

Testimony of Kevin S. Dietly,
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Senate Bill 996 – Supporting in principle
Senate Bill 995 – In opposition
House Bill 5618 – In opposition

March 13, 2017

Good morning Co-Chairs Kennedy, Miner, and Demicco and Members of the Committee. My name is Kevin Dietly, Principal at Northbridge Environmental Management Consultants in Westford, Massachusetts. I am here today on behalf of the American Beverage Association and its members who produce and distribute most of the refreshment beverages sold in Connecticut.

I have studied Connecticut's bottle bill for many years along with recycling and deposit programs around the US and globally. I am familiar with the policy issues and debates around this topic as well as the operational side of the programs, since I serve as manager of the Vermont Commingling Group and as the financial analyst for the Maine Commingling Group – both industry cooperatives that manage redemption in those states.

I am here to express the beverage industry's general support for the principle behind SB 996 – the need to move beyond what has become a failed and outdated beverage container deposit program and to transition to a better, more comprehensive, efficient, and effective recycling system for Connecticut. Senate Bill 995 and House Bill 5618 represent two of the many proposals circulating in Hartford to double down on the forced deposit program and pour more resources down that rabbit hole.

We think the time has come to acknowledge the accomplishments of the forced deposit system in the time and circumstances in which it was developed and to recognize now that there are better ways to manage and recover materials.

Nor are we alone in thinking this way. The City of Columbia, Missouri, which had the only municipal forced deposit in the US, repealed that program in 2002 because it was hindering the City's comprehensive recycling system. Delaware replaced its deposit law in 2010. Legislation passed out of committee in Massachusetts last year and in Iowa two weeks ago to replace those states' deposit laws with investments in better comprehensive recycling.

I would like to devote the majority of my written and oral testimony to the path forward for Connecticut and the model before us from Delaware. I would also like to record our opposition to making the deposit system any larger, less efficient, and more costly than it already is for consumers and businesses.

¹ Representing the American Beverage Association

Senate Bill 996 – Supporting in Principle

We support the notion of transitioning away from the forced deposit program and using an environmental fee on our own products as a way to fund that transition. The bill, which purports to follow the Delaware model, departs significantly from the Delaware law in several key aspects. Therefore, in order to gain our support, we would like to see a number of changes to the bill to make it more like Delaware’s Universal Recycling Act.

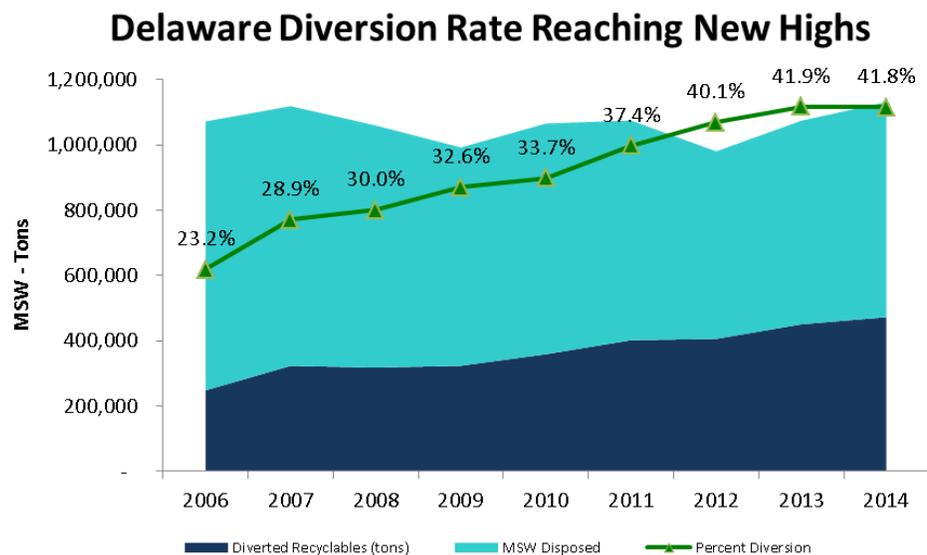
The Delaware Model

As background I would like to provide a little more information about what the Universal Recycling Act actually did and what it has accomplished. I have attached to my testimony a short summary of the milestones achieved by the bill and the status of the program.

The provisions of the Act were to set specific milestones for access to single stream recycling statewide. These milestones were to help the state achieve diversion goals and to develop new infrastructure that would support jobs and improve the environment. The transition to the universal recycling system was made possible by the creation of a fund which ultimately collected more than \$14 million through a fee on beverage containers. The key elements of the fee were:

- A 4¢ per container fee on containers formerly subject to deposits (carbonated only and only glass and PET 64 oz or less)
- The fee was collected at the point of sale and added to the price of products at retail.
- No special label was required.
- The fee sunset after four years (or would have sooner if the target transition fund had been raised in less than four years).

As noted in the attachment and shown here, the recycling infrastructure and service improvements raised the state’s recycling rate by nearly ten percentage points to 42 percent where it stands today (Connecticut’s is around 25 percent). The weight of material recycled has grown 46 percent since the law was enacted and the amount of packaging and paper recycled is up 63 percent.



Recommendations for SB 996

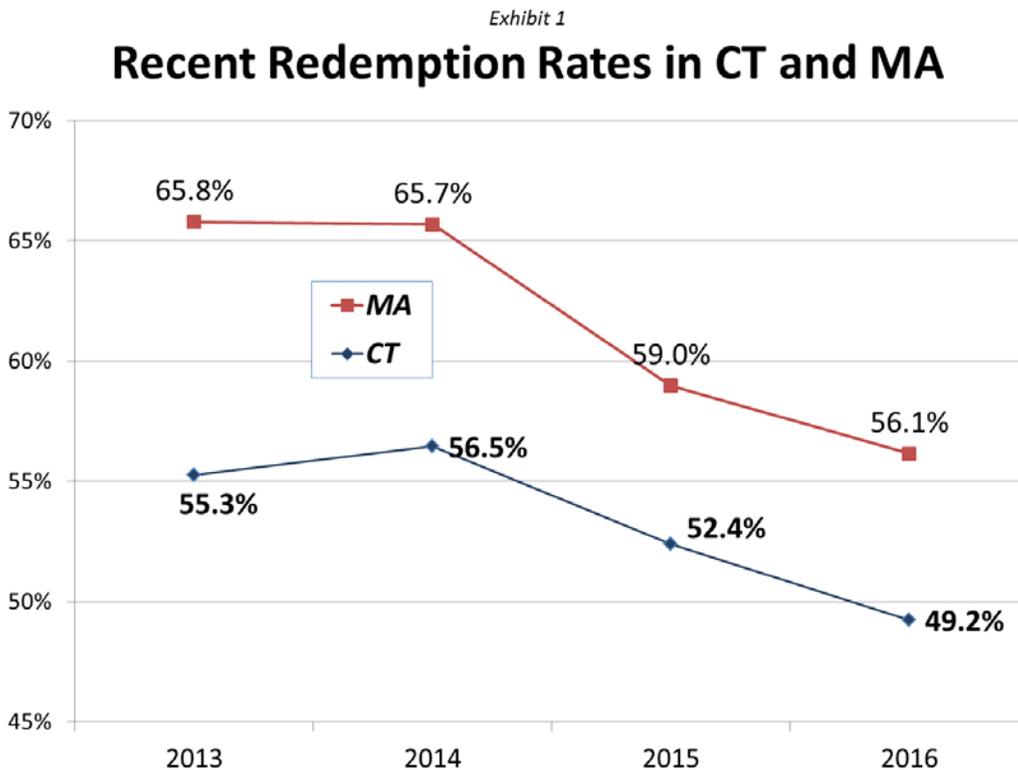
1. **Clarify the purpose of the funds generated.** As noted in Delaware, the dedicated revenue generated from the fee was used to support the extension of single stream curbside and dropoff service statewide, to provide for parallel access (recyclables collection along with trash collection), embedded charges where customers do not pay extra for recycling service (it is embedded in one overall rate) and provision for recycling in multifamily, bar and restaurant, and commercial establishments. The focus of the Connecticut fund should be on transition to a better system, not paying operating costs for the recycling system (tipping fees, recycling charges, *etc.*)
2. **The fee should have a sunset date.** As in Delaware's law and proposals advancing in Massachusetts and Iowa a target fund amount is established based on need and the fee sunsets when the target is reached or after a set time (*e.g.*, four years in Delaware).
3. **The amount of the fee should be reduced.** A 4¢ fee on the proposed universe of containers would generate roughly \$60 million per year. Based on analogy to the Delaware funding needs and those estimated in Vermont and Massachusetts, Connecticut would require a transition fund of roughly \$60 to \$70 million. A lower fee over several years would generate the needed revenue.
4. **Collect the fee at the point-of-sale.** The Delaware fee was collected from consumers and posted on receipts. This ensured that all containers purchased were charged the fee and it also eliminated the potential that the fee would be marked up between the manufacturer or distributor and the retail sale.
5. **Eliminate state-specific labeling requirements.** The labeling language in the bill potentially requires a Connecticut-only label (it would be impossible to sell a "do not return for deposit" container in Connecticut and also in surrounding deposit states). No label was required in Delaware. Furthermore, requirements for state-specific labels have been struck down in Federal courts following legislated requirements in New York and Michigan in recent years.

The beverage industry is open to discussions to revise the bill and is flexible about designing legislation that will give Connecticut's recycling system a needed boost. The infusion of revenue from the aluminum and PET beverage containers will help recyclers. Glass poses a handling problem for recyclers and this needs to be addressed as an ongoing issue. But the funds generated from an environmental fee should be used to fund the transition to a better system. The beverage industry alone should not be forced to fund the operating costs of the recycling system.

Opposition to SB 995 and House Bill 5618

Whether it is the Governor's budget proposal to double the deposit, the effective doubling of the deposit implied by the deposit on caps and closures in SB 995, the increase in the handling fee in House Bill 5618, or proposals to expand the scope of the law further, the beverage industry opposes policies that further entrench the costs, hassles, and inefficiency inherent in the forced deposit system.

Connecticut has the dubious distinction of the worst-performing deposit program in the US. Only 49 percent of containers were returned in FY16 (Exhibit 1), so Connecticut consumers pay a *de facto* 2.5¢ tax on every soft drink, beer, and water container they buy. When they opt to recycle at home instead of dragging containers back to the store, they are penalized, even though they are acting rationally to save time and money.



Recycling a container through the deposit system costs at least four times more than recycling it through a curbside program. The example of Delaware and research in Vermont, Massachusetts, Minnesota, and Rhode Island in recent years all demonstrate that the enhanced recycling brought about by investment in best practices provide significantly more benefits than an expanded deposit system and that those benefits are bought at a fraction of the cost of using a deposit system.

The implications of a deposit on container caps are significant in terms of higher consumer costs for no discernable environmental benefit. By effectively doubling the deposit on every container, the impact on redemption fraud would be significant. New containers would come in

from neighboring states and out of recycling carts in state and the generous flow of unclaimed deposits to the General Fund would slow significantly.

This is not to say the issue of marine debris is not worthy of attention and our member companies are extremely active on this issue globally in partnership with other consumer product companies, environmental groups, and multinational organizations.

Raising handling fees simply adds cost to an already costly system. A 1¢ increase in the handling fee would cost beverage distributors \$6.5 million per year. If only a fraction of those that redeem containers get the increase, then the cost increase would be proportionally less. But this is another example of adding cost for no environmental benefit. Not a single additional beverage container would be recycled as a result of this change – but the system would get even more expensive.

Conclusion

Connecticut has a legacy container redemption program that increasingly appears an anachronism in the face of developments in multi-material recycling and of society in general. Senate Bill 996 provides a starting point for mapping a transition away from that deposit system and to a more effective and efficient replacement.

We are very pleased to be able to engage with the Legislature as we have in other states to share our expertise and perspective on moving forward with a more progressive agenda as it relates to solid waste management, recycling, and the broader issues of materials management. In the nearly 40 years since the deposit law was enacted in Connecticut, a lot has changed about the waste stream, packaging, materials handling, consumer behavior, and technology. Failing to adapt materials use strategies to keep up with those changes means hanging onto programs that perform poorly and at higher costs than necessary.

Thank you for the opportunity to testify this morning.

Delaware’s Universal Recycling Law – April 2016 Update

Delaware’s landmark Universal Recycling Law set ambitious waste diversion goals for municipal solid waste (MSW) of 50 percent by 2015 and 60 percent by 2020. The law established a timeline to increase access to recycling, created a funding mechanism to assist with the transition to universal recycling, and eliminated the State’s beverage container deposit law.

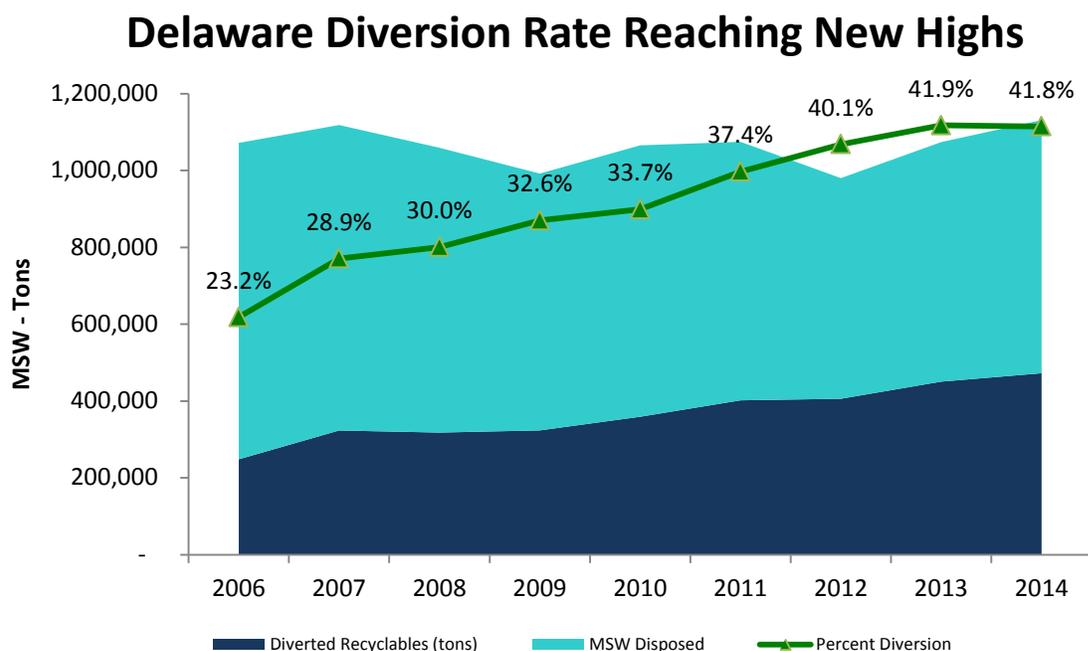
Programs and Successes So Far

Since its enactment in 2010, Delaware’s Universal Recycling Law has passed four milestones:

- September 15, 2011 - all single family residences provided with single-stream recycling containers and at least every other week collection by private haulers or municipalities; recycling costs are embedded in a total “waste services” charge
- September 15, 2011 – all bars and restaurants provided with single-stream recycling by their trash collection provider along with containers of sufficient size and pickup service at sufficient frequency to manage recyclables generated on site
- January 1, 2013 – multi-family residences provided with single-stream recycling containers by their waste services provider with containers centrally located, adequately sized, and located near disposal containers
- January 1, 2014 – commercial businesses required to “actively participate in a comprehensive recycling program”

Increased access to recycling has increased the amount of MSW recycled by 46 percent between 2009 (before the law was enacted) and 2014 and by 90 percent since 2006. Higher tipping fees and a ban on disposal of yard waste at state landfills have also limited the growth of disposal, so the state’s MSW recycling rate now stands at an all-time high of 42 percent (see Exhibit 1).

Exhibit 1



Residential recycling tonnage (paper and packaging) was up six percent in 2014, although a drop in green waste diversion (both weather-related and because of the first of two recent composting facility closures) offset that and the residential diversion rate returned to its 2012 level of 45 percent. Diversion of paper and packaging has still climbed 63 percent since 2009 – an unprecedented increase for any state during this period. Organics diversion has lagged, but still grew an impressive 46 percent during the period.

Commercial recycling saw the larger increase in 2014 because that was first first year when commercial establishments were required to participate in a comprehensive recycling program following guidance developed by the Recycling Public Advisory Council (RPAC). Commercial recycling tonnage rose 24 percent in one year, bringing the commercial diversion rate to 38 percent. While commercial recycling rates still lag residential, they are growing more rapidly and continued progress is necessary to reach the state’s goals.

The growth in recycling resulting from the Universal Recycling Act has been dramatic, but many opportunities remain for further improvements such as improved education and outreach, new composting facility capacity for organic materials, continuing the momentum of commercial recycling that began in 2014, and implementing policies to control disposal such as pay as you throw programs. Disposal quantities were decreasing for several years, but have rebounded since 2012, which has been a significant cause of the flattening in the recycling rate.¹

Funding

The Delaware Recycling Fund provides financial assistance to public and private entities for the transition to universal recycling. The Fund established in the law is used for grants, low-interest loans to municipalities and private haulers for costs associated with the start of universal recycling including the purchase of carts and trucks, and rebates based on recycling volume. The Fund may also be used for recycling studies, state program support and oversight, and administration of the recycling fee.

The Fund has allocated \$7.3 million in grants through 2014 including:

- \$4.7 million for residential single-stream recycling
- \$0.3 million for multi-family single-stream recycling
- \$1.5 million for commercial recycling

Another \$1.4 million is encumbered for grants and \$5.7 million remains available for future grants, outreach and education, data collection and analysis, administration, and other expenses.

The Fund was created from a fee on beverage containers that were formerly subject to deposits. Until December 2010 consumers paid a 5¢ deposit on glass and plastic bottles containing carbonated beverages. Starting December 1, 2010 and continuing until December 1, 2014 retailers of these same beverages instead collected a 4¢ fee per container from consumers; fee collection has now ended. The state collected a total of \$14.4 million. While funds remain from the original fee, the state has highlighted the need for future funding for the Department of

¹ All data from the November 2015 “Annual Report of the Recycling Public Advisory Council” available at <http://www.dnrec.delaware.gov/dwhs/Recycling/Documents/The%20Fourteenth%20Annual%20RPAC%20Final%20Report.pdf>

Natural Resources and Environmental Control (DNREC) to oversee the continued implementation of the law.

Economic Development

The legislative requirements to expand access to recycling and to restrict disposal of yard waste both had direct economic development benefits for Delaware. In addition to the greater economic multiplier associated with recycling compared to disposal, the Universal Recycling Law led to:

- Two new Material Recovery Facilities (MRFs) operating since 2013, created 115 new jobs.
- The ReCommunity MRF in New Castle alone represented \$15 million in new capital investment in the state and is the first MRF in Delaware that is capable of separating and marketing the state's recyclables.

Further investment in a new organics management facility is likely, which would create new jobs and provide much needed capacity for in-state management of these materials, which represent a significant share of the waste stream.

The most recent (2009) measure of recycling's impact on Delaware showed that recycling supported 1,900 jobs and generated nearly \$350 million in economic activity in the state.² Given the significant increase in investment and diversion since then, recycling plays a much greater role in the state's economy today and that role will continue growing for years to come.

Why Delaware's Approach Was Successful

Delaware's law provided *direction and leadership* to bring recycling programs in the state to a certain standard, raising requirements on waste service providers, and providing the tools and resources to assist in adopting those new requirements. Residents demanded better and more convenient recycling and the state's patchwork of programs including its dated beverage container deposit law complicated recycling unnecessarily.

The comprehensive approach in the Universal Recycling Law began with *increasing access to recycling* statewide. The law requires providers of waste services to provide or offer collection of recyclables to all customers beginning with single family residences and moving through to finally include all commercial establishments. By *setting single stream collection as a standard*, the law facilitated the development of a new MRF to handle recyclables, minimizing transportation distances and simplifying collection. Note that while rural residents using dropoff facilities for trash and recycling continue to use these facilities, the provision of new single stream processing capacity means that even dropoff recycling becomes simpler for residents and local governments.

"We have created an environment in Delaware that is increasingly supportive of recycling activities.... These are all major advances both driven by and reflected in our increasing diversion rates. The fact of the matter is that we are turning more of our waste into a resource and simultaneously driving valuable sustainable domestic industry as a result." *The Annual Report of the Recycling Public Advisory Council, November 2013*

² http://www.nerc.org/documents/recycling_economic_information_study_update_2009.pdf

The law also *expanded incentives to recycle* by requiring that recycling fees be embedded in waste service charges. Coupled with bans on yard waste and rising tipping fees, residents and businesses have more of an economic incentive to recycle.³

Third, the law *provided for education and promotion* of recycling. One advantage of universal access to single stream recycling is that messaging and communication about what and how to recycle is much simpler and can be done at the state level, rather than having messages differ from town to town. In addition the law *required annual reports* from those that collect, process, or market recyclables. Measurement and improving data quality are vital to monitor progress and provide greater accountability.

Critically, the law *established funding for the transition* to universal recycling. The transition not only covered the switch to single stream collection but also the elimination of the deposit system for certain glass and plastic bottles. The Delaware legislature long ago exempted aluminum cans from the scope of the deposit law, recognizing that market-driven recycling of aluminum allowed the value of the cans to be used to support other recyclables. The remaining redemption program proved itself costly and largely ineffective. In response to those concerns, the Legislature replaced the container deposit system with this universal program.

Next Steps

In its latest report, RPAC made four recommendations, some of which are repeats from prior years' reports:

- **Lead by example** - require recycling in all state government facilities, including public schools and libraries, the courts system, and the legislature
- **Provide adequate funding to support the continuing implementation, expansion, and evaluation of universal recycling.** The funds already in-hand will support grants for several more years; RPAC notes that the portion of funding allotted to administrative expenses will be depleted by the end of fiscal year 2018.
- **Legislative support for RPAC educational efforts** such as increased awareness and engagement by legislative staff to provide constituents with information and to disseminate information to them through normal communication channels
- **Strengthen organics diversion.** An Organics Recycling Task Force has made recommendations to develop long-term organics diversion alternatives for Delaware. Given that organic waste represents nearly 1/5 of what is landfilled, significant diversion potential exists. Unfortunately the state's only two composting facilities have closed so alternative processing capacity is critical.

³ The law could have gone further and required some kind of variable rate pricing for trash so that residents who are able to reduce disposal through recycling and composting see direct savings on their disposal charges.