

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on February 1, 2008 in Room 423-S of the Capitol.

All members were present except:

Janis Lee- excused
Mark Taddiken- excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Emalene Correll, Kansas Legislative Research Department
Jason Thompson, Revisor of Statutes
Matt Todd, Revisor of Statutes
Adrienne Halpin, Committee Assistant

Conferees appearing before the committee:

Tom Thompson, Sierra Club, Kansas Chapter
Ron Klataske, Audubon Society of Kansas
Carey Maynard-Moody, Lawrence
Kevin Dietly, North Bridge Environmental
Mike Beal, Balls Foods

Others attending:

See attached list.

The meeting commenced with Raney Gilliland's overview of **SB 258** which deals with the redemption of certain beverage containers. Mr. Gilliland stated that eleven other states have such a program in place where, with every purchase of a designated beverage container, the consumer pays a deposit to a retailer which can then be redeemed with the return of the empty beverage container to a designated redemption center. **SB 258** would require (1.) that redemption centers be established and designated, (2.) that every beverage container have a label denoting the refund value of the container, and (3.) that certain beverage containers be of uniform size.

Tom Thompson, Kansas Chapter of the Sierra Club, stood before the Committee testifying as a proponent. (Attachment 1.) Mr. Thompson's statements supporting the bill included the following points: (1.) that many states have bottle deposit laws, (2.) that the recycling of glass is problematic in many areas, and (3.) that a refund provides incentive to reduce litter. Mr. Thompson stated the Sierra Club would propose certain amendments to the bill including: (1.) the addition of the word "prohibit" to line seven of page three, (2.) a requirement to place the redemption value on bottle and not the bottlecap, and (3.) the removal of the requirement for certain containers to be of the same size. Mr. Thompson stood for questions.

Ron Klataske, Executive Director of the Audubon Society of Kansas, spoke in favor of the bill. (Attachment 2.) Mr. Klataske stated that redemption programs have formally existed in Kansas; the recommencing of such a program would, he said, resolve many litter problems. Mr. Klataske cited Michigan's rural highways as an example of the effectiveness of a similar program. Mr. Klataske added, however, that in its present form, the bill would place an inappropriately large burden on small retailers and that this problem should be examined. Mr. Klataske stood for questions.

Next, Carey Maynard-Moody of Lawrence, Kansas spoke in favor of the bill. (Attachment 3.) Ms. Maynard-Moody stated that beverage companies and distributors would save from reduced trash handling and fewer landfills and that recycling bottles would be cheaper than manufacturing new ones. Kansas distributors would not lose money from individuals crossing state lines to redeem bottles, she stated, because most people would not take the time to do so. Furthermore, the program would provide a means of fund-raising for small organizations who could hold bottle drives. Ms. Maynard-Moody added that, by reducing litter, there would be a reduction in the number of children, livestock, and farm equipment hurt or damaged by broken bottles. Ms. Maynard-Moody stood for questions.

Next, Kevin Dietly of North Bridge Environmental, Boston, Massachusetts spoke against the bill.

SENATE NATURAL RESOURCES COMMITTEE

2008 Session

Guest Roster-Please Sign and Pass On

Feb 1, 2008
(Date)

J. Desch	DMCA of KS
SEAN MILLER	CAPITOL STRATEGIES
Phil Mulhe	ABC
JOHN LUNNINGHAM	KS FOOD DEALERS ASSN
Mike Beal	Balls Food Stores
Carrey Maynard-Moody	Lawrence, KS
Tom Thompson	sierra club
Veronica Haskinson	Sen. Huelkamp's intern
Tom Burgess	MAMA
Pete Lowell	Pepsi-Cola of Topeka
CU Catsoradi	KDA
Brend Koops	KDWP
MIKE BERRY	Coca-Cola of TOPEKA
Phil Bradley	KLBA
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Jack Stoffer	Hy-Vee
Julie Hein	KS Beverage Assoc.
John BARNES	Pepsi Americas - Kansas Bev Assoc.
J. P. SMALL	Wal-Mart
Kayn Harrington	Coca-Cola
BOB ANDERSON	CASEY'S BEVERAGE STORES
Neal Whitaker	KS Beer Wholesalers
Karen R	KS Beer Wholesalers
Spencer Duncan	Capital Connection LLC
TUCK DUNCAN	KS wine & spirits. Wholesalers
Susan Kang	KDHE

ASSN

Please use black ink only!!

**Testimony for the Senate Natural Resources Committee
February 1, 2008
Supporting S. B. 258**

Chairperson McGinn and Honorable Members of the Committee:

My name is Tom Thompson and I represent the Kansas Chapter of the Sierra Club. I am here to support S.B. 258.

Currently, 11 states have bottle deposit laws the closest of which is Iowa. 8 other states have active bottle bill campaigns.

Bottle deposits are part of the saying reduce, reuse, recycle. Probably the best of these is reducing the waste stream. Reusing is part of this and is encouraged by bottle deposits. Re-cycling, especially glass, is problematic in some areas. Johnson County, where I live, does not include glass in many of the curb-side recycling programs.

Bottle deposits help to decrease the amount of litter found in our parks and on our roadsides. If you have ever done stream-way, roadside or trail clean up, you know that bottles and cans can be found in large quantities almost everywhere they shouldn't be. I have even been in wilderness areas where such litter has been left or washed downstream.

Bottle deposit programs have even created jobs where businesses have been developed as deposit centers.

Deposits act as incentive for people and bottlers to work to get beverage containers out of the litter stream.

The Sierra Club supports S.B. 258 however it recommends some changes to it.

Pg. 3, line 7: "...to require OR PROHIBIT.."adding the words "or prohibit" makes clear that the "bottle goat" machines, used in some parts of the country for accepting empties and dispensing the refund, are acceptable.

Pg. 3, line 38: "...except the CAP OR bottom..."prevents the retailer or

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Attachment 1*

distributor from putting the redemption notice on the cap, where it would get lost.

We also have concerns about Section 4 (d) on page 4, lines 8 through 14. This would seem impractical and should be dealt with by having bottles return-ability clearly marked.

The Sierra Club is also concerned with Section 5 which starts on page 4 and seems to say that there be uniform shapes and sizes for all beverage companies.

Furthermore, some containers will probably not be returned. We suggest that at least some of the money accrued as the result of containers not returned be used for grants to help parks with clean-up projects or some other worthwhile project related to the problem of litter.

Thank you for this opportunity and your time. We hope you will support S.B. 258 with suggested changes being made.

Sincerely
Tom Thompson
Sierra Club



Audubon of Kansas

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February 1, 2008

Statement in Support of Senate Bill No. 258 Senate Natural Resources Committee

Submitted by Ron Klataske
Executive Director, Audubon of Kansas
Manhattan, Kansas

On behalf of approximately 5,000 Audubon members in Kansas I want to take this opportunity to endorse the concept and overarching intent contained in Senate Bill No. 258. After learning of this hearing on Wednesday I polled our Board of Trustees to determine if our organization should testify and endorse the bill. The response was a resounding "yes."

I suspect that most Kansas residents support the intent of the bill, the idea of providing consumers and the public with a sufficiently meaningful financial incentive to keep beer, soda and other beverage containers from littering our country roadsides and urban landscapes. If consumers of a twelve-pack can simply redeem the containers for 60 cents or more many of them will or others among us young or older may make the effort to do it for them. I remember doing that as a kid during the Barnes carnival when refillable beer bottles were worth 2 cents!

Unfortunately that no longer occurs in Kansas. However, I can share photographs of as many as fifty beverage containers (mostly beer) lodged in piles like miniature log jams in a ditch along the designated scenic river drive (McDowell Creek Road) south of Manhattan. In the spring following range burning in Pottawatomie County along the designated "Prairie Parkway" (Carnahan Creek Road) it appears in places that a person could walk hundreds of yards on glass, plastic and metal beverage containers without actually stepping directly on the soil.

The ideal solution would be for all corporate beverage manufacturers to employ their own ingenuity and voluntarily pay for the return of all of their containers. That would demonstrate their dedication to keeping America and Kansas beautiful. Unfortunately, there are no indications that any of them are going to do that, and that makes it more compelling that the Kansas Legislature provide the leadership necessary to begin to solve the problems created by their neglect.

In October when I visited my daughter-in-law and son, who is now a graduate student at the University of Michigan, I was impressed by the relative absence of litter along that state's rural highways. With a 10-cent deposit requirement, redemption rates for beer and soft drink cans are reportedly nearly 95 percent in Michigan. Unlike taxes, deposits are 100 percent refundable!

CITIZENS COMMITTED TO CONSERVATION

Audubon of Kansas is a nonprofit membership organization devoted to wildlife and prairie conservation in Kansas and America's heartland. Audubon chapters in Kansas include: Burroughs A.S. - Kansas City; Jayhawk A. S. - Lawrence; Kanza A. S. - Emporia; Leavenworth A. S.; Northern Flint Hills A. S. - Manhattan; Smoky Hills A. S. - Salina; Sperry-Galligarr A. S. - Pittsburg; Southeast Kansas A. S. - Parsons; Topeka A. S.; and Wichita A. S.

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According to the Container Recycling Institute, beverage containers comprise 40 to 60 percent of litter. Deposit laws significantly reduce container litter AND other types of litter, as well.

Although Senate Bill No. 258 would establish a system that could effectively implement a deposit and redemption system similar to that in eleven other states, I am inclined to believe that it would be much more acceptable to remove the requirement that all retailers accept empty beverage containers. I think that is too great a burden to place on many small retailers that may only have one or a few employees working at any time, have limited space, and/or have a business that is not appropriate for return of containers that may not be sufficiently clean. I think the requirement needlessly undermines the promise and prospects for the type of legislation that can be tailored for Kansas.

I think it would be better to utilize the funds that are not redeemed to subsidize entities that want to fulfill this role in their communities. For example, if a retailer, recycling business or other entity wants to establish a redemption center, maybe they should receive an appropriate amount (possibly 2 cents per returned container) for handling the business. If 60 percent of the containers are returned and the initial deposit was 5 cents, the 2-cent revenue surplus could be used for this purpose.

We all recognize that we have a problem with excessive litter, inadequate recovery of resources and wasted resources going into landfills. With the leadership of this committee, I believe there are ways that you can bring various interests together to resolve most of the potential problems, and successfully craft a system that works uniquely well for Kansas.

Thank you for considering the possibilities.

P.S. I am attaching one of the responses received from a chapter leader last night after I completed this statement:

Ron,

Sorry for the late response on this. I lived in Michigan when the bottle bill went into effect there over 30 years ago. The change was fairly dramatic. It wasn't that long and the amount of bottle and can litter was greatly reduced. At 10 cents a can, the incentive was great to pick up after those who still didn't care. As a poor college student I combed the highway a few times in order to turn aluminum into gold. Yeah, it was a hassle to save the cans and turn them in, and there were people that complained, but the general public adapted fairly quickly and it is now part of the daily routine. I moved to Kansas in 1984 and when my wife moved down 6 months later she couldn't believe all the cans I had stashed in my cupboards. I just couldn't bring myself to discard those valuable cans. She threw them out. Anyway, they've tweaked the Michigan law a few times, but it still seems to be working well after all these years.

Have you seen this site? <http://www.bottlebill.org/index.htm>

Kevin Groeneweg
Wichita

Testimony for Senate Bill # 258 The Bottle Bill

February 1, 2008

My name is Carey Maynard-Moody, and I live in Lawrence, Kansas. I thank you for this opportunity to speak about Senate Bill # 258.

This half gallon milk bottle is heavy, but I tote it back to Dillons every time I need milk. I do this because when I bought the milk in this bottle, I put a \$2.00 deposit on the bottle. That deposit gives this bottle *great value*. I also tote it back to Dillons because not only do I like the milk, but also because I want to support the Iwig Dairy in Tecumseh, KS. Every time I tote this bottle back to Dillons, surrender it for refilling, and buy more Iwig milk I support the environment and the local economy.

But right now, it's the only opportunity I can find to purchase *any* beverage in a refillable container with a deposit.

There's a lot to like about bottle bills. They are both economically and environmentally-friendly. Kansas needs help in both areas.

Not only do I encourage you to support this bill, but I would like to see it strengthened by increasing the suggested deposit to one that gives the bottle enough value to make it worth the consumer's time to redeem or recycle the container. Because a nickel has so little purchase power today, a bottle with a five cent refund will often be tossed, and Kansas' land fill and litter problems won't be addressed. An effective bottle bill must have enough tooth to effectively reduce waste.

Iowa has increased its bottle deposit to ten cents. Eight cents is refunded to the consumer who returns the container. One cent goes to the redemption center and one cent goes to Iowa's Resource Enhancement and Protection Program. This increase in deposit actually bumped up recycling in Iowa without reducing sales.

Regarding impact of a bottle bill on recycling:

A report by Businesses and Environmentalists Allied for Recycling (BEAR) concluded that overall recycling rates in states with bottle bills are more than two and a half times higher than in states without bottle bills. Also, because of the economic incentive to return deposit containers, *bottle bills are far more effective than curbside programs in controlling litter*. Remember, curbside programs do not target beverage containers consumed away from home. Container deposits do. In cities *where curbside collection of plastic and glass is not available*, a refundable containers bill provides the only mechanism for recycling these materials. Combining the systems of curbside recycling and container deposits gives consumers two opportunities to recycle.

Regarding inconvenience of redemption:

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Many beverage suppliers in bottle redemption states enhance redemption with the placement of Reverse Vending Machines (RVM) where bottled beverages are sold. These RVMs accept the refundable bottle, read the bar code for recording, and dispense the refund from the machine. They also take up less space than in-store, conventional redemption centers. These RVMs also guard against exposing bottles to pests attracted to empty, but not sterile containers. Suppliers and distributors have benefited as well as the programs the container deposits support.

Regarding concerns about lost revenue from cross border shopping:

It's almost not worth mentioning, it's such a silly argument. However, in Iowa, which is surrounded by six non-deposit states, customers simply do NOT bother driving across state lines in order to avoid paying a refundable deposit. The grocery people have had 35 years to prove otherwise, and they can't.

A few other statistics from Federal Energy Administration :

- Beverages in returnable bottles are 30% cheaper than beverages in throwaways.
- The returnable bottle system increases employment
- The equivalent of 81,000 barrels of oil per day would be saved by returning to an all returnable beverage container system

There's a lot to benefit your constituents' lives by the passage of a smart Bottle Bill.


Thank you for your careful consideration of a SB 258 and for caring about the environment and the economy of Kansas. They go together.

Carey Maynard-Moody

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Lawrence KS 66044

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**Testimony of Kevin Dietly,
Northbridge Environmental Management Consultants
In Opposition to Senate Bill 258**

I appreciate the opportunity to speak about the proposed beverage container deposit law before the committee today. My name is Kevin Dietly and I am a Principal at Northbridge Environmental Management Consultants in Westford, Massachusetts. I have worked on the implementation and analysis of deposit laws around the world for 20 years. As an economist, I have focused primarily on the economic aspects of deposits and other recycling systems. I am here at the request of a coalition of Kansas beverage companies and retailers.

While seeking to address important environmental issues of litter and recycling, this bill is a backward-looking proposal that seeks to address these problems using an outdated and counter-productive bottle bill. To begin I would like to highlight the five main points in my testimony:

Counter-Productive: A Setback for Current Recycling Programs

- Community and commercial recycling programs rely on aluminum cans and PET beverage bottles that they collect as a major source of revenue.
- These are the two most valuable commodities collected, but deposits would cover virtually all of these containers, so the revenue earned today by recyclers would be lost.
- Communities would need to raise taxes and fees to keep their recycling programs running.

A Costly Burden for Food Stores – And Their Customers

- Forcing consumers to haul empty beverage containers back to grocery stores (or special redemption centers) means more cost for everyone.
- Grocers need to retrofit redemption areas into their stores, purchase new equipment, and dedicate staff to handling empty bottles and cans – all the while keeping the store clean.
- Consumers ultimately bear the higher grocery costs and inconvenience of this new system – a system that duplicates the recycling infrastructure they already have at home.

Disappointing Environmental Benefits

- Beverage containers typically account for about 4% of all waste produced. Any incremental recycling resulting from the deposit-refund system would have little impact on landfills or the environment.
- Recycling through a deposit-refund system costs three to four times more than curbside programs.
- The litter benefits are not much better. Beverage containers of all types average 7.4 percent of litter, so a deposit program ignores 93 percent of the problem.

Unintended Consequences

- Fraud will undermine the deposit system, since Kansas is surrounded by non-deposit states. Buying beverages outside the state and redeeming them here offers a \$2.40 per case price advantage and leaves Kansans paying for its neighbors' trash.
- The price differential will also drive retail business and jobs into neighboring states.

Better Approaches

- More efficient systems that focus on all recyclables provide the least-cost way to keep materials out of landfills. These systems are also more environmentally efficient because they do not impose incremental impacts on the environment from more recycling.
- Enhancing existing recycling systems through outreach, use of incentives, and upgrades to best practices offer a more sustainable path to improving recycling in Kansas.

There is no doubt that more can be done to improve recycling and litter control in Kansas, but Senate Bill 258 is not the right solution to these problems.

Provisions of SB 258

The proposed law largely mimics the structure of the original nine container deposit laws adopted between 1971 and 1982. (In the last 22 years, only one state (Hawaii) has adopted a container deposit law.) Senate Bill 258 would mandate the collection of 5¢ deposits on every carbonated beverage container sold in Kansas as well as on the sale of beer, wine, and liquor containers.

The deposit would be charged to consumers at the time of sale; retailers that collect deposits from consumers would remit those deposits to the beverage distributor. When consumers return containers to either a redemption center or retailer, consumers would receive the refund value. The distributor, in turn, would be required to accept empty containers of the types they sell from these retail and redemption sites, to reimburse the operators for the refunds paid, and to pay the operators 2¢ in “handling fees” to help defray expenses.

Impacts of SB 258

Adopting a beverage container deposit law would mean that the state would create a new system for managing beverage bottles and cans – a system that is separate from and, in many cases, duplicates existing recycling infrastructure. The most obvious consequences of a separate recovery system for beverage containers are higher costs and incentives for fraudulent behavior – issues addressed in more detail below.

These systems also cause unintended consequences: SB 258 would harm Kansas’ existing recycling system, would have adverse impacts on the state’s greenhouse gas emissions, and would damage the state’s economy through lost retail sales and the associated tax revenues.

1. Counter-Productive: A Setback for Current Recycling Programs

Community recycling programs would lose revenue from the aluminum and PET that would become part of the redemption system. Aluminum is the single most valuable commodity in the waste stream and revenue from it and from PET help support recycling programs. Since the collection and handling facilities are already in place for all the other materials, the marginal cost for a community to collect aluminum and PET are very small, but the reward is significant.

In addition to draining the commodity value out of recycling programs, deposits also make the programs operate less efficiently. Curbside program operators must still service the same households, drive down the same streets, and make the same number of stops, regardless of whether or not beverage containers are being set out by residents. Reducing the number of beverage containers in a recycling cart does not translate into a savings on collection costs, so the program operates less efficiently and has less revenue. Ultimately this leads to higher costs to local taxpayers – the same individuals and families that also pay for the cost of the deposit system through higher beverage and retail prices.

Last year two major recycling companies announced their opposition to legislation to expand existing deposit programs in Connecticut and New York because of this issue. FCR Recycling (a subsidiary of Casella Waste Systems based in Vermont) determined that a planned expansion of Connecticut's bottle bill to include noncarbonated beverages would cost it \$900,000 per year in lost revenue in the state – some of which it shares with local communities and some of which offsets the cost of major investments made in Connecticut recycling infrastructure. FCR's analysis of the adverse impact on recycling caused the state's recycling authority to oppose the expansion proposal as well.

Similarly, New York City's recycling contractor announced in February that it could not meet the financial obligations of its long term recycling contract with the City if additional aluminum cans and PET bottles were included in the deposit system and removed from the curbside program. The firm estimated an annual revenue loss of \$3.1 million per year from the expanded bottle bill.

A recent evaluation of a national bottle bill indicated that the proposal would cost recyclers about \$1 billion per year in lost commodity value.

Keeping the existing recycling programs running without the commodity revenue will mean increasing local taxes and fees; without those increases, community recycling programs will have to be cut back.

2. Costly Burden for Food Stores and Their Customers

Deposit/refund systems are the most expensive way to recycle beverage containers or to control beverage container litter. Northbridge research and studies by others consistently show that actual deposit system costs far outweigh the cost of recovering containers through curbside or other conventional recycling programs.

Container deposit and redemption systems are inherently costly because they require special handling of a small portion of the waste stream. Rather than maximizing the quantities of material collected and minimizing the handling and transaction costs (which is how recycling is made economical), deposit and redemption systems require segregation of waste stream components, in some cases down to the brand of product contained in a bottle or can, before they can be recycled. This extra handling brings with it high costs and inefficiency.

Under the proposed law, containers that are returned for refunds must be separated by material type, container size, and brand. In small and medium sized stores and in redemption centers, the

containers would be redeemed individually by hand, with consumers handing them over a counter to an agent that counts them and manually sorts them for subsequent collection.

Automated redemption of containers (using reverse vending machines) reduces this sorting burden, but replaces much of the labor cost with capital and maintenance costs. These systems are affordable only where a large number of returns are handled (such as in supermarkets). Stores still need to renovate their facilities to accommodate the machines, lease the equipment pay for maintenance contracts, and supply labor to clean and empty the machines on a regular basis.

Despite the maturity of these redemption systems and strong incentives to cut costs, the systems remain very costly to operate. A recent state-funded study in Vermont documented costs at some redemption centers of more than 6¢ per container and average costs of 3.4¢. These estimates do not include the cost to collect the containers from the site. Redemption centers routinely claim that the fees they receive (ranging from 1¢ in Iowa to 3.5¢ in Vermont and Maine) are far from adequate to cover their actual costs.

Redemption is only the front-end of the system, however, since the sorted materials must then be collected, consolidated, processed, and marketed. In most cases this responsibility falls to the individual beverage distributor or an agent hired by the distributor. Each distributor sends trucks to each redemption location to retrieve the company's brands. To improve efficiency, multiple companies may hire agents to collect materials on their behalf, though the materials must still be segregated by brand. Once they are returned to a warehouse, the containers are typically counted and processed for sale as scrap. The collection and processing steps duplicate the capacity that already exists in local and commercial recycling systems in the state.

Studies of the operating costs of the entire redemption system, including both redemption and collection, show that these systems are very expensive. Studies from Vermont, Connecticut, Massachusetts, and New York show net costs (after considering the value from scrap material) of between \$400 and \$600 per ton of material.¹ This compares to net operating costs of curbside recycling that typically range from \$100 to \$150 per ton. For "traditional" deposit programs that include only beer and soft drink containers, the cost of recycling is three to four times higher per ton of material than for curbside programs. Where traditional deposit programs have expanded to include noncarbonated beverages as well, their costs soar even higher.

From a litter control perspective, deposits are much costlier than other forms of litter control—even paid collection programs. Research summarized in a recent journal article suggests that deposits cost three to four times as much as a paid pickup program and nearly 20 times as much as a comprehensive system that combines cleanup, prevention, and outreach efforts.²

Ultimately, these expenses are passed through to beverage consumers and to food store customers. Adding to the cost of producing and selling groceries will eventually lead to higher prices for all Kansas consumers.

¹ Research conducted by Northbridge Environmental for state retail and beverage associations in those jurisdictions. The cost data are derived from confidential surveys of both retailers and beverage distributors. In some states the studies have been repeated several times to track changes in cost and performance.

² "Sweating the Litter Things," *Resource Recycling*, May 2005

3. Disappointing Environmental Benefits

Focusing on such a narrow part of the litter and waste streams means that deposit programs have little impact on the environment, since both waste diversion and litter control affect a much broader base of materials.

Litter

Beverage containers of all kinds represent about 7.4 percent of littered items according to 17 litter surveys conducted around the US and Canada between 1989 and 2006 (see table).³ Some of the more significant components of litter are take-out food packaging (about 20 percent) and candy and snack wrappers (about 13 percent).

Type of Beverage	Share of Litter*
Carbonated beverage containers (CSDs and beer)	6.1%
Noncarbonated beverage containers (alcoholic and nonalcoholic)	1.3%
All Beverage Containers in Litter	7.4%

* Averages from 17 studies in the US and Canada between 1989 and 2006

Even if SB 258 were wildly successful at reducing beverage container litter in Kansas, the bill would ignore more than 93 percent of all litter. That means that despite the cost and effort devoted to redeeming containers, all the same litter control programs that exist today in the state would still exist. There would be no savings on litter control because so much of the problem would still be there. More broadly focused litter control programs of the types that are in place in Kansas are far more effective at reducing overall litter. These programs also control litter for a fraction of the cost of deposit/refund systems for beverage containers.

Deposit programs are not a prerequisite for a clean state. In fact, many nondeposit states have less litter than deposit states because they have programs that focus on the whole problem, not just a few percent of it.

Waste Diversion and Recycling

Recycling offers significant environmental and economic benefits. But how we recycle is as important as whether or not we recycle. Inefficient recycling programs consume too many resources to recycle too few materials; this is the case for SB 258.

Beverage containers of the types subject to this bill represent between four and five percent of solid waste.⁴ The most valuable materials in the waste stream are beverage containers – aluminum cans and PET and HDPE plastic bottles. These materials command the highest prices of any commodity in household waste. Therefore, these materials are already widely recycled. A deposit law would transfer those materials from the existing recycling system to a new beverage container redemption system. At best, however, the impact of an all-beverage deposit law on the state's recycling rate would be an increase of only one or two percentage points and at a high cost economically and environmentally.

³ "Sweating the Litter Things," *Resource Recycling*, May 2005, p.25 and more recent studies completed in Georgia and Tennessee.

⁴ Based on industry figures and aggregate data from "Municipal Solid Waste Generation, Recycling, and Disposal in the United States, Facts and Figures for 2006," US EPA, <http://www.epa.gov/epaoswer/non-hw/muncpl/msw99.htm>.

Impacts on Carbon Emissions

As we increasingly realize the impacts of greenhouse gas (GHG) emissions, we recognize recycling as an important tool to help reduce these emissions. Recycling through a deposit system, however, carries with it a heavier carbon footprint than existing recycling systems because of the additional emissions produced by the redemption system.

Beverage containers returned to special redemption centers as well as some returned to grocery stores represent special trips for consumers. That additional travel, even a few minutes out of the way, consumes additional fuel and produces incremental emissions.

A June 2007 study on the costs of the Vermont redemption system calculated the incremental impact of that state's deposit program on fuel consumption and GHG emissions (CO₂).⁵ Using research from Massachusetts consumers, the study estimated that Vermonters drove 7.6 million miles per year to redeem containers. This does not include the impact of additional truck traffic to travel to these redemption centers, collect the empty containers, and transport them to processing facilities. Where recycling takes place today in municipal and commercial programs, the vehicles are already making the trip to haul other commodities; in the case of a new redemption system, the trips would all be incremental to what is occurring today.

4. More Unintended Consequences

SB 258 creates a \$1.20 per case incentive for Kansans to shop for beverages in neighboring states. As if that weren't enough, the containers purchased in Missouri or Oklahoma could then be redeemed in Kansas stores for another \$1.20 per case.

Fraud

Fraud is a chronic problem in deposit states. It has been widely studied and prosecuted, but never prevented. Fraud would cost Kansas consumers real money because they would be paying the inflated cost of the redemption system to cover the expense of redeeming containers bought in other states. For those operating the deposit system, every container purchased out of state and redeemed here represents a liability of 5¢ for the refund, 2¢ for the handling fee, plus the operating costs of the redemption system.

SB 258 attempts to control this issue by restricting sales in neighboring states. This provision, which is likely unconstitutional, is in place in Vermont as well and it does little to prevent the occurrence of fraud.

Retail Impacts

The reverse side of the fraud coin is the chilling effect of deposits on retail business. Raising the price of most beverages in Kansas by \$1.20 per case would send customers across the border, especially if that price premium is enhanced by differential tax rates.

⁵ *The Costs of Beverage Container Redemption in Vermont*, for the Agency for Natural Resources by DSM Environmental, June 30, 2007.

Unfortunately, the impact of higher prices is not limited to beverage sales. Research conducted by the University of Kentucky found that food stores in border counties of deposit states lose an average of 4.6 percent of total sales to their non-deposit neighbors. That means a loss of jobs and tax revenues for Kansas.

5. Better Approaches

There is no question that more can be done to enhance litter control efforts and to promote recycling in Kansas and across the country. These issues are not new to the beverage industry, nor is the industry uninvolved in developing and implementing solutions.

Beverage companies invest significant resources to ensuring that their packaging is environmentally responsible – using as little material as necessary to package and transport its products saves significant natural resources and energy. Also, using highly recyclable and valuable commodities for its packaging ensure that these containers are worth recovering and represent an asset to recycling programs.

Beverage companies helped found the National Recycling Partnership with retailers, grocery product manufacturers, EPA, and the National Recycling Coalition. The Partnership has funded ground-breaking research into recycling behavior and is developing a national recycling awareness campaign to be sponsored by major brands and industries. The Partnership is also funding model cities to demonstrate best practices in recycling and to show the benefits of efficient recycling systems.

We are always seeking opportunities to broaden our partnerships and programs with governments and NGOs to improve litter control, increase recycling, and find sustainable ways to enhance the quality of our environment.

Conclusions

SB 258 is an out-dated answer to the issues of litter control and recycling. These issues need much broader and cost-effective solutions and our industries are involved with those better solutions. The duplicate recycling system envisioned in this bill would harm existing recycling programs, waste energy, cost businesses and consumers millions, and hurt the state's retail sector. I encourage you to reject the approach put forward in SB 258.

Senate Natural Resources
TESTIMONY RE: SB 258
Presented by Michael J. Beal
on behalf of
Balls Food Stores
February 1, 2008

Madam Chairman, Members of the Committee:

My name is Michael J. Beal, and I am the Chief Financial Officer and Vice President of Balls Food Stores, a third generation, family owned, retail grocery company headquartered in Kansas City, Kansas and operating 28 stores. Eighteen of our stores are located in the state of Kansas. We appreciate the opportunity to appear before the Committee. We are against the container deposit law for the reasons discussed below.

At Balls Food Stores, environmental concerns have been on our radar screen for many, many years and we are currently involved with a number of recycling programs as a regular part of our business. We currently recycle the cardboard from our stores that amounts to hundreds of thousands of pounds annually, and we recycle perishable by-products from our store such as meat and produce wastes.

We also offer a recycle solution for the plastic bags that so many of our customers prefer to use in their shopping trips to our stores or other retail stores. Because of environmental concerns, our company, along with many other companies in the grocery industry, now offer our shoppers reusable canvas bags for their shopping trips to our stores. We even offer our customers a 5 cent discount on each of the paper bags they bring to our stores for bagging their purchases.

Our company's environmental concerns go well beyond those customer efforts however. We currently are working with the engineering firm of Burns & McDonnell on a project that requires an investment in excess of a million dollars for equipment in just three stores to reduce our energy consumption in those three stores. Our goal is to validate the engineer's proposals so that we can apply this strategy to all of our stores to reduce our energy consumption in our entire company. We have also purchased 10 hybrid company cars in the last 18 months to reduce carbon emissions and fuel costs.

On a personal level, my family recycles everything that we can, including glass and plastic bottles and containers, aluminum and metal cans, newspapers, magazines, office paper and cardboard paper. With a family of four and many more high school and middle school friends at our house on a regular basis, you might guess what our garage would look like if we didn't make a trip to the recycling center at least once each week. These are the efforts my family personally undertakes because of our concerns for the environment.

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Balls Food Stores has a number of concerns about the proposed deposit legislation. I am old enough to remember the days when most soda beverages were sold in returnable bottles that had deposits on them. When consumers were offered the choice of buying aluminum containers without the deposits, they flocked to that option, so much so that returnable soda beverages are no longer offered for sale in any stores in town. Customer choices have dictated our business practices in the past and we know they will continue to control our business in the future.

In our stores, the returnable bottles meant a lot of extra work and expense for our stores. It required considerable space for the sorting and storage of the bottles, and they were always the source of health and sanitation concerns. We would use a lot of extra labor each week just to sort the containers and keep the storage areas somewhat clean. I would expect that this would be an even bigger problem with the proposed legislation, because in the past, at least you could see if there was any fluid left in the bottle, but you can't do that with cans. I can only image the smell if containers contain a little beer, wine, milk or soda left in them. Not everyone empties those containers all the way.

Then there is the issue of sorting the containers for the various vendors. I don't know if the proposed legislation specifies whether the vendors that sell us the product would be required to take back just their containers. In any event, someone has to count all of the containers going out the back door so that we can be paid back the money we give to our customers when they return containers to our stores. The proposed legislation will cost each of our stores tens of thousands of extra labor dollars each year and the legislation doesn't compensate us for the extra costs we will incur.

Since the days of returnable bottles, our new stores have all been designed differently from how our stores were designed back then. In the past, grocery stores had back rooms large enough to hold a fair amount of grocery inventory along with the returnable bottles. Today, the philosophy with most grocers is to make the back rooms as small as possible and put the inventory on the shelves out on the sales floor. The simple reason is that you can't make any money on the inventory sitting in the back room. Over half of our stores are built now with these smaller back rooms. Today, in the majority of our stores, we don't have enough space available to store glass and plastic bottles and cans until someone comes around to pick them up. The alternative would be to store the containers outside, but who wants to put something of that financial value outside a store where sanitation problems would be worse and thieves would find a gold mine available to them. It is well known that thieves are getting bolder and bolder, even stripping copper and aluminum from air conditioners condensers during the winter months to recycle for their own criminal motives.

Our business is all about selling good, quality food. The most important part of that job is food safety and sanitation, a responsibility that we take very seriously. It is a never-ending job and one our customers expect, but take for granted. The potential food safety and sanitation concerns posed by this legislation are huge, as I referenced above. With the concerns about food safety that have been so prevalent in the newspaper headlines over the past couple of years, we don't need another potential food safety concern thrust

against our operations. Returned cans and bottles will contain residue fluids that will be a great source for bacteria growth, rodent and insect food and foul odors. It's one thing to talk about the smell from stale soda flavors, but another thing to talk about the smell of plastic milk bottles, beer cans or wine bottles.

On many occasions, unintended consequences result from good intentions. We have seen that recently with the national ethanol legislation. Although the legislation has been good for our farmers and potentially will be good for our country's energy needs, the legislation has caused food prices to rise significantly as corn prices have risen and other row crop prices have risen because of the farm land that has now gone into corn production.

As a consumer in a family committed to recycling, I don't know how we could justify taking only the cardboard and newspapers to the recycling centers. The bulk of our recycling is plastic and glass containers, along with all the cans. To me, the proposed legislation would have the unintended consequence of reducing all the recycling that people currently are doing. It's much easier to recycle when you are going to the recycling centers to take a whole trunk load of recyclables.

On behalf of Balls Food Stores, thank you for the opportunity to present our concerns to the Committee. We respectfully request that this proposal not be voted out of Committee.

Testimony to the Senate Committee on Natural Resources
Kenny Messick
February 1, 2008

Senator McGinn, Chair, and Members of the Committee:

I am sorry I can not be there to testify for the bottle bill that I am promoting. As you know, I think this is one of the most important things we can do for Kansas. To make it short, it would only cost a small amount to keep Kansas beautiful and to keep our environment safe.

If all beverage companies that sell products in Kansas would charge a small fee for their products that are sold in plastic and glass bottles, cans and other containers these funds could be sent to Kansas recycling centers. The recycling centers could then buy these containers back from the persons bringing them in to be recycled.

This would create an incentive for people to save or retrieve these containers from our roadsides and streams. This can only be win-win situation for Kansas' beauty, environment, and valuable resources. I can only hope to believe that all Kansans can see the positive value of this bill.

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As a voting citizen of this state, I would like to express my support for a "bottle bill". Since I just learned of the current bill yesterday, I have not had the time to fully study the bill.

I am relatively new to recycling in Kansas (8 years) but I have always heard that there have been previous attempts to pass this type of legislation. I now understand how this might have happened. Don't contact citizen groups that might have input and then let others give all of the reasons why such legislation won't work. It doesn't matter that many citizens are for such efforts.

Four years ago, I was one of a determined group of citizens who felt that it was shameful that recycling was practically non-existent in Wichita. We were told that a group of volunteers couldn't do it and that the citizens wouldn't support it ("too lazy to recycle"). Four years later, dedicated citizens brought almost 2 million tons of materials to the center that is open less than 15 hours per week for drop-offs. As I worked down at the center, I have heard complaints from people who can't understand why Kansas is so far behind the rest of the world when it comes to the environment.

Although I was not reared in Kansas, I am a fourth-generation Kansan. All four sets of my great-grandparents are buried within 100 miles of Wichita. I was taught that it was up to citizens to work to make the State a good place to live. In school, my Civics class taught us that the government was of, by, and for the people. The Miller Recycling Center is a testimony to the fact that... if the government won't do what the public wants...the citizens can.

I would propose that some type of bottle bill be passed with the implementation details to be worked out rather than just dismissed as not possible. B.I.R.P. always makes it seem that implementation would be too costly. What about the other states that have passed similar legislation? What about the cost to local governments to try to clean containers from the ground water streams?

For many people, recycling is a "quality of life" issue. Much money is spent trying to get people to move to Kansas so that they can then learn how backwards our state is when it comes to environmental issues.

I think that by applying a little common sense and ingenuity a solution can be found. Once the containers are redeemed, couldn't they go immediately to an existing recycling center? Why have to build Special storage systems. Education would need to be part of the package but only if the service is actually available. Many citizens here still remember "Amy" and the recycling tips when recycling wasn't available practically.

To me, the issue of recycling is a matter of stewardship and cost reduction. It costs more to make an item from raw materials than it does to efficiently recycle it. (I don't mean just ship the materials to China!!!) I would be more than willing to assist any true efforts to draft a "workable" bottle bill.

Sincerely,

Marydel Grayum
6506 E. Bayley
Wichita, KS 67207

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Attachment 7*

Senate Natural Resources
TESTIMONY RE: SB 258
Presented by John J. Cunningham
on Behalf of
Kansas Food Dealers Association
February 1, 2008

Madame Chairman, Members of the Committee:

My name is John J. Cunningham, and I am the Executive Director of the Kansas Food Dealers Association(KFDA), which is a state trade association for independent retail grocers in Kansas. Our mission is to promote harmonious relations with allied industries, in order that the highest quality of food may be sold to Kansas consumers at the lowest possible cost.

KFDA adamantly opposes SB 258. Initially the deposit program sounds good, consumers returning their empty containers for a refund. In reality, experts say, the programs cost consumers millions in higher prices, fall well short of their environmental goals, complicate recycling for consumers, and cost states millions more in administrative funds to operate.

Forced deposit legislation would increase prices by 10 cents on virtually every beverage bought in Kansas – an extra \$2 per case of bottled water, soda, or beer, for example. 5 cents of that increase is a tax that consumers won't see again. Consumers could get a nickel of the 10 cents back if they go through the hassle of separating deposit containers from the rest of their recyclables and find a redemption center that will take them back.

These price increases would come on top of Kansas's already high sales tax. By raising the cost of living even higher in Kansas, the bill would encourage even more Kansans to shop in bordering states.

Only 11 states have such programs, born in the 1970's, and only one state (Hawaii, now trying to end the program) has approved a deposit program in the last 20 years.

Let's make one important observation, this program ignores the huge growth of modern voluntary and municipal curbside recycling efforts that are much more progressive and efficient.

Deposits ignore more than 90% of litter. National research shows beverage containers account for less than 9 % of roadway and park litter. Only 5% of beverage containers sold are consumed in cars and only one-in-164 is littered. Why begin such a massive program to address such a limited segment of the litter stream?

In calling for an end to Massachusetts' program in a March 2006 article in the Boston Globe magazine, a former Boston city councilman says that the state pays \$1,000 a ton to

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recover containers that have a value well below \$100 a ton. He writes that Massachusetts should join the rest of the nation and invest in curbside programs that are more efficient. "Bad laws," he writes, "once in place, are hard to get rid of." (Thomas M. Keane, Jr., Boston Globe magazine, March 5, 2006.)

Deposit programs are notoriously inefficient and wasteful. In a 2005 article in Resource Recycling, an environmental journal, Virginia-base Gershman, Brickner & Bratton, reports that deposit programs have proven bureaucratic, duplicate voluntary and other government recycling efforts and have proven not be the effective solution promised by proponents. This bureaucracy is so great, the report says, states pay \$4.24 per container recovered. (Resource Recycling May 2005.)

On behalf of the Kansas Food Dealers Association and its member retailers, thank you for the opportunity to present our concerns to the committee.



Memo To: Senate Natural Resources Committee
From: Thomas M. Palace
Date: January 31, 2008
Re: Written Comments Opposing SB 258

Madam Chair and Members of Senate Natural Resources Committee:

My name is Tom Palace. I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), a statewide trade association representing over 300 independent Kansas petroleum distribution companies and convenience store owners throughout Kansas.

Senate Bill 258 would mandate the collection of a 5¢ deposit on every carbonated beverage container sold in Kansas, as well as on the sale of wine and liquor. In the last 22 years, only one state (Hawaii) has adopted a container deposit law. These laws are outdated, costly, inefficient, and counter-productive.

Retailers are the biggest loser if SB 258 is enacted. Convenience stores use all available space to offer consumable products for their customers. Requiring retailers to find additional space to store empty cans and bottles will put additional strain on the limited space that most, if not all, convenience stores need to satisfy consumer needs. Shelf space or floor space are essential components of doing business within the confines of today's convenience store.

The requirement to accept up to 500 empty containers per day also poses health problems at stores that offer food services. Returned cans and bottles equate to residue and potential insect infestation in locations that are required for storing empty cans and bottles. Additionally, the increased costs incurred by the retailer in maintaining a sanitary environment will be passed on to the consumer.

Counter-Productive: A Setback for Current Recycling Programs

- Community and commercial recycling programs rely on aluminum cans and beverage bottles that they collect as a major source of revenue.
- These are the two most valuable commodities collected, but deposits would cover virtually all of these containers; so the revenue earned today by recyclers would be lost.
- Communities would need to raise taxes and fees to keep their recycling programs running.

A Costly Burden for Food Stores – And Their Customers

- Forcing consumers to haul empty beverage containers back to convenience stores (or special redemption centers) means more cost for everyone.

Petroleum Marketers and Convenience Store Association of Kansas

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- Retailers will have to retrofit redemption areas into their stores, purchase new equipment, and dedicate staff to handling empty bottles and cans – all the while keeping the store clean.
- Consumers ultimately bear the higher grocery costs and inconvenience of this new system – a system that duplicates the recycling infrastructure they already have at home.

Disappointing Environmental Benefits

- Beverage containers typically account for about 4% of all waste produced. Any incremental recycling resulting from the deposit-refund system would have little impact on landfills or the environment.
- Recycling through a deposit-refund system costs three to four times more than curbside programs.
- The litter benefits are not much better. Beverage containers of all types average 7.4 percent of litter, so a deposit program ignores 93 percent of the problem it is trying to solve.

Unintended Consequences

- Fraud will undermine the deposit system, since Kansas is surrounded by non-deposit states. Buying beverages outside the state and redeeming them here offers a \$2.40 per case price advantage and leaves Kansans paying for their neighbors' trash.
- The price differential will also drive retail business and jobs into neighboring states.

Better Approaches

- More efficient systems that focus on all recyclables provide the most cost-effective way to keep materials out of landfills. These systems are also more environmentally friendly because they do not impose incremental impacts on the environment from more recycling.
- Enhancing existing recycling systems through outreach, use of incentives, and upgrades to best practices offers a more sustainable path to improving recycling in Kansas.

We appreciate the opportunity to provide these written comments to the committee. We urge the committee to oppose SB 258.



800 SW JACKSON, SUITE 1017, TOPEKA, KANSAS 66612

Testimony before
Senate Natural Resources Committee
February 1, 2008

Mr. Chairman and Members of the Committee:

My name is Neal Whitaker and I appear before you today on behalf of the Kansas Beer Wholesalers Association.

The Kansas Beer Wholesalers Association collectively and each of its members individually are opposed to SB 258.

Beer wholesalers understand the importance of recycling. Throughout the last 4 decades Kansas beer wholesalers have partnered with other similar industries and retailers to develop recycling centers and recycling attitudes in this state. In the beginning, many operated their own recycling centers, then supported larger recycling businesses and encouraged development of community recycling programs. They encouraged and helped foster the changing attitude about recycling in Kansas.

Now – just as many of these centers are coming of age –the material that provides the most income will be taken away from them by this legislation. Or, at the very least, make the process more expensive and complicated.

Cost increases to consumers, retailers, distributors and manufacturers are not limited to the \$.02 handling fee and far outweigh any environmental benefit. Beer distributors provide services by region. Some of those regions cover almost ½ of the state's land mass. Transportation back to these distributors would only expand carbon emissions. Others are located on or near the state line creating an opportunity for fraudulent returns.

We believe the intent behind this bill is laudable. We believe, however, that the consequences will be the opposite of the intention.

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Attachment 10*