

NEVADA LEGISLATIVE COUNSEL BUREAU  
OFFICE OF RESEARCH BACKGROUND PAPER

1977 No. 9

BEVERAGE CONTAINER LEGISLATION

Beverage container legislation, popularly known as "bottle bill legislation," is a product of a growing concern about the quality of the environment, particularly the appearance of the landscape. The aim of beverage container legislation is to reduce litter created by bottles and cans thrown by the wayside. An ancillary goal is to decrease the impact of nonbiodegradable substances on solid waste. Beverage container legislation attempts to give consumers the economic incentive to return bottles and cans by placing a mandatory deposit on them. To date, five states have adopted beverage container laws of varying degrees of stringency. The United States Congress has introduced numerous bills on the subject which, so far, have not passed.

In Nevada, "bottle bills" were introduced in the 1971, 1973 and 1975 legislatures without success. The litter problem in the state is more than an aesthetic one. The department of highways indicates that it spent over \$500,000 in 1976 for its litter program, which even so was not a high priority. How much beverage containers contributed to overall litter in Nevada in 1976 is unknown. The latest data on composition of roadside litter comes from a 1969 study by the Highway Research Board of the National Academy of Sciences. This national survey of roadside litter estimates that beer and soft drink cans comprise 47 percent of Nevada's roadside litter by piece count. Beer and soft drink bottles constituted approximately 7 percent of roadside litter in Nevada. According to the 1969 study, beer cans are the items most frequently discarded along Nevada's highways.

I. The Laws

Oregon, Vermont, Maine, Michigan and South Dakota have beverage container legislation designed to encourage the use of

returnable bottles and cans and to discourage nonreturnable beverage containers. The Maine and Michigan laws were approved by the voters of these states in 1976 and will not become effective until 1978. South Dakota's law as well does not become effective until 1978. Oregon's beverage container law was enacted in 1971 and has been in operation for several years. Vermont's current law on the subject was adopted in 1975, although an earlier version was tried in the 1950's.

#### Oregon

Oregon's "Minimum Deposit Act" generally serves as the model for other states who are considering this type of measure. The main features of the Oregon law are as follows:

1. The law applies to beer, malt beverages and carbonated drinks sold in glass, metal or plastic containers.
2. A deposit of 5 cents is required on all aforementioned beverage containers in Oregon, except that a 2-cent deposit is required on containers which may be reused by more than one manufacturer.
3. The refund value of beverage containers must be affixed to the container, except on returnable glass bottles with brand names.
4. Retailers of beverages or redemption centers serving them must accept empty beverage containers of the type which they sell and refund the required deposit.
5. When a retailer is served by an approved redemption center, he is not required to accept empty beverage containers or refund deposits.
6. Distributors of beverages covered by the law must accept containers and refund deposits to retailers on beverage containers of the kind they distribute.
7. The law prohibits the sale of beverage containers with pull tab openings.

8. The Oregon Liquor Control Commissioner is the administrator of the law.
9. The penalty for violating the minimum deposit law is a \$1,000 fine or imprisonment up to 1 year. Each day a violation continues constitutes a separate offense. Violations may also result in the suspension or revocation of the violator's license.

#### Vermont

In most respects, the Vermont beverage container law is very similar to Oregon's. Vermont's law offers several features which are not found in the Oregon statute. For example, the law prohibits the sale of beverages in glass containers which are connected by plastic rings.

The Vermont statute provides for a 20 percent handling fee for the retailer to be paid by the distributor or manufacturer of regulated beverages. A litter levy of 4 mills per container of wine and alcohol is established. This tax is paid by every manufacturer or distributor to the commissioner of taxes. Another added feature of the Vermont law is the creation of a statewide information program. The act is administered by the secretary of environmental conservation and the commissioner of taxes.

#### Maine

Maine's beverage container law follows the approach of Oregon and Vermont by mandating a deposit on beer, malt beverages and nonalcoholic carbonated beverages. Maine's statute, however, applies only to containers of 1 gallon or less. In Maine, the retailer or redemption center is entitled to a handling cost of at least 1 cent per returned container, to be paid by the distributor. If a retailer of regulated beverages imports these products from out of state, he must comply with the act as though he were a distributor. Maine's law prohibits the sale of containers connected by plastic rings or other nonbiodegradable substances.

The \$100 penalty for violating the Maine law is considerably less than for similar violations of the Oregon and Vermont statutes. The act is administered by the commissioner of agriculture.

### Michigan

By 1978, beer and carbonated soft drink beverage containers in Michigan must have a refund value of 10 cents or 5 cents, the lower refund being paid for those containers that can be used by more than one manufacturer. Retailers who sell beverages for consumption on the premises and do not place a deposit on returnable containers are not required to pay a refund for empty containers.

In Michigan, retailers must provide a means for accepting beverage containers and refunding deposits within 100 yards of the premises. Regional redemption centers may be established in addition, but may not be substituted for the requirement placed on the retailer. In this respect, the Michigan law departs from the Oregon, Vermont and Maine beverage container laws which permit a retailer to refuse to accept returned containers if he is served by a local redemption center.

### South Dakota

South Dakota's new beverage container law is the least stringent of all the beverage container laws. The law is an excellent example of the use of sleight of hand terminology. After July 1, 1978, no beverage container shall be sold in South Dakota unless it is reusable, recyclable or biodegradable. The word "recyclable" includes glass, steel and aluminum, thereby establishing the legality of nonreturnable glass bottles and cans. The law was amended to insert the word "recyclable" after its first enactment.

## II. The Impact

Beverage container laws have been in effect in Oregon and Vermont long enough for various studies and analyses to emerge concerning the impact of the legislation both on litter and on the economics of the affected industry. The reports are confusing. Environmentalists and members of the beverage industry each cite "the experts" in support of their respective views. Depending on the source, litter declined tremendously after the enactment of the minimum deposit law or it declined only marginally; sales and profits

actually increased or dropped; employment increased because of the added need for handling and washing bottles, or it decreased because of the declining can industry. Consumer prices are said to have decreased because of the less expensive returnable bottle containers or increased because of added costs to beverage producers from switching the bulk of business from one type container to another.

Keeping in mind the contradictory nature of the various impact reports, it appears that both Oregon and Vermont have seen a reduction in beverage container litter pursuant to the enactment of regulatory laws. In Oregon, one study shows that in the 11 months after the effective date of the beverage container law, beverage related litter on highways declined by 66 percent on a piece count basis at the same time that other types of litter increased by 12 percent. Total highway litter, however, declined by approximately 11 percent. Oregon experienced a 95 percent return rate for soft drink containers and an 85 percent return for beer containers. Based on surveys conducted by the Vermont state highway department, beverage litter on highways there decreased by 67 percent.

The economic impact of beverage container legislation is important to the consumer, to glass bottle manufacturers, soft drink manufacturers, soft drink distributors, can manufacturers, malt beverage brewers, malt beverage distributors and to retailers. While one Oregon study shows that the operating income of these industries actually increased after the enactment of the minimum deposit law, another study indicates that each segment experienced increasing costs and decreasing profits. This discrepancy may be partially explained by the example of the soft drink industry. On an ounce basis, soft drink sales were unchanged, but sales switched from more expensive cans or nonreturnable bottles to less expensive refillable bottles. The consumer pays less per case for beverages in these containers and the manufacturer takes in less total money than before. While the manufacturer's material cost may have declined, he faces certain costs which are fixed and not diminished by the switch.

In any event, not all industries were affected identically. The most dramatic switch in consumer demands after the law was from canned beverages to returnable bottles. The detrimental effect on employees in the can industry in Oregon was not offset by the gain in employees in the bottle industry. The switch from cans and disposable to refillable bottles was not without its drawbacks to the bottle industry. Although glass bottlers picked up a greater share of the business, returnable bottles may be used at least five or six times each, thus decreasing the total demand for bottles. In addition, washing and handling expenses must be added to the bottler's cost.

The impact on beer brewers differed for regional and national manufacturers. Because regional brewers were in a better position to purchase returned bottles, the law favored them. Retailers experienced increased costs because of additional handling and storage costs for returned bottles. The Oregon consumer experienced price increases for beer and soft drinks in bottles, although bottled drinks were still less expensive than canned beverages.

The earliest reports of the Vermont experience indicated that after the first year of the beverage container law, beer sales declined about 10 percent and other beverage sales declined to a lesser degree. Prices per case of soft drink and beer increased. Vermont experienced no significant employment changes as a result of the beverage container law. Vermont retailers have experienced a problem with storage of returned bottles since there are a great many small stores as opposed to supermarkets.

In addition to the confusion resulting from the various studies of the economic impact of beverage container legislation, there is the problem of isolating the effects of the law from other economic and legal factors such as inflation, increasing material and labor costs, increasing sugar prices and the practices of neighboring states.

## II. The Arguments

In addition to pro and con arguments about the merit of beverage container legislation based on its economic impact,

spokesmen for each side of the issue offer other persuasive commentaries. Persons opposed to legislation requiring a minimum deposit on beverage containers may point out the following:

1. Deposit laws will not change habits. Consumers are already willing to pay more for beverages in cans because of the convenience. People do not currently return bottles which have a refund value.
2. Tourist litter will not be affected by laws encouraging bottle return.
3. It is wrong to penalize everyone to control the habits of the few who litter.
4. It is unfair to single out one segment of society to solve the litter problem. What about unsightly paper container litter?
5. Beverage container legislation will take away choices from the consumer in selecting containers.

Proponents of beverage container legislation draw upon the following reasoning in support of the bills:

1. It has been proven that beverage container laws result in a reduction of litter.
2. In addition to decreasing the undesirable aesthetic appearance of highways, legislation encouraging the use of reusable containers helps decrease solid waste pollution.
3. The use of valuable materials in throw-away containers is a waste of natural resources.
4. Pollution reduction and energy savings will occur when there is a decline in can and bottle manufacturing.
5. Passage of beverage container legislation will sensitize citizens to problems posed by other kinds of litter.

#### IV. The Alternatives

Alternatives to beverage container legislation include more stringent enforcement of existing litter laws, strengthening litter laws, enacting a litter tax on products which become litter items, promoting public or private anti-litter campaigns, requiring separation of trash according to biodegradability prior to depositing it in landfills and sponsoring recycling programs.

In 1972, Washington enacted a "Model Litter Control Act" which is aimed at changing the habits and behavior of citizens. This law requires strict enforcement of anti-litter statutes, placement of litter receptacles at certain places and a strong citizen education program. Fines for littering are not necessarily heavy (not less than \$10), but the litterer may be required to pick up litter in the area of the violation.

The most striking feature of the Washington law is the provision for a litter assessment against manufacturers, wholesalers and retailers of products reasonably related to the litter problem. These products include food, tobacco, soft drinks, beer, wine, newspapers, glass, metal and plastic containers. The amount of the assessment equals \$150 per \$1 million worth of gross sales. Restaurants retailing food and beverages for consumption on the premises are exempt.

The Department of Ecology, which is charged with administering the act, has published data which indicates that the law has had a positive effect in reducing total litter in the state.

#### SUGGESTED READINGS

(Available in the Research Library)

Applied Decisions Systems, Study of the Effectiveness and Impact of the Oregon Minimum Deposit Law, presented to the Oregon Legislature Fiscal Officer and Department of Transportation, Division of Highways, 1974.

Beverage container statutes from Maine, Michigan, Oregon, South Dakota, Vermont and the United States Congress.



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