June 16, 2021

Assembly Member Richard Bloom
State Capitol, Room 2003
Sacramento, CA 94249-0050

RE: AB 1454 (Bloom) --- OPPOSE UNLESS AMENDED

Dear Assembly Member Bloom,

Consumer Watchdog has taken an **OPPOSED UNLESS AMENDED** position on AB 1454 (Bloom), relating to recycling.

Unfortunately, AB 1454 will only accelerate the catastrophic downward spiral of our redemption and recycling rates for CRV beverage containers. Since its enactment in 1986, the bottle recycling law has been amended 75 times. This latest stop-gap effort does not contain the comprehensive solutions necessary to stop the plunging redemption rate that currently stands at 57% out of $1.5 billion paid by consumers each year in nickel and dime deposits.

As a result, California is now third to last among ten bottle deposit states in the U.S. and one of the worst deposit systems in the world. Things are only going to get worse without fundamental reform, which AB 1454, as currently drafted, does not provide.

See: https://www.consumerwatchdog.org/energy/75-whole-foods-markets-abandon-bottle-and-can-recycling-redemption-rate-sinks-58-and-groups

The diagnosis of the problems plaguing the system set forth in AB 1454 is correct. Statutory restrictions on calculations of state recycling center payments to close the gap between the cost of recycling and the value of the scrap are severely off for redemption centers that serve as the backbone of our bottle deposit and recycling system. Thus, 85% of these centers are unable to cover the cost of glass and plastic recycling while recycling the vast majority of empties. However, AB 1454 does nothing substantive to treat the root causes, or to change the downward trajectory of our current system. In fact, it exacerbates the current downward spiral of the California recycling program.

Our two main areas of concern in AB 1454 are Section 3, which authorizes the consolidation of up to five (5) convenience zones into new super zones; and Section 7, which fails to provide a

single penny to support the rebuilding of the redemption infrastructure, the collapse of which began almost a decade ago.

Section 3 creates new super zones that reduce convenience for consumers.

Section 3 of the bill allows the consolidation of up to 5 unserved zones into a single super-zone. This relieves the grocers in those five unserved zones from having to pay the opt-out fee or redeem. There is nothing in the language that would require that the newly formed super-zone would be served as a condition of the consolidation.

According to CalRecycle, "Convenience zones increase the geographic dispersal of locations where beverage containers can be redeemed. A convenience zone is required by law to have within the zone's boundaries, a recycling center that redeems all California Redemption Value (CRV) containers. A convenience zone with a recycler inside its boundaries is considered a served zone. Convenience zone recyclers provide opportunities to redeem containers near where beverages were
purchased." https://www.calrecycle.ca.gov/BevContainer/Retailers/Zones/

By creating one larger zone the bill by definition reduces the number of recycling centers needed to fulfill the takeback mandate. It also, at very least, alleviates the obligation of retailers in those now unserved zones that are required to redeem today, or pay a $100 per day "opt out fee," to fill that need as last resort providers in a new larger, super-zone if that zone has one recycling center. This lets more grocery stores off the hook for an obligation they fail to legally meet today and creates less consumer convenience.

More importantly, the way the bill is written now, the super-zone would not even have to be served. It just calls for the creation of the zone without the obligation it be served – meaning have one recycling center in it. This could let retailers out of their redemption obligation without a recycling center even existing in the zone.

AB 1454 takes us in the wrong direction. Instead of making it easier for grocers to escape any responsibility to take back containers, we should provide funds to grocers in the form of grants for automation, such as RVMs and bag drops, make them eligible to receive the refund value from California (currently law does not allow that), handling fees and processing payments.

Sponsors claim Section 3 follows a recommendation by the Administration under AB 54 to recommend changes to the system. Section 3 is far afield from Cal-RECYLE's recommendation, which is a much broader discussion under "Option 1: Reconfigure Convenience Standards and Adjust Payments" (see attached) It recommends a process for developing more rational zones and aligning payments. It does not call for collapsing five zones into one without a mandate that all current zones today be served or make a change in payments.

In fact, the report specifically comes out *against* simply adjusting the size of the zones without making other necessary changes and more review. "Expanding the radius of the current

convenience zone standard would not address the factors outlined previously in this report that impact recycling center viability and consumer convenience. For these reasons, the options below focus on reconfiguring the convenience zones rather than expanding the convenience zones. This section contains options to reconfigure convenience zones, allow additional redemption methods, and enhance recycled material markets that could improve the resiliency and cost-effectiveness of recycling centers while more effectively serving consumers in the various regions of California. Further analysis of these options would be necessary to determine how best to integrate these options into the BCRP." (Page 6)

Section 7 purports to make new funds available for redemption infrastructure, but it actually does no such thing.

There are several severe deficiencies with this language. First, it states intent language that a future piece of legislation appropriate funds, but it does not actually itself appropriate any funds whatsoever. Second, the sum proposed for a future appropriation someday would be capped at $25 million, a sum far too small to make a significant impact in establishing new redemption infrastructure – particularly in places with recycling deserts, like San Francisco, West LA, and Humboldt County. Third, it splits this new pot with a plastic quality incentive payment, which although may or may not be worthy in itself (it's not), should be set aside in a separate pot and not compete with redemption in the same pot. Fourth, the amount that may be loaned is capped at $25,000 per site, which is woefully inadequate to accomplish any new redemption facilities in the places they are needed – high rent districts like San Francisco, West LA etc.

Proposed Amendments:

1. Delete Section 3 (strike PRC Section 14571.6 (b)); and amending it with incentives for grocers to redeem, such as providing funds to grocers in the form of grants for automation, like Reverse Vending Machines (RVMs), and bag drops; and make them eligible to receive the refund value from California handling fees and processing payments.

2. Amend Section 7 to read:

> ~~*It is the intent of the Legislature to appropriate in a future Budget Act or other bill*~~ *The sum of* ~~*$25,000,000*~~*$75,000,000* *is hereby appropriated from the California Beverage Container Recycling Fund created pursuant to subdivision (a) of Section 14580 of the Public Resources Code to the Department of Resources Recycling and Recovery for relief for recycling infrastructure. Upon that appropriation, the Department of Resources Recycling and Recovery shall expend the moneys only as follows:*
>
> ~~*(a) Plastic quality incentive payments pursuant to Section 14549.1 of the Public Resources Code. For PET containers, as defined in Section 14515.5 of the Public*~~

~~*Resources Code, loads eligible for payment shall be substantially free of PET thermoform and other contaminants to closed-loop recycling, as determined by the Department of Resources Recycling and Recovery.*~~

(b) Startup loans in the amount of up to ~~$25,000~~ $100,000 for an entity that certifies and intends to establish and operate a recycling center in an unserved or underserved area of the state. If the entity continually maintains operations for 18 months, the loan shall be forgiven.

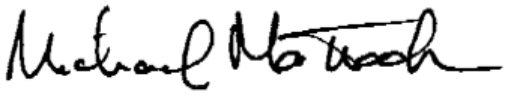
With this language, 750 new points of return could be established in unserved or underserved areas of California. While the 750 new points of return would still leave millions of Californians without adequate redemption opportunities, it would be an important start in rebuilding the redemption infrastructure that has been decimated over the last decade due to the special interest gifts by the Legislature that have starved the recyclers of funds they need to remain financially viable.

As drafted, AB 1454 would effectively worsen consumer access to bottle redemption by allowing more supermarkets to opt out of providing redemption service to consumers and securing more unjustified giveaways to waste haulers. It would also encourage smaller, low volume recycling centers with a small loan of $25,000 at the expense of large, high-volume and more efficient centers.

Because this measure will only hasten the demise of our current bottle deposit system and does nothing to change statutory payment formulas further crippling the system, unless this bill is amended as set forth above, we will continue to advocate a NO vote on AB 1454.

Consumer Watchdog issued a recent report on the role of waste haulers in the demise of the bottle deposit system through unreasonable subsidies, contamination of curbside pickup and a history of their backing of similar legislation to AB 1454 in order to stave off genuine reform. The report, "Waste Haulers: The Square Peg In The Circular Economy" is available here as a point of reference: https://www.consumerwatchdog.org/sites/default/files/2021-05/WASTE%20HAULERS%20Report%20v7.pdf

Sincerely Yours,



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