtually non-existent, and no one noticed when they were exempted from these deposit laws. During the 1990's, sales of so-called "new age" beverages, including single-serve juices, ready-to-drink iced and herbal teas, sports drinks, and bottled water, skyrocketed across the country. National sales of non-carbonated bottled water alone grew from just 2.3 billion units in 1993 to 10.4 billion units in 2000, as Figure 1 shows.



By the year 2000, these ineligible beverages accounted for 20% of national beverage sales. By 2005, these non-fizzy drinks are expected to comprise more than a quarter of the U.S. and Connecticut beverage markets. Last year, this amounted to about 400 million containers in Connecticut: or 110 exempted bottles and cans for every man, woman and child in the State. These "non-carbs" are projected to keep growing for the foreseeable future as consumers experience what the beverage industry calls "cola fatigue."



Non-carbonated water and other drinks are packaged largely in PET plastic bottles. As Figure 2 shows, the amount of water sold in plastic bottles has now almost caught up with the amount of soda sold in plastic bottles.

Including “non-carbs” will eliminate consumer confusion about which containers are eligible for return. To the average consumer, there is very little difference between a bottle of Poland Springs carbonated water and a bottle of Poland Springs flat water; both plastic bottles appear identical and carry virtually the same product. Most people do not understand why a Coke can is redeemable and a Minute Maid apple juice can is not. While retailers and recycling professionals may understand the difference between an “open” distribution system and a “franchised” distribution system, the average consumer does not—and should not have to. The Connecticut bottle bill needs to be modernized to reflect the actual beverage market, and it needs to make sense to consumers.

An expansion would subject non-carbonated beverage producers to the same requirements now imposed upon soda and beer manufacturers, would increase recycling, and would reduce litter statewide.

Two states, Maine and California, have already updated their container deposit laws to include the new category of beverages that most certainly would have been included had they existed when the bills were enacted. Hawaii’s new container deposit law, scheduled for implementation in 2005, will include non-carbonated beverages, and New York, Massachusetts and Michigan are all considering expansion proposals in their current legislative sessions. Massachusetts Governor Mitt Romney recently said, “We will work hard for the fair application of the bottle bill to all bottles. We aim to treat all bottles equally.”

3) Can’t curbside recycling take care of these other containers?

The beverage and retail industry lobbies argue that so-called “comprehensive” recycling programs can take care of these non-carbonated containers, and indeed, that deposit systems are “duplicative” of these residential recycling pickup programs. This argument has not held true at the national level, and it will not hold true for Connecticut.

Curbside cannot, and has not, by itself done an adequate job of maintaining high recycling rates. Despite a tripling in curbside recycling access in the United States during the 1990’s (from about 2,700 municipal collection programs to almost 10,000), recycling rates for all three major beverage container materials have declined, and wasting has increased. The aluminum can recycling rate has declined from a high of 65% in 1992 to 49% in 2001: the lowest point in 15 years. Glass and plastic bottle recycling now stand below 30%. An estimated 120 billion beverage containers were landfilled, incinerated or littered in 2001—up from 70 billion a decade ago.

Curbside recycling is failing to keep pace with increased beverage sales primarily due to an “immediate consumption” trend. Increasing numbers of beverages—especially bottled water, single serving juices, teas, and boutique beverages—are being purchased in vending machines or convenience stores for consumption in the car, at the office, in the park, at the beach, etc. Without a financial incentive for return, most consumers will not take these bottles and cans home to recycle in their curbside bins. By excluding these containers from the deposit law, we may be encouraging consumers to litter these containers along the roadside or on the beach—or at best to put them in the nearest trash can, thus not reaping the environmental benefits of recycling.

Local evidence from neighboring New York State confirms that even in regions with aggressive curbside recycling programs, non-carbonated beverage containers are not being captured for recycling.

Earlier this week, Andrew Radin, Director of Recycling and Waste Reduction for the Onondaga County Resource Recovery Agency, (OCRRA) testified before the New York State Assembly Committee on Environmental Conservation on an proposed expansion to New York's deposit law. OCRRA's recycling program, Operation Separation, has received the New York State Governor's Award for Excellence in Recycling and Waste Reduction, and the National Recycling Coalition's Award for the Best Urban Recycling Program in the United States.

Citing findings from a 1998 waste characterization study conducted by SCS Engineers for OCRRA, Mr. Radin said a "huge percentage of recyclable, non returnable beverage containers are generally trashed in Onondaga County." By material type, he said that

- Only **16%** of non-carbonated non-deposit **PET plastic bottles** are being recycled in Onandaga County (and 84% are being tossed out as garbage), while **77%** of carbonated, returnable PET bottles are being recycled. (That is a five-fold difference in recycling rates).
- Only **13%** of non-returnable **aluminum cans** are recycled, while **83%** of carbonated, returnable cans are being recycled (more than a six-fold difference in recycling rates).
- Only **31.5%** of **glass bottles** holding non-carbonated beverages are recycled, while over **95%** of returnable glass containers are recycled (a three-fold difference in recycling rates).

Radin stressed that these results are for a community that is a national leader in recycling, and said, "It is clear that the Bottle Bill makes a difference—a big difference. Bottles and cans are recycled at dramatically higher rates when they are part of the Bottle Bill."

4) Expansion will benefit local government and taxpayers.

Industry critics contend that that an expanded bottle bill would take scrap revenue away from municipal curbside programs. In fact, the converse is true. Adding these containers to the deposit system will relieve local curbside programs of an expensive burden. As Figure 2 showed, only 15% of the non-carbonated beverages are sold in aluminum cans: the only curbside material of real value.

The remainder are single serving glass and plastic bottles. Nationwide, plastic beverage bottle waste has quadrupled in the last decade; from 7.6 billion bottles wasted in 1991 to 29.8 billion wasted in 2001. Similar trends exist in Connecticut. Because they have a very low weight-to-volume ratio, PET bottles are expensive to collect in curbside programs. They also bring comparatively low revenues: in the neighborhood of \$25-30 per cubic yard collected. Glass is very bulky, and when it is collected at curbside, it is mixed color, often contaminated, and of little—if any—value. It is commonly used as landfill cover, as "glasphalt," or as fill, and cities often have to pay to get rid of it, as Table 1 shows.

More than 20 municipalities across the country dropped glass from their curbside recycling programs in 2001-2002. New York City made national headlines last year when it dropped glass and plastic from its curbside program.

Table 1. Weight, Volume, and Revenue of Three Container Types				
Container type (crushed)	lbs per cubic yard	cubic yards per ton	Revenue per ton	Revenue per cubic yard
Glass bottles	2,182	0.9	\$ (10)	\$ (11)
Aluminum cans	316	6.3	\$ 1,000	\$ 158
PET plastic bottles	270	7.4	\$ 200	\$ 27

Were consumers to simply add these non-carbonated bottles and cans to the containers they are already bringing back to redeem, the financial burden on municipal curbside programs would be reduced, and recovery of containers consumed away from home would increase.

5) Expanding the bottle bill will reduce litter

Industry critics will argue that an expanded bottle bill will do nothing to curb litter in Connecticut, but the evidence contradicts this assertion.

- The Center for Marine Conservation conducted litter surveys along 213 miles of Maine's shoreline, and found that bottle and can litter on Maine beaches dropped 30% within a year after the bottle bill was expanded to include non-carbonated beverage containers.
- Last year, the New York group Scenic Hudson found that 61% of the container litter collected in the Great River Sweep consisted of non-carbonated, non-deposit containers, even though these containers comprise only 22% of total beverage sales in New York.
- During last year's Earth Day Litter Clean Up program in Onondaga County New York, the hundreds of clear plastic garbage bags filled by volunteers were "brimming with non-returnable bottles and cans," according to OCRRA Director Andrew Radin.

So it is clear that adding non-carbonated containers to the deposit system **will** reduce litter in Connecticut, helping to maintain the beauty of the State's parks, streams and roadways.

6) Sales and prices

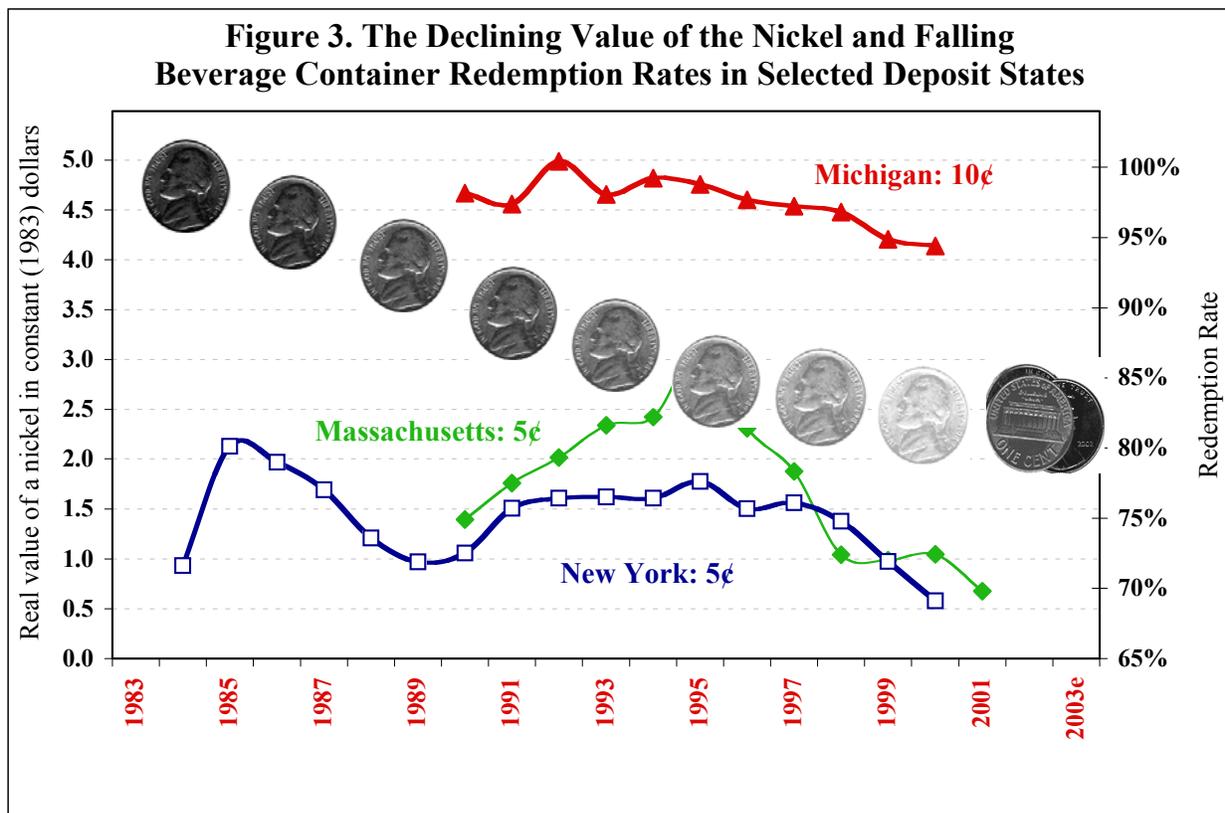
In a presentation to the Interbev Conference in Atlanta in 1994, Kevin Dietly, a consultant working on behalf of the Grocery Manufacturers Association and the Food Marketing Institute, said that "sales and prices were not affected" by the expansion of Maine's bottle bill.

B. Raising the Deposit to Ten Cents

Raising the deposit value to 10 cents will do as much—if not more—to increase beverage container recycling rates in Connecticut as would expanding the deposit law to non-carbs.

Container redemption rates in many states have been on the decline in recent years due to the failure of the 5-cent deposit to keep pace with inflation. In 1971, Oregon adopted the nation’s first deposit law, setting the refund value at a nickel per container, and has served as a model for almost all the bottle bill states that followed it: in including Vermont in 1972, Maine in 1978, and Iowa in 1979.³ None of these states tied the deposit value to any measure of inflation or purchasing power—such as the Consumer Price Index or the minimum wage. By the time Connecticut adopted its deposit law in 1980, the nickel had lost half of the purchasing power it had in 1971. A 1971 nickel is now worth only 1.1 cents—22% of its value in 1971.

If you use 1980 as the baseline, since that is when Connecticut adopted its bill, then the 1980 nickel is only worth 2.7 cents today, as Figure 3 shows. The bottom line is: a nickel ain’t what it used to be. For many people, it is not worth it to save a can or bottle for the 5¢ refund.



Connecticut does not report beverage redemption statistics, but its neighbors Massachusetts and New York both have redemption rates of 70%. Although this is almost twice as high as the national average recycling rate for beverage containers, the average redemption rate in New York and Massachusetts has been as high as 85% in the past. Michigan, the only state with a 10-cent deposit, continues to achieve a redemption rate above 93%.

C. Unclaimed Deposits

1) What are unclaimed deposits?

Unclaimed or unredeemed deposits are those deposits paid out by consumers but “abandoned” when a consumer chooses not to return the container for the nickel refund. Industry lobbyists will tell you that by escheating any unclaimed deposits, the state would impose a heavy tax on consumers. But bottle and can deposits are not a tax. Unlike taxes, container deposits are 100% refundable. It is the consumer’s choice to return the container for redemption and get the entire nickel deposit back, or to forfeit the deposit by donating the container to a charity or placing it in a curbside recycling bin.

2) Who should keep unclaimed deposits?

The beverage industry argues that it has a right to unclaimed deposits. The original Connecticut deposit legislation is silent on this issue. But there is precedent for other states retaining deposits that are deemed “abandoned” property:

- The Commonwealth of Massachusetts amended its deposit law in 1989 and has retained 100% of the unclaimed or abandoned nickels since 1990.⁴ Massachusetts had a redemption rate of 69.8% in 2002, with \$35 million of unclaimed deposits escheating to the state’s Clean Environment Fund.⁵
- The State of Michigan retains 75% of its unclaimed dimes for environmental protection. The remaining 25% goes to retailers as a handling fee. Even with a 95% redemption rate (Michigan has the nation’s only 10¢ deposit), the state kept \$17.6 million in abandoned deposits in 2000.
- From 1991 to 1995, the State of Maine escheated 50% of its abandoned deposits and used the revenue to fund its Solid Waste Management Agency, then voluntarily repealed the law because the redemption rate was so high.⁶

In each of these three states, the escheat provisions have withstood court challenges by the beverage industry.

In Massachusetts, Suffolk County Superior Court Judge William Bartlett ruled in October 1991 that the escheat law: a) did not cause an unconstitutional taking of bottlers’ money; b) was a proper act of the legislature; and c) that refunds belong to the consumer until escheated to the state. The Massachusetts Wholesalers of Malt Beverages appealed this ruling, but the Supreme Judicial Court ultimately upheld the law in 1993.⁷

In Michigan, a lower court ruled in 1991 that the unclaimed deposits were the property of the beverage industry and that the escheat amendment resulted in an unconstitutional taking by the state. The case was appealed by the Department of Treasury. The Michigan United Conservation Clubs (MUCC), the group that had spearheaded the original escheat campaign, presented an amicus brief to the Court. They were joined by several other organizations, including the Container Recycling Institute. In 1994, the Court of Appeals overturned the lower

court ruling, claiming that the escheat amendment “constituted a valid exercise of legislative powers.” The State Supreme Court upheld the ruling in 1995.

The beverage industry also took Maine to court over its escheat amendment. The law was upheld by a Superior Court. After a 1993 appeal by the Maine Beer and Wine Wholesalers and the Maine Soft Drink Association, the State Supreme Court ruled for the state.⁸

Since the 1986 inception of California’s beverage container return law (AB 2020), the state has kept 100% of all unclaimed CRV (California redemption value) monies, and has used the funds for program administration, and recycling program and education grants. With a redemption rate of 69% (comparable to the return rates in Massachusetts and New York), California keeps approximately \$200 million in abandoned deposit revenue annually. During this painful period of belt-tightening, New York, Vermont and Delaware are also considering proposals to escheat unclaimed deposits.

3) The beverage industry argues that it needs unclaimed deposits to offset handling costs of millions of dollars a year.

Where is the evidence of these costs being paid for “out of pocket?” The industry has never made its books public. We argue that the handling costs have been passed on to the consumer for the last 23 years, and that the 8-10 billion containers that have not been redeemed actually constitute an untaxed windfall profit for the industry amounting to half a billion dollars. Through temporary investments of container deposits, even the deposits that are redeemed are a source of income for the industry.

In addition, distributors keep 100% of all the materials revenue from the sale of scrap aluminum cans, PET plastic bottles, and glass bottles. Unlike co-mingled containers coming from a curbside recycling program truck, deposit container material is clean, contaminant-free, and pre-sorted, so it brings a higher market price. The Container Recycling Institute has estimated that since the bottle bill was implemented in 1980, beverage bottlers and distributors have grossed at least \$340 million on the sale of scrap aluminum cans, and plastic and glass bottles redeemed through the Connecticut deposit system.⁹

Finally, it is important to remember that the beverage industry makes a very healthy profit from the sale of these beverages. In 1994, the Washington Post ran a graphic showing that 8% of the cost of a can of Coke sold through a vending machine was profit to Coca-Cola Company and the bottler. If this is still true, then the beverage industry is netting about \$100 million in profit annually in Connecticut—give or take a few million.¹⁰

To date, the public has absorbed all of the responsibility for managing curbside recycling programs, garbage collection, and litter clean-up. A 50% escheat of unclaimed deposits to the state represents an equitable sharing of responsibility between the taxpayer and the beverage manufacturers and consumers.

II. AB 6258: REPLACING DEPOSITS WITH AN ADVANCED DISPOSAL FEE

Repealing Connecticut's bottle bill would be a national embarrassment. Replacing the bottle bill with an Advanced Disposal Fee (ADF) would be a gutting of the most successful recycling law in the history of the State. No other recycling policy measure has come close. While Connecticut does not measure its own beverage container recycling rates, it is fair to assume its success is similar to that of its neighbors, New York and Massachusetts, who both achieved beverage container recycling rates of about 70% in 2001.

Nationally, deposit states achieve container recycling rates of 70-90%—in contrast to rates of under 30% in most non-deposit states. A multistakeholder report by Businesses and Environmentalists Allied for Recycling found that a combination of recycling methods in the nation's 10 deposit states recycle a total of *490 containers per capita per year*, at an average unit cost of 1.53 cents, while the nation's 40 non-deposit states (which rely on curbsides and drop-offs to do the whole job) recycle a total of *191 containers per capita per year*, at an average unit cost of 1.25 cents.¹¹ In other words, at an additional cost of **only 1.5 cents per six-pack**, their recovery rates are more than two and a half times higher than states without bottle bills.

While deposits are 100% refundable, an ADF is a **non-refundable tax**. While this money would ostensibly be used to support more curbside recycling, it would do nothing to provide away-from-home recycling opportunities that would work as well as the bottle bill has.

Conclusion

By expanding the bottle bill to non-carbonated beverages and by raising the deposit to a dime, AB 6033 offers Connecticut a historic opportunity to re-establish itself as a national leader in recycling and litter reduction. At the same time, the 50% escheat can add as much as \$15 million in much-needed revenue to the State's coffers. By voting to update the bottle bill, the Connecticut legislature will be setting an important example for other states to follow.

Thank you for allowing me to address this important issue today.

¹ Glass beer and soft drinks bottles: 2.5%; Glass wine and liquor bottles: 0.8%; Aluminum beer and soft drink cans: 0.7%; Plastic soft drink bottles: 0.4%. From: Table 19, "Products Generated in the Municipal Waste Stream, 1960 to 2000 (with detail on containers and packaging)" in "Municipal Solid Waste in The United States: 2000 Facts and Figures." Environmental Protection Agency, Office of Solid Waste and Emergency Response (5305W) EPA530-R-02-001, June 2002.

² "Energy to Waste?" Usman Valiente, *Solid Waste and Recycling*, April/May 2000.

³ The only exceptions to this rule have been Michigan and California.

⁴ The Massachusetts escheat legislation can be found at <http://www.state.ma.us/legis/laws/mgl/94-323B.htm>.

⁵ Massachusetts Dept. of Environmental Protection, "MA Bottle Bill Return Rate Information FY 1990-FY2002."

⁶ The Maine escheat legislation can be acquired from the Maine State Planning Office or the Maine Legislature.

⁷ *Mass Wholesalers of Malt Beverages, Inc. v. Commonwealth* (1993) 609 N.E. 2d 67, 414 Mass. 411.

⁸ *Maine Beer & Wine Wholesalers Ass'n v. State* (1993) Me., 619 A.2d 94.

⁹ Estimates made using DEP-reported tonnages of glass, plastic and aluminum redeemed from 1983-1999 from "Deposit Redemption Statistics, Returnable Beverage Container Law." New York State Department of Environmental Conservation, Nov. 2000. We assumed that annual tonnages redeemed from 2000 through 2002 were equal to the redeemed tonnage reported in 1999. We used conservative materials prices of \$1,000 per ton for used aluminum cans, 8¢ per pound for PET plastic bottles, and \$20 per ton for glass bottles.

¹⁰ Estimated using sales of 2 billion units/year, at an average price of 75 cents per unit, multiplied by 8% profit.

¹¹ "Understanding Beverage Container Recovery: A Value Chain Assessment Prepared for the Multi-Stakeholder Recovery Project." Businesses and Environmentalists Allied for Recycling (BEAR), Global Green, Jan. 16, 2002.