

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND
MINING**

**Seventy-Sixth Session
April 5, 2011**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Maggie Carlton at 1:10 p.m. on Tuesday, April 5, 2011, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Maggie Carlton, Chair
Assemblyman Joseph M. Hogan, Vice Chair
Assemblyman Paul Aizley
Assemblyman Elliot T. Anderson
Assemblyman David P. Bobzien
Assemblywoman Irene Bustamante Adams
Assemblyman John Ellison
Assemblyman Ed A. Goedhart
Assemblyman Ira Hansen
Assemblyman Kelly Kite
Assemblyman Pete Livermore
Assemblyman Harvey J. Munford
Assemblywoman Peggy Pierce

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman James Ohrenschall, Clark County Assembly District No. 12

STAFF MEMBERS PRESENT:

Amelie Welden, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Judith Coolbaugh, Committee Secretary
Sherwood Howard, Committee Assistant

OTHERS PRESENT:

Pat Williams, Chair, Community Outreach, Friends of Red Rock Canyon
Doug Busselman, representing the Nevada Farm Bureau Federation
Joseph Johnson, representing the Toiyabe Chapter, Sierra Club
Kyle Davis, representing the Nevada Conservation League
Colleen Cripps, Ph.D., Acting Administrator, Division of Environmental
Protection, State Department of Conservation and Natural
Resources
Lesley Pittman, representing MillerCoors LLC
Lea Tauchen, representing the Retail Association of Nevada
Alfredo Alonso, representing the California/Nevada Soft Drink Association
John Pappageorge, representing Republic Services, Inc.
Bob Ostrovsky, representing Waste Management, Inc.

Chair Carlton:

[There was no roll call.] We do have some guests in our audience today. Jake, a young Boy Scout, and his father, Mike Dzyak, are here so Jake can work on one of his merit badges. Jake is very interested in recycling so this is an opportune day for him to join us. The hearing on Assembly Bill 427 is now open.

Assembly Bill 427: Enacts provisions requiring the payment of deposits and refunds on certain beverage containers sold in this State. (BDR 40-1079)

Mr. Ohrenschall will present the bill.

Assemblyman James Ohrenschall, Clark County Assembly District No. 12:

Many of us have traveled to California and Oregon, so you know they have redemption values on items, such as plastic and glass bottles, and aluminum cans. My research shows states with redemption programs have been very successful with them. Currently, there are ten states and the Territory of Guam

using a redemption value program. The program leads to more recycling and less litter; therefore, it helps the environment. I have seen very little negative information on a redemption value program.

We used to see a lot of litter in Nevada. On a drive from here to Las Vegas, you would see bottles and cans along the shoulders of the highway. Some people in Reno told me they load up trucks with bottles and cans and take them to California to collect the redemption value. Does it help recycling? In a way it does, even though you use gas to and from your destination and, of course, it is illegal. If we had our own program, it would not happen.

This bill is modeled after the Massachusetts statute. It may not be the perfect fit for Nevada, but it is a solid start. Chair Carlton, Ms. Welden, the Sierra Club, the Nevada Conservation League, bottling manufacturers and organizations, and many other stakeholders have assisted me in developing this bill. With the help of this Committee, the goal is to create a bill that reflects our state's best interests.

This bill authorizes purchasers of refundable containers to redeem them at the place of purchase. Quite a few of the states use this method, but California and Hawaii use certified recycling centers. That is an option that might work better for Nevada. The bill exempts casinos as long as they have a recycling program in place. The exemption should make this bill less onerous to the gaming industry.

The definition of a recyclable container and the type of beverages they contain may need to be tightened up in this legislation. In section 3, the definition of included beverages is ". . . beer and other malt beverages, mineral water, soda water, and similar carbonated soft drinks intended for human consumption." Noncarbonated soft drinks should also be added, which would include power drinks that are currently so popular, and possibly single-serving beverage containers. Milk and wine will be excluded.

Currently in the bill, the collection of the nickel redemption value is the responsibility of the retailer. However, this is an item we will be changing. There is support for this legislation because it is beneficial and accomplishes many goals. I would be happy to answer any questions.

Chair Carlton:

Are there any questions?

Assemblyman Anderson:

Could you cover how Michigan's redemption program works? I have been there several times, and I was impressed with how well it functioned. The grocery stores handled the redemption for everyone, and it made the program less burdensome on the state.

Assemblyman Ohrenschall:

Michigan charges a dime deposit on beverage containers. I have distributed a chart showing the programs in all states that have refundable deposits on containers ([Exhibit C](#)).

Chair Carlton:

Mr. Anderson, are you inquiring about the program in general, the redemption values, or another item?

Assemblyman Anderson:

I am interested in knowing how other states operate their programs. Where and how does all the recyclable material get turned in?

Assemblyman Ohrenschall:

According to < <http://www.bottlebill.org> > the Michigan bottle law was enacted in 1976 and implemented in 1978. The beverages covered are: "Beer, wine coolers and canned cocktails; soft drinks, including carbonated and mineral water." The containers covered are: "Airtight metal, glass, paper, or plastic containers, or a combination (under 1 gallon)." In our proposed statute, we did not include a maximum volume on the container size. The deposit is 10 cents in Michigan, and the overall redemption rate is 96.9 percent. In Michigan, the containers are returned to the store of purchase. Quite a few states use this method for refunds. In California and Hawaii, the containers are returned to a recycling center.

Our bill is currently drafted to have the containers returned to the store of purchase. However, we have been considering establishing certified recycling centers. I have included a letter from the largest glass recycler in North America in support of this legislation ([Exhibit D](#)). He has operations in 11 Western states. Also, he is constructing a glass recycling facility in North Las Vegas. More Nevada jobs could be created by the passage of this bill.

Assemblyman Anderson:

Does Michigan operate its program as a public/private partnership? Given our budget restraints, it will be difficult to create a government-funded program. Is there a way we could use a portion of the deposits to run the program?

The money would still be going towards the same goal of recycling and litter reduction. Do you know how Michigan operates its program?

Assemblyman Ohrenschall:

According to < <http://www.bottlebill.org> > the redemption money not reclaimed by consumers in Michigan is apportioned. Seventy-five percent of the funds go to the state for environmental programs, and 25 percent go to the retailers. We do not have the same set up in the proposed bill. On page 4, lines 11 and 12, the bill's language states: "Pay the distributor or dealer a handling fee of 1 cent per beverage container." I hope that answers your question.

Assemblyman Hansen:

Under your beverage definition, why are bottled water and milk not listed?

Assemblyman Ohrenschall:

The exclusion of milk was by design because it might be too difficult for families to afford enough milk. The bottled water was not included because the model for this legislation was the Massachusetts statute. Many of the terms were lifted in toto from it. I would consider adding it to the list, and it is open for discussion.

Chair Carlton:

If the Committee decides to add noncarbonated beverages, it would capture single-use water bottles.

Assemblyman Ohrenschall:

On page 2, line 8, "mineral water" is listed, and I am not sure if that term excludes bottled water. It might.

Chair Carlton:

We need to work on the definition of included beverages.

Assemblyman Livermore:

Where does the deposit process begin? Is it at the wholesale level? The retail? How much money will it cost the wholesalers or retailers to invest in this program before a sale takes place?

Assemblyman Ohrenschall:

This bill is drafted for the consumer to receive his deposit back from the retailer of purchase. However, we have been talking about having the bottles returned to a recycling center. If that becomes the return method, then the recycling center would return the deposit to the consumer.

Assemblyman Livermore:

That did not answer my question.

Chair Carlton:

Are you referring to the distributor?

Assemblyman Livermore:

Who is responsible for collecting the initial fee?

Assemblyman Ohrenschall:

I believe it is the bottler or distributor who pays the initial fee, and it is reimbursed by the retailer, whom we refer to as the "dealer" in the bill.

Assemblyman Livermore:

So the deposit would be part of the sales price?

Assemblyman Ohrenschall:

Yes, it would be part of the price.

Assemblyman Livermore:

I think a wholesaler or retailer, whichever invests the money, will have to invest additional funds to keep this process whole. The deposited monies would have to be reported to the Department of Taxation.

Assemblyman Ohrenschall:

In our discussions, we talked about amending the bill to set up a separate state account, so the funds would not be intermingled with tax revenues. In talking with different people about this bill, it does not seem like a redemption deposit has hurt beverage sales. They have noticed increased recycling and a lot less litter because people have an incentive to return the containers.

Assemblyman Ellison:

When you create a program like this, the distributor or the wholesaler is going to need someone on staff to manage a separate accounting system. This problem is my biggest concern with the bill. I believe in recycling and keeping the environment clean, but at some point, someone is going to have to collect, record, and inventory the products. The fiscal note says the costs would be high.

Assemblyman Ohrenschall:

I looked at other states that have these programs, and they have been able to run them. Look at this bottle. [Mr. Ohrenschall held up a glass bottle filled with sparkling mineral water ([Exhibit E](#)).] It shows a California and Oregon refund

value of 5 cents imprinted on the bottle. Some additional investment in technology and infrastructure may be needed, but most companies sell their products nationwide. I do not believe it will hurt the industry because they already do the necessary labeling in ten states and the Territory of Guam.

Assemblyman Ellison:

Many small stores sell these products, and they do not have a place to store the returned containers. Where do they put them? Separation of the various product containers and bins to hold them would be necessary. Who would collect the empties? I am discussing the impact in the rural areas where mom-and-pop stores are common.

Assemblyman Ohrenschall:

That is absolutely true. If the bill remains in its current form, they will have to handle the returns. However, we have had discussions about returning the containers to certified recycling centers. Connecticut, Maine, Iowa, and Michigan follow the Massachusetts model as does this bill. The returns are made to the place of purchase. There would have to be bins, and arrangements would have to be made with a recycler for collection, but I do not believe it would be harmful to businesses. This bill is designed to promote recycling without overly burdening small businesses.

Assemblyman Aizley:

More than 30 years ago, we had this program in Massachusetts where bottles could be collected and returned to any store. Then, the refund was 2 cents. All stores participated whether they were large or small. It is doable without a major accounting process to handle it. Today, however, having the container returned to the place of purchase is probably not possible, and it is not practical.

Assemblyman Ohrenschall:

As you pointed out, in Massachusetts it did work. If you look at Massachusetts on <<http://www.bottlebill.org>> their redemption rate was 72.3 percent as of May 2010, which means a large percentage of empty containers do not end up in landfills or littering the environment. I appreciate your help in tailoring the bill to fit Nevada's needs.

Assemblyman Kite:

To the best of my knowledge, there are no recycling plants in Nevada. Therefore, all returns would have to be shipped to Sacramento, California, where there is one. Is there enough money in a 5 cent refund to take it to a transfer station for crushing, for loading it on trucks, and for hauling the waste to Sacramento? Can it be done without a subsidy?

Assemblyman Ohrenschall:

I may be incorrect, but I thought there was a recycling plant in this state. I hope, if this bill passes, we will get a recycling plant. The letter of support from Paul Faherty of Strategic Materials, Inc. ([Exhibit D](#)) indicates his company is constructing a recycling plant in North Las Vegas. If that plant becomes a reality, less money will be spent on gas to transport the recyclable waste to Sacramento, and jobs will be created.

Chair Carlton:

Just for clarification, Mr. Kite, you are talking about an actual recycling plant, not centers for collection. Is that correct?

Assemblyman Kite:

Yes, that is correct. Unless a plant has been built in northern Nevada in the last couple of years, the recyclable waste will have to be taken to a transfer center where it will be crushed, compacted, loaded, and transported out-of-state.

Chair Carlton:

Maybe some of the catalyst funds could be used to incentivize some investors to build a recycling plant in the state.

Assemblyman Goedhart:

I lived in Michigan from 1980 to 1984 and from 1987 to 1997, and I still go there every summer. In Michigan, the consumer is the person who originally pays the deposit, and Michigan has a 96.9 percent redemption rate. The deposit is 10 cents, which motivates the consumer to return the empties and get his deposit back. It is a pass-through with no public money involved in the process. Michigan's deposit refund program definitely reduced the amount of litter. I would like to put on the record that in Nevada we have a lot of volunteers who adopt a portion of a highway route and keep it litter free, and I think it is a very good program. Any introduction of a new system will have costs associated with it. Opposition to this bill will probably come from people operating their businesses on a razor edge margin because of the poor economic climate. To get people involved, the system and processes need to be in place.

I work with a recycling center in Las Vegas, which takes cardboard, lumber, and all types of scrap metal. The waste is compacted and then loaded on railroad cars or trucks for shipment to regional centers. Their business seems to be prospering. Last summer, my college-age son collected all kinds of scrap from around our dairy farm, and I told him I would give him 15 percent of the proceeds from the recycling center. We received a total of \$40,000 for all the scrap, and my son was able to put \$6,000 away for college. I believe the

aluminum cans earn the most per pound. In Michigan, the stores get to keep the scrap value amount as a way of paying for their extra costs incurred by setting up recycling machines for returns. A customer with returns just throws the cans and bottles into the recycling machine. It prints a receipt, which is reimbursable at the store's cashier, or it can be used for payment of groceries when he checks out. This is an interesting bill, and I appreciate being part of the discussion.

Assemblyman Ohrenschall:

The example of your son earning money by recycling scrap reaffirms the point that a monetary incentive motivates people to recycle. People will be less likely to litter or fill up landfills with the containers. Instead, they will return them for the redemption value. My goal is to have as little public money as possible spent on this legislation. There will be a nickel deposit on each container which is refundable if they redeem the empty container. It will help pay for the costs. The fiscal note from the Division of Environmental Protection is larger than I anticipated, but I believe that once the program is up and running more funds will be generated.

Chair Carlton:

Are there any questions?

Assemblywoman Pierce:

I have a comment. I am glad you brought this bill forward; it is a great idea. There is a market for recyclable materials because I can place a box of empty water bottles out on my curb and within an hour they are gone. Someone is collecting them.

Assemblyman Ohrenschall:

There has been a lot of discussion about this method versus using single-stream recycling. I am in favor of single-stream recycling, and I hope we will see it being used throughout Nevada in the near future. I do not believe having a redemption value on empty containers makes the program mutually exclusive from single-stream recycling. The two programs complement each other. Any funds generated by this program are earmarked in the bill for educational programs about environmental issues and for cleanup projects. That specific designation for fund disbursement can be changed. The monies can go to the State General Fund or to single-stream recycling programs.

Assemblyman Livermore:

In Carson City, the local sanitation company has exclusive rights to pick up recyclable bottles. They especially like the large 2-liter ones. How would this bill affect those types of contracts?

Assemblyman Ohrenschall:

The way the definition is currently written we do not have a maximum container size, but the bill does exclude milk and wine. The purpose of the bill is to incentivize recycling, and residential pickup of recyclable bottles will not be changed. I take my recyclable bottles to the University of Nevada, Las Vegas campus because they have community collection bins there. This bill will not affect curbside recycling. It would still be possible.

Assemblyman Livermore:

If a person puts his recyclables at curbside, and someone comes—in advance of the contracted company's scheduled pickup time—and takes them, there would be nothing left for the company to collect. That is what I am concerned about.

Assemblyman Ohrenschall:

That is already happening all over the state, especially with the aluminum cans because they have the highest resale value. People are collecting them by picking them up before the regular the trash collector gets there.

Chair Carlton:

Mr. Ohrenschall has thoroughly covered the bill. This bill is a work in progress, and the members of this Committee are encouraged to be involved as much as they want in developing the bill's language. We will hear from witnesses in support of the bill starting with Las Vegas.

Pat Williams, Chair, Community Outreach, Friends of Red Rock Canyon:

I have been a Friends of Red Rock Canyon volunteer since 1999 I have organized over 25 volunteer projects dedicated to maintaining the environmental integrity of our public lands. Friends of Red Rock Canyon strongly support the passage of A.B. 427 as it would, we believe, significantly reduce the amount of debris deposited in the fragile environment as well as encourage recycling. [Ms. Williams continued to read from her prepared testimony submitted in writing ([Exhibit F](#)).]

Chair Carlton:

Are there any questions? [There were none.]

Doug Busselman, representing the Nevada Farm Bureau Federation:

The Nevada Farm Bureau Federation's policy, adopted by our members, states we support a bottle and can deposit program to encourage recycling. The people who buy the products should pay for funding this deposit program. We believe this bill accomplishes our objective, and we are in support of the bill.

Chair Carlton:

Are there any questions? [There were none.]

Joseph Johnson, representing the Toiyabe Chapter, Sierra Club:

We stand in support of A.B. 427, and we have actively worked as a national organization to promote bottle bills across the country. One of the more recent bottle bills was enacted in Hawaii. We suggest looking at some of the mechanisms outlined in its bill and, in particular, the sections describing the operation of redemption centers for possible use in Nevada. It is a highly successful program. There are ways to significantly reduce the fiscal note by programming in some dealer incentives to help set up their deposit collection programs. The data could be integrated into some of the reporting requirements that are already in effect. Whether the redemption centers are set up by the distributors or by independent recyclers, the centers should be considered as viable options. We want to thank Assemblyman Ohrenschall for bringing this bill forward. There are some amendments, which would improve an already excellent bill.

Chair Carlton:

Are there any questions?

Assemblyman Hansen:

Everyone agrees the consumer should pay the full cost of the program. Is a nickel bottle deposit actually going to cover the full cost? You have mentioned establishing a recycling center and various other methods to collect the recyclables. What is the true cost to recycle a bottle?

Joseph Johnson:

That is a good question for which I have to plead ignorance. It appears most of the programs on the chart [See [Exhibit C](#).] charge a nickel, and it seems to be an adequate amount to fund the programs. It would be dependent upon the rate of return, and the start-up costs would be a little higher, so there would be less money going into the environmental account. Across the country, deposit refund programs have successfully covered program costs. I do not have actual numbers on that but I will look for some.

Assemblyman Ohrenschall:

I agree with Mr. Johnson. Of the ten states and one territory, only Michigan has a dime deposit; all the others have a nickel deposit. Although I do not have the per bottle cost for recycling, the nickel deposit must more than cover the costs. Otherwise, those states would have a higher deposit.

Kyle Davis, representing the Nevada Conservation League:

We are in support of this bill. Bottle deposit bills work. They help with the litter stream, and they increase recycling rates. Individual beverage containers, on average, compose about 40 to 60 percent of the litter you see along roadways, in parks, and in other places. In the states that have bottle deposit bills, the litter percentage rapidly declines because people have an incentive to return the container. The recycling rate is also much higher. If you look at the total amount of beverage containers recycled in the United States, half of the recyclables comes from states which have bottle bills. The other 40 states contribute the remaining 50 percent. Those figures demonstrate the dramatic increase in recyclable returns in the states which have bottle deposit bills. These programs are quite popular. In the states which have the bottle deposit return, public surveys show that people are satisfied with the program, and they like the way it works. It is a good way to increase our recycling rate and decrease our litter problem. We appreciate Assemblyman Ohrenschall bringing this bill forward, and we look forward to working with him and this Committee on any changes that would make it work better for our state.

Chair Carlton:

Are there any questions?

Assemblyman Goedhart:

What is our recycling rate in Nevada?

Kyle Davis:

I defer that question to Colleen Cripps. I believe it is somewhere between 20 and 25 percent.

Chair Carlton:

Are there other questions? [There were none.] Is there anyone else who would like to speak in support of this bill? [There was no one.] We will now hear from people who are neutral on the bill.

Colleen Cripps, Ph.D., Acting Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources:

As drafted the bill requires the Division to adopt regulations to implement a statewide beverage container deposit system and to collect, on a monthly basis, unclaimed deposits from an estimated 5,000 dealers that sell beverage containers and collect deposits on those containers. [Ms. Cripps continued to read from prepared testimony ([Exhibit G](#)). Some supplemental information has been included where it is appropriate.] The Division is neutral on A.B. 427. There may be some amendments to this bill that could reduce our fiscal note, and we would be happy to work with the sponsor on developing those

amendments. I would be happy to answer any questions, including the question on the recycling rate.

Chair Carlton:

Could you answer that question now?

Colleen Cripps:

The rate varies appreciably from county to county. Washoe County's rate is about 32 percent; Clark County's is 20 percent. The average for the state is just below 25 percent.

Chair Carlton:

Are there any questions? [There were none.] We will now hear from witnesses who are opposed to the bill.

Lesley Pittman, representing MillerCoors LLC:

MillerCoors LLC is in opposition to the bill. I extend my appreciation to the bill's sponsor for making the effort to increase our dismal recycling rate. This is one of those "good lists" that we are again at the bottom of. When I read the legislation, I questioned whether or not it was designed to help increase the State General Fund revenues. I will speak to that at a later point in my testimony in terms of other states' experiences. Is the motivation for the bill to increase recycling or to reduce litter? Regardless, if the bill is designed to increase the recycling rate, MillerCoors LLC believes there are far more effective and efficient ways to incentivize recycling. The pilot single-stream recycling programs in Clark and Washoe Counties have been effective. We encourage the state to look at legislation to encourage the local levels of governments to be more aggressive in establishing single-stream recycling programs.

It is my understanding that California's unclaimed bottle deposit fund generates about a \$120 million balance, and the money escheats to the state. From a consumer viewpoint, if you do not redeem your purchased beverage container, the deposit ends up being a State General Fund revenue source.

It is our belief that the current bill will create mass disruption and accounting nightmares. I call your attention to section 11. It states: "A beverage container may not be sold in this State unless the beverage container is clearly labeled: . . .," and subsection 3 continues, "As being originally sold in this State as a filled beverage container." That language creates a challenge for my company, MillerCoors LLC, as a bottler and supplier. They would have to brew, package, and ship those beverages separately for Nevada consumers. Another alternative is to create a separate Universal Product Code (UPC). Whichever

method is chosen, it will be an onerous and costly burden on bottlers and suppliers.

If you do not use a separate UPC, and you choose to just have "NV" on the bottle, then you will probably end up with a lot of other states' recyclable material being redeemed in Nevada. I do not know if the deposit refund amount will be enough to cover the redemption costs. We believe there are more effective ways to encourage recycling, such as using single-stream. We would be willing to participate in ongoing discussions to further define the bill.

Chair Carlton:

Are there any questions?

Assemblywoman Pierce:

Over the years, I have sponsored a number of recycling bills, and it is very frustrating to bring a bill like this forward. Organizations say they do not want a patchwork of recycling laws created by the states. They want the feds to establish the laws for uniformity. Then, those same organizations go to the feds and say the bill in question is a terrible idea. They are working both ends. In truth, they just do not want recycling legislation, but they do not want to say that. This bill is modeled on another state, and other states have these programs. Those states have not seen terrible consequences. Why do these companies say it will not work in Nevada, and there will be horrendous consequences for the state?

Lesley Pittman:

I am merely stating that section 11 is problematic for the company I represent. There are other ways, garnered from our experience, to incentivize recycling that are more effective and efficient if recycling is the aim and goal of this legislation.

Chair Carlton:

Are there other questions? I know your client, MillerCoors LLC, does business in all the states that currently have deposit bills. My question to your company is, in all the states that have bottle deposit bills, which program is the least onerous and the easiest for them to work with to achieve compliance? Can you get back to us on the method they would choose? The bill's sponsor and I do not see the deposit return program as being totally different from single-stream recycling. We can use this program to promote single-stream recycling, and I see the two methods working in partnership to achieve a 90 percent recycling rate. We will be happy to consider any constructive suggestions your client can make.

Lesley Pittman:

Absolutely, I appreciate that.

Lea Tauchen, representing the Retail Association of Nevada:

We are opposed to A.B. 427. The retail industry is committed to being socially and environmentally responsible. Our members are focused on implementing sustainable environmental protection practices, but this bill would be challenging and burdensome. From the retail perspective, we are concerned about the cost, the space for storage, and health and safety problems created by collecting used beverage containers.

In regard to cost, the retailers will have to pay for the administration, labor, and equipment to operate the recovery system. They will incur up-front expenses to reprogram and retool their cash registers, and they will have to educate and train their employees. They may also require reverse vending machines or other equipment to collect the beverage containers and equipment to print redemption vouchers. Mr. Goedhart had mentioned he has seen these machines in use in Michigan. Our preliminary research shows the cost for each reverse vending machine is about \$80,000. This will impose high costs on stores with slim margins, and it will penalize the small- and medium-sized stores where redemption costs will be the highest.

In regard to space for storage, collection of these containers places constraints on retailers and creates logistical problems. In addition to finding enough space for incoming inventory, they will also have to coordinate the sorting of the returned containers. Then, they will have to oversee the removal of the containers to the different product distributors. Mr. Ellison mentioned small stores with limited space may be forced to store returned containers outside. It would be impossible to completely secure the open storage of the returned containers, so they are susceptible to theft. They may also have to find a way to manage the containers that are impractical to redeem through a reverse vending machine because of their size or composition.

In regard to health and safety, returned containers could create potentially unsanitary conditions for retailers who also sell or serve food. The containers can promote the growth of bacteria, mold, and pathogens.

We concur with Ms. Pittman's comments that comprehensive recycling programs, such as curbside pickup or community drop-offs, are the most cost effective and efficient way to recycle all types of material, not just beverage containers. These programs have expanded throughout Nevada, and we encourage an educational program to build participation in these already established programs.

Assemblyman Ellison:

I go into a lot of small-sized businesses, and most of them do not have yards available for storage. Alleyways are more common. Most of these stores are in rural Nevada, and many of them only have the use of a shared dumpster in a common area. How are bars going to handle the returned containers? Many of these small stores are already having a hard time financially and storing these returned containers could further negatively impact their bottom line. It would create more of a burden. Could you comment on my concerns?

Lea Tauchen:

That is exactly our concern. Stores will be unable to secure the returned containers if they are left outside, and it will encourage theft of the containers.

Chair Carlton:

Would the provision the bill's sponsor mentioned, about returning the containers to recycling centers instead of the retailers, help alleviate your biggest concern?

Lea Tauchen:

From our aspect, it would alleviate our health and safety concerns. The start-up costs would still be incurred, such as retooling and reprogramming the cash registers, and training the workforce.

Chair Carlton:

There are ongoing discussions on those issues. I will make the same request to you, as I did to Ms. Pittman, to compile some data from other states' associations so we can evaluate any pitfalls they made. Hopefully, as we move through processing this bill, we can avoid some of the mistakes other states made.

Lea Tauchen:

Yes, I will.

Assemblyman Hansen:

Section 15 of the bill seems to address the ability of stores, which you represent, to recover some of those costs. I asked the Sierra Club the same question. Is there enough money in a nickel-a-bottle deposit to actually recoup those start-up costs? If a retailer invests \$80,000 in a reverse vending machine, is he going to get that money back?

Lea Tauchen:

We have not completed our final calculations but, as I read the bill, the retailer will retain 1 cent of the deposit amount. We can have some of our retail

establishments make those calculations so we can get back to you with a more solid figure.

Assemblyman Hansen:

I would like to get those numbers.

Chair Carlton:

If you can also include start-up costs retailers incurred in other states, the information would be helpful. The nickel deposit seems to be popular, but we need to make good decisions based on other states' experiences.

Assemblyman Livermore:

At the same time, can you gather information from large wholesale box stores, like Sam's Club and Costco? How would the returns be handled in that type of business?

Lea Tauchen:

We can do that.

Chair Carlton:

If ten other states have redemption values, there is a lot we can learn from their experiences.

Assemblyman Anderson:

Is it possible to rewrite the bill's language so not every retailer would have to do the returns? The option would be available to retailers who want to take the returns.

Lea Tauchen:

I would have to survey our members to get feedback. I can let you know the results.

Assemblyman Anderson:

I can see the problems for a small mom-and-pop business that a large grocery store would not have.

Alfredo Alonso, representing the California/Nevada Soft Drink Association:

Over a number of years, the Association has been very involved with recycling programs throughout the country. Through necessity in the 1970s, when landfills became problematical, the soft drink industry had to get involved. Since then, the Association has become active on the forefront of recycling matters. Its experience shows single-stream recycling works best. The reason it works best is there are no initial start-up costs or storage facilities required.

Nevada is a transient state so the fraud and theft issue becomes more significant, and it takes revenue away from the recycling program. Today, I have heard that both programs can be run simultaneously as they do in California. However, there are some problems in combining the two methods because the revenue that would go to the recycling centers, especially from aluminum and polyethylene terephthalate (PET)—the most profitable recyclables—is sidetracked. There are people who drive around collecting curbside recyclable material, and take it to the Truckee recycling center for redemption. The single-stream recycling system would curb that problem because the individuals doing the unauthorized pickups would have to wade through all kinds of recyclable materials. They would not be able to just collect aluminum and PET with minimum effort. It would make it more difficult for them.

As the bill is written, large purchasers of soft drinks and canned beverages are exempt, such as casinos and restaurants. My concern here is how do you differentiate between the products going to the gaming industry as opposed to those that go to other businesses? Would separate labeling requirements be necessary? We have warehouses throughout the northwest and southwest and, in some cases, Reno businesses are served by two or three wholesale warehouses. In the case of water, there are four wholesale distributors. We have similar issues in Las Vegas. It is difficult to administer a program in a small state like ours when we border neighbors, like California, which also have the deposit return system. I have asked the bill's sponsor these same questions, and we are getting more information for the bill's sponsor and the Chair. We will continue the dialogue.

Chair Carlton:

Are there any questions?

Assemblywoman Pierce:

If we have a recycling program here, the returns will not be made in California. They will be made here. That should take care of any fraud questions. Is that correct? I do not understand why you say the fraud issue will not encourage people to recycle. The stolen bottles will still be turned in somewhere.

Alfredo Alonso:

It depends on where you live, and it depends on the amount of the deposit. States with bottle deposits do suffer because people in surrounding states bring in the refundable returns. We will not have the redemption program across the board in Nevada. According to this bill, it will only be done in portions of the state. My concern is how do you separate what will be shipped to businesses that recycle bottles and are exempt under the bill from what will be shipped to

retail stores. How do you prevent co-mingling, because gaming interests would not be paying the deposit; individuals would. Yes, it would open the system up to fraudulent practices.

Assemblyman Anderson:

Are the casinos in California exempt from the deposit requirement? Or do they also have a deposit paid by consumers?

Alfredo Alonso:

I do not know, but I can find out.

Assemblyman Goedhart:

If any state would be susceptible to fraud, it would be Michigan. It is the only state with a dime deposit, and it is surrounded by states that do not have deposits. Even with that problem, their redemption rate is 97.9 percent. If they had a lot of fraudulent returns, the rate would be much higher, like 120 or 130 percent. They are still getting fewer bottles and cans redeemed than what they are selling, and there is still extra unclaimed revenue. California gets \$120 million in unclaimed refunds going into their State General Fund. Your point is well-taken on the fraud issue, but it has not been problematic in other states. It is an issue that has not deterred the program.

Chair Carlton:

Is your Association Nevada-based, or is it a multistate organization?

Alfredo Alonso:

It is in Nevada and California.

Chair Carlton:

Can you reach out to California businesses, and find out what has worked well for them and which program has the least impact on the product distributor and bottler? It would also be helpful to know where the refund notification is shown on the bottle or can. We want to make this recycling program as easy as possible on businesses that are being asked to participate. I did some research online comparing product prices on deposit and nondeposit items in grocery stores on both sides of the border. There was no consistent price pattern between Nevada and California. The prices could go either way depending on what was on sale that week. Sometimes it was cheaper to buy a 2-liter bottle in California, and sometimes it was appreciably more expensive there. I know there is a cyclical nature which may affect product prices. I do not believe a container deposit will make a big difference in pricing, but I would like your Association to provide us with some information. Are there any other

questions? [There were none.] Is there anyone else who would like to speak in opposition or speak from a neutral position?

John Pappageorge, representing Republic Services, Inc.:

The reason we are speaking from a neutral position is the bill is a work-in-progress, and we are not sure what it will look like in final form. We do want to work with the bill's sponsor. Our southern Nevada firm enthusiastically supports recycling as witnessed by the single-stream recycling programs we have established in local neighborhoods. We have about 50,000 households participating in the program in the four Clark County cities. We believe the single-stream program will increase container recycling. I would be happy to answer any questions.

Assemblyman Ellison:

Have you seen a reverse vending machine used for recycling? Does the machine break the bottle? Or does it try to conserve the bottle?

John Pappageorge:

We do not have any of those machines in southern Nevada, but I have seen them in use out-of-state. The returns are put in bags and identified, but there is no glass crushing in the process.

Assemblyman Ellison:

The cans and plastic containers would be easy to handle, but the bottles because of their weight could create a problem.

Chair Carlton:

Mr. Pappageorge can look into the problem and get answers to all our questions.

John Pappageorge:

Absolutely.

Bob Ostrovsky, representing Waste Management, Inc.:

Waste Management, Inc. is the waste hauler in northern Nevada. We are neutral for the same reasons expressed by Mr. Pappageorge. We are watching the bill to see what, if any, direct impact it will have on our company. We do not believe it does as it is currently written. We would be happy to work with the bill's sponsor on any issues where we can be helpful.

There are three ways you can handle recycling. You can create penalties, and this has been done through littering laws. You can make it easy for people to recycle using the single-stream methodology, whereby everything is put in

one container; we pick it up and sort it at our facility. The third way is to create a financial incentive to recycle, which is what this bill does. I need to be careful using the word "recycle" because what we have in this bill is a redemption program.

All of this material eventually ends up in the hands of Waste Management in northern Nevada. We pick it up from stores, and then we recycle the material at our facility; it does not matter where it is picked up, and that includes picking up material from a recycling center. In the recycling process, we package the material together. Then we sell that product to a company that will turn it into another useable consumer product. Most of the recycled waste from northern Nevada ends up at the Port of Oakland, California, for shipment to the People's Republic of China. The waste does not end up in Sacramento, California, but 6,000 miles away. That is where material is recycled today.

In northern Nevada we do not create enough trash to incentivize recycling companies to come here and build facilities. We would have to import trash. That is a possibility, and I have worked with another committee's chair to find ways to bring more waste materials into our state. The material would include baled plastic and baled glass, which can be recycled in a factory that creates a consumer product. Any amount of material that increases the amount available increases our potential to find a company willing to build a factory here to actually use the waste product to manufacture goods.

This bill proposes a redemption program; the recycling program is already in place. We have a long way to go in Nevada. We can do a lot more to create incentives to get people to recycle. Currently, too much recyclable waste gets mixed up with other trash; too much ends up in landfills; and too much ends up as litter in the desert.

We would be happy to work with the bill's sponsor to ease people's legitimate concerns about how the program would work. If you use recycling centers, you have to find a way to fund them. You fund them with the breakage. The store collects the nickel and then keeps some of that. The redemption center then has to pay a nickel out when the customer returns the product. Somewhere along the line, the redemption center has to make a little money out of the deal. You have to pay them a little more than a nickel for it, and that money comes from the breakage, the unreturned material. In reality, most people save their empties at home, and then they trade them in for filled containers. Once a consumer makes the first payment—and they are a good recycler—it becomes a one-time transaction. They just keep rolling over the

material at the store. That is the way the process should work in a perfect world. I would be happy to answer any questions.

Chair Carlton:

Are there any questions? [There were none.] Would anyone else like to get something on the record for A.B. 427? [There was no one.] Does the bill's sponsor wish to make a closing comment?

Assemblyman Ohrenschall:

I believe the idea behind this bill has a lot of merit. The bill is not perfect. A better option may be to have certified recycling centers as opposed to having people return the bottles to the retailer. I am open to that. Mr. Ellison made a comment about the burden that would be placed on restaurants. However, on page 2, lines 38 through 41, those establishments are exempted from charging refund deposits, as long as they have a recycling program in place. Mr. Ellison also made a comment about the financial burden which would be placed on small mom-and-pop retail establishments. If we went to the option of using certified recycling centers for returns, that concern would be addressed.

The photographs [See [Exhibit F.](#)] of the trash and litter in Red Rock Canyon illustrate the need for an incentivized program to clean up the environment by recycling. Would a nickel a container help clean up the mess? Would single-stream recycling leave less garbage in the desert and in landfills? A redemption value program complements a single-stream recycling one. The Division of Environmental Protection stated the recycling rate in Nevada is under 24 percent. Our neighboring states, which have a redemption value on recyclables, have a high redemption rate. For example, Oregon is at 84 percent; California is at 82 percent; Hawaii is at 76 percent; and Michigan, Mr. Goedhart's home state, is at 97 percent. Something is working in these states, and the high redemption rates are in states which have a refundable deposit on containers. People have good intentions about recycling, but the profit motive can make it happen.

A lot of obstacles were mentioned. However, the ten states and Guam, which have programs, still have successful businesses. People are still buying soft drinks and beer, and the market for those products has not shut down because of a container deposit. Reverse vending machines are not mandated under this bill. We could leave the choice of purchase up to the individual business. The language of this bill does not mandate that retailers have to sort the returned containers. It was not my intention to include that in the bill. I appreciate the Committee's time, and I hope we can work together to tailor a bill to fit Nevada's needs. Ultimately, we would like to see our recycling rate up to the 70 or 80 percent level.

Chair Carlton:

I am closing the hearing on A.B. 427. The Chair's intent is to put together a working group. I will contact the sponsor and a couple of Committee members to sit down and work on the bill. We will also solicit input from all other affected entities.

This meeting is adjourned [at 2:37 p.m.].

RESPECTFULLY SUBMITTED:

Judith Coolbaugh
Committee Secretary

APPROVED BY:

Assemblywoman Maggie Carlton, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Natural Resources, Agriculture,
and Mining

Date: April 5, 2011

Time of Meeting: 1:10 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 427	C	Assemblyman James Ohrenschall	Chart of State Container Laws
A.B. 427	D	Assemblyman James Ohrenschall	Letter of Support
A.B. 427	E	Assemblyman James Ohrenschall	Bottle of Sparkling Water
A.B. 427	F	Pat Williams	Testimony
A.B. 427	G	Colleen Cripps	Testimony