

IBWA Bottle Deposit Working Group

Suggested Recommendations for Legislative Action

November 13, 2019

Similar to other systems like curbside collection or other types of extended producer responsibility programs, bottle deposit programs have played an important role controlling littering and incentivizing recycling. IBWA offers the following principles to help states with existing programs explore ways to improve system performance.

Designing Program Administration for Greater Efficiency

- The best option is to establish a cooperative organization that is managed by a third-party, non-state entity that includes industry participation.
 - A cooperative would ease the financial and logistical burdens on both the government and business. It has been shown to work effectively in OR.
 - Oversight of the program should be maintained by a relevant state agency.
 - Industry participation should include both beverage producers and retailers
- Include a consumer educational program component to address proper recycling process and goals.
- Evaluation by management entity of what containers would be covered (types and materials), redemption fee, handling and processing fees, industry commitments, state support, etc. to ensure an effective and efficiently run program.
- Seek equitable financial arrangements to ensure that manufacturers, consumers, recyclers, and end users are all providing support to operate a successful bottle deposit program. No single entity should face an unreasonably large proportion of the cost needed to operate the program.

Reducing Contamination to Retain Quality of Recycled Materials

- Increase ability for reclaimers to refuse products based on contamination.
- Provide necessary consumer education on recycling streams, what products are part of the deposit program, and the proper return of containers.
- Standardize quality control and increase oversight of recycling processing to better ensure proper sorting of materials.
- Provide funding (loans, tax credits, grants, etc.) to increase investments in latest technology.
- Provide municipalities with additional leverage when negotiating hauling and recycling contracts with industry that can ease contamination requirements. Possible scenario:
 - Utilize the current Model Bale Specification grades developed by the Association of Plastic Recyclers (APR). Any bales that fail to meet Grade A (94% or above of total PET fraction by weight) or Grade B (83%-93%) could be returned to be reprocessed to achieve Grade A or B quality.

Instilling Adequate Controls to Reduce Fraud and Abuse

- Increased oversight of system.
 - This could include state border checkpoints, inspections at return facilities (retailers and redemption centers) to determine accuracy and compliance of reverse vending machines, necessary maintenance, and increased scrutiny of bag drop quantities and quality.
- Regular audits of the system, redemption centers, and distributors to ensure compliance, examine efficiency, and deter fraud. (Similar efforts have been undertaken in HI.)
- Increased penalties for violations, especially for multiple offenses.
 - Fines for violations by individuals:
 - First offense - \$50
 - Second offense - \$100
 - Third offense – Misdemeanor plus \$500
 - Fines for violations by businesses:
 - First offense - \$100
 - Second offense - \$500
 - Third offense – Misdemeanor plus \$1000
 - Penalties could also be based on the number of illegally returned products above the maximum daily limits and/or the number of times someone has violated the deposit law limitations. Example based on the NY law:
 - A person who willfully violates provisions on 5,000 or more containers within 1 year will be guilty of class B misdemeanor (not more than 3 months in jail and not more than \$500 in fines).
 - A person previously convicted of this violation within the past 3 years, who willfully violates the provision again will be guilty of a class A misdemeanor (not more than 1 year in jail and not more than \$1,000 in fines).
 - Any person who willfully violates these provisions on 20,000 or more beverage containers in a year will be guilty of a class E felony (1 1/3 to 4 years in jail).
- Limit the daily number of bottles that can be returned by an individual or business entity.
 - The number should vary based on the redemption fee amount (example: 50 containers per day per individual or business entity at 5 cents per container/25 containers per day per individual or business entity at 10 cents per container).
- The daily limit should be greater for business entity (e.g., restaurant) than an individual.
- Provide small business loans to support the use of increased and uniform technological standards to ensure bottle count integrity.
- Deposit initiation should occur at the time of retail sale. This will improve the collection of deposits on interstate shipments and reduce the possibility of products that are sold to distributors in non-deposit states being sold to stores in deposit states at a reduced cost that undercuts their competitors (full goods fraud).

Ensuring Handling Fee Structure to Support Program Effectiveness

- Apply a more uniform system of fees across all states and utilize technological enhancements to keep costs at a minimum for processing and handling fees.
 - Establish a regular system for review before any consideration of a fee increase.

- Fees would be determined based upon:
 - True cost of handling the subject material
 - Type of material (e.g., plastic, glass, aluminum)
 - Recovery rate (better recovery rate could mean lower fee)
 - Market demand (based on pricing for each type of material; those materials with higher demand could have lower fees)
 - Program management (cooperative, joint private/public partnership, state operated)
- Potential for collection, handling, sorting or other fees to be subsidized by bottlers.

Investing Unclaimed Deposits

- Unclaimed deposits should be used to support the bottle deposit program by offsetting industry costs and investing in recycling education, collection, and recycling infrastructure. Whether the program is administered by a third party, or by the state, it is critical to ensure adequate funding for all these efforts on an ongoing basis. Because the redemption rate in a state may vary from year-to-year, the annual amount of unclaimed deposit money available to operate the program may be uncertain. For example, if the redemption rates increase beyond a certain percentage, that will significantly reduce the unclaimed deposit funds available to efficiently operate the program. If that happens, the state should provide additional funds needed to run the program.

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