

# Comments of the Massachusetts Beverage Association<sup>1</sup> Regarding Regulatory Reform under Executive Order 562

The Massachusetts Beverage Association represents the refreshment beverage industry in Massachusetts – manufacturers and distributors of nonalcoholic, nondairy beverages from national brands to regional, family owned labels. Our industry employs more than 4,200 workers in the Commonwealth and pays more than \$400 million in wages annually.

## Summary

One issue that stands out for our industry in the realm of regulatory reform is the impact of the so-called “handling fee” in the container deposit law (MGL Ch.94 §323). Our members are obligated by law to pay this per-container fee to the redemption centers or retailers where deposit containers are redeemed. But what the law requires and what has happened due to regulatory intervention are quite different stories.

Just two years ago, in 2013, a regulatory decision by the Department of Environmental Protection resulted in yet another increase in the handling fee, this time raising beverage industry costs \$3.3 million per year. And this was not a one-time cost, but a “built-in” cost that we must now incur every year on top of the existing fees mandated in the law. Furthermore, this increased cost provides no demonstrable environmental benefit.

Regulatory actions to increase this fee over the years have added \$20 million in annual operating costs to the beverage industry (including the beer distributors) in the Commonwealth (Table 1).

This expensive feature of the forced deposit law brings into sharper focus the question of why we still have such a costly, outdated law on the books in the Commonwealth. We encourage the Administration to consider more progressive, pro-recycling legislation that would enhance our existing recycling infrastructure with industry funding and phase out the forced deposit law. This legislation would recognize today’s realities:

- The Commonwealth’s residents have widespread access to recycling (which did not even exist when the deposit law was passed in the early 1980s)
- Businesses and consumers face very high costs - \$105 million per year from the operation of the forced deposit law
- Nearly ¾ of Massachusetts voters and 307 of 351 towns rejected Question 2 that would have added more containers to the forced deposit system

---

<sup>1</sup> Steve Boksanski, Executive Director, Massachusetts Beverage Association, 443 School Street, Suite 710, Boston, MA 02108

## The Handling Fee

The handling fee is set in statute at 1¢ per container redeemed. This matches the handling fee paid to redemption sites in Iowa; no handling fee is paid in forced deposit programs in Michigan and Oregon and the fee in Connecticut averages 1.75¢.

Through regulatory action over the years, the Massachusetts handling fee has increased to 2.25¢ on containers returned to retail locations and 3.25¢ on containers returned to redemption centers that do not sell deposit beverages; the weighted average today is about 2.5¢ (*i.e.*, redemption centers redeem about one-quarter of the containers returned for refunds, retailers redeem about three-quarters).

The handling fee is not a cost-reimbursement because it is not set based on actual costs. The fee is simply a transfer payment: the result of a political decision to transfer on to distributors some of the costs of consumer redemption (the point at which containers are accepted from the public for refund). Part of the rationale for creating a handling fee in the original law was that distributors were able to earn income from both the value of the scrap material they sell and from retained unclaimed deposits; the handling fee provided a way to re-distribute that income to redemption locations. Of course distributors lost the unclaimed deposit revenues to the state 25 years ago, so the handling fee has become more of a burden as time passes and the regulations drive up the fee.

Table 1

### Handling Fee Liability Under the Forced Deposit Law

	Per Container Returned	Annual Cost (\$ millions)
Handling Fee in Statute	1¢	\$13 million
Increases Brought on by Regulatory Actions*	1.25¢ to 2.25¢	\$20 million
Total Handling Fee Paid	2.25¢ to 3.25¢	\$33 million

\* Most recent increase of \$3.3 million occurred in July 2013 for a 1¢ increase for non-retail redemption locations only.

The total cost of the handling fee each year to distributors of deposit beverage containers in the Commonwealth is \$33 million or an average of 2.5¢ for every container returned (see Table 1). This represents an out-of-pocket cost for most distributors since they must also pay to collect and process the containers that are returned and the value of the material collected does not always offset those collection costs, let alone defray any of the handling fee.

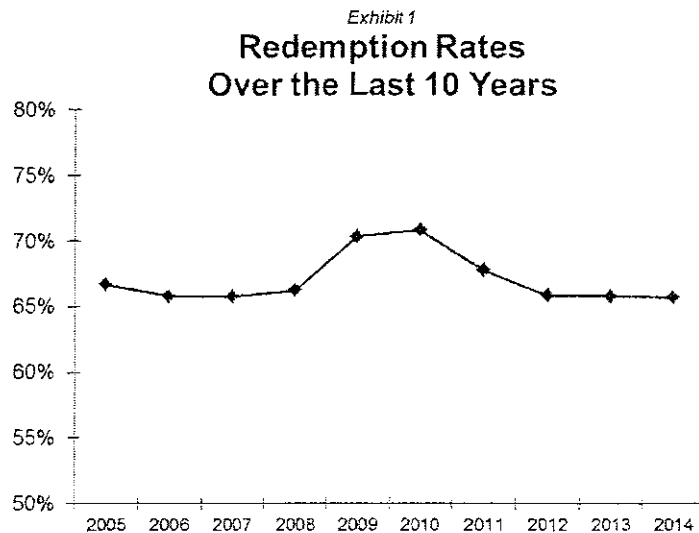
The most recent increase in the handling fee, in 2013, followed an extended campaign by redemption centers to get a higher subsidy. But this is a zero-sum game – deeper subsidies for redemption centers simply mean a transfer of costs to distributors and, in the long run, higher wholesale and retail prices.

## Do We Need More Places to Redeem Containers?

In 2013, no one made the case that providing more revenue to redemption centers would improve the environment or would make the forced deposit system work better; it was just a transfer of money from distributors to the operators of about 75 redemption centers around the state.

Massachusetts has thousands of retail locations where empty deposit containers can be redeemed. If we look back to the 1999 DSM Environmental study for DEP, 25 percent of redemptions came through “sole” or independent redemption centers – those that do not engage in sales of products along with redemption.<sup>2</sup> That share is similar today.

One of the rationales presented for the recent increase in the handling fee was concern over the closure of redemption centers over time. Yet, these centers still maintain the same share of returns and despite closures the redemption rate has changed little during the last ten years, excepting the “recession bump” beginning in 2009. If the decline in the number of redemption centers truly affects redemptions, the data (Exhibit 1) do not show it.



In fact what has occurred with redemption centers is the same thing that happens in all businesses: those that are able to operate more efficiently remain in business and those that cannot, go out of business. Redemption center operators have instead argued that they are entitled to ever-higher subsidies to keep operating. And while the high-cost operators demand ever-higher subsidies, those that operate at lower costs per unit earn a windfall every time the fee goes higher. While the closure of high cost operators does not appear to have harmed the redemption rate, one could ask an even broader question: Do we need redemption centers at all?

## Are Redemption Centers Essential?

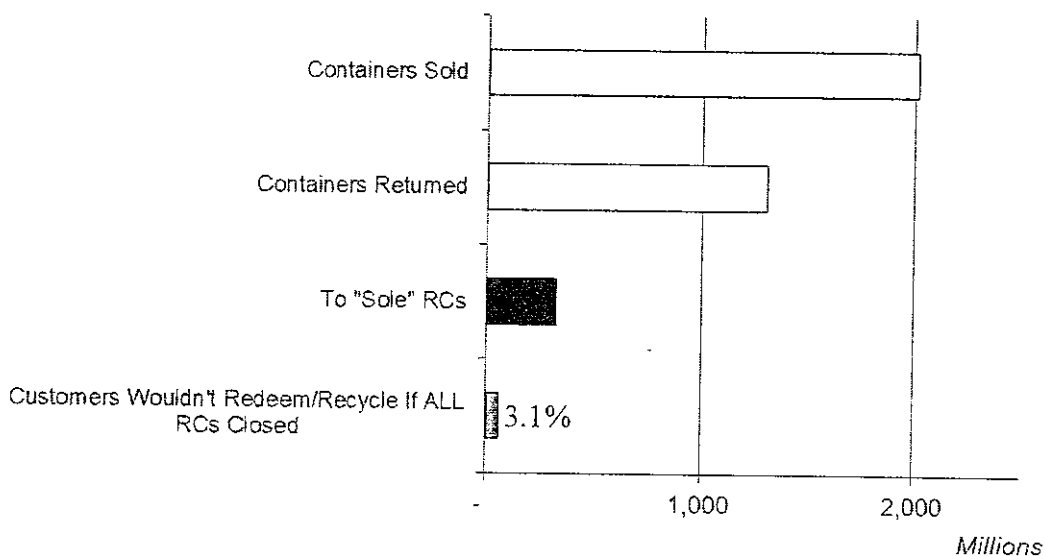
The forced deposit system would not collapse even if all redemption centers closed tomorrow. Research conducted by DEP showed that 90 percent of redemption center customers would still redeem or recycle their containers if their redemption center closed and 81 percent would still redeem or recycle containers if *all* redemption centers closed. This suggests that the importance of redemption centers to the viability of the forced deposit law has been somewhat overstated. Again, it is important to remember that a number of states with few or no redemption centers

<sup>2</sup> “Commonwealth of Massachusetts Bottle Bill Redemption Fee Study,” DSM Environmental Services for the Department of Environmental Protection, July 1999, Table 1. Note that even these independent centers may engage in incidental retail business – snacks, beverages, *etc.* Based on 2014 survey data from distributors compiled by Northbridge Environmental, the share of returns to redemption centers remains at 25 percent.

(Oregon, Iowa, and Connecticut) also have 5¢ deposits and have redemption rates similar to or higher than Massachusetts.

Given the survey findings and the share of containers redeemed through independent redemption centers, the risk of a significant number of containers no longer being redeemed or recycled is very small. Exhibit 2 illustrates that even if every sole redemption center were to close (an unlikely prospect) only about three percent of containers would be at risk.

*Exhibit 2*  
**Few Returns "At Risk"**  
**Even If ALL RCs Closed**



It is also worth noting that the 25 percent of returns that do go through redemption centers disproportionately come from scavengers and others that redeem containers collected from others, not containers that they purchased themselves. The 1999 DEP study found that 1/3 of redemption center customers that responded to questions were redeeming containers other than those they bought themselves. We can assume that many more of those that did not respond to the question were also doing this. Among those using reverse vending machines at stores, only three percent said they were redeeming containers other than their own.

**Why Keep Forced Deposits?**

More than 90 percent of the Commonwealth’s residents have access to recycling, the best recycling programs in the state are recycling nondeposit containers at rates equal to or higher than the deposit law, and our recycling programs are struggling for more revenue – revenue that could be provided from the aluminum cans and plastic soda bottles that today have forced deposits. So why do we keep the deposit law?

The \$33 million in handling fees paid every year is but a fraction of the cost imposed by the forced deposit system. Other cost items include:

- Retailers' costs over and above the level of the handling fee
- Distributors' costs for collection and processing not covered by the sale of scrap
- Consumers' unclaimed deposits, currently \$35 million per year, many of which are forfeited because consumers recycle the containers at home instead of taking them to a redemption site

In aggregate the net cost of the system is \$105 million. While that money is lost every year, municipal recyclers are also missing out on close to \$20 million per year in revenue from the sale of recyclables that have deposits today.

Our industry supports legislation (H.646) that would transition away from the deposit law and provide \$130 million in funding, mostly from our industry, to make the needed investments to upgrade and expand recycling programs in Commonwealth. Not only would better recycling infrastructure be able to accommodate all the containers formerly subject to deposits, but it would capture more of many other materials leading to real recycling growth.

Bringing communities statewide to the level of high-performing communities like Worcester would result in hundreds of thousands of tons of additional recycling, increase jobs, avoid disposal costs, and preserve in-state landfill space which is growing scarce.

Massachusetts would not be the first state to follow this path. Delaware replaced its deposit system with a universal recycling law in 2010 and has seen strong growth in recycling ever since. The Democratic Governor views the law as one of his greatest accomplishments.

The resounding defeat of Question 2 last November shows voters want more and better recycling, but they want it simple and efficient; forced deposits offer neither of those attributes. While the regulatory process has driven up the cost of the forced deposit program over time, the broader perspective is that the time of forced deposits has passed and the Commonwealth needs to move on to more progressive recycling policies.