



NYSAC
NEW YORK STATE
ASSOCIATION OF COUNTIES

BOTTLE BILL



The History and Future of the NYS Bottle Bill

MAY 2019

CHARLES H. NESBITT, JR.
President

STEPHEN J. ACQUARIO
Executive Director

518-465-1473 • www.nysac.org



Introduction

The New York State Returnable Container Act, known as the “Bottle Bill,” has proven to be an effective recycling and litter prevention program. The bill provides incentives for proper disposal and recycling by requiring a 5-cent deposit on certain beverage containers. Empty containers can be recycled and redeemed at designated stations in retail stores or redemption centers.

With an average return rate of 70 to 80% since its enactment in 1982, the Bottle Bill has kept millions of tons of plastic, metal, and glass out of the state’s waste stream. According to the Container Recycling Institute (CRI), the bill—which has resulted in the recycling of over 11 million tons of containers since its implementation—has reduced greenhouse gas emissions by an amount equivalent to taking roughly three million cars off the road for a year.

The original Bottle Bill law has been amended several times since its adoption, most recently in 2013. This white paper serves to educate county officials on the history of the Bottle Bill and the proposed revisions state lawmakers are considering in 2019.

What is New York State’s Bottle Bill?

The New York State Returnable Container Act stipulates that consumers pay a deposit when purchasing certain beverages and receive the deposit back when the containers are returned to a store or redemption center. Specifically, the law requires at least a 5-cent deposit on all individual, separate, and sealed glass, metal, aluminum, steel, or plastic bottles, cans, or jars containing less than one gallon of a beverage for consumption at the time of sale.

The following beverages are covered by the Bottle Bill:

- Carbonated Soft Drinks
- Including Sparkling Water
- Carbonated Energy Drinks
- Carbonated Juice (anything less than 100% juice, containing added sugar or water)
- Carbonated Tea
- Soda Water
- Beer and Other Malt Beverages
- Mineral Water (both carbonated and non-carbonated)
- Wine Products
- Water that does not contain sugar, including flavored or nutritionally enhanced water

The following beverages are not covered:

- Milk Products
- Wine and Liquors
- Hard Ciders
- Non-Carbonated Tea
- Non-Carbonated Sports Drinks
- Non-Carbonated Juice
- Non-Carbonated Energy Drinks
- Drink Boxes or Pouches
- Waters Containing Sugar





How Does Redemption Work?

Deposit Initiation

The process begins with a deposit initiator. A deposit initiator is the first bottler, distributor, dealer or agent to collect the deposit on a beverage container sold in New York State. Retailers pay the deposit initiator, at minimum, a 5-cent deposit for each beverage container purchased. Consumers then pay the retailers the deposit for each beverage container purchased. Consumers may return their empty beverage containers to a retailer or redemption center to get their deposit back. Retailers and redemption centers are then reimbursed the 5-cent deposit plus a 3.5-cent handling fee by the deposit initiator for each empty beverage container returned.

Deposit Redemption

To redeem their deposit, consumers can return their empty beverage containers to retailers and redemption centers. Reverse Vending Machines (RVMs) are often provided for consumers to use. Consumers place their empty containers into the machine, which reads the barcode on the container and provides a voucher that can be exchanged for cash or credit inside the store within 60 days.

Only those containers with a New York refund label (NY-5¢) are eligible for a refund. A store or RVM may reject a return for any of the following reasons: the store does not carry that type of container, the container does not have a proper New York refund label, the container is not in reasonably good condition, or the container has anything in it besides small amounts of dirt, dust, or moisture. Dealers may also limit the number of containers accepted from one person to 240 containers per day (or 72 containers per customer per day for small stores).

Retailers and redemption centers are reimbursed the deposit plus a 3.5-cent handling fee by the distributor or deposit initiator for each beverage container returned. The original Bottle Bill of 1982 allowed the distributor to retain all unredeemed deposits. The bill has since been changed to reflect an 80/20 split between the state and the distributor.

Container Return and Recycling

Once beverage containers are returned to retailers or redemption centers, a third-party pickup service retrieves them. Third parties normally negotiate a contract based on volume collected. There are currently 10 different third-party collection agents that pick up empty containers from distributors, dealers, and redemption centers in New York State.

Sorting

Prior to transport, retailers and redemption centers are required to sort containers for pick-up provided by distributors. Distributors may require containers to be sorted by brand and material type. RVMs physically sort by material type and comingle by brand. Reverse vending technology initiates the accounting process at the moment of redemption. Containers are compacted so they cannot be redeemed twice.

Collection & Transport

Once sorted, bags and cases of containers are tagged and loaded onto trucks for shipment to processing facilities. Pick-up agents check the bag count to ensure the accurate recording of the origin and number of bags for pick-up.

Processing & Shipment

Pick-up agents transport the bags and cases of containers to regional market processing centers. After off-loading the containers, the processing facility re-counts the bags and cases to check that the same number of bags and cases that were collected and scanned were off-loaded.

Recycling

After arriving at the third-party facility, all plastic bottles and cans are baled, and glass bottles are de-cased (i.e. the cardboard case is removed from the glass bottles). Co-mingled bags of containers are sorted into the different material streams. The three streams of materials – glass, PET, and aluminum – are loaded onto tractor-trailers and shipped to plastic reclamation facilities, aluminum smelters, and glass bottle manufacturers for recycling.

History

Bottle Bill programs in the United States started as early as 1953, when Vermont banned the sale of beer in non-refillable bottles. This legislation expired after only four years because of strong lobbying from the beer industry. In 1971, Oregon implemented the first Bottle Bill to address concerns with litter. Oregon's bill placed a 5-cent deposit on each container sold in the state.

New York State's Bottle Bill was met with resistance from lawmakers and beverage companies before it was passed in 1982. Small business grocers argued that their facilities were not physically capable of storing their inventory along with the returned bottles. They also felt that the clientele brought in through bottle returns would be bad for sales.

The Bottle Bill was ultimately enacted under Governor Hugh Carey in June 1982 and implemented in July 1983 under Governor Mario Cuomo. The year-long wait provided grocery stores, distributors, bottlers, and brewers with time to prepare for implementation.

Problems Leading Up to the NYS Bottle Bill

At the time that the Bottle Bill was enacted, empty beer and pop bottles constituted a considerable amount of trash in the environment. Nationwide, consumption of soft drinks increased from 26,000 gallons per capita in 1972 to 38,000 gallons per capita by 1982. A similar trend occurred in bottled beer consumption during the same period.



Due to the increased demand for bottled beverages, industries that had once reused their returned bottles could no longer continue to do so. Many companies began using single-serve containers made from plastic, glass, or metal that could be mass produced quickly and cost effectively. This bottling trend began in the 1950s and 60s and was popularized in the 1970s and 80s. Now, it is the industry standard for bottling beverages worldwide.

Together, these trends led to mass littering throughout the state in the 1970s and 80s. The New York State Returnable Container Act of 1982 incentivized the proper disposal and recycling of discarded cans and bottles by placing a redeemable 5-cent deposit on select containers, which incentivized consumers to return their bottles to retail stores or redemption centers. All unredeemed deposits were retained by the distributor or bottler, with a handling fee of 1 cent (20% of the refund value). This was increased to 1.5 cents in 1983.

Success of the Bottle Bill

New York State's Bottle Bill was an immediate success. According to the New York State Department of Environmental Conservation (NYSDEC), during the first year of implementation, 3.8 billion containers were removed from the state's waste stream, consisting of 155 thousand tons of glass, 33 thousand tons of aluminum, and 17 thousand tons of plastic. The redemption rate for the first year was 72 percent, with \$137.6 million worth of deposits redeemed. Retailers and bottlers retained all unredeemed deposits at a dollar value of \$54.6 million. Handling fees paid to retailers totaled \$40.9 million. The State experienced a net gain of an estimated 4,317 to 5,079 jobs attributable to the Bottle Bill in the first year, providing economic development opportunities for New York State communities.

Many hailed the Bottle Bill for improving the state's economy, environment, and quality of life. Over time, changes in industry and consumer trends sparked discussion about updating the legislation. The handling fee, which finances small business redemption centers, was raised to 2-cents per container in 1997.

2009 Amendments

Although the Bottle Bill was viewed as a great success, the popularity and convenience of bottled water, excluded under the original law, began to increase dramatically in the decades following its passage. Nationwide, consumption of bottled water increased from 800 thousand gallons in 1982 to 2.3 million gallons in 1992. By 2007, bottled water consumption had ballooned to 8.4 billion gallons. Increasing consumption of bottled water created a need to update the Bottle Bill.

On June 1, 2009, New York State, under Governor David Paterson, enacted the "Bigger, Better Bottle Bill", which collected a deposit on water bottles. This bill was designed to keep pace with growing consumer trends that had the potential to impact the environment.

Since the beginning of the state's Bottle Bill, beverage companies had retained more than \$2 billion of the public's unclaimed 5-cent deposits. In response, legislators included a requirement that companies transfer 80 percent of the unclaimed deposits they collect to the state's general fund, where the money will be used to provide services to the public. Large stores were now required to maintain designated bottle and can return areas, providing residents with more opportunities to return empty containers.

The 2-cent freeze on the handling fee in 1997 did not account for growing operational costs for redemption centers, causing many to shut down or take out loans to stay in business. The 2009 amendments increased the fee distributors were required to pay to retailers and redemption centers to 3.5-cents per container.

2013 Amendments

The 2013 amendments aimed to improve the implementation of the law and enhance compliance. Changes to the bill included: a new provision that prohibits tampering with RVMs, the right for redemption centers and stores to refuse crushed containers in order to prevent double redemption, and the clarification that all containers must have "NY 5¢" permanently embossed on containers or permanently marked on the container label.

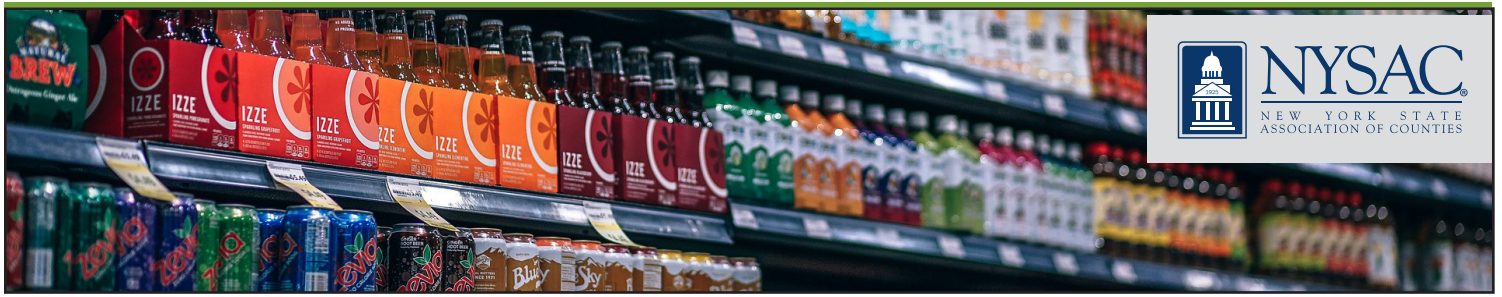
The Future of the New York State Bottle Bill

State lawmakers are again considering legislation that would expand the Bottle Bill to include additional beverage containers. As of the writing of this report, the two leading Bottle Bill expansion proposals were introduced by Governor Andrew Cuomo and Assemblymember Steve Englebright.

2019 Executive Budget Proposal

Governor Andrew Cuomo, in his FY 2019-20 Executive Budget, proposed to expand the bottle bill and improve recycling by making most non-alcoholic beverage containers eligible for 5-cent redemption. His legislation would expand the Bottle Bill to include sports drinks, energy drinks, fruit and vegetable beverages, and ready-to-drink teas and coffee. The bill exempts bottles containing dairy milk, milk substitutes, infant formula, syrups and flavorings, medical prescriptions, and dietary supplements. The Division of Budget projects that this expansion would generate \$20 million a year in unclaimed deposits.

Opponents of the proposal argue that it would place an undue burden on municipal recyclers by removing as much as 50 percent of valuable plastic and aluminum containers from the recycling stream. Material recovery facilities (MRFs) are now equipped to separate these materials and rely on them for revenue. Removing valuable commodities from the curbside mix could jeopardize the residential recycling model and challenge the viability of municipal recycling programs.



Moreover, the Governor’s proposed Bottle Bill expansion did not include alcoholic beverage containers that are not currently covered by the Bottle Bill, namely wine, spirits, and hard cider bottles. Expanding the Bottle Bill to include these and other glass containers would provide immediate relief to municipal recycling programs. MRF glass has a negative value, high processing cost, and contaminates other materials that are collected in the curbside mix, decreasing the value of these commodities. Glass that is redeemed through the Bottle Bill system is cleaner and much more likely to be recycled into new bottles. It is estimated that extending the Bottle Bill to include wine and liquor bottles would divert over 150,000 tons of glass to the deposit system and offset the cost of glass recycling for local governments.

Assembly Bill 5028 (Englebright)/Senate Bill 2129 (Kaminsky)

Assemblymember Steve Englebright and Senator Todd Kaminsky sponsored a bill that would expand the Bottle Bill to include wine, liquor, distilled spirits, cider, and wine products and phase in the addition of noncarbonated soft drinks, noncarbonated fruit and vegetable juices, coffee and tea beverages, and carbonated fruit beverages. The bill would also:

- Modify the container take-back requirements to provide greater flexibility for small retail businesses that primarily sell food or beverages for consumption off premises;
- Increase the handling fee from 3.5-cents per container to 5-cents;
- Establish minimum post-consumer content requirement for glass, aluminum, PET, and plastic beverage containers;
- Extend, until April 1, 2021, the existing authority for Nassau, Suffolk, and New York City to enforce certain bottle bill provisions.

County Perspective

Counties are encouraged that the Legislature is revisiting the Bottle Bill, but urge a glass-only Bottle Bill expansion to ensure that municipal recycling programs do not lose valuable plastic and aluminum containers that sustain curbside recycling programs.

Conclusion

For the first time in decades, local governments are questioning the costs of recycling. This is a troubling trend. State policy should continue to create opportunities to enhance recycling, not further hinder it.

The Bottle Bill is the most effective recycling program in the state; however, it still must be maintained to keep up with changing trends, emerging technologies, and shifts in global and domestic markets. NYSAC will continue advocating for local government and municipal recycling programs to continue to protect the environment.

