

TO: New York Assembly Members

FROM: American Beverage Association and its New York Bottlers

DATE: May 6, 2024

SUBJECT: A.6353-A (Glick) [S.237-C (May)]: Proposed Amendments to the Bottle Deposit Law

The beverage industry is concerned by the extreme approach taken in hastily filed amendments to the state's bottle deposit law. These proposed changes would increase costs to New York consumers who are already dealing with higher prices for housing, food and gas, and local small businesses that are struggling to stay afloat. These costs will be passed on to working families and threaten to disrupt the entire beverage market in the state by encouraging fraud and setting up unrealistic manufacturer mandates without any industry input.

Our industry is actively advocating for a circular economy in New York and across the country. We support well-designed programs to improve the collection and quality of recyclable materials - with the goal of making the system more efficient, effective and convenient for consumers so that we can remake more of our bottles and cans into new ones. We have previously advanced proposals for extended producer responsibility (EPR) for packaging and printed paper and for critical reforms to the deposit system that would result in better performance at a lower cost for New York residents and businesses alike.

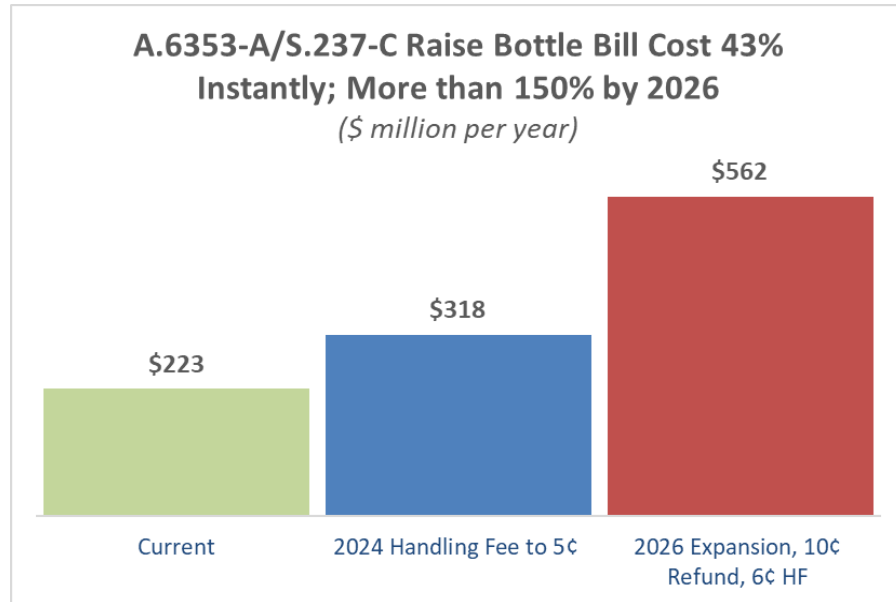
These new amendments to A.6353-A (Glick) / S.237-C (May) would not only raise costs on New Yorkers, but would compound already significant fraud problems, mandate impractical changes in how beverages are packaged and sold and expand state obligations without adequate funding or support. These initiatives would compound the problems with the current bottle bill, which needs reform before more requirements are piled onto it. We urge your opposition to this bill and support for more reasonable and proven approaches to advance a circular economy.

Costs Jump 43% Immediately; Rise 152% in 2026

The handling fee paid by distributors to redemption centers and retailers for each returned container is the most significant bottle deposit cost to distributors. While by no means the only costs our members face from the program, it is a good transparent lens for viewing the impact of changes proposed in this bill. It is also where the most significant reforms are possible with the right incentives to drive both efficiency and better consumer experience. But increasing handling fees alone will not drive system improvements and it does nothing to improve the consumer experience in a deposit system.

- We face an immediate 43% increase in our cost to comply with the bottle bill from an increase in the handling fee from 3.5¢ per container to 5¢ (see chart below).
- In two years, our costs would be 152% more than today as:
 - The handling fee goes up again to 6¢ - the highest in the US and one of the

- highest in the world. It does not and should not cost this much to handle returns – these fees are excessive and would increase again to 6.5¢ in 2031.
- 20% more beverage containers would be subject to deposits including teas, fruit beverages, and sports drinks. Wine and spirits are added in 2029.
 - The deposit jumps to 10¢ doubling the outlay for consumers at checkout and doubling the incentive for fraud.



Doubling the Deposit and Fraud

A 10¢ deposit would significantly impact consumers, adding \$2.40 to a typical 24-pack of beverages, and it will have unintended consequences across state borders that further burden consumers and New York retailers and beverage distributors.

Fraud is already a big problem at our borders, costing local businesses and consumers tens of millions of dollars a year. These amendments double the incentive for opportunists to bring in out of state containers for “refunds” of deposits they never paid. Consumers end up paying for the refunds and handling fees paid out on these fraudulent returns. For example, we already see mass redemption fraud on the NY / PA border with redemption rates over 100%, and this fraud would only be exacerbated moving forward.

The less well understood impact of the higher deposit is on beverage sales. New York distributors who lawfully charge the deposit would be at a \$2.40 wholesale price disadvantage to bootleggers who bring nondeposit containers into New York for sale and can sell them at a discount. This is already a significant issue in the Tri-State area for which the state does not have adequate enforcement resources and would only get worse with a 10¢ deposit.

Unrealistic and Disruptive Mandates

The amendments would require every distributor in state to sell ¼ of its products in refillable bottles by 2030 without considering whether consumers want this option or whether there is infrastructure available to support this type of package. American consumers turned away from refillable bottles in the 1970s, even when they were cheaper than other containers. Returning heavy bottles is too time consuming, dangerous, and extremely difficult for those without cars, making this completely impractical in New York City. The space and sanitation considerations

alone are overwhelming. The cost and inequities of these requirements cannot be justified by the questionable environmental promises behind them.

The bill also establishes a new definition for recycling and sets standards that could very well make it impossible to sell glass or plastic beverage containers in New York.

Conclusion

New York's bottle bill needs reforms before we contemplate expansion or increasing its costs to New Yorkers. To fix it, we need to work together on improvements that will make it more effective, financially sustainable and convenient. Throwing open the borders to fraud, more than doubling costs to consumers, ignoring the need to modernize the deposit system with modernization and imposing impractical mandates is not the right approach. We urge your opposition to this bill.