Testimony before the New York State Joint Senate

Finance and Ways & Means Committee

Regarding the Executive Budget 2004-2005: Environmental Conservation

by Jennifer Gitlitz

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Good afternoon. 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 twelve years, CRI has served as the only national clearinghouse for information on beverage container sales, recycling and wasting in the United States.

I am here to urge the Committee to include an estimated $179 million in unclaimed beverage container deposit revenue in this year's budget.

First, a simple definition: in the nation's 10 "bottle bill" states, 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 claim that by escheating unclaimed deposits, the state would be imposing a 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.

The $179 million in estimated revenue is a combination of unclaimed deposits from carbonated beverages *already* covered by the existing bottle bill, and from non-carbonated beverages—such as bottled water, juice, iced tea and sports drinks—that will be covered if the so-called "Bigger Better Bottle Bill" is passed.

Using a variety of industry sources, CRI has just completed a detailed "Market Data Analysis" that reveals the quantity of beverages sold, in gallons and in millions of units, in each state. We also have detailed breakdowns by container type (aluminum cans, glass and plastic bottles, etc.) and by beverage category.

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Our analysis shows that in New York State, there are estimated annual sales of **2.6 billion** non-carbonated, non-alcoholic drinks of the type targeted by the "Bigger Better Bottle Bill." As the table on the last page shows, this is 21% of the total beverage market, which we estimate at **12 billion** units per year. About 9 billion units of soda and beer have an existing deposit.[1]

The most recent figures from the New York State Department of Environmental Conservation show a 69.8% redemption rate for FY 2001. By extension, this means that 30% of the 9 billion deposit containers purchased were not *redeemed* by consumers. (This does not necessarily mean they were all not *recycled*; some of them could have been recycled through curbside programs). This amounted to a $141 million windfall profit for the beverage industry.

We urge New York State to retain these funds for use in recycling and environmental projects in the state. We also urge the passage of the Bigger Better Bottle Bill. A 70% redemption rate on non-carbonated containers would generate an additional $38 million, for a total of $179 million for New York State.

An updated deposit law will benefit New York municipalities not only by providing $170 in unclaimed deposit funds for local recycling and environmental programs—about 40% of which will go to New York City, but by reducing operating costs of taxpayer-funded curbside programs.

Adding non-carbonated containers to the deposit system will relieve financially-strapped, local curbside programs of an expensive burden. As the table at the end shows, only 7% of the beverage market is non-carbonated beverages sold in aluminum cans: the only curbside material of real value. More than 90% of non-carbonated containers are glass and plastic bottles, many of them single serving.

Because they have a very low weight-to-volume ratio, PET plastic 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. More than 20 municipalities across the country dropped glass from their curbside recycling programs in 2001-2002. New York City dropped glass *and* plastic from its curbside program two years ago, to great public outcry.

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. In addition, the recovery and recycling of containers consumed away from home would increase dramatically.

Who should keep unclaimed deposits? The beverage industry argues that it has a right to keep unclaimed deposits. The original New York State deposit legislation is silent on this

[1] This is according to CRI's Market Data Analysis (Jan. 2004), which suggests that distributors and bottlers in New York are underreporting sales to the Department of Conservation.

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.[2] Massachusetts had a redemption rate of 69.8% in 2002, with $35 million of unclaimed deposits escheating to the Commonwealth's Clean Environment Fund.[3] In an attempt to generate $10 - $14 million in additional revenues, Massachusetts Governor Mitt Romney included a proposal to expand the bottle bill in his Executive Budget Recommendation two days ago.[4]

- The State of Michigan retains 75% of its unclaimed dime deposits 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.[5] They have recently reinstituted the escheat.

CRI has estimated that the New York deposit law has kept over 80 billion beverage containers out of local landfills and incinerators since its inception—saving over 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, parks and beaches. Now New York has the opportunity to benefit from almost $180 million in unclaimed deposit revenue to partially mitigate the impact of its current fiscal crisis.

It's not often that we get the opportunity to do the right thing **and** make money; let's not pass it up.

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

[2] The Massachusetts escheat legislation can be found at http://www.state.ma.us/legis/laws/mgl/94-323B.htm.
[3] Massachusetts Dept of Environmental Protection, "MA Bottle Bill Return Rate Information FY 1990 - FY2002."
[4] Outside Section 172 Expanded Bottle Deposit Bill, http://budget.mass.gov/budget/outsec05/h172.htm.
[5] The Maine escheat legislation can be acquired from the Maine State Planning Office or the Maine Legislature.

Beverage Containers Sold in New York State, 2002 (millions) (a)

	Beverage Type/Package	Aluminum Cans	Steel Cans	Plastic Bottles	Glass Bottles	Total	Market Share	Per Capita (c)
	A	B	C	D	E	F	G	H
1	**Current Law (Carbonated Beverages)** (b)							
2	Beer	1,724	0	0	2,210	3,933	33%	205
3	Carbonated Soft Drink	3,761	0	1,463	54	5,278	44%	276
4	Sparkling Water	9	0	32	74	116	1%	6
5	**Subtotal, Current Beverages**	**5,494**	**0**	**1,496**	**2,338**	**9,327**	**79%**	**487**
6	Market Share, Current Beverages	59%	0%	16%	25%	**100%**		
7	Per Capita, Current Beverages	287	0	78	122	487		
8	**Additional Beverages:** (Non-carb., Non-alcohol.)							
9	Non-Sparkling Water	0	0	1,349	37	1,386	12%	72
10	Sports Drinks	0	0	153	2	155	1%	8
11	Fruit Beverages	94	10	477	157	737	6%	38
12	Ready-to-Drink (RTD) Tea	92	0	66	116	273	2%	14
13	**Subtotal, Additional beverages**	**186**	**10**	**2,045**	**312**	**2,551**	**21%**	**133**
14	Market Share, Additional Beverages	7%	0%	80%	12%	**100%**		
15	Per Capita, Additional Beverages	10	0	107	16	133		
16	**Total containers eligible under NY "BBBB"**	**5,680**	**10**	**3,540**	**2,649**	**11,879**	**100%**	**620**
17	Market Share, All Containers in NY BBBB	48%	0%	30%	22%	100%		
18	Per Capita, All Containers in NY BBBB	296	0	185	138	620		
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Estimated Unredeemed Deposits in New York State: Possible Scenarios (d)

(millions of dollars)

	Redemption Rate (e)	Unclaimed Rate	Current Law Current Deposit (5¢)	Expanded Law Current Deposit (5¢)	Current Beverages New Deposit (10¢)	Expanded Law New Deposit (10¢)
23	69.8%	30.2%	$140.8	$179.4		
24	75.0%	25.0%			$233.18	$296.97
25	80.0%	20.0%			$186.55	$237.58
26	85.0%	15.0%			$139.91	$178.2
27	90.0%	10.0%			$93.27	$118.79
28	95.0%	5.0%			$46.64	$59.39

29 **Notes and sources:**

30 (a) CRI data derived from: "Beverage Packaging in the U.S., 2003," Beverage Marketing Corp., Dec. 2003, and "Beverage Market Index 2003." *Beverage World* , Jun. 2003.

31 (b) Wine coolers are excluded from this data.

32 (c) New York State population: 19.2 million

33 (d) Calculation formula: containers sold * amount of deposit * % of unredeemed containers = unredeemed deposit monies

34 (e) FY 2001 redemption rate, New York State Department of Environmental Conservation.

35 *Container Recycling Institute, January 2004*

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